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IMPACT
ASSESSMENT
GUIDANCE AND
TOOLBOX

ROAD-TESTING VERSION



HUMAN RIGHTS IMPACT ASSESSMENT GUIDANCE AND TOOLBOX

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This document contains the Welcome and Introduction section of the Human Rights Impact Assessment Guidance and Toolbox.

You can access the full version of the Guidance and Toolbox, including the Practitioner Supplements, at: <http://www.humanrights.dk/business/human-rights-impact-assessment-guidance-toolbox>

A NOTE ON THIS ROAD-TESTING VERSION

This Road-testing version of the Human Rights Impact Assessment (HRIA) Guidance and Toolbox is based on DIHR materials and experiences, input from expert reviewers, the UN Guiding Principles on Business and Human Rights and international human rights instruments, as well as public domain sources on impact assessment.

The preparation of the Guidance and Toolbox included two consultation drafts on which we received written feedback from expert reviewers, as well as a workshop in Geneva in November 2015, at which 15 of the expert reviewers participated in a discussion on the Guidance and Toolbox and HRIA. It is anticipated that in 2016-17, a Phase II of the project will focus on the Guidance and Toolbox in practice, the gathering and sharing of learning, and updating it based on experiences from practice.

As HRIA of business projects and activities is an emerging practice, this Road-testing version of the HRIA Guidance and Toolbox seeks to provide guidance to those working with HRIA, but also to contribute to a platform for dialogue about HRIA practice and standards in the business and human rights field. In this context, we welcome comments from stakeholders on the Guidance and Toolbox and on experiences with using it.

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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 (HRIA) of business projects and activities with guidance and practical tools; with the 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-government and civil society organisations (NGOs and CSOs), governments and other stakeholders, to assess and evaluate the impacts of business activities on the human rights enjoyment of rights-holders, such as workers and communities. 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 the 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 to account 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 in working towards robust HRIA practice.

The process outlined is modelled on HRIA undertaken for large-scale private sector business projects conducted at the project- or site-level (e.g. factory, mine site, hotel, 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. Whilst the Guidance and Toolbox in its entirety outlines a process for stand-alone HRIA (i.e. impact assessment that focuses exclusively on human rights), stakeholders may also wish to draw on specific components when working to integrate human rights into other types of assessments (e.g. environmental, social and health impact assessments).

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

The Guidance and Toolbox includes the following sections:

