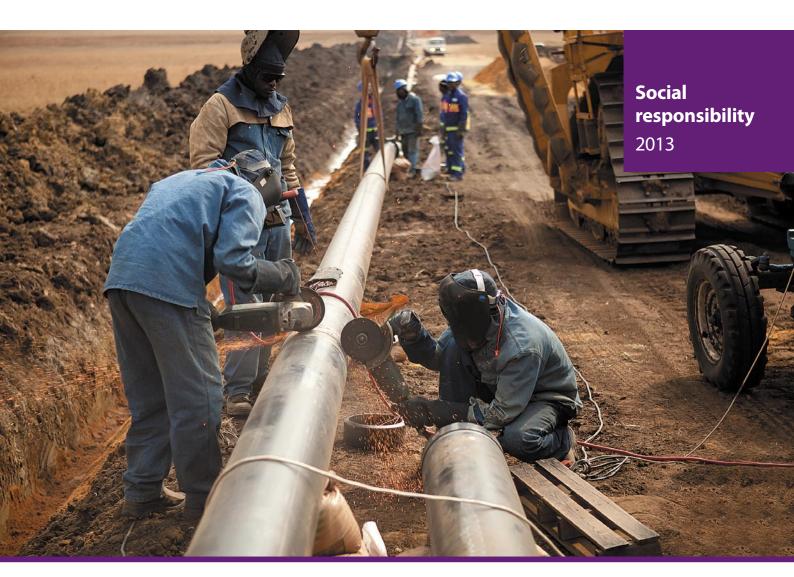THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

IPIECA

Integrating human rights into environmental, social and health impact assessments

A practical guide for the oil and gas industry

Social responsibility
2013

IPIECA

The global oil and gas industry association for environmental and social issues

5th Floor, 209–215 Blackfriars Road, London SE1 8NL, United Kingdom
Telephone: +44 (0)20 7633 2388   Facsimile: +44 (0)20 7633 2389
E-mail: info@ipieca.org Internet: www.ipieca.org

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

The Danish Institute for Human Rights

Wilders Plads 8K, 1403 Copenhagen K, Denmark
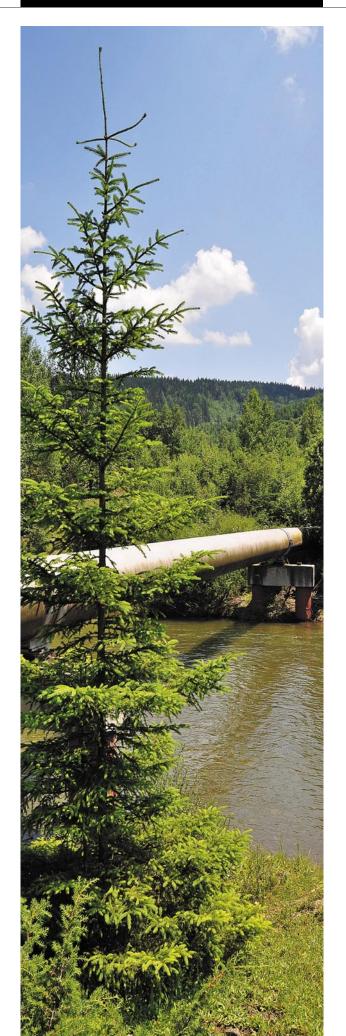Telephone: +45 32698888   Facsimile: +45 32698800
E-mail: info@humanrights.dk   Internet: www.humanrights.dk

This publication has been developed to support the implementation of IPIECA's mission and vision. Whilst every effort has been made to ensure the accuracy of the information, it is intended to provide general guidance only. It is not designed to provide legal or other advice, nor should it be relied upon as a substitute for appropriate technical expertise or professional advice. All attempts have been made to ensure the information is correct at of the date of publication. This publication does not constitute a mandatory commitment which members of IPIECA are obliged to adopt. The views and conclusions expressed herein do not necessarily reflect the views of all IPIECA members or the individuals, companies and institutions that contributed to this publication.

While reasonable precautions have been taken to ensure that the information contained in this publication is accurate and timely, this publication is distributed without warranty of any kind, express or implied. IPIECA does not endorse or accept responsibility for the content or availability of any website referred to, or linked to, in this publication. The responsibility for the interpretation and use of this publication lies with the user and in no event will IPIECA nor any of its members past, present or future regardless of its or their negligence, assume liability for any foreseeable or unforeseeable use made thereof, which liability is hereby excluded. Consequently, such use is at the recipient's own risk on the basis that any use by the recipient constitutes agreement to the terms of this disclaimer. This disclaimer should be construed in accordance with English law.

Integrating human rights into environmental, social and health impact assessments

A practical guide for the oil and gas industry

CONTENTS

* Environmental, social and health impact assessment

This Guide describes how human rights can be integrated into environmental, social and health impact assessments (ESHIAs), which the oil and gas industry routinely uses to evaluate projects and activities. It provides an introduction to human rights and their relevance to the activities of the oil and gas industry, and briefly describes why it is important for the oil and gas industry to consider the impact that its projects and activities have on human rights.

It is the product of collaboration between impact assessment practitioners from IPIECA members and human rights practitioners from the Danish Institute for Human Rights (DIHR). Together, the organizations have attempted to bridge the gaps in terminology, processes and approaches between the ESHIA and human rights impact assessment communities.

The Guide's objectives are to:
- foster inclusion/integration of human rights into ESHIAs conducted for projects undertaken by the oil and gas industry;
- provide human rights insights on the key process steps in international standard ESHIAs[1]; and
- provide a new practical reference point in an evolving field of assessing human rights impacts.

Targeted at ESHIA practitioners in the oil and gas industry and in consulting firms, the Guide is structured into three parts and uses text boxes and case studies to clarify, illustrate and provide practical examples.

Part 1: Human rights issues and impacts in the oil and gas industry. This section contains high-level information about human rights, defining human rights impacts and their scope, and outlines the parallels between ESHIAs and the assessment of human rights impacts.

Part 2: Human rights considerations in the ESHIA process steps. The section follows the steps of the ESHIA process, providing practical guidance on applying a human rights lens to the activities and content of each step.

Part 3: Strategic themes and processes. This section looks at human rights issues that are applicable across the ESHIA process: i) Integrated impact assessment or dedicated human rights impact assessment; ii) Strength testing of the assessment of human rights impacts; iii) Stakeholder engagement and participation; iv) Considerations and options when communicating about human rights impacts; v) Focus on vulnerable individuals and groups, gender and Indigenous Peoples; and vi) Organizational skills and resources for the assessment and management of human rights impacts.

The Guide builds on previous IPIECA publications[2,3,4] and on good practice guidance from the International Finance Corporation (IFC)[5,6]. Information from these resources is referenced, but not duplicated as readers can easily access these sources.

[1] For the purposes of this Guide, international standard ESHIAs are defined as those ESHIAs which follow the social impact assessment principles of the IAIA (Vanclay, 2003) and the IFC Performance Standards (2012).
[2] IPIECA (2012a). *Human rights due diligence process: a practical guide to implementation for oil and gas companies:* www.ipieca.org/sites/default/files/publications/Due_Diligence.pdf
[3] IPIECA (2012). *Indigenous Peoples and the oil and gas industry: context, issues and emerging good practice:* www.ipieca.org/sites/default/files/publications/indigenous_people.pdf
[4] IPIECA (2013). *Human Rights Training Tool—3rd edition:* www.ipieca.org/sites/default/files/publications/IPIECA_Human_Rights_training_toolkit.zip
[5] IFC (2007). *Stakeholder Engagement: A Good Practice Handbook:* www.ifc.org/wps/wcm/connect/938f1a0048855805beacfe6a6515bb18/IFC_StakeholderEngagement.pdf?MOD=AJPERES
[6] Abrahams, D. and Wyss, Y. (2010). *Guide to Human Rights Impact Assessment and Management (HRIAM).* International Finance Corporation: www.ifc.org/hriam

Human rights issues and impacts in the oil and gas industry

Oil and gas projects can have a range of impacts—both positive and negative—on the human rights enjoyment of individuals, groups and communities. For example, development of oil and gas projects can contribute to local economies through the generation of revenue for the government or through the creation of jobs. This in turn can have positive impacts on individuals' rights to work and on their ability to achieve an adequate standard of living. On the other hand, resettlement or adverse impacts on livelihoods, if left unmanaged, may infringe on the rights to property, health and an adequate standard of living for those affected.

Human rights are generally defined as basic standards of treatment to which all people are entitled, regardless of sex, national or ethnic origin, colour, religion, language, or any other status. The Universal Declaration of Human Rights lists the core human rights to which all human beings are entitled, including thirty different rights and freedoms, covering civil, cultural, economic, political and social rights. Appendix 2 on page 32 lists key international human rights resources. The IPIECA *Human Rights Training Tool*[4] provides learning on the background and current state of play of the human rights and business arena.

Consistent with the United Nations Guiding Principles on Business and Human Rights (UNGPs), oil and gas companies have the responsibility to respect human rights. Furthermore, companies should exercise due diligence to become aware of, prevent and address adverse human rights impacts linked to their activities (see Appendix 3 on page 36).

WHAT ARE HUMAN RIGHTS IMPACTS?

Human rights impacts are influenced largely by the local human rights context and the nature of a project's specific activities. To be consistent with the UNGPs, the full range of human rights impacts needs to be considered, including those caused or contributed to by the project, cumulative impacts, and those directly linked to the project, e.g. through business relationships (see Box 1). An adverse human rights impact occurs when an action removes or reduces the ability of an individual to enjoy her or his human rights. The human rights due diligence process, as articulated by the UNGPs, focuses companies on identifying and addressing adverse impacts; this is therefore the main focus of this Guide. However, the positive contributions to development by the oil and gas industry should be recognized, and ESHIAs also play a role as a tool to identify relevant opportunities.

Table 1 (pages 5–9) provides a listing of relevant human rights and possible situations in the oil and gas industry. Further examples are also available in the IPIECA *Human Rights Training Tool*[4] and IPIECA's *Human rights due diligence process: a practical guide to implementation for oil and gas companies*[2].

BOX 1
TYPES OF HUMAN RIGHTS IMPACTS

An **actual impact** is already present in the project area prior to the project initiation. Legacy impacts are those caused by previous operators or activities, e.g. insufficient compensation provided to communities following government-led resettlement undertaken in relation to project activities.

A **potential impact** is one that may occur at some point, e.g. the project design shows the need for a permanent resettlement of households.

A project may **cause** human rights impacts, e.g. if discrimination occurs in a hiring process.

A project may **contribute** to human rights impacts, e.g. if it uses project contractors with poor labour practices.

A project may be **directly linked** to an impact, e.g. if public security forces stationed to protect assets use excessive force against protesters.

ASSESSMENT OF POTENTIAL HUMAN RIGHTS IMPACTS

Human rights impacts can be identified, assessed and managed through a range of company processes and assessments. ESHIAs are already well established in the oil and gas industry. Therefore, integrating human rights into ESHIAs presents an opportunity for sector companies to assess and address human rights impacts by building on existing systems. For example, some of the parallels and overlaps between ESHIAs and the assessment of human rights include the following:

1. Issue areas typically considered in ESHIAs are similar to those that are key to human rights, for example resettlement, community health and livelihoods.

2. Core human rights principles—participation, accountability and transparency, non-discrimination, empowerment and linkage to the international human rights framework—align in spirit with the social impact assessment (SIA) principles of the SIA community[7] (see Appendix 5).

3. There are significant parallels between the ESHIA and human rights-based approaches, in terms of processes relating to data collection and target stakeholder groups. For this reason, integrating human rights into ESHIAs can be an efficient way of avoiding or reducing stakeholder engagement fatigue.

