A tool for improving the management of social and human rights risks at project sites: The Human Rights Sphere

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ABSTRACT

This paper identifies and addresses the challenges of implementing the corporate responsibility to respect human rights in practice at project sites. To support on-ground operational staff, we offer the Human Rights Sphere (HRS), a practical tool we developed from empirical research in three large-scale projects and from an analytical literature review. The tool is consistent with the United Nations Guiding Principles on Business and Human Rights (UNGP). The HRS comprises seven steps through which the understanding and addressing of the social and human rights impacts of projects and corporate human rights due diligence procedures can be enhanced. The HRS describes the various groups of rights-holders to be considered, the social and environmental impacts they may experience, and how these impacts can be linked to actual or potential human rights impacts. The HRS shows how corporate mitigation and compensation practices have to be improved to prevent human rights harm to workers and communities. The HRS presents a comprehensive picture of the human rights side of projects and is presented as a practical tool that can be utilized by operational staff at all project phases. By utilising the HRS, multinational corporations will be better equipped to address the adverse human rights impacts of large projects.

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1. Introduction

Around the world over past decades, large projects have inadequately considered the social impacts experienced by local communities, and mitigation measures have failed to restore their livelihoods and have contributed to their further impoverishment (Cernea and McDowell, 2000; World Commission on Dams, 2000; Oliver-Smith, 2009). In addition, projects have caused environmental harm, which has been detrimental to the cultures, health and livelihoods of local communities (Alstine and Afionis, 2013; Banks et al., 2013; Pegg and Zabbey, 2013), especially Indigenous peoples (de Schutter, 2009; Knox, 2012; Anaya, 2011; Hanna and Vanclay, 2013; Hanna et al., 2014, 2016a). Project sites and supply chains were characterized by adverse impacts on the mental and physical wellbeing of workers and their families because of unsafe working conditions, the use of child and forced labour, discrimination, and other illegal and/or harmful actions (Barrientos and Smith, 2007; Seidman, 2007; Wright, 2008; Labowitz and Baumann-Pauly, 2014; Siddiqui and Uddin, 2016; see also businessandhumanrights.org). Analyses of the atrocities committed by governments or by public or private security forces have revealed the complicity of companies in these human rights violations (Bismuth, 2009; Maogoto and Sheehy, 2009; Ruggie, 2008b; Wright, 2008).

The emblematic cases of corporate involvement in human rights abuses, the international and legal standing of human rights, and the fact that powerful multinational enterprises are involved in these abuses but are not regulated at an international level, have highlighted the need to clarify corporate human rights responsibilities (Ruggie, 2008a). As the United Nations Special Representative on business and human rights from 2005 to 2011, John Ruggie's mandate was to develop a global governance framework explicating the human rights obligations of governments in relation to business and the specific human rights responsibilities of companies. Ruggie (2008a) explained the occurrence of corporate related human rights abuse as arising from a 'governance gap'. This refers to the fact that many governments are unwilling or unable to hold businesses, which are operating in their countries or abroad, to account for their adverse impacts on the local environment or people.

In 2008, Ruggie presented the 'Protect, Respect, and Remedy Framework', which consisted of three principles: the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedy for victims of business-related abuse (Ruggie, 2008a). Simply put, the Framework prescribed that "states must protect; companies must respect; and those who are harmed must have redress" (Ruggie, 2013, p. xxi). In 2011, the Framework was operationalized in the *United Nations Guiding Principles on Business and Human Rights* (UNGP), which was endorsed by the Human Rights Council (UN, 2011), and is regarded as the leading global standard prescribing corporate responsibilities with regard to human rights.

