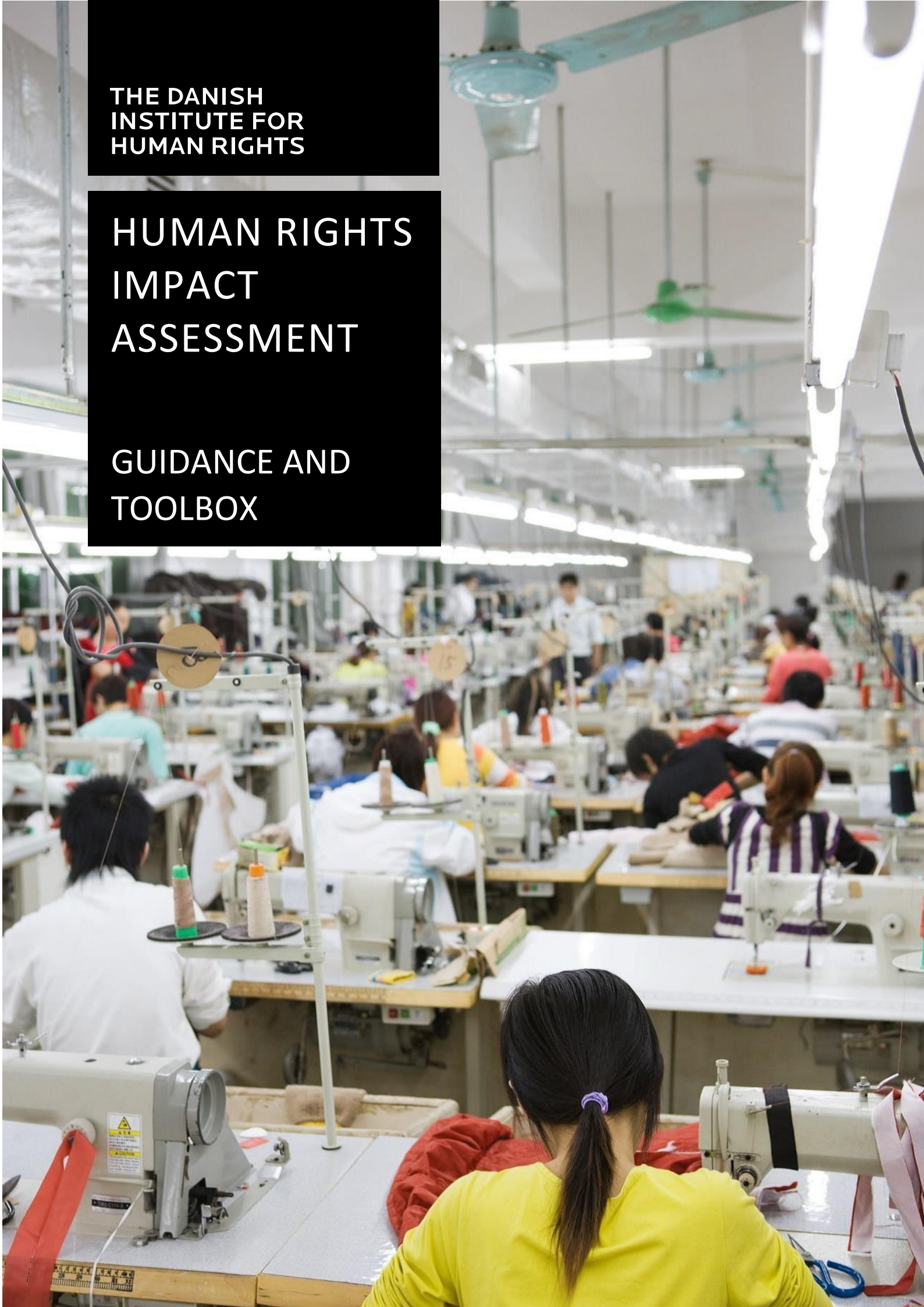
THE DANISH INSTITUTE FOR HUMAN RIGHTS

HUMAN RIGHTS IMPACT ASSESSMENT

GUIDANCE AND TOOLBOX



Human Rights impact assessmentGuidance and ToolboxContributors: The 2016 Road-testing version of the HRIA Guidance and Toolbox was written by Nora Götzmann, Tulika Bansal, Elin Wrzoncki, Cathrine Bloch Veiberg, Jacqueline Tedaldi and Roya Høvsgaard. This 2020 version includes important contributions from Signe Adreasen Lysgaard, Dirk Hoffmann, Emil Lindbland Kernell, Ashley Nancy Reynolds, Francesca Thornberry, and Kayla Winarsky Green.

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CONTENT

This document contains the full Guidance text. You can access the Practitioner Supplements at: www.humanrights.dk/hria-toolbox/

For ease of reference, via the above link you can also access a PDF version of the Guidance text for each of the individual HRIA phases.

WELCOME

A WELCOME

A.1 INTRODUCTION

The purpose of this Guidance and Toolbox is to provide those who are involved in conducting, commissioning, reviewing or monitoring Human Rights Impact Assessments (HRIAs) of business projects and activities with guidance and practical tools, with a view to ensuring that such assessments apply a human rights-based approach and are consistent with the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles).

With increased attention being given to the accountability of businesses for their human rights impacts, HRIA has gained traction as one approach available to the private sector, non-governmental and civil society organisations (NGOs and CSOs), governments and other stakeholders for assessing and evaluating the impacts of business activities on the human rights enjoyment of rights-holders such as workers and community members. In the business and human rights context, the UN Guiding Principles have been one key driver for HRIA development.

As HRIA is an emerging practice, it is important that those who are involved in HRIA of business activities engage in dialogue and consider emerging practice carefully, with a view to establishing HRIA practice that achieves its intended purposes, including to:

- Identify and address adverse human rights impacts (through meaningful engagement with stakeholders, data gathering and analysis, prevention, mitigation and remediation)
- Contribute to effective human rights due diligence
- Facilitate meaningful dialogue between stakeholders in a particular context; and
- Empower rights-holders to hold businesses accountable for their adverse human rights impacts.

By providing guidance and tools that can be applied in HRIA of business projects and activities, this Guidance and Toolbox seeks to assist those who are involved in such assessments with working towards robust HRIA practice.

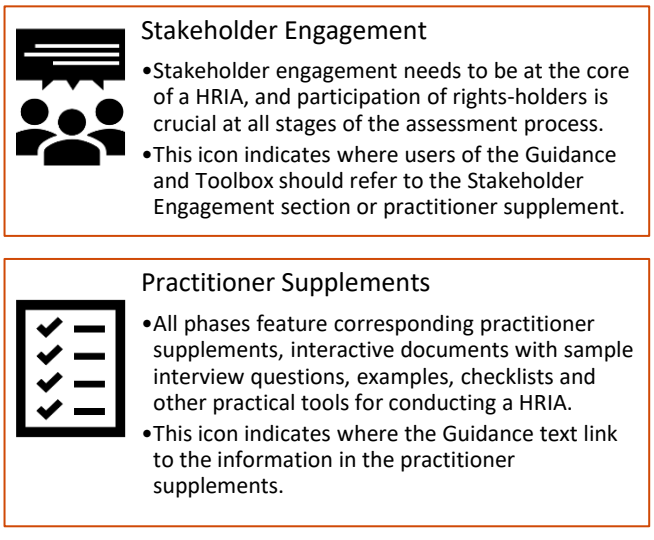
The process outlined is modelled on HRIA undertaken for large-scale business projects conducted at the project or site level (e.g., a factory, mine site, oil & gas plant), including the supply chain and ancillary infrastructure as relevant. As such, it may need to be adapted and scaled to suit the particular business project or activities in question. While the Guidance and Toolbox in its entirety outlines a process for stand-alone HRIA (i.e., an impact assessment that focuses specifically on human rights), stakeholders may also wish to draw on various components of this Guidance and Toolbox when integrating human rights into other types of assessment (e.g., environmental, social and health impact assessments). Notably, the development of HRIA methodology is to some degree inspired by environmental, social and health impact assessment practice.

A.2 OVERVIEW OF THE GUIDANCE, TOOLBOX AND HRIA PHASES

This Guidance and Toolbox is primarily designed for large-scale business projects and sites. However, many of the concepts and materials elaborated may also be adapted to other types of business projects and activities. The Guidance and Toolbox includes the following sections:

- **Welcome Section:** This section provides an overview of the Guidance and Toolbox, an introduction to HRIA and 10 key criteria to guide the process and content of HRIA.
- **HRIA Phases:** The Guidance and Toolbox is divided into five phases: (1) planning and scoping; (2) data collection and baseline development; (3) analysing impacts; (4) impact mitigation and management; and (5) reporting and evaluation. Stakeholder engagement is a cross-cutting component for every phase. For each HRIA phase, explanatory guidance is provided, as well as corresponding practitioner supplements that include templates, checklists and other practical tools for conducting HRIA. The explanatory guidance seeks to provide an overview of the impact assessment phase, detailing what it would include and why, as well as discussion on key points. These

Figure 1: Navigating the Guidance and Toolbox



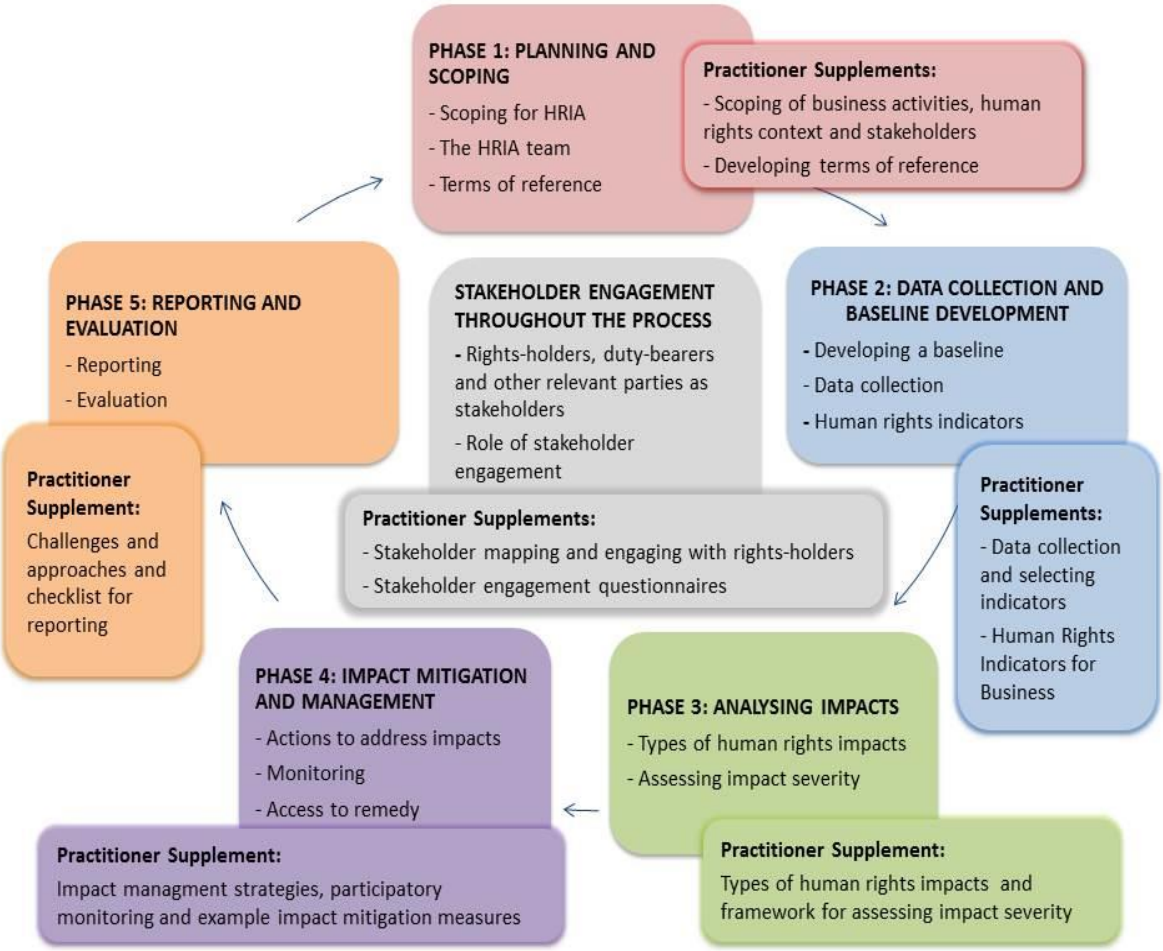
sections are suitable for a broad audience wishing to familiarise themselves with HRIA. The accompanying practitioner supplements are intended for those who are involved in conducting, commissioning, reviewing or monitoring HRIAs.

- **Stakeholder Engagement:** Stakeholder engagement is a cross-cutting component of every phase in the HRIA process. The Stakeholder Engagement section includes an introduction to engaging rights-holders and other relevant parties, as well as information on relevant stakeholders to engage with. This section and its corresponding practitioner supplement should regularly be consulted throughout the assessment.

This This document contains the full Guidance text. You can access the Practitioner Supplements at: www.humanrights.dk/hria-toolbox/

You can find further details about the content of the Guidance and the practitioner supplements for the different HRIA phases in Figure 2, below.

Figure 2: Overview of the content of the Guidance and Toolbox



A.3 WHO CAN USE THIS GUIDANCE AND TOOLBOX AND HOW?

The primary target audience for this Guidance and Toolbox is:

- Human rights practitioners and consultants conducting impact assessments for business projects and activities
- Businesses, in particular staff who are responsible for commissioning and overseeing impact assessments; and
- Financial institutions providing support to businesses, in particular staff who are responsible for the implementation of social safeguard and performance standards for business projects.

The secondary audience is other individuals or organisations who are interested in the topic of HRIA of business projects or activities or who are involved in such assessments. For example:

- **National human rights institutions** exercising their mandate to promote and protect human rights could use the Guidance and Toolbox when advising the government and other stakeholders on impact assessment law, policy and practice to ensure that the adoption of a human rights-based approach and international human rights standards are reflected.
- **Government departments and state institutions** that are responsible for providing guidance to businesses on respecting human rights or setting standards for due diligence and impact assessment could draw on the Guidance and Toolbox for information on how human rights might be better reflected in such guidance and standards.
- **Non-governmental and civil society organisations** that support and/or represent workers, individuals and communities that are adversely affected by business projects or activities could use the Guidance and Toolbox to advocate for a company to undertake a HRIA or for increased community involvement in business-commissioned HRIAs, or to review and monitor HRIAs that have been undertaken. (For a methodology designed specifically for community-based HRIA, see the Getting it Right Tool developed by Rights & Democracy.[1])
- Other stakeholders with an interest in impact assessment and/or business and human rights can find relevant information in the Guidance and Toolbox.

A.4 INTRODUCTION TO HUMAN RIGHTS IMPACT ASSESSMENT

A.4.1 WHAT IS HRIA?

In the business context, HRIA can be defined as a process for identifying, understanding, assessing and addressing the adverse effects of a business project or business activities on the human rights enjoyment of impacted rights-holders such as workers and community members.

Compared to other types of risk and impact assessment, such as environmental or social impact assessment, the field of HRIA is relatively new. (Box A.1, below, provides an overview of emerging strands of HRIA from different fields.)

HRIA involves several phases or steps, all of which need to be included to ensure a comprehensive assessment. In this Guidance and Toolbox, the phases have been divided into:

1. Planning and scoping

2. Data collection and baseline development
3. Analysing impacts
4. Impact mitigation and management; and
5. Reporting and evaluation.

While HRIA can be divided into different phases, it is important to recognise that the assessment is an iterative process and should facilitate continuous learning and analysis throughout the process.

Engagement with rights-holders and other stakeholders is essential in HRIA. A thorough assessment of human rights impacts is unlikely to be possible or effective if conducted purely as a desktop research exercise. Instead, it is an involved process, requiring background research and fieldwork, as well as heavily based on the participation of rights-holders other stakeholders. Stakeholder engagement has therefore been situated as the core cross-cutting component in the Guidance and Toolbox.

To ensure that human rights are addressed comprehensively, it is important that the content, process and outcomes of the assessment apply and are compatible with international human rights standards and principles. Drawing on the UN Guiding Principles, as well as current guidance and literature on HRIA, a number of aspects can be identified as essential for HRIA of business projects or activities:

- **International human rights as benchmarks:** International human rights standards and principles must constitute the basis and benchmarks for the assessment. At minimum, HRIA should refer to the International Bill of Human Rights and the International Labour Organization (ILO) Core Labour Conventions, as well as other human rights instruments as relevant in the particular HRIA context.
- **Human rights-based process:** The assessment process itself needs to respect human rights by paying particular attention to human rights principles such as non-discrimination, participation, empowerment and transparency.
- **Focus on accountability:** The assessment process and content need to emphasise accountability, including by recognising the entitlements of rights-holders to have their rights respected and the corresponding duties and responsibilities of duty-bearers to uphold and respect these rights.

These essential content and process elements of HRIA, as well as guiding questions for implementing them in practice, are elaborated further in 10 Key Criteria for HRIA (section A.5).

Box A.1: Overview of emerging strands of HRIA from different fields

Within emerging HRIA practice, several different approaches have developed, including:

- Impact assessments of business projects and activities (e.g., this Guidance and Toolbox)
- HRIA in the field of development
- Assessments on health and human rights
- Children's rights impact assessments
- HRIA of international trade and investment agreements
- Impact assessments conducted for public authorities
- Community-based HRIA processes; and
- Sector-wide impact assessments.

Within and between these strands, practice is diverse in terms of the rights-holders and duty-bearers involved, the level of detail in the methodology and analysis, and the purpose and intent of the impact assessments. For example, in the area of HRIA conducted for government programmes, the focus may be on high-level policy analysis to establish whether a certain intervention is meeting its objectives in terms of improving the realisation of particular human rights. In the context of business activities, on the other hand, the focus has primarily been on identifying the adverse impacts of private sector projects on workers and communities, usually through ex-post assessments (i.e., assessments that occur after business activities are already under way).

Sources: Nora Götzmann (Ed) (2019), *Handbook on Human Rights Impact Assessment,* Cheltenham: Edward Elgar; James Harrison and Mary-Ann Stephenson (2010), *Human Rights Impact Assessment: Review of Practice and Guidance for Future Assessments,* Edinburgh: Scottish Human Rights Commission; Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements,* Antwerp: Intersentia.

A.4.2 WHY DO BUSINESSES NEED TO ASSESS THEIR HUMAN RIGHTS IMPACTS?

It is evident that business projects and activities can have a wide range of impacts on human rights. With the endorsement of the UN Guiding Principles by the Human Rights Council in 2011, it has been firmly established that businesses have a responsibility to respect human rights, including by identifying, avoiding, mitigating and remediating the human rights impacts with which they are involved (see Box A.2, below).

The UN Guiding Principles have introduced the global standard that businesses are expected to exercise human rights due diligence. This includes the expectation that businesses assess and address their impacts, both those arising from operations and business relationships. HRIAs can be a key element of human rights due diligence and provide a process for businesses to understand and address their impacts in a specific project, activity or country context. HRIA of business projects and activities can provide a structured approach to:

- Identify adverse human rights impacts, including understanding these from the perspectives of impacted rights-holders such as workers and community members
- Determine measures to address any adverse human rights impacts identified (through prevention, mitigation and remediation)
- Facilitate dialogue between a business, rights-holders and other relevant parties, in particular human rights actors (for more information on the different stakeholders to engage in HRIA, see Stakeholder Engagement)
- Facilitate capacity building and learning for company stakeholders, rights-holders and others involved in the impact assessment, including through raising awareness of respective rights and responsibilities
- Enhance the accountability of businesses through documenting the impacts that have been identified and the actions taken to address them
- Build partnerships between businesses and other stakeholders to address human rights impacts, including through developing joint actions to address cumulative impacts or legacy issues; and
- Identify learning that might inform human rights due diligence practices with regard to other projects or activities.

A.4.3 HOW DOES HRIA RELATE TO HUMAN RIGHTS DUE DILIGENCE AND THE UN GUIDING PRINCIPLES?

The UN Guiding Principles (see Box A.2, below) articulate the expectation that businesses should respect human rights by using a process of 'human rights due diligence'. Human rights due diligence is a process for identifying, preventing, mitigating and accounting for the adverse human rights impacts with which a business is involved. The assessment of human rights impacts is a critical step in this process and HRIA is a methodology to assess and address impacts at the project or activity level. Importantly, businesses need to tailor human rights due diligence processes to their characteristics and to ensure that risks and impacts are assessed and addressed throughout the business. HRIAs are extensive processes of key value in particular in contexts where businesses face severe risks and impacts in connection to their activities and projects.

Notably, the UN Guiding Principles do not necessarily require that businesses conduct 'human rights impact assessments' but indicate that a range of approaches may be appropriate for assessing human rights impacts. Examples of approaches that have been developed include 'stand-alone' HRIA (i.e., assessments that focus exclusively on human rights) and 'integrated' assessments (e.g., approaches that integrate human rights into environmental, social and health impact assessments). (For more information on stand-alone and integrated assessments, see section A.4.8, below)

Box A.2: The United Nations Guiding Principles on Business and Human Rights

The UN Guiding Principles were developed under the auspices of the former Special Representative of the UN Secretary-General on Business and Human Rights, Professor John Ruggie, during his mandate term, 2005-2011.

They rest on three inter-related pillars:

1. **The state duty to protect against human rights abuses** by third parties, including businesses, through appropriate policies, legislation, regulation and adjudication
2. **The corporate responsibility to respect human rights**, meaning that businesses are expected to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved; and
3. **Access to remedy**, which requires both states and businesses to ensure greater access by victims of business-related human rights abuses to effective remedy, both judicial and non-judicial.

The UN Guiding Principles were unanimously endorsed by the Human Rights Council in 2011. Since then, they have been integrated into numerous key business and human rights frameworks and standards, for example, the OECD Guidelines for Multinational Enterprises, the Performance Standards of the International Finance Corporation and the European Union's Corporate Social Responsibility Policy.

Source: United Nations Human Rights Council (2011), *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, A/HRC/17/31 (UN Guiding Principles).

The UN Guiding Principles state that when a business is assessing its human rights impacts, it should:[2]

- Draw on internal and/or independent human rights expertise

- Undertake meaningful consultation with potentially affected rights-holders and other relevant parties
- Be gender-sensitive and pay particular attention to any human rights impacts on individuals and groups that may be at heightened risk of vulnerability or marginalisation
- Assess impacts from the perspective of risk to people rather than risk to business; and
- Repeat its risk and impact identification and assessment at regular intervals (e.g., before entering into a new activity, prior to significant decisions about changes in activities, and periodically throughout the project cycle).

Combining these points with aspects highlighted in HRIA guidance and literature, a number of key criteria for the assessment of human rights impacts can be identified. These are outlined in 10 Key Criteria for HRIA, section A.5, below.

A.4.4 HOW DOES HRIA RELATE TO OTHER HUMAN RIGHTS STANDARDS AND INITIATIVES?

HRIA assesses the rights enshrined in human rights instruments such as the ILO Core Conventions, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. (For more information on human rights standards and principles, see section A.6, below.) However, HRIA also relates to a number of other standards and initiatives.

The OECD Guidelines for Multinational Enterprises, which are binding on all OECD member states, reaffirm the state duty to protect human rights, including from third parties such as businesses. According to the OECD Guidelines, businesses should: respect human rights, including by addressing human rights impacts with which they are involved; avoid causing or contributing to adverse human rights impacts; seek ways to prevent or mitigate impacts linked to the enterprise through a business relationship; have a policy commitment to respect human rights; carry out human rights due diligence; and provide for or cooperate in remediation of adverse human rights impacts.[3]

In support of the OECD Guidelines, the OECD Due Diligence Guidance for Responsible Business Conduct features six elements:[4]

- Embed responsible business conduct into policies and management systems
- Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services
- Cease, prevent and mitigate adverse impacts
- Track implementation and results
- Communicate how impacts are addressed; and

- Provide for or cooperate in remediation when appropriate.

Many of these elements are embedded in this Guidance and Toolbox, and the OECD recognises HRIA as one method for identifying actual and potential human rights impacts. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas further elaborates on due diligence related to human rights impacts in the supply chain.[5]

The Sustainable Development Goals (SDGs) aim at 'unlocking the transformative potential of the private sector, and incentivizing changes in financing as well as consumption and production patterns to support sustainable development.'[6]

As part of the 2030 Agenda for Sustainable Development, the SDGs were adopted by all UN member states in 2015. The SDGs feature 17 goals, 169 targets and 230 indicators related to ending poverty, improving health and education, reducing inequality and spurring economic growth. The SDGs aim to 'realize the human rights of all'; accordingly, the 2030 Agenda is grounded in international human rights instruments. More than 90 percent of SDG targets are linked to specific provisions of international human rights instruments and labour standards.[7]

Box A.3: The Sustainable Development Goals and HRIA

Impact assessments, including HRIAs, are one means for monitoring implementation of the SDGs. HRIA captures data relevant to several of the SDGs, including information on:

- Poverty (SDG 1)
- Hunger (SDG 2)
- Health (SDG 3)
- Education (SDG 4)
- Gender equality (SDG 5)
- Water and sanitation (SDG 6)
- Working conditions (SDG 8)
- Industry and infrastructure (SDG 9)
- Inequality (SDG 10)
- Responsible consumption and production (SDG 12)
- Life below water (SDG 14); and
- Life on land (SDG 15).

Source: United Nations (2015), *Transforming our World: The 2030 Agenda for Sustainable Development*, New York and Geneva: United Nations.

Each individual country must define its national targets based on the content of the SDGs, as well as its international human rights commitments, and monitor progress toward achieving them.[8] States may find sector-wide HRIA most useful for monitoring the SDGs within a given country context; however, project- and site-level HRIA (the approach taken in this Guidance and Toolbox) can also

uncover relevant information on realisation of the SDGs, especially in communities near business projects or activities (see Box A.3, above).

SDG 17, partnerships for the goals, recognizes the role of businesses and other stakeholders in realising the SDGs. The 2030 Agenda states: 'Private business activity, investment and innovation are major drivers of productivity, inclusive economic growth and job creation. […] We call upon all businesses to apply their creativity and innovation to solving sustainable development challenges.'[9] As a result, business enterprises should consider how their projects and activities can help meet SDG targets, or at the very least, avoid impeding progress. As part of this partnership, many of the SDG targets would require businesses to conduct due diligence, which can be achieved through HRIA.[10]

HRIAs can provide meaningful findings to inform such transformation of the private sector. Respecting human rights in business activities is furthermore inherent to many SDGs, in particular Goal 8 on decent work and economic growth, Goal 12 on responsible consumption and production, Goal 16 on peace, justice and strong institutions, and Goal 17 on partnerships for the goals.

Impact assessments such as HRIAs can also give practical, tangible meaning to the broad SDG framework. Impact assessment practitioners can translate SDG targets into specific criteria appropriate for the local context. For example, during the scoping process of one environmental assessment, stakeholders identified the SDGs most relevant to planned water catchments in Rwanda. Specific objectives and strategies were then formulated to apply these SDGs to the assessment and planning process.[11]

A.4.5 WHEN SHOULD HRIA BE UNDERTAKEN AND WHAT FACTORS CAN TRIGGER A HRIA?

Human rights due diligence is an iterative process meant to be implemented throughout business activities. Identifying if, when and how a stand-alone HRIA is merited is specific to the business. Large multinational corporations maintain a wide range of presences across many countries and operating contexts. As a result, it is likely not possible to conduct stand-alone HRIAs for every single project or operating site. In these conditions, businesses should carefully consider which projects should undergo a stand-alone HRIA, as well as under what circumstances it is relevant to trigger the HRIA process.

Companies may decide to undertake HRIA for a wide range of reasons based on their industry and associated risks, their human rights commitments, regulatory requirements and/or their legacy around human rights issues. Some countries have begun to pass laws requiring large companies to conduct due diligence in

order prevent serious human rights abuses in their supply chains.[12] Additionally, certain networks and organisations (such as the International Council on Mining & Metals) require or encourage members to conduct human rights due diligence, either as a stand-alone HRIA or as part of other risk management processes.[13]

Businesses and organisations may commit to commissioning a certain number of HRIAs as part of an overall human rights commitment. For example, a large multinational corporation may decide to undertake two HRIAs as part of a learning process, then use their findings to inform operations across several sites with similar characteristics or contexts.

