

A large, busy garment factory with many workers at sewing machines. The scene is filled with rows of sewing stations, each equipped with a sewing machine. Workers are seen from behind, focused on their tasks. The lighting is bright, and the overall atmosphere is one of industriousness. The image is overlaid with a semi-transparent black box containing white text.

**THE DANISH
INSTITUTE FOR
HUMAN RIGHTS**

**ANALYSING
IMPACTS
PRACTITIONER
SUPPLEMENT**

**HUMAN RIGHTS IMPACT
ASSESSMENT GUIDANCE
AND TOOLBOX**

ROAD-TESTING VERSION

PHASE 3: ANALYSING IMPACTS

ANALYSING IMPACTS PRACTITIONER SUPPLEMENT

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In [Phase 3: Analysing Impacts](#) you can find an overview of this HRIA phase.

In this Practitioner Supplement you will find:

- Examples of how international human rights standards and principles can be used in the analysis of human rights impacts
- Examples of the different types of human rights impacts to be included in HRIA: caused, contributed to, and directly linked
- A framework for assessing human rights impact severity, including examples

This Practitioner Supplement is a part of the Road-testing version of the Human Rights Impact Assessment Guidance and Toolbox.

You can find the full version here:

<http://www.humanrights.dk/business/human-rights-impact-assessment-guidance-toolbox>

1.1 EXAMPLES OF USING HUMAN RIGHTS STANDARDS AND PRINCIPLES IN IMPACT ANALYSIS

An adverse human rights impact occurs when an action or omission removes or reduces the ability of an individual to enjoy her or his human rights. But how exactly can we determine whether a human rights impact has occurred in practice?

Table A, below, provides some illustrative examples of how specific human rights standards and principles might be considered in the analysis of human rights impacts.

Table A: Examples of using human rights standards and principles in impact analysis	
Example scenario	Examples of human rights standards and principles for analysis
A textile factory discharges chemical effluents into a river which local communities use for drinking. The effluents damage the water quality affecting people's health.	<p>The right to the highest standard of physical and mental health focuses on two key aspects: (i) the provision of healthcare services, and (ii) underlying determinants, which includes considerations such as whether the environment in which people live is free from pollution. In this example, the company appears to be having an adverse impact on the right to health by causing pollution that is impacting on people's health.</p> <p>The right to water and sanitation has recently been formalised as a stand-alone human right (although it has always been part of the right to health and the right to an adequate standard of living). It encompasses that people are entitled to water for drinking, cooking and sanitation; and that such water is available, accessible, acceptable and of sufficient quality (AAAQ). In this example, in particular the last component, a reduction in the quality of the water, is at issue. However, given that the river is no longer a suitable source of drinking water, the accessibility and availability may also be impacted depending on what other water sources are available, and should therefore be considered in the analysis.</p>
A cement plant is operating in a country where it is customary	The right to non-discrimination is a cornerstone of international human rights law. This includes considerations of both direct discrimination (i.e. addressing unjustified differential treatment, to promote 'formal' equality) and

Table A: Examples of using human rights standards and principles in impact analysis	
Example scenario	Examples of human rights standards and principles for analysis
that women do not take part in the formal labour market, with the result that the cement plant does not employ any women.	<p>indirect discrimination (i.e. addressing conditions which, whilst neutral in appearance, disadvantage certain protected groups, to foster ‘substantive’ equality). For example, the non-discrimination provision in the European Convention on Human Rights (Article 14) is now understood to prohibit neutral measures where these adversely affect certain minority groups.¹</p> <p>In recognition of systemic discrimination that may be faced by particular rights-holder groups, some international human rights treaties also expressly require States to take and facilitate positive action to eliminate discrimination (e.g. the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women). This can be in the form of the State taking, and permitting other third parties such as business to take, ‘special measures’; essentially a provision to allow and promote affirmative action measures providing that these are targeted and temporary.</p> <p>First and foremost, the company in the example would need to ensure equal opportunities in hiring and other aspects of employment. However, to avoid contributing to discrimination against women in the formal labour market, the company may also want to take steps to encourage women to apply for jobs, and include some preventive measures to avoid unforeseen adverse impacts on women if they work. For example, by providing working conditions that address the reasons as to why women do not participate in the formal labour market, or applying for an exemption under non-discrimination legislation to target hiring women.</p>
A hydropower dam project is in	Access to information is a human right, recognised as part of the right to freedom of expression, as well as an

¹ See, e.g., *Thlimmenos v Greece* (2000) 9 BHRC 12.