[7] Vanclay (2003). *Social Impact Assessment—International Principles:* www.iaia.org/publicdocuments/special-publications/SP2.pdf

While there are significant parallels between ESHIAs and the assessment of human rights impacts, there are also some areas of human rights impacts which are not, in practice, always included in the scope of ESHIAs, or which, if included in scope, may warrant further attention in practice. Examples include:

- labour issues with contractors, and within the goods and services supply chain for the project;
- post-conflict or conflict-sensitive areas;
- security activities related to operations;
- gender analysis, Indigenous Peoples and focus on vulnerable individuals and groups (see pages 27–29 for further details);
- community impacts related to business relationships or activities (e.g. partners, government actors or joint ventures operations);
- legacy human rights impacts associated with the activities of previous operators;
- cumulative impacts, involving human rights impacts of other companies operating in the same area; and
- project and in-migration impacts such as overloading infrastructure and social services.

When considering how to integrate human rights considerations into ESHIAs, companies need to pay particular attention to these subject areas and make conscious decisions about whether such issues are best covered as part of the ESHIA process, through other company due diligence processes, or in a dedicated human rights impact assessment (HRIA).

TABLE 1 EXAMPLES OF RELEVANT HUMAN RIGHTS AND RELATED SITUATIONS IN THE OIL AND GAS INDUSTRY

Topic areas	Examples of relevant human rights	Relevance to the oil and gas industry	Viewing ESHIA through a human rights lens
Land and property	• Right to own property • Right to adequate housing • Right to a standard of living adequate for the health and well-being of the individual and his/her family • Right to participate freely in the cultural life of community	The project may acquire land, permanently or temporarily for use during construction or operations. Communities or individuals may live on the land and use it for housing. They may use the land for agriculture, water collection, foraging or other livelihood-securing purposes. The land may also be of cultural, religious or spiritual value to communities or individuals.	• Seek to conduct meaningful consultation and engagement with communities who may depend on the land. • Consider implications for vulnerable individuals or groups including indigenous or nomadic peoples. • Also consider secondary impacts on specific groups within the community; for example, where women are primary land workers, removal of their access to work the land could also undermine their role in the community. • Seek to understand the historical record and context relating to land acquisition in the area, and check for legacy issues relating to involuntary resettlement or forced displacement. • Consider whether people using the land have title, and if not whether / how they may be compensated. • Seek restoration of housing and livelihoods where physical or economic resettlement cannot be avoided.
Workers	Treatment of workers should be consistent with the International Labour Organization (ILO) Core Labour Conventions, i.e.: • allow freedom of association and collective bargaining; • prohibit the hiring of underage workers, as defined in relevant ILO Conventions; • prohibit recruitment, use and practices of forced labour; • prohibit discrimination in hiring practices or pay; and • provide just and favourable working conditions.	Phases of the project lifecycle will have different workforce profiles and intensities. Certain work may be subcontracted, sometimes multiple times, to various subcontractors who may hire migrant or temporary workers. Types of activities where worker's human rights may be at greater risk include construction services, maintenance, security, and facilities-related services such as cleaning, laundry and catering.	ESHIAs typically consider impacts related to the presence of contracted workers, e.g. impacts on community health and well-being; they are less likely to consider the impacts on the welfare of the workers and their dependents. Where potential worker impacts on human rights are not covered by other company processes, consider including them within the ESHIA or human rights impact assessment process. Relevant considerations from a human rights perspective may include: • safe and healthy work place conditions; • provision of food and water for drinking and sanitation; • working conditions and accommodation standards; • provision of appropriate personal protective equipment (PPE) (by the employer or contractor); • whether contract terms and conditions are transparent and understood by workers prior to recruitment; • whether workers have been required to pay excessive recruitment or transportation fees, or to lodge their identity documents or working papers; • freedom of movement in and out of the workplace and workforce accommodation; • wages reflective of industry standards/minimum wage; • access to workforce grievance mechanisms; and • provision of sufficient rest periods and rest days to avoid fatigue. *continued…*

TABLE 1 EXAMPLES OF RELEVANT HUMAN RIGHTS AND RELATED SITUATIONS IN THE OIL AND GAS INDUSTRY *(continued)*

Topic areas	Examples of relevant human rights	Relevance to the oil and gas industry	Viewing ESHIA through a human rights lens
Livelihood	• Right to a standard of living adequate for the health and well-being of the individual and his/her family • Right to food • Right to work and to just and favourable conditions of work (see above) • Right to education • Right to freedom of expression and access to information • Right to the highest attainable standard of physical and mental health	Projects and operations may impact both positively and negatively upon the livelihood-sustaining activities of local communities and individuals. People may be dependent upon natural resources for commercial or subsistence income. For example, the project may require marine exclusion zones, which could impact upon local fishing activities, or land acquisition for buffer zones could impact upon local agricultural activities.	• Seek to conduct meaningful consultation and engagement with communities whose livelihoods may be impacted by the project, and seek to consider the significance of the impact from their perspective. • Consider implications for vulnerable communities, including indigenous or nomadic peoples, single-headed households, individuals below the poverty line, and those who may rely upon subsistence for their livelihoods. • Consider the potential impact of a change in local employment patterns or a shift in demand for local skills or competencies resulting from the project or operation. For example, what is the impact upon children's right to basic education if schoolteachers are recruited to work in more lucrative roles within the project.
Community health and access to public services	• Right to the highest attainable standard of physical and mental health • Right to education • Right to participate freely in the cultural life of the community • Right to equal access to public service in own country	Projects and operations may have an impact on community health and access to public services in a variety of ways. Consider whether the project may: • open access to previously remote inhabited areas; • increase migrant/foreign workers, leading to an increase in infectious diseases or STDs; • put pressure on local health resources and infrastructure, reducing access to these services; • physically inhibit peoples' access to, or use of, public services such as education; and • lead to distortion of local food prices and basic necessities.	• Consider whether information on community or public health received from the government is accurate, for example statistics on certain types of diseases and rates of infection or demographics affected. • Consider whether detailed baseline information on community or public health is available from public sources, or whether information will have to be created. • Consider in a disaggregated manner, the potential impact on different communities or individuals, including vulnerable groups or individuals. Their resilience to impacts may differ. • Where possible, engage directly with potentially impacted communities and individuals. In certain contexts, it may be helpful to disaggregate stakeholders based on gender, age, ethnicity, sexuality, religion, and susceptibility to specific diseases or disabilities.

continued…

TABLE 1 EXAMPLES OF RELEVANT HUMAN RIGHTS AND RELATED SITUATIONS IN THE OIL AND GAS INDUSTRY *(continued)*

Topic areas	Examples of relevant human rights	Relevance to the oil and gas industry	Viewing ESHIA through a human rights lens
Security	• Right to life, liberty and security of person • Right to freedom from torture or cruel, inhuman or degrading treatment or punishment • Right to freedom from arbitrary arrest, detention or exile • Right of detained persons to humane treatment • Right to freedom of assembly, freedom of association and collective bargaining • Right to a fair trial • Right to an effective remedy The industry seeks to protect people and assets in a manner that respects human rights and is consistent with the Voluntary Principles on Security and Human Rights or the UN Basic Principles on the Use of Force and Firearms.	In certain contexts, the provision of security to the project or operation may include the deployment of armed personnel (state security forces, i.e. police or military or private security) with potential for the use of force. Impacts on the community, individual or worker's human rights may be more likely where: • there is a culture of arbitrary arrest, impunity or disregard for the rights of people; • state or private security forces have not received human rights training; • people do not have access to a functioning legal or judicial system where they may seek remedy for potential human rights abuse by security forces.	Where potential impacts on the security of human rights are not covered by other company processes, consider including them within the ESHIA or human rights impact assessment process. Relevant considerations from a human rights perspective may include the following: • When conducting baseline studies and engaging with the local community, seek to understand any legacy issues with respect to state or private security forces. • Consider whether the project is located within an area currently, historically or potentially affected by conflict or violence. • Assess the potential for protest activity related to unresolved grievances of the local community or civil society. • Determine whether the project/operation has given, or is likely to be requested to give, any equipment, facilities, funding or help-in-kind to the government to assist with the provision of security. • Consider whether there may be a risk of (or evidence of past) human rights abuses against local communities by security forces, including gender-based violence. • Determine whether human rights are included as part of the training of security forces, and if not, consider making provision for human rights training so that security forces are aware of how to address workforce or community related grievances and peaceful protests.
Water	• Right to water and sanitation • Right to the highest attainable standard of physical and mental health • Right to a standard of living adequate for the health and well-being of the individual and his/her family • Right to work	Projects or operations may have an impact on the availability or quality of water (constant or seasonal) for use by local communities and individuals (for domestic or commercial activities). This may affect employment and livelihoods. Where water availability is depleted, people may have to travel further to collect water, resulting in knock-on impacts on attendance at school, work, running businesses, etc.	Seek to understand: • the potential area of influence of the operations on water resources, in terms of both quality and quantity; • who the current users of water within this area of influence are, or who may be affected, upstream or downstream, by the project or operation's activities; • the status of access to fresh water for drinking and sanitation; • how the project or operation may have a potential impact on the availability and quality of water (both on a constant and seasonal basis) in the short, medium and longer term; and *continued…*

TABLE 1 EXAMPLES OF RELEVANT HUMAN RIGHTS AND RELATED SITUATIONS IN THE OIL AND GAS INDUSTRY *(continued)*

Topic areas	Examples of relevant human rights	Relevance to the oil and gas industry	Viewing ESHIA through a human rights lens
Water *(continued)*		If people have to travel to other sources of water, the additional distance and potential hazards en route may put their health or even their lives at risk. The lack of available water may also contribute to conflict or social tension between communities, and may have longer-term impacts on migration patterns.	• whether there are potentially cumulative impacts from other businesses or enterprises in the area or region, e.g. will the proposed development attract other users of water in the future? Where appropriate, engage with and consult communities and groups regarding water availability and quality, seek to understand their current water use and access to fresh water, and help them to understand the potential impact of the project or operation. Consider the potential impact on vulnerable groups within the community, who may be at greater risk if water availability or quality is depleted.
Indigenous Peoples	• Right to self-determination • Right to own property • Right to adequate housing • Right to a standard of living adequate for the health and well-being of the individual and his/her family • Right to the highest attainable standard of physical and mental health • Right to participate freely in the cultural life of the community • Right to equal recognition and protection under the law • Right to non-discrimination • Right to an effective remedy Specific collective and group rights of Indigenous Peoples as captured in the UN Declaration on the Rights of Indigenous Peoples, 2007 and ILO Convention No. 169.	The project may acquire, either permanently or temporarily, land for project construction or operations. Indigenous Peoples or indigenous groups may be using that land for cultural purposes, subsistence, livelihoods or for shelter/housing. Projects may have a potential impact on natural resources, or on access to these resources upon which Indigenous Peoples rely for food, water, health and other aspects of their livelihoods.	Indigenous populations may be particularly vulnerable to potential human rights impacts caused by the project or operation. • Consult with Indigenous Peoples and seek to obtain broad community support for the project. • Design consultation/engagement methods to be accessible and effective, taking into account peoples' native languages, literacy rates, and the remoteness of any settlements. • Seek to understand Indigenous Peoples' way of life, cultural and religious traditions and the potential impact that the project may have on these aspects. • Respect traditional indigenous approaches to decision making and consultation. • Check that anyone who claims to represent the indigenous population is a true representative and has the group's endorsement and support. • Although Indigenous Peoples may not have formal title to the land that they use, the responsibility to respect their human rights remains. Consider work-around solutions or engagement with the government to find solutions. • Governments may not have conferred official indigenous status upon, or recognized, all potential indigenous groups. It may be prudent to be sensitive to this and consider the creation of safe spaces* for discussion when developing consultation or engagement plans. --- * A 'safe space' is considered to be a positive, affirming, psychological and emotional environment that encourages honest and open expression in an atmosphere that is free from fear of judgement. *continued…*

