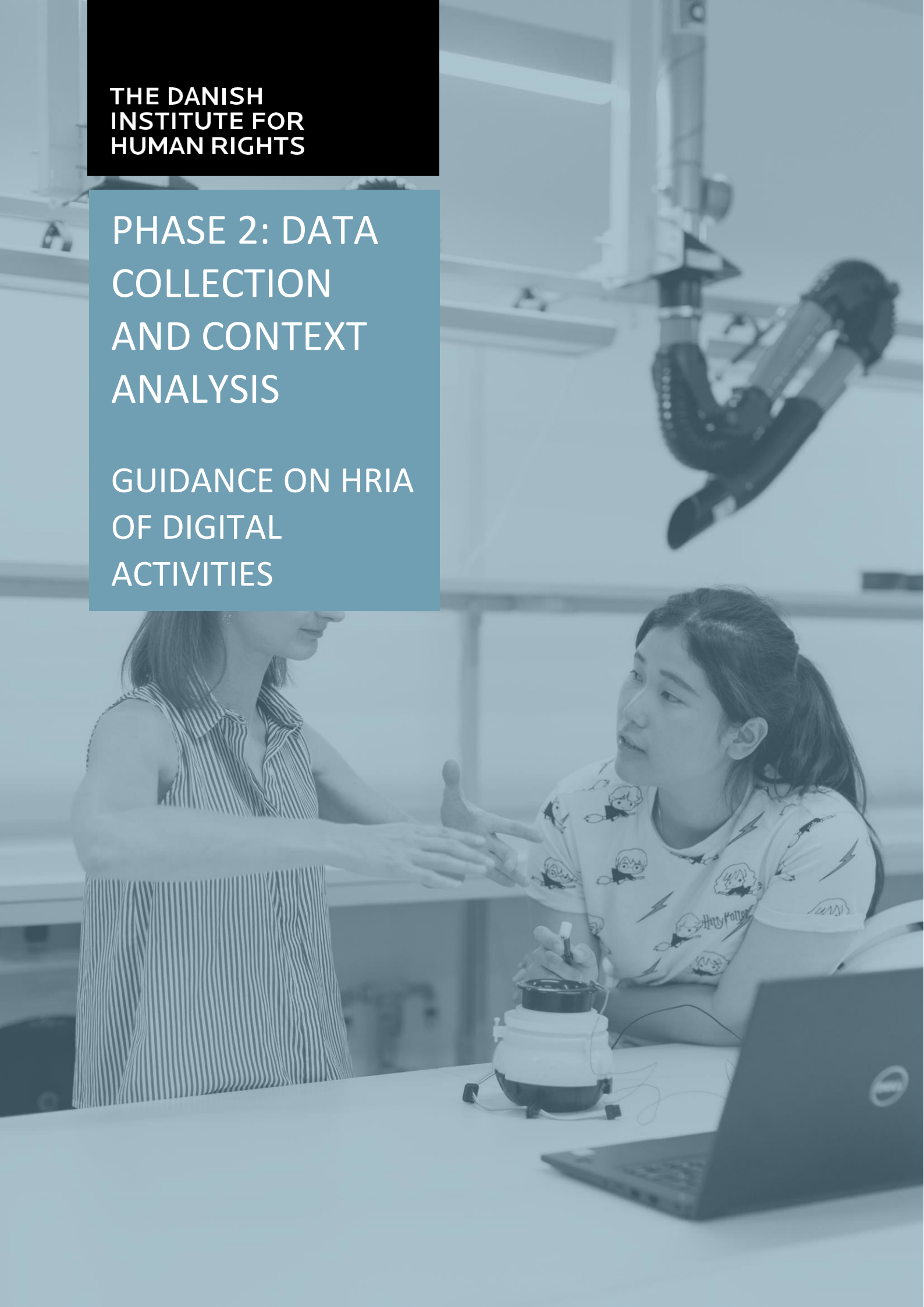


THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

## PHASE 2: DATA COLLECTION AND CONTEXT ANALYSIS

GUIDANCE ON HRIA  
OF DIGITAL  
ACTIVITIES



## PHASE 2: DATA COLLECTION AND CONTEXT ANALYSIS

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This document contains the Phase 2: Data Collection and Context Analysis section of the Guidance on Human Rights Impact Assessment of Digital Activities (the Guidance).

You can access the full version of the Guidance at:

<https://www.humanrights.dk/publications/human-rights-impact-assessment-digital-activities>

## A NOTE ON THIS VERSION

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

The preparation of this Guidance included a workshop in Denmark in November 2019, during which 20 expert reviewers participated in a discussion on human rights impact assessment of digital activities i.e. digital projects, products and services.

It is anticipated that in 2020-2021, a Phase II of the project will focus on applying the Guidance in practice, the gathering and sharing of learning, and subsequently updating the Guidance based on experiences from practice.

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

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## PHASE 2

# DATA COLLECTION AND CONTEXT ANALYSIS

### WHAT HAPPENS IN PHASE 2?

During phase 2, data collection and context analysis, the HRIA team gathers primary data (in-person or virtually) from stakeholders on the human rights enjoyment of users, other potentially and/or actually impacted rightsholders, vulnerable groups in particular. While the scoping phase primarily relies on desktop research and analysis of secondary sources and data, this phase emphasises primary data collection, interviews (in-person or virtual) and other types of stakeholder engagement.

