



INVESTOR ALLIANCE
FOR HUMAN RIGHTS
AN INITIATIVE OF ICCR

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)



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Overview of the Steps of HRIA

Tulika Bansal, Danish Institute for Human Rights

THE 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

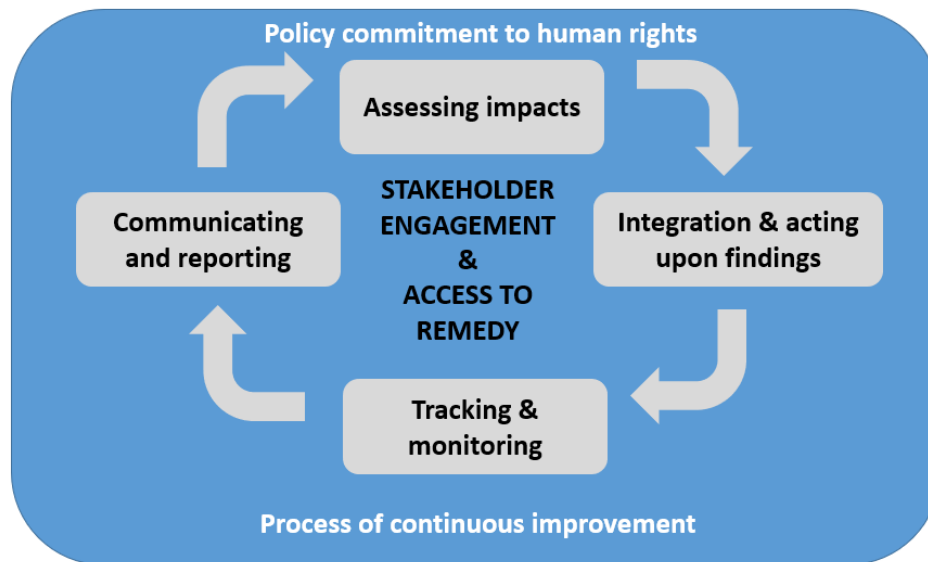
- A detailed human rights lens to ESG issues associated with a specific investment / a type of investment
- A potential prevention/ mitigation measure for high-risk contexts (conflict, post-conflict, Covid-19 impacts etc.)
- HRIA reports provide valuable information in the pre-investment stage
- Piloting HRIAs across select investments will result in learnings applicable to wider ESG systems
- Civil society / consumer push



