Shift

Putting Principles into Practice

Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Businesses

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Shift

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Founded in 2011, Shift's team of experts works globally with businesses, governments, civil society and international organizations to embed the Guiding Principles into practice.

Shift was established in July 2011, following the unanimous endorsement of the Guiding Principles by the UN Human Rights Council, which marked the successful conclusion of the mandate of the Special Representative of the UN Secretary-General for Business and Human Rights, Professor John Ruggie. Our team was centrally involved in shaping and writing the UN Guiding Principles, and Prof. Ruggie is Chair of our Board of Trustees.

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This report is authored by Shift and draws on discussions with the companies that participate in Shift's Business Learning Program at that program's sixth workshop, October 27-28, 2014 in Cambridge, Massachusetts, USA.

I. High Risk, High Priority: Human Rights Diligence in High Risk Circumstances

Common interests in high risk situations

Situations that are very risky for people affected by a business' activities are often the very same situations that are risky to the business itself.

This convergence creates a constructive opportunity for human rights leaders within companies to gain the necessary buy in for identifying and addressing human rights risks and impacts.

This report presents learning and insights from business practitioners regarding the strategies and practices they have found most effective when conducting human rights due diligence in high risk circumstances. High risk circumstances are situations in which the likelihood of severe human rights impacts is greatest. Human rights due diligence (HRDD) consists of the processes that help businesses become aware of the actual and potential human rights impacts on people associated with their business and take appropriate action to prevent and address those impacts.

From the perspective of the United Nations Guiding Principles on Business and Human Rights (UNGPs), high risk circumstances should be the highest priority for company action since they present the greatest risks to individuals. In such situations, it is therefore especially critical for companies to conduct effective HRDD. Moreover, high risk circumstances for human rights often present high risk to the business as well, including commercial, reputational, investor related and legal risks. This convergence creates a constructive opportunity for human rights leaders within companies to gain the necessary buy in for identifying and addressing human rights risks and impacts.

While it is particularly critical for HRDD to be effective in high risk circumstances, those circumstances can also pose unique challenges for a business' HRDD processes. High risk circumstances are more complex and fluid. There may be practical difficulties in engaging directly with some affected individuals and groups. The capacity to manage identified risks and impacts may be beyond the sole control of the business enterprise.

Key lessons and insights from business practitioners, further elaborated in this report, include:

- **Use practical tools to identify high risk circumstances**. These tools can help businesses identify the key sources of risk and the circumstances where additional attention and resources will be appropriate. An example of such a tool is found in the Annex to this report.

- **Engage internal stakeholders** in ways that: (a) raise awareness of high risk circumstances, (b) create expectations about identifying and escalating these types of risks, (c) ensure that due diligence is ongoing and responsive to changes in circumstances.
- **Engage external stakeholders** in ways that: (a) are integrated into more robust strategies, (b) involve independent third parties in support of company efforts, (c) enable the business to push information to stakeholders and empower stakeholders to push information to the company.

Across these insights and examples, one crosscutting message becomes clear: while the tendency within many companies is to seek greater control over and protection of information as risks increase, in reality, **enhanced transparency is critical for success.**

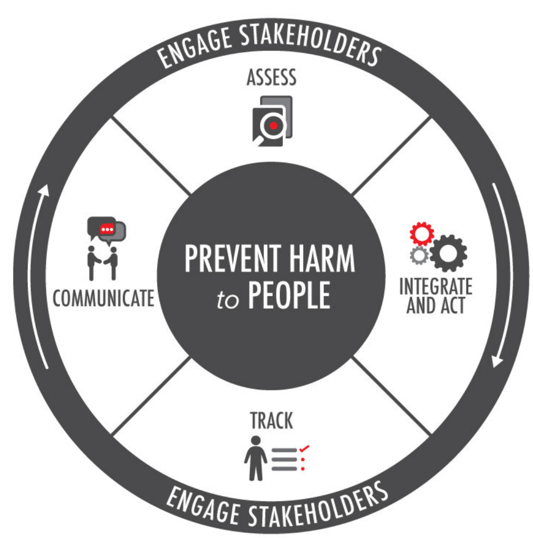
II. What Is Human Rights Due Diligence?

Transparency

Enhanced transparency is critical when conducting HRDD in high risk circumstances.