Through gathering primary data and additional secondary data, the assessment team can develop a context analysis which documents the current state of human rights enjoyment in the relevant context. The context analysis helps the HRIA team identify actual impacts and better predict future impacts.

The focus on specific human rights to inform the data collection, as well as subsequent impact prevention, mitigation and remediation, should also take place in this phase. The HRIA team should use both qualitative and quantitative indicators at the structural, process and outcome levels.

Sufficient resources need to be allocated to the data collection phase to ensure quality of findings and to allow rightsholders to participate at their own pace and on their own terms. It is important that enough time is allocated for this phase to allow for meaningful engagement, as well as to make sure that rightsholder priorities and perceptions are fully taken into account in the impact prevention, mitigation and remediation phase (see Phase 4).



#### KEY QUESTIONS ADDRESSED IN THIS SECTION:

- What is a context analysis in relation to HRIA?
- How can human rights standards and principles inform data collection and context analysis development?
- What are human rights indicators and how can they be used in HRIA?

## 11 1 DEVELOPING A CONTEXT ANALYSIS

Collecting ‘context data’ is critical to enable the analysis of actual and potential human rights impacts of digital projects, products and services. Some HRIA literature and methods also refer to this phase as the ‘*evidence gathering*’ phase, and within other fields of impact assessment it is often referred to as ‘*baseline study*’<sup>1</sup> or ‘*baseline development*’.<sup>2</sup> Developing a context analysis consists of the targeted gathering of socio-economic, political and other such data to understand the current state of human rights enjoyment within the relevant context (e.g. country, region, locality). This **data can then be analysed to determine what human rights impacts have occurred as a result of the digital project, product or service** (in the case of ex-post assessments<sup>3</sup>) and from which future impacts can be predicted (in the case of ex-ante<sup>4</sup> and ex-post assessments).

Based on the initial identification of human rights issues in the scoping phase, data needs to be collected in this second phase to inform the subsequent analysis of impacts. During the scoping phase, a wide range of potential impacts of the digital project, product or service will have been identified, which will set the parameters for the data to be collected in phase two. **The context analysis builds on the scoping phase by elaborating the analysis through further research, in particular through collection of primary data and extensive stakeholder engagement, which can be both in-person and virtual.**

Whilst the context analysis should **focus on the key human rights issues that have been identified during the scoping phase**, it should always allow additional issues that emerge to be integrated, reflecting the iterative nature of a HRIA process. **Rightsholder groups and representatives may highlight different concerns than those identified in the scoping phase**, in which case those concerns must be equally taken into account.

The selection of targeted human rights indicators can help inform data collection, as well as subsequent impact mitigation and management for tracking changes over time.

Box 1, below, explains the role of a context analysis, benchmarks and indicators in HRIA in more detail.

### BOX 1: CONTEXT ANALYSIS, BENCHMARKS AND INDICATORS IN HRIA

#### What is a **context analysis**?

- An **evidence-based description of human rights enjoyment in practice** at a specific point in time.
- The description of human rights enjoyment is **benchmarked against rights in regional and international human rights instruments and domestic law**.<sup>5</sup> It consists of the information about socio-economic, political and other data based on which actual and potential impacts of the digital project, product or service can be assessed.
- It includes a **detailed description of the stakeholders involved**, in particular the users and other rightsholder groups who are or may be impacted.
- It is **developed through primary data collection (physical or virtual)** and other forms of stakeholder engagement.
- It is important to note that a context analysis is **not considered a 'neutral' point of comparison**<sup>6</sup> which uncritically accepts the digital activities as long as they do not worsen the current human rights situation. Instead, the context analysis should both characterise the current level of human rights enjoyment and serve as a tool to address potential future impacts.<sup>7</sup>

#### What is a **benchmark**?

- It can be a **target as well as a point of comparison**.
- In the case of HRIA, the benchmark used needs to be **based on international human rights standards**, as enshrined in international instruments and elaborated in jurisprudence, reports from special rapporteurs, regional human rights frameworks and international bodies such as the UN.

#### What are **indicators**?

- They are **specific information (quantitative and/or qualitative) on the state or condition of an object, event, activity or outcome** that can be related to internationally recognised human rights norms and standards.
- Indicators **can be used to measure and identify human rights impacts**, as well as describe and compare situations.

- Consequently, they **can help with early impact identification and measuring change over time**, if they are used in combination with benchmarks and data is produced on a periodic basis.<sup>8</sup>

Developing and using a context analysis will be slightly different depending on whether the assessment occurs before a product or service is used or applied in a particular context (**ex-ante assessment**) or after a product or service has already been used and applied (**ex-post assessment**). Table A, below, provides a description and examples of the difference.

