

Human Rights Impact Assessments for Implementing Corporate Responsibility

Conceptual Challenges and Practical Approaches

Brigitte Hamm and Christian Scheper

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ABSTRACT

By endorsing the *UN Guiding Principles on Business and Human Rights* in June 2011, the UN Human Rights Council emphasized a distinct corporate responsibility to respect human rights. However, both the normative reach and practical realization of this responsibility are still vague. Against this background, a debate has arisen about the possibilities of implementing human rights due diligence by, and within, companies. In terms of the procedures for so doing, the debate has focused on human rights impact assessments (HRIA). This paper addresses basic conceptual and practical issues with respect to such procedures. As challenging quality criteria for HRIA, the authors particularly examine the right of stakeholders to participate in business decisions and the need for organizational learning in companies. The paper categorizes existing HRIA approaches according to their way of approaching these challenges. It concludes with policy recommendations.

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Abbreviations

AI	Amnesty International
BLIHR	Business Leaders Initiative on Human Rights
BIM	Ludwig Boltzmann Institute of Human Rights
COP	Communication on Progress
CSBP	Conflict-Sensitive Business Practice
CSR	Corporate social responsibility
DANIDA	Danish International Development Agency
DIHR	Danish Institute for Human Rights
EIA	Environmental impact assessment
GBI	Global Business Initiative on Human Rights
GRI	Global Reporting Initiative
HRCA	Human Rights Compliance Assessment
HRIA	Human rights impact assessment
HRIAM	Human Rights Impact Assessment and Management
IBLF	International Business Leaders Forum
IFC	International Finance Corporation
ILO	International Labour Organization
IOE	International Organization of Employers
KPI	Key performance indicators
LARRGE	Labour Rights and Responsibility Guide
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
SME	Small and medium-sized enterprise
TNC	Transnational corporation
UN	United Nations
UNGC	United Nations Global Compact
UNSSC	United Nations System Staff College



1. Introduction

The appointment of John G. Ruggie as Special Representative of the UN Secretary General on Business and Human Rights in 2005 put the issue of corporate human rights responsibility high on the international agenda. The *Guiding Principles on Business and Human Rights: Implementing the UN 'Protect, Respect and Remedy' Framework* that the special representative submitted to the UN Human Rights Council in 2011 explicitly call for such worldwide responsibility.

Together with the *state duty to protect* and *access to remedies*, the *corporate responsibility to respect human rights* is one of the three pillars in Ruggie's political framework. In the first pillar he stresses the prime importance of the state duty to protect human rights. Here he is guided by the existing human rights regime that took shape after the United Nations adopted the Universal Declaration of Human Rights in 1948. Ruggie clarifies this state duty to protect by including in it areas of public influence in the global economy, e.g. promotion of foreign trade, and calling on the states to be more consistent in human rights protection. Moreover, he links the state duty to protect with the third pillar, access to remedies, which is to take effect when governments do not observe their duty to protect.

In the second pillar, *corporate responsibility to respect*, Ruggie attributes to private companies a *due diligence*, expecting them not just to respect national laws but also to handle human rights risks in their own responsibility. In his 2008 report (United Nations 2008a) he justifies this with the fact that human rights problems arise when companies do not consider possible negative implications for the people concerned before starting a business activity. Ruggie therefore calls on companies to take proactive steps to clarify and understand how their business activities may cut across human rights issues.



This readjustment of corporate human rights responsibility undertaken by Ruggie's framework and the *Guiding Principles* raises various conceptual and practical questions, as this is largely new ground, legally and politically speaking (Morrison/ Vermijs 2011: 13).¹ Furthermore, Ruggie leaves important questions open when it comes to the specific shaping of the state's duty to protect. In particular, the border between duty and responsibility remains blurred, which downplays the normative obligatory character of human rights. Companies are increasingly subscribing publicly to what Ruggie calls human rights 'responsibility', yet the extent to which such responsibility suffices in a given case is unclear, as is the way human rights-related due diligence is to be put into practice (vgl. Roling/ Koenen 2011).

Parallel to the normative debate about the scope of state duties and entrepreneurial responsibility, a lively discussion has thus emerged on the ways of transferring human rights into business management. This discussion does not just concern the private sector but also state and intermediate actors working with industry, e.g. in the field of promoting foreign trade (Hamm et al. 2011; Scheper/ Feldt 2010). The efforts to find ways of practically implementing due diligence as described by Ruggie sometimes concentrate in a rather technical, functionalist way on trying out standardized procedures such as human rights impact assessments (HRIA). As is already the case for environmental risks, instruments that are as simple and practical as possible are supposed to detect human rights impacts of business activity, e.g. direct investments or large export projects, through familiar business management methods.

Nowadays there are a host of different instruments available to companies for such an HRIA. They have been developed by civil society and intergovernmental organisations, state actors, and also by

¹ When adopting the *Guiding Principles* in June 2011 the UN Human Rights Council set up a working group that started work in January 2012. Besides promoting and disseminating the *Guiding Principles* the group is intended to advance their implementation.



companies themselves, and are sometimes marketed by consultancies for a profit. The great number of instruments makes it increasingly difficult to estimate their importance and effectiveness. A recent survey of large companies by the British *Institute for Human Rights and Business* indicates that companies see an urgent need to combine and consolidate existing methods and procedures for implementing human rights-related due diligence (Morrison/ Vermijs 2011: 18).

Due diligence in the context of corporate human rights has hitherto been described only schematically; this lack of clear definition raises fundamental conceptual questions and concrete challenges when it comes to implementing HRIA instruments in practice.

This paper therefore aims to put some order in the increasingly complex field of the HRIA debate and to take the first step towards a general classification and better comparability of existing instruments. Our assumption is that linking business management practice with the political concept of human rights may have positive effects with respect to human rights protection, while entailing certain fundamental traps and conflicting goals. By frankly discussing the present areas of tension we want, first, to contribute to a clarification of the political challenges entailed by *corporate responsibility to respect*; second, to offer this discussion a basis for differentiating different HRIA procedures and so take the first step towards a possible consolidation of methods and procedures. A second paper is planned, which will focus on case studies and concentrate more on the operational side of practical implementation in companies and in state foreign trade promotion.

Chapter 2 first deals with the general significance of HRIA in the context of the *UN Guiding Principles*, in order to clarify the normative claim. We then refer to a few teachings from the field of social and environmental standards, in which *impact assessments* are already more established. From these two steps we derive some theoretical and conceptual challenges with respect to the practical design of HRIA. As major challenges for handling human rights in the business management process we identify, in particular, the involvement of people affected by corporate activities, and orientation to continuing improvement and learning processes within the company. These challenges are generally held in tension with the need for simple and standardised applicability, particularly in small and medium-size enterprises (SMEs).



Chapter 2.5 presents this field of tension in a matrix. Chapter 3 deals with four selected instruments, typical of the different ways of dealing with conflicting goals. The annex contains a tabular list of other selected procedures. The conclusion (chapter 4) sums up the main findings and indicates open aspects of the debate. In chapter 5, finally, we make some policy recommendations.

2. What is a human rights impact assessment? Concepts, aims and challenges

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The normative claim of human rights transcends many other bases for impact assessments and previous approaches to entrepreneurial due diligence. Derived as they are from human dignity and the principles of freedom and equality, human rights are primarily based on the idea of a self-directed life. Fundamental rights to participation and shared decision-making can be derived from internationally recognised human rights, particularly from the *Bill of Human Rights*². The human rights approach therefore leads to a stronger claim to participation when it comes to ascertaining the possible influence of business action than is the case with other examinations of the impact of business activities. Human rights centre on processes for informing and involving stakeholders.

In addition, human rights build on a broad basis of international law, comprising economic, social and cultural rights, as well as civil and political rights. Accordingly, addressing human rights calls for intensive engagement, organisational learning and a strategic approach in the company.

² The *Bill of Human Rights* comprises the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).



HRIAs have been discussed for some years now in the context of state and international development policy programmes (Landman 2005: 126ff). Todd Landman here distinguishes between direct and indirect impacts, on the one hand, and *ex ante* and *ex post* assessments, on the other. He emphasises programmes with an explicitly development or human rights purpose. However, corporate impact assessments generally relate to activities without a human rights motivation. Hence Landman's distinction is of only limited assistance in classifying HRIAs conducted by companies. In the following we therefore wish to underline other distinguishing features constituting special challenges to companies and, in so doing, outline key criteria.

In order, first, to be able to clarify the importance and scope of entrepreneurial due diligence we will look to the remarks of the UN special representative John Ruggie. Then we will draw on experience gained with impact assessments regarding social standards in global value chains, and also on the experience of environmental impact studies.