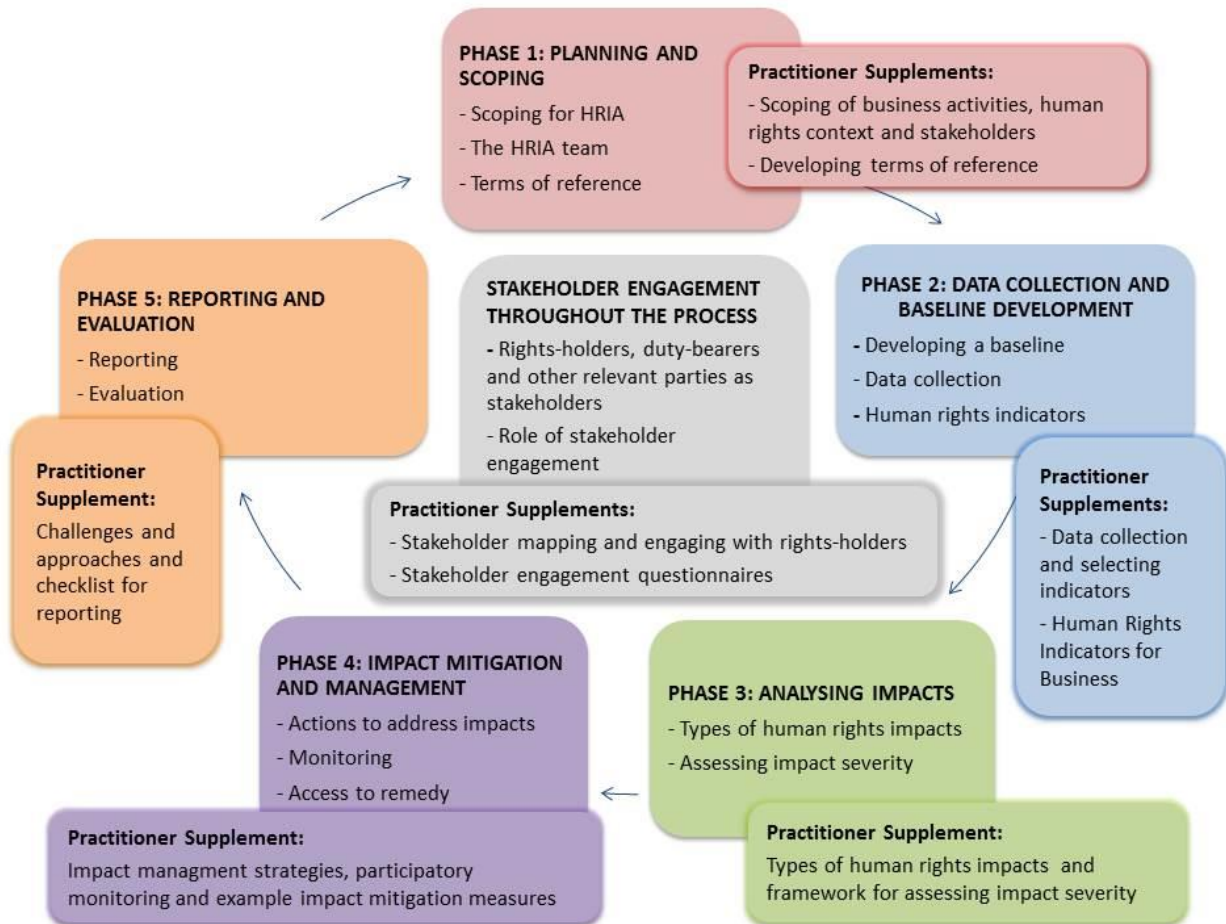
- **Welcome Section:** where you can find an overview of the Guidance and Toolbox, an introduction to HRIA, 10 key criteria to guide the process and content of HRIA, as well as other introductory materials on international human rights standards and principles.
- **HRIA Phases and Stakeholder Engagement:** the Guidance and Toolbox is divided into five phases: planning and scoping; data collection and baseline development; analysing impacts; impact mitigation and management; and reporting and evaluation; with stakeholder engagement situated as a cross-cutting component. 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 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.

You can find further details about the content of the Guidance and the Practitioner Supplements for the different HRIA phases in Figure 1, below.

This document contains the Welcome and Introduction section of the Human Rights Impact Assessment Guidance and Toolbox.

You can access the full version of the Guidance and Toolbox, including the Practitioner Supplements, at: <http://www.humanrights.dk/business/human-rights-impact-assessment-guidance-toolbox>.

Figure 1: 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 projects.

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

- **National human rights institutions** in exercising their mandate to promote and protect human rights could use the Guidance and Toolbox in 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-government 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 those HRIAs that have been undertaken (for a methodology designed specifically for community-led HRIA, however, see the [Getting it Right Tool](#), developed by Rights & Democracy).
- Other stakeholders with an interest in impact assessment and/or business and human rights.

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 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 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.

Whilst 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 are essential in HRIA. A thorough assessment of human rights impacts is unlikely to be possible or effective if conducted purely as a desk-top research exercise. Instead, it is an involved process, requiring background research, field work and being 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 content and process aspects can be identified as essential for HRIA of business projects or activities. In short:

- **International human rights as benchmark:** International human rights standards and principles must constitute the basis and benchmark for the assessment, at minimum referring to the International Bill of Human Rights and the ILO Core Labour Conventions, and other human rights as necessary in the particular HRIA context.
- **Human rights-based process:** The process of the assessment 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 are elaborated further in [10 Key Criteria for HRIA](#), below, where you can also find questions for practitioners on how they can be implemented in practice.

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

Within emerging HRIA practice, several different strands have been identified, including:

- In the field of development
- On health and human rights
- Child rights impact assessments
- Impact assessments of private sector projects

- On international trade and investment agreements
- Impact assessments conducted for public authorities
- Community-led 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 human rights focused intervention is meeting its objectives in terms of improving the realisation of the particular human right(s); such as an analysis of whether a government equal opportunities programme is effective in generating more employment opportunities for target groups such as women or ethnic minorities. In the context of business activities, on the other hand, the focus to date has primarily been on identifying, usually through ex-post assessments (i.e. assessments that occur after business activities are already under way), of the adverse impacts of private sector projects on workers and communities.