HRIA AND HUMAN RIGHTS DUE DILIGENCE

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



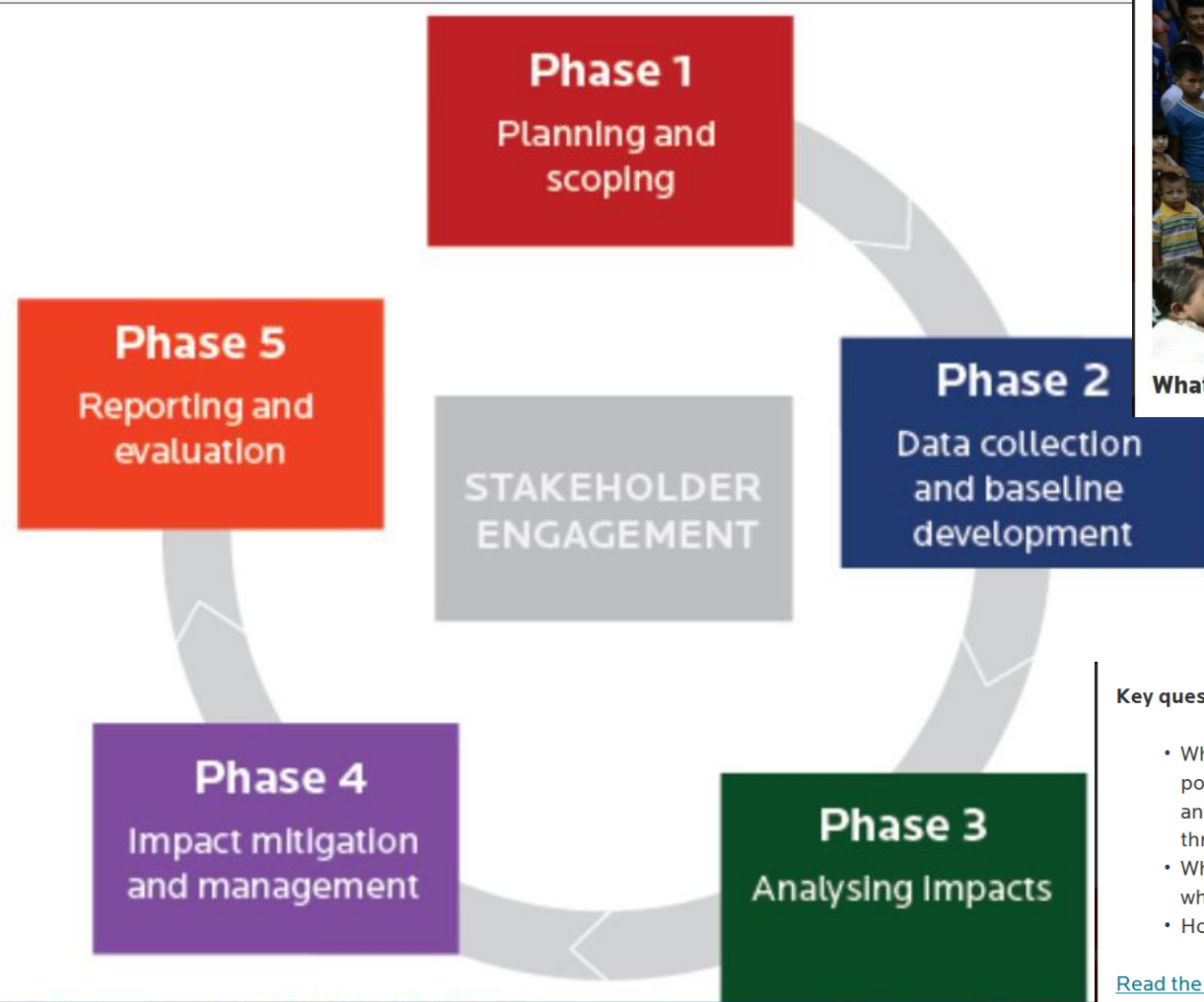
Terms of Reference Template: Enhanced Assessment of Human Rights Impacts

Practical guidance and Terms of Reference (ToRs) templates for enhanced assessment of human rights risks and impacts

1. About this practical guidance

This guidance for fund managers is intended to complement [CDC's Briefing Note on Human Rights](#), by providing additional insights into:

- Clarifying the terminology of human rights due diligence and human rights impact assessments (HRIAs), and describing the key parameters which should inform ToRs for various forms of enhanced assessment of human rights risks and impacts;
- Options and key considerations for structuring the approach to enhanced human rights due diligence;
- Questions to ensure effective integration of a human rights lens into E&S due diligence processes;
- A template for adapting ToRs for different approaches to enhanced assessment of human rights impacts.



Stakeholder engagement



What happens in stakeholder engagement?

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](#)