The endorsement and publication of the UNGP has activated much high-level policy debate amongst government, academic, NGO and corporate actors interested in human rights (O'Brien and Dhanarajan, 2016). Multinational enterprises across a wide range of sectors have developed their human rights policies and made public statements of commitment to respect human rights (World Economic Forum, 2013). Global business associations have adopted the UNGP and have established guidelines for their members, notably the International Council on Mining and Metals (ICMM, 2012) and IPIECA (the global oil and gas industry association for environmental and social issues) (IPIECA, 2012, 2014; DIHR and IPIECA, 2013). Some companies have established internal functions of human rights advisors or managers (Shift, 2012a, 2012b). However, the implementation of the corporate responsibility to respect human rights at the local level of project sites remains limited and the effective protection of communities and workers is still hampered (Deonandan and Morgan, 2016; Haines, 2016). Elaborations on a Treaty on business and human rights have continued, which may eventually result in the establishment of an international legally binding instrument to regulate business enterprises with regard to human rights (UNCHR, 2014; Bilchitz, 2014; de Schutter, 2016).

To effectively implement respect for human rights throughout the business, project operational staff need to become trained in understanding the human rights implications of project activities and in what they can do to address these issues in relation to their assigned work and responsibilities (Boele and Crispin, 2013; Posner, 2016). To support operational staff in comprehending the human rights impacts of large projects, we provide the 'Human Rights Sphere' (HRS), a tool to facilitate the implementation of the corporate responsibility to respect human rights. Projects here refers to dams, mines, oil and gas drilling, factories, ports, airports, pipelines, electricity transmission corridors, roads, railway lines and other infrastructure including large-scale agriculture, forestry and aquaculture projects (Vanclay et al., 2015). According to the UNGP (UN, 2011), project-affected communities and workers can no longer merely be perceived as stakeholders, but must be considered as rights-holders with legitimate interests and rights that need to be respected (see also Kemp and Vanclay, 2013). The HRS shows how human rights impacts and risks are related to various groups of rights-holders in the operational context of projects. Human rights impacts and corresponding corporate responsibility can be understood in relation to the environmental and social changes and impacts experienced by various groups of rights-holders (Kemp and Vanclay, 2013; Vanclay, 2002; Vanclay et al., 2015).

The application of the HRS will increase human rights awareness in companies, and will lead to improvements in the design and practice of impact assessment, mitigation, compensation, livelihood restoration, and impacts and benefits agreements, resulting in improved human rights awareness in companies that can positively affect workers, communities, and thus society as a whole. The HRS shows how companies and their projects can contribute to sustainable, local and inclusive development. It illustrates human rights concepts providing important insights and a vision to improve corporate practice at the local level of project sites. The HRS elucidates what a human rights based business approach could look like and how it can be implemented.

2. What is the corporate responsibility to respect human rights?

The corporate responsibility to respect human rights requires that all business enterprises should "avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved" (UN, 2011, p. 13). 'All business enterprises' means all sizes and types of companies, regardless of ownership (UN, 2011). Below we elaborate on the current understanding of human rights and human rights principles, the meaning of adverse human rights impacts, and what the responsibility to respect entails.

Human rights are commonly understood as being those "inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being" (Sepuldeva et al., 2004, p. 3). Human rights are widely accepted as being generally-agreed values, and exist to ensure human dignity and the fulfilment of basic needs of all human beings around the world. Human rights are universal (apply to all people everywhere), inalienable (cannot be lost, surrendered or transferred), indivisible (all rights are regarded as equally important), and interdependent and interrelated (they influence each other) (HRBA Portal, 2016). The contemporary understanding of human rights became established in the Universal Declaration of Human Rights (UDHR), which was adopted in 1948 in response to the atrocities of the Second World War (UN General Assembly, 1948). In addition to the UDHR, there are two other key human rights agreements: the International Covenant on Civil and Political Rights (ICCPR) (UN General Assembly, 1966a); and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (UN General Assembly, 1966b). Most (but not all) states have ratified these two Covenants. Together, the three documents are known as the International Bill of Human Rights (UN, 1996).

The understanding of human rights has been clarified by the set of principles established in the human rights based approach (HRBA) (Stamford Agreement, 2003; HRBA Portal, 2016), a framework intended to assist all actors − including UN agencies, governments, NGOs, and international financial institutions − in realising human rights in development projects and programs (World Bank, 2013). The HRBA (Stamford Agreement, 2003) describes the following human rights principles: equality and non-discrimination; participation and inclusion; and accountability and the rule of law (Stamford Agreement, 2003).