**TABLE A: THE ROLE OF A CONTEXT ANALYSIS IN EX-ANTE AND EX-POST HRIA**

ASSESSMENT	EX-ANTE	EX-POST
Description of role of context analysis	In the case of an <i>ex-ante</i> assessment, the data collected will be used to predict any potential future human rights impacts. The HRIA team considers the data and forecasts change, with reference to the benchmark of international human rights standards. Based on the prediction of impacts, the data should also inform the selection of human rights indicators, against which predicted change and any measures to address the predicted impacts can then be measured and tracked over time.	In the case of <i>ex-post</i> assessment, the data collected can be used to assess and address both actual impacts (i.e. impacts that have already occurred) as well as potential impacts (i.e. impacts that may occur in the future). Based on the issues identified, suitable human rights indicators are selected and measured in order to track changes over time and discern which impacts relate to the digital business project, activities or products.
Example	It may here serve to look at the <a href="#">assessment of Google’s Celebrity Recognition API</a> . In that case, Google was developing a facial recognition technology that would be used in the media and entertainment industry to	A similar ex-post scenario would be if the facial recognition technology had already been developed and launched. It would then be important to consider the actual use-cases and application of the



identify celebrities in video content. This was identified to, among other things, have the potential of negatively impacting children's rights, since the API could be used to reduce the diversity of content available for children.

For a context analysis in a similar situation, it would be important to identify the specific risks to children, including considering scenarios where the facial recognition would be applied to children, who the users of the technology could be, and so forth. It would also be important to combine this with contextually relevant information (e.g. how often children would feature in the relevant video content, and what acceptable privacy standards for children might be in the specific country context). Analysing the risks to children in different use-cases of the technology, will inform the design of measures to avoid and mitigate potential impacts to children.

technology, to see how (if at all) children's rights have been impacted. That would include considering contextually relevant information (e.g. what parents and carers perceive to have been the impact). International human rights standards on the right to privacy in combination with relevant children's rights would be used as the benchmark against which to compare the data collected, in order to determine whether a human rights impact has occurred or not. Note however, that in an ex-post assessment it remains equally relevant to predict future impacts as in the ex-ante assessment. The difference is the data available to make those predictions.

## 12 2 STAKEHOLDER ENGAGEMENT AND A HUMAN RIGHTS-BASED APPROACH TO DATA COLLECTION

A human rights-based approach (HRBA) incorporates human rights standards into the data collection process itself. The OHCHR has formulated **six aspects of a HRBA to data collection**: participation, data disaggregation, self-identification, transparency, privacy and accountability.<sup>9</sup> Applying this thinking to HRIA, the following points may guide HRIA teams.

Figure 1: Human rights-based approach to data

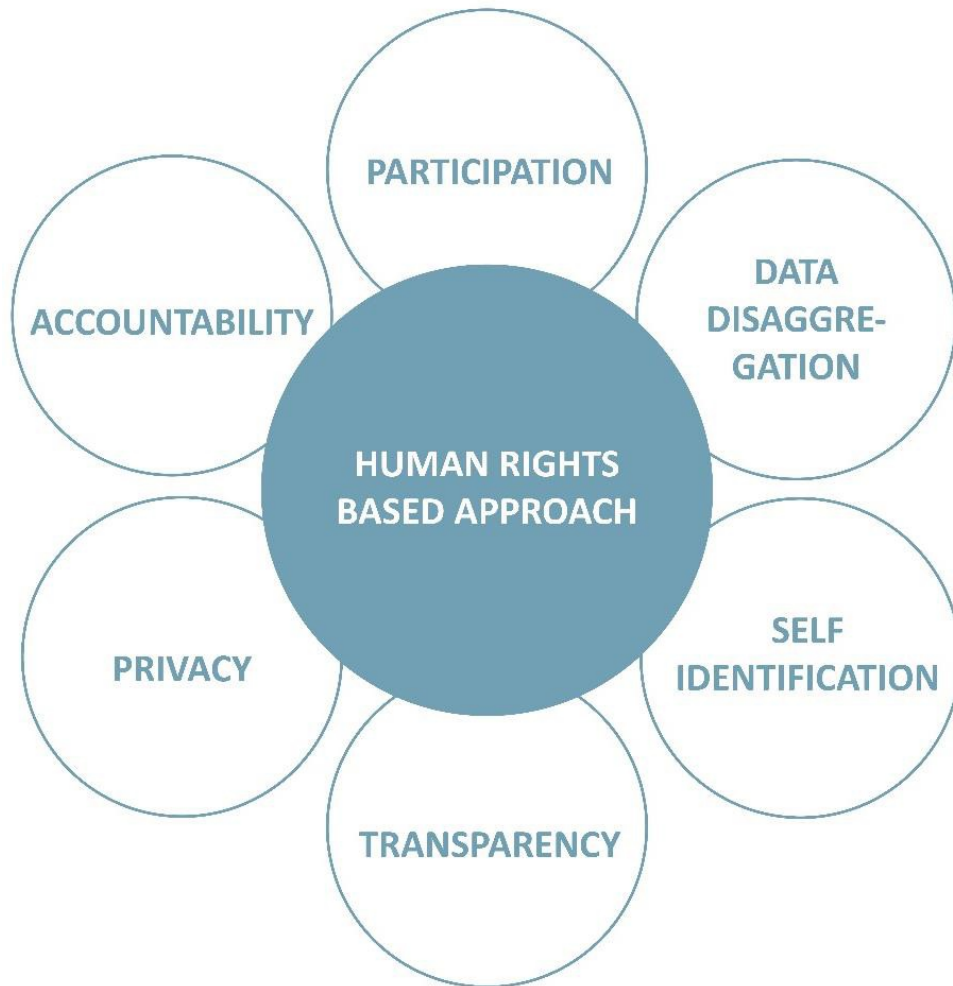


TABLE B: HUMAN RIGHTS-BASED APPROACH TO DATA COLLECTION		
HRBA ASPECT	EXPLANATION	DIGITAL ACTIVITIES EXAMPLE
<b>Participation</b>	Relevant stakeholders and rightsholders (can be in the form of proxies or representatives, see Stakeholder Engagement)	If it is identified that a 'smart recruitment system' may lead to discriminatory outcomes that impact women, women