2.1 The scope of corporate human rights due diligence

The UN special representative underlines that the range and depth of human rights due diligence depends on different factors such as the size of the company, the respective sector, the type of business and the national and local context. In principle, however, at least three areas must be considered (United Nations 2008a: 17):

1) *Investigating the human rights situation in a country*

If a company wants to find out about the human rights situation in the country in which it operates or intends to set up business, it can draw on various sources of information, e.g. the human rights reports of the US State Department or of human rights organisations like *Amnesty International* and *Human Rights Watch*. Indirectly this information already feeds into corporate decisions, e.g. when professionals in insecure regions are protected by the company's own security forces and live in gated communities. However, human rights due diligence demands of companies that they also take account of the situation of local employees, suppliers or customers, concerned communities and also the impact on consumers.



Companies must examine the situation in a country particularly carefully if they want to operate in so-called *failed states* or conflict areas.

2) *Checking on possible negative human rights impacts in this context*

Checking on possible negative human rights impacts in the country context makes differing demands on companies. They include developing a human rights policy applicable in the whole company and carrying out *impact assessments*, which will vary in terms of type and extent according to the size of the company, the nature of its business and the respective country. After all, this check should be understood as a continuing assignment, not a one-off measure. With respect to avoiding corruption, for example, such procedures are already standard practice in big companies. Lambooy (2010: 438) thus suggests integrating human rights procedures in anti-corruption campaigns.

3) *Checking on possible complicity through business relations with other companies and state actors*

The third aspect of corporate human rights due diligence is checking on possible complicity through business relations with other companies and state actors. The examination must cover the activities of subsidiaries and other joint venture partners, contractors, subcontractors, intermediaries and also the different levels of state authorities. Frequently big companies are suppliers themselves, e.g. in the context of large projects. In these cases human rights complicity may also refer to the behaviour of the client. These differing business relations pose a challenge in many respects. Many companies dispute the possibility of monitoring their clients or subcontractors down to the lowest links in the chain and, in view of their prominent market position, transfer this responsibility to their respective business partners. The question also arises as to how far human rights responsibility of companies reaches back in time, e.g. in the case of necessary relocations.

According to Ruggie, precautionary measures to comply with due diligence must always be accompanied by the company's own complaint mechanisms, which fulfil two functions: first, they should



provide the company with information about actual negative influences and thereby provide opportunities for eliminating weak points; secondly, they should allow people concerned, in particular, to lodge direct complaints when their rights are infringed and thereby attain rapid remedy (United Nations 2010: para. 92).

Human rights due diligence in keeping with the UN framework is more than a matter of pure avoidance strategies, i.e. doing no harm. If big companies that today already pursue an explicit human rights policy understand this as part of risk minimisation, the entrepreneurial risk is still not equivalent to the risks for particularly vulnerable groups (Morrison/Vermijs 2011: 13). Rather, the focus is on active measures to guarantee that a company does not fall into complicity with human rights violations through its activities and relations. So it is not just a matter of business risk management but, at the same time, of positive steps to strengthen human rights where companies have the leverage.³

Private sector responsibility should thus also involve a commitment to active participation in shaping the global economy along human rights lines. This is about developing an understanding of the impact of entrepreneurial action and not only about risk.

2.2 Conceptual and methodological foundations of HRIAs

The above remarks have shown that an HRIA cannot be designed without a connection to the concept of due diligence. Of necessity it must be bound up with an analysis of the country context and also with ways of tackling human rights problems, e.g. through appropriate complaint mechanisms. While the focus of the HRIA lies on estimating

³ Frequently the term 'sphere of influence' is still used to define the scope of human rights responsibility (see e.g. Roling/ Koenen 2011: 7). However, Ruggie himself has abandoned this term in favour of 'leverage' due to the ambiguous spatial connotation and accompanying unclarity of the actual possibilities of corporate influence (United Nations 2008b: 5f).



possible future (*ex ante*) and actual (*ex post*) human rights impacts, carrying it out successfully calls for a comprehensive engagement with human rights and embedding this concern in strategies to implement due diligence as such.

By the same token, a glance at existing HRIA instruments and also at procedures and debates in the context of the UN special representative's mandate shows that the concept of HRIA is closely linked with the more comprehensive concept of due diligence. Besides pure impact measurement it is generally also a question of

- Developing a human rights perspective within management and the whole company;
- Identifying potential problem areas and ways of continuing improvement on the basis of sharing ideas with rights holders;
- Analysing stakeholders who have to be involved to implement human rights due diligence;
- Developing lasting management strategies for the appropriate handling of human rights claims, i.e. primarily prevention but also the admission and effective processing of complaints, along with mitigation and remedy regarding human rights infringements.

HRIAs therefore touch upon all areas of human rights due diligence. This is important, for one thing, as clarification is needed on the way in which a management instrument for impact assessment can be embedded in the more comprehensive claim to human rights due diligence. On the other hand, however, there is a certain danger that the transposition into everyday corporate management will limit the comprehensive political implications of human rights to carrying out impact assessments.

Consequently, designing an HRIA involves at least three conceptual challenges:

- 1) The normative claim of human rights, i.e. not only civil and political but also social, economic and cultural rights, calls for a clear definition of what we want to understand by the impact of a company, in particular regarding business relations in the supply chain. On a universal basis, however, this definition can hardly be formulated in satisfactory form; rather it needs to be extremely



context-specific and developed in relation to individual cases (Lambooy 2010: 445). But the latter tends to contradict the management logic of standardisation.

- 2) The basis of the legal claim on which the human rights approach is founded calls for a highly systematic approach, bringing in the perspective of rights-holders. This calls for opportunities for participation by stakeholders, organisational learning, strategic integration into management and the development of standard complaint procedures. Clarification is needed on how this claim is compatible with existing impact assessment procedures and what difficulties are entailed by the right to participation of those concerned.
- 3) In many cases a comprehensive HRIA is not necessarily congruent with the company's interest. Companies often make the business case for human rights risk analyses, and in principle avoiding human rights infringements is understandably also one way of preserving their reputation; it is also noticeable, however, that e.g. in the environmental field rigorous and successful *impact assessments* frequently only take place in the presence of clear legal requirements (chapter 2.4). A company's interest in a smaller project risk is not necessarily identical with an interest in a comprehensive, open and unbiased HRIA.

Besides these fundamental considerations there are a number of open practical questions. In the following we derive a few central criteria from the existing literature on assessing the impact of social and environmental standards. These criteria form the basis for differentiating between existing instruments. They support our proposition that the very fact of acknowledging the importance of involving stakeholders – in itself a human right and also reflected in the *Guiding Principles* – gives rise to concrete demands on the designing of an instrument for measuring impact. These demands are likely to cause tension with business management methods. In terms of HRIA procedures, this fact ultimately reflects Ruggie's overall estimation that there is no silver bullet for implementing corporate due diligence (Ruggie 2010: 6).

In addition, the implementation of the HRIA instruments essentially takes place at the discretion of the market actors themselves, in the absence of legal requirements for corporate human rights due diligence.



With respect to their global competitive interests and their market positions characterised by power inequalities, we see the overcoming of challenges as a long-term assignment. This is something which should be kept in mind, even though the emergence of many new HRIA instruments has met with justified applause.

2.3 Experience with impact assessments regarding labour and social standards

Many big companies have adopted codes of conduct to comply with labour and social standards, which are also intended to apply in their supply chains. Compliance is to be guaranteed by their own or external supervisory mechanisms. The differing approaches to supervision and assessment of the impact of such codes may also be relevant when designing HRIAs. Furthermore, the impact of codes of conduct has meanwhile been analysed by bodies that are more independent of the relevant companies, e.g. in the field of fair trade or the Ethical Trading Initiative (see e.g. Barrientos/ Smith 2006; COMO-Consult/ Collective Leadership Institute 2007). These analyses are at some points critical of companies' own assessments of the effectiveness of their codes of conduct.

For example, Barrientos and Smith, in their impact assessment of the Ethical Trading Initiative, concentrate on the perspective of the workers concerned. Here, with Chris Roche (1999), they follow the idea of a process-oriented learning approach for impact assessments (see also Barrientos 2005; Mayoux 2003). The emphasis is not on clearcut before-after measurements, since the unknown interplay of the most diverse factors would largely hinder valid statements. The focus is rather on identifying relevant aspects from the standpoint of the persons concerned and achieving continual improvement.

The impact analysis of Barrientos and Smith demonstrates some of the typical weaknesses of in-house assessments. Central points of criticism can be summarised as follows:

- There is too great a focus on compliance with statutory standards, and too little on possibilities of continuing improvement of the stakeholders' situation. For example, many companies conduct social audits in their supply chains, in order to check on supplier compliance with their own code of conduct. The company can thus



graphically communicate its own effort to the outside world. For years though it has been shown that audits do not contribute greatly to improving the situation of the workers concerned (Musiolek 2010: 69f). An impact assessment limited to assessing the results of audits, in order to review the degree of compliance with a company's own code of conduct is therefore inadequate. It says nothing about the influence of corporate action on the stakeholders and does not aim for long-term improvement. In relation to the value chain, companies would need to cooperate with contractors on a long-term basis as well, instead of immediately terminating the business association in the event of non-compliance. Frequently it is only through long-term cooperation with suppliers that a company's own practices, e.g. purchasing, are critically questioned and revised.

