

A large, dimly lit garment factory with many workers at sewing machines. The scene is filled with rows of sewing machines and workers, creating a sense of a busy industrial environment. The lighting is warm and somewhat dim, highlighting the workers and their stations.

THE DANISH
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PHASE 5:
REPORTING
AND
EVALUATION

HUMAN RIGHTS
IMPACT
ASSESSMENT
GUIDANCE AND
TOOLBOX

Phase 5: Reporting and Evaluation Human Rights Impact Assessment Guidance and Toolbox

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PHASE 5: REPORTING AND EVALUATION

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In this document you will find the Guidance text for Phase 5: Reporting and Evaluation.

You can find the full version of the Human Rights Impact Assessment Guidance and Toolbox here: <https://www.humanrights.dk/hria-toolbox/>



What Happens in Phase 5?

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

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



Key Questions Addressed in This Section

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

5.1 WHY REPORT ON HRIA?

Access to information is both a human right and a key process principle of a human rights-based approach. Communicating clearly to stakeholders about the process and findings of a HRIA, including through reporting, is an essential step towards securing a transparent and accountable process. Additionally, it is a way of ensuring that rights-holders, duty-bearers and other relevant parties can meaningfully participate by providing input on the findings.¹

Communicating and reporting on human rights due diligence processes, including on human rights impacts, is expected by both the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises (see Figure 5.a, below). Communicating and reporting are essential for fostering the accountability of businesses for addressing their adverse human rights impacts. Furthermore, publishing HRIA reports and associated impact management plans can be a key way for businesses to demonstrate that they ‘know and show’ that they are undertaking human rights due diligence and exercising respect for human rights. From a community, civil society and public interest perspective, a public HRIA report can be a basis for strengthening communities’ strategies in demanding corporate accountability by taking a facts- and evidence-based approach.²

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

The UN Guiding Principles on Business and Human Rights	The OECD Guidelines for Multinational Enterprises
<ul style="list-style-type: none"> • According to the UN Guiding Principles: 'In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating context pose risks of severe human rights impacts should report formally on how they address them'. • The UN Guiding Principles also note that communications should always: <ul style="list-style-type: none"> • (a) Be of a form and frequency that reflects and enterprise’s human rights impacts and that are accessible to its intended audiences; • (b) Provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved; • (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality. 	<ul style="list-style-type: none"> • Section III of the OECD Guidelines set the expectation that enterprises 'ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership and governance'. The definition of ‘material’ information relevant for disclosure includes issues regarding workers and other stakeholders. • In addition, enterprises are encouraged to communicate additional information on, among other things, relationships with workers and other stakeholders. • Section III also outlines expectations regarding the quality and timeliness of disclosed information in order for the information disclosure to meet its intended purpose: to improve public understanding of enterprises and their interactions with society and the environment.

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

Reporting and communicating on the HRIA process and outcomes can be undertaken in different ways, depending on the precise circumstances. 'Communication can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports.'³ If possible, communicating about the HRIA process and findings should include a combination of dialogue and engagement-based strategies, in particular involving rights-holders, as well as the publication of a HRIA report. Through this, the company can demonstrate commitment to transparency and engagement, as well as accountability. Engaging stakeholders in the reporting process is critical for ensuring that the HRIA reflects communities' experiences; more information on this topic is available in the following section.

A final impact assessment report should outline the impact assessment methodology and process, findings and mitigation measures, as well as a forward-looking plan for monitoring and evaluation.⁴ Up until now, there have been divergent views and approaches regarding HRIA reporting. Some argue for full disclosure at all times, while others argue that HRIA is an emerging practice, and in sensitive environments, it may be acceptable to work towards full disclosure on a continuous improvement basis.

From a good practice perspective, the publication of a final HRIA report should be considered an integral component of any HRIA process. Companies are increasingly disclosing their full HRIA findings to increase transparency and provide a platform for ongoing dialogue with stakeholders. Additionally, legislation such as the EU Non-Financial Reporting Directive, the California Transparency in Supply Chains Act, the UK's and Australia's respective Modern Slavery Acts, the French Duty of Vigilance Law and the Dutch Child Labour Due Diligence Law require certain companies to report on their human rights due diligence efforts, and publishing a final HRIA report can support in fulfilling legal requirements or otherwise taking actions in line with the spirit of said laws.⁵

