

1 INTRODUCTION

On 30 November 2017, a group of 23 human rights practitioners and academics came together to discuss the topic of human rights impact assessment (HRIA).

The aim of the morning session was to discuss the state of play on HRIA, hear from practitioners about different approaches to working with human rights in impact assessment, and to discuss a future vision for the HRIA space and a HRIA 'community of practice'. The afternoon session focused on discussing the development of a Research Handbook on HRIA, to be published by Edward Elgar in the [Research Handbooks on Impact Assessment series](#) in 2019.

The workshop was organised and facilitated by the Danish Institute for Human Rights (DIHR). The morning included the following sessions:

1. Welcome and tour de table of participants
2. Presentation of case study 1 and Q&A: "Community-led HRIA of a Sugarmill in Brazil" by Irit Tamir, Oxfam America
3. Presentation of case study 2 and Q&A: "HRIA in the Palm Oil Sector in Indonesia" by Anna Turrell, Nestle
4. Concluding session: HRIA community of practice, discussion of suggestions for the way forward

This report presents a summarised account of the main themes and topics of discussion. The workshop took place under the Chatham House rule. A list of participants is provided at the end.

If you have any questions about the workshop or the HRIA community of practice please contact: Nora Götzmann, DIHR, at nog@humanrights.dk and Tulika Bansal, DIHR, at tuba@humanrights.dk.

2 CASE STUDY 1: "COMMUNITY-LED HRIA OF A SUGARMILL IN BRAZIL" BY IRIT TAMIR, OXFAM AMERICA

A short overview of the case study was presented. The case concerned a community living in a mangrove area close to a sugarmill in Brazil. In the late 1990s the sugarmill decided they no longer wanted the community living next to the mangrove. They became violent with the community and were trying to get the community to move off the land. In some cases the mill offered alternative housing but this was in nearby slums, meaning that community members were not able to continue their traditional livelihoods. Some community members were not offered alternative housing. In 2015 Oxfam's Behind the Brands campaign, which focused on landgrabs, highlighted this case. As part of this campaign Oxfam asked Coke and Pepsi to commit to zero tolerance on landgrabs. This was also in the context of increased

demand for sugar; between 2000 and 2010 the sugar production in Brazil doubled. Coke and Pepsi are the two biggest buyers of sugar and both were sourcing from the sugarmill in question. Both Coke and Pepsi committed to zero tolerance on landgrabs in their supply chains. Coke undertook an impact assessment for the whole country, including their sugarmills. Pepsi also committed to an assessment, however, in reality this assessment was more akin to an audit than a thorough human rights assessment. Both companies hired external parties to conduct the assessment and published the report. Subsequently, Oxfam hired a land rights specialist to conduct an evaluation of both assessments. Oxfam then made recommendations based on this assessment.

In parallel, Oxfam provided a grant for the community to undertake a community-led assessment of the sugarmill. As a result of the community-led assessment the community and Pepsi and Coke met for a day to discuss the issues raised; the mill was not involved in this meeting. The goal was for the community to give their perspectives to the two brands. The main recommendation of the community was a RESEX; this is a legal tool that puts the land in a conservation situation but also allows the community to live off the land. Subsequently, there have been a number of legal actions at the state and federal level to put the RESEX in place. However, agreement has not been reached, in large part because the federal and state governments are not aligned in their decisions.

The assessments and Oxfam's analysis have been published in a number of reports and articles that are publicly available.¹

Participants asked questions about the type of assistance Oxfam was able to offer and how they could encourage the mill to engage with the community-led assessment. Oxfam's support to the community-led assessment included training on the [Getting it Right](#) community-based methodology, as well as support to the local NGO supporting the community in conducting the assessment. Because there had been quite a few legal cases, more documents were available for the assessment than in some other cases. As such, the mill provided a lot of documents and information about its position, as part of the assessment.

Questions were also put forward regarding Oxfam's role in the Coke and Pepsi assessments and whether efforts were made to undertake the assessments together. In short, Coke had already committed to undertaking an assessment at the time of the Behind the Brands campaign, however, the original scope had focused only on forced labour and child labour rights; by virtue of the campaign the companies included a focus on land and also expanded the list of countries for which they would conduct assessments. Because there were some differences in the level of maturity between the different actors involved it would have been difficult to undertake a joint assessment at that point in time, however, now it may well be possible. Oxfam has been advocating for a hybrid approach, so also considered this case to be particularly useful for learning about what is and is not possible, and what types of circumstances might be particularly conducive to testing a hybrid approach.

¹ See e.g. <https://www.oxfam.org/en/research/land-rights-and-soda-giants>; <https://www.cambridge.org/core/journals/business-and-human-rights-journal/article/human-rights-impact-assessments-in-a-brazil-land-conflict-towards-a-hybrid-approach/B0BEFFC7B3C2FCA3565D74A2F201EE18>, and further reports referenced therein.