- The assessment of measures frequently does not take place in interchange with stakeholders. For example, an impact assessment for building a dam will typically start from social problems that have arisen in the past, e.g. expropriation, relocation and compensation programmes. This is, for example, reflected in the World Bank's safeguard policies, which take up 'typical' human rights problems around large-scale projects. Yet the project may have divergent effects in the region concerned, something such a standardised approach could cause the company to overlook. In the above example, building a dam in the given region might also impact on the traditional religious use of the river to the distress of those concerned. In order to recognise this problem in time, the impact assessment should have undertaken a context-sensitive, comprehensive identification of the stakeholders, in order subsequently to be able to analyse the relevant repercussions in dialogue with the stakeholders.
- Some indicators distort the picture. For example, appropriate minimum wages are frequently difficult to define as they depend on the context and assessments are subjective (Mayoux 2003). In Bangladesh, for example, statutory minimum wages are far below the poverty line. If an impact assessment focused on meeting the requirement of such a minimum wage, the result would say little about the appropriateness of the wages from a human rights standpoint.

- Companies do not sufficiently consider power disparities and, in particular, gender discrimination within the stakeholder groups. For example, an impact assessment could positively note that works council members and trade unionisation in a factory was enabled on principle and appropriately accepted by the corporate code of conduct. However, at the same time female staff could be deterred from organising themselves since union activity was perceived in their region as ‘men’s work’ and they also feared reprisals from their superiors (Musiolek 2010). The emphasis must therefore be more on longer term programmes at the local level with respect to the representative organs and self-organisation of workers (empowerment) than on formal compliance with the standard of trade union freedom.

To put it simply, the problems can be allocated to two areas which frequently give rise to inadequate or inappropriate results of impact assessments of social standards:

First, experience with more compliance-oriented approaches (“fulfilled/ not fulfilled”) indicates an often insufficient orientation to processes for ongoing improvement and learning. Such approaches lead to no sustainable improvement of the situation of employees, but tend to primarily enable companies to publicise their monitoring of self-imposed standards to the outside world. If HRIAs are also mostly deployed for major projects and less for current processes in factories, there must still be comparable learning from the problems identified and results must feed into future project management procedures, in order to be able to go beyond one-time improvement in individual projects.

Second, the aspect of stakeholder participation is generally underexposed. This is not really surprising since the active involvement of external stakeholders in business management activities poses great challenges. As indicated above, this must still be an element of corporate due diligence from the human rights standpoint, since possible problems and potentials in the interests of the rights holders can ultimately only be identified with their participation. Here a human rights-based assessment differs from other risk management procedures (see also United Nations 2010, para. 85; Morrison/ Vermijs 2011: 17).





The following section will sum up additional experience from the area of environmental impact studies. Besides the challenges mentioned, they primarily point to the great significance of regulatory frameworks for the effective implementation of corporate impact assessments.

2.4 Experience with environmental impact assessments (EIAs)

EIAs have a comparatively long tradition in industrialised and developing countries due to the widespread public perception of cross-border environmental problems. EIAs have combined the precautionary principle with the possibility of public involvement, and it is supposed to enable an awareness of alternatives to the project planned (Schrage 1997: 21). This claim strongly recalls the current debates around HRIAs. However, an important distinction compared to corporate human rights responsibility in the global economy lies in the fact that a common concern for environmental problems has been recognised and in some cases enshrined in law. For example, since the 1980s many national laws and European initiatives have been adopted giving detailed guidelines for conducting EIAs (see e.g. Schrage 1997).

Internationally, particularly in countries with less detailed laws, demands for EIAs go back to the 1970s, notably in order to assess environmentally related impacts of development projects. However, compared to the EIAs in industrialised countries these are regarded as comparatively inadequate (Wood 2003). A short assessment of the EIAs in developing countries shows that they are dealt with very differently in the different regions and countries. From his analysis of EIAs, Wood derives fundamental quality criteria which are, however, frequently not met. For example, successful EIAs are to be found where the appropriate legal framework requires consistent implementation (Wood 2003: 5). Coordination between governments to elaborate guidelines can likewise be helpful in this context. Legal requirements can reduce private competition to the detriment of unacceptable environmental standards.

The national monitoring of assessment procedures plays an important role (Wood 2003: 16f). Furthermore, it turns out that clear guidelines for laying down the scope of assessments and reporting are helpful for forming appropriate standards. They should contain a maximum of public involvement.



In addition, EIAs should guarantee that other decision procedures relative to a project are tied up with the results of the assessment. Some authors lament the occasional lack of consideration of their findings for subsequent decision-making. This means that EIAs need to be systematically integrated into the whole project cycle.

Finally, in coverage of EIA results there are many problems of lack of transparency and practicability, either because the reports are confidential or because they are not available in the language of the country concerned. In order to counter these problems the following are needed:

- an interdisciplinary team preparing the report, involving local environmental experts;
- methods appropriate to country or regional conditions;
- a reliable data situation;
- opportunities for the local population to participate.

In communication about projects planned it is also important to guarantee sufficient consideration of possible alternatives. Weighing up alternatives is often limited on grounds of economic interest. Above all the exit option is frequently not considered, that is, the possibility of the local population completely rejecting a project on social, cultural or ecological grounds. Alternatives should be given greater consideration in order to minimise the harm to the groups affected.

By way of summary, it can be said that the implementation of EIAs is not yet satisfactory in many countries, which presumably has a negative impact on sustainable development there. Where such assessments are ineffective, there is generally a lack of political will and effective legislation or its enforcement. Awareness-raising programmes, improving the data situation, and participation by stakeholders and local environmental experts must be taken forward. No development by market actors alone has taken place to date and it could be potentially boosted through the appropriate use of minimum standards in legislation, thus creating a level playing field for companies. These experiences with EIAs should also be considered in the further elaboration and application of HRIAs.



2.5 Interim conclusion: challenges for HRIA procedures

We have presented three areas from which criteria can be derived for designing HRIA procedures. First, the political framework of the UN special representative gives indications at the normative level for designing corporate due diligence for respecting human rights. Second, experience with assessing the impact of codes of conduct in global supply chains may be used; thirdly, we focus on existing challenges regarding environmental impact assessments.

Against this background, we summarise fundamental challenges for HRIA instruments in what follows. These challenges are not an exhaustive list, but highlight conflicting goals and may be used for classifying, selecting and combining different approaches. We classify what we see as the central aspects under two headings to be understood as axes along which to design HRIAs: (1) involving stakeholders and (2) process or learning orientation.

1) Involving relevant stakeholders

HRIA instruments can be distinguished according to the degree of focus on active participation by stakeholders. The latter may include local human rights experts, e.g. activists representing the interests of marginalised groups.

The systematic involvement of stakeholders and context sensibility, however, tend to limit the instrument's capacity for standardisation. This gives rise to a fundamental dilemma, since a high degree of standardisation and top-down design facilitates integration into business management flows. Standardisation can, moreover, contribute to quality assurance when implementing and reporting on findings. A possible compromise may e.g. lie in a standardisation of processes and the necessary aspects of reporting, with the substantive focus on specific rights being decided jointly with stakeholders in the individual case.

Examples of orienting an HRIA instrument to high stakeholder participation may be:

- The instrument gives indications of what may be understood by an appropriate analysis of possible stakeholders;



- It offers indications and guides for revealing information, in particular towards those affected/ stakeholders;
- The HRIA tool induces the company to formulate minimum standards for involving stakeholders and documenting the quality of its implementation;
- the instrument offers standards and possible ways of establishing effective complaint procedures;
- all relevant departments and persons in the company are appropriately linked into the assessment;
- Local human rights experts and communities concerned initiate the assessment or accompany it, e.g. on the context-sensitive definition of rights at risk. The views of stakeholders on necessary measures are implemented in the companies.

2) *Degree of process and learning orientation*

A further criterion is the degree of orientation to long-term learning processes. An HRIA can thus be more like an additional checklist, with its various points “ticked off” with each project. Alternatively it can be geared to feeding findings and responses back into future project decisions and thereby oriented to continuing improvement processes. Here too there is likely to be tension with business management standardisation, as feedback loops and process accompaniment potentially entail greater effort and constant changes. On the other hand, they also correspond to the corporate interest in constant optimisation of work flows.