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

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

Box 5.1: Examples of public reporting on HRIA

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

- After the Danish Institute for Human Rights advised Telia Company to undertake country-specific HRIAs in 2013, the company commissioned BSR to assess its subsidiary in Sweden. The HRIA identified opportunities and risks related to consumer privacy, freedom of expression, labour rights and discrimination against vulnerable populations in Sweden. Telia published the Sweden report in 2017.⁶ The company also published a HRIA of its operations in Lithuania.
- Kuoni, a Swiss tourism company, conducted two HRIAs in 2012 and 2013, in Kenya and India respectively. Kuoni has published the reports of both impact assessments, which looked at human rights in general, with a specific focus on children's rights.⁷
- The Marlin Mine Human Rights Assessment report provides an overall assessment and status of Goldcorp's due diligence standards, including recommendations for the ongoing process. The Marlin Mine has applied a range of strategies and mechanisms to secure ongoing consultations with stakeholders, in particular the local community. Priority issues were identified from the concerns raised through prior stakeholder consultations, and the report addresses means of improvement for these specific areas.⁸
- Nestlé, together with the Danish Institute for Human Rights, published a report describing the methodology that was applied for HRIAs conducted in seven country operations between 2010 and 2013, the aggregate findings of the HRIAs and lessons learned from the process. Nestlé has found that engaging in discussions with labour unions by sharing the HRIA report findings led to improved relations between the country operations and labour unions.⁹ In 2018, Nestlé agreed to publish a full report of the findings of an impact assessment focused on labour rights in its palm oil supply chain in Indonesia. The report included recommendations to Nestlé, as well as other actors in the palm oil sector and Nestlé's supply chain.
- Coop Danmark A/S and its subsidiary African Coffee Roasters Ltd. commissioned a HRIA of the coffee supply chain in four sourcing countries: Kenya, Uganda, the Democratic Republic of the Congo and Rwanda. The

Box 5.1: Examples of public reporting on HRIA

report found the enjoyment of human rights of coffee farmers strongly depends on the political and economic context of the respective country. Coop and the Institute for Human Rights and Business published their findings in 2017.¹⁰

- The Mary River HRIA was conducted in the context of a public hearing process for the environmental and social impact assessment of a proposed mine, and its findings were published in a stand-alone report that was submitted to the regulator. The Mary River HRIA is an ex-ante assessment, meaning that the HRIA was conducted prior to approval of the construction of the mine. This enabled rights-holders and other stakeholders to engage throughout the process and provide input to the report prior to the establishment of the project.¹¹
- NomoGaia, a nonprofit research and policy organisation focused on corporate responsibility, publicly reports on its HRIAs. NomoGaia's 2011-2012 human rights risk assessment of Tullow Oil Plc operations in western Uganda was not immediately published; instead, Tullow was given the opportunity to manage risks and report back. In 2014, NomoGaia followed up and released both the original 2012 findings and the new 2014 literature and policy review.¹²
- NomoGaia's impact assessment of the Disi Water Conveyance Project in Jordan commenced in 2011 while the pipeline was under construction. In 2014, NomoGaia followed up on the project, with a focus on impacts to water users in Amman. The follow-up report included information that NomoGaia collected on Jordan's water sector over the course of five years.¹³

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

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

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

practitioners should strive to ensure that stakeholder engagement is inclusive, culturally appropriate, and gender-responsive. Finally, it should explicitly seek out the views of any vulnerable groups that may be adversely affected by the business project or activities.¹⁴

When reporting, the assessment team should take the following steps to ensure that the report accurately reflects the communities' experiences:¹⁵

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

See [Stakeholder Engagement](#) for more information on engaging with communities.



5.3 CHALLENGES WHEN REPORTING ON HRIA PROCESSES AND FINDINGS

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

HRIA assessment teams and businesses should carefully balance transparency with the necessary protections for rights-holders in terms of confidentiality and sensitivity of information. It is of utmost importance that any HRIA reporting does not pose risks to the rights-holders involved, for example, through the disclosure of sensitive information that could result in retaliation against participating rights-holders. Even when rights-holders give informed consent, HRIA teams should evaluate risk of harm to participants and communities. The business should have well-reasoned, defensible justifications for excluding information from the HRIA report. Even if some information is withheld from the public report, it may be appropriate to share this information with rights-holders, investors and regulators.¹⁶

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



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

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

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



5.4 CONTENT OF A HRIA REPORT¹⁷

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

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

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

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

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

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



5.5 EVALUATION AND CONTINUOUS IMPROVEMENT

Undertaking a HRIA is to be recognised as a commitment to human rights, and as such, the process is not concluded with the publication of a final report. Human rights situations are dynamic, and it is therefore important that the assessment includes measures for evaluation and continuous improvement.¹⁸

The evaluation stage consists firstly of an assessment of the HRIA process itself. The objective of the evaluation is to identify and determine to what extent the HRIA has met the initial objectives. During this process, it is key to consider whether the actions to address the identified impacts (i.e., measures to prevent, mitigate and remediate impacts) have been duly implemented and are effective.¹⁹

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

back at lessons learned, thereby facilitating ongoing improvement of HRIA processes.²⁰

It is important to ensure the continuous improvement of the company's performance. The assessment team will, in most cases, only be involved until all initial issues have been assessed and suitable systems have been put in place to address them.²¹ To overcome potential claims of bias in an ex-post HRIA, the company might find it useful to seek verification from a suitable and qualified third party (e.g., an external consultant or an organisation with a proven record of working on improving companies' human rights due diligence processes).²²