TABLE 1 EXAMPLES OF RELEVANT HUMAN RIGHTS AND RELATED SITUATIONS IN THE OIL AND GAS INDUSTRY *(continued)*

Topic areas	Examples of relevant human rights	Relevance to the oil and gas industry	Viewing ESHIA through a human rights lens
Vulnerable groups/ individuals	• Right to non-discrimination • Right to self-determination • Right to own property • Right to adequate housing • Right to a standard of living adequate for the health and well-being of the individual and his/her family • Right to the highest attainable standard of physical and mental health • Right to participate freely in the cultural life of the community • Right to equal recognition and protection under the law • Right to an effective remedy Specific rights of minorities	Vulnerable groups/ individuals may be subjected to discriminatory actions by the government, local businesses, educational system, health-care services and others in the community. Potential impacts from projects may disproportionally affect vulnerable populations within the local community. This may include ethnic or religious minorities, people with certain political views, women or children, elderly populations, people with a physical or mental disability, economically disadvantaged populations or people in poverty, or others who, for whatever reason, are at a disadvantage with respect to the mainstream, discriminated against or unable to advocate for their rights.	• Consider whether vulnerable groups/individuals are included in project consultations and stakeholder engagement, and whether they are given opportunities to express their concerns; the potential impacts of the project on these vulnerable groups/individuals may not be the same as those affecting the mainstream community. • Separate consultations or engagement efforts may be appropriate with vulnerable groups. In certain contexts, this may require the creation of safe spaces for discussion and awareness of local cultural sensitivities, which may be based on ethnicity, religion, race, gender or other aspects. To be successful, engagement with vulnerable groups may require a diverse team of representatives. • Check that local leaders or others who claim to represent the views of vulnerable members of the community or specific groups truly represent those members and have their permission, endorsement and support. • Keep in mind that vulnerable peoples or individuals may be discriminated against by the mainstream community, and be aware of social tensions that may exist between communities or groups within any one community.

Human rights considerations in the ESHIA process steps

FIGURE 1 THE ESHIA PROCESS STEPS

ASSESSMENT AND MANAGEMENT

Step 4
Identification and
assessment of impacts

Step 5
Impact mitigation
and management

DATA COLLECTION

Step 1
Project screening

Step 2
Scoping and
Terms of Reference

Step 3
Baseline studies

MONITORING AND EVALUATION

Step 6
Monitoring, evaluation,
communicating and reporting

STAKEHOLDER ENGAGEMENT

Stakeholder engagement
and participation

Consideration and options when
communicating about human
rights impacts

Focus on vulnerable individuals
and groups, gender and
Indigenous Peoples

Figure 1 illustrates the ESHIA process steps, which are further explored in this section, and the stakeholder engagement elements, which are discussed in detail in Part 3. Stakeholder engagement is a cross-cutting activity relevant in each of the ESHIA process steps.

STAKEHOLDER ENGAGEMENT THROUGHOUT THE IMPACT ASSESSMENT PROCESS

Regular and meaningful engagement with affected communities and individuals, as well as with other relevant stakeholders, is a key component in ensuring the effective identification and management of human rights impacts. Stakeholder engagement needs to involve interactive and participatory processes, and is the basis for building the strong, constructive and responsive relationships that are necessary for successful projects. Box 2 introduces some of the key stakeholders for engagement and participation in the impact assessment process. More information on stakeholder engagement and participation can be found in Part 3.

GUIDE TO INTEGRATING HUMAN RIGHTS IN THE ESHIA PROCESS STEPS

The following sections provide guidance with regard to the consideration of human rights issues by ESHIA practitioners and ESHIA contract managers. For each ESHIA process step, the Guide provides:

- a description of the ESHIA step;
- a view through the 'human rights lens', which amplifies the ESHIA processes and practices that are particularly relevant in the identification, assessment and management of human rights impacts; and
- practical considerations that highlight options to enhance the quality of the activities in each ESHIA step, to avoid pitfalls and to create awareness of possible sensitivities or unintended consequences with regard to assessing human rights impacts.

BOX 2
WHO IS WHO?

When integrating human rights into ESHIAs it will be important to recognize and engage the full range of relevant stakeholders, including considering their different roles and responsibilities.

Stakeholders: a stakeholder is a person, group or organization with a legitimate interest in, or influence on, a project, as well as those potentially affected by it. Relevant stakeholders for the assessment of human rights impacts include affected communities and individuals, responsible parties and other relevant parties.

Affected communities and individuals (rights holders): all individuals, including communities and individuals who are impacted by oil and gas projects, are human rights holders. Organizations or entities, such as States, trade unions or religious institutions, are not human rights holders, but may act in a representative capacity for individuals or groups who are human rights holders. For the purposes of this document, rights holders whose human rights are, or may be impacted by a project, are called affected communities and individuals.

Responsible parties (duty bearers): these parties are actors who have human rights duties or responsibilities towards affected communities and individuals. States are the primary human rights duty bearers—they have a legal obligation to *protect*, *respect* and *fulfil* human rights. Companies have a complementary *responsibility to respect* human rights, to avoid infringing upon the rights of others and to address those impacts with which they are involved.

Other relevant parties: these may include individuals or organizations whose knowledge or views could assist in the assessment of human rights impacts. Relevant parties may include expert representatives from international organizations, NGOs and rights holder representatives or representative organizations.

STEP 1: PROJECT SCREENING

Description

Screening is the formal process of determining whether or not an ESHIA is required for a particular project. Screening is typically carried out in the early stages of a project. The criteria applied are usually defined by the relevant host country government, or by lenders for externally financed projects, and/or the company itself.

How to apply a human rights lens to project screening

- Based on the project context, consider whether human rights are most effectively assessed by integrating human rights into ESHIA processes, or through a dedicated HRIA (see Part 3).
- Determine the relevant human rights context applicable to the project in order to understand the general level of human rights enjoyment in the host country and the strengths and weaknesses in host country legislation. Inform the scoping and Terms of Reference (ToR) of an ESHIA, regarding the human rights issues that could lead to potential human rights impacts, for example:

- identify international human rights conventions and treaties that have been signed and ratified by the host country government, and examine whether/how these are incorporated into national laws;
- assess against the Bill of Human Rights and the eight Core Conventions of the International Labour Organization (ILO) (see Appendix 2) to verify, as a minimum, whether gaps exist in the protection of human rights in national laws, their implementation and/or their enforcement; and
- ascertain the ability of the judicial system to provide remedy for human rights impacts, including business-related human rights impacts.
- Identify whether there are, or have been, human rights impacts in the project area that predate the project's presence (e.g. legacy human rights issues inherited by the company from a project's previous operator).
- Consider which individuals or groups will require extra attention and assistance to participate in baseline data collection, including groups and individuals that are unlikely to be well represented through formal structures, such as vulnerable and marginalized communities and individuals.

Practical considerations

- The type of impact assessment study, as mandated by the host country government, or as supported by the project's joint venture partners, may dictate the content and scope of the impact assessment, thus affecting the comprehensiveness of the integration of human rights considerations. Consequently, an opportunity to address existing or potential human rights impacts may be missed. The project may choose to carry out a dedicated HRIA (see Part 3).
- Impact assessment activities for early exploration and smaller projects may be focused on permitting requirements, and miss the opportunity to identify and manage potential social and human rights impacts. However, these impacts are still relevant for such projects and may need to be assessed.
- Screening, as referenced here, should not be confused with environmental, health, social or risk screening exercises that form part of a company's internal due diligence process.

STEP 2: SCOPING AND TERMS OF REFERENCE

Description

Scoping sets the parameters and boundaries for the ESHIA by defining the schedule, depth, breadth and thematic focus, and capturing them within the ToR.

How to apply a human rights lens to the scoping and Terms of Reference step

- Embed relevant expertise in the assessment team to identify, assess and manage human rights impacts.
- Include all the relevant human rights legal frameworks and standards that are identified in the screening phase, and endeavour to include an explicit reference to human rights in the ToR. Social and human rights considerations in ESHIA processes may go beyond applicable host country regulatory requirements, may be influenced by international standards, or lender requirements, and may be driven by internal company management systems requirements.
- Include all types of human rights impacts (see Box 1 on page 3).
- Consider explicit mention of the integration of human rights considerations in the ESHIA scope and ToR.
- Confirm that the assessment of human rights impacts will be by integration into the ESHIA, rather than by a dedicated assessment (see Table 2, overleaf).
- Engage affected communities and individuals regarding the scope and assessment methodology for human right impacts.

EXAMPLE FROM PRACTICE: INCLUDING HUMAN RIGHTS IN IMPACT ASSESSMENT SCOPING

Repsol's corporate ESHIA standard

Repsol's group-wide standard on Environmental, Social and Health Impact Assessment includes international human rights and labour rights as part of the standard scope for impact assessment. The standard includes explicit reference to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Development of the ESHIA standard included consultation with a range of external stakeholder organizations involved in protecting human rights, poverty reduction and labour standards.

EXAMPLE FROM PRACTICE: APPROACHES TO THE ASSESSMENT OF HUMAN RIGHTS IMPACTS

Repsol—independent studies

Repsol has a group-wide policy on relations with indigenous communities. For operations that have an impact on indigenous communities, one tool for assessing social performance is the independent third-party study. Such studies analyse the implementation of corporate social performance standards with particular reference to impacts on the rights of indigenous communities. A study is undertaken by an independent third party, and includes the participation of two civil society experts on Indigenous Peoples' rights, who are involved in shaping the recommendations of the study. The consultation process of a study includes extensive interviews with a range of stakeholders including local communities, indigenous communities, indigenous federations, public administrations, international bodies working on the rights of Indigenous Peoples, and NGOs. As a result of a study, a set of actions are set out in an action plan to align the operations with the Repsol Policy on Relations with Indigenous Communities. The implementation of the action plan is reviewed on a yearly basis.

Practical considerations

- Allow sufficient time in the project schedule to identify, assess and manage human rights impacts. For example local fishing, farming and hunting activities may not occur all year round, but follow seasonal patterns, or migratory cycles of livestock and game; also consider the potential movements of nomadic peoples.
- Flexibility in the scope should be provided for the inclusion of unanticipated impacts, including unexpected human rights impacts that may be identified during the assessment.
- In some contexts, a scoping report is required to satisfy host government regulatory requirements. However, human rights considerations can be outside the regulatory requirements of a scoping report, and a separate report may be necessary. For example, in some countries, the format, structure and content of impact assessment documents submitted for permitting is prescribed by a regulator and may make no provision for, or may even exclude, the consideration of social or human rights impacts. In this case, a scoping report under separate cover can be issued, and if possible, published via alternative means to enable engagement with stakeholders on the scope of the impact assessment. (See Table 2.)
- The rationale for exclusion of specific human rights issues from the scope of an ESHIA should be explained. For example, if labour rights or security issues are excluded from the ESHIA, an explanation of how these issues are covered under different company due diligence processes is recommended.

TABLE 2 STRENGTHS AND WEAKNESSES OF DIFFERENT APPROACHES TO ASSESSING HUMAN RIGHTS IMPACTS

	Integrated approach	Dedicated 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 prioritizes those individuals and communities who may experience human rights impacts, in particular by facilitating participation of vulnerable and marginalized individuals or groups. • 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	• 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 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.	• 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 resource management requirements to the project; cost sensitivities may also arise with business partners or host country governments. • 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.