Examples of long-term process orientation⁴ of an HRIA could be:

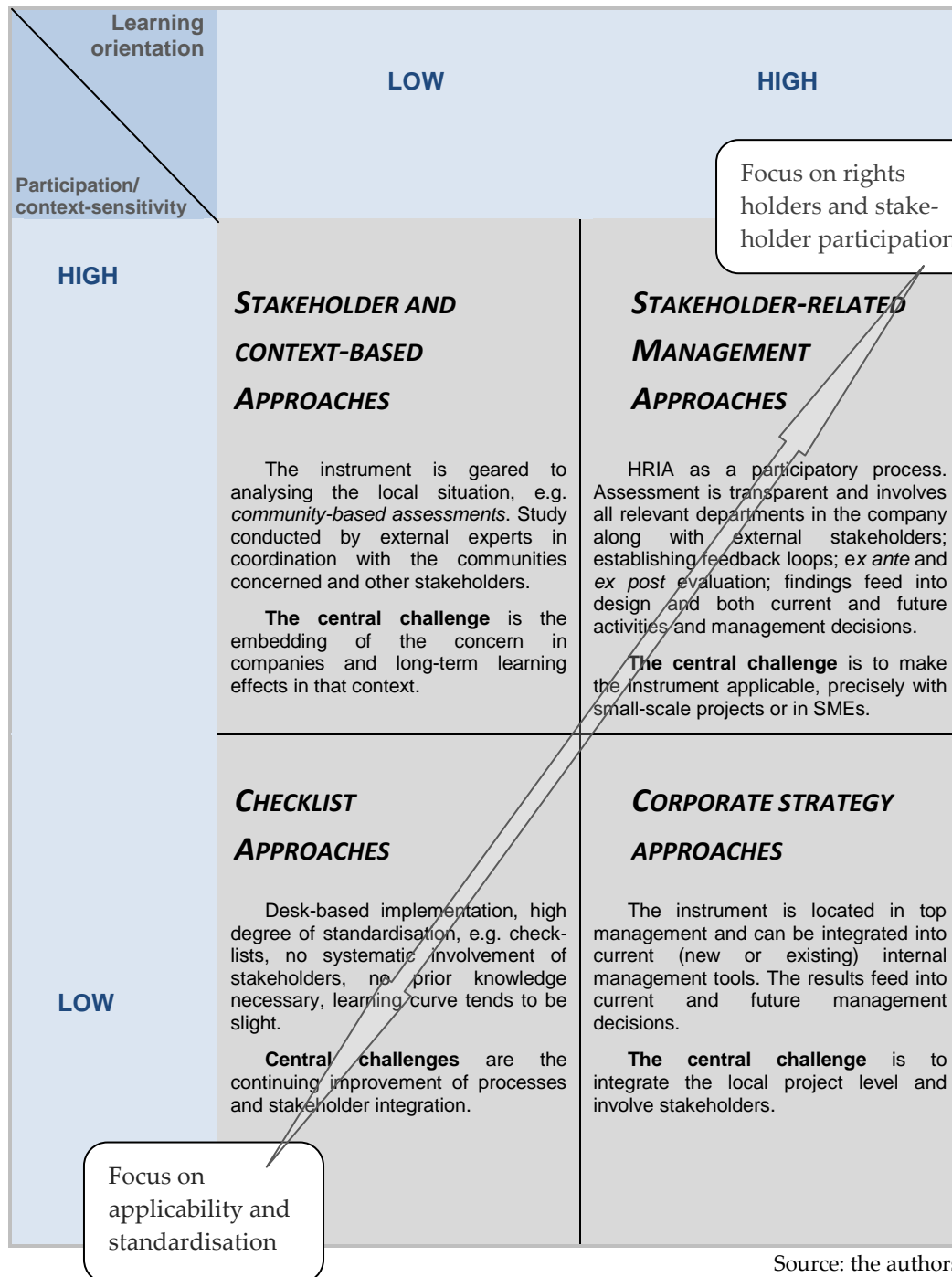
⁴ The concept of process orientation should not be misunderstood. HRIA reports should not be confined to in-company *processes* but also document the concrete *impacts* of corporate action on the rights of stakeholders (Morrison/ Vermijs 2011).



- Formulating short, medium and long-term steps to minimize human rights risks in potential problem areas;
- Requiring a transparent (if possible publicly comprehensible) documentation of the implementation of planned interventions;
- Instructions for organising feedback loops with staff and external stakeholders, e.g. through forums and incentives for stakeholders to make human rights-relevant proposals for improvement;
- Reporting standards for HRIAs, containing a reference back to earlier problems and document progress and steps backward;
- Coupling instruments to staff training on human rights-relevant topics.

On the basis of these challenges and possible approaches we summarise simplified ideal types for HRIA procedures in the following matrix:

Types of approaches and conflicting goals entailed by HRIA procedures:



Source: the authors





3. Selected instruments

So far no introductions to existing HRIA procedures have been issued in German, but the first ones have appeared in English. One is the *Guide to Corporate Human Rights Impact Assessment Tools and Management* published by the Dutch organisation *Aim for Human Rights* (2009). The text supplies general indications on dealing with HRIAs and proposes criteria for selection. The target group is, above all, companies and other organisations that have opted to conduct an HRIA. The company network *CSR Europe* has likewise presented a short introduction to the HRIA debate, which also contains an overview of some existing instruments (Röling/ Koenen 2011). In addition, there is the *Labour Rights Responsibilities Guide* (LARRGE, cf. Ludwig Boltzmann Institute of Human Rights et al. 2009), which was drawn up by cooperation between different European human rights institutions, research centres and consultancies. LARRGE offers a survey of existing *Corporate Social Responsibility* (CSR) initiatives with emphasis on human rights and labour rights.

We thus prefer to refrain from giving a mere overview and would rather – against the background of the conceptual challenges – enlarge on four instruments that approach the above-mentioned conflicting goals from different directions. The appendix supplements these remarks with an overview of other existing HRIA instruments.

3.1 **Checklist approach: Human Rights Compliance Assessment (HRCA) and Quick Check**

Danish Institute for Human Rights (DIHR)

The HRCA of the *Danish Institute for Human Rights* represents the most comprehensive instrument to date. It is software-based and meant to be integrated directly into a company's intranet. It is made to be embedded into existing management structures and to be usable at every level of the company. The instrument is thus primarily directed to companies but other stakeholders can initiate the process.

An essential feature of the instrument is the questionnaire to enable a largely standardised implementation without human rights expertise. The regulatory framework is the *Bill of Human Rights*, a number of other human rights instruments and the ILO's core labour standards. The

programme currently comprises about 1000 indicators, which are covered by approximately 200 questions. They can be related not only to the whole company but also to individual projects. The approach is mainly quantitative, supplemented by some qualitative details. An online database contains frequently asked questions with explanations regarding relevant human rights instruments.

The assessment can be conducted by a working group with members from different departments, e.g. personnel, CSR, legal affairs and purchasing. But an individual can also carry out the programme, according to the DIHR.

The results are broken down following particularly at-risk and less at-risk business divisions. They can thus form a basis for a human rights-related strategy and provide information for the dialogue with stakeholders in sensitive areas. The findings can relate to a specific human right, a focal theme or a department in the company.

In addition, the DIHR provides users with *Country Reports* giving information on the respective context against the background of the UN *Guiding Principles*. The *Reports* are to be made publicly available in 2012 (Morrison/ Vermijs 2011: 18, Fn.).

HRCA Quick Check

The *Quick Check* is a reduced version of the HRCA and is clearly more compact. It contains about 10 percent of the questions. The *Quick Check* can primarily establish the need for a complete HRCA, but also focus on individual problem areas. It highlights the influence of specific company activities. The *Quick Check* fulfils some of the guidelines for the *Global Reporting Initiative* (GRI). It can therefore make a contribution to corporate reporting, also in the context of the *UN Global Compact*.

The findings have at most an indicative character, but can certainly be useful in setting priorities in companies. The instrument presents results according to areas that are particularly problematic and require immediate action, known risk areas that need further attention, and areas where the company already complies, at least in terms of the questionnaire. The three fields might facilitate drawing up a programme to improve the situation.





Stakeholder involvement

HRCA and the *Quick Check* do not call for stakeholder involvement. The results may serve as a basis for stakeholder dialogues, but involving them is not necessary for implementation. Rather, the instrument stresses the fact that a single member of management can apply it. Furthermore, it does not call for profound knowledge of human rights and can therefore be conducted without bringing in experts. The large number of indicators and primarily quantitative design reflect a maximum of external requirements on all relevant aspects. The instrument is thus more oriented to a high degree of standardisation and easy use by managements with no great familiarity with human rights than to involving different stakeholder perspectives. This high degree of standardisation raises questions about the appropriateness of the content for individual cases. Of necessity, this also produces a huge number of individual questions that may lead to a comprehensive consideration of rights, but would probably make the instrument difficult to handle in everyday business life.