	<p>section) should be included in the data collection process.<sup>10</sup> In practice, this means that HRIA teams should take a gender-sensitive approach and place special emphasis on those individuals and groups who may be vulnerable or marginalised, such as women, children, persons with disabilities, older persons, LGBT+ people, migrants and refugees.</p>	<p>rightsholders and women’s rights groups should be directly involved in the data collection process.</p>
<b>Data disaggregation</b>	<p>Disaggregation of data allows researchers to compare inequalities of impacts between different population groups. Simple averages of data can mask underlying disparities. Disaggregated data, by contrast, can show differential human rights impacts between groups.<sup>11</sup></p>	<p>Data collected may show that only a very small part of those subjected to algorithmic credit risk scoring believe they have faced discrimination, suggesting the issue is of a small scope. Disaggregated data, by contrast, may show that one ethnic minority in particular have been the main source of all grievances.</p>
<b>Self-identification</b>	<p>In line with the overarching principle of “do no harm”, data collection should not have a negative impact on participants. Participants must have the option to freely define their identities, as well as the ability to choose whether to withhold or disclose information about their characteristics.<sup>12</sup></p>	<p>If an identified potential impact is online abuse of LGBT+ individuals, direct collection with individuals from the rightsholder group must allow for the individuals themselves to decide whether to disclose any information about their characteristics in the data collection process.</p>
<b>Transparency</b>	<p>HRIA teams should be clear about the assessment process, including the</p>	<p>If online surveys are used in a HRIA process, it should be completely clear for all</p>

	<p>methodology used and the purpose of the HRIA. This also includes being transparent about the data collection process itself—e.g. which stakeholders were engaged and how they were selected. It should also be clear what the HRIA team will do and what it cannot achieve nor promise.</p>	<p>survey participants what they are participating in, how their responses are being handled, how their privacy is being safeguarded, what outcomes that may lead to, etc.</p>
<b>Privacy</b>	<p>Data collected must be kept confidential, and researchers must ensure that individual participants cannot be identified from any data the researchers publish or otherwise use.<sup>13</sup> This is especially important in the case of HRIA, where issues may be sensitive and participants might face risk of retaliation. Accordingly, researchers must take strong measures for data protection, both with regard to personal information about the participants as well as their responses.</p>	<p>HRIAs of digital activities might allow for virtual engagement activities where the communication can be encrypted, in order to ensure greater privacy for the participants.</p>
<b>Accountability</b>	<p>The information collected during the data collection process should be used to hold duty-bearers (in the case of HRIA, most prominently states and business actors) accountable for their human rights impacts. Researchers collecting data should also be held accountable for the</p>	

quality and reliability of data.<sup>14</sup>

The UN Guiding Principles emphasise the importance of consulting with individuals and communities affected by a company’s operations and business activities, especially as part of the human rights due diligence process. By identifying risks and users’, communities’ and customers’ and other rightsholders’ concerns, effective stakeholder engagement **can help businesses prevent, mitigate or remedy their negative human rights impacts.**<sup>15</sup>

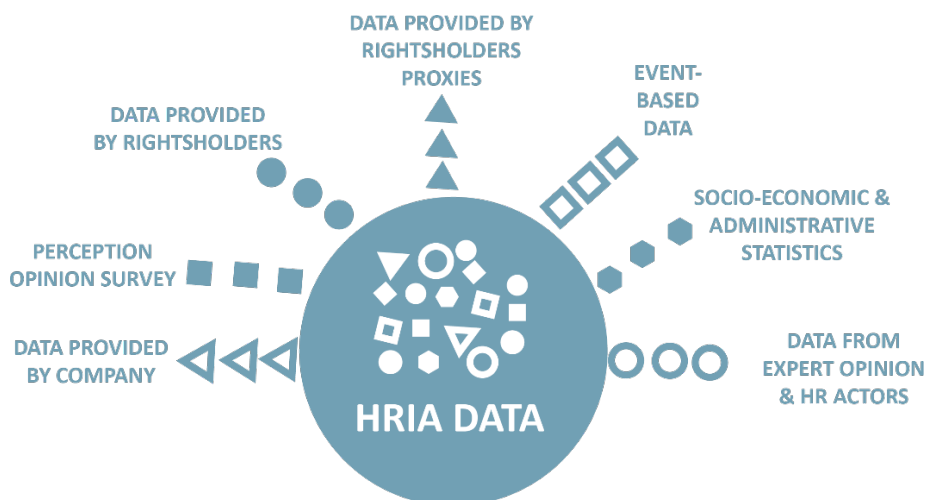
A number of different guidance and tools have emerged in recent years focusing on particular stakeholder groups to engage with during HRIA. See the cross-cutting Stakeholder Engagement section of the Guidance, especially chapter 1.3, is of particular relevance to this phase.

### 13 3 SOURCES FOR DATA COLLECTION

When collecting data for HRIA, it is **important to draw on a variety of sources.** While some data can come from pre-existing sources such as statistics, reports and previous impact assessments, it is important to note that there are limitations to such data sources. Often, **impact assessments can uncover gaps in statistical data.** Such limitations illustrate the **importance of primary data collection through extensive stakeholder engagement,** with particular focus on rightsholders, in the form of e.g. in-person interviews and focus groups, as well as virtual engagement activities.