Developing 'triggers' for HRIA can be a good method to enable staff in business and financial institutions to identify projects or activities where HRIA would be a helpful approach. Decision-making processes will vary based on the specific circumstances, operating context, company procedures and corporate commitments. However, certain triggers can signal that a HRIA is appropriate or necessary. For instance, companies may decide to commission or undertake HRIA:

- When a financer or investor requires human rights due diligence as part of the contract
- When business partners (e.g., joint-venture partners) have been involved in human rights abuse
- When entering a new country context with known human rights issues (e.g., forced labour, restrictions on freedom of expression or violent behaviour from security forces)
- When an NGO, CSO, human rights group or other whistle-blower raises concerns about human rights impacts arising from the business project or activities
- When beginning a high-impact, high-risk project (e.g., a new mine, dam or large construction project)
- When the project or activities are or will be located on protected land or areas occupied by vulnerable populations (e.g., areas near indigenous communities, protected rainforests or refugee camps)
- When internal risk-identification mechanisms flag a site or project for further review and investigation
- When at risk of complicity in human rights abuses (see Phase 3: Analysing Impacts)
- When the project or business activities will affect common property resources used by an entire community (e.g., groundwater, grazing land or fishing waters); and

- When entering a new market or industry that may place consumers at risk (e.g., infant formula).

In addition to companies, other parties may require or undertake HRIA in certain instances, including the circumstances listed above. International financial institutions, banks and other investors may require partners or recipients to conduct human rights due diligence as part of the contract. Depending on the particular business context, financers may set their own list of characteristics or circumstances which trigger a HRIA or additional consideration of human rights impacts.

Severity of actual or potential human rights impacts should always guide decision-making on which projects warrant a stand-alone HRIA. Projects or business activities with the highest severity of impacts (e.g., threats to lives and livelihoods) should receive the highest priority. For more information on severity, see Phase 3: Analysing Impacts.

A.4.6 HOW LONG DOES HRIA TAKE?

For HRIA of projects and sites, the assessment should be conducted as early as possible in the project cycle or when business activities commence, and should be repeated and re-evaluated at regular intervals and critical project gateways. For example, in the case of environmental and social impact assessment, review every three to five years is considered good practice. Human rights impacts should also be reassessed whenever the scale, scope or nature of the project or business activities changes, such as during project expansion or preparation for decommissioning and closure. Re-evaluation of HRIA results may also be appropriate when there are significant changes in social and political circumstances.

Timelines vary significantly based on the particular needs, resources, risks and context associated with the business project or activities. In planning and undertaking HRIA, it is important to recognise that the complexity of the assessment should be appropriately scaled to the particular context (e.g., the community context, whether it is ex-ante or ex-post, whether there are pre-existing conflicts) and to the nature of the business project or activities (e.g., the size of the operation, the stage of operations, the specific location). This also applies to consideration of how much time will be needed for the assessment. See Box A.4, below, for some example time allocations for HRIA.

Box A.4: Examples of time allocation for HRIA

The global food and beverage company Nestlé SA and the Danish Institute for Human Rights, as part of their partnership, conducted 11 HRIAs between 2010 and 2015. Each HRIA is different, given the varying country contexts, human rights situation, and scale and scope of business operations. Therefore, each HRIA requires a deliberate reflection on the necessary and appropriate amount of time needed for preparing and conducting the assessment.

Below, an estimation of the time allocation has been described. This example should not be seen as standard practice applicable to all HRIAs; as noted above, the amount of time necessary will depend on the particular context. Additionally, in practice, the various phases of a HRIA are much more fluid, which often creates overlap among the different phases (e.g., planning and scoping often overlaps with, and feeds into, data collection and baseline development).

- Approximately **two to three months are allocated for the planning and scoping phase**. This phase includes kick-off sessions involving the HRIA team and the subsidiary to explain the HRIA process. During this stage, the HRIA team conducts country risk research; scopes the business project or activities; identifies which locations, suppliers and commodities to include in the assessment; develops assessment questionnaires; and makes logistical preparations.
- Approximately **six weeks are allocated for data collection and baseline development**, which includes more or less three weeks of desktop data collection and two to three weeks of in-country assessment.
- During the in-country assessment, typically 70-80 interviews are conducted during the **two to three weeks on the ground**. These consultations include: interviews with management at the subsidiary head office; focus group discussions and individual interviews with workers and community members; interviews with suppliers and contractors (both management and workers); and interviews with other relevant parties, such as UN agencies, NGOs and CSOs and academic experts.
- After every in-country assessment, the HRIA team evaluates the overall assessment process (e.g., what went well and what could be improved for the next round of assessments). **This evaluation takes place on location and takes a few hours.**
- Upon return from the in-country assessment, the HRIA team spends approximately **four to five weeks drafting the HRIA report**, which includes time to analyse the human rights impacts found during the in-country assessment, as well as time to draft the final HRIA report. This phase may take longer depending on how much further research is needed. As part of

Box A.4: Examples of time allocation for HRIA

the HRIA report, the team also develops an impact management plan, which includes recommendations to mitigate the impacts found during the assessment.

- Once the HRIA report and impact management plan have been shared with the subsidiary, **the subsidiary needs approximately one month to review the recommendations**, determine timelines and identify relevant persons who will be responsible for the different mitigation actions.
- **Monitoring the HRIA impact management plan takes place on a quarterly basis**, through calls between the HRIA assessors and Nestlé (HQ representative and subsidiary focal point) to discuss and evaluate progress of the implementation of mitigation measures. The HRIA assessors offer support with any challenges that the company may encounter in implementing the recommendations.

The overall process (i.e., from preparing for the HRIA to finalising the HRIA report including impact management plans) takes approximately **six to seven months.**

Bisha Mine HRIA in Eritrea

The HRIA and post-HRIA activities of Nevsun's Bisha Mine in Eritrea were undertaken from mid-2013 through to 2015. The timeline below describes this process:

- **June - July 2013:** Nevsun commissioned the first HRIA of its Bisha Mine, beginning the HRIA process. This stage included meetings with the HRIA team and the preparation of a detailed assessment plan (i.e., the terms of reference).
- **August - October 2013:** Scoping took place, including: background research; document review; analysis of the legal framework of Eritrea; and survey of the relevant international human rights standards and context.
- **October 2013:** The first of two field missions to Eritrea took place. Assessors conducted fieldwork research, interviews and focus groups with stakeholders. Additionally, the HRIA team made observations of the Bisha Mine and nearby communities, as well as their interactions with Eritrean subcontractors.
- **January 2014:** A second mission to Eritrea took place for further data collection.
- **February 2014:** Interactive dialogues on Eritrea's Universal Periodic Review were held at the UN Human Rights Council.
- **February - March 2014:** Further research and human rights analysis were undertaken by the HRIA team.

Box A.4: Examples of time allocation for HRIA

- **April 2014:** The initial HRIA report was released.

After the publication of the 2014 HRIA report, the HRIA team stayed on to monitor and audit the mine. From July 2014 until August 2015, activities included:

- Various meetings with external stakeholders to discuss the HRIA report and consult about findings and recommendations
- Meetings with senior management, general managers and heads of departments to discuss next steps on the implementation of recommendations
- Two additional field missions in Eritrea, which included interviews with stakeholders
- Publication of the 2015 Audit; and
- Development of a proposal for a stakeholder engagement plan, to include discussions about the HRIA report, recommendations, and assessment follow-up activities.

Goldcorp's Marlin Mine Human Rights Assessment

Goldcorp's Marlin Mine Human Rights Assessment in Guatemala began in October 2008 and was conducted over an 18-month period. A steering committee was created, which consisted of a member of Guatemalan civil society, a shareholder group representative and a Goldcorp representative. The committee was charged with overseeing and managing the process, including developing the scope and timeline of the assessment, as well as selecting the consultant(s) to conduct the assessment. On Common Ground Consultants was chosen by the committee to conduct the assessment.

During November 2008 to June 2009 (an eight-month period), the assessment team conducted 189 individual interviews, nine group interviews with 84 participants, eight informal discussions and 10 focus groups with 95 participants. Additionally, field visits in Guatemala totalled more than 180 days, with continuous presence of the assessment team from mid-January through the end of March 2009.

In May and June 2009, it was noted that certain stakeholder groups were underrepresented, so through local contacts, the assessment team conducted eight days of additional interviews in order to ensure representation of these stakeholder groups in the assessment.

Sources: Tulika Bansal and Yann Wyss (2013), *Talking the Human Rights Walk: Nestlé's Experience Assessing Human Rights Impacts in its Business Activities,* Copenhagen: Danish

Box A.4: Examples of time allocation for HRIA

Institute for Human Rights and Nestlé; LKL International Consulting Inc. commissioned by Nevsun Resources Ltd. and Eritrean National Mining Corporation (ENAMCO) (2015), *Human Rights Impact Assessment of the Bisha Mine in Eritrea 2015 Audit*; On Common Ground Consultants Inc. commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Assessment of the Marlin Mine (2010), *Human Rights Assessment of Goldcorp's Marlin Mine,* Vancouver: On Common Ground Consultants Inc.

A.4.7 WHAT ARE THE DIFFERENCES AND SIMILARITIES BETWEEN HRIA AND OTHER TYPES OF IMPACT AND RISK ASSESSMENT?

HRIA draws on impact assessment practices such as environmental, social and health impact assessment (EIA, SIA and ESHIA when combined). However, while HRIA has a number of things in common with these more established practices, there are also some notable differences. HRIA features several original, essential elements that create added value (see Box A.5, below).

When comparing HRIA and SIA, for instance, it can be noted that both place significant emphasis on:[14]

- Identifying and addressing adverse impacts
- Consulting affected communities and individuals, including a particular focus on vulnerable groups; and
- Considering the process as well as the outcome of the impact assessment, including recognising that an impact assessment needs to be an ongoing process of change management rather than a one-off assessment exercise.

However, there are also notable differences between HRIA and SIA, including:

- The standards applied as the benchmark for the assessment; HRIA uses internationally recognised human rights standards, whereas SIA uses a range of different benchmarks dependent on the context
- In the context of business activities, SIA focuses on both adverse impacts and project benefits, whereas HRIA focuses on adverse impacts; and
- The identification of rights-holders and their entitlements, and the respective duty-bearers and their obligations, in stakeholder analysis and engagement.

It has also been noted that while there are significant parallels between ESHIA and HRIA, there are some areas of human rights impacts which are not, in practice, always included in a standard ESHIA scope. Even if included, these human rights issue areas might warrant further attention in practice, which could be facilitated by taking a human rights focus. Examples include:[15]

- Labour issues with contractors and within the goods and services supply chain
- Post-conflict or conflict-sensitive areas
- Security activities related to business operations and/or activities
- Gender analysis and an assessment of the gender impacts associated with a business project or activities
- The rights of indigenous peoples and an adequate focus on vulnerable individuals and groups
- Community impacts related to business relationships or activities (e.g., business partners, government actors or joint-venture operations)
- Legacy human rights impacts associated with the activities of previous business operators
- Cumulative impacts involving human rights impacts of other businesses operating in the same area; and
- In-migration associated with the development of the business project, which may result in overloading infrastructure and social services.

It should also be emphasised that HRIA is not the same as risk assessment, although the two may be related and inform each other. In the business context, risk assessment is focused on predicting the future occurrence of events and the associated implications for the business. HRIA differs from this by focusing on actual and potential impacts on rights-holders, rather than risks.

Box A.5: The 'original' or 'essential' elements of HRIA

Literature and practical guidance on HRIA has identified some of the key distinguishing features of HRIA, including:

- **Based on internationally recognised human rights standards and principles**, i.e., using these as the benchmark for the impact assessment. International human rights standards provide a universal and comprehensive basis for impact assessment, whereas other types of impact assessment tend to use a diverse array of standards as benchmarks and may not cover civil and political and/or economic, social and cultural rights comprehensively. Use of international human rights standards also includes drawing on a developed jurisprudence in the analysis of impacts, as well as recognising the interdependence and interrelatedness of impacts. Other types of impact assessment may be narrower in their focus.
- **Focus on participation of rights-holders, duty-bearers and other human rights stakeholders** in the impact assessment process. In HRIA, meaningful participation in the impact assessment process is as important as the outcomes, and rights-holders are considered active agents in the impact

Box A.5: The 'original' or 'essential' elements of HRIA

assessment process. While public participation is a standard component of impact assessment processes such as EIA and SIA, taking a human rights-based approach creates further emphasis on: participation in terms of questioning; broadening the points in time at which participation occurs; the level of information sharing involved in participation and consultation activities; and empowerment and capacity building of individuals to participate in the impact assessment process. HRIA also engages with human rights stakeholders such as human rights institutions, networks and experts during the impact assessment, as well as during the implementation of recommendations and mitigation measures.

- **Attention to equality and non-discrimination**. International human rights place significant emphasis on equality and non-discrimination. These terms are arguably more clearly defined than notions such as equity, which may be applied by other types of impact assessment. The principles of equality and non-discrimination inform the systematic analysis of impacts experienced by different individuals and groups (e.g., women and indigenous communities), including those that may be vulnerable or marginalised in a given context. By disaggregating data on human rights impacts, HRIA teams can systematically analyse the differential distribution of impacts between groups. In short, use of the human rights framework can broaden and deepen the analysis in terms of equality and non-discrimination.
- **Focus on accountability, including transparency, access to information and access to remedy**. Transparency is imperative both throughout the impact assessment process and with regard to the results. Considering transparency from the perspective of the right to access to information includes a full range of parameters, such as the type of information being disclosed, the points in time information is provided, language and other accessibility factors. The human rights framework recognises that rights-holders have rights and entitlements, and that duty-bearers must uphold their duties and responsibilities to respect, protect and fulfil these entitlements. This attention to accountability arguably provides greater imperatives for the implementation of mitigation measures (including access to remedy) than other impact assessment frameworks that are not based on legal standards. Relatedly, the emphasis of the human rights framework on access to remedy, both as a right in and of itself and as a component of accountability, leads to a stronger focus on remedy in HRIA than in other types of impact assessment.

Box A.5: The 'original' or 'essential' elements of HRIA
The 10 Key Criteria for HRIA (A.5, below) provide more detail on how such 'original' or 'essential' elements might be implemented in HRIA of business projects or activities.
Sources: Based on: Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements*, Antwerp: Intersentia, pp.39-49; World Bank and Nordic Trust Fund (2013), *Human Rights Impact Assessments: A Review of the Literature, Differences with other forms of Assessments and Relevance for Development,* Washington: World Bank and Nordic Trust Fund.

A.4.8 SHOULD HRIA BE STAND-ALONE OR INTEGRATED?

One key question for current HRIA practice is whether it is best to assess human rights by using a 'stand-alone' approach (i.e., an assessment that focuses exclusively on human rights) or an 'integrated' approach (i.e., integrating human rights into EIA, SIA, ESHIA or another form of assessment). In short, the answer should depend on the particular context.

There are a number of potential benefits to taking integrated approaches, such as:

- Building on and utilising existing impact management structures
- Avoiding consultation fatigue of stakeholders
- Facilitating analysis of the interrelatedness of environmental, social and human rights impacts; and
- Building on the respective strengths of the different disciplines involved.

On the other hand, there are also a number of potential benefits to taking a stand-alone approach. A stand-alone HRIA can, for example:

- Avoid side-lining human rights issues amongst a range of topics being considered
- Draw more extensively on human rights expertise; and
- Facilitate more in-depth space for learning and capacity building of the different stakeholders involved.

Table A.A, below, provides a short overview of some of the potential pros and cons associated with stand-alone and integrated approaches.

Table A.A: Strengths and weaknesses of different approaches to assessing human rights impacts		
	Integrated approach	**Dedicated (stand-alone) approach**
Strengths	• Benefits from established internal and external company mechanisms that assign accountabilities. • Avoids duplication of work and stakeholder consultation fatigue by focusing on the synergies between potential social and human rights impacts. • Can enable more efficient use of project time and resources. • The term 'human rights' resonates differently amongst people. This can lead to confusion, concern and sensitivities. An integrated ESHIA has the benefit of addressing human rights while using a framework and language with which project teams are familiar.	• Draws on human rights expertise, enabling specific focus and deep analysis of human rights. • Specifically prioritises individuals and communities who may experience human rights impacts, in particular by facilitating participation of vulnerable and marginalised individuals or groups. • Can be performed outside the regulatory requirements of an ESHIA process, which may allow for sensitive human rights issues and impacts to be assessed without triggering risks during the permitting process or from public release of the report. • Provides the freedom for companies to identify and assess human rights impacts, irrespective of government adherence to international human rights standards.
Weaknesses	• The process, especially if it is dictated by prescriptive host country regulatory requirements, may not allow for a specific focus on human rights.	• Mitigation and management plans drawn from a dedicated assessment may not be easily incorporated into existing company

Table A.A: Strengths and weaknesses of different approaches to assessing human rights impacts		
	Integrated approach	**Dedicated (stand-alone) approach**
	• ESHIA practitioners may not have sufficient human rights expertise. • Human rights considerations may not be explicitly referenced, and it may be less clear how human rights impacts have been identified and will be addressed by the project. • In operating contexts where human rights may be more sensitive, affected communities and individuals may be at risk if specific information from the ESHIA report enters the public domain. Separate reporting (if any) of such information may therefore be necessary.	management systems and may suffer from lack of both 'buy-in' and accountability for implementation. • Adds additional cost and resource management requirements to the project; cost sensitivities may also arise with business partners or host country governments. • May exacerbate or give rise to potential political sensitivities from external stakeholders, or may raise or create stakeholder expectations in situations where human rights are not promoted and protected.
Source: Based on Danish Institute for Human Rights and IPIECA (2013), *Integrating human rights into environmental, social and health impact assessments: A practical guide for the oil and gas industry,* Copenhagen: IPIECA and DIHR.		

A.5 10 KEY CRITERIA FOR HRIA

Despite the diversity, and at times divergence, in current HRIA approaches, there are a number of elements that recur in HRIA literature, guidance and practice as critical aspects to consider. These 'key criteria' relate to both the process and content of HRIA, and reflect what is unique about HRIA. These criteria also emphasise aspects which may to a lesser or greater degree be reflected in other impact assessment methodologies, but which arguably warrant heightened attention from a human rights perspective. These aspects can be grouped into five key criteria relating to process and five key criteria relating to content.

The following Table A.B, provides an overview of these 10 key criteria, including example guiding questions for HRIA practitioners.

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
Process	Participation	Meaningful participation of affected or potentially affected rights-holders is integrated during all stages of the impact assessment process, including scoping, data collection and baseline development, impact analysis, and impact mitigation and management.	• Have a broad range of rights-holders been engaged in the impact assessment, including workers and community members? Have the rights and involvement of contracted and supply chain workers and downstream communities been considered? • Have rights-holders been involved throughout the impact assessment process, including during early phases of the impact assessment such as: design of the impact assessment process; development of terms of reference for the assessment; impact scoping; and prioritisation of critical issues to be considered by the assessment? • Have rights-holders, duty-bearers and other relevant parties been involved in designing measures to address impacts (e.g., through prevention, mitigation and remediation) and follow-up to evaluate the effectiveness of these measures? • Have the participation rights of particular groups of rights-holders been fully recognised and respected in the impact assessment (for example, the right of indigenous peoples to be consulted according to the principle of free, prior and informed consent)? • Have rights-holder representatives or representative organisations been included in consultation and engagement, including

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
			consideration of the legitimacy of their claim to represent workers or community members? • Is engagement and participation in the impact assessment guided by the local context, including through using the community's preferred mechanisms (e.g., modes of communication) where possible? • Is the assessment process being undertaken at particular times to ensure participation (for example, when women are not in the fields, young people are not at school and families are not involved in the harvest)? • Does the impact assessment provide for ongoing dialogue between rights-holders, duty-bearers and other relevant parties (e.g., through collaborative problem analysis and design of mitigation measures)?
	Non-discrimination	Engagement and consultation processes are inclusive, gender-responsive and take into account the needs of individuals and groups at risk of	• Has impact assessment consultation and engagement involved both women and men, including through gender-responsive engagement methods as necessary (e.g., through holding women-only meetings or going house-to-house for individual consultation)? • Have steps been taken to ensure that the modes of engagement and participation address any barriers that may be faced by vulnerable and marginalised individuals (e.g., by offering transport or holding meetings in culturally appropriate locations)?

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		vulnerability or marginalisation.	• Have the vulnerable or marginalised individuals and groups in the given context been identified and considered (by considering discrimination, resilience, poverty factors, etc.)? • Have the needs of vulnerable and marginalised individuals been identified in stakeholder mapping and engagement planning?
	Empowerment	Capacity building of individuals and groups at risk of vulnerability or marginalisation is undertaken to ensure their meaningful participation.	• Do rights-holders have access to independent and competent legal, technical and other advice as necessary? If not, does the impact assessment include provisions for making such support available? • Does the impact assessment provide for capacity building of rights-holders to know and claim their rights, as well as of duty-bearers to meet their human rights duties? • Does the assessment process allow sufficient time for capacity building to allow communities to be meaningfully involved? • Does the impact assessment provide particular attention to vulnerable or marginalised individuals and groups in engagement and participation activities (e.g., by allowing sufficient time and resources to facilitate the inclusion of these individuals)?
	Transparency	The impact assessment process is as transparent as possible in order to	• Does the impact assessment process provide for information sharing between participants at relevant intervals? • Is the information about the business project or activities available to participating stakeholders adequate for giving a comprehensive

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		adequately engage affected or potentially affected rights-holders, without causing any risk to security and well-being of rights-holders or other participants (such as NGOs and human rights defenders). Impact assessment findings are appropriately publicly communicated.	understanding of potential implications and human rights impacts associated with the business project or activities (e.g., information on ancillary infrastructure such as the construction of a port, railway, etc.)? • Are HRIA findings and impact management plans publicly communicated to the greatest extent possible (e.g., published, with any reservations based on risk to rights-holders or other participants clearly justified)? • Are the phases of the impact assessment, including timeframes, communicated to all relevant stakeholders in a clear and timely manner? • Does communication and reporting take into account and respond to the local context? For example, is information made available in relevant languages and formats, in non-technical summaries and in physical and/or web-based formats that are accessible to stakeholders?
	Accountability	The impact assessment team is supported by human rights expertise, and the roles and responsibilities for	• Is responsibility for the implementation, monitoring and follow-up of mitigation measures assigned to particular individuals/groups? • Are sufficient resources dedicated to undertaking the HRIA, as well as implementing the impact management plan (i.e., adequate time, as well as financial and human resources)?

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		impact assessment, mitigation and management are assigned and adequately resourced. The impact assessment identifies the entitlements of rights-holders and the duties and responsibilities of relevant duty-bearers (e.g., the company, contractors and suppliers and local government authorities).	• Are relevant duty-bearers meaningfully and appropriately engaged in the impact assessment process, including impact mitigation and management? • Does the HRIA draw on the knowledge and expertise of other relevant parties, in particular human rights actors? • Does the HRIA team have the relevant interdisciplinary skills and expertise (including human rights, legal, language and local knowledge) to undertake the HRIA in the given context? • Have efforts been made to include local people, including women, in the impact assessment team, if appropriate?
Content	Benchmark	Human rights standards constitute the benchmark for the impact	• Have international human rights standards and principles been used as the benchmark for the assessment? • Has the impact assessment addressed the full scope of relevant human rights? If certain human rights have been excluded from the

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		assessment. Impact analysis, assessment of impact severity and design of mitigation measures are guided by international human rights standards and principles.	assessment, is the basis for this reasonable, as well as explicitly noted and explained in the impact assessment? • Is the scoping, baseline data collection, analysis of actual and potential impacts, and design of mitigation measures guided by the substantive content of human rights?
	Scope of impacts	The assessment identifies actual and potential impacts the business caused or contributed to. The assessment also considers impacts directly linked to the business through operations, products or services and/or business relationships	• Does the assessment include all relevant types of actual and potential impacts, i.e. those that are caused, contributed to, and directly linked? • Does the assessment assess human rights impacts the business is directly linked to through operations, products or services and/or business relationships (e.g., with suppliers, contractors, joint-venture partners, customers and state agencies)? • Does the assessment consider cumulative impacts, i.e., impacts that arise due to the aggregative or cumulative effect of multiple business operations and activities in the same area? • Does the assessment identify and address legacy impacts associated with the business project or activities (e.g., poorly conducted government resettlement of communities prior to the company acquiring the land)?

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		(contractual and non-contractual). The assessment analyses cumulative impacts and legacy issues.	
	Assessing impact severity	Impacts are addressed according to the severity of their human rights consequences. This includes considering the scope, scale and irremediability of particular impacts, taking into account the views of rights-holders and/or their legitimate representatives.	• Is the assessment of impact severity guided by relevant considerations, including the scope, scale, irremediability and interrelatedness of impacts? Is the assessment of severity determined with respect to the consequences for the individuals affected? • Are the relevant rights-holders and/or their legitimate representatives involved in the assessment of impact severity? Does the assessment of severity reflect the views of the relevant rights-holders? • Has the analysis of impacts taken into account the interrelatedness of human rights, as well as the interrelatedness of environmental, social and human rights factors? (For example, if a business project or activity impacts on the right to adequate rest and leisure by requiring excessive overtime, this may have a corresponding impact on the rights of children to care. Or if a business uses a significant amount of water resources, for instance through irrigation of an agricultural plantation, this will have an impact not only on the environment but may also impact on people's right to adequate water for drinking and

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
			sanitation, or the right to an adequate standard of living if families can no longer grow their food.)
	Impact mitigation measures	All human rights impacts are addressed. Where it is necessary to prioritise actions to address impacts, severity of human rights consequences is the core criterion. Addressing identified impacts follows the mitigation hierarchy of 'avoid-reduce-restore-remediate'.	• Are all human rights impacts that are identified addressed? • If it is necessary to prioritise actions to address impacts, is such prioritisation guided by the severity of human rights consequences? • In determining mitigation measures, are all efforts made to first avoid the impact altogether, and if this is not possible, to reduce, mitigate and remediate the impact? • Is care taken to ensure that compensation is not considered synonymous with impact mitigation and remediation? • Does the impact assessment identify ways of exercising leverage to address any impacts the business contributes or is directly linked to (e.g., through business relationships)? Where leverage does not exist, does impact mitigation include building leverage to address such impacts?
	Access to remedy	Impacted rights-holders have avenues whereby they can raise grievances regarding the	• Does the impact assessment identify actual impacts for which a remedy is needed? Are such impacts referred to the appropriate channels for remediation, including legal and non-legal as appropriate? • Have any severe human rights impacts that may constitute a legal breach been referred to the relevant legal channels (pending the

Table A.B: 10 key criteria for human rights impact assessment			
Key criteria for the process and content of HRIA			**Example guiding questions for HRIA practitioners**
		business project or activities, as well as the impact assessment process and outcomes. Impact assessment and management ensure that the business provides for or cooperates in access to remedy for impacted rights-holders.	consent of the rights-holders involved)? Does the business co-operate in any legal proceedings? • Is there an operational-level grievance mechanism in place that contributes to ongoing impact management, as well as the identification of unanticipated impacts? If not, does the impact management plan include the establishment of such a mechanism? Does the operational-level grievance mechanism meet the eight effectiveness criteria for non-judicial grievance mechanisms that are outlined in UN Guiding Principle 31? • Is it ensured that the operational-level grievance mechanism does not deny rights-holders access to all relevant judicial processes? • Are the access to remedy channels responsive to the context and preferences of the rights-holders in question?

Sources: These criteria are based on a literature review including sources on human rights impact assessment, stakeholder engagement, social impact assessment and the human rights-based approach, including the following key sources: Desiree Abrahams and Yann Wyss (2010), *Guide to Human Rights Impact Assessment and Management*, Washington: International Business Leaders Forum, International Finance Corporation and UN Global Compact; James Harrison (2013), 'Establishing a meaningful human rights due diligence process for corporations: learning from experience of human rights impact assessment', *Impact Assessment and Project Appraisal*, 31:2, pp.107-117; James Harrison (2010), *Measuring human rights: Reflections on the practice of human rights impact assessment and lessons for the future,* Legal Studies Research Paper No. 2010-26, University of Warwick School of Law; James Harrison and Mary-Ann Stephenson (2010), *Human Rights Impact Assessment: Review of Practice and Guidance for Future Assessments,* Edinburgh: Scottish Human Rights Commission; Christina Hill (2009), *Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment*, Melbourne: Oxfam Australia; Gillian MacNaughton and Paul Hunt (2011), 'A human rights-based approach to social impact assessment', in F. Vanclay and A. M. Esteves (Eds), *New Directions in Social Impact Assessment: Conceptual and Methodological Advances*, Cheltenham: Edward Elgar, pp.355-368; Norwegian Agency for Development Cooperation (2001), *Handbook in Human Rights Assessment: State Obligations,*

Table A.B: 10 key criteria for human rights impact assessment	
Key criteria for the process and content of HRIA	**Example guiding questions for HRIA practitioners**
Awareness and Empowerment, Oslo: NORAD; Office of the United Nations High Commissioner for Human Rights (2012), *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide,* New York and Geneva: United Nations; Office of the United Nations High Commissioner for Human Rights (2006), *Frequently asked questions on a human rights-based approach to development cooperation,* New York and Geneva: United Nations; Rights & Democracy (2011), *Getting it Right: Human Rights Impact Assessment Guide*. [online]. Available from: http://hria.equalit.ie/en/index.html; United Nations Human Rights Council (2011), *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, A/HRC/17/31; Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), *Social Impact Assessment: Guidance for Assessing and Managing the Social Impacts of Projects*, Fargo ND: International Association for Impact Assessment; Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements*, Antwerp: Intersentia; World Bank and Nordic Trust Fund (2013), *Human Rights Impact Assessments: A Review of the Literature, Differences with other forms of Assessments and Relevance for Development,* Washington: World Bank and Nordic Trust Fund.	