STEP 3: BASELINE STUDIES

Description

Baseline studies involve characterization of the project's environmental, social and health context and the associated foundational database, which provides the reference for identifying and assessing the nature of the potential impacts that may arise from the project activities.

How to apply a human rights lens to baseline data collection

- Target a broad range of data relating to the human rights context in the project area. This may include, for example, data on human development levels, health indicators, employment status and education levels, working conditions and labour welfare, culture and cultural heritage, land tenure, public services, natural resource governance, access to justice, and institutional and political systems.
- Include affected communities and individuals in the stakeholder engagement activities during baseline studies.
- Design data collection processes to enable differentiated assessment of the human rights enjoyment of subgroups of affected communities and individuals (e.g. collect gender-disaggregated data), including for particularly vulnerable or marginalized groups and individuals.
- Assess the vulnerability and resilience of affected communities and individuals to the impacts.
- Remember to include in the baseline study the data collection on actual human rights impacts related to the project (see *What are human rights impacts* on page 3).

Practical considerations

- A great deal of human rights-related data/ information can be acquired from sources such as national human rights institutions, home-country embassies, international organizations (e.g. the United Nations (UN), ILO, the World Bank) and NGOs. Accessing human rights-related data from these and other public domain sources will help to target and focus in-the-field data acquisition. (See Appendix 1.)
- Combine baseline studies in the community with other activities to the extent that it is practical, to avoid multiple visits to the same communities on similar or connected themes.
- During this process step, the level of engagement via primary data gathering increases, which allows the opportunity to identify human rights issues unique to the project area that may not have been identified during the preceding steps or that may not be well documented.
- Investigating some human rights issues may require specialized expertise or the dedicated engagement of specific subgroups of affected communities and individuals. Examples include groups and individuals who are vulnerable, or who, by participating in data collection, may be at risk of oppression or repercussions.
- It may be necessary or desirable to collect data indirectly; for example, in some local contexts there may be sensitivities to the use of human rights language, and it may not be appropriate to ask explicit questions about human rights.

STEP 4: IDENTIFICATION AND ASSESSMENT OF IMPACTS

Description

This step involves the identification and assessment of the impacts associated with a project in relation to the environmental, social and health contexts of the area in which it is located. It may identify potential impacts that were not determined during the preliminary scoping step. A predefined set of criteria is typically used to assess the significance of an impact, taking into consideration the sensitivity of the affected communities and individuals.

How to apply a human rights lens to the identification and assessment of impacts

- Determine the vulnerability and resilience of affected communities and individuals by using human rights criteria.
- Understand the significance of the impact from the perspectives of affected communities and individuals.
- Assess impacts systematically with an identification and evaluation methodology that captures all impacts (see Box 1 on page 3) and applies human rights principles of participation, inclusiveness, non-discrimination and accountability.
- When assessing the significance of an impact, include consideration of indirect, long-term and cumulative consequences.
- Integrate and respond to the views of affected communities and individuals regarding the assessment methodology and its outcomes for human rights impacts.

Practical considerations

- Relevant internal and external expertise and resources should be employed to resolve uncertainties regarding the identification and assessment of impacts, including those related to human rights issues.
- Impacts that are not caused directly by the company may require a different response, which may include leveraging influence to encourage responsible parties to act on their responsibilities and address their potential or actual impacts (see Box 3).
- For the assessment of impacts, 'significance' is the approach commonly used in ESHIA processes. However, the UNGPs recommend the use of 'severity' to evaluate impacts related to human rights. This Guide aligns with the common practice of impact assessment practitioners and uses the 'significance' approach. For further information on these two concepts see Appendix 6.

BOX 3
THE CONCEPT OF 'LEVERAGE' EXPLAINED

Leverage is considered to exist when/where a company has the ability to effect change in the practices of another entity that causes harm. It may be the case that a company has not contributed directly to an adverse human rights situation. However, it may be possible to link that company (and its activities, operations, products or services) to this adverse situation through its business relationships with other entities. Factors that enter into the determination of an appropriate action in such situations include:

i) the enterprise's leverage over the entity/entities concerned;

ii) how crucial the relationship is to the enterprise;

iii) the severity of the situation; and

iv) whether terminating the relationship with the entity itself would have adverse human rights consequences.

STEP 5: IMPACT MITIGATION AND MANAGEMENT

Description

Impact mitigation and management involves the design and implementation of actions to address impacts. An assessment of the project in the context of the significance of the potential human rights impacts would be used to select a mitigation approach from the following hierarchy:

Avoid

Avert the adverse impact. In many cases, avoiding involves 'designing' the project so that the feature causing an impact is modified or excluded (e.g. changing a process to eliminate a pollutant, rerouting a pipeline, relocating a facility).

Reduce

Minimize the adverse impact. When an impact cannot be avoided, implementing measures to reduce the impact may be appropriate (e.g. changing work schedules of site personnel to minimize impacts on seasonal livelihood activities; reducing the working width for a pipeline route).

Restore

Restore to the condition before the adverse impact. Some activities result in unavoidable damage to a resource and require restoration and/or reinstatement to the conditions that existed prior to the impact (e.g. restoring livelihoods to the level preceding construction of the project; re-establishing access to agricultural land or natural habitats).

Compensate

Compensate for loss, damage or inconvenience. In cases where other mitigation approaches are neither possible nor fully effective, compensating for impacts might be appropriate (e.g. planting new woodland elsewhere to replace what has been lost; compensating a local resident for temporary loss of income).

Where impacts cannot be avoided, impact mitigation, management and monitoring measures are identified and typically reported in the ESHIA as the Environmental Social and Health Mitigation and Management Plan (ESHMP). The ESHMP sets out the mitigation and

---

BOX 4
MITIGATION IN PRACTICE

In certain instances, a project may use a combination of the mitigation approaches to adequately and fairly address an impact. For example, a pipeline corridor project may require temporary land acquisition. In mitigating potential impacts the project may first seek to avoid as much impact as possible, for example by rerouting the pipeline away from agricultural land. Thereafter the project may seek to reduce impact through narrowing a right of way, then seek to restore the land to its original state, and finally seek to compensate for loss of production during the temporary acquisition.

---

management measures for potential impacts during construction, operation and decommissioning.

How to apply a human rights lens to impact mitigation and management

- Apply the 'avoid, reduce, restore and compensate' hierarchy when designing impact mitigation and management strategies (see Box 4).
- Engage affected communities and individuals and other stakeholders in the planning and monitoring of impact mitigation and management, and the monitoring of mitigation measures to the extent that it is practical.
- Identify key responsible parties and their respective roles in the mitigation, management and monitoring of impacts. Verify that those parties have adequate skills and resources to perform their roles and activities with regard to human rights.
- Determine that the impact mitigation and management plan includes measures for the full range of impacts (see Box 1, *Types of human rights impacts*, on page 3).
- Assess the ability of the project to exercise leverage to address human rights impacts that are not caused by the project, but to which it contributes or may be directly linked. Integrate any steps to exercise leverage into mitigation and management planning as necessary and appropriate (see Box 3, *The concept of leverage explained*, opposite).

- Establish a project-level grievance mechanism that is accessible to affected communities and individuals in relation to project-attributed concerns and impacts, impact mitigation, management and monitoring (see IPIECA, 2012b: *Operational level grievance mechanisms: IPIECA Good Practice Survey*). Also consider how workers are able to raise and resolve concerns.

Practical considerations

- Companies need to appropriately address all their human rights impacts and should not attempt to offset negative human rights impacts by positive contributions. This approach may differ from standard practice in environmental and social impact management and will warrant particular consideration when taking actions to address human rights impacts in practice.

- Human rights impacts that pose a significant and immediate threat to health, safety and life should be addressed by avoidance, reduction and/or restoration measures. In addition, staying within these levels of the mitigation hierarchy is particularly important for vulnerable groups and those that could be disproportionately affected by the project.

- In cases where avoidance, reduction and/or remediation measures would not be effective, or are not supported by affected communities and individuals, it may be appropriate to provide in-kind or monetary compensation. If residual human rights impacts persist, compensation may also be used to supplement other mitigation approaches.

- Cumulative impacts may require broader engagement of other parties rather than a solution within a single company action. Such situations may be best addressed through broad engagement involving affected communities and individuals, other companies operating in the area, as well as the appropriate host country government regulatory agencies and lenders for externally financed projects.

- Where necessary, broaden the expertise in the ESHIA team and involve staff from a range of disciplines (e.g. human resources, contracting and procurement, legal, HSE, community liaison officers) in mitigation planning and management.

- Third-party support (e.g. NGOs, multilateral organizations) can potentially facilitate impact mitigation and management (e.g. through capacity building, training, education).

EXAMPLE FROM PRACTICE:
MONITORING AND COMMUNICATING

BP: Baku-Tbilisi-Ceyhan (BTC) Pipeline, Central Asia/Caucasus
During the construction phase of the BTC Pipeline, BP offered development support to national and local NGOs in order to build their capacity to conduct independent monitoring of BTC project activities. The support programme was facilitated in Azerbaijan by the Open Society Institute (OSI, now part of the Open Society Foundations), and in Georgia by the Eurasia Foundation. Both organizations provided funding for their own time and expertise to help ensure the programme's impartiality. BP funded external coaching expertise.

The programme contained a significant element of training and capacity building on such issues as proposal development, monitoring and audit methodologies, report writing and other technical areas. BP and BTC contributed to the programme by providing access to staff, facilities and information and by meeting the costs of training and logistics. After undertaking training, working groups of NGOs selected key topics or 'themes' for further review and monitoring, including environment, preservation of cultural heritage, local content, labour rights and human rights, and social issues. With the assistance of independent international experts, working groups drafted monitoring proposals and, after receiving input from OSI and the Eurasia Foundation, NGOs implemented their extensive monitoring programmes. With the assistance of construction contractors, BP provided the information, staff interviews, site visits, project briefings, background documentation and logistical arrangements, which made the NGO monitoring programme possible. Monitoring by national NGOs helped the BTC project to identify human rights risks associated with its activities. Human rights assessments were completed in 2005 and 2006 in Azerbaijan and Georgia, as part of the BTC/South Caucasus Pipeline (SCP) national NGO monitoring and audit programme. The audits examined such project issues as community liaison, land acquisition and compensation, employment standards, and grievance mechanisms. The findings and recommendations of the working groups were made public.

STEP 6: MONITORING, EVALUATION, COMMUNICATING AND REPORTING

Description

Monitoring and evaluation identifies the effectiveness and progress of a project's impact mitigation and management measures as well as deviations from the predicted impacts. It informs any necessary review and modifications (i.e. management of change), including the identification and management of impacts not foreseen or resulting from changes. Monitoring and evaluation may also be required by government regulations, lender requirements or to meet stakeholder expectations.

Communicating and reporting consists of the documentation and communication of impact assessment, mitigation and management activities and outcomes to relevant internal and external stakeholders, with an emphasis on affected communities and individuals. (For further details see *Considerations and options when communicating about human rights impacts* on page 25.)

