PHASE 2: DATA COLLECTION AND BASELINE DEVELOPMENT

HUMAN RIGHTS IMPACT ASSESSMENT GUIDANCE AND TOOLBOX
In this document you can find the Guidance text for Phase 2: Data Collection and Baseline Development.

**What happens in Phase 2?**

In the scoping phase, a number of human rights areas for further investigation will have been identified, as well as the stakeholders to be interviewed and engaged in the HRIA process.

The core activity in phase two is gathering data to better understand the key human rights areas identified in the scoping, in particular through primary data collection such as interviews and other types of stakeholder engagement. Whilst the scoping phase may have relied primarily on desk-top research and analysis, in phase two of the HRIA fieldwork and stakeholder engagement are critical. Through gathering primary data and additional secondary data, the assessment team can develop a baseline for the HRIA, which documents the current state of human rights enjoyment, based on which any actual impacts can be identified and future impacts can be predicted. The selection of human rights indicators to inform the data collection, as well as subsequent impact mitigation and management, should also take place in this phase.

Primary data collection for HRIA should allow sufficient resources for rights-holders to participate at their own pace and on their own terms, in particular, it is important that enough time is allocated for this phase to allow for meaningful engagement.

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**Key questions addressed in this section:**

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

### 1.1 DEVELOPING A HRIA BASELINE

Collecting baseline data is critical to enable the analysis of actual and potential human rights impacts from business projects and activities. Some HRIA literature and methods also refer to this phase as the ‘data collection’ or ‘evidence gathering’ phase. Developing a baseline consists of the targeted gathering of environmental, socio-economic, political and other such data, to understand the current state of human rights enjoyment. This can then be analysed to determine what human rights impacts have occurred as a result of the business project or
activities (in the case of ex-post assessments) and from which future impacts can be predicted (in the case of ex-ante assessments).

Based on the initial identification of human rights issues in the scoping phase, data needs to be collected in the baseline phase to inform the subsequent assessment of impacts. During the scoping phase, the sphere of impact of the business project or activities will have been identified, which will set the parameters for the data to be collected in phase two. The baseline builds on the scoping phase by elaborating the analysis through further research, in particular through field work and stakeholder engagement. Whilst it might be desirable to already undertake some field work in the scoping phase, for the baseline phase this becomes the primary activity. In particular, gathering primary data through engagement with rights-holders, duty-bearers and other relevant parties through interviews, focus groups and so forth, will take place. Whilst the baseline should focus on those human rights issues that have been identified through the scoping as likely to be key issues, it should always allow for additional issues that emerge to be integrated, reflecting the iterative nature of a HRIA process. The selection of targeted human rights indicators can help to inform baseline data collection, as well as subsequent impact mitigation and management for tracking changes over time.

Box 8, below, explains the role of a baseline, benchmark and indicators in HRIA in more detail.

Box 8: Baseline, benchmark and indicators in HRIA

A baseline in HRIA is an evidence-based description of human rights enjoyment in practice, as compared with rights in international human rights instruments and domestic law, at a specific point in time.\(^1\) It consists of the information about environmental, socio-economic, political and other data based on which actual and potential impacts of the business project or activities can be assessed. This includes a detailed description of the stakeholders involved, in particular the communities and workers who are or may be impacted (in SIA this is what is sometimes referred to as a ‘community profile’) developed through field work and stakeholder engagement. It is important to note that in HRIA a baseline is not to be considered a ‘neutral’ point of comparison, i.e. which risks accepting the status quo uncritically by accepting the business project or activity as long as it does not worsen the current human rights situation. Instead, in HRIA the baseline should serve to

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both assess the current level of human rights enjoyment as well as to address potential future impacts. In short, the baseline is used to analyse existing impacts (in the case of ex-post assessments) and to predict future impacts (in the case of ex-ante assessments), in either case referring to international human rights standards as the benchmark, i.e. using these as the point of comparison.

A **benchmark** is an external point of comparison, in the case of HRIA the benchmark is international human rights standards, as defined in international instruments and elaborated in jurisprudence, reports from special rapporteurs, regional human rights frameworks, and international bodies such as the UN.

**Indicators** 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 human rights impacts in that they describe and compare situations, which can help with early impact identification as well as with measuring change over time.

Developing and using a baseline will be slightly different depending on whether it is for an ex-ante or an ex-post assessment. Table D, below, provides a description and examples of the difference.