Figure 2 and Table C, below, provides an overview of some common sources of data which can be used for data collection and selection of indicators.

Figure 2: Types of data to collect



**TABLE C: EXAMPLES OF TYPES OF DATA FOR HRIA**

TYPE OF DATA	DESCRIPTION	EXAMPLE
<p><b>Data provided by rightsholders</b></p>	<p>Data provided by rightsholders offers direct access to information on actual levels of rights enjoyment, including whether they have been (or could be) affected by the digital project, product or service, and if so, how. More specifically, rightsholders may be able to describe and give a direct comprehensive overview on actual and potential human rights impacts, as well as specific data pertaining to such impacts.</p>	<p>Rightsholders can provide detailed, qualitative accounts on the types of harassment they face online, how their published content has been removed, how their workplace has introduced ‘smart’ workplace monitoring systems, and so forth.</p> <p>However, it is important to note that for certain complex issues, rightsholders may not be able to immediately identify negative impacts or the causal link between the impact and the digital product or service (e.g. discriminatory practices in algorithmic credit risk scoring), or may not perceive the impacts as negative to their human rights (e.g. excessive data collection that may lead to negative impacts in the future but that currently seem harmless to some individuals).</p>
<p><b>Data provided by rightsholder proxies</b></p>	<p>In some occasions, particularly during ex-ante assessments— e.g. during the development of a new digital project, product or service—it may be</p>	<p>A civil society organisation working on algorithmic accountability and discrimination against ethnic minorities might be</p>

**TABLE C: EXAMPLES OF TYPES OF DATA FOR HRIA**

TYPE OF DATA	DESCRIPTION	EXAMPLE
	<p>necessary to engage and consult with rightsholder proxies since the number of potentially impacted rightsholders may be very large and the ability of rightsholders to identify potential future negative impacts on human rights related to such a project, product or service may be limited.</p> <p>Rightsholder proxies—such as civil society organisations working on digital rights issues, algorithmic accountability, or fair machine learning—may be able to predict potential future impacts based on their experiences and such data is therefore invaluable.</p>	<p>able to point out specific human rights risks related to the planned use-cases of an algorithm that is supposed to assist banks with credit risk scoring.</p>
<p><b>Data provided by company</b></p>	<p>Companies developing or using digital products and services will in most cases themselves have access to a lot of data that can be used to assess human rights impacts. Internal systems will be able to provide a lot of this critical data and these ‘data traces’ should be used to the greatest extent possible to assess potential and actual human rights impacts. An overview should ideally be provided regarding the data that has</p>	<p>This may include: how have individuals been targeted with advertising; what content has been removed and the users that have published it; or simply what kind of data has been collected and whether the collection itself has impacted the right to privacy.</p>

TABLE C: EXAMPLES OF TYPES OF DATA FOR HRIA		
TYPE OF DATA	DESCRIPTION	EXAMPLE
	been used and the data that has not been used, including which data was not made available to the HRIA team.	
<b>Events-based data</b>	Events-based data links with specific occurrences relevant to human rights, such as internet or network shutdowns, or leaks of personal data. This information can be collected through desktop research and other forms of direct data collection. Data sources can include testimonies by those directly harmed and those close to them, as well as information from the media, State agencies, NGOs and CSOs, national human rights institutions, academic works and international human rights monitoring mechanisms (e.g. Universal Periodic Review, relevant treaty bodies and UN special procedures <sup>16</sup> ).	If a social media platform has had its cybersecurity compromised, and a lot of personal data has leaked, it may be possible to identify which personal data has been leaked and whether it has included specific sensitive data. It might also be possible to identify the system's weaknesses.
<b>Socio-economic and administrative statistics</b>	Socio-economic and administrative statistics are data or indicators based on quantitative or qualitative information related to the various living conditions of the population. At the national level, it is the State that compiles this information, though national human rights	This might concern data regarding urban and rural divides in terms of internet accessibility.



**TABLE C: EXAMPLES OF TYPES OF DATA FOR HRIA**

TYPE OF DATA	DESCRIPTION	EXAMPLE
	<p>institutions may also be involved. At the international level, the UN and international conferences and summits have played an important role in the development of socio-economic statistics. The sources are often referred to as administrative data, statistical surveys and census data.</p>	
<p><b>Perception and opinion surveys</b></p>	<p>Perception and opinion surveys are often considered a necessary source in HRIA because they assist with ensuring the participation of rightsholders and other relevant parties in the process. Qualitative and subjective in nature, these sources of data are key for identifying and analysing the impacts that rightsholders might be experiencing, as well as for discussing, understanding and designing measures to prevent, mitigate and remediate these impacts. This data can be collected through interviews, focus groups, surveys and consultation with relevant stakeholders such as rightsholders, subject matter experts and intergovernmental organisations.</p>	<p>There are ways of using existing mechanisms to collect this data, such as adapting user testing to include questions around relevant human rights issues.</p>