How to apply a human rights lens to monitoring, evaluation, communicating and reporting

- Engage affected communities and individuals, responsible parties and other stakeholders in the monitoring of impact management measures and the evaluation of the impact assessment process as a whole.
- Facilitate meaningful engagement by capacity building of affected communities and individuals, and/or their representatives.
- Support accessibility and acceptability of impact mitigation and management to affected communities and individuals.
- Communicate impact assessment findings and management measures to affected communities and individuals and other relevant stakeholders through an appropriate format and engagement approach, with emphasis on transparency, participation, inclusion and dialogue.
- Communications need to take into account gender, vulnerable groups, physical accessibility of the information, and technology or language and literacy barriers. (See the section on vulnerable individuals and groups, on page 27.)
- Plan for regular internal and external stakeholder communication and reporting on impacts and management, scaling communications to the significance of the impacts.
- Arrange for effective provisions for the immediate escalation of information on significant potential impacts to appropriate project management levels.

Practical considerations

- Public confidence and trust in a project's approach to impact management and monitoring can be gained by engaging affected communities and individuals, and other relevant stakeholders, in the joint collection of data, participation in the development of indicator frameworks for monitoring impacts, or by establishing multistakeholder monitoring groups. For example, where there is the potential for impacts on Indigenous Peoples, financing banks often require that monitoring and evaluation of the Indigenous Peoples Development Plan be carried out by an external independent third party and reported publicly.

- Participatory monitoring may also be enhanced through linking to, or establishing, community councils, NGO-assisted schemes and similar arrangements. In some cases, it may be appropriate to involve independent external expertise.
- Project-level community grievance mechanisms can provide useful information to inform the monitoring of impact management measures.
- Consider the potential unintended consequences, sensitivities and risks to affected communities and stakeholders when planning the communication and reporting of human rights impacts (see the section on *Stakeholder engagement and participation* on page 23).
- Companies operating in contexts where significant human rights impacts may occur should consider how to report appropriately on such matters to demonstrate respect for human rights. Where the context allows, companies may consider incorporating a section on human rights in ESHIA documents, or integrating human rights aspects into existing environmental, social, health or other sections of ESHIA documents.
- Where the host country context does not allow for the inclusion of human rights information in ESHIA documentation, for example due to prescribed regulatory formats for ESHIA documents or host country sensitivities, issuance of a separate report may be considered. Where possible, the company may consider publishing this information via alternative means to enable engagement with stakeholders on the impact assessment and demonstrate how human rights have been taken into consideration. (For more information see *Considerations and options when communicating about human rights impacts*, on page 25.)

EXAMPLES FROM PRACTICE:
COMMUNICATION AND REPORTING

Total: Yadana Pipeline Project, Myanmar
The US not-for profit organization CDA, a collaborative learning specialist, has engaged with Total over the past nine years, visiting various places worldwide, including the Yadana pipeline joint venture project in Myanmar, to assess social performance and gather feedback from local communities on Total operations. Since 2003, CDA has conducted six visits to the Yadana pipeline area, each time issuing a public report on its findings from the visit. The purpose of these field visits is to examine, assess and report on the interaction between Total operations and the lives of people in the Yadana pipeline area. Total E&P Myanmar (TEPM) draws on the recommendations and findings of the CDA reports to improve the Socio-Economic Program and TEPM engagement activities with local communities.

BP: Independent advisory panels
BP has established independent advisory panels to provide external guidance and advice on the company's social performance and impact in sensitive countries. Two examples include the Tangguh Independent Advisory Panel (TIAP) in Indonesia (www.bp.com/sectiongenericarticle.do? categoryId=9004751&contentId=7008791) and the Caspian Development Advisory Panel (CDAP) and its successor the Azerbaijan Social Review Commission (ASRC) in Azerbaijan (www.bp.com/genericarticle.do?categoryId=9006625&cont entId=7037156). These independent panels report regularly and publicly on BP's social and human rights impact management. They provide an external view of BP's social and human rights performance, which is not filtered by the company. In turn, BP responds to each of their reports to provide clarifying information or disclose how it will address the concerns raised. In the interests of transparency, the panels' reports and BP's responses to them are published in their entirety and available to the public.

Shell: Publication of ESHIA and oil spill data on the SPDC website
To share information about project impacts, Shell Petroleum Development Company (SPDC) has placed all Category A impact assessment reports on its public website (www.shell.com.ng/environment-society/environment-impact-assessments.html). Information about oil spills and investigation reports (www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html) are also placed on this website for access by interested stakeholders.

Strategic themes and processes

INTEGRATED IMPACT ASSESSMENT OR DEDICATED HUMAN RIGHTS IMPACT ASSESSMENT?

In most cases, the use of international standards ESHIAs[1] can be an effective way of assessing human rights impacts. However, there can be circumstances where a project may require, or may choose to prepare, a dedicated HRIA. When a particular topic warrants additional attention, it is also possible to conduct issue-specific assessments incorporating a human rights analysis. For example, such studies may focus on resettlement, children, or conflict analysis.

Some examples of baseline conditions and project aspects that may be used to determine the need for a dedicated or issue-specific human rights impact assessment include:

- a project context with a history of significant human rights issues and where the host country government and judiciary have not systematically addressed unresolved allegations;
- high levels of bribery and corruption affecting performance of, for example, host country public security providers, public officials and the judicial system;
- evidence of weak governance and poor enforcement of the rule of law in the host country, including poor access to justice;
- widespread and/or systemic discrimination against vulnerable groups, or on the basis of gender, race, religion, ethnicity, sexual preference, etc.;
- Indigenous Peoples living in the area or with a traditional connection to the land on which project activities are taking place, particularly if these communities are isolated geographically or culturally, are reliant upon natural resources for their

subsistence, or do not receive effective legal recognition or protection;
- high levels of poverty and/or inequality in the project area;
- widespread exploitative labour conditions in the project area and host country, e.g. forced labour; and
- complex land tenure regimes and the absence or poor registration of property rights in the project area and host country.

It is for individual companies and projects to decide whether an integrated or dedicated assessment of human rights impacts is most appropriate, based on the particulars of the project and the operating context.

A dedicated HRIA may be carried out in parallel with the ESHIA, its process and its findings. However, there are circumstances in which it may not be possible to integrate the process and findings of a dedicated HRIA into an ESHIA, for example where the context does not allow it, or where project partners do not recognize the potential for impacts. In such situations, a company may choose to carry out a dedicated HRIA, with the associated limitations of doing it unilaterally. (See Table 2 on page 14 for further details on the different approaches to assessing human rights impacts.)

STRENGTH TESTING THE ASSESSMENT OF HUMAN RIGHTS IMPACTS

When integrating human rights into an ESHIA, it is suggested that companies check the comprehensiveness of the process with respect to the identification of human rights impacts. If necessary, incorporate suggestions from this Guide to strengthen the assessment of human rights impacts as part of an ESHIA. Key criteria that can be used to assess the strength of an impact assessment process are summarized as follows:

Standards: Is the impact assessment clearly linked to the human rights standards and principles as developed by the international community and expressed in international human rights law?

Scope: Does the scope of the assessment include all types of human rights impacts? (See Box 1 on page 3.)

Process and engagement: Does the ESHIA, including associated stakeholder engagement activities, apply the human rights principles of participation, non-discrimination, empowerment, transparency and accountability? Attention to process and outcome can help create 'buy-in' to the impact assessment process and its findings and recommendations among relevant stakeholders. Does the process allow for meaningful engagement throughout the impact assessment process, in a manner that enables two-way discussion, is gender sensitive, and takes into account the needs of vulnerable individuals and groups? Does the process provide for capacity building or assistance as needed for affected communities and individuals to promote meaningful engagement?

Assessing and addressing impacts: Is assessment of the significance of impacts based on consideration of their human rights consequences? Mitigation and management of human rights impacts should be guided by the 'avoid, reduce, restore and compensate'

hierarchy. If it is necessary to prioritize actions to address impacts, the human rights consequences of the impacts should be a core criterion.

Accountability and transparency: Does the assessment process consider the differentiated but complementary duties and responsibilities of government and non-government parties for addressing identified human rights impacts, i.e. the host country government's duty to protect human rights, and the project proponent's responsibility to respect human rights and demonstrate due diligence? For project responsibilities, this would include assigning specific human rights-related actions and responsibilities to relevant personnel and contractors in the overall impact mitigation and management plan.

Is the impact assessment process and its associated communications and reporting transparent, and does it provide effective ways for affected communities and individuals to hold the responsible parties to account for the management of impacts?

Interrelated impacts: Does the identification and management of impacts take into account the interrelatedness of human rights, as well as the relationship between environmental, social and human rights impacts? For example, impacts on a community water supply may affect the community's right to water, but may also have interrelated impacts on the right to education of children who may need to walk longer distances to collect water and therefore are less able to attend school.

STAKEHOLDER ENGAGEMENT AND PARTICIPATION

Regular and meaningful engagement with affected communities and individuals, as well as with other relevant stakeholders, is a key component in ensuring the effective identification and management of human rights impacts. Stakeholder engagement needs to involve interactive and participatory processes and is characterized by iterative two-way communication. Engagement and participation is the basis for building the strong, constructive and responsive relationships that are necessary for successful projects[8].

This section includes important questions to ask when designing and implementing a stakeholder engagement strategy during impact identification, assessment and management.

Why engage

Meaningful stakeholder engagement enables affected community members and other stakeholders to influence decisions that will, or could potentially, have an impact on them, creates buy-in to the impact assessment process and its outcomes, and promotes the sustainability of impact management measures.

Who to engage

Engagement and participation opportunities should focus on affected communities and individuals and/or their legitimate representatives. Efforts should also include responsible parties who have an obligation or responsibility to address human rights impacts, and in some cases may include independent experts. It is important that engagement activities pay particular attention to vulnerable individuals and groups[9]. (See the section on vulnerability and marginalization, pages 27–29).

When to engage

Stakeholder engagement is most effective if it begins early in the life of the project so that stakeholder views can guide understanding of the project's human rights

---

BOX 5
KEY DECISION POINTS FOR STAKEHOLDER ENGAGEMENT

Impact assessment process
- Scoping—to verify the proposed scope and seek input from stakeholders
- Baseline—gathering and consulting on data
- Impact assessment—input and information regarding the value of resources, and potential significance of impacts
- Mitigation and monitoring—to verify effectiveness
- All stages—inform and report on findings

Project design process
- Feasibility of project—inform no-go areas and viability of the project
- Identification of options—inform design option identification, including locations, process and technology
- Selection of design concept—inform the selection criteria (for example to avoid high impact locations, or technologies)
- Detailed design—inform the selected option definition
- Contracting—inform the contractor requirements prior to contracting (for example mitigation and monitoring measures, local content requirements)

---

8   IFC (2007). *Stakeholder Engagement. A Good Practice Handbook for Companies Doing Business in Emerging Markets.*

9   The 2011 OECD *Guidelines for Multinational Enterprises* (2011 Edition, p. 32), for example, note that, 'enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. United Nations instruments have elaborated further on the rights of indigenous peoples; persons belonging to national or ethnic, religious and linguistic minorities; women; children; persons with disabilities; and migrant workers and their families.' http://mneguidelines.oecd.org

TABLE 3 EXAMPLE QUESTIONS AND PRACTICAL ACTIONS TO INFORM HUMAN RIGHTS-COMPATIBLE ENGAGEMENT

Questions	Practical actions
Do we meaningfully engage with stakeholders throughout the impact assessment process?	• Involve stakeholders in reviewing the impact assessment and designing engagement methods. • Involve affected communities and individuals in designing and implementing impact management and monitoring measures. • Engage affected communities and individuals at an early stage, so that their views and concerns can be meaningfully considered in project decision-making processes.
Do we engage affected communities and individuals as well as responsible parties?	• Include community members, public representatives and/or civil society in the monitoring team, when and where appropriate. • In situations where affected communities and individuals have limited capacity to represent themselves and there are no representative organizations, consider working directly with communities to create legitimate representative entities.
Do we adopt a gender sensitive approach?	• Take steps to hear and consider women's views on how the proposed project will impact them, such as through house-to-house consultation, or holding women-only meetings.
Are we inclusive towards individuals and groups who may be vulnerable or marginalized?	• Use alternative engagement methods for those who cannot actively participate in community meetings and therefore are not fully represented. • Provide capacity building support as necessary. • Consider differentiated impacts on vulnerable or marginalized individuals or groups.
When engaging with Indigenous Peoples, do we consider their particular human rights?	• Take steps to recognize and respect the particular rights of Indigenous Peoples, including with regard to lands and territories, and resources and consultation[10]. • Engage with indigenous communities and/or their legitimate representatives through their own and preferred mechanisms where possible.
Do we consider when we should engage directly with affected communities and individuals, and when to engage through legitimate representatives?	• Engage directly with affected communities and individuals to the maximum extent practicable in the least formal setting within, or as close as practical to, their community setting. If this is not possible, engage credible, independent expert resources and legitimate representatives. • When engaging with formal representative institutions, realize that these might not always fully represent the interests of those in the community, especially those who may be excluded from the decision-making process, such as women and youth. It may therefore be necessary to obtain input from these groups by alternative means (for example, via household surveys and baseline studies, or through informal discussions with small groups). However, traditional decision makers may not be supportive of this approach and companies need to take this into consideration when making decisions to seek input in alternative ways. *continued…*

[10] These rights are elaborated in ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples.