A.6 APPLYING INTERNATIONAL HUMAN RIGHTS STANDARDS AND PRINCIPLES

Human rights standards and principles should set the foundation for HRIA. It is therefore important that those involved in HRIA have a solid understanding of the nature, sources, content and jurisprudence of human rights, including what is expected of states and businesses with regard to upholding human rights, as well as the principles of a human rights-based approach (HRBA).

The following provides a short overview of some human rights basics that should be considered and applied when assessing human rights impacts.

A.6.1 WHAT ARE HUMAN RIGHTS?

Human rights are rights inherent to all human beings. They are universal legal guarantees protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity. Human rights are:

- **Universal and inalienable**, meaning that they apply to all human beings
- **Interdependent and indivisible**, meaning that there is no hierarchy between human rights; the improvement of one right facilitates advancement of the others, and likewise the deprivation of one right adversely affects the others; and
- **Equal and non-discriminatory**, meaning they are enjoyed by everyone equally, irrespective of nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status.

A.6.2 HOW ARE INTERNATIONAL HUMAN RIGHTS IMPLEMENTED?

International human rights are articulated in international conventions, treaties and declarations, as well as customary international law. International human rights treaties become binding on states through ratification. By ratifying an international human rights convention, a state commits itself to implementing the international convention into domestic laws and policies. The primary method for human rights enforcement is therefore the ability of individuals to make administrative or legal claims against a state for breaches of the state to respect, protect and fulfil human rights. In addition, individuals may be able to raise human rights cases in regional human rights courts or by submitting complaints to the UN treaty bodies responsible for overseeing the implementation of specific human rights conventions (e.g., the Committee on the Elimination of Discrimination Against Women).

Human rights are sometimes divided into civil and political rights (e.g., the right to freedom from torture, the right to partake in public affairs and the right to property) and economic, social and cultural rights (e.g., the right to an adequate standard of living, the right to education and the right to the highest attainable standard of physical and mental health). Although human rights are considered interdependent and indivisible, one important difference between these two categories of rights is the concept of 'progressive realisation' with regard to economic, social and cultural rights.

Progressive realisation means that states are expected to take appropriate measures towards the full realisation of economic, social and cultural rights to the maximum of their available resources. As such, it is recognised that not all economic, social and cultural rights can be fully realised immediately when a state ratifies the treaties protecting these rights in international law, but also that a lack of resources cannot justify inaction or indefinite postponement of measures to implement these rights.

In particular, irrespective of their available resources, states must take immediate action towards the full realisation of economic, social and cultural rights in five areas:[16]

- The elimination of discrimination
- Immediate implementation of economic, social and cultural rights that are not subject to progressive realisation (e.g., the right to freedom of association, equal remuneration for work of equal value, and the obligation to protect children and young persons from economic and social exploitation)
- Actionable steps towards the realisation of economic, social and cultural rights that are subject to progressive realisation (e.g., implementing strategies and plans, adopting the necessary laws and policies and regularly monitoring and assessing the progress made towards the full implementation of the rights)
- Non-retrogression on measures, meaning that the protection of the rights should not deteriorate; and
- Attention to minimum core obligations; i.e., states are required to meet the minimum essential levels of each of the rights (e.g., the right to minimum essential food, basic shelter, sanitation and adequate drinking water).

A.6.3 WHAT ARE THE STATE DUTIES TO RESPECT, PROTECT AND FULFIL HUMAN RIGHTS AND HOW DO THESE DIFFER FROM THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS?

With regard to human rights, states have the duties to:

4. **Respect**: refrain from interfering with the enjoyment of the right
5. **Protect**: prevent others, including third parties such as businesses, from interfering with the enjoyment of the right through appropriate legislation, policies, regulation and adjudication; and
6. **Fulfil**: to take steps to facilitate the enjoyment of human rights.

For example, with regard to the right to work, a state would be obliged to: respect the right (e.g., by not using forced labour or denying political opponents work opportunities); protect this right (e.g., by ensuring that employers pay the minimum wage and provide adequate working conditions); and fulfil the right (e.g., by undertaking educational and informational programmes to facilitate public awareness of the right to work).[17]

Currently, businesses are not considered to have direct legal obligations under international human rights law. Instead, according to the UN Guiding Principles, businesses have a 'responsibility to respect' human rights, including to 'do no harm'.[18] However, it is important to note that the responsibility to respect is not strictly a 'negative' obligation of non-interference, as businesses are required to take active steps to avoid adversely impacting on human rights through a process of human rights due diligence.[19] The responsibility to respect is considered an international norm of expected conduct, rather than a legal duty under international human rights law. However, this does not mean that the corporate responsibility to respect is unrelated to legal duties. For example, companies have a legal duty to respect human rights where these have been integrated into domestic laws (i.e., following ratification of international instruments and adoption of implementing legislation). Increasingly, there are also developments towards legislation for mandatory human rights due diligence. Companies may also be subject to duties under international humanitarian and international criminal law in certain circumstances.

A.6.4 WHAT TYPES OF HUMAN RIGHTS ARE BUSINESSES EXPECTED TO RESPECT?

Businesses can impact virtually all human rights; as such, all internationally recognised human rights are envisaged by the corporate responsibility to respect. According to the UN Guiding Principles, when exercising human rights due diligence, businesses are required to consider, at minimum, the rights captured in the International Bill of Human Rights (comprising the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights) and the International Labour Organization's eight core conventions outlined in the Declaration of Fundamental Principles and Rights at Work (addressing non-discrimination, bonded and forced labour, child labour, and freedom of

association).[20] Additional human rights standards should be considered as relevant in the particular context (e.g., the rights of indigenous peoples if the business project or activities occur near indigenous lands or international humanitarian law in conflict-affected areas).

A.6.5 WHAT ARE THE SOURCES OF HUMAN RIGHTS THAT SHOULD BE CONSIDERED IN HRIA?

The substantive content of human rights is elaborated in sources such as:

- **International treaties, conventions and declarations** on human rights, including elaboration of these in general comments, recommendations and concluding observations by UN treaty bodies, as well as reports by UN special procedures on specific themes (e.g., the Special Rapporteur on adequate housing or the Working Group on the issue of discrimination against women in law and in practice)
- **Regional human rights instruments and jurisprudence** (e.g., the African Charter on Human and Peoples' Rights and the African Court on Human and Peoples' Rights)
- **State constitutions and human rights legislation** (e.g., national human rights acts); and
- **State thematic legislation and jurisprudence** (e.g., non-discrimination laws and workplace health and safety laws).

Such sources should inform HRIA and be carefully consulted by HRIA practitioners in impact assessment.

A.6.6 WHAT ARE ABSOLUTE RIGHTS, CORE CONTENT AND AAAQ?

To determine whether an adverse human rights impact has occurred or is likely to occur, a number of factors will need to be taken into consideration, including the substantive content of the right, the nature of the business interaction or interference with the right, causality, data and evidence collection, the experiences and views of the rights-holders in question and so forth. The following are some key concepts and principles from international human rights law that should inform HRIA analysis:

- **Substantive content of human rights**: The substantive content of the right in question should constitute the benchmark against which the impact is evaluated. This has been elaborated in sources such as those listed above, which should be carefully considered in the HRIA analysis.
- **Any particular status and rights of the rights-holders who are impacted**: Human rights apply to everyone. However, in addition to this principle of

universality, a number of rights-holder groups enjoy additional or particular protections. For example, children enjoy specific protection under the Convention on the Rights of the Child with regard to both rights and process, such as the right to play and the right to be consulted. Indigenous peoples, for example, have particularly rights under ILO Convention No.169 and the Declaration on the Rights of Indigenous Peoples, recognising the particular attachment of indigenous peoples to their lands, territories and natural resources, as well as the principle of free, prior and informed consent.

- **Availability, accessibility, acceptability and quality (AAAQ):** The content of some economic, social and cultural rights is elaborated in terms of AAAQ (in particular health, education, water and housing). These parameters might usefully inform analysis in HRIA. For example, in considering whether an adverse impact on the right to housing has occurred, the availability, accessibility, acceptability and quality of housing should constitute the parameters for baseline data collection (including selection of indicators), assessment of impact severity, and the design and implementation of mitigation measures. (See Box A.6, below, for further details on AAAQ.)
- **Core content:** Under the International Covenant on Economic, Social and Cultural Rights, certain obligations are considered to be 'minimum core obligations'. These are the aspects that a state is obliged to implement immediately, irrespective of available resources. Even where a state has inadequate resources available, it is expected to introduce low-cost and targeted programmes to assist those individuals who are most in need.
- **Absolute and non-derogable human rights:** Human rights are considered universal and inalienable. Some rights are absolute and non-derogable, meaning that they cannot be limited in any way, at any time, for any reason (e.g., the right to be free from slavery and servitude, as well as the right to be free from torture and other cruel, inhuman or degrading treatment or punishment). Nevertheless, it is recognised in international human rights law that certain human rights may be limited in certain circumstances. Derogations allow states to suspend part of their legal obligations and restrict some rights under certain circumstances – essentially, where there is a serious public emergency, providing that the derogation is for a limited period of time, proportionate to the emergency and non-discriminatory.
- **Progressive realisation:** As explained above.
- **Non-discrimination:** Non-discrimination is a core cross-cutting human right and principle and therefore needs to be a key consideration in assessing whether a human rights impact has occurred.
- **Human rights-based principles:** The human rights-based approach includes a number of 'process' principles, namely: participation and inclusion, non-discrimination and equality, and transparency and accountability. Whether

such principles have been respected therefore needs to be a component of HRIA analysis. For an introduction to the human rights-based approach, see Box A.6, below. For how the human rights-based approach can be applied in HRIA see 10 Key Criteria for HRIA (section A.5).

Box A.6: A human rights-based approach

A human rights-based approach (HRBA) to development is 'a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.'

A human rights-based approach can be described in different ways. According to the United Nations Stamford Understanding, it consists of the following three core elements:

- **Application of the international human rights framework:** A HRBA implies that practices are guided by, and strive to uphold, international human rights standards and principles.
- **Application of human rights principles, including in processes:**
  - Universality and inalienability: All people everywhere in the world are entitled to human rights.
  - Indivisibility: All civil, cultural, economic, political and social human rights have equal status as rights and cannot be ranked in a hierarchical order.
  - Interdependence and interrelatedness: The realisation of one right often depends on the realisation of other rights. For example, realisation of the right to health may depend on the right to education or the right to information.
  - Equality and non-discrimination: All individuals are entitled to their human rights without discrimination. This includes paying particular attention to vulnerable and marginalised individuals and groups, as well as gender. It also involves taking steps to ensure that all affected and impacted women and men, girls and boys, are empowered to understand and participate in decisions that affect them.
  - Participation and inclusion: In a human rights-based approach, participation is both an objective and a means of development. Participation should aim to give individuals and communities genuine ownership over the development processes with which they are involved and that have an impact on them. For this, participation should be 'active, free and meaningful'. From a rights-based perspective, participation is more than consultation or a technical add-

Box A.6: A human rights-based approach

on to development activities; instead, it is an integral part of shaping such activities.

- **Rights-holders and duty-bearers analysis:** Accountability is a cornerstone of a HRBA. This includes identifying who are the rights-holders and duty-bearers in a given context. Additionally, steps should be taken to ensure that rights-holders have the capacity to claim their rights, and correspondingly, that duty-bearers uphold these rights. This has implications for how stakeholders are included in HRIA. For example, applying a HRBA, the individuals affected by the project would be seen as rights-holders rather than as stakeholders – that is, as people who have entitlements for which they can hold a relevant duty-bearer accountable.

The importance of adopting a HRBA in the context of HRIA has been noted in the majority of HRIA methods, guidance and literature. For example, such literature has pointed to the importance of: drawing on relevant expertise; engaging in meaningful consultation with potentially affected stakeholders; paying particular attention to vulnerable groups and different risks faced by women and men; including all internationally recognised human rights as a reference point; and undertaking impact assessments at regular intervals. This reflects the HRBA emphasis on the application of international human rights standards, as well as the process principles of participation, non-discrimination and accountability.

Sources: Drawing on: Office of the United Nations High Commissioner for Human Rights (2006), *Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation*, New York and Geneva: United Nations; UN Guiding Principle 18.

Box A.7: Availability, accessibility, acceptability and quality (AAAQ)

Certain economic, social and cultural rights are elaborated in international human rights treaties and jurisprudence according to the four inter-related criteria of availability, accessibility, acceptability and quality. Specifically, these standards relate to: the right to an adequate standard of living, including food, clothing and housing; the right to the highest attainable standard of health; and the right to receive an education.

- **Availability** refers to facilities, goods and services that must be available in sufficient quantities and continuous supply within the country. It is considered an objective criterion which can be measured through quantitative data.

Box A.7: Availability, accessibility, acceptability and quality (AAAQ)

- **Accessibility** details that services must be accessible to everyone without discrimination. It is further divided into four sub-criteria: physical accessibility; economic accessibility; non-discrimination; and information accessibility. This criterion is considered highly complex, and will therefore require both qualitative and quantitative data, as well as a high level of participation of rights-holders to identify relevant indicators for each of the sub-criteria.
- **Acceptability** concerns both user acceptability and cultural acceptability. Both are subjective assessments of rights-holders' perceptions. The former is concerned with characteristics (i.e., odour, taste and colour of water) and procedural considerations (i.e., the behaviour of water suppliers), while the latter is concerned with perceptions based on the culture of the rights-holders.
- **Quality** refers to the standards that services and products must adhere to. This is based on objective, scientific terms that are closely related to international and national quality standards.

AAAQ can be a useful tool in a HRIA in that it elaborates on the content of economic, social and cultural rights. For example, in considering whether an adverse impact on water has occurred, the availability, accessibility, acceptability and quality of water should constitute the parameters for baseline data collection, as well as the indicators for measuring against the benchmark. (For more information on data collection and indicators, see Phase 2.)

Source: Danish Institute for Human Rights (2014), *The AAAQ Framework and the Right to Water: International Indicators for Availability, Accessibility, Acceptability and Quality,* Copenhagen: DIHR.

PHASE 1

1 PLANNING AND SCOPING

What Happens in Phase 1?

Good planning and scoping will go a long way to ensuring that a HRIA is effectively conducted and that it achieves the desired results.

The purpose of scoping is to define the parameters for the assessment by considering: (i) the type of business project or activities; (ii) the human rights context; and (iii) who the relevant stakeholders are.

This information is then used to inform the development of the terms of reference (TOR), a written document that presents the scope and purpose of the HRIA. A well-constructed TOR can be critical for ensuring that the subsequent assessment is conducted according to the expected standards and principles.

The company and practitioners then build the HRIA team, which should be independent from the company in order to ensure legitimacy.

Scoping and TOR should always provide some flexibility to allow increased time and attention to topics and issues that are most relevant, as well as inclusion of unanticipated human rights impacts. While in the scoping phase most information is collected through desktop research, a short and targeted scoping trip by the assessment team to the assessment site(s) to gain an initial on-the-ground overview can be extremely beneficial. It should be included if appropriate based on the complexity of the HRIA context and the scale of the assessment.

Key Questions Addressed in This Section

- **What kind of information is necessary for scoping of the business project or activities, human rights context and relevant stakeholders?**
- **Who should be on the assessment team for a HRIA?**
- **What should be included in the terms of reference for a HRIA?**

1.1 SCOPING FOR HRIA

The purpose of scoping is to define the parameters for the HRIA through gathering preliminary information on the area of impact of the business project or activities. HRIA scoping should include consideration of the:

- Business project or activities
- Human rights context; and
- Relevant stakeholders for the HRIA.

Most of the information gathered as part of the scoping will be found through desktop research. However, depending on the context of the business project or activities, it may be desirable to undertake preliminary field research as part of the scoping. For example, a three-to-five day visit to the operations can provide an on-the-ground introduction to the business operations and human rights context. This visit may include a select set of interviews with key stakeholders.

This information is then used to inform the development of the terms of reference (TOR) for the assessment, baseline data collection and subsequent impact analysis. Scoping and TOR should always provide some flexibility to allow increased time and attention to topics and issues that are most relevant, as well as inclusion of unanticipated human rights impacts.

Sufficient time should be allotted after scoping to allow the HRIA team to make best use of the information gathered and plan strategies for subsequent fieldwork and data collection.

Figure 1.a, below, provides an overview of the areas for consideration for the scoping process. In the Scoping Practitioner Supplement, you can find example questions and resources for the scoping of the business project or activities and the scoping of the human rights context.

In section B.2 of Stakeholder Engagement and section 1.4 of the Stakeholder Engagement Practitioner Supplement, further information is provided on the relevant stakeholders to include in the HRIA.

Figure 1.a: Scoping of the business project or activities, scoping of the human rights context and preliminary identification of relevant stakeholders

1.1.1 SCOPING OF THE BUSINESS PROJECT OR ACTIVITIES

In the scoping phase, some initial considerations and characteristics are identified which the HRIA team will investigate and verify throughout the HRIA process. The UN Guiding Principles establish corporate responsibility for human rights impacts based on "the company's web of activities and relationships".[21]

Scoping of the business project or activities will largely focus on impacts that the business **causes**, **contributes to** or is **directly linked to**. (More information on

categorising impacts is provided in Phase 3.) The UN Guiding Principles suggest assessing both actual and potential impacts, with special consideration to severity of the impact.

Identifying the geographical, environmental, and social characteristics of the project or activity is key to the scoping process. For example, human rights impacts are not necessarily defined by geographical boundaries. If a company is polluting a river, a community located twenty miles downstream may be more adversely impacted than a community located three miles upstream.

Furthermore, HRIA considers some areas of business activity that are not commonly addressed in SIA, EIA or ESHIA, such as: inclusion of the consideration of the labour rights of employees, workers and contractors; security and human rights related issues, including impacts on women; and human rights impacts associated with revenue, benefit agreements and/or state-investor contracting. (For more information on differences and similarities between HRIA and ESHIA, see Introduction section A.4.7.) The scoping of business activities for a HRIA should take care to include these aspects. When the company's other impact assessments uncover data on human rights (e.g., labour standards), this information should be provided to those responsible for the HRIA as part of the scoping process.

Scoping of the business project or activities should include consideration of different impact areas and right-holder groups, such as:

- Communities (noting that communities are not homogenous and not always located at the project site)
- Environment
- Security
- Workers and contractors
- Consumers
- Suppliers and procurement; and
- Government relations and legal affairs.

Reflection on the industry in question, including through comparative analysis of impact assessments for similar business projects or activities, will also be useful. Depending on the industry of the business project or activities (e.g., mining, agriculture, manufacturing), relevant industry standards and frameworks should be included in the scoping analysis.

See section 1.1 of the Scoping Practitioner Supplement for further details on scoping of the business project or activities.

1.1.2 SCOPING OF THE HUMAN RIGHTS CONTEXT

The purpose of scoping the human rights context is to understand the level of protection and enjoyment of human rights in the given context; in particular, by analysing the implementation of international human rights in national legislation, policies, regulation and adjudication, as well as considering their implementation and effectiveness in practice.

Scoping of the human rights context should include not only a legal analysis, but also more practical information that provides insight into actual human rights enjoyment on the ground. In addition to legal analysis, the human development profile of the country and region can provide essential information. For example, the scoping should include an analysis of the ability of human rights defenders, trade unions, and NGOs and CSOs to engage in human rights work and comment on the adverse impacts of business projects and activities. This can be done by analysing space for engagement, safety of these actors and ability of community members to participate without fear of reprisal. Other characteristics to consider include the local geographic and physical characteristics; history; and socio-economic and demographic characteristics.[22]

Factors to consider in scoping of the human rights context include:

- Status of ratification and implementation of international human rights law and gaps at the national level
- Level of implementation of national laws and regulations resulting in human rights enjoyment in practice
- Whether laws applicable to business projects and activities enable or constrain respect for human rights
- Effectiveness of judicial remedies and other grievance mechanisms
- Barriers to access to justice
- Percentage of the population below the national poverty rate and absolute poverty rate
- Demographics in the region of operations (e.g., ethnic groups, languages, religious groups)
- History of conflict or human rights abuses
- Level of press freedom and freedom of expression; and
- Human rights record of government officials and political parties.

Sources can include:

- National laws, policies, regulation and jurisprudence
- Reports by local and international NGOs and CSOs
- Reports by national human rights institutions

- UN treaty bodies concluding observations; and
- Recommendations and reports by UN special procedures (e.g., UN special rapporteurs or representatives) and regional human rights bodies.

Data on the human conditions covering economy, inequality, poverty, food, water, health, education, freedoms and corruption should also be considered. Sources can include the Human Development Index of the UN Development Programme, as well as national and regional census and development data.

See section 1.2 of the Scoping Practitioner Supplement for further details on scoping of the human rights context.

Box 1.1: Scoping for HRIA in conflict-affected settings

'Conflict-affected setting' is a broad term that applies to countries engaged in armed conflict, such as war and insurgency, as well as regions experiencing social unrest and political violence. The term also encompasses 'post-conflict' countries that have reached a peace settlement, but which are still experiencing the lasting effects of the conflict.

In conflict-affected settings, there is higher risk for businesses to become involved in human rights violations. This is due to factors such as a high overall rate of human rights abuses, weakened regulatory systems for enforcing human rights, increased likelihood of business partners (such as state actors or contractors) engaging in conflict or abuse, and complexity of the local context. In these settings, human rights violations are often more severe, and businesses run a greater risk of unintended consequences from their activities. Practitioners conducting HRIA in conflict-affected settings must pay special attention to considerations such as the legacy of conflict, conflict dynamics, conflicting parties and their objectives, geographic areas of the conflict, and grievances and drivers of conflict.

International Alert's guidance on human rights due diligence in conflict-affected settings provides in-depth information on conflict sensitivity principles, including considerations for scoping the local human rights context. During the scoping phase, assessors should conduct desktop research on issues related to the conflict, including: discrimination or marginalisation of certain groups; tensions related to ethnicity, religion, or identity; resettlement to or from the operating area; conflict around resources such as land and water; and high levels of endemic violence. Assessors should also anticipate challenges related to the conflict and barriers to stakeholder engagement, including risks

Box 1.1: Scoping for HRIA in conflict-affected settings
related to illegal armed groups and criminal groups, and plan methods for addressing these challenges.
Sources: Roper Cleland (2019), 'Understanding conflict for HRIA' in Nora Götzmann (Ed), *Handbook on Human Rights Impact Assessment,* Cheltenham: Edward Elgar; Yadaira Orsini and Roper Cleland (2018), *Human Rights Due Diligence in Conflict-Affected Settings: Guidance for Extractives Industries,* London: International Alert; Ashley Nancy Reynolds, 'Human Rights Impact Assessment in Conflict-Affected Societies: From Avoiding Harm to Doing Good' (master's thesis, Global Campus of Human Rights, 2019).

1.1.3 IDENTIFYING RELEVANT STAKEHOLDERS

During the scoping process, it is important to identify and conduct a mapping of the relevant stakeholders in the given context, including analysing what type of stakeholder they are, their level of influence and if/how they may be impacted by the business project or activities. Stakeholder mapping should pay particular attention to rights-holders and include gender analysis and consideration of vulnerability factors in the given context.

In section 1.1 of the Stakeholder Engagement Practitioner Supplement, you can find a suggested format for stakeholder mapping for the scoping process, and in section B.2 of Stakeholder Engagement, you can find additional information about the different types of stakeholders to include in the HRIA.

Figure 1.b, below, provides an overview of the types of stakeholders to consider in the initial stakeholder mapping.

Figure 1.b: The different types of stakeholders to engage in HRIA

Duty-bearers

- The company operating the business project or conducting the business activities
- Business suppliers and contractors
- Joint-venture and other business partners
- State actors such as local government authorities and regional and national government departments and agencies

Rights-holders

- Workers and families
- Contractor (goods and services providers) employees and families
- Impacted community members, including women and men, children, indigenous peoples, migrant workers, ethnic minorities and so forth (both within the geographic vicinity of operations but also impacted downstream, trans-boundary or neighbouring communities)
- Human rights defenders
- Consumers

Other relevant parties

- Intergovernmental organisations
- Local and international NGOs and CSOs
- UN and regional human rights mechanisms
- National human rights institutions
- Subject matter experts
- Academia
- Rights-holder representatives or representative organisations, such as trade unions

1.2 TERMS OF REFERENCE FOR HRIA

The TOR is a written document that presents the scope and purpose of the HRIA. A well-constructed TOR can be critical for ensuring that the subsequent assessment is conducted according to the expected standards and principles.

Both the company commissioning the assessment and impact assessment practitioners have a role to play: the company in drafting a TOR that clearly requires the application of international human rights standards and principles,

and impact assessment practitioners in proposing a responsive methodology and an assessment team that is tailored to the particular context, taking account of specifics such as the location, industry and envisaged timeframe for the HRIA.

In short, the TOR should provide a clear description of:[23]

- The rationale for undertaking the assignment
- The expected methodology and work plan (activities), including timing and duration
- The anticipated resource requirements, particularly in terms of personnel; and
- The reporting requirements.

The TOR serve as a tool for:[24]

- Identifying and selecting the most qualified and suitable HRIA team
- Communication between the company commissioning the assessment and those undertaking the HRIA
- Following up and monitoring the contract during the impact assessment implementation; and
- Evaluation (i.e., because the TOR is part of the contract between the company and those undertaking the assessment, it can be used to evaluate the performance of the HRIA team upon completion of the assessment).

In the Terms of Reference Practitioner Supplement you can find example questions to guide the development of the TOR for a HRIA.

Some additional aspects to keep in mind when developing the TOR are:

- The TOR may cover both the scoping and the actual assessment phases of the HRIA. However, depending on the scale of the business project or activities and the HRIA, it may be desirable to separate these two stages so that the scoping is conducted before the development of the TOR for the remainder of the HRIA phases, allowing the information and analysis gained to feed into the TOR for the remainder of the assessment. This will provide increased opportunities to include the views of rights-holders in the drafting of the TOR for the HRIA. It is also likely to allow for a better estimation of the necessary budget to conduct the HRIA.
- While it may be difficult to anticipate exactly what time and resources will be required for the implementation of mitigation measures, it is a good idea to include at least the development of a concrete impact management plan in the TOR. This avoids the HRIA process ending with a report that includes

recommendations without a concrete follow-up plan for their implementation.

- To the greatest extent possible, it is desirable to involve rights-holders and their representatives in the development of the TOR for the assessment. For example, the TOR may emphasise consultation and engagement with rights-holders or key interlocutors to verify key information and priorities.

1.3 THE HRIA TEAM

It is critical to ensure that the people on the HRIA team have the requisite skills and expertise to ensure that the process is professional, effective and built on a human rights-based approach.

In order to ensure the independence and legitimacy of the process, the HRIA should be conducted by an assessment team that is independent from the company. Practice shows that in human rights assessment of business projects or activities, businesses often choose to compose assessment teams entirely of their own in-house personnel or to include both in-house experts and external experts. This can limit the independence of the assessment and be problematic in terms of factors such as ensuring the legitimacy of findings and building trust between the impact assessment team and rights-holders. Rather than having company representatives on the assessment team, it may be desirable to form a steering or governance group for the HRIA that comprises HRIA team members, company representatives and other relevant stakeholders.

If insufficient resources are allocated for the HRIA, this is also likely to limit the composition of the HRIA team.

Table 1.A, below, highlights key factors to consider when putting together a HRIA team. The examples listed in Box 1.2 below, illustrate the role that a steering committee or advisory group can play in complementing the HRIA team.