Governments have the primary obligation to respect, protect and fulfil human rights, and to safeguard a life of dignity for all people without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (UN General Assembly, 1948). In signing up to the ICESCR, governments commit to undertaking steps to progressively realize the economic, social and cultural rights outlined therein. The United Nations accepts that the fulfilment of these rights can be hampered by a lack of resources, and therefore that these rights can only be achieved over time (OHCHR, 2015). However, to ensure a life of dignity, governments must, with immediate effect, meet the minimum essential levels for each of these rights (UNCHR, 2008). Thus, a human rights perspective represents ideals for the continuous improvement of the living conditions of all, as well as a requirement for immediate action when basic standards of living

are threatened or not present.

Large projects can have immediate adverse impacts on the enjoyment of various human rights, due to their land acquisition requirements, proximity of the project to locally important natural resources, cultural or religious sites, health and safety conditions in the workplace including in the supply chain, or in relation to security and protection of property (Wright, 2008). Due to policies of liberalization, deregulation and privatization, large projects are increasingly developed and operated by foreign private enterprises or through corporate alliances of national and multinational enterprises (Wettstein, 2012). Furthermore, the role of the government as the sole actor in relation to human rights has diminished as responsibility for addressing project risks and adverse impacts including human rights concerns are shared with private operators (Ruggie, 2013). Table 1 presents a list of the human rights that have been adversely impacted by companies (Wright, 2008).

Adverse impacts on human rights are understood as impacts that occur when an action (i.e. corporate activity) removes or reduces the ability of an individual to enjoy his or her human rights (UN, 2012). An adverse impact occurs when *access* to the object of the right is obstructed or taken away by a business activity. Construction activities or land takings can block access to spiritual sites, which comprises an adverse impact on the right to culture or the right to religion (Centre for Minority Rights Development, 2003). Also, damage to, or destruction of, natural and physical assets can involve an adverse human rights impact. For example, without the appropriate mitigation measures, a polluted river can result in a community experiencing an adverse impact on their right to health. The destruction of a local school to make space for a project can cause an adverse impact on the right to education if new facilities are not provided immediately. In these examples, access to the object of the right (e.g. the spiritual site, the river, the school) is obstructed and thus, to avoid adverse human rights impacts, access must be restored and in some situations improved.

Each adverse human rights impact is equally important and all impacts must be addressed, but human rights impacts can vary in severity in terms of their scale, scope, and the extent of remediation (remediability) that is possible (UN, 2011; Shift, 2014). Human rights impacts can occur in relation to a community, a particular group or minority, and/or at an individual level. Companies can cause 'actual' and 'potential' impacts on human rights. An actual impact is an impact that has occurred or is occurring; and a potential impact is an impact that may occur in the future but has not

yet occurred (UN, 2012). In other words, potential human rights impacts can be understood as human rights risks. Actual and potential human rights impacts can occur within and beyond the physical boundaries of a project; they can occur in the workplace, in neighbouring communities, and/or in supply chains. An adverse human rights impact is especially severe when there is no appropriate practical solution, for example when project activities have caused substantial mental and/or physical harm or, in the worst case scenario, the loss of life (Shift, 2014; Götzmann et al., 2016). The corporate responsibility to respect human rights fundamentally requires that a business enterprise must find ways to ensure similar or improved *access* to the objects of all rights to avoid adverse human rights impacts. This would reduce the potential likelihood of local conflict and potential complicity in (further) human rights violations.