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Ex-ante</th>
<th>Ex-post</th>
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<tbody>
<tr>
<td>Description of role of baseline</td>
<td>In the case of an <em>ex-ante</em> assessment (i.e. an assessment that occurs before the business project or activities commence) the baseline data collected will be used to predict any potential human rights impacts by considering the data and forecasting change, with reference to the benchmark of</td>
<td>In the case of <em>ex-post</em> assessment (i.e. an assessment that occurs once the business project or activities are already well underway), the baseline 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</td>
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Table D: The role of a baseline in ex-ante and ex-post HRIA

<table>
<thead>
<tr>
<th>Assessment</th>
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<tr>
<td></td>
<td>international human rights standards. Based on the prediction of impacts, the baseline 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.</td>
<td>that may occur in the future).</td>
</tr>
<tr>
<td>Example</td>
<td>The proposed business project is predicted to involve the resettlement of two communities, which has the potential to impact on the right to housing. From international human rights standards, it is known that housing should be: available, accessible, acceptable and of good quality (AAAQ). In combination with contextually relevant information (e.g. what is ‘accessible’ or ‘acceptable’ in the given context) these criteria can inform the design of measures to avoid and mitigate the potential impact; as well as the selection of indicators for tracking change over time to verify whether these are effective (e.g. a first order response might be to avoid the resettlement, if this is not possible and the communities are relocated to alternative housing, such as the construction of new housing).</td>
<td>The business project involved a resettlement of two communities last year. From international human rights standards it is known that housing should be: available, accessible, acceptable and of good quality (AAAQ). In combination with contextually relevant information (e.g. what is ‘accessible’ or ‘acceptable’ in the given context) these criteria can be used as the benchmark against which to compare the baseline data collected, to determine whether a human rights impact has occurred or not, and if so, how severe this impact is and what type of measures might be proposed to remediate the impact. The process for predicting impacts will follow the same process as for an ex-ante assessment.</td>
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Table D: The role of a baseline in ex-ante and ex-post HRIA

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<td>housing should be designed to meet the AAAQ criteria, and can subsequently be evaluated against these over time).</td>
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</tbody>
</table>

1.2 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, previous impact assessments, thorough field work and stakeholder engagement is an essential component of HRIA. It is important to note that there are limitations to data sources, and often impact assessments can uncover gaps in statistical data. Such limitations illustrate the importance of primary data collection in HRIA. Table E, below, provides an overview of some common sources of data, which can be used for baseline data collection as well as in selecting indicators.

In collecting the necessary data for a HRIA, the assessment team should take steps to apply human rights principles in the data collection process. In the Data Collection and Baseline Development Practitioner Supplement you can find a suggested checklist for data collection.

Table E: Examples of types of data for HRIA

<table>
<thead>
<tr>
<th>Type of data</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Data provided by rights-holders</td>
<td>Data provided by rights-holders offers direct access to information on actual levels of rights enjoyment, whether they have been affected by the business project or activities, and if so how. More specifically, rights-holders are able to describe and give a direct comprehensive overview on human rights impacts, as well as specific data pertaining to such impacts. For example, rights-holders can provide detailed, qualitative accounts on the water they are provided with in terms of availability, accessibility, acceptability and quality.⁴</td>
</tr>
</tbody>
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<tbody>
<tr>
<td>Events-based data</td>
<td>Events-based data is both quantitative and qualitative data that can be linked to events characterised as adverse human rights impacts, it can be collected through desk-top research and field work. For example, forced resettlement of community members or an on-site explosion. The data from this source is unique in that it is directly linked to specific incidences, which can immediately show how a business project or activities is negatively impacting human rights. Data sources can include testimonies by those directly harmed and/or witnesses; as well as information from the media and reports of State agencies (administrative data), NGOs and CSOs, national human rights institutions, academic works and findings from international human rights monitoring mechanisms (e.g. the Universal Periodic Review, or reporting to treaty bodies on the status of implementation of international human rights instruments.</td>
</tr>
<tr>
<td>Socio-economic and administrative statistics</td>
<td>Socio-economic and administrative statistics refers to 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 whilst 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.</td>
</tr>
<tr>
<td>Perception and opinion surveys</td>
<td>Perception and opinion are considered to be a necessary source in HRIA in that they can assist with ensuring the participation of rights-holders and other relevant parties in the process. Qualitative and subjective in nature, these sources of data are key for actually identifying and analysing the impacts that rights-holders might be experiencing and for discussing, understanding and designing measures to prevent, mitigate and remediate these impacts. This data can be collected through interviews, surveys, and consultation with relevant stakeholders such as rights-holders, subject matter experts, intergovernmental organisations etc. For further guidance, refer to <a href="#">Stakeholder Engagement</a>.</td>
</tr>
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<td>Data from expert judgments and human rights actors</td>
<td>Data based on expert judgements are generated by those 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. This might include organisations, institutions, individuals and mechanisms working in the field of human rights, such as: human rights NGOs and CSOs; national human rights institutions; academics; as well as government, regional and UN human rights experts. Human rights actors can play an important role in HRIA as they will have insights into how international human rights norms play out in specific contexts.</td>
</tr>
</tbody>
</table>


1.3 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.”