TABLE 3 EXAMPLE QUESTIONS AND PRACTICAL ACTIONS TO INFORM HUMAN RIGHTS-COMPATIBLE ENGAGEMENT *(continued)*

Questions	Practical actions
If we are engaging through representatives, do we consider the representatives' legitimacy, capacity and ability to represent affected communities and individuals?	• Take steps to ensure that representatives legitimately represent the rights, views and interests of affected communities and individuals, for example through consulting with relevant local and international stakeholders.
Do we ensure that stakeholders have access to the information necessary to participate meaningfully?	• Take steps to ensure that affected communities and individuals and other stakeholders understand relevant project-related information and documentation. For example, ensure that information reaches potentially vulnerable or marginalized individuals and communities in a format and language that is comprehensible to them.
Do we identify how to provide capacity building to ensure meaningful participation during stakeholder engagement?	• Facilitate the access to advice and assistance for affected communities and individuals so that they can interpret project information and documentation, and participate in consultation and engagement activities (e.g. logistical support, independent specialist expertise, etc.).

context, build an understanding of the implications of project development, facilitate the identification and implementation of effective impact management measures, and foster trust and support for the project. Stakeholder engagement should continue throughout the impact assessment process, particularly at key decision points. Continuous engagement enables stakeholders to have meaningful input to project decisions, and allows companies to continually improve the impact assessment process.

How to engage

Effective engagement enables people and organizations to make informed judgments about changes that may affect their lives (see Appendix 5). Stakeholder engagement activities and processes for impact assessment need to be participatory, accessible, culturally-appropriate, inclusive and transparent. This includes ensuring that relevant stakeholders, in particular affected communities and individuals, have access to information about the project, and about actual and potential impacts in a timely manner, in appropriate languages and at a level that is accessible and consistent with stakeholder capabilities. Information and associated data and documentation should be sufficiently detailed to demonstrate the adequacy of a company's responses to particular impacts (e.g. those

related to human rights). The special needs of vulnerable individuals and groups who are engaged and participate in impact assessment processes may need additional support or assistance.

How to address grievances

Engagement during impact assessment and management includes being responsive to feedback and grievances from affected communities and individuals. Companies should therefore implement a project-level grievance mechanism, which is informed by the IPIECA publication, *Operational level grievance mechanisms: IPIECA Good Practice Survey*[11].

CONSIDERATIONS AND OPTIONS WHEN COMMUNICATING ABOUT HUMAN RIGHTS IMPACTS

Transparency and communication with affected communities and individuals regarding the assessment of human rights impacts are important and help to demonstrate to external stakeholders how the ESHIA has integrated human rights considerations (see page 19 for more information).

---

[11] IPIECA (2012b). *Operational level grievance mechanisms: IPIECA Good Practice Survey*. November 2012. www.ipieca.org/publication/operational-level-grievance-mechanisms-good-practice-survey

It is recommended that communication be of a form and frequency that reflects the significance of human rights impacts and allows affected communities and individuals to evaluate the mitigation measures, while not posing risks to company staff or affected communities and individuals. Appropriate communication in the case of severe human rights impacts may require formal reporting.

However, it is also important to acknowledge that communicating with a variety of stakeholders on human rights impacts and management may present challenges in certain circumstances. As such, it will be necessary to evaluate each project context critically to identify potential risks, challenges and opportunities regarding engagement and communication; approaches will need to be developed on a case-by-case basis to suit the local context.

Some examples include:

- Engaging disadvantaged or vulnerable individuals and groups typically requires taking additional steps and care to include them fully in stakeholder engagement processes and activities. Challenges include identifying groups that may be differently or disproportionately affected because of their disadvantaged and/or vulnerable status. Possible sources of discrimination and vulnerability include race, gender, colour, language, religion, political stance, sexual orientation, age, birthplace or formal titles to property. Steps to identify vulnerable individuals and groups, and to provide them with a voice, are essential for respecting their human rights. It is also important to create safe spaces for discussion that consider local sensitivities such as ethnicity, religion, race and gender.

- Public disclosure of certain human rights impacts may pose risks to affected communities and individuals, or could have unintended adverse consequences. For example, due to cultural protocols it may not be appropriate to disclose information to others about impacts on cultural heritage sites that are known only to elders. Likewise, public disclosure of adverse human rights conditions involving state agencies, such as police or public security forces, may result in repercussions for affected communities or individuals and may be more appropriately dealt with through other avenues of communication, such as direct communication between a company and the relevant government agency, in a manner that protects the identity of affected communities and individuals.

- In host countries where the confidentiality restrictions of partners and state agencies prevent external communication about an impact assessment in whole or in part, companies should consider alternative approaches. For example, in a country with weak governance and rule of law related to human rights, it could be problematic to submit a critical analysis of human rights performance to the regulatory agency via typical

ESHIA documentation. In such cases, a company may consider seeking alternative means of disclosure, in whole or in part, of human rights impact management. If this is not possible, a company may take steps for integrating human rights findings into internal impact management systems that allow for appropriate communication with affected communities and individuals through management plans and ongoing monitoring activities. (See Table 2, *Strengths and weaknesses of different approaches to assessing human rights*, on page 14.)

FOCUS ON VULNERABLE INDIVIDUALS AND GROUPS, GENDER AND INDIGENOUS PEOPLES

Vulnerable individuals or groups are those that face a particular risk of being exposed to discrimination and other adverse human rights impacts, including a reduced ability to cope with, or recover from, adverse impacts. People who are disadvantaged, marginalized or excluded from society are often particularly vulnerable. A core feature of human rights impact assessment is a focus on the ability to enjoy human rights at the individual level. The human rights of vulnerable people may be especially at risk and thus require special consideration when applying a human rights lens, including:

BOX 6

EXAMPLES OF INDIVIDUALS OR GROUPS THAT MAY BE VULNERABLE OR MARGINALIZED IN THE COMMUNITIES WHERE OIL AND GAS PROJECTS OCCUR

- Minorities (e.g. national, ethnic, linguistic, religious, political)
- Women and widows
- Children and young people, including young heads of households
- Single-headed households
- Elderly people
- Landless people and/or land users lacking formal title to land
- Nomadic people
- Informal and casual workers

- Migrants, illegal settlers, refugees and displaced persons
- Indigenous Peoples
- People with disabilities
- Lesbian, gay and transgender individuals and other sexual minorities
- Persons living with HIV/AIDS or other marginalizing diseases
- Human and labour rights defenders and trade union activists
- The poor, illiterate and unemployed

- Consideration of which individuals or groups will require extra attention and assistance to participate in the impact assessment engagement and consultation processes, including groups who are unlikely to be well represented.
- Consideration of who is likely to be more adversely affected by different types of impacts, or likely to have a reduced ability to recover from project-attributable impacts.
- Consideration of who may be disadvantaged in terms of their ability to benefit or derive benefits from a project.

It may be necessary to strengthen the assessment and analysis of impacts with respect to vulnerable individuals or groups, Indigenous Peoples or women and girls.

Table 4 provides examples of factors that may be considered when determining whether an individual or group may be vulnerable (although it is important to recognize that vulnerability depends on the local context).

Indigenous Peoples are entitled to the full range of generally applicable human rights, and they also have specific human rights that consider the characteristics of their groups and their relationships to natural resources and territories. In some circumstances, indigenous communities may be particularly susceptible to the conditions that lead to vulnerability. Special expertise and planning may be required when Indigenous Peoples are among the affected communities and individuals. Consult the IPIECA publication, *Indigenous Peoples and the oil and gas industry: Context, issues and emerging good practice* for full details[12].

TABLE 4 EXAMPLES OF FACTORS CONTRIBUTING TO VULNERABILITY [13]

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 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
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

[12] *Indigenous Peoples and the oil and gas industry: Context, issues and emerging good practice*
    www.ipieca.org/sites/default/files/publications/indigenous_people.pdf

[13] This table draws on the UNDP publication, *Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit.* (May, 2010)
    www.ohchr.org/Documents/Issues/Minorities/UNDPmarginalisedMinorities.pdf

Gender is also a major factor to pay attention to, including when considering vulnerability in many contexts. Women and men of different ages typically experience project impacts differently. Women and girls frequently bear a disproportionate burden of adverse impacts associated with large resource developments, and are often less likely to benefit from the positive impacts. Gender analysis can help to identify and address imbalances. To undertake gender analysis, it is essential to collect and analyse gender-disaggregated data and apply gender-sensitive engagement methods. The factors listed in Table 4 can also be considered.

ORGANIZATIONAL SKILLS AND RESOURCES FOR THE ASSESSMENT AND MANAGEMENT OF HUMAN RIGHTS IMPACTS

Assessment and management of human rights impacts requires human rights skills development both for those carrying out impact assessments, and those within the organizations that are responsible for overseeing impact assessments and impact management. For impact assessment and management teams, this may include tailored human rights training, cross-functional knowledge sharing, and including human rights considerations in risk and project management systems. In complex human rights contexts, human rights expertise may also be utilized to inform the assessment and support the impact assessment team. External expertise may include credible independent experts, or civil society, national human rights institutions, human rights defenders or government.

NEXT STEPS AND FURTHER INFORMATION

This Guide is a living document. As part of their commitment to continuous improvement, IPIECA and DIHR welcome feedback. IPIECA will continue to add further elements of good practice for human rights due diligence, collaborating with partners and external stakeholders as appropriate. Comments from all stakeholders on their experiences in following the principles contained in this Guide are encouraged. Please send any comments to info@ipieca.org with the subject heading, 'Feedback: HRIA guidance'.

Further examples from practice

RIGHTS HOLDER ENGAGEMENT AND PARTICIPATION

Total: Yemen LNG (YLNG) Project

For the YLNG Project, Total recruited public participation specialists to draft and implement a Public Consultation and Disclosure Plan (PCDP) as part of the impact assessment process. In line with the PCDP, a range of communication initiatives were undertaken to ensure effective company engagement with local communities. For example, the company held meetings with local sheikhs or other community leaders to explain exactly what the project was doing and what the impacts would be, and asking what they might expect in return. Collective village visits were also held because it was soon apparent that not all information was being cascaded down by village notables, and also that the men did not always pass on information to the women. To address this issue, female personnel from the YLNG Project were sent to talk to the women separately to ensure they received the same level of information as men, and to understand potential project impacts from the women's points of view. To ensure accessibility of information in terms of language and literacy, the company distributed project information through posters and leaflets in both Arabic and English, explaining project activities and potential impacts (e.g. associated with blasting, helicopters, dust, etc.) in clear and simple language.