Human rights due diligence consists of the processes that a business uses to become aware of and manage its actual and potential impacts on individuals' human rights. The UNGPs identify four steps in human rights due diligence (see Figure 1). Businesses should:

Figure 1: Human rights due diligence



1. ***Assess***: Identify actual and potential impacts on people that might happen as a result of business activities or

through business relationships;

2. ***Integrate and act***: Take steps to prevent these impacts from occurring, to mitigate their likelihood and severity, to use leverage within business relationships and to provide remedy where impacts nevertheless occur;
3. ***Track:*** Monitor the effectiveness of the business' processes for assessing and addressing these impacts;
4. ***Communicate***: Share information externally with stakeholders about how the business addresses impacts and risks, including, where appropriate, through public reporting.

A. The role of prioritization

Many companies may be able to address all human rights risks associated with their operations in parallel. However, for global businesses with broad geographic scope and complex value chains, the process of due diligence can yield an overwhelming set of impacts to be managed.

The UNGPs recognize this through **the concept of prioritization: where necessary, businesses should first address those human rights impacts that represent the most severe impacts on stakeholders**. This focus on affected stakeholders (those who would suffer the impacts) differentiates human rights due diligence from more traditional risk and materiality analyses. In traditional analyses, the risk to the business is paramount. In human rights due diligence, the risk to stakeholders is paramount.

III. Identifying High Risk Circumstances

A. Why identify high risk circumstances?

Identifying high risk circumstances can help businesses in at least two ways:

- **To identify where to focus initial due diligence activities**. If resource limitations require the business to prioritize these efforts, identifying high risk circumstances helps the business to focus appropriately: that is, on the most severe and most likely impacts on stakeholders;

- **To guide how due diligence is conducted**. The business can tailor its typical processes and strategies to make due diligence more effective and responsive to high risk circumstances.

Many businesses have internal processes in place to identify where the greatest risks to the business may lie. Other businesses utilize risk analyses from external consultants about the general human rights context in a given locality.

While these standard approaches to risk management may provide valuable inputs, relying solely upon them is likely to provide only a partial picture of the risk of severe human rights impacts. Traditional risk analyses tend to miss risks to people that are not risks to the business, and to considerably underestimate the extent to which risks to people in fact do represent risk to the business, at least in the medium to long term. They also typically focus on only one source of risk – the broad political context of the locality – and miss other factors that increase the risk of severe human rights impacts.

B. Potential sources of heightened risk

In practice, heightened risk of severe human rights impacts can arise from different sources (illustrated in Figure 2):

- The **broader operational context**, including factors such as conflict, corruption and weak governance;

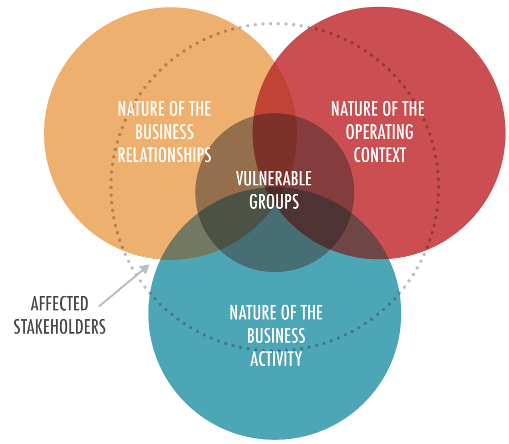
- **Business relationships**, including the experience, track record and management capacities of suppliers, joint venture partners, customers and others to manage human rights risks;

- **Business activities**, including activities commonly associated with human rights impacts, such as land acquisition and resettlement and extensive water usage;

- The **presence of vulnerable groups**, meaning those groups within a society who experience political, social or economic marginalization that makes them particularly vulnerable to business impacts.

Figure 2: Sources of heightened human rights risks

The graphic to the right was developed in partnership with the International Finance Corporation and is used with their permission.



Practical Tool: Diagnostic questions to identify risk factors

Diagnostic questions related to each of the sources of risk identified in Figure 2 can help businesses identify when they may be operating in high risk circumstances, and enable them to allocate resources for the necessary level of due diligence.