**TABLE C: EXAMPLES OF TYPES OF DATA FOR HRIA**

TYPE OF DATA	DESCRIPTION	EXAMPLE
<p><b>Data from expert opinions and human rights actors</b></p>	<p>Data based on expert judgements is generated by actors and organisations that are considered to have a certain informed expertise. In the case of HRIA, human rights actors in particular should be drawn on as sources of data. These experts might include organisations, institutions, individuals and mechanisms working in the field of human rights and digital technologies, such as: human rights NGOs and CSOs; national human rights institutions; academics; and government, regional and UN human rights experts. Human rights actors can play an important role in HRIA, as they have insights into how international human rights norms play out in specific contexts.</p>	<p>For example, the UN Special Rapporteur on freedom of expression, the Special Rapporteur on racism, and the Special Rapporteur on right to privacy have all published various reports that concern human rights and digital projects, products and services.</p>

Source: OHCHR (2012), “*Human Rights Indicators: A Guide to Measurement and Implementation*” HR/PUB/12/5; Walker (2009), “*The Future of Human Rights Impact Assessments of Trade Agreements*”, Human Rights Research Series vol.35, p.37.

## 14 4 INTRODUCTION TO HUMAN RIGHTS INDICATORS

*“A human rights indicator is specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion or implementation of human rights.”<sup>17</sup>*

Human rights indicators can be both **quantitative and qualitative** and should be **based on human rights standards and principles**. They can be used to measure

human rights impacts on the full range of human rights (incl. civil and political and economic, social and cultural rights). Furthermore, indicators can be **applied to describe and compare situations**, which can be useful for identifying adverse impacts as early as possible, as well as for measuring change over time.<sup>18</sup>

**As an example**, a country might have strong constitutional protections of the right to freedom of expression (indicator A), whereas the public perception of that protection might, due to e.g. new specific laws on cyberterrorism, significantly decrease (indicator B). By looking at the two indicators, it is possible to identify a potential decrease in the enjoyment of the right to freedom of expression.

In HRIA, selecting a set of indicators based on the scoping phase can be a **useful way to frame subsequent data collection and context analysis**. The indicators selected can then also be used in mitigation and monitoring to **track whether the measures proposed to address impacts are effective or not**. The consistent use of specific indicators can also facilitate comparative analysis between the launch of the same digital product or service in different country contexts. Whilst the HRIA process may involve the design of specific indicators based on the context, there are a number of existing resources that can be drawn on in the selection of human rights indicators for HRIA.

Box 2, below, provides some reflections on the rationale for using indicators in HRIA and notes some of the limitations.

#### **BOX 2: USING HUMAN RIGHTS INDICATORS TO ASSESS THE HUMAN RIGHTS IMPACTS OF BUSINESS: POSSIBILITIES AND LIMITATIONS**

According to UN Guiding Principle 20, business enterprises should track the effectiveness of their response in order to verify whether adverse human rights impacts are being addressed. In addition, “[t]racking should... [b]e based on appropriate qualitative and quantitative indicators.”

The selection and application of relevant human rights indicators in HRIA can:

- **Offer a structured way to collect relevant data**, thereby also informing the analysis of human rights impacts, subsequent mitigation and ongoing monitoring.
- Help to **ensure that the assessment is comprehensive and clearly based on international human rights standards and principles**.
- Help human rights experts identify and **assess whether a company is meeting its responsibility to respect these standards**.

- Allow businesses, rightsholders and other stakeholders to assess the corporate policies, procedures and practices regarding human rights that are explored in HRIA, thereby **contributing to accountability by offering a way to track responses to potential and actual adverse human rights impacts**.

#### **What are some of the limitations of indicators?**

While indicators are a useful tool in HRIA, analysis of human rights impacts cannot rely on indicators and other types of ‘measurements’ alone, as the analysis of human rights impacts **will always require qualitative and description-based analysis**. As noted by OHCHR “[i]ndicators are tools that add value to assessments with a strong qualitative dimension; they do not replace them.”<sup>19</sup> Essentially, indicators **can be helpful in providing HRIA practitioners with so-called ‘red flags’**, which should then ultimately be further investigated using qualitative methods—consulting relevant rightsholders, duty-bearers and other relevant parties in order to fully understand any actual and potential human rights impacts

It should be noted that the use of indicators to measure human rights implementation, impacts and changes over time is **still an evolving field**. A key reference framework, however, is **the human rights indicator framework developed by the Office of the High Commissioner for Human Rights**.<sup>20</sup> This framework has taken a two-step approach to the development of sets of indicators for different rights. The first step involves establishing the normative content of specific international human rights (i.e. the attributes of the right) as they have been elaborated in international human rights treaties and conventions, general comments, the reports of special procedures, international and domestic human rights jurisprudence (e.g. adjudication of human rights in regional human rights courts, or under constitutional provisions at the domestic level) and so forth.

**As an example**, the Special Rapporteur on Freedom of Opinion and Expression has clarified that “all private [...] development and deployment of AI should provide opportunities for civil society to comment”, that “[c]ompanies should reiterate in corporate policies and technical guidance to engineers, developers, data technicians, data scrubbers, programmers and other involved in the AI life cycle that human rights responsibilities guide all their business operations”, and that “terms of service of platforms should be based on universal human rights principles”<sup>21</sup>. All of these statements can be used in the development of human rights indicators.