Sources: 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 3, below). HRIA can provide a process for businesses to understand and address such impacts. HRIA of business projects and activities can provide a structured approach through which 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 (on the different stakeholders to be engaged in HRIA see further, Stakeholder Engagement)

- Facilitate capacity building and learning of company stakeholders, rights-holders and others involved in the impact assessment, including through awareness raising of respective rights and responsibilities
- Enhance the accountability of businesses through documenting the impacts that have been identified and the actions taken to address these; and
- Build partnerships between businesses and other stakeholders to address human rights impacts, including through developing joint actions to address cumulative impacts or legacy issues.

A.4.3 WHEN SHOULD HRIA BE UNDERTAKEN AND HOW LONG DOES IT TAKE?

HRIA should be conducted as early as possible in the project-cycle, or when business activities commence, and repeated and re-evaluated at regular intervals (for example, in the case of environmental and social impact assessment review every three-five years is considered to be good practice) or critical gateways (such as project expansion, preparation for decommissioning and closure, where there are significant changes in social and political circumstances and so forth).

In planning and undertaking a HRIA, it is important to recognise that the complexity of the assessment should be appropriately scaled to the particular context (i.e. the community context, whether it is ex-ante or ex-post, whether there are pre-existing conflicts etc.) and to the nature of the business project or activities (i.e. the size of the operation, the stage of operations, the specific location etc.). This also applies to consideration of how much time will be needed for the assessment. See Box 2, below, for some example time allocations for HRIA.

Box 2: Examples of time allocation for HRIA

Nestlé HRIAs

The global food and beverage company Nestlé SA and the Danish Institute for Human Rights, as part of their partnership, have conducted 11 HRIAs between 2010 and 2015. Each HRIA is different, given the varying country contexts, human rights situation and the 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. Please note that this example should not be seen as standard practice in that the same amount of time is set for every HRIA. 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-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, country risk research, scoping of business activities, identifying which locations, suppliers and commodities to include in the scope of the assessment, development of assessment questionnaires, as well as logistical preparations.
- Approximately **six weeks** are allocated for data collection and baseline development, which includes more or less three weeks of desk-top data collection and two-three weeks of in-country assessment.
- During the in-country assessment, typically 70-80 interviews are conducted during the **two-three weeks** on the ground. These 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, academic experts, etc.
- After every in-country assessment, the HRIA team evaluates the overall assessment process; 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-five weeks** drafting the HRIA report, which includes time to analyse the human rights impacts found during the in-country assessment, as well as drafting of the final HRIA report. This phase may take longer depending on how much further research is needed. As part of 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, it needs approximately **1 month** to review the recommendations and determine timelines and identify relevant persons who will be responsible for the different mitigation actions.
- Monitoring of 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 and 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-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, this began the HRIA, and included meetings with the HRIA team and the preparation of a detailed assessment plan, i.e. terms of reference.
- August - October 2013, scoping took place, including background research, document review and analysis of the legal framework of Eritrea, and understanding the relevant international human rights standards and context.
- October 2013, the first of two field missions to Eritrea took place to conduct fieldwork research, interviews and focus groups with stakeholders; additionally, the HRIA team made observations of the Bisha Mine and nearby communities and their interactions with Eritrea subcontractors.
- January 2014, a second mission to Eritrea took place for further data collection.
- February 2014, interactive dialogues on Eritrea's Universal Periodic Review at the UN Human Rights Council.
- February - March 2014, further research and human rights analysis was undertaken by the HRIA team.
- April 2014, release of the initial HRIA report.

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.
- Development of a proposal for a stakeholder engagement plan to include discussions about the HRIA report, recommendations, and follow-up assessment 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 HRIA 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 were chosen by the committee to conduct the HRIA.

During November 2008 to June 2009 (an eight-month period) the HRIA 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 HRIA team from mid-January through the end of March 2009.

In May and June 2009 it was noted that certain stakeholder groups were underrepresented in the interviews, so through local contacts the HRIA team contacts conducted additional interviews, which lasted eight days, 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 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.4.4 HOW DOES HRIA RELATE TO HUMAN RIGHTS DUE DILIGENCE AND THE UN GUIDING PRINCIPLES?