Example diagnostic questions:

- Are any of our business activities likely to bring increased competition for scarce resources?
- Can our products or services be used or readily adapted for severely harmful purposes?
- How would we assess the track record and management capacity of our key business partners to manage these types of issues?
- Does the structure or duration of our relationships with key business partners significantly reduce our leverage with them?
- Are factors present, such as discrimination, marginalization or poverty that could make potentially vulnerable groups, such as women, children, religious or ethnic minorities or indigenous groups, vulnerable in practice?

See Annex A for the full set of diagnostic questions.

Company Perspectives

Business practitioners raised two business scenarios that could signal heightened risk related to the company's own management systems:

1. Entry into new markets and activities where the business has limited understanding and experience;

2. Decentralized internal governance models where subsidiaries have greater autonomy and flexibility for site level management.

C. Identifying the highest risks

Today's global business models and complex supply chains mean that many of the operations and activities of businesses may have some combination of these factors present. How can businesses use these tools to identify high risk circumstances?

Business practitioners identified three practical strategies to help put these tools into practice:

1. **Consider the relative weight of risk factors** present in a given operational setting, activity or relationship:

- **The intensity of a single factor**, e.g., common use of forced labor in a particular commodity supply chain despite laws to the contrary;
- **The cumulative weight of several factors within one category**, e.g., a particular supplier has a past record of poor performance on human rights issues, weak management systems, is in conflict with local stakeholders and the relationship is mostly transactional such that the business has little leverage over the supplier;
- **The combination of factors across all categories**, e.g., land acquisition and resettlement were instigated by a government entity with a record of failure to protect human rights in such processes, in a context in which corruption is endemic and where women are particularly vulnerable to impacts on livelihoods.

2. **Consider the presence of meta indicators** as factors that may signal the likelihood of high risk circumstances. For example:

- **Conflict**: Active or post conflict contexts can signal weak governance, competition for scarce resources among groups and greater vulnerability of local people;
- **Corruption**: Endemic corruption in the public or private sectors can signal weak or inconsistent enforcement of legal or regulatory protections. It can undermine or cast doubt on representations made by business partners about their commitment or ability to manage human rights risks;

- **Vulnerable groups**: Vulnerability of certain groups of people can signal the absence or weak enforcement of legal protections for those individuals, and their resulting exposure to an increased range and intensity of impacts on their human rights;
- **Repression**: Prevention of certain groups of people from organizing or expressing themselves can signal particular concerns about the ability of those groups to raise concerns and defend many or all of their human rights.

3. **Consider the capacity of the business' own management systems** to reduce or eliminate certain types of risks. When assessing the role of its own management systems, a business may consider:

- Its own prior experience in a given geography;
- Its past performance in managing similar types of issues and impacts;
- Its existing policies and practices;
- The resources available to the business to manage a particular set of impacts.

IV. Internal Processes within the Business

A. Internal challenges

By their very nature, high risk circumstances are fluid and complex. Businesses need systems and processes to review and update their assessment of risks as circumstances change. Moreover, managing human rights in such circumstances requires businesses to take quick but deliberative action in response to changing circumstances. However, people closest to the impact often lack the internal decision making authority to take effective action in a timely manner.

Key Insight: Managing internal challenges

1. **Tune the internal radar:** develop a shared understanding of risks internally;
2. **Make the business case**: ensure the business understands what is at stake for the business and for stakeholders;
3. **Create the expectation for escalation**: create senior, cross functional, decision making platforms when operating in high risk circumstances;
4. **Identify additional trigger moments:** identify additional circumstances that would require the business to revisit its initial assessment of risks;
5. **Improve tracking**: develop indicators to enable ongoing monitoring of human rights risks and of the effectiveness of business processes for identifying and managing those risks.

Tune the internal radar

Build a shared understanding within and across the business about:

- *Sources of risk;*
- *Potential impacts on stakeholders;*
- *Mitigation and prevention measures in place;*
- *The risks to the business of failing to address the risks to stakeholders.*

1. Tune the internal radar

For businesses to be able to manage high risk circumstances effectively, they need to be sensitized to the presence of those risks as early as possible. This helps enable the business to actively manage the risks before they become actual impacts and before these escalate into crises. One business leader referred to this process as “tuning the internal radar.”