Participants were also curious about what new evidence or perspectives the community-led assessment brought to light, as compared to the Coke and Pepsi assessments. It was explained that a key benefit of the community-led assessment was documenting the situation from the community perspective, including with relevant evidence. While the basic story was known, the community assessment was useful for telling the story in chronological order with relevant evidence, in a way that just telling the story to the company is not credible enough. The local NGO working with the community had also been doing so for a long time, as such they were a good implementing partner for the community.

A further question related to the relationship between Coke, Pepsi and the mill, including the leverage between the parties to change behaviour and the role of the assessments in creating such leverage. The community-led assessment did not focus on Pepsi and Coke, it focused on the mill. However, Oxfam suggested to use the community-led assessment to also encourage Coke and Pepsi to exercise leverage to change the behaviour of the mill, which was supplying to both companies.

The costs of community-led assessments was also discussed. In particular, the idea of establishing a fund that companies pay into collectively and that communities can access to fund assessments.

3 CASE STUDY 2: “HRIA IN THE PALM OIL SECTOR IN INDONESIA” BY ANNA TURRELL, NESTLÉ

A short overview of the case study was presented. In 2017, Nestlé undertook a labour rights assessment in the palm oil sector in Indonesia. The palm oil sector in Indonesia is complex both in terms of economics and human rights impacts; the regulatory landscape poses a number of significant challenges for company and community stakeholders involved in or impacted by the sector. As such, the landscape of the sector as a whole was a key part of the assessment, which is a new approach for Nestlé, as previous assessments have been more focused on particular sites or parts of a supply chain, rather than considering the functioning of the sector in a country as a whole. The assessment involved three weeks of fieldwork in Sumatra in August 2017. Internally, the assessment was led through a collaboration between responsible sourcing and the human rights function; the external parties conducting the assessments were DIHR and TFT. TFT has good knowledge of the palm oil supply chain; because going further upstream in the supply chain was a key focus of the assessment TFT was well-placed for implementing the assessment. It was also the first time that an assessment focused in such detail on a particular supplier: Golden Agri Resources (GAR). The assessment involved working with this supplier, as well as visiting four independent mills, including one with an integrated estate (where growing and a mill are combined). In terms of scoping the issues, the assessment team took a broad approach going into the assessment and then focused in on particular issues that were identified through the field research; this was important so that no issues were excluded from the start of the assessment. Through the fieldwork, labour rights and some community issues were identified as key focus areas. The assessment team was clearly defined in terms of roles and responsibilities. Nestlé and GAR were part of management meetings and interviews at the sites visited, for information gathering, but equally importantly to demonstrate Nestlé and GAR’s commitment to the

issues subject of the assessment. However, Nestlé and GAR were not part of any interviews involving workers, community members or other critical stakeholders.

The report of the assessment will be published in early 2018.

Participants asked questions about the resources needed for this type of assessment. It was explained that the resources for such a collaborative assessment involving so many actors is significantly more than an assessment focusing on a particular site. However, the importance of considering these issues holistically was also emphasised. Therefore, Nestlé plans to conduct some deep dives on a more regular basis going forward, with the view to mainstreaming the learnings from these into their responsible sourcing programme.

Participants also asked questions about government engagement as part of the assessment. Government actors were invited to participate in the assessment through stakeholder interviews, and through the proposal for provincial level meetings. However, it proved difficult to secure attendance for the proposed meetings, which may have been in part due to the fact that a lot of different areas of government are involved in the sector and they do not always necessarily coordinate, in addition to potential capacity issues at the local government level to engage with issues relating to human rights. This again emphasised the need to carefully consider the regulatory context and the role of government in these types of human rights assessments, with the view to them contributing to meaningful change. It can also be challenging for producers to challenge existing practices, and there is more that buyers can do in this regard, through exercising leverage and providing support.

Questions were asked about key findings and recommendations made, in particular how it can be ensured that recommendations are practical and lead to actual change. It was reiterated that a key objective of the assessment was to generate concrete and relevant recommendations to the different actors involved. Towards this end there will be an overall assessment report, in addition to separate recommendations to both Nestlé and GAR and to the mills visited. As a response to this both Nestlé and GAR will develop aligned action plans to implement the recommendations made in the assessment.

A question was raised regarding the role of collaborative initiatives, such as RSPO, also in terms of challenging the economic model of the sector, which arguably contributes to adverse human rights impacts. Key challenges noted in response to this question include the highly informal nature of the sector, and the potential role that companies can play in terms of advocating for formalisation through collaborative actions involving multiple buyers to share learnings and set the bar higher for suppliers. Individual assessments may have difficulty in addressing the fundamental economic model of a sector, however, there is arguably more that can be done in terms of using innovative strategies to challenge and change particular aspects that cause detrimental human rights impacts.

Lastly, participants discussed the role of the 'HRIA model' for supply chain assessments. Some questioned the appropriateness of applying a HRIA model that originated from more 'site-level' thinking and analysis to supply chain assessment, while others suggested that it is a matter of adapting the methodology but that the overall conceptual approach was appropriate.

