The Corporate Responsibility to Respect (CR2R): Context and sector specific human rights impact assessment

May 12, 2022
Panelists:

Tulika Bansal  
Senior Advisor,  
Danish Institute for Human Rights

Nathalie Maréchal  
Policy Director,  
Ranking Digital Rights

Dunstan Allison-Hope  
Vice-President,  
Business for Social Responsibility

Yann Wyss  
Global Lead, Social Impact, Nestle
Agenda:

- Welcome & Housekeeping (11:00am – 11:05am)
- Overview of Steps of HRIA, Tulika Bansal, DIHR (11:05am – 11:15am)
- Ranking Digital Rights: Assessing HRIA Disclosures, Nathalie Maréchal, RDR (11:15am – 11:25am)
- HRIA: Sector-specific Good Practice, Dunstan Allison-Hope, BSR and Yann Wyss, Nestle (11:25 – 11:50am)
- Q&A and Discussion (11:50am – 12:00pm)
- Closing and Next Webinars (12:00pm)
Overview of the Steps of HRIA

Tulika Bansal, Danish Institute for Human Rights
HUMAN RIGHTS IMPACT ASSESSMENTS

Tulika Bansal,
Senior Adviser Human Rights and Business,
Danish Institute for Human Rights
WHAT IS A HUMAN RIGHTS IMPACT ASSESSMENT?

• A context specific process for identifying, understanding, assessing and addressing the adverse effects of a business project, activities or operations on the human rights enjoyment of impacted rights-holders such as workers, community members or consumers.

• It is an elaborate assessment process.

• Stand-alone exercise, but iterative follow up activities are essential to ensuring long term impacts.
• HRIAs are on human rights, through human rights, for human rights.
WHAT DO HUMAN RIGHTS IMPACT ASSESSMENTS AIM TO ACHIEVE?

• Identification, avoidance and addressing of adverse human rights impacts - change for people on the ground (rightsholders)
• Establishment of meaningful dialogue between stakeholders in a particular context, including through developing joint ways forward
• Facilitating capacity building and learning of internal and external stakeholders involved
• Enhancing transparency and accountability of the business through documenting the impacts that have been identified and actions taken to address these
• Empowering rights-holders to hold business to account for adverse human rights impacts
RELEVANCE OF HRIAS TO INVESTORS

• A detailed human rights lens to ESG issues associated with a specific investment / a type of investment

• A potential prevention/ mitigation measure for high-risk contexts (conflict, post-conflict, Covid-19 impacts etc.)

• HRIAs reports provide valuable information in the pre-investment stage

• Piloting HRIAs across select investments will result in learnings applicable to wider ESG systems

• Civil society / consumer push
The UN Guiding Principles on Business and Human Rights (UNGPs) speak of “assessment of human rights impacts” – not necessarily a “human rights impact assessment”.

- Other types of assessments and due diligence activities are also needed to comply with UNGPs.

- Integrating elements of HRIA methodology into other assessments and ESG activities can improve quality thereof and enable scalability.
Key questions addressed in this section:

- What are the different types of impacts to be considered: actual; potential; caused by the business; contributed to by the business; and directly linked to business operations, products and services through business relationships?
- Why do the UN Guiding Principles focus on ‘adverse’ impacts and what does this mean for the inclusion of project benefits in HRIA?
- How can the ‘severity’ of human rights impacts be assessed?

Read the full Phase 3 guidance here.

Practitioner supplement:

- Analysing impacts
Summary of 10 key criteria for human rights impact assessment