When conducting HRDD in high risk circumstances, this tuning of the internal radar needs to take place **horizontally** across different functions and **vertically** at all levels of leadership.

- **Horizontally**, decisions or actions taken by any function could exacerbate or mitigate existing risks. Therefore, all business functions and units need to have a shared understanding of the high risk circumstances;
- **Vertically**, senior management need to make any decisions to conduct business in high risk circumstances, and how to do so, with full knowledge of the potential risks and impacts. They may need to allocate additional resources to manage those risks effectively. They should also be aware that the decision to exit high risk circumstances could itself raise additional human rights impacts and challenges.

Company Perspectives

According to company representatives, the process of "tuning the internal radar" may be more challenging in situations where the business has prior experience in a familiar market.

In the case of new market entry, it may be easier to gain the attention of senior leaders because the business may be more receptive to risks posed by the uncertainties of a new market.

However, in the case of familiar operating contexts, when high risk circumstances already exist or start to emerge, this can be more challenging.

"Our leadership may conclude that we are effectively managing the risks. But the reality may be that we have just been lucky so far."

Company Experience

In one example, a business found itself in the middle of a complex value chain with extremely severe human rights impacts at the origin of the supply chain. As the business began to conduct its human rights due diligence, three points became clear:

- No one within the business could explain how the full value chain functioned;
- Internally, the business assumed the risks were being managed by industry-wide mitigation measures;
- Those mitigation measures did not address all the risks for which they were intended, and ignored some potentially severe impacts altogether.

Human rights leaders within the business began a process of mapping the full value chain, including the actors involved, the relationships between the actors, existing mitigation measures and potential leverage points. The mapping process became a tool for engagement internally with different functions and then externally with key stakeholders and businesses within the value chain. This engagement enabled the business to test its own understanding and share it with other key actors. The process not only created broad-based understanding within the company about the nature of potential impacts, but also pointed to entirely new strategies for building and exercising leverage to prevent and manage those impacts.

2. Make the business case

One important way that human rights leaders can tune the internal radar is by making the business case to address human rights impacts in high risk circumstances. Increasingly, business leaders recognize that severe risks to stakeholders often represent significant risks to the business:

- Commercial risks: Severe impacts on stakeholders often result in disruptions to operations, negatively affect the resilience of the supply chain or lead to lost business opportunities;

- Investor related risks: Investors are increasingly asking hard questions of clients, using their leverage to incentivize clients to manage human rights risks, and even divesting when risks are not addressed;

- Reputational risks: Global media, trade unions and civil society networks are increasingly shedding light on conditions and practices in the farthest reaches of value chains, damaging the reputation of companies in the eyes of consumers or business customers;
- Legal risks: More aspects of international human rights frameworks, including the UNGPs, are being incorporated into domestic laws.

Despite this recognition, according to one business practitioner:

> *"It is still critical to make the business case, even where it is obvious. But it is equally important to always tie this back to the potential harm to people. Otherwise, we risk being brought into a cost-benefit analysis. While we can and should give the business compelling reasons to manage these risks, we need to make sure the business is still prepared to do so even where that business case does not exist."*

Embedding Risk Analysis: HRDD and Enterprise Risk Management (ERM)

As part of their enterprise risk management (ERM) systems, many businesses have specialized functions dedicated to the identification and evaluation of all risks facing the business. This might therefore be a logical home for the analysis of risks related to human rights. The UNGPs encourage this type of embedding responsibility for human rights throughout a business enterprise.

However, this strategy merits caution as well. Human rights risks cannot be immediately placed into existing corporate risk matrices because the criteria for prioritization are different. HRDD analyzes the risks to stakeholders, with the severity of impacts on individuals (and to a lesser extent, likelihood) acting as the driving force for prioritizing risks. Traditional ERM systems analyze risk to the business, with prioritization determined by the severity of harm to the business balanced against the likelihood of the impact occurring.

Before transferring ownership of human rights risk analysis to corporate risk managers, human rights leaders should ensure that risk managers have the necessary capacity to conduct the principled prioritization required under the UNGPs.

Company Perspectives

It's a common reflection that creating the right corporate culture starts at the top, from cues sent by the CEO.

Several business practitioners point to key moments in building a culture of talking about risks and problems. In one example, a senior vice president raised a "red" issue at a cross functional meeting of senior leadership, where others consistently reported only "green" and "orange" issues in their portfolios.