The UN Guiding Principles (see Box 3, below) articulate the expectation that businesses should respect human rights by using a process of 'human rights due diligence'. That is, a process by which to identify, prevent, mitigate and account for how a business addresses the adverse human rights impacts with which it is involved. The assessment of human rights impacts is a critical step in this process.

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), 'integrated' assessments (e.g. integrating human rights into environmental, social and health impact assessments) and others.

The UN Guiding Principles state that when a business is assessing its human rights impacts it should:¹

- 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 from 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 (i.e. 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](#), below).

Box 3: 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 2011-2015 Corporate Social Responsibility Policy.

¹ 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).

A.4.5 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, whilst HRIA has a number of things in common with these more established practices there are also some notable differences, and a number of ‘original’ or ‘essential’ elements of HRIA indicate that there is a ‘value added’ of HRIA (see Box 4, below).

When comparing HRIA and SIA for instance, it can be noted that both place significant emphasis on:²

- Identifying and addressing adverse impacts
- Affected communities and individuals, including a particular focus on vulnerable groups; and
- 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 whilst 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, or which, if included, warrant further attention in practice; which could be facilitated by taking a human rights focus. Examples include:³

² Nora Götzmann, Frank Vanclay and Frank Seier (2015), ‘Social and human rights impact assessments: What can they learn from each other’, *Journal of Impact Assessment and Project Appraisal*; Simon Walker (2009), *The Future of Human Rights Impact Assessments of Trade Agreements*, Antwerp: Intersentia, pp.39-49.

³ 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*, IPIECA and DIHR.

- 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, rather than risks.

Box 4: The 'original' or 'essential' elements of HRIA

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

- Being **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 economic and social and cultural rights comprehensively. Use of international human rights standards also includes drawing on a developed jurisprudence in the analysis of impacts, and recognising the interdependence and interrelatedness of impacts, whereas 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 to be active agents in

the impact assessment process. Whilst 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 and 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. The human rights framework also facilitates drawing on human rights institutions, networks and expertise in the impact assessment itself, as well as the implementation of recommendations and mitigation measures.

- Attention to **equality and non-discrimination**. International human rights place significant emphasis on non-discrimination and equality, and these terms are arguably more clearly defined than notions such as equity which may be applied by other types of impact assessment. Furthermore, equality and non-discrimination in human rights provide parameters for the systematic analysis of impacts experienced by vulnerable individuals and groups, gender dynamics, and consideration of the differential distribution of impacts, through emphasising a focus on impact analysis at a disaggregate level. As human rights inhere in the individual, HRIA limits offsetting, such as accepting impacts on certain individuals for the greater good or positive contributions. In short, use of the human rights framework can facilitate broadening and deepening 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, as well as with regard to the results. Considering transparency from the perspective of the right to access to information includes emphasis on a full range of parameters, such as the type of information being disclosed, the points in time, language and other accessibility factors and so forth. The particular attention to accountability in the human rights framework, through the recognition of rights-holders as having entitlements for which respective duty-bearers have duties and responsibilities for upholding these rights, arguably provides greater imperatives for the implementation of mitigation measures, including remedy, than provided by 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, as well as a component of accountability, indicates the need for a stronger focus on this in HRIA than what may be required or expected in other types of impact assessment.

The [10 Key Criteria for HRIA](#), 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.4.6 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’ (i.e. assessment that focuses exclusively on human rights) or ‘integrated’ (e.g. integrating human rights into EIA, SIA or ESHIA) approach. 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, below, provides a short overview of some of the potential pros and cons associated with stand-alone and integrated approaches.

Table A: Strengths and weaknesses of different approaches to assessing human rights impacts		
	Integrated Approach	Dedicated (Stand-alone) Approach
Strengths	<ul style="list-style-type: none"> • Benefits from established internal and external company mechanisms that assign accountabilities. • Avoids duplication of work 	<ul style="list-style-type: none"> • Draws on human rights expertise enabling specific focus and deep analysis of human rights. • Specifically prioritises those