Based on this normative content, the framework **separates indicators for measuring human rights implementation into structural, process and outcome**

**indicators.** The framework from the OHCHR is state-based—it seeks to target measuring human rights implementation by States, rather than businesses. However, the structure adopted by the Danish Institute for Human Rights’ Human Rights Indicators for Business<sup>22</sup>, as well as adaptations of this, e.g. the human rights risk assessment tool for domain name registrars and registries developed by the Danish Institute for Human Rights and ARTICLE 19<sup>23</sup>, follows a similar logic while specifying the application to businesses rather than States, by using the structure of **policy**, **process**, and **impact**. Both of these frameworks can serve as useful resources for HRIA practitioners in developing and selecting indicators for HRIA.

Table D, below, provides an overview of different types of indicators and how they can be applied in HRIA.

**TABLE D: EXAMPLES OF DIFFERENT INDICATORS FOR HRIA**

INDICATOR TYPE	DESCRIPTION	EXAMPLES	USAGE IN HRIA
Quantitative	Quantitative indicators refer to attributes of a situation, process or activity to which a number, percentage, ratio or other statistical descriptor can be attached. They can be drawn from data systems and records that already exist or are specifically collected—e.g. during consultations with rightsholders or their proxies. This includes indicators that are facts based and those that are opinion based.	<ul style="list-style-type: none"> <li>• Number of government requests to remove, filter, or restrict content or accounts.</li> <li>• Number of pieces of content that have been restricted in order to enforce a company’s terms of service.</li> <li>• Amount of content that has been curated, recommended and/or ranked through the application of algorithmic decision-making systems.</li> <li>• Total number of bots on a digital platforms or service.</li> <li>• The period of time that a business retains user information.</li> <li>• Proportion of employees that have completed human rights training relevant to their function.</li> <li>• Number of reported data breaches.</li> </ul>	When identifying and assessing human rights impacts, both quantitative and qualitative data are relevant. Quantitative indicators provide numerical evidence, whereas qualitative indicators add context in the form of descriptions, opinions and experiences. This context is often essential in understanding the full nature of a human rights impact. For example, quantitative data may show that all rightsholders have access to grievance mechanisms. However, qualitative data can provide the context regarding: accessibility (e.g. can all rightsholders access the mechanisms without technical barriers), and affordability

**TABLE D: EXAMPLES OF DIFFERENT INDICATORS FOR HRIA**

INDICATOR TYPE	DESCRIPTION	EXAMPLES	USAGE IN HRIA
Qualitative	Qualitative indicators refer to attributes of a situation, process or activity whose status or condition are determined by an experience expressed as a story. Data to measure these indicators may be gathered through methods such as interviews, focus groups, surveys, workshops and user testing. This includes indicators that are facts based and those that are opinion based.	<ul style="list-style-type: none"> <li>• The concerns expressed by rightsholders in relation to content and account restrictions.</li> <li>• The concerns raised by rightsholders in relation to privacy online.</li> <li>• The experiences of rightsholders expressing satisfaction with consultation processes.</li> <li>• The concerns expressed by community members in relation to the level of respect for human rights in illustrate by companies developing or using the digital project, product or service.</li> </ul>	(e.g. can low-income rightsholders afford to spend the time necessary to use the grievance mechanisms).
Structural (policy)	Structural indicators are commitment indicators that seek to measure level of intent.	<ul style="list-style-type: none"> <li>• Date of implementation and coverage of corporate policy regarding human rights.</li> <li>• Commitment from top management to human rights and specific salient human rights issues relevant to digital projects, products or services.</li> </ul>	Structural, process and outcome indicators examine different aspects related to human rights impacts, and therefore serve different but inter-related purposes.

**TABLE D: EXAMPLES OF DIFFERENT INDICATORS FOR HRIA**

INDICATOR TYPE	DESCRIPTION	EXAMPLES	USAGE IN HRIA
Process (procedure)	Process indicators seek to measure the level of effort by the business in respecting human rights.	<ul style="list-style-type: none"> <li>• Company procedures clearly outline process for responding to third-party requests for user information.</li> <li>• Net expenditure on implementation, integration and ‘enforcement’ of human rights policies and procedures.</li> <li>• Existence of a grievance mechanism, whether the mechanism looks at human rights and information for rightsholders on how to access it.</li> </ul>	<p>Outcome indicators are critical in HRIA, as they establish what impacts have occurred or may occur that can be attributed to the digital business activities.</p> <p>Structural and process indicators complete the picture by providing insight to the management commitments and human rights governance structures that are in place, or need to be put in place, in order to effectively manage the impacts identified.</p>
Outcome (impact)	These indicators assess impacts, thereby evaluating whether company efforts in meeting their responsibility to respect human rights have been effective or not.	<ul style="list-style-type: none"> <li>• Proportion of social media users or video game players that are reportedly addicted to the product or service provided (disaggregated by sex, disability and other relevant grounds).</li> <li>• Percentage increase in discrimination complaints launched since the implementation of automated</li> </ul>	<p>Some process indicators will also speak directly to substantive human rights (e.g. access to remedy, access to information or participation), as well as human rights principles such as transparency, non-</p>



**TABLE D: EXAMPLES OF DIFFERENT INDICATORS FOR HRIA**

INDICATOR TYPE	DESCRIPTION	EXAMPLES	USAGE IN HRIA
		decision-making within public administration. <ul style="list-style-type: none"><li>• Numbers outlining actual use of grievance mechanisms, closure of complaints, and satisfaction levels among complainants.</li></ul>	discrimination and participation.