When the CEO responded by applauding the senior vice president and asking why no other departments faced challenges, the company began a change in culture about approaches to challenges and risks.

3. Create the expectation for escalation

Businesses have to be able to make quick and deliberative decisions in response to evolving high risk circumstances. The business may need to deploy additional company resources to address impacts or to create and use new forms of leverage with business counterparts or governments. In the most extreme cases, the business may need to consider exiting the high risk context.

However, people in the business closest to the situation, or those with direct responsibility for human rights impacts, often lack the necessary authority or resources to make such decisions on their own.

To overcome these challenges, business practitioners highlighted the internal need for high level, cross functional platforms so that these issues can be escalated for senior decision making. Such platforms can help break through functional silos that otherwise impede effective decision making, and enable decisions that appropriately weigh competing business interests.

These types of senior dialogue and decision making platforms are not unfamiliar to businesses. However, for them to work effectively for HRDD in high risk circumstances, three aspects are critical:

- Human rights issues need to brought within their scope, or new platforms need to be created;
- The business needs to create a culture that incentivizes and encourages the identification of potential problems or risks;
- The business should not only signal that potentially serious risks *can* be escalated to the attention of senior decision makers, but must also create an expectation that potentially serious risks *should* be escalated to this level.

Company Experience

Several companies shared examples of senior management processes to review risks that require the attention of company leadership.

When one company adopted a formal commitment to respect human rights and implement the UNGPs, it brought human rights within the scope of an existing weekly review by top management of critical issues. As the company looks to expand into new higher risk geographies and new higher risk business activities, human rights leaders have been able to raise concerns identified in the early stages of HRDD by using this existing process.

Another company's high risk circumstances result from the sale of products that could be used by customers in ways that would impact negatively on human rights. All sales are reviewed and approved by a corporate sales compliance body that is comprised of senior cross functional leaders representing key departments within the business. This sales compliance body weighs the competing corporate interests of maximizing sales and preventing product misuse. Outcomes can include approving the sale, negotiating further safeguards or restrictions on the use of its products or blocking the transaction entirely.

4. Identify additional trigger moments

Many businesses tie the timing of their due diligence to key moments in the business cycle. This may include decisions to initiate or expand projects or operations, to engage a new supplier, to seek financing or to sell or license products to a new customer.

In high risk circumstances, however, risk is often created by forces external to the business cycle. As circumstances evolve, the key assumptions that underpinned the business' initial assessment of human rights risks may no longer hold true. In such circumstances, existing mitigation measures may no longer be adequate.

Business practitioners found promise in the idea of identifying additional moments in the business cycle that should trigger formal internal reviews of existing due diligence. The specifics vary by business and industry, but the main idea is similar: creating more opportunities to require the business to update its due diligence. This can help to ensure that the business' understanding of the circumstances remains current as those circumstances evolve.

5. Improve tracking

Improved tracking of human rights due diligence activities and outcomes can help companies routinely measure progress and regularly report to senior management on that progress. More effective tracking can also help businesses more quickly recognize and respond to changing dynamics in high risk circumstances.

Global business experience with the tracking stage of HRDD is not particularly well developed or explored. What we do know is that many businesses struggle with tracking in general and specifically with developing meaningful indicators.

Business practitioners identified several basic ideas that help frame further work on tracking:

- Tracking something, even if it's an imperfect measure (but provided it's not a misleading measure), is preferable to tracking nothing at all;
- Indicators provided by external reference tools may be a useful input, but the internal process of developing indicators that will be useful to the business is as important as the indicators themselves;
- A smart mix of indicators will likely be essential. This includes indicators that are qualitative and quantitative, leading and lagging, process inputs and substantive outcomes;
- Feedback from affected stakeholders is an essential element of a credible and effective framework of indicators, and may potentially be the most meaningful.

External Stakeholders

External stakeholders can include any individuals or groups outside of the business who can affect or be affected by the company.

The UNGPs place particular emphasis on the need for businesses to engage with "directly affected stakeholders." These refer to any individuals or groups whose human rights may be negatively impacted by the company's activities or through its business relationships.