Table A: Strengths and weaknesses of different approaches to assessing human rights impacts		
	Integrated Approach	Dedicated (Stand-alone) Approach
	<p>and stakeholder consultation fatigue by focusing on the synergies between potential social and human rights impacts.</p> <ul style="list-style-type: none"> • 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. 	<p>individuals and communities who may experience human rights impacts, in particular by facilitating participation of vulnerable and marginalised individuals or groups.</p> <ul style="list-style-type: none"> • Can be performed outside the regulatory requirements of an ESHIA process, and 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	<ul style="list-style-type: none"> • The process, especially if it is dictated by prescriptive host-country regulatory requirements, may not allow for a specific focus on human rights. • ESHIA practitioners may not have sufficient human rights expertise. • Human rights considerations may not be explicitly referenced, and it may be 	<ul style="list-style-type: none"> • Mitigation and management plans drawn from a dedicated assessment may not be easily incorporated into existing company management systems and may suffer from lack of both ‘buy-in’ and accountability for implementation. • Adds additional cost and

Table A: Strengths and weaknesses of different approaches to assessing human rights impacts		
	Integrated Approach	Dedicated (Stand-alone) Approach
	<p>less clear how human rights impacts have been identified and will be addressed by the project.</p> <ul style="list-style-type: none"> • 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. 	<p>resource management requirements to the project; cost sensitivities may also arise with business partners or host-country governments.</p> <ul style="list-style-type: none"> • The impact assessment practitioners may lack specific human rights expertise. • 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.
<p>Source: Danish Institute for Human Rights and IPIECA (2013), <i>Integrating human rights into environmental, social and health impact assessments: A practical guide for the oil and gas industry</i>, IPIECA and DIHR.</p>		

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, as well as emphasising 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 B, provides an overview of these 10 key criteria, including example guiding questions for HRIA practitioners.

Table 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 during all stages of the impact assessment process, including scoping, data collection and baseline development, impact analysis, and design implementation of measures to prevent, mitigate and remediate impacts.	<ul style="list-style-type: none"> • 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 (through prevention, mitigation and remediation) and follow-up to evaluate the effectiveness of these? • 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 consideration of the legitimacy of their claim to represent workers or community members? • Is engagement and participation in the impact assessment guided by local context, including through using community preferred mechanisms (e.g. modes of

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
			<p>communication) where possible?</p> <ul style="list-style-type: none"> • Is the assessment process being undertaken at particular times to ensure participation, for example, when women are not in the fields, young people at school or families involved in the harvest? • Does the impact assessment provide for on-going dialogue between rights-holders, duty-bearers and other relevant parties? For example, through collaborative problem analysis and design of mitigation measures?
	Non-discrimination	Engagement and consultation processes are inclusive, gender-sensitive and take into account the needs of individuals and groups at risk of vulnerability or marginalisation.	<ul style="list-style-type: none"> • Has impact assessment consultation and engagement involved both women and men, including through the design and implementation of gender-sensitive engagement methods as necessary? For example, through holding women only meetings or going house-to-house for individual consultation? • Have steps been taken to ensure that the modes for engagement and participation address any barriers that may be faced by vulnerable and marginalised individuals? For example, by offering transport or holding meetings in culturally appropriate locations? • Have the vulnerable or marginalised individuals and groups in the given context been identified and considered, i.e. 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	<ul style="list-style-type: none"> • Do rights-holders have access to independent and competent legal, technical and

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
		individuals and groups at risk of vulnerability or marginalisation is undertaken to ensure their meaningful participation.	<p>other advice as necessary? If not, does the impact assessment include provisions for making such support available?</p> <ul style="list-style-type: none"> • 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 the capacity building of communities to be meaningfully involved? • Does the impact assessment provide for particular attention to vulnerable or marginalised individuals and groups in engagement and participation activities? Including allowing sufficient time and resources to facilitate the inclusion of these individuals?
	Transparency	The impact assessment process is as transparent as possible to 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	<ul style="list-style-type: none"> • Does the impact assessment process provide for information sharing between participants at relevant intervals? • Is the information about the business project or activities that is made available to participating stakeholders adequate for giving a comprehensive understanding of potential implications and human rights impacts associated with the business project or activities? Including 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 (i.e. published, with any reservations based on risk to rights-holders or other participants being clearly justified)? • Are the phases of the impact assessment, including timeframes, communicated in a clear and timely manner to all relevant stakeholders?

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
		appropriately publicly communicated.	<ul style="list-style-type: none"> • Does communication and reporting take into account and respond to the local context? For example, is information made available in relevant languages and formats, 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 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, for example, the company, contractors and suppliers, local government authorities and so forth.	<ul style="list-style-type: none"> • 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? Including financial and human resources, as well as adequate time? • 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 inter-disciplinary skills and expertise (including human rights, legal, language, local knowledge and other) 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?