Adapted from: OHCHR (2012), *“Human Rights Indicators: A Guide to Measurement and Implementation”*, HR/PUB/12/5, p.16; Ranking Digital Rights Indicators<sup>24</sup>; Corporate Human Rights Benchmark Indicators<sup>25</sup>; Investor Alliance for Human Rights briefings on tech<sup>26</sup>.

# END NOTES

<sup>1</sup> See e.g. Food and Agriculture Organization (FAO), “M&E Technical Advisory Notes Series: Overview of methods for baseline assessments”: <http://www.fao.org/3/a-az931e.pdf> [Accessed July 30, 2020]; EU (2017), “Environmental Impact Assessment of Projects: Guidance on the preparation of the Environmental Impact Assessment Report”: [https://ec.europa.eu/environment/eia/pdf/EIA\\_guidance\\_EIA\\_report\\_final.pdf](https://ec.europa.eu/environment/eia/pdf/EIA_guidance_EIA_report_final.pdf) [Accessed July 29, 2020].

<sup>2</sup> In DIHR’s [Human rights impact assessment guidance and toolbox](#), which presents a methodology for HRIA of large-scale business projects conducted at the project or site level, the term baseline development is used. It is used since it is a common term used in Environmental Impact Assessments, which is a methodology known to those working with large-scale site-level projects. The term situation context analysis is used in this guidance instead, since baseline developments are not a term often used in relation to impact assessments of digital activities.

<sup>3</sup> An ex-post assessment, is an assessment that occurs once a business project or activities are already well underway

<sup>4</sup> An ex-ante assessment is an assessment that occurs before a business project or activities commence.

<sup>5</sup> Based on Watson, Tamir & Kemp (2013), “Human rights impact assessment in practice: Oxfam’s application of a community-based approach”, Impact Assessment and Project Appraisal vol.31, p.118-127: <https://www.tandfonline.com/doi/pdf/10.1080/14615517.2013.771007> [Accessed July 29, 2020].

<sup>6</sup> As compared to e.g. baselines in Environmental Impact Assessments.

<sup>7</sup> See e.g. Walker (2009), “The Future of Human Rights Impact Assessments of Trade Agreements”, Human Rights Research Series vol.35, p.46.

<sup>8</sup> Andersen & Sano (2006), “Human Rights Indicators at Programme and Project Level: Guidelines for Defining Indicators, Monitoring and Evaluation”, Danish Institute for Human Rights; Vanclay, Esteves, Aucamp & Franck (2015), “Social Impact Assessment: Guidance for assessing and managing the social impacts of projects”, p.44 : [https://www.rug.nl/research/portal/files/17534793/IAIA\\_2015\\_Social\\_Impact\\_Assessment\\_guidance\\_document.pdf](https://www.rug.nl/research/portal/files/17534793/IAIA_2015_Social_Impact_Assessment_guidance_document.pdf) [Accessed July 29, 2020].

<sup>9</sup>OHCHR (2018), “A Human Rights-Based Approach to Data”:

<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

[Accessed July 29, 2020].

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Shift (2013), “Bringing a Human Rights Lens to Stakeholder Engagement”, New York: Shift.

<sup>16</sup> See e.g. report by UN Special Rapporteurs on Freedom of Expression, Right to Privacy, Extreme Poverty, and others, who have all published reports related to digital activities.

<sup>17</sup> OHCHR (2012), “Human Rights Indicators: A Guide to Measurement and Implementation”, HR/PUB/12/5, p.16 :

[https://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](https://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf) [Accessed July 29, 2020].

<sup>18</sup> Andersen and Hans-Otto Sano (2006), “Human Rights Indicators at Programme and Project Level: Guidelines for Defining Indicators, Monitoring and Evaluation”, Copenhagen: Danish Institute for Human Rights.

<sup>19</sup> OHCHR (2012), “Human Rights Indicators: A Guide to Measurement and Implementation” HR/PUB/12/5, p.21 :

[https://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](https://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf) [Accessed July 29, 2020].

<sup>20</sup> Ibid.

<sup>21</sup> Special Rapporteur (2018), “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression”, A/73/348, para. 65:

<https://undocs.org/pdf?symbol=en/A/73/348> [Accessed July 29, 2020].

<sup>22</sup> Danish Institute for Human Rights, “Human Rights Indicators for Business”: <http://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib> [Accessed July 29, 2020].

<sup>23</sup> ARTICLE 19 (2017), “*Sample ccTLD Human Rights Impact Assessment Tool*”:  
<https://www.article19.org/wp-content/uploads/2017/12/Sample-ccTLD-HRIA-Dec-2017.pdf>  
[Accessed July 29, 2020].

<sup>24</sup> Ranking Digital Rights (2020), “*2020 Ranking Digital Rights Corporate Accountability Index Research Indicators*”: <https://rankingdigitalrights.org/> [Accessed July 29, 2020].

<sup>25</sup> CHRB (2019), “*The Corporate Human Rights Benchmark Indicators*”:  
<https://www.corporatebenchmark.org/> [Accessed July 29, 2020].

<sup>26</sup> The Investor Alliance for Human Rights briefings on various salient human rights briefings on tech can be turned into useful indicators for HRIA: <https://investorsforhumanrights.org/ict-salient-issue-briefings-investors> [Accessed July 29, 2020].

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