The comprehensive *Country Reports* might make a positive contribution to orientation in the local context. The planned public availability of the reports is thus welcome.

Orientation to continuing improvement and learning effects

The questionnaire method and high degree of standardisation are not likely to promote the continuing build-up of expertise in companies. The instrument does not presuppose feedback loops or adaptation processes in company workflows. The very limited quality engagement with human rights impacts would probably generate relatively little substantive grappling with human rights in the company. However, the results could certainly be used to verify more long-term learning processes there. Hence the DIHR also underlines the possibility of comparing year-on-year performance on the basis of the HRCA results.

3.2 Corporate strategy approach: Guide for Integrating Human Rights into Business Management

Global Business Initiative on Human Rights (GBI, formerly Business Leaders Initiative on Human Rights, BLIHR); UN Global Compact; Office of the High Commissioner for Human Rights (OHCHR)

The instrument is a software-based programme aiming to integrate human rights aspects into the strategic management of companies.

An essential feature is the strong orientation to a „corporate language“ and a comparatively graphic presentation of human rights content. The *Guide* presents concepts, case studies and approaches that might contribute to understanding the topic. The instrument is thus chiefly meant as a practical aid for companies to familiarise themselves with a human rights perspective.

The guide is centred on the so-called *Human Rights Matrix*. It is really not an impact assessment but an interactive tool for integrating human rights aspects into management. The software aims to indicate practical ways of understanding human rights in a corporate context and involve them in strategies. The instrument is also geared to producing an overview of the present situation as rapidly as possible. The focus here is on visualisation through traffic lights and transferring human rights into the company context, and less on conducting a complete HRIA.

The results are distinguished in “essential steps” and “beyond essential steps”. Reference is made to relevant conventions and instruments in the individual areas of the essential steps. “Beyond essential steps” can include, besides case studies, positive influences of the company.

Since the instrument represents an autonomous software, it is comparatively clear and easy to use, but it is rather improbable that large companies will use it besides existing corporate instruments, e.g. to combat corruption, on a large scale. The actual implementation and integration into the company is thus likely to be difficult. The instrument might, however, serve as a basis for a company’s own procedures.





Stakeholder involvement

A certain human rights expertise is needed to use it. The actual design, depth and effectiveness of the instrument will depend both on the level of knowledge of the person entrusted with handling it and also on the effort made to answer the questions. Since it is primarily an instrument for visualising your own performance it can be used very flexibly. For example, different matrices can be created at the same time, in order to analyse individual departments, teams or projects, or even the whole company. Thus suppliers and other third-parties can theoretically be tied into the evaluation – to the extent that the individual business divisions are granted the necessary competence to involve them. Ultimately, however, the instrument can be handled at the desk of an individual.

Orientation to continuing improvement and learning effects

The processing is planned so that constant monitoring and thereby also progress reports can be extracted to indicate the company's own development. Here too, however, the mode of implementation is up to the company. Engaging more with the quality of individual elements (e.g. working conditions, supply conditions or discrimination) could well promote a learning curve in the company. Another contributing factor in this regard might be the fundamental orientation of the instrument to embedding human rights in management.

3.3 Stakeholder-related management approach: Guide to Human Rights Impact Assessment and Management (HRIAM)

International Finance Corporation (IFC), Business Leaders Forum, UN Global Compact

The Guide to HRIAM is a comparatively compendious online guide that gives information about the whole process of human rights due



diligence. It comprises preparation, identification of possible problems, stakeholder participation, assessment, remedy, longer term management and evaluation. It illustrates typical problems with the aid of fictitious case studies from a variety of business sectors. The guide also sums up country information and – with reference to *Human Rights Translated* (Castan Centre for Human Rights et al. 2008)⁵ – demonstrates the importance of individual rights for everyday business. The project website, moreover, contains discussion forums for exchange on individual themes. Interactive exercises enable users to work through hypothetical scenarios of a fictional company.

With the proposed comprehensive processes and procedures the instrument is directed primarily to big companies. The reference to being strongly context-dependent leaves the method open to the actual impact assessment. The guide presents a tabular overview of 35 rights, each containing explanations for corporate practice with potential risks. Companies are intended to develop and conduct their own procedures on this basis. The instrument also offers the option of combination with other HRIA tools that are more strongly focused on the methodology of impact assessment.

Stakeholder involvement

The Guide enlarges on stakeholder participation in comparative detail. It underlines the importance of identifying and integrating those concerned before the actual assessment can take place and gives general indications on how to do this. The instrument thus focuses more on the human rights perspective and context-sensitivity than on how to apply and implement it in everyday business life.

⁵ The document *Human Rights Translated* illustrates the relevance of human rights in the corporate context and backs this up with real-life examples. It is intended to serve as a guide for companies.



Orientation to continuing improvement and learning effects

Emphasis is laid on the longer term integration of human rights into management and including problems identified in future strategies. The Guide avoids quantitative requirements or checklists. Instead, it describes necessary steps and underlines that a company must develop its own key performance indicators (KPI) in order to be able to sustainably integrate the appropriate consideration of human rights risks and problems into management operations. It is thus comparatively ambitious regarding practical implementation and establishing the company's own expertise.

**3.4 Stakeholder and context-based approach: Getting It Right –
A step by step guide to assess the impact of foreign
investments on human rights**

Rights & Democracy

The instrument is a guide to the human rights assessment of foreign investments. It is particularly meant for communities or local civil society organisations, but can also be used by companies to engage with the perspective of local stakeholders. It aims to identify the relevant stakeholder groups, to put together an assessment team and investigate both the national context and the regulatory framework at the local level, before starting with the actual HRIA. This is a software with the assistance of which the quality of respect for individual human rights can be examined step by step with the aid of external stakeholders and then compared with company activities. The aim is to be able to assess and process the positive and negative influences of investments. Questions on the individual areas relate both to international human rights instruments and also to the national human rights context and the relations between the communities and the companies.

Stakeholder involvement

The Guide is above all oriented to the concerns of stakeholders and less to longer term integration into everyday business management. Unlike the company-directed procedure, *Getting it Right* was thus consistently developed from the angle of the communities concerned. Besides

identifying relevant stakeholders, it also provides for making contact and direct involvement. At least part of the implementation phase is thus external.

Orientation to continuing improvement and learning effects

Through this focus on the stakeholder perspective companies may change their own perspective. Nevertheless, the instrument seems less suited to showing companies how to strategically embed human rights in their operations, thus initiating long-term learning processes. Although there is supposed to be a final report at the end of the HRIA, that can also be commented on by different stakeholders, and also follow-up, the continuing learning curve will ultimately depend on the way the company deals with the results. If they are accepted by the management the results could well be used for long-term learning processes and strategies.





4. Conclusion

Understanding of the significance of human rights responsibility was strengthened by the work of John Ruggie. Nevertheless, the *Guiding Principles on Business and Human Rights* still leave many questions open regarding the practical implementation of this responsibility. For this reason, but also because out of the estimated 80,000 TNCs only about 250 have so far taken a public position on their attitude to human rights (Morrison/ Vermijs 2011: 1), it will take some time and require more practical experience before we can further define the human rights responsibility of companies.

Starting from an analysis of human rights impact assessments in companies, which – in some cases - revealed very simple and standardised business management procedures, we have undertaken a conceptual consideration of the possibilities and conflicting goals of such procedures.

It turns out that the human rights claim cannot be put into practice as a standardised procedure without overcoming some obstacles. Particular challenges for business management practice are the need for organisational learning regarding the importance and scope of human rights and the participation of stakeholders. This is already evident in entrepreneurial impact assessments regarding social standards in global supply chains. If HRIAs are to play a central role in implementing human rights due diligence of companies in accordance with the UN *Guiding Principles*, they must cope with the above-mentioned challenges. This means, in particular, that they promote the strategic embedding of human rights in corporate management and that the consistent engagement and integration of stakeholder groups needs to be systematically linked with business management processes.

Existing HRIA procedures have approached these challenges so far from differing directions. We have distinguished four models:

- 1) *Checklist approach*: These are extremely standardised procedures and checklists primarily oriented to business management methods and to ease of use. They call for little or no human rights expertise and may be generally regarded as purely “desk-based”. Both learning curves and the systematic involvement of stakeholder are regarded as

secondary. However, such approaches can help to highlight problem areas in the company. They can indicate the necessity of a more profound HRIA and can be useful for setting priorities.