Table A: Examples of using human rights standards and principles in impact analysis	
Example scenario	Examples of human rights standards and principles for analysis
the planning stages and the company does not make the environmental impact assessment that has been conducted publicly available.	<p>important component of the right to participation. This includes that rights-holders must have access to information that is timely, adequate, accessible and appropriate for enabling them to meaningfully participate in decision-making that affects them.</p> <p>There are also specific provisions in international law regarding people’s participation in environmental decision-making, for example in the Åarhus Convention (1998). Therefore, the company should publicly report its environmental impact assessment.</p>
People are resettled by a mining company to alternative land, without sufficiently consulting them on the suitability of the alternative location.	<p>The right to property is not absolute and the government is entitled to acquire land and other property, providing that it is necessary in the national interest, due process is followed and people are adequately compensated. However, the compulsory acquisition of property can only be exercised by the State, which also retains the duty to ensure that any acquisition of property and resettlement of people occurs in accordance with the applicable standards. Therefore, the HRIA should consider the arrangement that has been made between the government and the company in detail, including evaluating whether the government has breached its human rights duty to protect by allowing the resettlement to occur without following due process or a failure to monitor that the company has applied the requisite standards. It will also be necessary to examine in detail the division of roles and responsibilities of the government and the company in the resettlement, especially with regard to consultation and livelihood restoration.</p> <p>When considering the impacts of resettlement it is also particularly important to consider the interrelatedness of human rights. For example, if the alternative location is far from educational or healthcare facilities, the rights to education or health may also be negatively impacted. Or if</p>

Table A: Examples of using human rights standards and principles in impact analysis	
Example scenario	Examples of human rights standards and principles for analysis
	<p>the communities being resettled rely on land and agricultural activities for subsistence, if the land at alternative locations is not arable enough then the rights to food, water and an adequate standard of living may be impacted. Furthermore, it will be necessary to look carefully at how different rights-holders experience any impacts associated with the resettlement. For example, the distance that children will travel to school as a result of the resettlement may have an impact on their right to education, or if women in subsistence communities bear the primary responsibilities for food gathering and agricultural activities their experience of any impacts on the right to food are likely to be more severe.</p>
<p>The rights to freedom of association and collective bargaining are not guaranteed in the national law so employees do not have access to independent trade unions nor collective bargaining.</p>	<p>The right to freedom of association is one of the fundamental rights at work, recognised both in the International Bill of Human Rights as well as the fundamental International Labour Organisation Conventions. It is considered to be important both as a right in and of itself, but also because the enjoyment of this right can have significant implications for promoting or inhibiting the enjoyment of other human rights, such as the right to an adequate standard of living.</p> <p>According to the UN Guiding Principles, the responsibility to respect human rights applies in all contexts, and exists over and above compliance with national laws and regulations. In situations where domestic and international law conflict, businesses are therefore expected to seek ways to honour the principles of internationally recognised human rights.²</p> <p>There are two potential scenarios:</p> <ol style="list-style-type: none"> 1. National law is silent on a particular human rights standard or principle: In such scenarios, the business is not strictly prevented from upholding the international human rights standard and should endeavour to do so.

² UN Guiding Principle 23.

Table A: Examples of using human rights standards and principles in impact analysis	
Example scenario	Examples of human rights standards and principles for analysis
	<p>2. National law is in contradiction of international human rights: In such cases, businesses are expected to uphold the spirit and intent of international human rights without violating national laws.</p> <p>In the present example, the business should take steps to find other means of enabling meaningful and constructive worker-management dialogue, without violating national law. For example, the business might create elected workers committees.</p>

1.2 EXAMPLES OF DIFFERENT TYPES OF HUMAN RIGHTS IMPACTS

According to the UN Guiding Principles, businesses are required to consider actual and potential human rights impacts, which are *caused* by the business, impacts that the business *contributes* to, and impacts that are *directly linked* to a company’s operations, products or services through business relationships (including both contractual and non-contractual relationships).³

Table B, below, presents some examples of these different types of human rights impacts.

Table B: Examples of different types of human rights impacts	
Type of impact	Examples
Caused (by the business’s action or omission)	<ul style="list-style-type: none"> • A company discriminates in its hiring practices, for example by not affording equal opportunity to indigenous applicants. • Exposure of company’s workers to hazardous working conditions without adequate safety equipment.
Contributed to (through own activities or	Examples of contribution through a third party (encouraging, facilitating or incentivising):

³ UN Guiding Principle 13.

Table B: Examples of different types of human rights impacts	
Type of impact	Examples
through a third party, including cumulative impacts)	<ul style="list-style-type: none"> • Providing information about internet users to a government that uses it for surveillance of political opponents. • Changing product requirements for suppliers at the last minute without adjusting production deadlines and prices, thus pushing suppliers to breach labour standards in order to deliver. • Public security forces stationed to protect assets use excessive force against protesters. <p>Examples of contribution together with other contributors (collective impacts):</p> <ul style="list-style-type: none"> • Discharging a permissible amount of pollution into the local environment which, together with permissible discharges by other companies, impacts community use of ecosystem services (e.g. water). • Concurrent operations by multiple companies in concentrated location, thereby restricting access to grazing lands of nomadic herders.
Directly linked (to operations, products or services through business relationships, including both contractual and non-contractual relationships)	<ul style="list-style-type: none"> • Providing financial loans to a project that breaches agreed standards and causes environmental pollution, thereby impacting on the health of local communities. • Embroidery on a retail company’s clothing products being subcontracted by the supplier to child labourers in homes, contrary to contractual obligations.
<p>Source: Some of these examples are drawn from: United Nations Office of the High Commissioner for Human Rights (2012), <i>The Corporate Responsibility to Respect Human Rights: An Interpretive Guide</i>, Geneva and New York: United Nations Office of the High Commissioner for Human Rights, A/HRC/12/02.</p>	