V. External Processes with Stakeholders

A. External challenges

Engagement with external stakeholders is a key tool to help shape how businesses understand risks and impacts. Stakeholders also provide an important feedback loop for businesses about the effectiveness of their approaches to managing these issues.

Yet, just as stakeholder feedback becomes more essential in high risk circumstances, engagement with some stakeholders can become more challenging, depending on the risk factors present.

Key Insight: Managing external challenges

1. More robust engagement: earlier engagement, with more stakeholders and with more types of stakeholders;

2. Collaborate with credible partners: involve third parties to enhance a business' own due diligence efforts;

3. Enable "pushed" information: strengthen channels for feedback to complement standard engagement cycles.

1. More robust engagement

In high risk circumstances, businesses' stakeholder engagement strategies need to be more robust than in typical due diligence processes. This includes **earlier engagement**, with **more stakeholders** within a given stakeholder group and with **more types of stakeholders** across a wider variety of groups.

- **Earlier engagement** enables the business to develop its understanding of risk factors before risks escalate into crises. It also allows the business to build relationships with stakeholders that can be instrumental in resolving crises if they arise;

- **More engagement** with stakeholders enables the business to triangulate information it has received through other means and build a more complete and accurate understanding of circumstances on the ground;
- **Engagement with a wider variety of stakeholders** allows businesses to understand contextual risks in ways that might go beyond typical due diligence processes. For example, as part of due diligence in high risk circumstances, companies may engage with their home country's embassy, or business counterparts in their own industries or other industries as a way to deepen understanding of political and contextual risks.

2. Collaborate with credible partners

In some instances, affected stakeholders may be unwilling or unable to engage directly with businesses. This may be due to the presence of active conflict, intimidation or lack of trust. In such cases, some businesses have collaborated with credible third parties in interesting and creative ways.

Third parties, such as international civil society organizations, may be able to gain access to stakeholders' perspectives in ways that a business cannot. Where these third parties are themselves credible, their involvement can bring added credibility to a business' efforts to "know and show" it is respecting human rights. The clear message from experienced business practitioners is that in high risk circumstances, companies should not attempt to go it alone.

Company Experience

One business had an extensive track record of conducting its own stakeholder engagement, while also working with credible third parties as part of its due diligence. However, as the company explored operations in a particularly high risk circumstance, the presence of civil conflict and ethnic violence made it impossible for the business to conduct its own due diligence. Nor were any of the business' traditional third party partners appropriate for the circumstances.

Ultimately, based on a public tender process, a new partnership was forged with a nongovernmental organization (NGO) focusing on international conflict and humanitarian aid. Making the partnership work required the company to demonstrate flexibility by changing its standard operating procedures to enable the NGO to use its own security and transparency protocols rather than those of the business.

3. Enable "pushed" information

Businesses often have regular routines for stakeholder engagement. These may occur at periodic intervals throughout the year, or they may coincide with key business moments, such as social performance audits, permitting or financing processes. These formal engagement processes can be thought of as the business "pulling" information and perspectives from stakeholders.

In high risk circumstances, it becomes particularly important for the business to have channels that allow stakeholders to "push" information and perspectives to the company. Good baseline relationships and consistent messaging that the company welcomes feedback can create the trust necessary for stakeholders to bring issues to the attention of the company in an informal way, as circumstances change, for more immediate reaction and response. Grievance mechanisms can provide a form of feedback loop, although they may not be sufficient for this particular purpose if they limit feedback to specific complaints as compared to broader concerns.

VI. Concluding Thoughts: The Role of Enhanced Transparency

A. The challenge

In high risk circumstances where the risks to stakeholders and the risks to business are most acute, there is often a tendency within businesses to attempt to close ranks and say less, rather than more, to control the message. The sense is often that this helps control the risk as well.

B. Communicating more rather than less

Despite this tendency, firsthand experiences shared by experienced business practitioners lead to one clear conclusion:

When the underlying risks to human rights are greater, it is even more important for the business to enhance transparency at every stage of the process. In high risk circumstances, businesses should communicate more rather than less.

Enhanced transparency enables a business to test its analysis internally and externally, share its strategies and invite feedback. Although some functions within the company may see risk to the company in sharing information, the greater risk often proves to be a *lack* of transparency.