4 THE HRIA COMMUNITY OF PRACTICE

In the concluding session of the morning and the afternoon, participants discussed how the HRIA 'community of practice' might collaborate going forward. Firstly, the main points from the 2016 meeting were recapped, see below.

RECAP RE: HRIA COMMUNITY OF PRACTICE FROM 2016

Regarding objectives, people shared that they hope the CoP will allow for:

- Sharing of methodologies, a space for practice oriented peer-learning;
- Sharing of expertise and contacts or subject matter specialists for inclusion of additional disciplines in HRIA teams; and
- Sectoral and cross-sectoral collaborations.

In terms of who should be part of the CoP, people raised that:

- It should be multi-stakeholder;
- ESHIA specialists should be brought in;
- Universities could play a role;
- It should include people from the global south;
- Companies should be included; and
- There should be more space for vulnerable groups.

How the CoP can operate:

- Gathering of evidence on the value of HRIA;
- Creation of a depository of good practice HRIA reports;
- Sharing of lessons learned;
- Company-company sharing of best practices;
- Defining together what the criteria for a good quality HRIA are and promoting these in the broader human rights and business community;
- Piloting assessments together, bridging the divide between company- and community-led HRIAs;
- Annual or bi-annual HRIA meetings or learning events and quarterly webinars with sharing of case studies; and
- Co-development of a future HRIA workshop agenda through the HRIA google group.

Based on these ideas, participants discussed the following points and identified individuals to take them forward.

Sharing practice

It was agreed that that this is a useful activity for the COP and should be continued through the google group, webinars, and an annual gathering at the UN Forum and IAIA. Concretely, ideas were put forward to:

- Have another webinar series in 2018, focused on sharing case study examples.
- Share learning events of potential interest to practitioners through the google group.
- Develop a short series of 'thought leadership' pieces that could be shared either through a linkedin group or through the BHRRC website.
- Reach out to the UNGC to identify opportunities for collaboration.
- Share information about the human rights related sessions at IAIA 2018, including the new introductory sessions planned for the conference, one of which will focus on human rights.

Influencing practice

It was agreed that it would be useful to work collaboratively on HRIA related activities, including generating a common understanding of what HRIA is/not and what might be considered to be 'good practice' HRIA. Concretely, ideas were put forward to:

- Brainstorm together on a session to put forward collectively to the UN Forum on Business and Human Rights 2018 programme, once the theme has been identified.
- Brainstorm on a potential human rights related event, publication or other to be developed through the CSR/M section of IAIA.
- Work together to develop a short 'typology' overview that clarifies the differences and similarities between HRIA, risk assessments, audits etc.
- As part of this, we could collaborate to define some 'good practice' criteria for HRIA. The 10 key criteria developed as part of the [DIHR Guidance and Toolbox](#) could serve as a starting point for this discussion.
- Evaluate the effectiveness and outcomes of current assessment methodologies, e.g. through a study of some of the assessments to date. This could include developing a better understanding of how effectiveness might be defined in the context of HRIA and would also involve working towards greater transparency of HRIAs being conducted.

LIST OF PARTICIPANTS

- Dunstan Allison-Hope, Managing Director, BSR
- Sibylle Baumgartner, Business and Human Rights Specialist
- Cathrine Bloch Veiberg, Corporate Engagement Programme Manager, Danish Institute for Human Rights
- Caroline Brodeur, Independent Researcher
- Roper Cleland, Independent Researcher
- Chloe Cranston, Corporate Engagement Adviser, International Alert
- Maria Isabel Cubides, Globalisation and Human Rights Desk, FIDH
- Cathal Doyle, Research Fellow, Business School, Middlesex University
- Chris Fletcher, Associate, BSR
- Nora Götzmann, Senior Adviser, Human Rights and Development, Danish Institute for Human Rights
- Alejandro Gonzalez, Coordinator GoodElectronics Network and Researcher, SOMO
- James Harrison, Associate Professor and Co-Director of the Centre for Human Rights in Practice, School of Law, University of Warwick
- Beth Verhey, Child Rights and Business, UNICEF
- Madeleine Koalick, Director of Consulting, twentyfifty
- Josua Loots, Programme Manager at Centre for Human Rights, University of Pretoria
- Susan Mathews, Human Rights Officer, Right to Development Section, OHCHR
- Anupama Mohan, Sustainability Advisor, Statoil
- Alessia Priolo, Human Rights Advisor, Eni
- Irit Tamir, Advocacy Manager, Private Sector Department, Oxfam America
- Jacqueline Tedaldi, Consultant, Community Insights Group
- Anna Turrell, Public Affairs Manager, Social Impact, Nestlé
- Deniz Utlu, Researcher and Policy Adviser, German Institute for Human Rights
- Elin Wrzoncki, Business and Human Rights Programme Manager, Danish Institute for Human Rights
- Vanessa Zimmerman, Group Human Rights Adviser, Rio Tinto

DIHR sincerely thanks the Geneva Welcome Centre (CAGI) for hosting the workshop.