- 2) *Corporate strategy approaches*: These more strongly qualitative procedures are to serve as guides in particular for top management and assist them in strategically embedding human rights in their corporate strategy. They treat HRIAs more as one element of a more comprehensive due diligence obligation. Adjusting to specific contexts and involving the local project level and relevant stakeholders could prove a special challenge.
- 3) *Stakeholder-related management approaches*: These comprehensive approaches try to keep in view both the long-term strategic embedding in management and the systematic identification and integration of stakeholders. However, their design must necessarily be kept very flexible, in order to suit differing contexts. They are relatively ambitious; the procedures for an HRIA and the development of KPIs lie, due to context-dependence, with the individual company or the implementing consultancy. Applying them within the company calls for relatively broad human rights expertise and strong commitment. These basically promising approaches could well be difficult for SMEs, in particular, to cope with.
- 4) *Stakeholder and context-based approaches*: These stakeholder or community-based procedures are less concerned to embed their approach in business management; instead, they primarily adopt the perspective of the groups concerned. They take a strongly human rights-oriented line, but run the risk of remaining more of an external programme for the company and not leading to an internalisation of human rights aspects. This risk could possibly be reduced if a company systematically used such instruments in order to engage and dialogue with the stakeholder perspective.

The hitherto existing instruments show very varied potential, which must ultimately be used by the company concerned. In principle they should thus be understood as guidelines and aids, on the basis of which companies can develop their own strategies, in order to conduct human rights impact assessments and comply with their due diligence as such. This development is, however, still in its infancy.





A classification of the different instruments according to their handling of the above-mentioned challenges can thus be the first helpful orientation for the company's own work with relevant procedures. In addition, in view of the discussion it seems to make sense to weigh up differing combinations of instruments in order to use their respective strengths and balance out the weaknesses.

In addition we note that the demand for participation needs to be made an issue in the companies: as of when is this criterion satisfactorily fulfilled? How deeply must participation go and how should companies deal with situations in which local stakeholders speak out against corporate activities (exit option)?

The transparency of HRIAs has hitherto been generally low and besides the individual documentations of best practice examples (see table in the appendix) HRIAs conducted so far are hardly available to the public. A similar hesitation of companies is noted by Morrison und Vermijs (2011: 22) regarding the results of audits and complaints. Basically the question arises as to the extent to which business management practice is compatible with democratic claims to transparency.

Beyond general challenges to companies, however, it remains to note that despite the existence of the *Guiding Principles* they have very little practical support in respecting their human rights due diligence and conducting HRIAs, particularly in relation to standardised legal requirements, which can play an important role in developing a level playing field. Hitherto there has been a lack of statutory regulations, by contrast with EIAs, and governments have not presented any equivalent HRIA models, from which companies could find guidance.

The HRIA debate therefore remains confined to a relatively limited field of implementation issues, without sufficient consideration of framework conditions at the state and international level, or of structural contexts in the global economy.



5. Recommendations

The study shows that implementing due diligence for companies to meet their human rights responsibility is in its infancy. This must be kept in mind regarding the following recommendations for action for the different actors:

Companies must embed their human rights responsibility systematically in their management systems and step by step collect experience to implement and expand their human rights due diligence in practice. Such an undertaking should not take place behind closed doors but calls for the courage to engage with the issues publicly. Big TNCs should play a pioneering role here. They are also the best ones to test the extent to which HRIAs can be reasonably integrated into existing procedures, e.g. to combat corruption.

The state must likewise exercise human rights due diligence and create relevant conditions for companies. This is part of the state duty to protect. This may include promoting practical learning about HRIAs and also working out sector and context-specific model HRIAs, not to forget including best practices through statutory standards. The EU can play a key role here. Finally – as in the case of EIAs – laws should contribute to strengthening HRIAs. State intervention should be devised as support for SMEs as well. Incentives and conditions can motivate companies to develop a human rights policy and meet their due diligence obligations.

National human rights institutions should understand the review of the human rights policy of national companies to be a separate assignment.

Civil society actors have a double function with relation to corporate human rights due diligence. On the one hand, they can draw attention to existing problems through public criticism and campaigning. On the other, they can play a proactive and supportive role through their human rights expertise and networking with local groups.

Finally, researchers can strive to fill existing research gaps regarding human rights due diligence by companies. Existing HRIAs are proving very complex or unsatisfactory. Hence existing best practice examples must be systematically evaluated. The same applies to collecting and analysing practical experience, which should also be available for



inspection. In addition, basic research must give greater critical attention to the potentials and pitfalls of structural conditions for current corporate human rights responsibility.



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7. Appendix

Overview of selected HRIA instruments

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7.1 Conflict-Sensitive Business Practice: Guidance for Extractive Industries (CSBP)

Typology according to the matrix	Mainly <u>stakeholder and context-based approach</u>
Origin of the initiative	International Alert
Year of development	2005
Availability	Free
Language	English
Information	http://www.internationalalert.org/pdfs/conflict_sensitive_business_practice_all.pdf
Function	The tool aims to help companies in the extractive industries in conflict regions to develop a better understanding of human rights and human rights responsibility. The focus is on minimizing risks and generating a better understanding of the conflict region. Another feature is the building of confidence between stakeholders and companies in the country. The instrument is aimed primarily at the project level.
Content	<p>CSBP consists of different documents:</p> <ul style="list-style-type: none"> - Introduction to conflict-sensitive business practice; - Screening Tool for early identification of conflict risk; - Macro-level Conflict Risk and Impact Assessment tool; - Project-level Conflict Risk and Impact Assessment tool. <p>The tools are long term and require the involvement of the entire project cycle.</p>
Target group	Companies
Scope/ flexibility	Extractive sector in conflictive areas; individual priority settings are possible.
Case studies/ examples	No
Methodology	With its analysis of primarily economic, political, socio-cultural and security-related areas on the project-level the instrument represents the beginning of HRIA. The focus is on conditions and risks for conflict. Additionally, the project-related analysis is supposed to identify the needs of local stakeholders. The macro-level analysis investigates the national context and integrates actors from the government and relevant ministries in order to identify the impact of business activities on the conflict.
Stakeholder participation	Yes, the instrument is designed for the participation of local groups.



7.2 Corporate Social Responsibility Compass

Typology according to the matrix	Mainly <i>checklist approach</i> , partly <i>corporate strategy approach</i>
Origin of the initiative	Ministry of Economic and Business Affairs Denmark and Confederation of Danish Industry
Year of development	2005
Availability	Free
Language	English, Danish
Information	http://www.csrcompass.com/
Function	The CSR Compass is an online tool aimed at assisting SMEs that want to address human rights and environmental risks in their supply chain. The tool can be used in conjunction with the HRCA by DIHR.
Content	Guideline for writing a CSR statement and a code of conduct in the supply chain.
Target group	Companies (particularly SMEs)
Scope/ flexibility	No regional and sectoral limitation. The instrument is focused on the supply chain.
Case studies/ examples	Yes, examples for CSR approaches in the supply chain.
Methodology	No specific methodology; general guide and some practical examples for the development of a code of conduct and for the review of standards in the supply chain.
Stakeholder participation	No (at the discretion of the enterprise)



7.3 Eliminating Child Labour - Guides for Employers

Typology according to the matrix	Mainly <u>corporate strategy approach</u>
Origin of the initiative	International Labour Organization (ILO), International Organisation of Employers (IOE)
Year of development	2007
Availability	Free
Language	English, French, Indonesian, Mongolian, Russian, Spanish
Information	http://www.ilo.org/public/english/dialogue/actemp/whatwedo/projects/cl/guides.htm
Function	The tool provides strategies for the prevention of child labour, the withdrawal of children from work, and the protection of those working children who are already above the minimum age.
Content	The tool consists of three guides: <ul style="list-style-type: none"> - Definitions, an explanation of the causes and the consequences of child labour; - Options and possible strategies for eliminating child labour; - Role and responsibilities of employers' organizations and other business associations in assisting their members.
Target group	Companies, employers' organizations and associations, trade unions
Scope/ flexibility	Focus on child labour, particularly in the agricultural sector; the guides underline that no uniform strategy exists for abolishing child labour. Thus, a range of proposals and case studies are presented in order to support the development of a company's own strategies.
Case studies/ examples	Yes, the guides contain a range of exemplary measures which have already been applied by different actors.
Methodology	The guides contain a general situation analysis as well as a chapter on the support for families and children and on codes of conduct. The individual chapters are intended to help companies to develop their own strategies by checklists, information on the costs of individual measures and by practical examples. The final chapters contain recommendations for the introduction of a code of conduct. Although the guidelines were developed specifically for the agricultural industry, they can be applied to other industries.
Stakeholder participation	No (at the discretion of the enterprise)



7.4 “Getting it Right”: A step-by-step guide to assess the impact of foreign investment on human rights

Typology according to the matrix	Mainly <u>stakeholder and context-based approach</u>
Origin of the initiative	Rights & Democracy (International Centre for Human Rights and Democracy, Canada)
Year of development	2007
Availability	Free
Language	English
Information	http://www.dd-rd.ca/site/_PDF/publications/Getting-it-right_HRIA.pdf
Function	The instrument was developed as a guide for communities and civil society organizations to identify positive and negative effects of foreign investment on the human rights situation.
Content	The HRIA guide is divided into six different steps: <ul style="list-style-type: none"> – Preparation of the study; – legal framework; – adapting the guide; – investigation process; – analysis and report; – engagement, monitoring and follow-up.
Target group	The instrument has been developed especially for communities where foreign investments are planned as well as for civil society organizations involved, trade unions, or organizations of historically disadvantaged groups.
Scope/ flexibility	Direct reference to projects with foreign direct investments; HRIA-steps can be adapted flexibly.
Case studies/ examples	Argentina, Democratic Republic of Congo, Peru, Philippines, Tibet/China
Methodology	Computer-based guideline for community-based HRIA. Information, references and examples of research techniques are provided in each step of the guide. The questions are divided into three categories; <ul style="list-style-type: none"> – National human rights context; – company and community; – human rights. Project-specific questions can be added separately. The indicators are mainly qualitative, only a few are quantitative.
Stakeholder participation	Yes, the instrument is based on the perspective of affected external stakeholders.