Table 1.A: Factors to consider in composing a HRIA team	
Factors	**Steps to take**
Skill-set of HRIA team	• Make sure to include team members who have the following skills: human rights expertise and experience in field research; local context knowledge; the right language skills; and knowledge of the particular industry and understanding of how it relates to human rights. • Consider including technical experts who can measure certain impacts (e.g., environmental and health impacts)

Table 1.A: Factors to consider in composing a HRIA team	
Factors	**Steps to take**
	and assess the technical and financial feasibility of mitigating measures. • Ideally, the team should be diverse and interdisciplinary, with members from different cultural and educational backgrounds and sensitivity to the local context. This could include lawyers, sociologists, anthropologists and other relevant experts.
Neutrality	• Pay attention to the neutrality of the persons who are conducting the assessment. They should be considered neutral and trustworthy by the rights-holders and other stakeholders engaged as part of the HRIA process.
Gender	• Make sure to include a balance of women and men on the HRIA team. The HRIA team should also have sufficient gender expertise to conduct gender analysis, recognise and respond to power dynamics and systemic gender discrimination, and implement the HRIA in a gender-responsive manner that accounts for the rights of women, girls and LGBT+ persons.
Local outreach	• Make sure to include local team members, including women, who are from the country/region/location where the business project or activities are taking place. This is extremely important, as these people will be critical in building trust with the rights-holders and can help with understanding the dynamics within the communities and the cultural context in which the HRIA is taking place. The local team members should have a pre-existing network to support the identification and mapping of stakeholders and to help with reaching out to the rights-holders. • Consider including persons from the affected communities, both women and men, in the HRIA team, bearing in mind implications regarding the neutrality of the team. • Consider making use of a local person who knows and can provide access to local stakeholders. In certain situations, such as when operating in a specific region in

Table 1.A: Factors to consider in composing a HRIA team	
Factors	**Steps to take**
	the country or consulting vulnerable and marginalised groups. Such a local person who has a broad network, knows various stakeholders with different opinions and can facilitate setting up meetings, is required.
Local language and cultural aspects	• Include person(s) in the team who speak the local language of rights-holders and other stakeholders and understand the local cultural context. • Consider hiring an interpreter if only part of the team speaks the local language(s). The person conducting the interview cannot be constantly playing that role. In some contexts, it can be difficult to find a professional interpreter. If it is not possible to hire a professional interpreter, the HRIA team may consider using local language experts. Regardless of whether the interpreter is a professional or not, preparation with the person so that they understand the key concepts and terms of the HRIA and human rights issues is necessary. The interpreter should also understand their own role as a neutral party to the process who should strive to accurately interpret everything that is said and not give their personal interpretation of what a person is saying. To ensure neutrality and impartiality, interpreters should be independent.
Reference group/steering committee	• Consider forming a reference group/steering committee which advises and supervises the HRIA team on methodological and ethical questions. Especially in the context of bigger and more difficult business projects, this might be necessary. However, the reference group/steering committee should take care not to infringe on the independence and impartiality of the HRIA team. The reference group could also provide a space where people can direct any questions or grievances that they might have about the HRIA process. See further Box 1.2, below, for some examples of the role that a steering committee or advisory group can play.

Box 1.2: Steering committees and advisory groups in HRIA

Kuoni Kenya and India HRIAs

The Kuoni group is a global travel service company that conducted HRIAs in Kenya in 2012 and in India in 2014. Both assessments had a stakeholder advisory group to accompany the team and process. The projects' HRIA teams were led by the Kuoni Corporate Responsibility Team. In the case of the Kenya pilot project, the advisory group included the management consultancy TwentyFifty Ltd., Tourism Concern (an NGO that acted as an independent advisor), and a business partner. The core HRIA team was supported by independent advisors who made up the international stakeholder advisory group. Advisors came from some of the following organisations: Arbeitskreis für Tourismus und Entwicklung, Fair Trade in Tourism South Africa, Tourism Concern, UNICEF, and the Swiss Centre for Expertise in Human Rights. It should be noted that some advisors remained on for the subsequent India HRIA. The advisory group's role included:

- Advising on stakeholder identification, including who to engage with prior to and during the assessment
- Providing the HRIA team with local context knowledge on tourism and human rights impacts (including past impacts)
- Utilising the group's network of CSOs to have meaningful consultations with rights-holders and their representatives; and
- Providing feedback on the design and the methodology of the HRIA as well as the final report.

Marlin Mine Human Rights Assessment

In 2008, Goldcorp Inc. established a steering committee consisting of a member of Guatemalan civil society, a shareholder group representative, and a Goldcorp representative to oversee and direct the human rights assessment concerning the company's operations around the Marlin Mine (Guatemala). The steering committee was responsible for overseeing the assessment process, setting the scope and timeline of the assessment and selecting the assessment team. The steering committee selected On Common Ground Consultants as the team to conduct the assessment. While conducting the assessment, the consultants reported regularly to the steering committee and discussed the challenges encountered in implementing the assessment methodology on the ground (e.g., the limited possibilities to engage with certain stakeholder groups due to security and conflict risks). The steering committee supported the assessment team by adjusting the scope and timelines to permit additional efforts and approaches to stakeholder engagement. This model of a steering committee could be replicated and

Box 1.2: Steering committees and advisory groups in HRIA

expanded to provide a mechanism for the participation of stakeholders in the assessment process and to support further transparency and accountability of HRIAs. It has been cited by Oxfam America as 'nearing a hybrid approach' for collaborative HRIAs that involve both company and community representatives.

Sources: Kuoni Travel Holding Ltd., TwentyFifty Ltd., and Tourism Concern (2012), *Assessing Human Rights Impacts: Kenya Pilot Project Report*, Zurich: Kuoni Travel Holding Ltd; Kuoni Travel Holding Ltd. (2014), *Assessing Human Rights Impacts: India Project Report*, Zurich: Kuoni Travel Holding Ltd; On Common Ground Consultants Inc. commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Assessment of the Marlin Mine (2010), *Human Rights Assessment of Goldcorp's Marlin Mine*, Canada: On Common Ground Consultants Inc.

PHASE 2

2 DATA COLLECTION AND BASELINE DEVELOPMENT

What Happens in Phase 2?

During Phase 2, data collection and baseline development, the HRIA team goes into the field to conduct research on the human rights enjoyment of workers, community members and other relevant rights-holders. While the scoping phase primarily relies on desktop research and analysis, the data collection phase emphasises fieldwork, interviews and other types of stakeholder engagement.

Through gathering primary data and additional secondary data, the assessment team can develop a HRIA baseline which documents the current state of human rights enjoyment. The HRIA baseline helps the HRIA team identify actual impacts and predict future impacts.

The selection of human rights indicators to inform the data collection, as well as subsequent impact mitigation and management, should also take place in this phase. The HRIA team should determine both qualitative and quantitative indicators at the structural, process and outcome levels.

Sufficient resources need to be allocated to the data collection phase to ensure quality of findings and allow rights-holders to participate at their own pace and on their own terms. It is important that enough time is allocated for this phase to allow for meaningful engagement.

Key Questions Addressed in This Section

- **What is a baseline in the context of HRIA?**
- **What is a human rights-based approach to data collection?**
- **How can human rights standards and principles inform data collection and baseline development?**
- **What are human rights indicators and how can they be used in HRIA?**

2.1 DEVELOPING A HRIA BASELINE

Collecting baseline data is critical to enable the analysis of actual and potential human rights impacts from business projects and activities. Some HRIA literature and methods also refer to this phase as the 'data collection' or 'evidence gathering' phase. Developing a baseline consists of the targeted gathering of environmental, socio-economic, political and other such data to understand the current state of human rights enjoyment. This can then be analysed to determine what human rights impacts have occurred as a result of the business project or activities (in the case of ex-post assessments), as well as to predict future impacts (in the case of ex-ante assessments).

Based on the initial identification of human rights issues in the scoping phase, data needs to be collected in the baseline phase to inform the subsequent assessment of impacts. During the scoping phase, the sphere of impact of the business project or activities will have been identified, which will set the parameters for the data to be collected in Phase 2. The baseline builds on the scoping phase by elaborating the analysis through further research, in particular through fieldwork and stakeholder engagement. While it might be desirable to already undertake some fieldwork in the scoping phase, in the baseline phase this becomes the primary activity. In particular, gathering primary data through engagement with rights-holders, duty-bearers and other relevant parties through interviews, focus groups and so forth will take place.

While the baseline should focus on the key human rights issues that have been identified through the scoping process, it should always allow additional issues that emerge to be integrated, reflecting the iterative nature of a HRIA process.

The selection of targeted human rights indicators can help to inform baseline data collection, as well as subsequent impact mitigation and management for tracking changes over time.

Box 2.1, below, explains the role of a baseline, benchmark and indicators in HRIA in more detail.

Box 2.1: Baseline, benchmark and indicators in HRIA

A **baseline** in HRIA is an evidence-based description of human rights enjoyment in practice at a specific point in time, as compared with rights in international human rights instruments and domestic law. It consists of the information about environmental, socio-economic, political and other data based on which actual and potential impacts of the business project or activities can be assessed. This includes a detailed description of the

Box 2.1: Baseline, benchmark and indicators in HRIA

stakeholders involved, in particular the communities and workers who are or may be impacted (in SIA, this is what is sometimes referred to as a 'community profile'). The baseline is developed through fieldwork and stakeholder engagement. It is important to note that in HRIA, a baseline is not considered a 'neutral' point of comparison which uncritically accepts the business project or activities as long as they do not worsen the current human rights situation. Instead, the HRIA baseline should both characterise the current level of human rights enjoyment and serve as a tool to address potential future impacts.

In short, the baseline is used to analyse existing impacts (in the case of ex-post assessments) and to predict future impacts (in the case of ex-ante assessments). In either case, the baseline should refer to international human rights standards as the benchmark for comparison.

A **benchmark** is a target and point of comparison. In the case of HRIA, the benchmark used needs to be based on international human rights standards, as enshrined in international instruments and elaborated in jurisprudence, reports from special rapporteurs, regional human rights frameworks and international bodies such as the UN.

Indicators are specific information (quantitative and/or qualitative) on the state or condition of an object, event, activity or outcome that can be related to internationally recognised human rights norms and standards. Indicators can be used to measure human rights impacts, as well as describe and compare situations. Consequently, they can help with early impact identification and measuring change over time, if they are used in combination with benchmarks and data is produced on a periodic basis.

Sources: Eric André Andersen and Hans-Otto Sano (2006), *Human Rights Indicators at Programme and Project Level: Guidelines for Defining Indicators, Monitoring and Evaluation,* Copenhagen: DIHR; Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), *Social Impact Assessment: Guidance for Assessing and Managing the Social Impacts of Projects*, Fargo ND: International Association for Impact Assessment, p.44; Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements,* Antwerp: Intersentia, p.46; Gabrielle Watson, Irit Tamir and Brianna Kemp (2013), 'Human rights impact assessment in practice: Oxfam's application of a community-based approach', *Impact Assessment and Project Appraisal,* 31:2, pp.118-127.

Developing and using a baseline will be slightly different depending on whether the assessment is ex-ante or ex-post. Table 2.A, below, provides a description and examples of the difference.

Table 2.A: The role of a baseline in ex-ante and ex-post HRIA		
Assessment	**Ex-ante**	**Ex-post**
Description of role of baseline	In the case of an **ex-ante** assessment (i.e., an assessment that occurs before the business project or activities commence), the baseline data collected will be used to predict any potential human rights impacts. The HRIA team considers the data and forecasts change, with reference to the benchmark of international human rights standards. Based on the prediction of impacts, the baseline data should also inform the selection of human rights indicators, against which predicted change and any measures to address the predicted impacts can then be measured and tracked over time.	In the case of an **ex-post** assessment (i.e., an assessment that occurs once the business project or activities are already well underway), the baseline data collected can be used to assess and address both actual impacts (i.e., impacts that have already occurred) as well as potential impacts (i.e., impacts that may occur in the future). Based on the issues identified, suitable human rights indicators are selected and measured in order to track changes over time and discern which impacts relate to the business project or activities.
Example	The proposed business project is predicted to involve the resettlement of two communities, which has the potential to have an impact on right to housing. From international human rights standards, it is known that housing should be: available, accessible, acceptable and of good quality (AAAQ). In combination with contextually relevant information (e.g., what is 'accessible' or 'acceptable' in the given	The business project involved a resettlement of two communities last year. From international human rights standards, it is known that housing should be: available, accessible, acceptable and of good quality (AAAQ). In combination with contextually relevant information (e.g., what is 'accessible' or 'acceptable' in the given context), these criteria can be used to develop indicators for measuring level of enjoyment of the right to

Table 2.A: The role of a baseline in ex-ante and ex-post HRIA		
Assessment	**Ex-ante**	**Ex-post**
	context), these criteria can inform the design of measures to avoid and mitigate the potential impact. These criteria can also be used to select indicators for tracking change over time and verifying effectiveness. For example, the first order response might be to avoid the resettlement. If this is not possible and the communities are relocated to alternative housing, such housing should be designed to meet the AAAQ criteria and should subsequently be evaluated against identified indicators.	housing. The HRIA team can then determine how the resettlement has affected the enjoyment of the right to housing, evaluate the severity of any adverse impacts and determine what type of measures might be proposed to remediate them.

2.2 STAKEHOLDER ENGAGEMENT AND A HUMAN RIGHTS-BASED APPROACH TO DATA COLLECTION

A human rights-based approach (HRBA) incorporates human rights standards into the data collection process itself. The OHCHR has formulated six aspects of a HRBA to data collection: participation, data disaggregation, self-identification, transparency, privacy and accountability.[25] Applying this thinking to HRIA, the following points may guide HRIA teams.

- **Participation:** All relevant stakeholders and rights-holders should be included in the data collection process. In practice, this means that HRIA teams should take a gender-responsive approach and place special emphasis on individuals and groups who may be vulnerable or marginalised, such as women, children, indigenous people, persons with disabilities, LGBT+ people, migrants, refugees and homeless persons.
- **Data disaggregation:** Disaggregation of data allows researchers to compare inequalities impacts between different population groups. Simple averages of data can mask underlying disparities; disaggregated data, by contrast, can

show differential human rights impacts between groups. For example, national averages may show that the workforce as a whole makes adequate wages to meet living costs; disaggregated data, by contrast, may show that women earn significantly less than their male peers, impacting their ability to afford food, housing and other necessities.

- **Self-identification:** In line with the overarching principle of 'do no harm', data collection should not have a negative impact on participants. Participants must have the option to freely define their identities, as well as the ability to choose whether to withhold or disclose information about their characteristics.
- **Transparency:** HRIA teams should be clear about the assessment process, including the methodology used and the purpose of the HRIA.
- **Privacy:** Data collection must be confidential, and researchers must ensure that individual participants cannot be identified from any data the researchers publish or otherwise use. This is especially important in the case of HRIA, where issues may be sensitive and participants might face risk of retaliation. Accordingly, researchers must take strong measures for data protection.
- **Accountability:** The information collected during the data collection process should be used to hold duty-bearers (in the case of HRIA, most prominently state and business actors) accountable for their human rights impacts. Researchers collecting data should also be held accountable for the quality and reliability of data.

Stakeholder engagement is a key aspect of a HRBA to data collection as part of a HRIA. The UN Guiding Principles emphasise the importance of consulting with individuals and communities affected by a company's operations and business activities, especially as part of the human rights due diligence process. By identifying risks and workers', communities' and consumers' concerns, effective stakeholder engagement can help businesses prevent or mitigate their negative human rights impacts.[26]

While stakeholder engagement is critical for all stages of HRIA, it is especially relevant during the data collection phase, as it is in this phase when most interviews and meetings with rights-holders and other stakeholders take place. During Phase 1, the HRIA team will have identified key stakeholders to consult with as part of the HRIA. In this phase the HRIA team will also assess who are and/or are not representative for the identified stakeholder groups in order to ensure appropriate engagement. In certain instances during this phase, a number of remote interviews with stakeholders can already take place. During Phase 2, the HRIA team engages with these stakeholders, as well as any new relevant groups or individuals identified throughout the data collection process.

When engaging with stakeholders, HRIA teams should place an emphasis on representation, especially of vulnerable and marginalised individuals and groups. Lack of adequate representation is often the root cause of human rights issues, as well as conflicts between the company and communities. HRIA teams should take care to engage with legitimate representatives of the stakeholders and rights-holders concerned, to ensure that they adequately reflect the perspectives of these groups. See section B.2 of the Stakeholder Engagement section for more information on identifying relevant stakeholders to engage with.

Box 2.2: Using participatory data collection methods

Some practitioners have expressed the usefulness of social impact assessment (SIA) methods and other research strategies in data collection for HRIA. SIA and social research methods can help uncover useful data on the human rights situation in local communities, especially in cases where human rights-based language is politically charged or poorly understood.

HRIA teams may draw from a number of different approaches, including Participatory Rural Appraisal (PRA) and the Social Framework for Projects. PRA, also known as Participatory Learning and Action, provides a means for community members and other stakeholder to actively participate in development projects and other initiatives. PRA features easy-to-use methods such as flow diagrams, body mapping, and dialogue to gather participant data in a simple, engaging way. The Social Framework consults with stakeholders on eight key social and environmental categories, including: people's capacities, abilities and freedoms to achieve their goals; community/social supports and political context; livelihood assets and activities; culture and religion; infrastructure and services; housing and business structures; land and natural resources; and the living environment. It can be applied in engaging people to understand their current situation, future aspirations and concerns.

A common method used for participatory data collection for HRIA is a community focus group. Focus groups are helpful to understand a community's opinions and needs. Focus group responses are usually open-ended, broad, and qualitative and therefore give different data than, for example, a questionnaire. Group dynamics between participants and nonverbal communication are other aspects of focus groups that can reveal relevant data. It is important that such a focus group is guided by one or more assessors who are trained in leading focus group discussions. Not too many people should be part of a focus group (ideally 6-12 persons), and everybody present should get a chance to be heard. It should also be carefully considered whether separate focus groups should be held with different groups of rights-

Box 2.2: Using participatory data collection methods

holders, to facilitate the participation of various groups within communities. For example, focus groups dedicated to young people, indigenous peoples, women, migrants or other groups of rights-holders may be necessary and appropriate depending on the circumstances.

Assessors can also use techniques such as community mapping to identify important places, routes and resources in the area, as well as actual and potential dangers impacting these locations. During these exercises, women's groups often reveal different information than men's groups, including data on water sources, areas of heightened violence and places where women and children regularly spend time.

HRIA teams should use data collection methods appropriate for the group being consulted. Child rights impact assessments, for example, may use drawings, photography, diaries and story boards to provide children with several ways to express their experiences and feelings.

Other potential exercises for data collection include, but are not limited to, Chapati diagrams of power relations, problem ranking, and walks through the community. Chapati diagrams encourage participants to chart the relationships and power dynamics present within a community; problem ranking engages communities about the issues they care most about; and walks through the community provide an informal way for individuals and groups to provide information on local livelihoods, places of interest, changes they have experienced or fear, and other data.

When using SIA and social research methods, it is important to follow the principles of HRIA, especially a human rights-based approach. See section A.5 of the Introduction for more details on key criteria for HRIA.

Sources: David Archer and Sara Cottingham (2012), *Reflect Mother Manual*, London: ActionAid; Community Toolbox, section 6. Conducting focus groups [online] https://ctb.ku.edu/en/table-of-contents/assessment/assessing-community-needs-and-resources/conduct-focus-groups/main; Anne Graham, Mary Ann Powell, Nicola Taylor, Donnah Anderson and Robyn Fitzgerald (2013), *Ethical Research Involving Children*, Florence: UNICEF Office of Research; N. Narayanasamy (2009), *Participatory Rural Appraisal: Principles, Methods and Application*, New Delhi: SAGE; Eddie Smyth and Frank Vanclay (2017), 'The Social Framework for Projects: a conceptual but practical model to assist in assessing, planning and managing the social impacts of projects', *Impact Assessment and Project Appraisal*, 35:1, pp. 65-80; Jennifer Rietbergen-McCracken and Deepa Narayan (Eds) (1998), *Participation and Social Assessment: Tools and Techniques*, Washington: The World Bank.

A number of different guidances and tools have emerged in recent years focusing on particular stakeholder groups to engage with during HRIA. For instance,

UNICEF and the Danish Institute for Human Rights have released guidance on Children's Rights in Impact Assessments,[27] and UNICEF has also published a tool on Engaging Stakeholders on Children's Rights.[28] Women are especially crucial to engage with, as they are often disproportionately and differently affected by adverse business-related human rights impacts. The UN Working Group on Business and Human Rights has emphasised that business activities disproportionately affect women and girls; as a result, businesses should meaningfully integrate a gender framework into their due diligence processes.[29] The Danish Institute for Human Rights' report on Women in Business and Human Rights has flagged several issues of particular concern, including employment and labour rights; land and natural resources; and access to effective remedy.[30]

Indigenous peoples also warrant specific attention, not least due to historical and continued human rights abuses, especially with regard to land rights. The UN Declaration on the Rights of Indigenous Peoples notes areas of importance, including vulnerability of indigenous livelihoods.[31] DIHR's Respecting the Rights of Indigenous Peoples: A Due Diligence Checklist for Companies emphasises the importance of meaningful consultation with indigenous communities who might be affected by business projects or activities, especially regarding actual and potential impacts on land and water resources. The checklist identifies red flags relating to the screening process, impact assessment, consultation, implementation and monitoring.[32]

The Stakeholder Engagement section of the HRIA Guidance and Toolbox, especially sections B.1 and B.3, are of particular relevance to this phase. The Stakeholder Engagement Practitioner Supplement features critical information on what to do before, during and after interviews and meetings, as well as information on reporting back to HRIA participants about key findings after the assessment. The Stakeholder Engagement Interview Guide provides in-depth information and sample questions for interviewing community members, workers, company management, government representatives, and other relevant parties.

Box 2.3: Data collection in conflict-affected settings

As explained in Phase 1: Planning and Scoping, conflict-affected settings present unique challenges for businesses and HRIA practitioners. In the data collection phase, assessors may encounter a number of practical difficulties, including restricted access, threats to safety of assessors and participants, and presence of security personnel.

Stakeholder engagement is both particularly challenging and particularly critical in conflict-affected settings. In these contexts, it is especially important

Box 2.3: Data collection in conflict-affected settings

to protect participant identities; this includes careful consideration of who is informed about the time and place of meetings with informants. Assessors must also take care to collect data in a conflict-sensitive way that does not inadvertently create or exacerbate tensions within communities or between the company and communities. For example, HRIA teams should avoid the appearance of only gathering information from one ethnic or religious group, one side of the conflict, or groups who stand to benefit from the company's presence.

In addition to information on human rights, HRIA teams in these settings should collect information on the conflict, including drivers and grievances, in order to ensure business activities are not advertently or inadvertently contributing to the conflict. For example, a business may believe its hiring practices are non-discriminatory, since the company only hires the most qualified individuals from the community. However, if certain ethnic groups are excluded from education and training opportunities, the company may inadvertently be perpetuating inequalities that drive conflict between ethnic groups.

Collecting data on supply chains and user chains can also prove especially relevant in conflict-affected settings. Risks related to contractor performance on environmental, labour, social, and human rights issues may drive or exacerbate conflict. Due to lack of oversight or engagement, companies may not be aware of conflict risks associated with their contractors or business partners; it is critical that HRIA teams collect data on these issues. Additionally, conflict parties may use business assets and infrastructure (e.g., airstrips, access roads, vehicles) to wage war or attack targets. Business revenues and financial flows may fund armed groups, either directly or through racketeering, corruption, or seizure committed by the armed group. Since conflict inherently has severe human rights impacts, HRIA practitioners should collect data on how the business relates to conflicts in the operating environment. Accordingly, HRIA teams should collect data from affected stakeholders and carefully analyse the financial and resource flows.

International Alert's guidance on Human Rights Due Diligence in Conflict-Affected Settings provides a thorough list of additional considerations and principles HRIA teams should consider when collecting data in such contexts. Assessors may also find the International Alert briefing on Conflict Sensitivity and Supply Chain Due Diligence helpful.

Sources: Yadaira Orsini and Roper Cleland (2018), *Human Rights Due Diligence in Conflict-Affected Settings: Guidance for Extractives Industries,* London: International Alert; International Alert (2018) *Conflict Sensitivity and Supply Chain Due Diligence,* London:

Box 2.3: Data collection in conflict-affected settings
International Alert; Ashley Nancy Reynolds, 'Human Rights Impact Assessment in Conflict-Affected Societies: From Avoiding Harm to Doing Good' (master's thesis, Global Campus of Human Rights, 2019).

2.3 SOURCES FOR DATA COLLECTION

When collecting data for HRIA, it is important to draw on a variety of sources. While some data can come from pre-existing sources such as statistics, reports and previous impact assessments, it is important to note that there are limitations to such data sources. Often, impact assessments can uncover gaps in statistical data. Such limitations illustrate the importance of primary data collection through fieldwork and stakeholder engagement.

Table 2.B, below, provides an overview of some common sources of data which can be used for baseline data collection and selection of indicators.

In collecting the necessary data for a HRIA, the assessment team should take steps to apply human rights principles in the data collection process. In section 1.1 of the Data Collection and Baseline Development Practitioner Supplement, you can find a suggested checklist for data collection.

Table 2.B: Examples of types of data for HRIA	
Type of data	**Description**
Data provided by rights-holders	Data provided by rights-holders offers direct access to information on actual levels of rights enjoyment, including whether they have been affected by the business project or activities, and if so, how. More specifically, rights-holders are able to describe and give a direct comprehensive overview on human rights impacts, as well as specific data pertaining to such impacts. For example, rights-holders can provide detailed, qualitative accounts on the water they are provided with in terms of availability, accessibility, acceptability and quality.[33]
Events-based data	Events-based data links with specific incidences relevant to human rights (e.g., forced resettlement of community members or an on-site explosion). This information can be collected through desktop research and fieldwork. Data

Table 2.B: Examples of types of data for HRIA	
Type of data	**Description**
	sources can include testimonies by witnesses and those directly harmed, as well as information from the media, state agencies, NGOs and CSOs, national human rights institutions, academic works and reporting to international human rights monitoring mechanisms (e.g., Universal Periodic Review and relevant treaty bodies).
Socio-economic and administrative statistics	Socio-economic and administrative statistics are data or indicators based on quantitative or qualitative information related to the various living conditions of the population. At the national level, it is the state that compiles this information. At the international level, the UN and international conferences and summits have played an important role in the development of socio-economic statistics. The sources are often referred to as administrative data, statistical surveys and census data.
Perception and opinion surveys	Perception and opinion surveys are considered a necessary source in HRIA because they assist with ensuring the participation of rights-holders and other relevant parties in the process. Qualitative and subjective in nature, these sources of data are key for identifying and analysing the impacts that rights-holders might be experiencing, as well as for discussing, understanding and designing measures to prevent, mitigate and remediate these impacts. This data can be collected through interviews, surveys and consultation with relevant stakeholders such as rights-holders, subject matter experts and intergovernmental organisations. For further guidance, refer to Stakeholder Engagement.
Data from expert judgments and human rights actors	Data based on expert judgements is generated by actors and organisations that are considered to have a certain informed expertise. In the case of HRIA, human rights actors in particular should be drawn on as sources of data. These experts might include organisations, institutions, individuals and mechanisms working in the field of human rights, such as: human rights NGOs and CSOs; national human rights institutions; academics; and government, regional and UN human rights experts. Human rights actors can play an

Table 2.B: Examples of types of data for HRIA	
Type of data	**Description**
	important role in HRIA, as they have insights into how international human rights norms play out in specific contexts.
Sources: Based on: Office of the United Nations High Commissioner for Human Rights (2012), *Human Rights Indicators: A Guide to Measurement and Implementation,* Geneva and New York: OHCHR, HR/PUB/12/5; Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements,* Antwerp: Intersentia.	

2.4 INTRODUCTION TO HUMAN RIGHTS INDICATORS

According to OHCHR, 'A human rights indicator is specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion or implementation of human rights.'[34]

Human rights indicators can be both quantitative and qualitative, and should be based on human rights standards and principles. They can be used to measure human rights impacts for both civil and political rights and economic, social and cultural rights. Furthermore, indicators can be applied to describe and compare situations, which can be useful for identifying adverse impacts as early as possible, as well as for measuring change over time.[35]

Where relevant, the phrasing of the indicator should be amenable to disaggregation, in line with a human rights-based approach (see section 2.2). For instance, simply inquiring about number of workers will usually not lead to disaggregated data; instead, assessors should inquire about proportion of workers disaggregated by gender, age, ethnicity and other characteristics. Such disaggregation should be based on the prohibited grounds of discrimination recognised in international law (i.e., race, ethnic origin, sex, age and disability). Other characteristics for disaggregation include language, religion, political opinion, national or social origin, class or economic status, migrant status and marriage status.[36]

In HRIA, selecting a set of indicators based on the scoping phase can be a useful way to frame subsequent data collection and baseline development. The indicators selected can then also be used in mitigation and monitoring to track whether the measures proposed to address

impacts are effective or not. The consistent use of specific indicators can also facilitate comparative analysis between different projects or sites. While the HRIA process may involve the design of specific indicators based on the context, there are a number of existing resources that can be drawn on in the selection of human rights indicators for HRIA. These are outlined in sections 1.2-1.4 of the Data Collection and Baseline Development Practitioner Supplement.