The corporate responsibility to respect human rights requires companies to respect, at a minimum, the rights in the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work (UN, 2011). The ILO (1998) Declaration on Fundamental Principles and Rights at Work comprises four core principles: (1) freedom of association and the right to collective bargaining; (2) elimination of all forms of forced or compulsory labour; (3) abolition of child labour; and (4) elimination of discrimination in respect of employment and occupation. Companies are also required to consider any additional standards that may be appropriate in particular circumstances (UN, 2011). Examples of such additional standards include the Convention of the Rights of the Child (CRC) (UN, 1989), for example when the project has potential human rights impacts in relation to child labour and resettlement of families. For projects near or in the territories of Indigenous peoples, the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) (UN, 2007) must be considered. In all circumstances where projects cause displacement and involuntary resettlement, companies must avoid (involvement in) forced evictions, which constitutes a gross violation of human rights (UN, 2014a). In effect, they need to consider all the human rights standards described under a Human Rights Based Approach to Resettlement (HRBAR) (van der Ploeg and Vanclay, 2017).

The corporate responsibility to respect human rights requires that companies establish a policy commitment to respect human rights, and companies need to conduct human rights due diligence on an on-going basis (UN, 2011). This human rights policy should stipulate the expectations of a company towards its personnel and

Table 1
Labour and human rights potentially impacted by companies.

Labour Rights	Human Rights
Freedom of association	Right to life, liberty and security of the person
Right to organize and participate in collective bargaining	Freedom from torture or cruel, inhuman, or degrading treatment
Right to nondiscrimination	Equal recognition and protection under the law
Abolition of slavery and forced labour	Right to a fair trial
Abolition of child labour	Right to self-determination
Right to work	Freedom of movement
Right to equal pay for equal work	Right of peaceful assembly
Right to equality at work	Right to marry and form a family
Right to just and favourable remuneration	Freedom of thought, conscience and religion
Right to a safe work environment	Right to hold opinions, freedom of information and expression
Right to rest and leisure	Right to political life
Right to family life	Minority rights to culture, religious practice, and language
	Right to privacy
	Right to social security
	Right to an adequate standard of living (including food, clothing and housing)
	Right to physical and mental health; access to medical services
	Right to education
	Right to participate in cultural life, the benefits of scientific progress, and protection of authorial interests

Source: Wright (2008, slightly modified)

business partners. The policy has to be clearly communicated to all relevant parties including company rights-holders and stakeholders. Second, companies are required to conduct human rights due diligence processes to become aware of, prevent and address adverse human rights impacts on people. The process of human rights due diligence is described as "assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed" (UN, 2011, p. 17). Similar to financial due diligence in which a company identifies and manages business risks to its shareholders, a company is required to identify and manage human rights risks to its rights-holders and stakeholders. Human rights due diligence is based on the understanding that respect for human rights is a precondition of doing business and not simply a way to consider risks and opportunities to companies. Thus, the intention of due diligence is that companies not only identify and manage financial risks and aim to comply with national laws, but also to adhere to international human rights law and its prescribed standards (Ruggie, 2008b).

'Respect' means that companies should not interfere with the enjoyment of the human rights of communities and workers — they should do 'no harm' (Ruggie, 2008a). The UNGP (UN, 2011) requires companies to 'know and show' how they manage human rights issues. The first step in human rights due diligence is to undertake an impact assessment to identify and prioritise the human rights impacts that need to be addressed. A company has to consider how the project could interact with each and every human right (Ruggie, 2007). Then appropriate responses should be identified and the relevant department within the company must implement the necessary actions. Subsequently, companies need to track their responses in conjunction with the rights-holders and report on the findings. The findings should become integrated into relevant corporate reporting processes. The whole process has to be supported by ensuring access to remedy. Through the establishment of operational grievance mechanisms, the opinions and experiences from affected rights-holders can be addressed on an ongoing basis (UN, 2011).