Sakhalin Energy: offshore oil and gas project, Sakhalin Island

As part of the implementation of this project, Sakhalin Energy developed a Sustainable Indigenous Minorities Development Plan (SIMDP). A specific consultation process was designed to enable participation by local communities and vulnerable groups (i.e. minorities and Indigenous Peoples). Culturally-appropriate consultation procedures were followed (i.e. meetings were held at the end of the fishing day; food and beverages were provided at each gathering, in accordance with custom; accessibility was ensured, in particular for the elderly and women; and sufficient time was provided to allow everyone to be heard). In addition, a working group with representatives from minorities and indigenous communities was established to advise on company mitigation measures and forms of benefit sharing.

APPROACHES TO THE ASSESSMENT OF HUMAN RIGHTS IMPACTS

BP: dedicated human rights impact assessments

BP usually takes an integrated approach to impact assessments. However, in some instances the company has identified a need for a dedicated human rights impact assessment.

An early example is the Human Rights Impact Assessment for the Tangguh LNG Project, a natural gas development project located in the Berau-Bintuni Bay

region of Papua Province, Indonesia. Construction of the project commenced in 2003. During the early stages of project screening and consideration, BP commissioned a stand-alone human rights impact assessment as a means of identifying human rights issues that could arise during the course of the project and developing appropriate responses. Recommendations from that assessment, and BP's response to those recommendations, were shared publicly with external stakeholders, including the NGO community and socially responsible investors, in Europe and the United States, and established the project's early commitment to transparency with respect to security and human rights issues.

A second BP example is the human rights assessment of the Baku-Tbilisi-Ceyhan (BTC) Pipeline construction and development phase within Turkey. The BTC Pipeline development contracts included commitments to respect internationally recognized human rights standards throughout the project, and were later supplemented by a Memorandum Of Understanding that included a specific BTC human rights undertaking. This human rights assessment was a result of that

undertaking. The scope of the assessment included all internationally recognized human rights, including labour rights and working conditions assessed through worker interviews, and assessment of impacts on community aspects including freedom of movement, minority rights, the right to an adequate standard of living, freedom of expression, and health and safety. The human rights assessment findings were carefully reviewed both by BP and its contractors. Where necessary, changes were made to mitigate any negative human rights impacts and to prevent future recurrence. External human rights monitoring continued after the human rights assessment, providing updates on human rights throughout the project development phase.

ENGAGEMENT OF RIGHTS HOLDERS, RESPONSIBLE PARTIES AND INDEPENDENT EXPERTS IN IMPACT MANAGEMENT

Total: Yadana Pipeline Project, Myanmar

The Yadana Pipeline Project in Myanmar is located in a socially and environmentally sensitive area. One issue faced by individuals from local communities in the pipeline area was forced taxation imposed by third parties. To assist in addressing this issue, Total E&P Myanmar (TEPM) invited an independent third party, the International Labour Organization (ILO) representatives based in Yangon, to lead training in the pipeline area on international labour practices and standards. Training session attendees included TEPM employees, local authorities and local communities. A train-the-trainers component was included to facilitate the ongoing dissemination of training and learning on international labour standards among TEPM staff and local communities. TEPM's senior leadership also met personally with senior government officials from the Labour and the Energy departments to engage in dialogue on labour standards, and obtain formal approval for this extensive and unprecedented labour rights programme in the pipeline area.

Key international human rights instruments and resources

KEY INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

- International Bill of Human Rights: consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (with its two optional protocols) and the International Covenant on Economic, Social and Cultural Rights: www.ohchr.org/Documents/Publications/Compilation1.1en.pdf

- ILO Core Labour Conventions: www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm

- International Covenant on Civil and Political Rights: www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

- International Covenant on Economic, Social and Cultural rights: www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx

- United Nations Guiding Principles on Business and Human Rights: www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

- Universal Declaration of Human Rights: www.ohchr.org/en/udhr/pages/introduction.aspx

EXAMPLES OF RESOURCES TO CONSULT FOR ASSESSMENT OF HUMAN RIGHTS IMPACTS

Issue Area	Resource
Country human rights performance and thematic human rights issues	Business & Human Rights Resource Centre: www.business-humanrights.org
	Danish Institute for Human Rights, Human Rights and Business Country Guide: www.hrbcountryguide.org
	United Nations Office of the High Commissioner for Human Rights (UN OHCHR): www.ohchr.org/EN/Pages/WelcomePage.aspx
	UN OHCHR, Special Procedures of the Human Rights Council, Thematic and Country-Specific Reports: www.ohchr.org/en/HRBodies/SP/Pages/Welcomepage.aspx
	UN OHCHR, Universal Periodic Review (UPR) reports: www.ohchr.org/en/hrbodies/upr/Pages/UPRMain.aspx
	UN Human Rights web portal: www.un.org/en/rights/index.shtml
	US Department of State, Country Reports on Human Rights: www.state.gov/j/drl/hr

continued …

EXAMPLES OF RESOURCES TO CONSULT FOR ASSESSMENT OF HUMAN RIGHTS IMPACTS *(continued)*

Issue Area	Resource
Community livelihoods (including resources on human development indicators, poverty and inequality)	Prosperity Index Ranking: www.prosperity.com UN Millennium Development Goals Indicators: http://mdgs.un.org/unsd/mdg/Default.asp UNDP, International Human Development Reports and Indicators: http://hdr.undp.org/en/statistics/gii
Land (resources on land tenure and property rights)	International Property Rights Index: www.internationalpropertyrightsindex.org USAID Land Tenure and Property Rights web portal: http://usaidlandtenure.net
Resettlement	IFC (2002). *Handbook for Preparing a Resettlement Action Plan*: www.ifc.org/wps/wcm/connect/22ad720048855b25880cda6a6515bb18/Resettlement Handbook.PDF?MOD=AJPERES Food and Agriculture Organization of the United Nations (FAO), Voluntary Guidelines on the Responsible Governance of Tenure: www.fao.org/nr/tenure/voluntary-Guidelines/en
Water and sanitation	Institute for Human Rights and Business (2009): *Business, Human Rights and the Right to Water: Challenges, Dilemmas and Opportunities (Roundtable Consultative Report)*: www.ihrb.org/pdf/Draft_Report-Business_Human_Rights_and_Water.pdf UN Global Compact, CEO Water Mandate: http://ceowatermandate.org UN OHCHR, Special Rapporteur on the human right to safe drinking water and sanitation: www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx
Workers	International Labour Organization: www.ilo.org/global/lang--en/index.htm International Trade Union Confederation, Survey of Violations of Trade Union Rights: http://survey.ituc-csi.org/+-Whole-World-+.html?lang=en US Department of Labor, List of Goods Produced by Child Labour and Forced Labour (by country): www.dol.gov/ilab/programs/ocft/tvpra.htm
Gender	UNDP, Gender Inequality Index (GII): http://hdr.undp.org/en/statistics/gii

continued …

EXAMPLES OF RESOURCES TO CONSULT FOR ASSESSMENT OF HUMAN RIGHTS IMPACTS *(continued)*

Issue Area	Resource
Vulnerable groups	World Bank (2005). *A Guide to the Analysis of Risk, Vulnerability and Vulnerable Groups*: http://siteresources.worldbank.org/INTSRM/Publications/20316319/RVA.pdf
	World Bank, 'Measuring Vulnerability' (website): http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPA/0,,contentMDK: 20238993~menuPK:492141~pagePK:148956~piPK:216618~theSitePK:430367,00.html
Conflict	CIFP (2012). *Assessing State Fragility: a Country Indicators for Foreign Policy Report*: http://www4.carleton.ca/cifp/app/serve.php/1407.pdf
	FFP, Failed States Index: http://ffp.statesindex.org/rankings-2013-sortable
	Global Compact (2010). *Doing business while advancing peace and development*: www.unglobalcompact.org/docs/issues_doc/Peace_and_Business/DBWAPD_2010.pdf
	Global Witness: www.globalwitness.org
	International Alert (2005). *Conflict-Sensitive Business Practices: Guidance for Extractive Industries*: www.international-alert.org/sites/default/files/publications/ conflict_sensitive_business_practice_all.pdf
In-migration	IFC (2009). *Projects and People: A Handbook for Assessing Project-Induced In-Migration*: www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_ corporate_site/ifc+sustainability/publications/publications_handbook_ inmigration__wci__1319576839994
Government relations— including information on bribery and corruption, and revenue management	Business Anti-Corruption Portal, Corruption Country Profile (website): www.business-anti-corruption.com
	Freedom House—an independent watchdog organization dedicated to the expansion of freedom around the world; provides data on weak governance, the rule of law and access to remedy, together with the Freedom House Country Ratings: www.freedomhouse.org
	Human Rights Watch: www.hrw.org
	International Commission of Jurists: www.icj.org
	Revenue Watch: www.revenuewatch.org

EXAMPLES OF RESOURCES TO CONSULT FOR ASSESSMENT OF HUMAN RIGHTS IMPACTS *(continued)*

Issue Area	Resource
Government relations—including information on bribery and corruption, and revenue management *(continued)*	The World Justice Project (2013). *Rule of Law Index®, 2012–2013:* http://worldjusticeproject.org/sites/default/files/WJP_Index_Report_2012.pdf Transparency Accountability Initiative: www.transparency-initiative.org Transparency International, Corruption Perceptions Index: www.transparency.org/research/cpi/overview World Bank, Worldwide Governance Indicators: data.worldbank.org/data-catalog/worldwide-governance-indicators
Security	Amnesty International: www.amnesty.org.uk Global Witness: www.globalwitness.org Human Rights Watch: www.hrw.org IFC et al. (2011). *Voluntary Principles on Security and Human Rights—Implementation Guidance Tools (IGT):* www.voluntaryprinciples.org/files/Implementation_Guidance_Tools.pdf Platform (London): http://platformlondon.org/about-us Voluntary Principles on Security and Human Rights: www.voluntaryprinciples.org/files/voluntary_principles_english.pdf
Indigenous Peoples	Foley Hoag LLP (2010). *Implementing a Corporate Free, Prior, and Informed Consent Policy: Benefits and Challenges.* Written by Lehr, A. J. and Smith, G. A. www.foleyhoag.com/publications/ebooks-and-white-papers/2010/may/implementing-a-corporate-free-prior-and-informed-consent-policy International Labour Organization: *Indigenous and Tribal Peoples Convention, 1989* (ILO Convention No. 169): www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 UN (2008). *United Nations Declaration on the Rights of Indigenous Peoples:* www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf UN OHCHR, The Expert Mechanism on the Rights of Indigenous Peoples (website): http://www.ohchr.org/en/issues/ipeoples/emrip/pages/emripindex.aspx United Nations Special Rapporteur on the rights of Indigenous Peoples: www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoplesindex.aspx

Summary of the expectations of the United Nations Guiding Principles on Business and Human Rights and the oil and gas industry

Human rights are the inherent dignities and freedoms to which we are all entitled as human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status.[14] They are the elements of living a free, dignified and fulfilling life. The Universal Declaration of Human Rights lists the core human rights to which all human beings are entitled, including thirty different rights and freedoms, covering civil, cultural, economic, political and social rights.