KEY CRITERIA FOR HUMAN RIGHTS IMPACT ASSESSMENT

Summary of 10 key criteria for human rights impact assessment

| | | |
|----------------|----------------------------|---|
| Process | Participation | <ul style="list-style-type: none"> • Rights-holders, duty-bearers and human rights actors • Throughout the process |
| | Non-discrimination | <ul style="list-style-type: none"> • Inclusive engagement and consultation • Gender-sensitive • Vulnerable individuals and groups |
| | Empowerment | <ul style="list-style-type: none"> • Capacity building to participate |
| | Transparency | <ul style="list-style-type: none"> • Process and outcomes |
| | Accountability | <ul style="list-style-type: none"> • Assessment team is supported by human rights expertise • Responsibilities for mitigation are assigned and adequately resourced • Entitlements of rights-holders and the duties of duty-bearers identified |
| Content | Benchmark | <ul style="list-style-type: none"> • Human rights standards |
| | Scope of impacts | <ul style="list-style-type: none"> • Actual and potential impacts: caused by the business; to which the business contributes; and impacts linked through business relationships • Cumulative impacts and legacy issues are considered |
| | Assessing impact severity | <ul style="list-style-type: none"> • Impacts addressed according to severity of human rights consequences • Account for the interrelatedness of human rights, as well as the interrelatedness of environmental, social and human rights factors |
| | Impact mitigation measures | <ul style="list-style-type: none"> • Addressing follows mitigation hierarchy ‘avoid-reduce-restore-remediate’ • No offsetting |
| | Access to remedy | <ul style="list-style-type: none"> • Avenues whereby rights-holders can raise concerns or complaints • During and after the assessment |

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EXAMPLES OF HRIAS

Talking the Human Rights Walk

Nestlé's Experience Assessing Human Rights Impacts in its Business Activities



THE PEOPLE BEHIND THE PRICES

A Focused Human Rights Impact Assessment of SOK Corporation's Italian Processed Tomato Supply Chains

www.oxfam.org



HUMAN RIGHTS IMPACT ASSESSMENT THAILAND & MYANMAR

A value-chain focused human rights impact assessment conducted by the Roundtable Human Rights in Tourism v. 2



THE SALMON INDUSTRY AND HUMAN RIGHTS IN CHILE

Sector-Wide Impact Assessment

October 2020



THE DANISH INSTITUTE FOR HUMAN RIGHTS

ENI ANGOLA – HUMAN RIGHTS ASSESSMENT

SUMMARY REPORT
CABINDA NORTH

PROJECT REPORT

OCTOBER 2018

Human Rights Impact Assessment

Facebook in Myanmar



SECTOR WIDE IMPACT ASSESSMENT ON HUMAN RIGHTS

MINING UNSEEN



EXECUTIVE SUMMARY



EXAMPLES OF HRIA RESOURCES

1. Introduction to HRIA: <https://www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox/introduction-human-rights-impact-assessment>
2. HRIA Guidance and Toolbox (DIHR): <https://www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox>
3. Handbook on HRIA: <https://www.humanrights.dk/news/new-handbook-offers-insights-how-address-impacts-business-activities-human-rights>
4. CDC Toolkit Guidance resource: ToR for human rights due diligence (includes HRIAs): <https://toolkit.cdcgroup.com/reference-materials/>
5. Information on integration of human rights into ESHIAs: <https://www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox/human-rights-eshia-practitioners>
6. Business and Human Rights Resource Centre page on HRIA: <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/human-rights-due-diligence-impact-assessment/>
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



HRIAS for 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...