Periodic review of the business project or activities will facilitate addressing any issues that may arise after the assessment. Periodic review conducted every three to five years, depending on the size and scope of the project, also serves the purpose of determining if the HRIA methodology used is up to date with current international good practice.²³

ENDNOTES

- ¹ See, e.g., Nora Götzmann (2019), 'The concept of accountability in HRIA' in Nora Götzmann (Ed) *Handbook on Human Rights Impact Assessment*, Cheltenham: Edward Elgar; Kendyl Salcito (2019), 'Company-commissioned HRIA: Concepts, practice, limitations and opportunities' in Nora Götzmann (Ed) *Handbook on Human Rights Impact Assessment*, Cheltenham: Edward Elgar.
- ² Alejandro Gonzales (2014), *Evaluating the Human Rights Impacts of Investment Projects: Background, Best Practices, and Opportunities*, Mexico and New York: The Poder Project.
- ³ UN Guiding Principle 21 commentary.
- ⁴ World Bank and Nordic Trust Fund (2013), *Human Rights Impact Assessments: A Review of the Literature, Differences with other forms of Assessments and Relevance for Development*, Washington: World Bank and Nordic Trust Fund.
- ⁵ European Coalition for Corporate Justice (2018), *Key Features of Mandatory Human Rights Due Diligence Legislation*, Brussels: ECCJ.
- ⁶ BSR (2017), *Human Rights Impact Assessment: Telia Sweden*, Copenhagen: BSR.
- ⁷ Kuoni Travel Holding Ltd., TwentyFifty Ltd., and Tourism Concern (2012), *Assessing Human Rights Impacts: Kenya Pilot Project Report*, Zurich: Kuoni Travel Holding Ltd.; Kuoni Travel Holding Ltd. (2014), *Assessing Human Rights Impacts: India Project Report*, Zurich: Kuoni Travel Holding Ltd.
- ⁸ On Common Ground Consultants Inc., commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Assessment of the Marlin Mine (2010), *Human Rights Assessment of Goldcorp's Marlin Mine*, Canada: On Common Ground Consultants Inc.
- ⁹ Tulika Bansal and Yann Wyss (2013), *Taking the Human Rights Walk, Nestlé's Experience Assessing Human Rights Impacts in its Business Activities*, Copenhagen: DIHR and Nestlé, p.25.
- ¹⁰ Institute for Human Rights and Business (2017), *Human Rights Impact Assessment: A report about the East African coffee sector in: Kenya, Uganda, the Democratic Republic of the Congo, Rwanda, Ethiopia and Burundi*, Albertslund: Coop.
- ¹¹ Lloyd Lipsett and Zacharias Kunuk (2015), *Human Rights Impact Assessment of the Mary River Mine*, p.13.
- ¹² NomoGaia (2014), 'Tullow in Uganda – Human Rights Risks (Then and Now)'. [online]. Available from: <http://nomogaia.org/2014/12/tullow-uganda-human-rights-risks-now/>
- ¹³ NomoGaia (2015), *Human Rights Risk Assessment: Disi Water Conveyance Project Financial Sector Perspective*, Denver: NomoGaia.
- ¹⁴ Desiree Abrahams and Yann Wyss (2010), *Guide to Human Rights Impact Assessment and Management*, Washington: International Business Leaders Forum, International Finance Corporation and UN Global Compact.
- ¹⁵ Rights & Democracy and Oxfam America (2010), *Community-based Human Rights Impact Assessment: Practical Lessons*. Québec: Rights & Democracy and Oxfam America.
- ¹⁶ Danish Institute for Human Rights (2017), *Human Rights Impact Assessment and Legal Advisory Work: Frequently Asked Questions*, Copenhagen: DIHR.

¹⁷ This section is adapted from: Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), *Social Impact Assessment: Guidance for Assessing and Managing the Social Impacts of Projects*, Fargo ND: International Association for Impact Assessment.

¹⁸ UN Guiding Principle 18 commentary.

¹⁹ World Bank and Nordic Trust Fund (2013), *Human Rights Impact Assessments: A Review of the Literature, Differences with other forms of Assessments and Relevance for Development*, Washington: World Bank and Nordic Trust Fund.

²⁰ Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), *Social Impact Assessment: Guidance for Assessing and Managing the Social Impacts of Projects*, Fargo ND: International Association for Impact Assessment.

²¹ Drawing on: Ibid.

²² Desiree Abrahams, and Yann Wyss (2010), *Guide to Human Rights Impact Assessment and Management*, Washington: International Business Leaders Forum, International Finance Corporation and UN Global Compact, p.59.

²³ Drawing on: Frank Vanclay, Ana Maria Esteves, Ilse Aucamp and Daniel M. Franks (2015), *Social Impact Assessment: Guidance for Assessing and Managing the Social Impacts of Projects*, Fargo ND: International Association for Impact Assessment.

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