Box 2.4, below, provides some reflections on the rationale for using indicators in HRIA and notes some of the limitations.

Box 2.4: Using human rights indicators to assess the human rights impacts of business: possibilities and limitations

The selection and application of human rights indicators in HRIA can offer a structured way to collect relevant data, thereby also informing the analysis of human rights impacts, subsequent mitigation and ongoing monitoring. According to UN Guiding Principle 20, 'In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response.' In addition, '[t]racking should … [b]e based on appropriate qualitative and quantitative indicators.'

The consistent use of relevant human rights indicators in HRIA can help to ensure that the assessment is comprehensive and clearly based on international human rights standards and principles. Indicators can also help human rights experts identify and assess whether a company is meeting its responsibility to respect these standards. Indicators can allow businesses, rights-holders and other stakeholders to assess the corporate policies, procedures and practices regarding human rights that are explored in HRIA, thereby contributing to accountability by offering a way to track business responses to potential and actual adverse human rights impacts.

This being said, it is important to remember that while indicators are a useful tool in HRIA, analysis of human rights impacts cannot rely on indicators and other types of 'measurements' alone, as the analysis of human rights impacts will always require qualitative and description-based analysis. As noted by OHCHR, for example, 'Indicators are tools that add value to assessments with a strong qualitative dimension; they do not replace them.'

Sources: Cathrine Bloch Veiberg, Gabriela Factor and Jacqueline R. Tedaldi (2019), 'Measuring human rights: Practice and trends in the use of indicators for HRIA' in Nora Götzmann (Ed), *Handbook on Human Rights Impact Assessment,* Cheltenham: Edward Elgar; UN Guiding Principles; Office of the United Nations High Commissioner for Human Rights (2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, Geneva and New York: OHCHR, HR/PUB/12/5, p.21.

It should be noted that the use of indicators to measure human rights implementation, impacts and changes over time is still an evolving field. A key reference framework, however, is the human rights indicator framework developed by the OHCHR.[37] This framework has taken a two-step approach to the development of sets of indicators for different rights. The first step involves establishing the normative content of specific international human rights (i.e., the attributes of the right) as they have been elaborated in international human rights treaties and conventions, general comments, the reports of special procedures, and international and domestic human rights jurisprudence (e.g., adjudication of human rights in regional human rights courts, or under legal provisions at the domestic level) and so forth. Based on this normative content, the framework breaks indicators for measuring human rights implementation into **structural**, **process** and **outcome** indicators. The framework is state-based, i.e., it seeks to target measuring human rights implementation by states, rather than businesses.[38]

The structure adopted by the Danish Institute for Human Rights' Human Rights Indicators for Business follows a similar logic while specifying the application to businesses rather than states, by using the structure of policy, process, and impact.[39] Both of these frameworks can serve as useful resources for HRIA practitioners in selecting indicators for HRIA. A number of further sources of human rights indicators are provided in sections 1.2-1.4 of the Data Collection and Baseline Development Practitioner Supplement.

Table 2.C, below, provides an overview of different types of indicators and how they can be applied in HRIA.

Table 2.C: Examples of different indicators for HRIA			
Indicator type	**Description**	**Examples**	**Usage in HRIA**
Quantitative	Quantitative indicators refer to attributes of a situation, process or activity to which a number, percentage, ratio or other statistical descriptor can be attached. They can be drawn from data systems and records that already exist or are specifically collected (e.g., during consultations with community members/groups). This includes indicators that are facts-based and those that are judgement-based.	• Number of workplace accidents disaggregated by job type. • Number of working hour complaints that have been addressed through the human resources system, disaggregated by gender. • Proportion of employees that have completed human rights training relevant to their business unit function. • Number of reported security incidents.	When identifying and assessing human rights impacts, both quantitative and qualitative data are relevant. Quantitative indicators provide numerical evidence, whereas qualitative indicators add context in the form of descriptions, opinions and experiences. This context is often essential in understanding the full nature of a human rights impact. For example, quantitative data may show that all rights-holders have access to water; however, qualitative data can
Qualitative	Qualitative indicators refer to attributes of a situation, process or activity whose status or condition are determined by an experience expressed as a story. Data to measure these indicators may be gathered through	• Proportion of community members that express their access to cultural heritage sites has not been unduly restricted. • Proportion of community members expressing	

Table 2.C: Examples of different indicators for HRIA			
	methods such as interviews or surveys. This includes indicators that are facts-based and those that are opinion-based.	satisfaction with consultation processes. • Proportion of community members expressing concern about the level of human rights compliance of security forces.	provide the context regarding: accessibility (e.g., can all rights-holders access water without physical threats); affordability (e.g., can low-income rights-holders purchase water); and availability (e.g., is the supply of water available on a regular basis).
Source: Adapted from: Rio Tinto (2013), *Why Human Rights Matter: A Resource Guide for Integrating Human Rights Into Communities and Social Performance Work at Rio Tinto,* Australia and United Kingdom: Rio Tinto.			
Indicator categorisation	**Description**	**Examples**	**Usage in HRIA**
Structural (policy)	Structural indicators are commitment indicators that seek to measure level of intent.	• Date of implementation and coverage of corporate policy regarding human rights. • Commitment from top management.	Structural, process and outcome indicators examine different aspects related to human rights impacts, and therefore serve different but interrelated purposes.
Process (procedure)	Process indicators seek to measure the level of effort by	• Company procedures provide that workers are paid in a	

Table 2.C: Examples of different indicators for HRIA			
	the business in respecting human rights.	timely manner and in accordance to work performed. • Net expenditure on implementation and enforcement of human rights policies and procedures. • Existence of a grievance mechanism and information for communities on how to access it.	Outcome indicators are critical in HRIA, as they establish what impacts have occurred or may occur that can be attributed to the business project or activities. Structural and process indicators complete the picture by providing insight to the management commitments and structures that are in place, or need to be put in place, in order to effectively manage the impacts identified. Some process indicators will also speak directly to substantive human rights (e.g., access to remedy, access to information or participation), as well as
Outcome (impact)	These indicators assess impacts, thereby evaluating whether company efforts in meeting their responsibility to respect human rights have been effective or not.	• Proportion of company staff working in precarious employment (disaggregated by sex, disability and other relevant grounds such as membership of an indigenous community). • Percentage of water available for the community as compared to baseline at the start of the project. • Proportion of workers that have been prevented by	

Table 2.C: Examples of different indicators for HRIA			
		management from joining or starting a union (disaggregated by sex and disability or other relevant grounds).	human rights principles such as transparency, non-discrimination and participation. Further examples of the different categories of indicators are provided in the Data Collection and Baseline Development Practitioner Supplement, as well as the Human Rights Indicators for Business.
Source: Adapted from: Office of the United Nations High Commissioner for Human Rights (2012), *Human Rights Indicators: A Guide to Measurement and Implementation,* Geneva and New York: OHCHR, HR/PUB/12/5, p.16.			

PHASE 3

3 ANALYSING IMPACTS

What Happens in Phase 3?

Phase three involves analysing the data that has been collected during scoping and data collection in order to identify any business-related impacts and assess their severity. This will involve drawing on the normative content of international human rights standards and principles, comparative projects, findings from stakeholder engagement and so forth. In practice, some of this analysis will occur during data collection itself, but it is nevertheless important to allocate time and space specifically for impact analysis.

It is important to include not only the impacts that seem the most 'immediate' but also to consider impacts that the business has caused and contributed to, as well as impacts that are directly linked to business operations, products and services through business relationships. Impact analysis should also involve assessing impact 'severity', including by considering the scope, scale and irremediability of the impacts. This requires considering impacts from the perspectives of those who are experiencing them.

Lastly, to contribute to business respect for human rights, HRIA of business projects or activities should first and foremost focus on identifying and addressing adverse human rights impacts; therefore, while positive effects may be noted, the identification of 'positive' human rights impacts is not the primary objective and should not detract from identifying and addressing adverse impacts.

Key Questions Addressed in This Section

- **What are the different types of impacts to be considered (i.e., actual; potential; caused by the business; contributed to by the business; directly linked to business operations, products and services through business relationships)?**
- **Why do the UN Guiding Principles focus on 'adverse' impacts and what does this mean for the inclusion of project benefits in HRIA?**
- **How can the severity of human rights impacts be assessed?**

3.1 TYPES OF HUMAN RIGHTS IMPACTS TO BE CONSIDERED

An adverse human rights impact occurs when an action or omission removes or reduces the ability of an individual to enjoy their human rights.[40] Individuals may experience human rights impacts differently based on their gender identity, age, ethnicity or other characteristics. Assessment teams should ensure their analysis draws from international human rights standards and principles. Section 1.1 of the Analysing Impacts Practitioner Supplement gives examples of using human rights standards and principles in impact analysis.

Box 3.1: Examples of actual and potential impacts

Actual impacts have occurred or are occurring. They include legacy impacts and inherited legal liabilities. Examples:

- Effluents from an agricultural company pollute local waterways, affecting the right to water and health of local communities.
- A previous operator of a mine site provided insufficient compensation to communities in a resettlement process, leading to livelihood and housing disputes with the current operator.

Potential impacts have not occurred yet, but may occur in the future. Examples:

- The project may involve extensive use of local water supplies.
- The project may involve the resettlement of local communities, depending on how it is designed and implemented. This may lead to potential impacts on the right to housing and an adequate standard of living.

HRIA should identify both actual and potential impacts. According to the UN Guiding Principles, businesses are required to consider human rights impacts which are: **caused by** the business; impacts that the business **contributes to**; and impacts that are **directly linked to** a company's operations, products or services through business relationships, including both contractual and non-contractual relationships.[41]

Box 3.1, above, provides some examples of actual and potential impacts, and Table 3.A, below, presents some examples of the three categories: caused; contributed to; and directly linked to. You can find more examples in section 1.2 of the Analysing Impacts Practitioner Supplement.

Table 3.A: Examples of different types of human rights impacts	
Type of impact	**Examples**
Caused (by the business's action or omission)	• A company discriminates in its hiring practices (for example, by not affording equal opportunity to indigenous applicants).
Contributed to (through the business's own activities or through a third party, including cumulative impacts)	• A company provides information about internet users to a government that uses the data for surveillance of political opponents. • A project site discharges a permissible amount of pollution into the local environment which, when combined with permissible discharges by other companies, impacts community use of ecosystem services (e.g., water).
Directly linked (to operations, products or services through business relationships, including both contractual and non-contractual relationships)	• A company's supplier subcontracts embroidery on clothing products to child labourers in homes, contrary to contractual obligations.
Source: Some of these examples come from: Office of the United Nations High Commissioner for Human Rights (2012), *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide,* New York and Geneva: United Nations.	

3.1.1 IMPACTS TO WHICH THE BUSINESS CONTRIBUTES AND COMPLICITY

The categories of impacts to which the business **contributes** or is **directly linked** are broader than a strict legal definition of complicity. However, the concept of complicity might prove useful for impact assessment practitioners when analysing such impacts and communicating about them to certain audiences (e.g., when communicating with legal professionals on the impact assessment team or in the company).

The term 'complicity' in the context of business and human rights can have both non-legal and legal meanings. In a non-legal context, human rights organisations and activists, international policy-makers, government experts and businesses might use the term to describe what they view as undesirable business involvement in human rights abuses or benefiting from the actions of a third party.[42] Examples of situations that may invoke allegations of complicity in a

non-legal context may include: inadequate supply chain management (e.g., workers in the supply chain are not adequately paid); a business taking over land where people have been forcefully displaced by the government; or situations where business revenues are paid to an oppressive state.

As a legal matter, complicity in criminal law refers to being legally accountable or liable for a criminal offense based upon the behaviour of another party. Most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of businesses in such cases.[43] The standards for legal complicity vary from jurisdiction to jurisdiction; however, civil or criminal legal sanctions generally require establishing three key elements, namely that the company:[44]

7. **Caused** or **contributed to** the human rights abuse(s) by enabling, exacerbating or facilitating the abuse
8. **Knew** or should have **foreseen** that human rights abuse(s) would be likely to result from its conduct; and
9. Was **proximate to** the human rights abuse(s) either geographically or through the strength, duration or tone of its relationships.

The UN Guiding Principles suggest that businesses should consider both legal and non-legal instances of complicity, paying particular attention to risks of complicity in operating environments where there are heightened risks of human rights violations and abuses occurring. This may, for example, include conflict-affected settings. As such, complicity might provide a reference framework for impact assessment practitioners in analysing impacts to which the business contributes or is directly linked, including both actual and potential impacts.

3.1.2 CUMULATIVE IMPACTS[45]

Businesses may also contribute to cumulative impacts. Cumulative impacts are the successive, incremental and combined impacts from multiple projects or multiple activities located in the same region or affecting the same resource.[46] Different projects or different phases of the same project can combine with incremental impacts from other existing, planned or future projects, leading to an accumulation of impacts. Box 3.2, below, outlines some areas of concern about cumulative impacts from a human rights perspective.

Box 3.2: Human rights concerns regarding cumulative impacts

Cumulative impacts are areas of concern from a human rights point of view for a number of reasons:

- Cumulative impacts are often much harder to predict than singular impacts from one project. Unless an increased effort is made by businesses and the authorities to assess and analyse the potential for such impacts, it is much harder to prevent environmental and social changes that can have long-term impacts on human rights, such as the rights to life and security of person, health, education and an adequate standard of living.
- Cumulative impacts can be severe, both in terms of the type of impact (e.g., the cumulative burden on poor infrastructure causes it to collapse) or the widespread nature of the impact (e.g., cumulative water use due to tourism development reduces water tables, resulting in drought with widespread effect on food security in the local community). Repetition may also increase the severity (e.g., a singularly-occurring, minor impact may not pose a human rights risk, but a series of minor impacts may add up to a human rights impact).
- Companies may not consider themselves responsible for cumulative impacts, as they make only a contribution to these impacts. This may especially be the case where their activities individually fit within acceptable regulatory limits, but the regulatory regime is not advanced enough to take account of accumulation of impacts over time or space.
- Populations most at risk are affected by cumulative impacts, as they are likely to have the least resilience to respond and the least capacity to demand a response from the authorities or businesses. This is particularly problematic in the case of cumulative impacts, since it may be more challenging for vulnerable or marginalised individuals and groups to seek a response from multiple actors contributing to the cumulative impact.
- Cumulative impacts are sometimes slow and may build up incrementally over time. Accordingly, it may be difficult to draw attention to the issues and prompt action from responsible parties.

Source: Myanmar Centre for Responsible Business (MCRB), Institute for Human Rights and Business (IHRB) and Danish Institute for Human Rights (DIHR) (2015), *Tourism Sector-Wide Impact Assessment (SWIA)*, Yangon: MCRB, IHRB and DIHR.

Often, impacts from one project alone may not necessarily be significant. Instead, it is the build-up of smaller impacts over time or within the same physical footprint that have a cumulative effect. Sometimes, a series of smaller events can trigger a much bigger environmental or social response if a tipping point is reached, changing the situation abruptly. A response can also be

triggered by poorly designed policies that prompt companies to repeat the same mistakes. The resilience of the environment or society to cumulative impacts depends upon the nature of the impacts and the vulnerability (or sensitivity) of the society or ecosystem. In other words, resilience is the degree to which society is susceptible to versus able to cope with injury, damage or harm.[47]

Because project developers and regulators tend to focus on assessing impacts of individual projects, they often do not consider the incremental impacts on areas or resources used or directly impacted by a project from other existing, planned or reasonably defined developments.[48]

Cumulative impacts are of growing importance in regions where environmental and social systems have reached their maximum capacity to absorb and adapt to additional impacts.[49] However, they can also be important in regions that have not yet reached maximum capacity but which will undergo significant growth.

For these reasons, it is important that HRIA includes consideration of cumulative impacts.

3.2 ADVERSE IMPACTS AND PROJECT BENEFITS

Human rights due diligence, as outlined in the UN Guiding Principles, focuses on the 'adverse' human rights impacts of business activities. This raises the question of how generating and maximising project benefits for impacted rights-holders is to be considered in HRIA.

According to the UN Guiding Principles, it is not acceptable for businesses to offset adverse impacts through positive contributions to human rights elsewhere.[50] For example, businesses causing adverse impacts may focus the attention of the general public on community development projects being implemented, jobs being created and so forth as strategies for legitimising the presence of the project, rather than effectively addressing adverse impacts. The UN Guiding Principles seek to change this behaviour by emphasising that, first and foremost, companies should identify and address any adverse human rights impacts associated with their activities, with any positive contributions being separately considered.

Making a clear distinction between human rights due diligence (avoiding, mitigating and remediating adverse impacts) and positive contributions (through, for example, employment creation, skills transfer or social investment) is important for a number of reasons. For example:

- Including both adverse impacts and positive contributions facilitates a space for the **implicit offsetting** of adverse impacts (e.g., a company showcases

local employment and job creation opportunities as a way of moving the emphasis away from adverse impacts caused by the operation, such as human rights issues caused by in-migration and boomtown effects).

- A human rights perspective places a significant emphasis on accountability, including the ability of rights-holders to claim rights and respective duty-bearers to meet their duties and responsibilities with regard to human rights. This includes recognising the **differentiated yet complimentary duties and responsibilities of state and non-state duty-bearers.** Essentially, a human rights analysis asks for caution regarding any provisions that may give rise to a company assuming state responsibilities as human rights duty-bearers.

It is therefore important that any actions taken as part of company human rights due diligence are distinguished from contributions to human rights that a business makes beyond the primary responsibility to respect. While HRIA of business activities will include and refer to positive steps or outcomes to the extent that these are relevant in impact analysis and mitigation planning, the assessment itself is not focused on an evaluation of the business's contribution to human rights enjoyment. While the distinction between an action to address adverse impacts and a 'positive impact' may not necessarily always be clear-cut in practice, the point is that the HRIA should focus on the actual and potential adverse human rights impacts with which the business is involved and not on ad hoc positive contributions that do not relate to addressing such impacts.

One further aspect to note is that community development and strategic social investment activities are considered to be a part of company operations and, as such, need to be included in the scope of HRIA. However, the primary focus would be on whether such initiatives have any adverse impacts on human rights in the way that they are selected, designed, implemented and monitored.

In sum, HRIA of business activities should focus first and foremost on identifying and addressing adverse impacts, and clearly distinguish this from any discussion of positive impacts or benefits.

3.3 ESTABLISHING IMPACT SEVERITY

All human rights are created equal and there is no list of priority human rights. The purpose of establishing impact severity is therefore not to establish which impacts need to be addressed, but to determine the order of priority in which the identified impacts should be addressed. (How these impacts should be addressed is discussed in Phase 4: Impact Mitigation and Management.) According to the UN Guiding Principles:[51]

- All human rights impacts need to be addressed

- Where it is not possible to address all impacts simultaneously, the impacts should be addressed in order of their 'severity'
- Severity is determined by the scope (number of people affected), scale (seriousness of the impact) and irremediability (any limits to restore the individual impacted to at least the same as, or equivalent to, their situation before the adverse impact occurred)
- Assessment of severity should give special consideration to human rights impacts on groups or populations that require particular attention, including women, indigenous peoples, persons with disabilities and migrant workers; and
- While it is not necessary for an impact to have more than one of these characteristics to be considered 'severe', it is often the case that the greater the scale or the scope of an impact, the less it is 'remediable'.

It is important to note that 'severity' is not the same as 'significance', which is the approach found in many environmental and social impact assessments for establishing significance and prioritising actions to address impacts. Box 3.3, below, explains the differences between severity and significance in more detail.

Box 3.3: Impact severity and significance

Establishing impact 'significance' is the approach commonly used in ESHIA. The UN Guiding Principles, however, recommend that impacts are assessed according to their 'severity'. According to a report by the Danish Institute for Human Rights and IPIECA:

'"Significance" is used in ESHIA to indicate the nature of a potential impact's consequences. It is determined through an assessment, primarily, of gravity of impact (i.e., "magnitude"), number of individuals affected (i.e., "extent"), and their sensitivity and resilience. The purpose of attributing a degree of significance is to show a level of materiality of the potential impacts in order to make project and/or permitting decisions.'

Significance includes consideration of the probability of the impact. Assessment of significance, including probability, results in a consequent ranking that indicates which impacts should be addressed.

By contrast, severity does not include consideration of probability; instead, it prioritises a focus on the human rights consequences of the impact. This is not to say that consideration of probability is irrelevant. Consideration of probability will necessarily be involved in initial issues scoping. It is also relevant once severity has been established to determine the order in which mitigation measures are to be implemented. For more on how probability

becomes relevant in the prioritisation of actions to address impacts, see Phase 4: Impact Mitigation and Management.
Source: Danish Institute for Human Rights and IPIECA (2013), *Integrating Human Rights into Environmental, Social and Health Impact Assessments: A Practical Guide for the Oil and Gas Industry,* Copenhagen: IPIECA and DIHR.

The terminology used to describe the constituent parameters of severity and significance can be varied and sometimes confusing. The summary in Table 3.B, below, provides one possible interpretation. Having an overview and understanding of the different types of terms used can be important when working in interdisciplinary assessment teams in practice. For example, it might be helpful to understand any differences in terminology when those conducting a HRIA work closely with EIA or SIA practitioners, when drawing on ESHIAs as part of the knowledge base for a HRIA, or when integrating a HRIA into an ESHIA process.

Table 3.B: Assessment parameters used in ESHIA and the UN Guiding Principles

Assessment parameter	**UN Guiding Principles terminology**	**Common ESHIA terminology**
Seriousness of the impact	Scale or gravity	Intensity
Number of people affected	Scope	Extent or scale
Ease of impact mitigation/remediation	Irremediability	Mitigability
Irreparability of the harm caused by the impact	Irremediability	Irreplaceability
Probability	-	Likelihood or probability
Comprehensive assessment of the impact	*Severity*	*Significance*

Source: Prepared by Danish Institute for Human Rights and Community Insights Group based on UN Guiding Principles and ESHIA frameworks.

There are five further points to note regarding the assessment of impact severity:

10. Establishing impact severity must be **undertaken in dialogue** with the individual rights-holders, such as workers and community members who are impacted and the representatives or organisations that represent them.
11. Establishing impact severity **needs to consider vulnerability** as an integral component of establishing the severity of the impact. For example, if a company's use of land means the water access point is now 2km away from the local community, rather than 200 metres, the impact will be more severe on those who have to walk to the water point, rather than those who have vehicles. To take another example, if the company impacts livestock by causing the death of one farm animal, the impact would be more severe if that animal is the only source of income for a family than if the impacted person is a farmer with 100 such animals. For further explanation of the different factors that might give rise to vulnerability, see Stakeholder Engagement section B.3.

12. In considering the scope (i.e., the number of people affected), it is essential to look not only at the absolute numbers of individuals affected, but to also to **consider in detail who the individuals are** to ensure that any actual or potential discrimination is identified and included in assessing the impact's severity. For example, an analysis that focuses purely on the number of people affected might identify that for ten impacts, five out of 100 people experience each impact; however, if the five people impacted are always the same type of people (e.g., indigenous people, women, persons with disabilities), this should be observed in the analysis, as it may be due to systemic discrimination against the particular group of people or their vulnerability in the given context.
13. **Human rights expertise is key** to ensure that the assessment processes are adequately informed.
14. **Severity is not an absolute concept.** There is no universal threshold for when impacts are 'severe'. Assessing severity of impacts is relative to the impacts identified. It involves professional judgment, dialogue, consideration of the interrelatedness of impacts and analysis of long-term consequences. Severity also depends on the local context and perspectives of stakeholders. For instance, in some contexts, the likelihood and consequences of conflict may be key aspects when determining severity, while in other contexts, these criteria may not be as relevant.

You can find a framework for assessing impact severity, including some examples, in section 1.3 of the Analysing Impacts Practitioner Supplement.

PHASE 4

4 IMPACT MITIGATION AND MANAGEMENT

What Happens in Phase 4?

In the impact mitigation and management phase, the business, HRIA team and stakeholders come together to create a plan for preventing and addressing human rights impacts. All human rights impacts need to be addressed, with the most severe impacts taking priority. Rights-holders should be meaningfully involved in planning, enacting and monitoring impact management efforts.

Planning for effective impact management should be an integral part of the HRIA process. Allocating time and resources for developing a detailed impact management plan at the outset of the HRIA can be very helpful for facilitating this.

In determining what actions should be taken to address identified impacts, mitigation plans should focus primarily on avoiding and reducing negative human rights impacts. Businesses should also exercise leverage to address impacts that involve third parties such as government actors, other operators in the area and contractors in the supply chain. As human rights impacts relate to a variety of business functions, it is also useful to consider how different business units might be involved in human rights impact management.

Once the adverse human rights impacts have been identified and an impact management plan has been created, it is important to follow up on whether the actions to address the identified impacts are implemented and that they effectively address the impacts.

Access to remedy is a key component of impact mitigation and management. The role of operational-level grievance mechanisms in impact management, both as a resource to identify impacts as well as a means to address any grievances associated with the HRIA process itself, should be considered.

Key Questions Addressed in This Section

- **What can contribute to effective planning and resourcing for human rights impact management?**

- **What types of actions are businesses expected to take in response to the different impacts identified?**
- **What is the role of leverage in impact management?**
- **What is participatory monitoring and how can it be applied in impact management?**
- **What is the role of operational-level grievance mechanisms in human rights impact management?**

4.1 PLANNING AND RESOURCING FOR HUMAN RIGHTS IMPACT MANAGEMENT

Impact mitigation and management involves designing and implementing measures to address impacts through prevention, mitigation and remediation. To ensure that the HRIA contributes to effectively addressing the human rights impacts that are identified, it is essential that adequate resources are assigned by the business for impact mitigation, as well as for monitoring effectiveness, addressing unanticipated impacts, and resolving grievances. These considerations should be clearly outlined in an impact management plan (see Box 4.1, below).

Box 4.1: Impact management plans

An impact management plan, sometimes referred to as a mitigation or action plan, serves as a tool through which the company specifies how it will address the identified impacts. The plan notes specific actions that will be implemented across the company's operations and assigns responsibility for each task. Therefore, the plan serves not only as a way to guide management internally, but also to clarify the roles and responsibilities of various actors involved in impact mitigation, management and monitoring. Essentially, impact management plans are a strategy for ongoing management; they summarise impact findings from the assessment and detail the measures to address them. Additionally, an impact management plan establishes monitoring and reporting procedures and provides estimates of the timing, frequency, duration and cost of management procedures.

Sources: Daniel M. Franks (2011), 'Management of the social impacts of mining', in P. Darling (Ed), *SME Mining Engineering Handbook* (3rd edn), Littleton: Society for Mining, Metallurgy and Exploration, pp.1817-1825; Daniel M. Franks and Frank Vanclay (2013), 'Social impact management plans: Innovation in corporate and public policy', *Environmental Impact Assessment Review*, 43, p.57.

It is important to involve rights-holders and duty-bearers in the development of the impact management plan and its implementation, as relevant and appropriate. This may require capacity building. Section 1.1 of the Impact Mitigation and Management Practitioner Supplement provides more information on stakeholder engagement and capacity building for effective impact management.

In the HRIA process, resources and approaches for impact management should be considered and accounted for from the outset, including through steps such as:

- Ensuring that **the development of an impact management plan is an integral part of the HRIA process** by providing for the development of an impact management plan in the TOR for the assessment.
- Developing a detailed impact management plan that **assigns specific persons to the implementation of the mitigation measures**, and ensuring that the people assigned have the relevant skills, time, management support and other resources necessary to effectively implement the mitigation measures.
- **Developing the impact management plan collaboratively**, involving: workers; women and men from the affected communities; state actors; and other relevant parties. For example, a community workshop and bilateral engagement with state actors can help gain stakeholder buy-in for the proposed mitigation measures.
- Ensuring that the impact mitigation measures **are based on and build on the human rights indicators** that have been established in the baseline and scoping phases.
- **Integrating different mitigation measures** into the relevant management plans and systems of the business.
- Ensuring that the business commits to dedicating **adequate and appropriate resources for the implementation of impact mitigation measures and ongoing impact management**, including through assigning adequate budget, time and human resources to impact management, as well as developing specific key performance indicators for staff with responsibilities for impact management.
- Taking a **multidisciplinary and cross-functional approach to impact management**. Often, departments within the business which oversee community relations, social responsibility or sustainability will be assigned the responsibility for implementing impact mitigation measures; however, as human rights impacts relate to many different areas of the business, it is necessary and appropriate to involve all relevant business units in impact management.[52]

- Investigating and adopting **collaborative impact monitoring processes**, as and where appropriate.
- **Involving relevant state actors in impact management**, as appropriate. For example, involving local land councils when addressing impacts associated with land tenure and housing, or aligning impact mitigation strategies with local development plans where possible and appropriate.
- **Involving relevant organisations and experts in impact management**, as appropriate. For example, if impacts on women and girls have been identified, a local NGO or CSO on women's rights might be involved in impact mitigation planning and implementation.
- **Developing, implementing and/or reviewing operational-level grievance mechanisms** that can assist with identifying any adverse human rights impacts throughout and beyond the HRIA process.