1.3 FRAMEWORK FOR ASSESSING IMPACT SEVERITY

Human rights impacts should be assessed according to their ‘severity’ which is determined by considering the scale, scope and irremediability of the impact. You can read more about these different parameters, as well as how the concept of severity differs from significance, in [Phase 3: Analysing Impacts](#).

Table C below, provides one suggestion for how the above parameters to assess severity might be applied in HRIA practice. Additionally, Table D provides some examples of how the parameters might be considered in impact analysis.

While some type of numerical ranking might prove useful in the analysis of human rights impacts to distinguish between different impacts, it is important to remember that human rights analysis cannot rely on these types of ‘scoring’ alone, and a thorough narrative description (based on qualitative data and/or indicators) of impacts and proposed mitigation measures (i.e. to avoid, mitigate and remediate the impacts) should always be provided.

Table C: Parameters for evaluating impact severity

Severity of Impact	Scale (including consideration of vulnerability)	Life- or long-term health-threatening	A
		Non-life- or health-threatening, but tangible infringement of access to basic life necessities or freedoms (incl., education, livelihood, etc.)	B
		Other impacts	C
	Scope	> 50% of identifiable group or > XXXX people	A
		11 – 50% of identifiable group or XX - XXXX people	B
		< 10% of identifiable group or < XX people	C
	Irremediability	High	A
		Moderate	B
		Low	C

Vulnerability needs to be an integral part of considering the scale, or seriousness, of the impact. This is because a person’s particular circumstances, including their ability to respond to change, may have an influence on how ‘serious’ an impact may be for that individual.

Because an impact can be considered to be severe even if just one of scale, scope or irremediability is high, the evaluation of severity can not be made by simply adding up the numbers in the right-hand column.

A human rights perspective places emphasis on rights and freedoms as they are enjoyed and exercised by specific individuals. It is therefore important to consider scope (i.e. the number of people affected) not only in absolute numbers but also to consider more precisely who the individual workers and community members are that are impacted.

Source: Danish Institute for Human Rights and Community Insights Group, based on UN Guiding Principles

Table D: Examples of assessing impact severity				
Impact Scenario	Scale	Scope	Irremediability	Overall assessment
A company has temporarily restricted access to an important cultural heritage site for a group of indigenous peoples, which make up 2% of the population and have been identified as a vulnerable group.	B: A tangible infringement on the right to participate in cultural life.	A: Whilst the absolute number of people affected is small, the people impacted are indigenous and have been identified as a vulnerable group.	C: The impact can be remediated by re-establishing access to the cultural heritage site after the temporary restrictions.	This might be considered to be an impact of medium severity; whilst it is a temporary impact that can also be remediated, the impact is on a group of vulnerable individuals.
Private security forces employed by the company have been found to sexually harass women and girls in the local communities.	A: A serious interference with the women and girls' right to security of person and children's rights.	A: Women and girls not only make up half of the population, but they would also be considered to be vulnerable to this particular type of harassment.	A: The impacts of sexual harassment and assault would be difficult or impossible to remediate.	This might be considered to be an impact of high severity.

Table D: Examples of assessing impact severity				
Impact Scenario	Scale	Scope	Irremediability	Overall assessment
A company has poor health and safety training in place for its construction site employees, who make up 90% of the workforce of the company.	A: Serious injury or death may result if the workers are not trained on how to navigate the hazardous conditions, impacting on the right to life and the right to health.	A: The percentage of people affected is almost 100% of the identifiable group (i.e. the company's workers).	A: Serious injury or death will not be remediable.	This might be considered to be an impact of high severity.
A company is using land that was previously used by some families for agricultural purposes. Agriculture is one source of income for the local communities, they also engage in numerous other livelihood sustaining activities.	C: Given that the communities have numerous other sources of income and are not relying on agriculture this does not appear to be a substantial impact on their ability to generate a livelihood.	B: Some families are impacted, and there are no indications that these people are more or less vulnerable than others in the community.	C: The impact is remediable if other plots for agriculture could be found, people can be granted access to land by the company to grow crops, or compensation for loss of additional income can be provided.	In this particular context, this impact on land used for agricultural purposes might be considered to be an impact of low severity.

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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