7.5 Global Compact Self-Assessment Tool

Typology according to the matrix	Mainly <i>checklist approach</i>
Origin of the initiative	Danish Institute for Human Rights (DIHR), Confederation of Danish Industries, Danish Industrialization Fund for Developing Countries, Danish International Development Agency (DANIDA), UN Global Compact
Year of development	2010
Availability	Free
Language	English
Information	http://www.globalcompactselfassessment.org/
Function	A free online and easy to use tool that enables companies to measure their performance with the help of predefined questions in the areas of human rights, labour standards, environmental protection and fighting corruption. It should give a quick overview of possible irregularities and gaps in the company's activities and encourage follow-up measures. The instrument can be used to create the regular Communication on Progress (COP) expected by Global Compact members.
Content	The self-assessment includes the ten principles of the Global Compact. The individual areas are covered by indicators and a brief questionnaire that is similar to the HRCA Quick Check.
Target group	Companies
Scope/ flexibility	No regional and sectoral limitation.
Case studies/ examples	Yes, practical examples of the ten principles of the Global Compact.
Methodology	Indicators that are determined by short questions were developed on the basis of the ten principles of the Global Compact. This method is comparable to the HRCA Quick Check. Traffic lights point out existing gaps and accumulated needs. On this basis, the creation of a follow-up report is recommended.
Stakeholder participation	No (at the discretion of the enterprise)



7.6 Guide for Integrating Human Rights into Business Management

Typology according to the matrix	Mainly <u>corporate strategy approach</u>
Origin of the initiative	Global Business Initiative on Human Rights (GBI, former Business Leaders Initiative on Human Rights, BLIHR), UN Global Compact Office, Office of the High Commissioner for Human Rights (OHCHR)
Year of development	2006, revised in 2010
Availability	Free
Language	English
Information	http://www.integrating-humanrights.org
Function	The guide offers practical help for companies that want to take a proactive approach to human rights in their business processes and to promote a deeper understanding of human rights in the company.
Content	The online-based guide covers six areas: <ul style="list-style-type: none"> - Global Business Case; - Strategy; - Policies; - Processes and Procedure; - Capacity and Capability; - Tracking Performance.
Target group	Companies
Scope/ flexibility	No regional and sectoral limitation.
Case studies/ examples	Yes, practical examples are included.
Methodology	The guide provides a step by step approach for integrating human rights in the activities of companies by presenting a variety of strategies and instruments, and also highlighting other human rights instruments and procedures. For each area, possible steps for the integration of human rights are described. It is primarily concerned with qualitative information and explanations. The core of the instrument is the Human Rights Matrix (see 6.12).
Stakeholder participation	No (at the discretion of the enterprise)



7.7 Guide to Human Rights Impact Assessment and Management

Typology according to the matrix	Mainly <u>stakeholder-related management approach</u>
Origin of the initiative	International Business Leaders Forum, International Finance Corporation (IFC), UN Global Compact
Year of development	2006, revision in 2010
Availability	Free
Language	English
Information	https://www.guidetohriam.org/welcome
Function	The tool is intended to assist companies in systematically identifying human rights risks and gaps in their strategy to fulfill their due diligence, and to integrate the position of stakeholders in corporate decisions to a greater extent.
Content	The guide consists of seven steps: <ul style="list-style-type: none"> – Preparation; – identification; – engagement; – assessment; – mitigation; – management; – evaluation.
Target group	Companies
Scope/ flexibility	No regional and sectoral limitation; the guide was developed especially for the planning phase of major projects or for significant changes in the company, but it can also be used with ongoing operations.
Case studies/ examples	Yes, best practice examples and brief country reports.
Methodology	With its widely open methodology the instrument remains flexible for different companies and contexts. Seven steps (see content) are given, but the specific embodiment is largely at the discretion of the company. The embodiment is also supposed to derive from stakeholder integration.
Stakeholder participation	Yes, the approach emphasizes the identification and integration of stakeholders.



7.8 Human Rights and Business Learning Tool

Typology according to the matrix	Mainly <i>corporate strategy approach</i>
Origin of the initiative	UN Global Compact Office, OHCHR, UN System Staff College (UNSSC)
Year of development	2007, updated regularly
Availability	Free
Language	English
Information	http://human-rights-and-business-learning-tool.unglobalcompact.org/
Function	The learning tool was designed for companies to better understand the relevance and importance of human rights. Areas where the enterprises have influence and the concept of corporate complicity are in the center of attention. Case studies point to options for action.
Content	The e-learning instrument consists of five different areas: <ul style="list-style-type: none"> - Introduction to human rights; - respecting human rights; - supporting human rights; - complicity; - remedy.
Target group	Companies
Scope/ flexibility	No regional and sectoral limitation.
Case studies/ examples	Yes, practical examples of companies dealing with human rights.
Methodology	The e-learning instrument consists of five different modules (see content), each with exercises, information, case studies and a self-assessment test.
Stakeholder participation	No (at the discretion of the enterprise)



7.9 Human Rights Compliance Assessment (HRCA)

Typology according to the matrix	Mainly <u>checklist approach</u>
Origin of the initiative	Danish Institute for Human Rights (DIHR)
Year of development	2005, is updated regularly
Availability	Fee required. The price depends on the nature and size of the company (price structure differs between large companies and SMEs; NGOs and academics can sometimes get free access).
Language	English
Information	https://hrca2.humanrightsbusiness.org/
Function	The HRCA is a comprehensive tool designed to help companies identify the human rights impact of their activities on employees, local communities, consumers and other stakeholder groups.
Content	Comprehensive checklist of currently 195 questions in order to determine 947 indicators for all business areas and stakeholder relations. Finally, a report with the company's problem areas is derived from the questions allowing for the development of approaches to improve the human rights situation.
Target group	Companies, governmental organizations, NGOs
Scope/ flexibility	No regional and sectoral limitation; questions can be organized in terms of business activities and tailored to the company and the context. The relevance of human rights indicators varies in terms of the industry, risks or the business area.
Case studies/ examples	Yes, Shell International was the testing company during the development phase.
Methodology	It is an online questionnaire that can be integrated into the company's own intranet. The questions can be answered by ticking a box. They are each supplemented with a text that gives a brief description of the topic and provides references to human rights. Building on these answers, the program develops a rating sheet that shows various areas of risk (high, medium, low) and quantifies the impact of the company. Also, relationships to suppliers and contracting partners are included.
Stakeholder participation	No (at the discretion of the enterprise)



7.10 Human Rights Compliance Assessment Quick Check

Typology according to the matrix	Mainly <i>checklist approach</i>
Origin of the initiative	Danish Institute for Human Rights (DIHR)
Year of development	2006, annual revision
Availability	Free
Language	English
Information	https://hrca2.humanrightsbusiness.org/docs/file/HRCA%20Quick%20Check_English.pdf
Function	Self-assessment tool for companies regarding their human rights impacts and problem areas. It is an abbreviated version of the HRCA.
Content	The tool consists of 28 questions. They are intended to cover those human rights that are particularly relevant for companies.
Target group	Companies
Scope/ flexibility	Applicable especially for SMEs, but also as a first estimate for large companies. The questions can be tailored to the company and the country context by the DIHR.
Case studies/ examples	No
Methodology	The HRCA Quick Check comprises approximately 10% of the questions of the full HRCA and covers the areas of recruitment practice, the impact of entrepreneurial activities in communities and supply chain management. The risks of entrepreneurial activities are presented in a traffic light scheme. Further steps must be taken by the company itself. There are also special checklists for specific contexts: "HRCA South Africa" is a shortened version of the HRCA with particular focus on the South African context. For countries with caste system the "Dalit Check" can be used.
Stakeholder participation	No (at the discretion of the enterprise)