For examples of HRIA findings and mitigation measures, see section 1.3 of the Impact Mitigation and Management Practitioner Supplement.

4.2 DEVELOPING ACTIONS TO ADDRESS IMPACTS AND EXERCISING LEVERAGE

In developing actions to address the human rights impacts that have been identified, several points should be considered:

- All human rights impacts need to be addressed, and the most severe impacts should be addressed as a matter of priority, as explained in Phase 3: Analysing Impacts
- The identification of actions to address the identified impacts should involve the rights-holders who are impacted, as well as pertinent duty-bearers and other relevant parties
- The mitigation hierarchy applied should be compatible with international human rights standards and principles
- Whether the business has caused or contributed to the adverse impact or whether the impact is directly linked to the business operations, products or services by a business relationship will imply different types of mitigation measures; and
- For impacts that the business contributes to or is directly linked to, the extent of leverage that the business can exercise in addressing the impacts will need to be examined.

Box 4.2, below, outlines some points to consider for developing a human rights-compatible mitigation hierarchy.

Box 4.2: The mitigation hierarchy

The majority of mitigation hierarchies in EIA, SIA and ESHIA take the following approach:

- Avoid: making changes to the project or plan to avoid the impact.
- Reduce: implementing actions to minimise the impacts.
- Restore: taking actions to restore or rehabilitate to the conditions that existed prior to the impact.
- Compensate: compensating in kind or by other means, where other mitigation approaches are neither possible nor effective.

In broad terms, a similar approach can be adopted in HRIA, i.e., an approach that always prioritises avoiding impacts, and if this is not possible, considers ways to reduce and mitigate impacts. However, from a human rights perspective, there are three things which warrant attention when adapting the above approach for HRIA:

- Any measures taken must be compatible with international human rights standards, as well as a human rights-based approach
- Remediation should be explicitly included. This includes understanding and explaining that compensation and remediation are not synonymous, and that compensation should not be the default remedy; and
- Human rights impacts cannot be subject to 'offsetting' in the same way that, for example, environmental impacts can be. For example, a carbon offset is a reduction in emissions of carbon dioxide made in order to compensate for or to offset an emission made elsewhere. With human rights impacts, on the other hand, due to the fact that human rights are indivisible and interrelated, it is not appropriate to offset one human rights impact with a 'positive contribution' elsewhere. For example, if business activities have caused an adverse impact on the right to health of workers due to inadequate personal protective equipment and health and safety procedures, these impacts cannot be offset by the business offering more jobs to local workers. Or if a business has caused an adverse impact on the adequate standard of living of communities through the pollution of groundwater, which in turn reduces the ability of people to grow their food, such impacts cannot be offset by the business providing a community development project that provides educational and schooling material.

In determining what type of action to take to address a particular impact, there will be differences depending on whether the business has **caused**, **contributed to** or is **directly linked to** the impact.

In short, for impacts that the business causes, it will be expected to develop and implement actions to cease and address these impacts. For impacts that the business contributes to or that are directly linked through business relationships, the business should take the necessary steps to cease its contribution to the impacts, including through exercising leverage (see further immediately below). In determining appropriate actions to address identified impacts that are linked through business relationships, the UN Guiding Principles suggest that the following factors should be considered:

- The business's leverage over the entity/entities concerned
- How crucial the relationship is to the business
- The severity of the situation; and
- Whether terminating the relationship with the entity itself would have adverse human rights consequences.

Table 4.A, below, provides an overview for determining appropriate business responses for each of the different types of impacts.

Table 4.A: Determining appropriate actions to address the impacts identified

Type of impact	Impacts **caused** by the business	Impacts to which the business **contributes**	Impacts **directly linked** to a business's operations, products or services through its business relationships (contractual and non-contractual)
Required actions	• Take necessary steps to cease and prevent the impact; and • Provide for, or collaborate in, remediation for actual impacts caused.	• Take necessary steps to cease or prevent contribution to the impact, including through exercising leverage and taking steps to increase leverage if this is needed; and	• Exercise existing leverage to prevent or mitigate the impact • Increase and exercise leverage if existing leverage is inadequate; and • The business is not required to provide for remediation, although it may take a role in doing so.

Table 4.A: Determining appropriate actions to address the impacts identified			
		• Provide for, or cooperate in, the remediation of adverse impacts.	
Source: UN Guiding Principles.			

4.2.1 LEVERAGE

'Leverage' is considered to exist where a business has the ability to effect change in the practices of another entity that causes harm. 'In other words, leverage is a company's ability to influence the behaviour of others.'[53] If the business has leverage, it is expected to exercise it. If the business lacks leverage, it is expected to seek ways to increase it: for example, by offering capacity building or other incentives to the third party to address the impact, or by engaging in collaboration with other actors and stakeholders to influence the behaviour of the party causing or contributing to the impact. Table 4.B, below, gives an overview of some examples of different types of leverage and how leverage might be exercised.

It is important to remember that **severity** is relevant for determining the **order of priority** in which the identified impacts should be addressed, whereas **leverage** becomes relevant for determining **how to address impacts** that the business contributes to or is directly linked to through its business relationships. Where a business has contributed to or is directly linked to an impact through its business relationships, it has a responsibility to act to address the impact; leverage, on the other hand, is a relevant consideration in determining what types of actions to take to address the identified impacts. In sum, the absence of leverage does not absolve a business from responsibility to address the impacts that have been identified.

Table 4.B: Examples of exercising and increasing leverage to address human rights impacts	
Examples of types of leverage	**Examples of exercising leverage**
Traditional commercial leverage: leverage that sits within the activities the	• Include human rights standards in contracts

Table 4.B: Examples of exercising and increasing leverage to address human rights impacts	
Examples of types of leverage	**Examples of exercising leverage**
company routinely undertakes in commercial relationships, such as through contracting.	• Audit for compliance with the human rights standards included in the contract • Include human rights in pre-qualification criteria in bidding processes; and/or • Provide commercial incentives for suppliers that are based on human rights considerations (e.g., targets for local content).
Broader business leverage: leverage that a company can exercise on its own through activities that are not routine or typical in commercial relationships, such as capacity building.	• Build the capacity of suppliers to meet the responsibility to respect human rights • Ensure that procurement and purchasing staff send the same messages on human rights in their conversations with suppliers and decision-making about contracts; and/or • Use relevant international and industry standards to drive expectations by requiring supplier compliance with such standards.
Leverage together with business partners: leverage created through collective action with other companies in or beyond the same industry.	• Work with business peers to establish common requirements for suppliers; and/or • Engage bilaterally with peer companies which may be facing similar supply chain issues to share lessons learned and identify possible solutions.
Leverage through bilateral engagement: leverage generated through engaging bilaterally and separately with one or more other actors, such as government actors, business	• Engage CSOs and relevant international organisations that can provide relevant information on local actors or circumstances in supplier countries; and/or • Engage with a range of actors bilaterally to identify and implement solutions to

Table 4.B: Examples of exercising and increasing leverage to address human rights impacts	
Examples of types of leverage	**Examples of exercising leverage**
peers, international organisations and/or CSOs.	specific human rights supply chain issues that have been identified.
Leverage through multi-stakeholder collaboration: leverage generated through collective, collaborative action with business peers, governments, international organisations and/or NGOs or CSOs.	• Develop shared standards for suppliers through multi-stakeholder initiatives, thereby enhancing the credibility of the standards; and/or • Use the business's brand and reputation to convene relevant stakeholders to address any systemic issues that have been identified.
Source: Adapted from: Shift (2013), *Using Leverage in Business Relationships to Reduce Human Rights Risks,* New York: Shift, pp.14-24.	

4.3 MONITORING

Once adverse human rights impacts have been identified and an impact management plan has been determined, it will be important to follow up on whether the actions to address the identified impacts are implemented and whether they effectively address the impacts. Planning for the monitoring of impact mitigation measures should therefore be an integral component of the HRIA and be included in the impact management plan. It is important that planning for monitoring considers precisely what is to be monitored, when, how often and by whom. In addition to providing information on whether the impact mitigation measures are effective, and making any necessary adjustments if they are not, ongoing monitoring provides an opportunity to identify any unforeseen impacts. Section 1.2 of the Impact Mitigation and Management Practitioner Supplement features key questions that practitioners may reflect on when developing a monitoring plan.

Involving rights-holders, duty-bearers and other relevant parties in impact monitoring, as appropriate in the given context, can provide valuable opportunities for strengthening accountability and building trust between different parties. It can also provide a way to involve the necessary expertise or

contribute to building the capacity of the stakeholders involved in impact management. Section 1.1 of the Impact Mitigation and Management Practitioner Supplement goes into greater detail on stakeholder engagement and capacity building for Phase 4.

One strategy for facilitating the participation of different stakeholders is participatory monitoring. When involving stakeholders in monitoring, assessors should keep in mind the considerations for engaging with rights-holders outlined in section B.2 of Stakeholder Engagement. Box 4.3, below, provides an overview of participatory monitoring.

Box 4.3: What is participatory monitoring?

Participatory monitoring can be defined as 'a collaborative process of collecting and analysing data, and communicating the results, in an attempt to identify and solve problems together. It includes a variety of people in all stages of the monitoring process, and incorporates methods and indicators meaningful to the stakeholders concerned. Traditionally, companies and agencies initiate and undertake monitoring. Participatory monitoring requires changing the dynamic so that a wider range of stakeholders assume responsibility for these tasks, and learn and benefit from the results. Participatory monitoring is not only scientific, but also social, political, and cultural. It requires openness, a willingness to listen to different points of view, a recognition of the knowledge and role of different participants, and the ability to give credit where credit is due.'

Source: International Finance Corporation (2010), *International Lessons of Experience and Best Practice in Participatory Monitoring in Extractive Industry Projects*, Washington: IFC.

Participatory monitoring can be a way to build understanding and trust between the different stakeholders involved in HRIA. In particular, it can provide an avenue for dialogue between affected rights-holders and the business that stretches beyond the HRIA process. HRIA can play a role in identifying the different rights-holders and duty-bearers who might be involved in community monitoring of the impact mitigation measures. HRIA can also identify whether the individuals, communities and groups who are anticipated to participate in monitoring need additional capacity building.[54] Box 4.4, below, provides some example good practices of participatory monitoring initiatives from the extractive industries sector.

Box 4.4: Example good practices of participatory monitoring initiatives from the extractive industries

According to the International Finance Corporation, a common practice in the extractive industries sector is the creation of a Participatory Environmental Monitoring and Oversight Committee. These committees have the purpose of taking water samples at pre-established collection points. They usually consist of community-appointed representatives who either take the water samples themselves or who witness a third party (technical team, university professor, consultant, etc.) take the samples, which are sent to laboratories chosen by the parties. Sample collection could be done monthly, bimonthly, every three months or quarterly, and the committees should meet regularly and document their findings. Funding is often made available by the extractive industries company. Government environmental agencies are increasingly taking part in these committees, sometimes providing financial resources and, more often, technical assistance to the process.

Source: International Finance Corporation (2010), *International Lessons of Experience and Best Practice in Participatory Monitoring in Extractive Industry Projects*, Washington: IFC.

According to the International Finance Corporation's review of participatory monitoring programmes, there is no 'one size fits all' solution, as the success of such schemes is very dependent upon each specific local context.[55] This emphasises the importance of good context analysis and stakeholder engagement throughout the HRIA process, which can then inform the design of any participatory monitoring to be implemented.

Participatory monitoring is likely to be most effective when designed and implemented at the outset of a project and, moreover, used throughout all stages of the project cycle and not only when impacts cause community contention. If implementing a participatory monitoring scheme in a reactive way, community groups may view it suspiciously as a tool designed to silence and co-opt dissenting voices; therefore, the monitoring effort may suffer credibility issues and further contribute to community conflict and tensions. Furthermore, in some scenarios, communities may need time to develop the capacity and technical skills to participate in the monitoring. Participatory monitoring programmes should therefore include a focus on rights-holders' access and ability to participate in the process. Having access to a participatory monitoring programme without having the ability to meaningfully participate will be out of sync with a human rights-based approach. The same applies for the reverse where capacities exist, but the participatory monitoring programme is not accessible.

4.4 ACCESS TO REMEDY AND OPERATIONAL-LEVEL GRIEVANCE MECHANISMS

Operational-level grievance mechanisms can have an important role to play in HRIA. Workers and community members may have grievances to raise with regard to the HRIA process and/or the specific impacts that have been identified. Access to remedy, of which operational-level grievance mechanisms are one component, is a core pillar of the UN Guiding Principles, which also outline eight effectiveness criteria for non-judicial grievance mechanisms (see Box 4.5, below).

Much has been written about operational-level grievance mechanisms in theory and practice, including how they might be designed in collaboration with local communities to ensure responsiveness to the specific context. Case studies have analysed the effectiveness of operational-level grievance mechanisms in different contexts.

However, current guidance on operational-level grievance mechanisms has focused less on how such mechanisms might interact with impact assessment processes, including HRIA. In short, operational-level grievance mechanisms can relate to HRIA in a number of ways, including:

- For established operations where a grievance mechanism is already in place:
  - Information from the grievance mechanism can inform the HRIA about any patterns or trends identified from the grievances that have been submitted. They are likely to provide useful information about the concerns of community members and workers; and
  - The HRIA can provide insights about if and how the existing grievance mechanism might need to be revised to ensure effectiveness.
- For planned or new operations, or where a grievance mechanism is not already in place:
  - The information gained through the HRIA can provide insights about how an operational-level grievance mechanism could be designed and implemented to ensure responsiveness to the local context, including, for example, by identifying any existing methods, approaches or community preferences for grievance resolution; and
  - A preliminary channel for grievance resolution throughout the HRIA process should be established as part of embarking on a HRIA.

Overall, operational-level grievance mechanisms can be important for the early identification of impacts, as well as for the ongoing monitoring of the effectiveness of impact mitigation. The development, review and/or implementation of operational-level grievance mechanisms should therefore be an integral component of the HRIA process.

PHASE 5

Box 4.5: Effectiveness criteria for non-judicial grievance mechanisms

UN Guiding Principle 31 outlines eight effectiveness criteria for non-judicial grievance mechanisms:

(a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes

(b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access

(c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation

(d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms

(e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake

(f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights; and

(g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

Operational-level mechanisms should also be:

(h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

Source: UN Guiding Principles.

1. REPORTING AND EVALUATION

What Happens in Phase 5?

Communicating and reporting on HRIA methods and findings are critical components of the assessment process. Through stakeholder engagement, communication about the HRIA will happen throughout the assessment. However, writing and publishing a final assessment report is also important. A detailed HRIA report that is available and accessible to rights-holders, duty-bearers and other relevant parties can foster dialogue and accountability by documenting the impacts that have been identified and the measures taken to address them. The report should be drafted with special consideration to challenges such as sensitivity of information.

If done carefully and acted upon, evaluation of the HRIA process, findings and outcomes can further contribute to continuous improvement of company due diligence and human rights outcomes.

Key Questions Addressed in This Section

- **Why is it important to publish a HRIA report?**
- **How can assessors ensure the HRIA reflects the communities' experience?**
- **What are some of the common challenges when reporting on HRIA processes and findings, and how can these be addressed?**
- **What should be included in a HRIA report?**
- **How can evaluation of HRIA processes contribute to continuous improvement?**

5.1 WHY REPORT ON HRIA?

Access to information is both a human right and a key process principle of a human rights-based approach. Communicating clearly to stakeholders about the process and findings of a HRIA, including through reporting, is an essential step towards securing a transparent and accountable process. Additionally, it is a way of ensuring that rights-holders, duty-bearers and other relevant parties can meaningfully participate by providing input on the findings.[56]

Communicating and reporting on human rights due diligence processes, including on human rights impacts, is expected by both the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises (see Figure 5.a, below). Communicating and reporting are essential for fostering the accountability of businesses for addressing their adverse human rights impacts. Furthermore, publishing HRIA reports and associated impact management plans can be a key way for businesses to demonstrate that they 'know and show' that they are undertaking human rights due diligence and exercising respect for human rights. From a community, civil society and public interest perspective, a public HRIA report can be a basis for strengthening communities' strategies in demanding corporate accountability by taking a facts- and evidence-based approach.[57]

Figure 5.a: Reporting about human rights impacts in the UN Guiding Principles and OECD Guidelines

The UN Guiding Principles on Business and Human Rights	The OECD Guidelines for Multinational Enterprises

• According to the UN Guiding Principles: 'In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating context pose risks of severe human rights impacts should report formally on how they address them'.
• The UN Guiding Principles also note that communications should always:
  • (a) Be of a form and frequency that reflects and enterprise's human rights impacts and that are accessible to its intended audiences;
  • (b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;
  • (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.
	• Section III of the OECD Guidelines set the expectation that enterprises 'ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership and governance'. The definition of 'material' information relevant for disclosure includes issues regarding workers and other stakeholders.
	• In addition, enterprises are encouraged to communicate additional information on, among other things, relationships with workers and other stakeholders.
	• Section III also outlines expectations regarding the quality and timeliness of disclosed information in order for the information disclosure to meet its intended purpose: to improve public understanding of enterprises and their interactions with society and the environment.

Reporting on HRIA processes and findings can also provide a platform for dialogue about the process and outcomes of the assessment, as well as foster relationship building between the different stakeholders involved.

Reporting and communicating on the HRIA process and outcomes can be undertaken in different ways, depending on the precise circumstances. 'Communication can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports.'[58] If possible, communicating about the HRIA process and findings should include a combination of dialogue and engagement-based strategies, in particular involving rights-holders, as well as the publication of a HRIA report. Through this, the company can demonstrate commitment to transparency and engagement, as well accountability. Engaging stakeholders in the reporting process is critical for ensuring that the HRIA reflects communities' experiences; more information on this topic is available in the following section.

A final impact assessment report should outline the impact assessment methodology and process, findings and mitigation measures, as well as a forward-looking plan for monitoring and evaluation.[59] Up until now, there have been divergent views and approaches regarding HRIA reporting. Some argue for full disclosure at all times, while others argue that HRIA is an emerging practice, and in sensitive environments, it may be acceptable to work towards full disclosure on a continuous improvement basis.

From a good practice perspective, the publication of a final HRIA report should be considered an integral component of any HRIA process. Companies are increasingly disclosing their full HRIA findings to increase transparency and provide a platform for ongoing dialogue with stakeholders. Additionally, legislation such as the EU Non-Financial Reporting Directive, the California Transparency in Supply Chains Act, the UK's and Australia's respective Modern Slavery Acts, the French Duty of Vigilance Law and the Dutch Child Labour Due Diligence Law require certain companies to report on their human rights due diligence efforts, and publishing a final HRIA report can support in fulfilling legal requirements or otherwise taking actions in line with the spirit of said laws.[60]

However, in cases where full disclosure would be harmful (e.g., where it might cause risks to rights-holders or be counterproductive for engagement on human rights with business partners or the government), other alternatives to the publication of a full report may be considered. Such alternatives may include conducting meetings with stakeholders where findings are shared and/or publishing a summary report of key findings. Such alternatives should be interim measures only while companies work towards full disclosure of HRIA processes and findings. In working towards disclosure of HRIA processes and findings, some

companies have also published HRIA reports with aggregate data rather than country- and site-specific findings as an interim measure. Some examples of reporting on HRIA are provided in Box 5.1, below.

Box 5.1: Examples of public reporting on HRIA

Reporting publicly on the HRIA process and findings can be important for demonstrating a commitment to transparency and accountability, as well as providing a platform for ongoing dialogue between the different stakeholders involved. The following are some examples of public reporting on HRIA:

- After the Danish Institute for Human Rights advised Telia Company to undertake country-specific HRIAs in 2013, the company commissioned BSR to assess its subsidiary in Sweden. The HRIA identified opportunities and risks related to consumer privacy, freedom of expression, labour rights and discrimination against vulnerable populations in Sweden. Telia published the Sweden report in 2017.[61] The company also published a HRIA of its operations in Lithuania.
- Kuoni, a Swiss tourism company, conducted two HRIAs in 2012 and 2013, in Kenya and India respectively. Kuoni has published the reports of both impact assessments, which looked at human rights in general, with a specific focus on children's rights.[62]
- The Marlin Mine Human Rights Assessment report provides an overall assessment and status of Goldcorp's due diligence standards, including recommendations for the ongoing process. The Marlin Mine has applied a range of strategies and mechanisms to secure ongoing consultations with stakeholders, in particular the local community. Priority issues were identified from the concerns raised through prior stakeholder consultations, and the report addresses means of improvement for these specific areas.[63]
- Nestlé, together with the Danish Institute for Human Rights, published a report describing the methodology that was applied for HRIAs conducted in seven country operations between 2010 and 2013, the aggregate findings of the HRIAs and lessons learned from the process. Nestlé has found that engaging in discussions with labour unions by sharing the HRIA report findings led to improved relations between the country operations and labour unions.[64] In 2018, Nestlé agreed to publish a full report of the findings of an impact assessment focused on labour rights in its palm oil supply chain in Indonesia. The report included recommendations to Nestlé, as well as other actors in the palm oil sector and Nestlé's supply chain.
- Coop Danmark A/S and its subsidiary African Coffee Roasters Ltd. commissioned a HRIA of the coffee supply chain in four sourcing countries: Kenya, Uganda, the Democratic Republic of the Congo and Rwanda. The

Box 5.1: Examples of public reporting on HRIA

report found the enjoyment of human rights of coffee farmers strongly depends on the political and economic context of the respective country. Coop and the Institute for Human Rights and Business published their findings in 2017.[65]

- The Mary River HRIA was conducted in the context of a public hearing process for the environmental and social impact assessment of a proposed mine, and its findings were published in a stand-alone report that was submitted to the regulator. The Mary River HRIA is an ex-ante assessment, meaning that the HRIA was conducted prior to approval of the construction of the mine. This enabled rights-holders and other stakeholders to engage throughout the process and provide input to the report prior to the establishment of the project.[66]
- NomoGaia, a nonprofit research and policy organisation focused on corporate responsibility, publicly reports on its HRIAs. NomoGaia's 2011-2012 human rights risk assessment of Tullow Oil Plc operations in western Uganda was not immediately published; instead, Tullow was given the opportunity to manage risks and report back. In 2014, NomoGaia followed up and released both the original 2012 findings and the new 2014 literature and policy review.[67]
- NomoGaia's impact assessment of the Disi Water Conveyance Project in Jordan commenced in 2011 while the pipeline was under construction. In 2014, NomoGaia followed up on the project, with a focus on impacts to water users in Amman. The follow-up report included information that NomoGaia collected on Jordan's water sector over the course of five years.[68]

For more information about HRIA and examples of public reporting, see: Business & Human Rights Resource Centre, 'Human rights impact assessments'. [online]. Available from: https://www.business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-companies/type-of-step-taken/human-rights-impact-assessments

5.2 HOW TO ENSURE THAT THE HRIA REFLECTS THE COMMUNITIES' EXPERIENCE

Assessment processes such as HRIA need to involve continuous communications with relevant stakeholders, in particular affected rights-holders. Through this, an iterative engagement and dialogue is established, ensuring the sharing of information, experiences, perspectives and findings throughout the process of the assessment. Technical information should be communicated in an accessible

format and in the language spoken by the stakeholders. Moreover, HRIA practitioners should strive to ensure that stakeholder engagement is inclusive, culturally appropriate, and gender-responsive. Finally, it should explicitly seek out the views of any vulnerable groups that may be adversely affected by the business project or activities.[69]

When reporting, the assessment team should take the following steps to ensure that the report accurately reflects the communities' experiences:[70]

1. **Engage key community members in the reporting process** by creating alliances with local leaders and as much as possible seeking local experts to contribute to the assessment. This approach will not only help to create strong relationships with the community, but also allow for critical and continuous communication.
2. **Establish shared objectives, expectations and goals on the assessment** by engaging in dialogue with the community. What is the desired outcome? Is the HRIA report seen as a goal in itself or is it a part of an ongoing process to raise human rights knowledge in the local communities and among stakeholders?
3. **Manage expectations** of the communities, to avoid disappointment and frustration by recognising the changes the HRIA process initiates within the communities.
4. **Adapt human rights language to local realities** by seeking ways to explain human rights in the specific context and in the terms of daily, practical realities of the communities. Use pedagogical techniques and media, such as visual aids or participatory exercises, tailored specifically to engage with the community.

See Stakeholder Engagement for more information on engaging with communities.

5.3 CHALLENGES WHEN REPORTING ON HRIA PROCESSES AND FINDINGS

Reporting on human rights impacts and HRIA can pose a number of challenges for rights-holders, businesses, assessment teams and other stakeholders. For example, businesses may be hesitant to report on HRIA processes and findings in operating environments where such reporting may be perceived as critical of joint-venture partners or the host-country government. As HRIA is an emerging practice, businesses may also be hesitant to commit to full disclosure while methodologies and practices are developing. However, HRIA emphasises transparency and disclosure of findings as part of a human rights-based approach.

HRIA assessment teams and businesses should carefully balance transparency with the necessary protections for rights-holders in terms of confidentiality and sensitivity of information. It is of utmost importance that any HRIA reporting does not pose risks to the rights-holders involved, for example, through the disclosure of sensitive information that could result in retaliation against participating rights-holders. Even when rights-holders give informed consent, HRIA teams should evaluate risk of harm to participants and communities. The business should have well-reasoned, defensible justifications for excluding information from the HRIA report. Even if some information is withheld from the public report, it may be appropriate to share this information with rights-holders, investors and regulators.[71]

Further challenges may be associated with ensuring real accessibility of the report to rights-holders, for example, addressing language, literacy, physical accessibility, and information complexity considerations. Section 1.4 of the Stakeholder Engagement Practitioner Supplement includes considerations for reporting back to HRIA participants.

Finally, in determining the best means of communication and reporting, the timeframe in which a HRIA is conducted can also be identified as a challenge.

Clearly, these are real and important aspects to consider when advocating for the disclosure of HRIA reports. However, it is important to reiterate that from a human rights perspective, transparency and accountability are critical aspects of a HRIA; reporting on the HRIA process and findings should therefore be considered an integral part of the assessment. Reporting procedures should also include careful consideration of how the HRIA findings should be published and communicated to rights-holders and other stakeholders in order for them to be able to meaningfully utilise the HRIA report for ongoing dialogue, monitoring and evaluation.

Section 1.1 of the Reporting Practitioner Supplement outlines some examples of challenges and possible approaches relating to HRIA reporting in more detail.

5.4 CONTENT OF A HRIA REPORT[72]

The **introduction** of an assessment report should outline the main purpose of the report in a clear manner, including a background explanation of the HRIA's objectives, the funding source and the authors.

The **methodology** section should include a statement about the overall assessment design (e.g., which methods and approaches to community engagement were used, how ethics were approached throughout the

assessment and so forth). These points could be presented through an overview of each of the process phases and their respective outputs, with clear statements about the goals, tasks and key findings of each phase. It is also important to include the limitations of the applied methodology and decisions made to narrow or broaden the scope of the assessment.

Key findings and actions should be reflected through a presentation either covering each of the human rights separately or in a thematic form such as 'labour issues', 'women's rights' or 'community impact'. Each section should clearly state the context of the impacts, their severity, the mitigation measures proposed, the timeline and who is responsible for implementing the mitigation measures.

The report should also include a description of the role of **ongoing stakeholder engagement processes and grievance mechanisms** as part of the impact management.

In section 1.2 of the Reporting Practitioner Supplement, a reporting checklist is provided with some illustrative questions of what should be included in a HRIA report.