This is particularly true in high risk circumstances, where the situation is often under greater external scrutiny. A lack of transparency enables rumor and misinformation to spread and supports assumptions that the company is doing nothing or doesn't even care.

Conversely, company practitioners reported positive responses from stakeholders when they were able to share their recognition and analysis of the problem with stakeholders and communicate credible steps they were taking to address the impacts.

This need for increased transparency applies across different audiences and different formal and informal opportunities:

- **Enhanced transparency internally**, with other departments and functions within the business, to share information about the risks involved and the company's strategies for addressing them;
- **Enhanced transparency with directly affected stakeholders**, for whom greater efforts must be taken to share information about potential impacts from business activities;

  Enhanced transparency with policy level stakeholders, who can become constructive counterparts in collaborations to address key risks and impacts.

Coming Soon: Public reporting in line with the UNGPs

The most formal means of providing transparency is through a company's public reporting, whether in their annual reports, sustainability reports or through self standing reports related to human rights.

To date, public reporting on human rights by businesses has been underwhelming and inconsistent. Shift's next Business Learning Program workshop will focus on exploring what it means to provide meaningful reporting on implementation of the UNGPs, building on an initiative co-led by Shift to develop the UN Guiding Principles Reporting Framework, launched in February 2015.

Annex A

Diagnostic Questions to Identify Risk Factors

The below are key questions companies should ask themselves when operating in high risk circumstances. In some situations, it will be helpful to address these questions in relation to all human rights. In other situations, it may be appropriate to focus on those human rights that are most salient for the business' operations.

A. Key questions to ask about the operating context

- To what extent are human rights protected in domestic law and to what extent are those laws enforced?
- Do domestic laws conflict with international human rights standards?
- Are there systematic social practices that impact on human rights?
- To what extent do local populations have access to justice?
- Is there active conflict, or are there pre or post conflict dynamics?
- Is corruption systemic at one or more levels?
- Is extreme poverty present amongst affected stakeholder groups?
- Are any types of civil society organizations weak, absent or under sustained threat?
- Are there significant legacy impacts (impacts that predate the company's involvement) that could affect stakeholders' actions or attitudes?
- Are operations likely to be seen as linked to particular political or other institutional interests?
- Are there third parties whose actions may create risks related to the business (e.g., local power brokers threatening suppliers or trade unions, media that stoke ethnic conflict, etc.)?

B. Key questions to ask about business relationships

- Do we have visibility into potentially high risk relationships, up and down the value chain? If not, how could we gain it?
- Are there specific risks related to the specific type of relationship, e.g., joint venture, franchise, licensing, supplier, customer?
- Do entities with whom we have business relationships have known and effective internal governance and accountability structures?
- Do they have known and effective processes for managing environmental, social and human rights risks?
- Do they have a record of, or reputation for, breaching the law?
- Do they have a record of, or reputation for, negatively impacting human rights?
- Are they known or likely to engage in corrupt practices?
- Are they in conflict with stakeholders?
- Is this a government owned or connected entity and does that suggest greater or lesser risk to human rights?
- Does the structure or duration of the relationship significantly limit the business' leverage?

C. Key questions to ask about vulnerable groups

- Has the business fully understood the composition of affected populations?
- Are any of the specific groups that are covered by international human rights standards affected by the company's activities or business relationships such as women, children, religious or ethnic minorities or indigenous groups?
- If so, are any of those groups subject to marginalization, discrimination or poverty, thereby making them particularly vulnerable?

- Are there other groups who face particular vulnerability?

D. Key questions to ask about business activities

- Do business activities involve acquiring land or relocating populations?
- Will they bring increased competition for scarce resources?
- Will they lead to rapid change in local social, political or economic dynamics?
- Will they disproportionately impact vulnerable groups?
- Can the business' products or services be used or readily adapted for severely harmful purposes?
- Will the business' products or operations have severe negative impacts associated with end of life uses?

E. Key questions to ask about management systems

- Does the business have the necessary policies and processes in place to prevent and address identified risks?
- Does the business have the staff capacity to implement those policies and processes effectively?
- Has the business allocated the necessary budget?
- Has the business allowed sufficient time for adequate due diligence?
- Has the business appropriately understood external perspectives?
- Has the business appropriately informed and engaged potentially affected stakeholders?