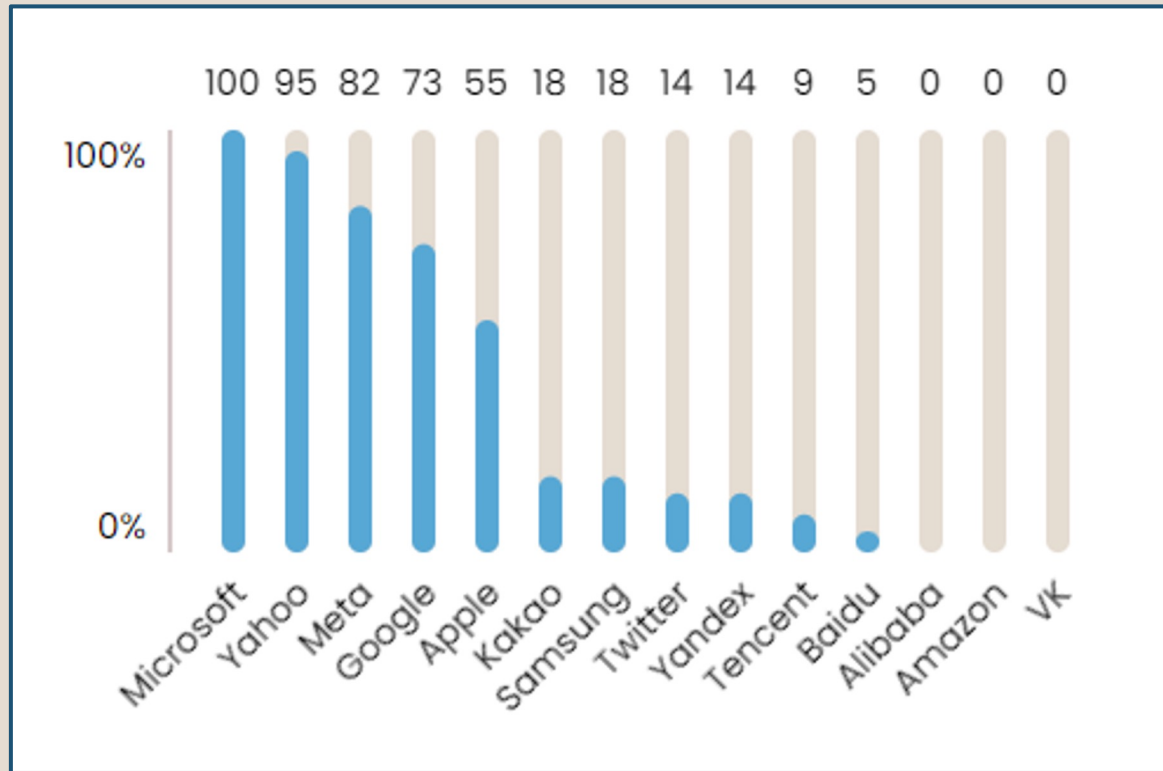
- Consider privacy, freedom of expression, & other human rights
- Are performed
 - before launching or acquiring a new service
 - before entering new markets
 - on a regular schedule (examining all operations)
- Are reviewed by executives and board members
- Are assured by an accredited third party
-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

2022 Findings



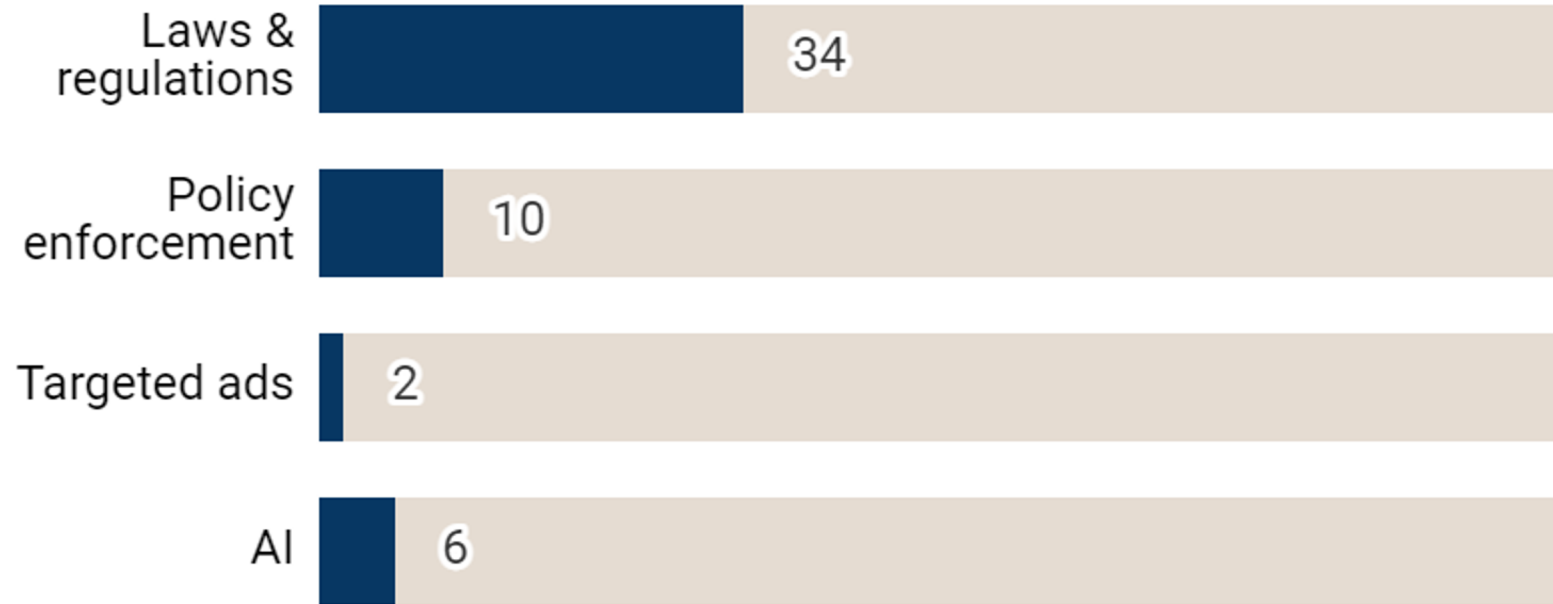
- Twitter
- Yahoo
- Microsoft
- Google
- Meta
- Apple
- Kakao
- Yandex
- Baidu
- VK
- Alibaba
- Samsung
- Amazon
- Tencent