<table>
<thead>
<tr>
<th>Process</th>
<th>Participation</th>
<th>Rights-holders, duty-bearers and human rights actors</th>
<th>Throughout the process</th>
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<td>Non-discrimination</td>
<td>Inclusive engagement and consultation</td>
<td>Gender-sensitive</td>
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<td>Vulnerable individuals and groups</td>
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<td>Empowerment</td>
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<td>Capacity building to participate</td>
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<td>Transparency</td>
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<td>Process and outcomes</td>
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<td>Accountability</td>
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<td>Assessment team is supported by human rights expertise</td>
<td>Responsibilities for mitigation are assigned and adequately resourced</td>
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<td>Entitlements of rights-holders and the duties of duty-bearers identified</td>
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<tr>
<th>Content</th>
<th>Benchmark</th>
<th>Human rights standards</th>
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<td></td>
<td>Scope of impacts</td>
<td>Actual and potential impacts: caused by the business; to which the business contributes; and impacts linked through business relationships</td>
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<td>Cumulative impacts and legacy issues are considered</td>
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<td>Assessing impact severity</td>
<td>Impacts addressed according to severity of human rights consequences</td>
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<td>Account for the interrelatedness of human rights, as well as the interrelatedness of environmental, social and human rights factors</td>
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<td>Impact mitigation measures</td>
<td>Addressing follows mitigation hierarchy ‘avoid-reduce-restore-remEDIATE’</td>
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<td>No offsetting</td>
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<td>Access to remedy</td>
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<td>Avenues whereby rights-holders can raise concerns or complaints</td>
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<td>During and after the assessment</td>
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Source: DIHR (2016), *Human Rights Impact Assessment Guidance and Toolbox*
EXAMPLES OF HRIAS
EXAMPLES OF HRIA RESOURCES

7. Various HRIA reports by DIHR: i.e. Nestlé, Eni, Total, other (see website)
8. Examples of HRIA reports by BSR: i.e. Telia, Facebook, other (see website)
9. Examples of HRIA reports by Nomogaia: http://nomogaia.org/work/
Ranking Digital Rights: Assessing HRIA Disclosures, Nathalie Maréchal

Nathalie Maréchal, Ranking Digital Rights
How Ranking Digital Rights evaluates corporate due diligence

Nathalie Maréchal, PhD
Policy Director, Ranking Digital Rights
Human Rights Impact Assessment is a process for systematically identifying, predicting, and responding to the potential human rights impacts of a business operation.
What RDR looks for

Companies should evaluate:

- Impact of laws on privacy & FoE per jurisdiction
- Impact of their own policy enforcement processes
- Targeted ads
- Algorithmic systems
- Zero-rating (if relevant)
Good HRIAs...

- Consider privacy, freedom of expression, & other human rights
- Are performed
  - before launching or acquiring a new service
  - before entering new markets on a regular schedule (examining all operations)
- Are reviewed by executives and board members
- Are assured by an accredited third party
- Company publicly commits to keep doing them
2022 Findings

- Twitter
- Yahoo
- Microsoft
- Google
- Meta
- Apple
- Kakao
- Yandex
- Baidu
- VK
- Alibaba
- Samsung
- Amazon
- Tencent

https://rankingdigitalrights.org/index2022/
Findings: Governments and regulations

“Companies should conduct regular, comprehensive, and credible due diligence, through robust human rights impact assessments, to identify how government regulations and policies affect freedom of expression and information and privacy, and to mitigate any risks posed by those impacts in the jurisdictions in which it operates.”
Average scores across 14 companies

- Laws & regulations: 34
- Policy enforcement: 10
- Targeted ads: 2
- AI: 6
Yahoo led on HRIAs (49%) despite YoY decline
Amazon worst in US (0%)
Chinese & Russian companies score 0% or close to it
Apple improved on governments and regulations HRIAs
Yahoo improved on policy enforcement HRIAs

Governments and regulations are assessed the most
Best ever score: Telefónica
Common weak points
  ○ No exec./board review
  ○ No follow-up HRIAs
HRIA: Sector-specific Good Practice

Dunstan Allison-Hope, BSR
Yann Wyss, Nestle
## Types of Human Rights Assessment

A wide variety of items may be the subject of a human rights assessment.
“when we list positive impacts in this assessment, they are not being…offset against adverse impacts…and many of the positive impacts themselves address actual adverse impacts associated with the absence of end-to-end encryption”
“human rights can be in tension with one another for legitimate reasons, and rights-based methods can be deployed to define a path forward when two competing rights cannot both be achieved in their entirety.

Rather than “offsetting” one right against another, it is important to pursue the fullest possible expression of both rights and identify how potential harms can be addressed.”
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Q & A and Discussion
Upcoming Webinars

• HRDD Part 2: Integrating, tracking, and monitoring risk management (Q3 2022)
• HRDD Part 3: Communicating responsible corporate conduct (Q4 2022)
• Stakeholder engagement and effective grievance processes (Q4 2022)

Check out our Videologs to the webinar series on our YouTube channel!