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 for both 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.

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In HRIA, selecting a set of indicators based on the scoping phase can be a useful way to frame subsequent data collection and baseline development. 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 different projects or sites. 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, these are outlined in the practitioner supplement.

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. 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, as this has 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. Based on this normative content, the framework breaks indicators for measuring human rights implementation into structural, process and outcome indicators. The framework is State-based, i.e. 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, 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 selecting indicators for HRIA. A number of further sources of human rights indicators are provided in the Data Collection and Baseline Development Practitioner Supplement.

The following Table F, provides an overview of different types of indicators and how they can be applied in HRIA. Box 9, below, provides some reflections on the rationale for using indicators in HRIA as well as noting some of the limitations.

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### Table F: Examples of different indicators for HRIA

<table>
<thead>
<tr>
<th>Indicator type</th>
<th>Description</th>
<th>Examples</th>
<th>Usage in HRIA</th>
</tr>
</thead>
</table>
| 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 community members/groups. | - Number of workplace accidents  
- Number of community incidents  
- Number of complaints | 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 forms of description, 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 rights-holders have access to water; however, qualitative data can provide the context regarding: accessibility i.e. can all rights-holders access water without physical threats; is it affordable; and is the |
| Qualitative     | Qualitative indicators refer to attributes of a situation, process or activity whose status or condition is determined by opinions, perceptions, or personal judgments, or by quality of an experience expressed as a story. | - Interviewing project affected individuals to understand the impact the business has had on them, their land, their livelihood and their cultural and social norms.  
- Employees’ experience of the company’s commitment to human rights through, established through surveys.  
- Whether or not the community experiences that the company’s security forces respect human |
<table>
<thead>
<tr>
<th>Indicator categorisation</th>
<th>Description</th>
<th>Examples</th>
<th>Usage in HRIA</th>
</tr>
</thead>
</table>
| Structural (policy)      | Structural indicators are commitment indicators, that is, they seek to establish the level of intent and commitment of a company for respecting human rights. These often focus on policy commitments. | • Date of implementation and coverage of corporate policy on respect for international human rights standards.  
• Overall finance commitments for respecting human rights.  
• Commitment from top management for respecting human rights. | Structural, process and outcome indicators examine different aspects related to human rights impacts, and therefore serve different but inter-related purposes.  
Outcome indicators are critical in HRIA as these establish what impacts have or may occur that can be attributed to the business project or activities.  
Structural and process indicators complete the picture by providing insight to the management commitments and |
| Process (procedure)      | Process indicators seek to measure the level of effort by the business in respecting human rights. This can include inputs such as financial, human, material, technological and information resources, as well as outputs such as the completion of specific activities such as training. | • Company procedures provide that workers be paid in accordance to the work performed and in a timely manner.  
• Net expenditure on implementation and enforcement of human rights policies and procedures as a proportion of gross corporate | |

**Table F: Examples of different indicators for HRIA**

| Outcome (impact) | These indicators assess impacts, thereby evaluating whether company efforts in meeting their responsibility to respect human rights have been effective or not. These can also be referred to as impact indicators. | income.  
- Number of employees and community members that have access to complaints, disputes, and grievance processes.  
- Efforts in working with the local host-government on meeting international human rights standards.  
- Proportion of company workers in precarious employment (e.g. short and fixed-term, casual, seasonal workers).  
- Impact monitoring shows an increase in water scarcity in the community since the commencement of the business project.  
- Interviews from part-time workers show that there is deterrence among management regarding starting a union. | structures that are in place, or need to be put in place, in order to effectively manage the impacts identified. 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-discrimination and participation. Further examples of the different categories of indicators are provided in the Data Collection and Baseline Development Practitioner Supplement as well as the Human Rights Indicators for Business. |

Box 9: Using human rights indicators to assess the human rights impacts of business: possibilities and limitations

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

The consistent use of relevant human rights indicators in HRIA can help to ensure that the assessment is comprehensive and clearly based on international human rights standards and principles, and to identify and assess whether a company is meeting its responsibility to respect these. It can also allow businesses, rights-holders 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 business responses to potential and actual adverse human rights impacts.

This being said, it is important to remember that 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, for example, “Indicators are tools that add value to assessments with a strong qualitative dimension; they do not replace them.”

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8 UN Guiding Principles.
A NOTE ON THIS ROAD-TESTING VERSION

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

Please send comments, questions and suggestions to:
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