<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

Insights

- 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

Sector Human Rights Assessments

Investor Alliance

MAY 2022



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Types of Human Rights Assessment

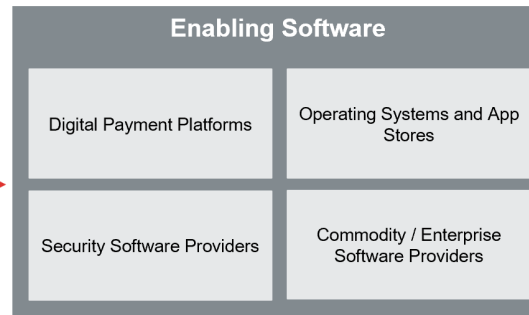
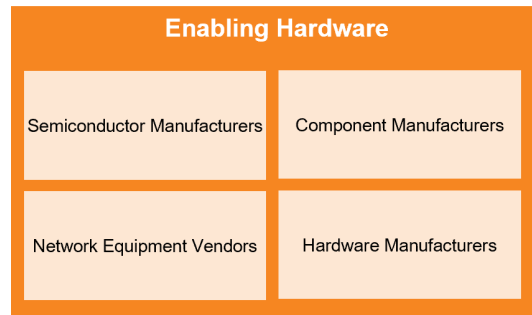
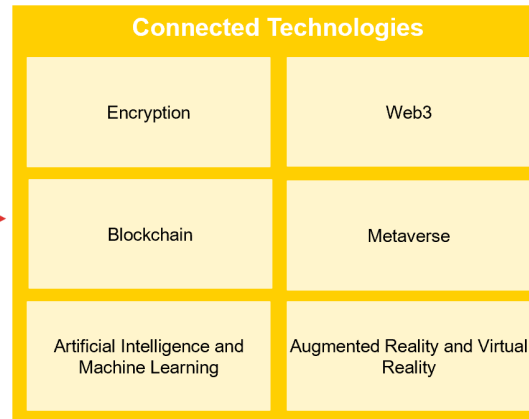
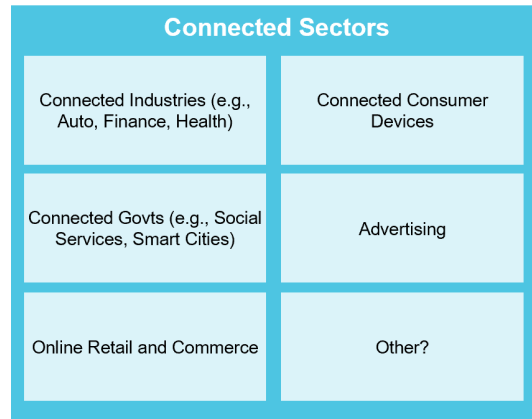
A wide variety of items may be the subject of a human rights assessment.