5.5 EVALUATION AND CONTINUOUS IMPROVEMENT

Undertaking a HRIA is to be recognised as a commitment to human rights, and as such, the process is not concluded with the publication of a final report. Human rights situations are dynamic, and it is therefore important that the assessment includes measures for evaluation and continuous improvement.[73]

The evaluation stage consists firstly of an assessment of the HRIA process itself. The objective of the evaluation is to identify and determine to what extent the HRIA has met the initial objectives. During this process, it is key to consider whether the actions to address the identified impacts (i.e., measures to prevent, mitigate and remediate impacts) have been duly implemented and are effective.[74]

The second stage of the HRIA evaluation process should be initiated after the publication of the final report. The evaluation should consider unforeseen impacts and substantial changes made to the company's policies and practices. This can take the form of assessment reports on the actual implementation of measures to address the impacts, with rights-holders and duty-bearers consulted about the effectiveness and outcomes of the interventions. Systematically monitoring and reporting back to affected rights-holders on the steps taken will encourage ongoing follow-up reports, as well as secure transparency throughout the life span of a project or operation. It also provides the opportunity of looking

back at lessons learned, thereby facilitating ongoing improvement of HRIA processes.[75]

It is important to ensure the continuous improvement of the company's performance. The assessment team will, in most cases, only be involved until all initial issues have been assessed and suitable systems have been put in place to address them.[76] To overcome potential claims of bias in an ex-post HRIA, the company might find it useful to seek verification from a suitable and qualified third party (e.g., an external consultant or an organisation with a proven record of working on improving companies' human rights due diligence processes).[77]

Periodic review of the business project or activities will facilitate addressing any issues that may arise after the assessment. Periodic review conducted every three to five years, depending on the size and scope of the project, also serves the purpose of determining if the HRIA methodology used is up to date with current international good practice.[78]

STAKEHOLDER ENGAGEMENT

What is Stakeholder Engagement?

Stakeholder engagement needs to be at the core of HRIA, and participation of rights-holders is crucial at all stages of the assessment process.

In the planning and scoping phase, the HRIA team will identify the stakeholders who should be engaged in the process. Some preliminary interviews with stakeholders may also take place. In the data collection and baseline development phase, interviews with rights-holders, duty-bearers and other relevant parties will be one of the main sources of primary data. Perspectives of rights-holders themselves will be used for assessing the severity of impacts in the analysing impacts phase. In the impact mitigation and management phase, stakeholders should be involved in designing and implementing actions that effectively prevent, mitigate and remediate adverse impacts, as well as in monitoring their implementation, potentially through participatory monitoring. Finally, stakeholders, especially rights-holders, should be informed about results in a meaningful and accessible way, and subsequently engaged in the evaluation process.

In short, ensuring the meaningful participation of those who are affected should be the prerequisite of a process seeking to assess human rights impacts. Participation in the HRIA should enable rights-holders to access information and better understand both the business project or activities and resulting impacts, but also to learn about their human rights and the respective responsibilities of duty-bearers to uphold these rights. If carefully done, participation can be a way to empower rights-holders. Lastly, the engagement of duty-bearers and other relevant parties in a HRIA is essential for ensuring a comprehensive assessment and fostering accountability.

Key Questions Addressed in This Section

- **Why engage rights-holders and other stakeholders in HRIA?**
- **Who are the rights-holders, duty-bearers and other relevant parties that should be engaged in HRIA?**
- **How should rights-holders be engaged?**

- **What types of considerations need to be made for the engagement of specific rights-holder groups? What is the role of capacity building in HRIA engagement and participation?**
- **At which points during a HRIA should stakeholders be engaged?**
- **What are some of the human rights-based principles and ethics that the assessment team should apply in stakeholder engagement?**

B.1 INTRODUCTION TO ENGAGING WITH STAKEHOLDERS IN HRIA AND PARTICIPATION OF RIGHTS-HOLDERS

Stakeholder engagement is critical in HRIA and has therefore been included as the key cross-cutting theme in this Guidance and Toolbox. The following sections provide guidance on how to engage with rights-holders throughout the HRIA process to ensure that they can meaningfully participate in the HRIA and influence the decision-making processes that impact their lives. These sections also provide guidance on engaging with stakeholders who have duties and responsibilities with regard to respecting the human rights of workers and community members.

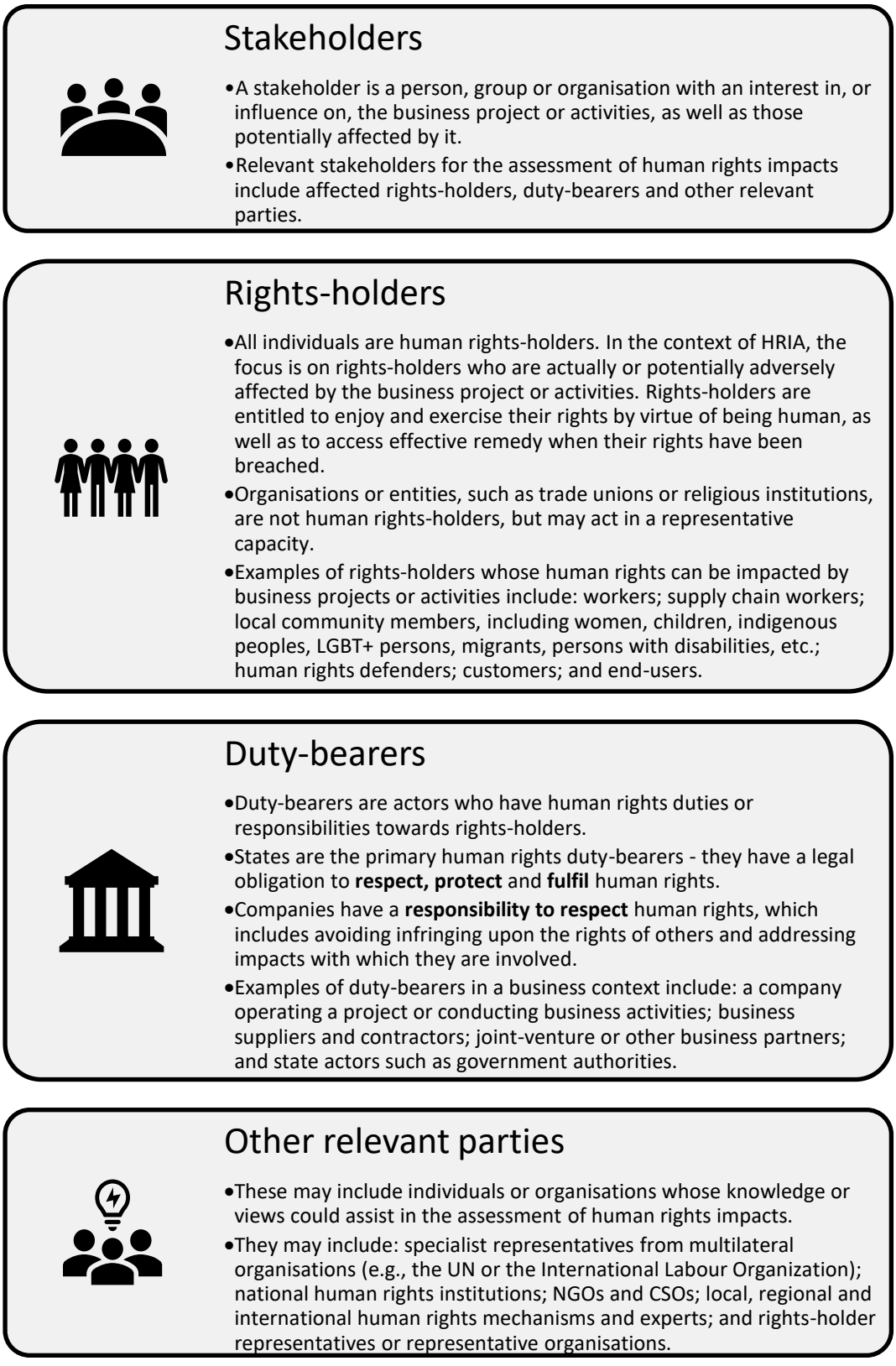
The Stakeholder Engagement Practitioner Supplement describes what assessment teams should consider before and during interviews and meetings with stakeholders (see Phase 2). The supplement also includes information on stakeholder mapping (see Phase 1) and reporting back to HRIA participants (see Phase 5).

The Stakeholder Engagement Interview Guide provides example questions to assist those conducting interviews for the HRIA. The supplement includes questions targeted to community members, workers, company management, government representatives and other relevant parties.

Stakeholders to be engaged in a HRIA include rights-holders, duty-bearers and other relevant parties. When assessing human rights impacts, it is important to recognise and engage the full range of relevant stakeholders, as well as to consider their different roles and responsibilities.

See Figure 3, below, for more details on these different types of stakeholders and examples.

Figure 3: Overview of the different stakeholders to engage in HRIA



People often ask the question: **what is the difference between a rights-holder and a stakeholder?** Essentially, rights-holders are a particular stakeholder group: the affected workers and community members (sometimes referred to as 'impacted communities' or 'project-affected people'). These individuals are rights-holders, and the reason for recognising them as such (rather than as stakeholders) is to acknowledge that they have entitlements to have their rights respected, which includes addressing adverse impacts associated with business projects or activities.

Engagement should occur throughout the impact assessment process, as well as for the life of the business project or activities. It should be done early and in a proactive and ongoing manner. Stakeholder engagement is commonly used in the area of corporate social responsibility (CSR), and there are different forms of stakeholder engagement (see Box B.1, below, on typical CSR stakeholder engagement vs. HRIA stakeholder engagement).

Box B.1: CSR stakeholder engagement vs. HRIA stakeholder engagement

Stakeholder engagement is commonly used in the area of corporate social responsibility to refer to a process through which a business strives to 'understand and involve stakeholders and their concerns in its activities and decisions'. There are different ways to engage stakeholders. Companies can inform stakeholders with the purpose of **providing information** about the project, which is considered one-way communication. A second mode of engagement is **consultation**, which is two-way communication focused on sharing information and collecting information to adequately understand the project's context and the preferences, concerns and expectations of different parties, as well as to ensure that all parties understand and learn from one another's perspectives. Connected to this, another form of engagement is **responding**, where companies take action in response to an issue, concern or certain information identified during consultation. Finally, **negotiation** is a form of two-way communication between the company and stakeholders, focused on sharing decisions with the objective of coming to a shared agreement.

One of the key elements for meaningful stakeholder engagement is ongoing engagement with stakeholders that is **two-way, conducted in good faith and responsive** to the views, experiences and expectations being exchanged. **Participation** is often used as a synonym for meaningful stakeholder engagement.

Taking a point of departure in the human rights-based approach, HRIA stakeholder engagement focuses in particular on engagement with rights-holders as the key stakeholder group. Furthermore, HRIA identifies the

Box B.1: CSR stakeholder engagement vs. HRIA stakeholder engagement
entitlements of these stakeholders, as well as the respective responsibilities of duty-bearers, another central stakeholder group. Lastly, human rights organisations, mechanisms and experts have a particular role to play in HRIA engagement through contributing their human rights knowledge and expertise to the analysis.
Sources: AccountAbility, United Nations Environment Programme and Stakeholder Research Associates Canada (2005), *The Stakeholder Engagement Manual. Volume 2: The Practitioner's Handbook on Stakeholder Engagement*, London: AccountAbility; Organisation for Economic Co-operation and Development (2015), *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractives Sector,* Paris: OECD.

In the context of HRIA, stakeholder engagement pays particular attention to rights-holders, including to their rights to be consulted and to participate. Consultation and participation of rights-holders in decision-making that affects them has been incorporated in a number of international legal instruments, as well as in national legislation (see section B.2.1, below). In the case of indigenous peoples, their right extends to consultation according to the principle of free, prior and informed consent (FPIC).

Participation of rights-holders in the HRIA process is key for identifying and analysing the impacts that they might be experiencing, as well as for discussing, understanding and designing actions that effectively prevent, mitigate and remediate these impacts. Ensuring the participation of those who are affected should thus be the prerequisite of a process seeking to assess human rights impacts.

Participation in the HRIA should enable rights-holders to access information and better understand both the business project or activities and resulting impacts. Through the HRIA process, rights-holders should also learn about their human rights and the respective responsibilities of duty-bearers to uphold these rights. If carefully done, participation can be a way to empower rights-holders. As highlighted in the Rights & Democracy Getting It Right Guide, 'A human rights impact assessment should not be just about gathering information, but also an exchange of knowledge between participants throughout the assessment process.'[79] Box B.2, below, provides an insight into how HRIA can act as a tool for rights-holder empowerment.

For more information on facilitating participation of rights-holders, see section 1.2 and 1.3 of the Stakeholder Engagement Practitioner Supplement. The Stakeholder Engagement Interview Guide also provides questions for assessment teams to pose to rights-holders.

Box B.2: Community-based HRIA as a tool for rights-holder empowerment

Community-based HRIA is a method which gives affected communities ownership of assessing and documenting the potential or actual human rights impacts of a large-scale project.

For the assessment of impacts of private investment, the former Canadian organisation Rights & Democracy has designed such a step-by-step methodology to guide communities and NGOs.

'Community-based HRIA assessments use a bottom-up approach, which contributes to empowering affected communities in claiming their rights and ensuring accountability. Such assessments help to voice the concerns of affected individuals and local communities, putting them on a more equal footing with the public and private actors involved.'

Experiences of community-based HRIAs in different countries have shown that such processes can help communities mobilise around their rights. It should, however, be acknowledged that community-based HRIAs have limitations, such as limited access to company representatives and internal company systems, which may hinder obtaining the full picture.

Source: Rights & Democracy (2011), *Getting it Right: Human Rights Impact Assessment Guide*. [online]. Available from: http://hria.equalit.ie/en/index.html

B.2.1 PARTICIPATION AND CONSULTATION IN INTERNATIONAL HUMAN RIGHTS LAW AND OTHER FRAMEWORKS

The right to public participation is enshrined in international human rights law. A number of treaties and conventions include provisions related to participation and consultation. For example:

- Article 25 of the International Covenant on Civil and Political Rights provides for the right of citizens to take part in political affairs, and Article 19 guarantees the right to freedom of expression, including the right to seek information; and
- UN treaty bodies have issued numerous general comments that point to government responsibility to inform and hear the opinions of groups affected by political decisions, in particular with regard to their economic, social and cultural rights.[80]

Furthermore, under international human rights law, certain groups have an explicit right to be heard and consulted.

- In the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169, it is stated that indigenous peoples have a right to be consulted according to the principle of free, prior and informed consent (FPIC).
- The Convention on the Rights of the Child (CRC) states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken, including within the family, the school and the community.
- The Convention on the Rights of Migrant Workers and Members of their Families (ICMW) demands consultation with, and participation of, migrant workers and their families in decisions concerning the life and administration of local communities.
- A call for consultation has also been built into the Convention on the Rights of Persons with Disabilities (CRPD).[81]
- The Convention against the Elimination of All Forms of Discrimination against Women (CEDAW) has also insisted on the importance of the right to participation of women.[82]

In recent years, participation has been reflected in the human rights-based approach to development as a goal, as well as a cross-cutting principle. For more information about the human rights-based approach, see section A.4 of the Welcome and Introduction and section 1.2 of Phase 2: Data Collection and Baseline Development.

The obligation for businesses to consult those affected by their activities has also increasingly been defined. For example:

- UN Guiding Principle 18 explicitly points out that the process of identifying human rights impacts should involve 'meaningful consultation with potentially affected groups and other relevant stakeholders'. In the associated commentary, it is specified that businesses should seek to understand the concerns of potentially affected stakeholders 'by consulting them directly in a manner that takes into account language and other potential barriers to effective engagement. In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society.'[83]
- The OECD Guidelines for Multinational Enterprises (2011) also state that multinational enterprises should engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account during planning and decision-making, especially for projects or other activities that may significantly impact on local communities.[84]

- The International Finance Corporation (IFC) requires its clients to undertake a process of consultation in a manner that provides the affected communities with opportunities to express their views on project risks and impacts. The extent and degree of engagement required by the consultation process is commensurate with the particular project's risks and adverse impacts.[85]

B.2 IDENTIFYING RELEVANT STAKEHOLDERS TO ENGAGE WITH

B.2.1 STAKEHOLDER IDENTIFICATION AND ANALYSIS

In order to engage with the relevant stakeholders as part of the HRIA process, it is first necessary to identify the different stakeholders in order to understand their situation and their relationship to the business project, as well as the power dynamics between them.

The identification of relevant stakeholders will depend on various factors, such as the nature of the business project or activities, the impacts anticipated, geographic location and so forth. There is no set list of stakeholders that applies universally to every context. However, it is essential that the stakeholders identified and included in the HRIA include the impacted rights-holders, responsible duty-bearers and other relevant parties (see Figure 3, above, for further explanation of these different types of stakeholders). During the HRIA, further stakeholders might be identified which were not included at the outset of the process. The HRIA team should therefore remain flexible and open to including such stakeholders during the HRIA process.

The identification of different stakeholders will assist the assessment team in understanding who the relevant individuals, groups and organisations are and what the relationships are between them. It will also provide insight into stakeholders' interests in relation to the business project or activities, as well as their knowledge and capacity to engage. This, in turn, will enable the HRIA team to identify where capacity building may be necessary to ensure meaningful participation. In understanding how different rights-holders might be impacted, it is important to be especially mindful of any vulnerable or marginalised individuals and groups requiring specific attention (see further in section B.3).

Section 1.1 of the Stakeholder Engagement Practitioner Supplement can be used during the initial stakeholder identification and mapping process for HRIA.

After identifying the relevant stakeholders and their various rights, interests and obligations with regard to the impacts of the business project or activities, it will be necessary to map the stakeholders to determine which stakeholders to

engage with in the HRIA and how. There are different methods for mapping stakeholders, for example, through a table, chart, grid or zoning map. Dimensions used in such stakeholder mapping and analysis exercises include power, influence, rights, interests, proximity and needs.[86] The use of a 'power map' can help determine which stakeholders are most vulnerable and affected by the business project or activities. Stakeholders are placed in a matrix with two axes: influence of the stakeholder on the business project or activities (influence/power axes), and impact of the business project or activities on the stakeholder (impact axes) (see Figure 4, below).

Stakeholder mapping for HRIA requires a different approach to that which is typically taken in stakeholder mapping (see Figure 5, below). While HRIA mapping focuses on the risk to rights-holders, typical stakeholder mapping focuses on the risk to business. In HRIA stakeholder mapping, special attention is given to stakeholders in the bottom right corner; these vulnerable or marginalised rights-holders are categorised as having the least influence yet are highly impacted by the business project or activities. By contrast, typical stakeholder mapping would focus more on those in the top right corner; these are highly relevant stakeholders that are both highly impacted and have high influence over the business project or activities.[87]

Figure 4: HRIA stakeholders power map[88]

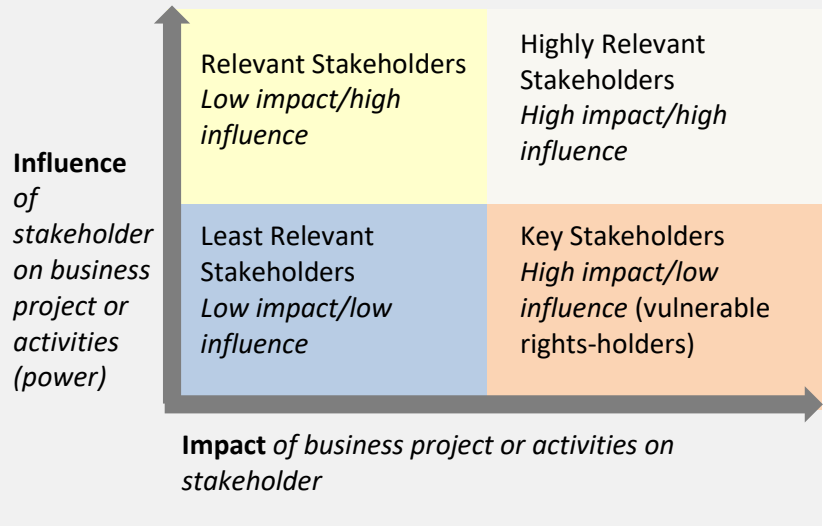
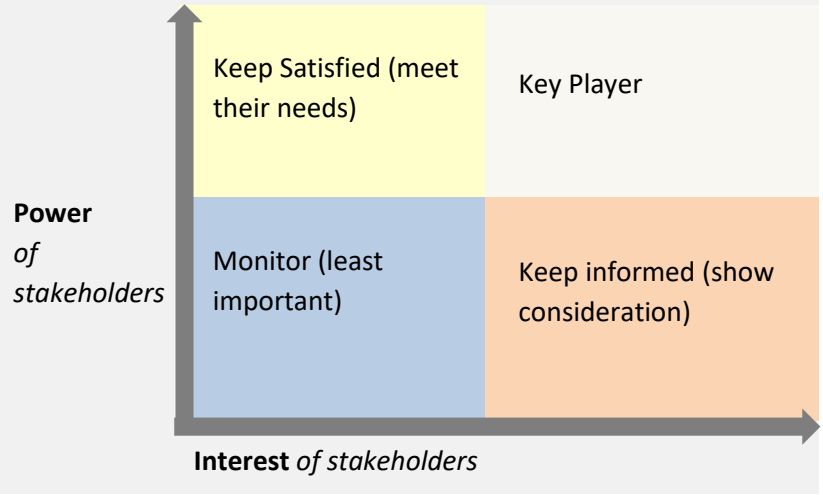


Figure 5: Example of a typical stakeholder power map[89]



In sum, an effort should be made at the outset to identify and contact all stakeholders, including groups or individuals with different or opposing views. When key stakeholders do not agree or cannot participate in the impact assessment for various reasons, it is important to mention this in the final HRIA report to demonstrate that an effort has been made to take into consideration the perspectives of all relevant stakeholders.[90]

B.2.2 ENGAGEMENT WITH RIGHTS-HOLDERS

Engagement and participation opportunities should prioritise potentially affected rights-holders and/or their legitimate representatives, with particular attention to vulnerable individuals and groups.[91]

Table B.A, below, provides some examples of different rights-holders, as well as considerations for their engagement in HRIA.

Table B.A: Examples of rights-holders and HRIA engagement considerations	
Rights-holders	**Considerations for engagement**
Potentially impacted community members These can include residents living near the project, land owners, farmers, indigenous peoples,	• Identifying the communities affected by the business project or activities requires a good understanding of the local context. • It is important to consider that not all communities or individuals within a community are affected in the same way. Nor are all community members likely to share the same point of view of a business

Table B.A: Examples of rights-holders and HRIA engagement considerations	
Rights-holders	**Considerations for engagement**
community associations/ organisations, community or religious leaders, schools, local interest groups and community members living downstream from operations or in the supply chain.	project or activities. Some may support the business project, while others may oppose it. These different perspectives should be represented and analysed during the assessment. ● It is important to take the time to engage and consult with as many different rights-holders within communities as possible in order to identify precisely who is affected, how and to what degree. It may not always be possible to include everyone at each stage of the assessment or to ensure that all views are represented. In these cases, consultation with legitimate representatives could be a viable solution. If some groups are left out, the reasons for this must be justified and clearly stated in the assessment findings. ● Care should be taken to identify any differences in how impacts are experienced by women, men and children, including through taking gender-sensitive and child-rights approaches to engagement. ● Rights-holders should be engaged directly in the impact assessment process. However, in cases where this is not possible or appropriate, it may be necessary to engage through rights-holder representatives or representative institutions. Where this is the case, care needs to be taken to try to establish that representatives present a faithful account of rights-holders' views, interests and concerns. In some situations, it may also be appropriate for the HRIA process to provide for the creation of, or capacity building of, representative organisations. ● HRIA engagement strategies should be cognizant of the particular rights to participation and consultation that some community members may be entitled to. For example, HRIA teams should pay particular attention to free prior and informed consent in the case of indigenous peoples, as well as the principles for engagement with children

Table B.A: Examples of rights-holders and HRIA engagement considerations	
Rights-holders	**Considerations for engagement**
	outlined in the Convention on the Rights of the Child. (For more on engaging with specific rights-holders, see section B.4, below).
Workers and trade unions (as their representatives) These include workers presently working for the company in question, employees, former workers, workers in the company's supply chain, outsourced labour and casual/informal workers. National and local unions or site-level workers' organisations should also be consulted as the representatives of these rights-holders.	● Workers can provide crucial information about human rights issues in the workplace and may have important information on the functioning of the company. ● Where they exist, independent trade unions should be consulted as the legitimate representative organisations of workers. ● Workers should be directly consulted (individually and/or in groups) to understand their concerns and any actual or potential impacts that they experience. ● HRIA teams should ensure that workers are protected in their anonymity when giving their statement, as they might face pressure from other workers or superiors. ● Care should be taken to identify any differences in how impacts are experienced by women and men, including through taking gender-responsive approaches to engagement. ● Worker representatives may have insights into potential impacts not only on workers themselves, but also on local communities, since workers often come from these communities. ● To better understand the impacts of a business project or activities on workers, HRIA teams may also consult national trade union federations, as well as international trade union federations (e.g.: International Trade Union Confederation (ITUC); The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); UNI Global Union; IndustriALL). ● In countries where trade unions are prohibited by law, it is important to take into consideration the

Table B.A: Examples of rights-holders and HRIA engagement considerations	
Rights-holders	**Considerations for engagement**
	sensitivities regarding this topic and the risks associated with consultations. Assessors should find alternative means to obtain data regarding workers' rights and freedom of association. This could include adaptation of the language regarding freedom of association and trade unions when engaging with workers.
Consumers, clients, customers and end-users This rights-holder group includes individuals who buy and/or use products and/or services of the company in question. They can include direct and indirect consumers. Consumer protection groups and user groups may act as representatives of these rights-holders.	● Consumers can be adversely affected when a product or service they acquire is of inadequate quality and has negative impacts (e.g., the plastics used to manufacture children's toys contain chemicals that are harmful to the physical development of children). ● Depending on the sector and product/service, consumers or consumer protection groups should be consulted to understand the actual and potential impacts of the business activities on the human rights enjoyment of consumers.
Human rights defenders, including trade union or labour activists	● Human rights defenders concerned about the business project or activities can be at risk of retaliation from repressive host-government agencies, paramilitary groups, etc. ● Trade union activists may be at risk of discrimination by employers. ● Human rights defenders are likely to have valuable insights into potential and actual impacts of the business project or activities on workers and communities.

While care should be taken to engage with rights-holders directly, in some circumstances, it might not be possible to fully involve all rights-holders in the impact assessment. For example, it may be difficult to reach out to certain rights-holders, especially in situations where there is a lack of trust between rights-holders and the business in question. Another example could be a HRIA in a conflict-affected area where the security of both rights-holders and the assessment team is at stake. Additionally, in countries with repressive governments, interviewing rights-holders might put them at risk.

It is important that the assessment team take all necessary precautions to make sure that the rights-holders who are engaged in a HRIA process are safe. If the risk of engaging rights-holders directly is high, or when direct engagement with rights-holders proves impossible or inappropriate (e.g., when engagement may interfere with certain processes, including collective bargaining or consultation of indigenous peoples conducted by the government), it may be useful to consider alternatives. In such cases, it may be necessary to engage with credible representatives or representative organisations. These are third parties or interlocutors such as CSOs, trade unions and experts who may have sufficient knowledge and experience engaging with the rights-holder groups, and can therefore convey the potential concerns related to the business project or activities on their behalf.

Practical reasons, such as financial and time constraints or infrastructural challenges, might also impede participation of some individuals and/or groups in a HRIA process. In some circumstances, certain rights-holders might not be willing to participate, in particular if there have previously been conflicts with the business and/or if the HRIA is commissioned by the business. They might also fear repercussions from the government when giving certain statements. Another challenge is when rights-holders or CSOs experience consultation fatigue or have been disappointed about the outcomes of similar processes. Furthermore, within a community there may be conflicting interests; certain community members may be in favour of a business project or activities (e.g., because they are employed by the company in question and are dependent on their salary), while other community members may oppose the project. There might also be conflicting interests among different rights-holders. Lastly, and critically, no individual should be coerced to take part in a HRIA against her/his will.

In all cases, **HRIA practitioners should take care to identify any potential limitations**, be transparent about them in the assessment process and explain the steps that have been taken to overcome them.

With regard to rights-holder representatives, it should be noted that **sometimes it is difficult to identify legitimate representatives of rights-holders.** An NGO, a member of parliament, or a community leader might claim to represent a certain rights-holder group; however, those persons/organisations might be involved in the business project or activities and/or not represent the opinions of the community members who they claim to represent. Knowledge of the local context is essential for understanding such dynamics. When consulting with indigenous communities, it is important to understand the cultural and organisational characteristics of indigenous peoples and the hierarchy of authorities in order to engage with the right people at the right time.

With these considerations in mind, HRIA teams should take care to report back to rights-holders on their findings. See section 1.4 of the Stakeholder Engagement Practitioner Supplement for more information.

See the Stakeholder Engagement Interview Guide for example questions to ask rights-holders such as community members and workers.

Box B.3, below, outlines some further potential challenges for HRIA practitioners in conducting effective stakeholder engagement with rights-holders. The box also offers some suggestions for how these might be addressed.