Oil and gas projects can have a range of positive and negative impacts on individuals, groups or communities. For example, such projects can contribute to local economies through the generation of revenue for the government or through the creation of jobs. This in turn can have positive impacts on peoples' right to work and on their ability to have an adequate standard of living. On the other hand, resettlements or impact on livelihoods, if left unmitigated, may infringe on the rights to property, health and an adequate standard of living for those affected people. Table 1 on pages 5–9 provides some selected and non-exhaustive examples of the linkages between human rights and oil and gas industry impacts.

RESPECTING HUMAN RIGHTS BY EXERCISING DUE DILIGENCE

Businesses have a responsibility to respect human rights. According to the United Nations Guiding Principles on Business and Human Rights[15], this means that businesses are expected to:

> 'avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.' [16]

Companies are expected to have human rights due diligence processes that enable them to identify and manage human rights impacts. Human rights due diligence does not have to be a single or unique system. It spans a range of organizational activities such as human resources, health and safety, environment, land management, community development, revenue transparency, anti-corruption and security. Human rights considerations also apply throughout the project lifecycle, including acquisition, contracting, exploration, construction and production, through to closure and decommissioning.

---

[14] Universal Declaration of Human Rights, Article 2. www.un.org/en/documents/udhr

[15] UN OHCHR (2012). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.* Publication ref. HR/PUB/11/04, January 2012. www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

[16] Principle 13 of the *Guiding Principles on Business and Human Rights* (see footnote 15, above).

The principles of the SIA community[7]

FUNDAMENTAL PRINCIPLES FOR DEVELOPMENT

The social impact assesment (SIA) community of practice considers that:

1. Respect for human rights should underpin all actions.

2. Promoting equity and democratization should be the major driver of development planning, and impacts on the worst-off members of society should be a major consideration in all assessments.

3. The existence of diversity between cultures and within cultures, and the diversity of stakeholder interests need to be recognized and valued.

4. Decision making should be just, fair and transparent, and decision makers should be accountable for their decisions.

5. Development projects should be broadly acceptable to the members of those communities likely to benefit from, or be affected by, the planned intervention.

6. The opinions and views of experts should not be the sole consideration in decisions about planned interventions.

7. The primary focus of all development should be positive outcomes, such as capacity building, empowerment, and the realization of human and social potential.

Human rights-based approach principles

HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

A human rights-based approach to development includes the principles of participation, non-discrimination, transparency, accountability and empowerment. Broadly speaking, it can be defined as:

> *'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.'*[17]

The human rights-based approach originates from international development practice, but it can also usefully inform the company human rights due diligence process and company community development projects. For example, as indicated above, the principles of the human rights-based approach should be applied by the company when assessing human rights impacts. The approach can also inform how a company designs and implements a community investment project, for example, by ensuring that impacted individuals and communities participate in the design of the project, that the governance structure is transparent and that vulnerable individuals have access to participate in, and benefit from, the project.

In short, a human rights-based approach to development rests on the following core principles[17]:

- **Explicit link to human rights:** A human rights-based approach implies that practices are guided by human rights principles and standards. For example, whereas ordinary approaches to land acquisition might only involve compensation to legal title holders, a human rights-based approach would consider impacts on the rights and livelihoods of all affected individuals, including legal and informal title holders and the usage and passage rights of non-owners.

- **Non-discrimination and inclusion:** This includes paying particular attention to vulnerable and marginalized 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 empowerment:** In a human rights-based approach, participation is both an objective and a means of development. Participation should aim to create genuine ownership by people regarding the development processes with which they are involved and which will have an impact on them. Participation should be *active, free* and *meaningful*. From a rights-based perspective, participation is more than consultation, or a technical add-on to development activities, but is an integral part of shaping these activities.

- **Accountability, transparency and the rule of law:** In a human rights-based approach, development is seen as an *entitlement* rather than an act of *charity*. This has important implications for how the company relates to its community stakeholders. For example, in a rights-based approach the individuals affected by the project would be seen as *rights holders* rather than as *stakeholders*; i.e. they would be seen as people who have entitlements for which they can hold a relevant duty bearer accountable. A rights-based approach delineates between rights holders and duty bearers, and seeks to ensure that rights holders have the capacity to claim their rights, and that duty bearers correspondingly uphold these rights.

---

[17] UN OHCHR (2006). *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation.* www.un.org.kg/index2.php?option=com_resource&task=show_file&id=3230

'Significance' versus 'severity'

Both ESHIA and the assessment of human rights impacts under the UNGPs involve the evaluation of impacts. The assessment of impact 'significance' is the approach commonly used in ESHIA. The UNGPs, on the other hand, recommend the use of 'severity'. To remain aligned with the common practice of impact assessment practitioners, this Guide uses the impact significance approach. However, it is important that practitioners are aware of the overlaps and differences between the two terms.

The determination of both significance and severity rely on the assessment of the:
a) gravity of the impact (e.g. magnitude/scale);
b) number of people affected (e.g. extent/scope); and
c) ability of affected communities and individuals to withstand and recover from impacts (i.e. sensitivity and resilience of impacted individuals or 'irremediability' of the impact).

'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.

The UNGPs state that all impacts should be addressed, but recognizes that it may not always be possible to address them simultaneously. If prioritization of actions to address impacts is necessary, the UNGPs indicate that a company should begin with addressing those human rights impacts that will be most severe (UNGP 12).

Severity and significance appear to be partially overlapping concepts, and both will lead to a list of potential or actual impacts which must all be addressed, either through avoidance/prevention, mitigation or remediation, as appropriate. In applying the human rights lens, it is important that the methodology adopted to evaluate potential impacts ensures adequate and proper impact mitigation, which considers the perspective of the affected communities and individuals.

Resources

Abrahams, D. and Wyss, Y. (2010). *Guide to human rights impact assessment and management (HRIAM)*. International Business Leaders Forum (London) and the International Finance Corporation (Washington D.C.).
www1.ifc.org/wps/wcm/connect/8ecd35004c0cb230884bc9ec6f601fe4/hriam-guide-092011.pdf?MOD=AJPERES

Franks, D. (2012). *Social impact assessment of resource projects*. International Mining for Development Centre, Crawley, Western Australia.
http://im4dc.org/wp-content/uploads/2012/01/UWA_1698_Paper-02_Social-impact-assessment-of-resource-projects1.pdf

Global Reporting Initiative (GRI), et al. (2009). *A Resource Guide to Corporate Human Rights Reporting*. GRI, Realizing Rights and UN Global Compact.
https://www.globalreporting.org/resourcelibrary/A-Resource-Guide-to-Corporate-Human-Rights-Reporting.pdf

IFC (2007). *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets*. International Finance Corporation, Washington D.C.
www.ifc.org/wps/wcm/connect/938f1a0048855805beacfe6a6515bb18/IFC_Stakeholder Engagement.pdf?MOD=AJPERES

IFC (2012). *IFC Performance Standards on Environmental and Social Sustainability*. International Finance Corporation, Washington D.C.
www1.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES

IPIECA (2012a). *Human rights due diligence process: A practical guide to implementation for oil and gas companies*. The global oil and gas industry association for environmental and social issues, London. www.ipieca.org/sites/default/files/publications/Due_Diligence.pdf

IPIECA (2012b). *Operational level grievance mechanisms: IPIECA Good Practice Survey*. The global oil and gas industry association for environmental and social issues, London.
www.ipieca.org/sites/default/files/publications/Grievance_Mechanisms_0.pdf

IPIECA (2013). *Human Rights Training Tool: 3rd edition*. The global oil and gas industry association for environmental and social issues, London.
www.ipieca.org/good-practice/human-rights-training-toolkit

Kemp, D. & Vanclay, F. (2013). Human rights and impact assessment: clarifying the connections in practice. In *Impact Assessment & Project Appraisal,* Vol. 3, No. 2, pp 86-96. www.tandfonline.com/doi/full/10.1080/14615517.2013.782978

Lenzen, O. and M. d'Engelbronner (2009). *Guide to Corporate Human Rights Impact Assessment Tools*. Aim for Human Rights, Utrecht. www.humanrightsimpact.org/fileadmin/hria_resources/Business_centre/HRB_Booklet_2009.pdf

NomoGaia (2012). *Human Rights Impact Assessment Toolkit.* A toolkit for practitioners conducting corporate HRIAs. Denver, USA. http://nomogaia.org/tools

OECD (2011). *Guidelines for Multinational Enterprises*. Organisation for Economic Co-operation and Development. http://mneguidelines.oecd.org/text

Oxfam Australia (2009). *Women, communities and mining: The gender impacts of mining and the role of gender impact assessment.* Contributors: Hill, C and Newell, K.; based on an earlier paper by L. Fung. http://resources.oxfam.org.au/pages/view.php?ref=460&search=women%2Ccommunities%2Cmining&order_by=relevance&sort=DESC&offset=0&archive=0&k=

Rights & Democracy (2007). *Human Rights Impact Assessments for Foreign Investment Projects: Learning from Community Experiences in the Philippines, Tibet, the Democratic Republic of Congo, Argentina, and Peru*. Rights and Democracy, International Centre for Human Rights and Democratic Development, Montreal. http://publications.gc.ca/collections/collection_2007/dd-rd/E84-21-2007E.pdf

Ruggie, J. (2007). *Human rights impact assessments – resolving key methodological questions*. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. UN Human Rights Council, Geneva, February 2007. www.business-humanrights.org/Documents/Ruggie-report-human-rts-impact-assessment-5-Feb-2007.doc

Ruggie, J. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.* United Nations Human Rights Council, Geneva, March 2011. www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf

UN OHCHR (2006). *Frequently asked questions on a human rights-based approach to development cooperation*. Office of the United Nations High Commissioner for Human Rights, Geneva. www.ohchr.org/Documents/Publications/FAQen.pdf

Vanclay, F. (2003). *Social Impact Assessment—International Principles*. International Association for Impact Assessment (IAIA), Fargo, USA. www.iaia.org/publicdocuments/special-publications/SP2.pdf

This page is intentionally blank

IPIECA

IPIECA is the global oil and gas industry association for environmental and social issues. It develops, shares and promotes good practices and knowledge to help the industry improve its environmental and social performance, and is the industry's principal channel of communication with the United Nations.

Through its member-led working groups and executive leadership, IPIECA brings together the collective expertise of oil and gas companies and associations. Its unique position within the industry enables its members to respond effectively to key environmental and social issues.

THE DANISH INSTITUTE FOR HUMAN RIGHTS

The Danish Institute for Human Rights (DIHR) is an independent, national human rights institution modelled in accordance with the UN Paris Principles. The Institute, which was established by statute in 2002, carries on the mandate vested in the Danish Centre for Human Rights in 1987. This encompasses research, analysis, information, education, documentation and the implementation of national and international programmes.

The chief objective of the DIHR is to promote and develop knowledge about human rights on a national, regional and international basis predicated on the belief that human rights are universal, mutually interdependent and interrelated. The Institute believes that societies must be based on the rule of law, where the state protects and confers obligations on the individual while safeguarding the most disadvantaged and marginalized groups in society.

The Institute cooperates with organizations and public authorities in Denmark, with academic institutions and humanitarian organizations in other countries, as well as with the Council of Europe, the EU, the OSCE, the UN, the World Bank and a range of international donors.

IPIECA
5th Floor, 209–215 Blackfriars Road, London SE1 8NL, United Kingdom
Telephone: +44 (0)20 7633 2388   Facsimile: +44 (0)20 7633 2389
E-mail: info@ipieca.org Internet: www.ipieca.org

DIHR
Wilders Plads 8K, 1403 Copenhagen K, Denmark
Telephone: +45 32698888   Facsimile: +45 32698800
E-mail: info@humanrights.dk Internet: www.humanrights.dk

www.ipieca.org
www.humanrights.dk