| Product | Geography | Customer | Governance |
|---------------------|--------------------|----------------------|---------------------------|
| Entire platform | Market entry | Industry vertical | Product policy |
| New product launch | Market exit | Customer geo | Public policy |
| New product feature | Ongoing presence | Specific customer(s) | Decision making processes |
| Research phase | Significant events | Use cases | Mergers and acquisitions |

Non-User Rightsholders

Users

Investors / Providers of Capital



Civil Society Organizations

Academics



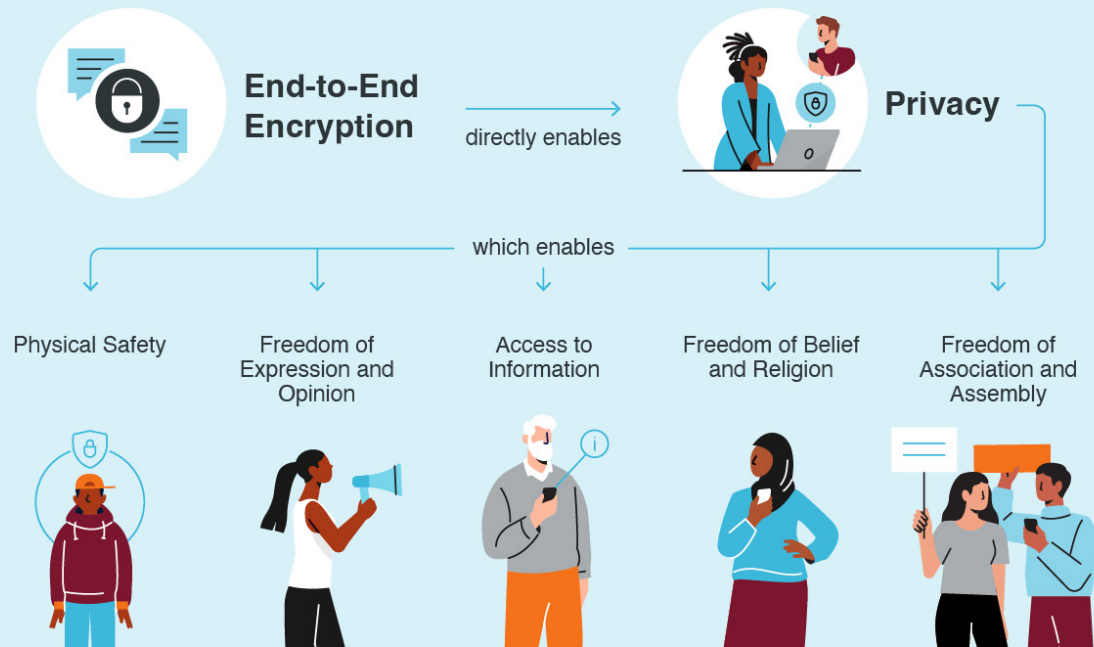
Governments and Regulators

Standards Setting Organizations



“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”

Summary of Key Human Rights Opportunities



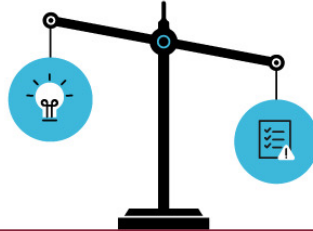
Summary of Key Human Rights Risks







(A range of appropriate mitigations are suggested to address these risks)

Counterbalancing Competing Rights

When counterbalancing competing rights, it's important to utilize the following international human rights principles:



| International Human Rights Principles | Questions to Ask |
|--|---|
|  Reverting to principle | Can the core principle of the restricted right still be upheld in different ways? |
|  Legitimacy | Is there a legitimate aim in pursuing the restriction of this right? |
|  Necessity and proportionality | Is the restriction of the right necessary or can the legitimate goal be achieved through other means? If it is necessary, is it the least intrusive way to restrict this right? |
|  Nondiscrimination | Can the restriction of the right be done in a nondiscriminatory manner? |

“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”

Thank You

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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!