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
Content	Benchmark	Human rights standards constitute the benchmark for the impact assessment. Impact analysis, assessment of impact severity and design of mitigation measures are guided by international human rights standards and principles.	<ul style="list-style-type: none"> • 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 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 includes actual and potential impacts caused or contributed to by the business, as well as impacts directly linked through operations, products or services through business relationships (contractual and non-contractual). The assessment includes	<ul style="list-style-type: none"> • Does the assessment include actual and potential impacts that the business project (including ancillary infrastructure) or activities: has caused; contributed to; as well as impacts directly linked through operations, products or services through business relationships, for example with suppliers, contractors, joint-venture partners, customers or government agencies? • Does the assessment consider any impacts of the business project or activity due to the aggregative or cumulative effect of activities of multiple business operations in the same area? • Does the assessment identify and address any legacy impacts associated with the business project or activities? For example, poorly conducted government resettlement of communities prior to the company acquiring the land.

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
		cumulative impacts as well as 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.	<ul style="list-style-type: none"> • Is the assessment of impact severity guided by human rights relevant considerations, including considering the scope, scale, whether it is possible to remediate the impact, interrelatedness and so forth? Is the assessment of severity determined with respect to the consequences for the individual(s) 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 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	<ul style="list-style-type: none"> • 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?

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
		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'.	<ul style="list-style-type: none"> • 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 to be synonymous with impact mitigation and remediation? • Does the impact assessment identify ways of exercising leverage to address any impacts to which the business contributes, or impacts that are directly linked to operations, products or services 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 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.	<ul style="list-style-type: none"> • 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 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 access

Table B: 10 Key Criteria for Human Rights Impact Assessment			
Key criteria for the process and content of HRIA			Example guiding questions for HRIA practitioners
			<p>to all relevant judicial processes?</p> <ul style="list-style-type: none"> • Are the access to remedy channels that are utilised responsive to the context and preferences of the rights-holders in question?
<p>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), <i>Guide to Human Rights Impact Assessment and Management</i>, 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', <i>Impact Assessment and Project Appraisal</i>, 31:2, pp.107-117; James Harrison (2010), <i>Measuring human rights: Reflections on the practice of human rights impact assessment and lessons for the future</i>, Legal Studies Research Paper No. 2010-26, University of Warwick School of Law; James Harrison and Mary-Ann Stephenson (2010), <i>Human Rights Impact Assessment: Review of Practice and Guidance for Future Assessments</i>, Edinburgh: Scottish Human Rights Commission; Christina Hill (2009), <i>Women, communities and mining: The gender impacts of mining and the role of gender impact assessment</i>, Melbourne: Oxfam Australia; Gillian MacNaughton and Paul Hunt (2011), 'A Human Rights-based Approach to Social Impact Assessment', in <i>New Directions in Social Impact Assessment: Conceptual and Methodological Advances</i>, F. Vanclay and A. M. Esteves (Eds), Cheltenham: Edward Elgar, pp.355-368; Norwegian Agency for Development Cooperation (2001), <i>Handbook in Human Rights Assessment: State Obligations, Awareness and Empowerment</i>, Oslo: NORAD; United Nations Office of the High Commissioner for Human Rights (2006), <i>Frequently asked questions on a human rights-based approach to development cooperation</i>, New York and Geneva: United Nations; Office of the United Nations High Commissioner for Human Rights (2012), <i>The Corporate Responsibility to Respect Human Rights: An Interpretive Guide</i>, New York and Geneva: United Nations; Rights & Democracy (2011), <i>Getting it Right: Human Rights Impact Assessment Guide</i>. [online]. Available from: http://hria.equalit.ie/en/index.html; United Nations Human Rights Council (2011), <i>Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework</i>, A/HRC/17/31; Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), <i>Social Impact Assessment: Guidance for assessing and managing the social impacts of projects</i>, Fargo ND: International Association for Impact Assessment; Simon Walker (2009), <i>The Future of Human Rights Impact Assessments of Trade Agreements</i>, Antwerp: Intersentia; World Bank and Nordic Trust Fund (2013), <i>Human Rights Impact Assessments: A Review of the Literature, Differences with other forms of Assessments and Relevance for Development</i>, Washington: World Bank and Nordic Trust Fund.</p>			

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