7.11 Human Rights: Is it any of your Business?

Typology according to the matrix	Mainly <u>corporate strategy approach</u>
Origin of the initiative	International Business Leaders Forum (IBLF), Amnesty International (AI)
Year of development	2000
Availability	Free, (purchase required for hardcopy)
Language	English
Information	http://www.iblf.org/Resources/reports/publicationsv10_last.aspx
Function	The guide aims to help companies to identify human rights problems and to take steps in order to prevent their recurrence and to improve the situation.
Content	General guide with human rights risks and dilemmas; case studies are included.
Target group	Companies
Scope/ flexibility	Focus on conflict areas and rights at work. The guide is rather general and can be adapted to different contexts.
Case studies/ examples	Yes, examples from the extractive industry and the apparel industry.
Methodology	The guide provides practical assistance for companies to systematically identify problems and dilemmas of human rights. It translates human rights into the corporate context and explains their background. It also provides recommendations for improving the human rights situation and supports this with several case studies.
Stakeholder participation	No (at the discretion of the enterprise)



7.12 Human Rights Matrix

Typology according to the matrix	Mainly <i>corporate strategy approach</i>
Origin of the initiative	Global Business Initiative on Human Rights (GBI, former Business Leaders Initiative for Human Rights, BLIHR)
Year of development	2003, revision in 2010
Availability	Free
Language	English
Information	http://www.humanrights-matrix.net
Function	The Human Rights Matrix is a self-assessment and learning tool that enables companies to understand their business units in terms of human rights agreements and to address problems. It is not an HRIA but an approach to integrate human rights into management strategies. It can also be used as a monitoring tool.
Content	The instrument provides the possibility to carry out an interactive analysis of human rights impacts of business operations in seven areas: <ul style="list-style-type: none"> - Security; - Business Conduct; - Employment; - Workplace; - Products and Services; - Supply Chain and - Community.
Target group	Companies
Scope/ flexibility	No regional and sectoral limitation; the instrument can be tailored to the company.
Case studies/ examples	No
Methodology	The instrument is an interactive and software-based tool for the self-assessment of companies. Human rights impacts of business activities are analysed in all major business areas (see content) and sub-areas. For this purpose, questions on compliance with and implementation of human rights policies in the company ("Essential Steps") are asked and rated according to their degree of fulfilment. This can be supplemented by qualitative explanations and documents. Companies have also the possibility to give positive examples from their own practice ("Beyond Essential"). A final report illustrates the areas of risk through a traffic light system and highlights positive effects. Projects or individual business units can be analysed separately.
Stakeholder participation	No (at the discretion of the enterprise)



7.13 Maplecroft Human Rights Tools and Services

Typology according to the matrix	Mainly <i>stakeholder and context-based approach</i> (depending on the nature and extent of the consulting other approaches are conceivable).
Origin of the initiative	Maplecroft Ltd.
Year of development	2002, reports are updated quarterly.
Availability	Costs depend on the individual consulting extent. Basic information is freely available. More information is partially free of charge for humanitarian organizations.
Language	English
Information	http://www.maplecroft.com
Function	Maplecroft Ltd. is a specialized consulting firm. The human rights advice is supposed to assist companies and investors in assessing risks of their business activities with regard to human rights worldwide, to observe, to prioritize and develop appropriate strategies for dealing with these risks.
Content	The company provides a broad range of consulting tools ⁶ , including: <ul style="list-style-type: none"> – Human rights risk analysis, country reports, reports on regional labour standards; – monitoring tools; – human rights impact assessment; – ethical supply chain risk calculator; – human rights dilemmas research; – stakeholder viewpoints (examples).
Target group	Especially large companies, but also civil society actors, governments, trade unions and investors.
Scope/ flexibility	No regional and sectoral limitation; strong contextual focus since regional differences are highlighted by extensive country reports.
Case studies/ examples	Database of over 10.000 cases
Methodology	Maplecroft provides various advisory tools and information on human rights issues. They are mainly based on country and regional analyses of human rights risks and standards. The approach of the instruments can rather be seen as an extensive external consultation by Maplecroft and less on a systematic integration of human rights perspectives and expertise into the company itself.
Stakeholder participation	No active participation. Country risk reports include case studies of stakeholder positions.

⁶ Since the products are not publicly available, the information on the content is based solely on website information by Maplecroft Ltd.



7.14 Nomogaia HRIA

Typology according to the matrix	Mainly <i>stakeholder and context-based approach</i>
Origin of the initiative	Nomogaia Foundation
Year of development	2008-2009
Availability	Free
Language	English
Information	http://www.nomogaia.org
Function	Systematic identification and prediction of potential human rights impacts of a business or a project in a given context. The instrument was developed in order to complement other impact assessments of a company. It is guided by core values and obligations of the company. The HRIA is designed to help identify both positive and negative aspects of the impact on human rights in a project-specific and context-based way, to develop options for remedies in the case of problems, and to enhance positive effects on human rights.
Content	Extensive qualitative evaluation, follow-up 6-18 months after the first examination, publication.
Target group	Companies, communities, NGOs
Scope/ flexibility	<p>No regional and sectoral limitation; focus on projects</p> <ul style="list-style-type: none"> - in countries with weak national human rights protection; - with an excessively large influence and/or threat to human rights; - in conflict areas; - in industries with high susceptibility to human rights violations. <p>Previously used in Africa, East Asia, Middle East and Latin America. The industry focus is on extractive industries and agriculture, but the instrument is adaptable to different contexts.</p>
Case studies/ examples	Available for projects in Malawi, Tanzania, Costa Rica and Indonesia.
Methodology	The HRIA identifies relevant human rights and rights holders. It develops catalogs about work, health, politics, environment and social/ economic issues on context, project and company level; a rating system which ranges from -25 to +25 tracks the performance of individual areas. The evaluation of human rights takes place in parallel at all three levels and is represented by a matrix (consisting of "Extend of Impact" and "Intensity of Impact"). The resulting report highlights areas where action is most needed. The final report makes recommendations for improvements that are then reviewed by a follow-up investigation 6-18 months after the original HRIA.
Stakeholder participation	Yes, interviews with communities, government representatives, project staff, et cetera.



7.15 Vienna Human Rights Matrix

Typology according to the matrix	Mainly <u>corporate strategy approach</u>
Origin of the initiative	HumanRightsConsulting Vienna, Ludwig Boltzmann Institute of Human Rights (BIM), OMV (oil and gas company). Application also in the financial sector with the Austrian bank BAWAG PSK.
Year of development	2006-2007
Availability	Free
Language	English
Information	http://www.larrge.eu/uploads/tx_larrgeguide/Vienna_Human_Rights_Matrix_exemplary.pdf
Function	The instrument is based on the <i>Guide for Integrating Human Rights into Business Management</i> and the <i>Human Rights Matrix</i> which were combined and specified in the joint initiative. The instrument is supposed to help companies to systematically consider human rights in their management. The aim is to identify weak spots and to set priorities for urgent human rights problems. Potentially positive contributions by the company can also be identified.
Content	<ul style="list-style-type: none"> - Introduction; - step by step analysis of human rights impact by using the <i>Human Rights Matrix</i>; - annex containing general information about human rights; - continuity should be achieved through strategic integration of human rights into business management; this includes regular evaluations of human rights performance.
Target group	Companies
Scope/ flexibility	Until now only the extractive sector and banks, but a transmission to other areas is possible.
Case studies/ examples	OMV (extractive sector), BAWAG PSK (bank)
Methodology	The matrix consists of two axes: The horizontal axis represents the examined rights (may vary according to context); the vertical axis is divided into three categories of corporate responsibility: 'essential', 'expected' and 'desirable'. The cells are filled with specific activities by analysing all business areas or according to the selected human rights priorities. The matrix may be based on a company's own code of conduct.
Stakeholder participation	No (at the discretion of the enterprise)

The Institute for Development and Peace (INEF)

The Institute for Development and Peace (INEF), which was founded in 1990, is an institute of the University of Duisburg-Essen (Faculty of Social Sciences) with a strong focus on policy-related and policy-relevant research. It closely collaborates with the Development and Peace Foundation (SEF), Bonn, established in 1986 at the initiative of former German chancellor and Nobel peace prize winner Willy Brandt.

INEF combines basic research with applied and policy-related research in the following areas: Global Governance and Human Security, Fragile States, Crisis Prevention and Civilian Conflict Management, Development, Human Rights and Corporate Social Responsibility.

The specific approach of INEF, as the only German research institute to combine basic with applied research in peace and development research, is also reflected in the range of third-party funding bodies. INEF carries out research programs and systematically explores available international expertise and world reports, often in cooperation with national and international partners. INEF also conducts smaller projects for NGOs and NGO networks. The institute is integrated in a strong and viable international research network.

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