Box B.3: Challenges for HRIA practitioners in conducting effective stakeholder engagement with rights-holders

The presence of company representatives in meetings with rights-holders

HRIA practitioners should be independent and have full control over the interview process with rights-holders; as such, they should be able to engage with rights-holders without interference (e.g., from company representatives). However, there may be circumstances where the company's headquarters or the local team commissioning the assessment does not agree to this provision and/or where the impact assessment team will require some assistance and presence from the company because of security or logistical constraints.

Even if the company representative(s) are not present during the meeting, the HRIA team should be aware of the perceptions of stakeholders. For instance, if the community members see the team dining with company representatives or being driven in the company vehicle, this may be negatively perceived by the community. Additionally, having the company representative(s) close by may inhibit creating a safe space for rights-holders, even if they stay outside the meeting.

Box B.3: Challenges for HRIA practitioners in conducting effective stakeholder engagement with rights-holders

On the other hand, in some circumstances, the presence of the company representative(s) for some of the consultations might be an advantage, as it allows them to hear directly from rights-holders on what their experiences are rather than reading it from a report. This can be invaluable in sensitising company representatives and incentivising them to act on the HRIA findings. In the case of ex-ante assessments, when the business project or activities have not been concretised, this might be especially important. Additionally, the presence of company representative(s) at the beginning of a focus group discussion with a group of community members can be vital to engage stakeholders who suffer consultation fatigue by demonstrating that the company is committed and clearly communicating about planned follow-up action(s).

It should, however, be acknowledged that in a company-commissioned HRIA, the relation between the assessor(s) and company representative(s) will inherently be close, given that the HRIA is commissioned by the company, and this proximity could lead to criticism. Specific recommendations to be considered by HRIA practitioners to ensure and demonstrate independence include:

- Agreeing with the company representative(s) beforehand on the respective roles of the assessment team and the company representative(s) in stakeholder engagement activities
- Informing the people engaged with clearly about who is on the assessment team and who is the company representative(s), and explaining their respective roles in the impact assessment process; and
- Ensuring that the majority of stakeholder engagement activities occur without any company representative(s) present. This will also help to validate the findings.

The presence of government representatives in meetings with rights-holders

As mentioned, HRIA practitioners should be independent from company and government stakeholders and should have full control over stakeholder engagement processes in HRIA, without interference. In some cases, however, government representative(s) insist on being present during the HRIA or attending interviews (e.g., for security reasons). In these cases, it should be explained to the government representative(s) that they can introduce themselves and their role, as well as the purpose of the assessment, but cannot be present during the interviews themselves. However, there may be cases where asking government representatives to leave could lead to them

Box B.3: Challenges for HRIA practitioners in conducting effective stakeholder engagement with rights-holders
no longer supporting the presence of the HRIA team, which could undermine the entire process. This could be the case in areas where there is ongoing conflict or where the military is powerful. In such cases, it may be preferable to allow the government representatives to be present rather than to abandon the HRIA process altogether; however, the assessors should take this into consideration (e.g., by leaving out any sensitive questions to rights-holders which could lead to retaliation). The assessors should try to obtain such information through other means, such as through representatives or off-site interviews at another time when/where there is no government presence. Finally, all such limitations must be clearly explained and justified in the HRIA report.

B.2.4 ENGAGEMENT WITH DUTY-BEARERS

The human rights framework places particular emphasis on accountability, including through the recognition of rights-holders' entitlements and the corresponding obligations of duty-bearers to uphold these rights. It is therefore important that duty-bearers and their obligations are identified in HRIA stakeholder analysis and engagement. This includes recognising and differentiating between the expectation that businesses respect human rights, and state duty-bearers' obligations to respect, protect and fulfil human rights. It should be noted that duty-bearers can also be rights-holders; for example, company managers can be held accountable for human rights impacts, but can be negatively impacted themselves, as well.

Table B.B, below, provides an illustrative list of the different types of duty-bearers that should be engaged in HRIA, including points for consideration when engaging with them.

Table B.B: Examples of duty-bearers and engagement considerations in HRIA	
Duty-bearers	**Considerations for engagement**
Host-government actors These could include national authorities, local government	● In certain contexts, negative impacts arise through relationships with government actors. Therefore, it is important to identify such relationships. For example, the company in question could be in a joint-venture with a

Table B.B: Examples of duty-bearers and engagement considerations in HRIA	
Duty-bearers	**Considerations for engagement**
representatives of specific government agencies or departments, policy-makers and regulators.	government body; the government could have granted access to land where people have been forcefully evicted; or public security forces stationed to protect company assets may be engaged in human rights abuses. ● Engagement with host-government actors can take place at various stages in the impact assessment and can have advantages as well as disadvantages. ● Government authorities can be useful to consult as they have access to documents, contracts, concessions, maps and so forth which may be relevant for the impact assessment. ● Access to government authorities might be difficult, especially when the government is not favourable on the topic of human rights. In such cases, it can be helpful to ask UN agencies like the ILO and UNICEF to facilitate contact in order to get access.
Company representatives These include company representatives at the Head Office and country operations level, including top management, middle-management, various business unit managers, department representatives and subject matter experts.	● Dialogue with internal stakeholders from the company can provide a good understanding of the nature of the business project or activities, which can help HRIA practitioners understand and potentially predict human rights consequences. ● Engagement with internal company staff is also an excellent opportunity to gain buy-in for changes that may be needed as an outcome of the impact assessment. HRIA teams should make sure to include staff members from different departments and provide anonymity. ● Local management should be involved to ensure ownership, capacity and resources for follow-up at the project or site level.
Business partners, including joint-	● It is important to identify any business partners involved in or linked to the business activities

Table B.B: Examples of duty-bearers and engagement considerations in HRIA	
Duty-bearers	**Considerations for engagement**
venture partners, suppliers and subcontractors	through business relationships, as well as the key people within these businesses, in order to understand how they might contribute to or be directly linked to human rights impacts. HRIA teams should also consider business partners' processes for identifying and managing impacts. ● Suppliers and subcontractors hired by the business to perform certain jobs, as well as the suppliers who sell goods and services to the company, should also be engaged.
Investors and shareholders	● Investors and shareholders in companies should also be considered duty-bearers. ● Investors have the responsibility to respect human rights and undertake appropriate human rights due diligence. The UN Guiding Principles and the OECD Guidelines for Multinational Enterprises both consider investors as entities that have a business relationship and can therefore be linked to adverse impacts of companies they invest in. ● Investors and shareholders have an interest in the human rights track record of the businesses they invest in; therefore, it is important to consult them and hear their views. They have often gathered social and environmental data with regard to the business project or activities in question, which can be useful information for the assessment team.

In externally facilitated HRIA, **company representatives** should be consulted at the headquarters level, as well as at the operations level. When conducting stakeholder interviews in the area of operations, it can be beneficial to consult with relevant business representatives early in the process in order to get a better understanding of the business's operations and country context. This may be helpful for predicting potential impacts before speaking to affected rights-holders and other stakeholders. On the other hand, it can also be beneficial to engage with company representatives after having consulted with affected

rights-holders. Thus, the assessment team is in the position to ask more targeted questions related to specific priority issues to company representatives based on the findings from interviews with rights-holders.

As opinions can vary within the company, it is also important to meet with people from various departments or business units. The person in charge of Human Resources will share a different perspective than the CSR manager, while the Operations Manager may have yet another view. Furthermore, the assessment team should provide company representatives with the opportunity to speak privately so that they may express their opinion freely, without fear of retaliation.

Overall, these nuances indicate that stakeholder engagement in HRIA should be an iterative process and occur not just once, but throughout the impact assessment process.

The assessment team will also need to engage with **government actors** at various stages of the impact assessment. In countries where the government may not be favourable towards organisations working on human rights, direct engagement with the government may pose a challenge. In some cases, the government could perceive HRIA of business activities as an assessment of government policies and practices rather than of a business's impacts. Points to take into consideration include:

- HRIA practitioners must carefully consider how the impact assessment and its purpose are presented to government authorities. In some countries, local permits or local visas are required to enter as a foreigner. The host-government may not appreciate foreign assessors traveling to certain high-risk areas, which could lead to denial of local visa permits.
- Engagement with national and local government entities also takes place at other stages of the assessment. Government officers should be consulted in the assessment process. They may possess specific subject matter expertise and relevant company information. Government officers also have access to specific regulations and policies, maps, environmental reports, information on concessions and so forth. In certain contexts and cultures, it is also necessary to meet with national-level government actors or local government officers as part of an impact assessment as a matter of courtesy. Where it is difficult to get direct access to ministries and local government officials, UN agencies such as the ILO, UNDP and UNICEF may be able to facilitate contact.

The Stakeholder Engagement Interview Guide includes example questions to ask duty-bearers such as company management and government representatives.

B.2.4 ENGAGEMENT WITH OTHER RELEVANT PARTIES

In addition to the above rights-holders and duty-bearers, there are a number of other relevant parties that can inform HRIA assessment teams, and as such, should be engaged in the process. These stakeholders may include individuals whose rights are not impacted by the project, but who may nevertheless usefully inform the HRIA (e.g., representatives from civil society, experts or journalists) and/or organisations that hold relevant and important information for the HRIA. It is particularly important to engage human rights actors as part of the HRIA. These could include: NGOs and/or CSOs working on specific human rights issues; intergovernmental agencies such as the Office of the UN High Commissioner for Human Rights in the specific country, as well as other agencies working on specific rights issues (e.g., the ILO on labour rights or UNICEF on children's rights); national human rights institutions; and independent human rights experts. Involving such actors in HRIA can help to ensure that essential human rights information and analysis from different perspectives are included in the assessment.

Examples of relevant parties for engagement in HRIA are listed in Table B.C, below.

Table B.C: Examples of other relevant parties and engagement considerations in HRIA

Stakeholder group	Considerations for engagement
Civil society organisations (CSOs) These can include international and local non-governmental organisations (NGOs), community-based organisations, faith-based organisations, labour unions, etc.	● Engaging with CSOs can help to understand the human rights legal framework and landscape relevant for the project. ● They can provide insights on specific human rights topics. ● They can facilitate contact with, or act as interlocutors, to potentially affected rights-holders.
International organisations	● International organisations can provide insights on specific topics relevant for the impact assessment (e.g., UNICEF on

Table B.C: Examples of other relevant parties and engagement considerations in HRIA	
Stakeholder group	**Considerations for engagement**
These can include UN agencies such as the International Labour Organization, United Nations Development Programme and UNICEF. Other relevant organisations include regional bodies such as the European Union, African Union and Association of Southeast Asian Nations, as well as financial institutions such as the World Bank.	children's rights or the ILO on labour issues). ● The ILO might be useful for helping to connect with local governments and/or trade unions in the case of the ILO tripartite structure. ● These organisations might be able to provide data in the scoping phase, as well as for baseline development.
Home-government actors These could include home-government embassies in the host-country.	● Embassies of the home-country of the company in question can provide useful information, as they can be strongly connected to the company and/or have existing networks for engagement with the company.
Public security This could include police, military or specialised public security forces.	● Public security forces may be able to provide useful information about the security situation in the project area, which could be particularly relevant for projects in conflict-affected regions.
National human rights institutions (NHRIs) An NHRI is an autonomous body established by the state with a constitutional or legislative mandate to promote and protect human rights. Common institutional forms include commissions, advisory institutes,	● The NHRI of the country of operation may provide valuable information on the general human rights situation in the country, as well as on specific regions, projects or affected rights-holder groups. ● NHRIs may also be able to provide support in identifying and getting in touch with affected rights-holders, in particular vulnerable or marginalised individuals and groups.

Table B.C: Examples of other relevant parties and engagement considerations in HRIA	
Stakeholder group	**Considerations for engagement**
ombudsman offices and public defenders' offices.	
Experts and journalists These could include subject matter experts, including academics and journalists versed on specific human rights issues, as well as experts engaged in the business sector or technical issues.	● Engaging with experts can help to provide insights on specific topics relevant to the sector, country or assessment in general (e.g., water or environmental experts, mining experts). ● Journalists can serve as an important source of information on issues related to the business project or activities. They can also be helpful in identifying other stakeholders. When engaging with journalists, clear agreements have to be made between the assessment team and the journalist on the purpose of the engagement (e.g., whether the journalist may publish something or whether they are only being consulted for information gathering purposes).
Industry These include industry peers, competitors, and industry associations.	● Other companies in the sector and industry associations can be consulted in order to better understand the sector, as well as human rights issues associated with the sector and/or the particular region of operation. ● It is worth mentioning so-called sector-wide impact assessments (SWIA), which look at the impacts of a sector as a whole rather than the impacts of one company. Such assessment reports can be a useful reference for a project-level HRIA.[92] ● Industry associations sometimes also provide detailed guidance and good practices. ● In order to have a bigger impact in mitigating impacts, collective action by the

Table B.C: Examples of other relevant parties and engagement considerations in HRIA	
Stakeholder group	**Considerations for engagement**
	sector may be necessary. Therefore, it is important to involve industry peers at an early stage.

B.3 CONSIDERATIONS FOR ENGAGING WITH RIGHTS-HOLDERS: NON-DISCRIMINATION, VULNERABILITY AND MARGINALISATION

A human rights-based approach to impact assessment requires that engagement of rights-holders is conducted in a **non-discriminatory manner** and that the **prioritisation of especially vulnerable or marginalised individuals and/or groups** (e.g., women, elderly, children and youth, minorities and indigenous peoples) is taken into consideration.

In addition to the cross-cutting right and principle of non-discrimination, as flagged above, there are a number of rights-holder groups who enjoy **specific protection under international human rights law**, including children, women, indigenous peoples, and persons with disabilities. This is based on the recognition that specific individuals may have particular characteristics that warrant attention and protection. For example, HRIA teams should consider the particular needs and rights of women with regard to reproductive health, the fact that children's bodies react differently to environmental pollutants, or the special relationships of indigenous peoples to their lands, territories and natural resources. These protections are also based on a recognition that such rights-holders may be subject to systemic and entrenched discrimination in certain contexts. As such, international human rights standards and principles recognise that there is a need to ensure not only 'formal' equality (i.e., treating people the same), but also to take special measures to foster 'substantive' equality (i.e., recognising that equal access does not always equate to equal opportunities). For example, measures to improve formal equality may include making sure all people have the same access to employment opportunities; while measures to improve substantive equality may ensure that where systemic discrimination exists, it needs to be addressed through affirmative action or positive measures. In the context of HRIA, it is therefore important that stakeholder engagement facilitates:

- Taking into account the particular participation rights that specific rights-holder groups may be entitled to; and
- Taking steps to identify and address discrimination, vulnerability and marginalisation in engagement processes.

Box B.4: Defining vulnerability, marginalisation and discrimination

- **Vulnerability** of individuals or groups refers to being 'at a higher risk of being unable to anticipate, cope with, resist and recover from project-related risks and/or adverse impacts […]. Vulnerable individuals or groups may include women, children, the elderly, the poor, ethnic, religious, cultural or linguistic minorities, or indigenous groups.'
- **Marginalisation** can be defined as 'a form of acute and persistent disadvantage rooted in underlying social inequalities.' Moreover, 'poverty, gender, ethnicity and other characteristics interact to create overlapping and self-reinforcing layers of disadvantage that limit opportunity and hamper social mobility.' Essentially, marginalisation describes those individuals or groups that are limited or even excluded from certain benefits that others have access to and benefit from. This can include certain rights, opportunities, and resources which are not available to those who are marginalised. Individuals or groups that may be marginalised in certain contexts can include women and girls, minorities, indigenous peoples, rural populations, migrants, refugees and internally displaced people, and persons with disabilities. Such exclusion can limit the participation of marginalised individuals in society in terms of political, economic and/or social dimensions.
- **Discrimination**, according to the UN Human Rights Committee overseeing the International Covenant on Civil and Political Rights, 'should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.'

Sources: European Investment Bank (2013), *Environmental and Social Handbook*, Volume I: EIB Environmental and Social Standards, Standard 7: Rights and Interests of Vulnerable Groups, Luxembourg: EIB; Human Rights Committee (1989), CCPR General Comment 18 on Non-discrimination, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HRI/GEN/1/Rev.1 (1994), para. 6; United Nations Educational, Scientific and Cultural Organization (UNESCO) (2010), *EFA Global Monitoring Report 2010: Reaching the Marginalized,* Paris and Oxford*:* UNESCO and Oxford University Press, pp.135-6.

Vulnerability or **marginalisation** is not the same as discrimination; however, vulnerability can often be caused or exacerbated by discrimination. See Box B.4, above, for definitions of vulnerability, marginalisation and discrimination.

Vulnerability can stem from an individual's status or characteristics (such as race, colour, sex, language, religion, national or social origin, property, disability birth, age or other status) or from their circumstances (such as poverty or economic disadvantage, dependence on unique natural resources, illiteracy or ill health). These vulnerabilities may be reinforced through norms, societal practices or legal barriers. See Table B.D, below, for some examples of factors that may contribute to vulnerability.

Vulnerable or marginalised individuals can experience adverse impacts more severely than others. They may require specific consultation and mitigation measures to ensure that they do not face adverse impacts in a disproportionate manner. Specific methods of engagement can help in identifying, avoiding, mitigating and remediating such impacts.

Table B.D: Examples of factors contributing to vulnerability

Factors	**Probable implications**
Discrimination in access to employment and equal wages	High levels of unemployment and inadequate standard of living
Restrictions on land ownership; land tenure insecurity	High levels of landless and homeless people; high crime rates; low incentives for investment; inadequate standard of living
Inaccessibility to or inadequate level of public services or employment	Lower health levels and life expectancy; higher levels of child and maternal mortality; higher rates of unemployment; lower levels of education; less trust in government institutions
Less access to education and higher rates of illiteracy across generations	Low employment skills; less capability to access and participate in political affairs; inadequate standard of living; high levels of social insecurity

Table B.D: Examples of factors contributing to vulnerability	
Unequal or unfair treatment before the law; poor law enforcement	Weak rule of law; social insecurity; high crime rates; less trust in government institutions; heightened risk of third party human rights violations; weaker social cohesion; lower human capital. This may have an impact on decision-making capacity and participation.
Poor political representation and low participation in democratic processes	Undemocratic development decision-making; increased inequality; less trust in government and other institutions
Source: Based on: United National Development Programme (2010), *Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit,* New York: UNDP.	

Vulnerable or marginalised individuals or groups may be illiterate, physically handicapped or not accustomed to certain modes of engagement (e.g., certain languages or workshop formats) that would typically be used in stakeholder engagement. Local context and human rights experts can play an important role in designing appropriate engagement methods for these individuals and groups, which can include children, women, indigenous peoples, minorities and workers. It should be noted that engaging with vulnerable or marginalised individuals and groups may require more time and resources, which should be anticipated and taken into consideration in the design of HRIA.

B.4 TOOLS AND GUIDANCE FOR ENGAGING WITH SPECIFIC RIGHTS-HOLDERS

Table B.E, below, describes a number of areas for attention that should be taken into consideration in order to ensure that engagement with specific rights-holders, including individuals or groups who may be vulnerable or marginalised, is conducted in an appropriate and meaningful manner.

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
Children and Young people	• Child labour • Product design and advertising • Behaviour of staff/ subcontractors towards children • Community resettlement • Relocation of schools • Pollution of water • Scarcity of food	• Conduct consultation with children in coordination with child participation experts to facilitate participation respecting ethical standards • Design the process so it is accessible, inclusive and meaningful for children • Ensure voluntary participation in child-friendly environment	• Convention on the Rights of the Child (CRC)	• ILO Programme on the Elimination of Child Labour • United Nations Children's Fund (UNICEF) (2014), Engaging stakeholders on Children's Rights: A Tool for Companies, Geneva: UNICEF. • Business and Human Rights Resource Centre Business and Children Portal	• UN Committee on the Rights of the Child (2013), General Comment No.16 • Parents/carers • Professionals in contact with children (e.g., teachers, doctors, health workers, lawyers, child protection and/or social workers) • Child protection experts
Women and girls	• Women and girls may be	• Consult women separately in a	• Convention on the Elimination of	• International Labour	• UN Women

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
	disproportionately affected by resettlement due to lack of recognised land rights/titles and exclusion from compensation schemes ● Increased (domestic) workload because of environmental impacts / absent men working for company ● Health and security impacts due to in-migration of male workforce in community, including sexual intimidation,	gender-responsive manner ● Include women HRIA team members ● Include HRIA team members with knowledge of the particular rights and experiences of women and girls ● Exclude male team members from certain interviews ● Provide safe and comfortable space for interviews ● Include particularly vulnerable sub-groups (e.g., female heads of household, children)	All Forms of Discrimination Against Women (CEDAW)	Organization Bureau for Gender Equality ● UN Women ● UN Global Compact, Women's Empowerment Principles ● Sector specific resources, e.g., Christina Hill (2009), Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment, Melbourne: Oxfam Australia; Rio	● Women's rights NGOs ● Women's associations ● Business and Human Rights Resource Centre Gender Portal

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
	harassment and/or rape ● Violence, including sexual violence, associated with increased use of alcohol and drugs in the community due to company presence ● Lack of consultation and participation of female-headed households			Tinto (2010), Why Gender Matters: A Resource Guide for Integrating Gender Considerations into Communities Work at Rio Tinto, Australia and United Kingdom: Rio Tinto. ● UNWG, Gender lens to the UNGPs	
Indigenous peoples	● Resettlement and relocation ● Risks to rights to lands, territories and resources which might be polluted/changed	● Include HRIA team members with knowledge of indigenous peoples' rights and local context (including any regulatory	● UN Declaration on the Rights of Indigenous Peoples (UNDRIP) ● ILO Convention No. 169	● DIHR Indigenous Peoples Due Diligence Guidance (2019)	● UN Special Rapporteur on the situation of human rights and fundamental freedoms of

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
	by the business project or activities ● Destruction of tangible and intangible cultural heritage ● Risks to livelihoods	requirements for engagement specific to indigenous peoples) ● Respect indigenous representative institutions; be sure to understand the cultural and organisational characteristics of indigenous peoples and hierarchy of authorities in order to engage with the right people in the right order and manner ● Use appropriate language for the context	● Indigenous peoples' rights under customary law (e.g., intellectual property rights and rights of indigenous peoples) ● Convention on Biological Diversity, Article 8(j) – Traditional Knowledge, Innovations and Practices.	● International Work Group for Indigenous Affairs ● Sector specific resources, e.g., International Council on Mining and Metals (ICMM) (2010), Good Practice Guide: Indigenous Peoples and Mining, London: ICMM. ● International Work Group for Indigenous Affairs (IWGIA) (2014), Interpreting the UN Guiding Principles for Indigenous	indigenous peoples International, regional and local indigenous peoples rights organisations, e.g., • International Working Group for Indigenous Affairs (IGWIA) • Minority Rights Group International • Cultural Survival • Forest Peoples Programme • Asia Indigenous Peoples Pact • Indigenous Peoples of Africa Coordinating Committee

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
				Peoples, Copenhagen: IWGIA.	
Workers and trade unions	• Forced labour • Increased vulnerability of migrant workers and/or undocumented workers • Threats to freedom of association • Discrimination towards trade union members	• Make sure to meet different categories of workers and trade union leaders (e.g., by gender, position, unionised vs. non-unionised) • Include informal workers in HRIA • Fix a time that suits their work schedule • Consider interviewing workers outside of company premises and outside working hours	• ILO Core Conventions (No. 87, 98, 39, 105, 138, 182, 100, 111)	• Business and Human Rights Resource Centre - labour rights • ILO – International Trade Union Confederation´s documents	• UN Special Rapporteur on the rights to freedom of peaceful assembly and of association • International Labour Organization • Trade union confederations • Labour rights groups
Minorities (national, ethnic,	• Marginalised in society or by law	• Minorities may speak another language than the	• International Covenant on Civil	• UN Development Programme	• UN Special Rapporteur on minority issues

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
linguistic, religious or political)	● At risk of becoming victims of violence, harassment or discrimination (e.g., in employment and access to basic services)	national language; engagement with minority groups should be conducted in a language they understand and feel most comfortable communicating in ● Engagement should be culturally appropriate ● Given the different characteristics of specific minority groups, it can be useful to include an anthropologist in the team who has expertise in engaging with the minority group in question	and Political Rights (Article 27) ● United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities	(2015), Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit, New York: United Nations.	● NGOs such as Minority Rights Group International or Society for Threatened Peoples International ● UN independent expert on minority issues ● NGOs focusing on specific minority groups ● Associations of people from specific minorities

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
People with disabilities	• Societal or cultural discrimination • Engagement can be challenging as persons with disabilities may be 'invisible' due to social taboos • Their physical and/or psychological conditions may require specific engagement methods	• When engaging with people with physical or psychological disabilities, ensure that the location for meetings is accessible and measures are taken to make engagement meaningful (e.g., providing a sign language interpreter, having documents available in braille)	• Convention on the Rights of Persons with Disabilities	• Business and Human Rights Resource Centre – disability discrimination	• UN Special Rapporteur on the rights of persons with disabilities • NGOs such as International Disability Alliance and Handicap International • UN Committee on the rights of persons with disabilities • ILO Global Business and Disability Network
Elderly people	• Their physical and/or psychological conditions may require specific	• When engaging with elderly people, ensure that the location for the meetings is	• United Nations Principles for Older Persons • ILO Convention No. 128	• UN OHCHR-Human rights of older persons • Independent Expert on the	• NGOs such as HelpAge International • Caregivers

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
	engagement methods	accessible to them (e.g., wheelchair-friendly access)	concerning Invalidity, Old-Age and Survivors' Benefits	enjoyment of all human rights by older persons	• Elderly people associations
Migrants, refugees and displaced persons	• Insecure legal status • At risk of abuse and discrimination • Due to their status, they might face difficulties in accessing basic services	• Due to their insecure legal status, individuals belonging to this rights-holder group, especially those without a residence permit, may be hesitant to speak openly, fearing that they may be arrested; it is important to provide a safe space when engaging with migrants, refugees and/or displaced persons	• International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990 • ILO, Migration for Employment Convention (Revised), 1949 • ILO, Recommendation No. 86 concerning Migration for Employment (Revised 1949)	• Business and Human Rights Resource Centre – Migrant and immigrant workers • UNHCR – The UN Refugee Agency	• UN Special Rapporteur on the human rights of migrants • UN Committee on Migrant Workers • NGOs working on migrant issues such as Migrants Rights International, Internal Displacement Monitoring Centre, • International organisations,

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
		• While for engagement with rights-holders it is in general imperative to keep identities of interviewees confidential, for this group confidentiality requires extra special attention	• ILO, Convention No. 143 concerning Migrant Workers • ILO, Recommendation No 151 concerning Migrant Workers (1975) • Convention relating to the Status of Refugees		e.g., Office of the United Nations High Commissioner for Refugees (UNHCR), UN Office for the Coordination of Humanitarian Affairs (OCHA), International Organization for Migration (IOM)
Lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals	• May experience discrimination and exclusion • They can become victims of violence and harassment both in the workplace and in the community	• Assessors should be appropriately trained on LGBTI issues when engaging with them • Ensure that LGBTI people feel comfortable to provide information by ensuring that the	• The Yogyakarta Principles	• UN OHCHR - Combating discrimination based on sexual orientation and gender identity	• UN Special Rapporteur Combating discrimination based on sexual orientation and gender identity • Regional, national and

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
		collected data remains confidential			local LGBTI organisations, ● International Gay and Lesbian Human Rights Commission ● International Lesbian, Gay, Bisexual, Trans and Intersex Association
Persons living with HIV & AIDS or other diseases	● May experience discrimination and marginalisation within society ● May face health related physical and/or psychological conditions that may require specific	● Assessors should be appropriately trained and sensitive to health issues related to HIV & AIDS or other diseases depending on the persons' conditions when engaging with them ● Clear understanding prior to consultation	● International Covenant on Economic, Social and Cultural Rights: art. 12 ● International Convention on the Elimination of All Forms of Racial Discrimination: art. 5(e)(iv)	● World Health Organization	● UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ● International health NGOs

Table B.E: Engagement with specific rights-holders[93]					
E.g. rights-holders group	**E.g. discrimination or vulnerability**	**E.g. engagement considerations**	**E.g. treaty protections**	**E.g. tools and resources**	**E.g. organisations, experts or proxies**
	engagement methods	on the local context (e.g., are there workplace health and safety issues that put such individuals more at risk?) ● Discuss issues such as hiring discrimination or companies requiring personal health information during job applications and/or interviews, which can be a form of discrimination	● Convention on the Elimination of All Forms of Discrimination against Women: arts. 11(1)(f), 12 and 14(2)(b) ● Convention on the Rights of the Child: art. 24 ● Convention on the Rights of Persons with Disabilities (2006): art. 25.		such as Medecins Sans Frontieres, The International Red Cross and Red Crescent Movement, ● Community health organisations ● Caregivers

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