The responsibility to respect implies compliance with the requirements of national law, but also requires that international human rights standards be observed. The scope of human rights due diligence is not determined by influence or proximity, as is commonly the case in corporate social responsibility considerations (Ruggie, 2008b). A company is expected to undertake due diligence taking into account all actual and potential impacts caused by their own activities, and all the actual and potential impacts caused by the activities of their business relationships. The UNGP describes 'activities' to be understood as both actions and omissions, and 'business relationships' as relationships with "business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services" (UN, 2011, p. 15). Companies need to understand how their activities might cause human rights harm, within and beyond the physical boundaries of a project area including along the supply chain. To better understand the scope of a project's human rights impacts, the company should map out all its business activities and relationships (including suppliers, retailers, distributors) and determine which business relationships pose the most severe risks, and therefore need to be addressed first (Shift, 2014). Companies are expected to use their leverage over other actors to enhance respect for human rights. Leverage refers to the ability of a business enterprise to effect change in the wrongful practices of other parties including amongst its business relationships (UN, 2012). A company is complicit when it knowingly contributes to another party's abuse of human rights (including, for example, by the government) (Bismuth, 2009; Maogoto and Sheehy, 2009; Ruggie, 2008b).

Whereas the UNGP (UN, 2011) provides general guidelines for how companies of all sizes and from all sectors should approach their responsibility to respect for human rights, we offer the Human Rights Sphere (HRS) to elucidate the subject of human rights in the context of project sites. In order to effectively avoid and address human rights impacts, operational staff need to: comprehend why and how human rights are related to the environmental and social changes and impacts created by the project site and its supply chain; know the individuals, communities and vulnerable groups experiencing adverse impacts; and consider the appropriateness or otherwise of existing corporate practice. Thus, companies need to learn how to apply a 'human rights lens' to their project activities and supply chains — a way of looking at the project's social and environmental risks and impacts, experiences and situations of workers and local communities with a human rights perspective (Shift, 2014). The HRS provides a tool by which operational staff can understand how environmental, social and human rights impacts are inter-related and affect various groups of rights-holders, and how these impacts should be addressed effectively to prevent human rights abuses.

3. The development of the Human Rights Sphere

The HRS tool was developed by using a multi-methods approach, including document analysis, fieldwork as an intern in three large projects, and participation in conferences and seminars in the business and human rights and social impact assessment communities of scholars and practitioners. The document analysis contained a comprehensive review of the key business and human rights literature, guidance documents, as well as the pre-existing tools used in the field of human rights impact assessment and human rights due diligence. The primary tools and documents examined included: the Aim for Human Rights (2009) Guide to Corporate Human Rights Impact Assessment Tools; Oxfam's Community based HRIA (Oxfam, 2010; Watson et al., 2013); the United Nations Global Compact's How to do Business with Respect for Human Rights (UNGC, 2010a) and Guide to Human Rights Impact Assessment and Management (UNGC, 2010b); ICMM's Integrating Human Rights Due Diligence into Corporate Risk Management Processes (ICMM, 2012); NomoGaia's Human rights Impact Assessment Toolkit (NomoGaia, 2012); BSR's Conducting an Effective Human Rights Impact Assessment (BSR, 2013); IPIECA's Integrating Human Rights in Environmental, Social and Health Impact Assessments (DIHR and IPIECA, 2013); and the Arc of Human Rights Priorities of the Danish Institute of Human Rights (DIHR, website, 2016).

A total of 10 months of fieldwork was undertaken in association with three large projects in Mozambique (a mine in 2013, a railway line and a port in 2015). During the two periods of fieldwork, the lead author undertook participant observation of community engagement activities in relation to displacement and resettlement, and of awareness raising activities regarding health, safety, environment, security and human rights. The fieldwork was undertaken in cooperation with two multinational enterprises and included conducting a total of 37 in-depth interviews with key company personnel and external stakeholders, in which the challenges to implement respect for human rights in practice were discussed. Finally, the authors each participated in a variety of business and human rights workshops and conferences around the world and/or analysed the reports associated with those events (including ICMM, 2013, 2014; Shift, 2012a, 2012b, 2014, 2015). The HRS tool has been presented at various conferences and seminars, and has been adapted in response to the feedback received. Several professionals from various target audiences have read and

commented on earlier drafts of this paper, contributing to the iterative development of the tool.

4. The Human Rights Sphere as a way to implement the corporate responsibility to respect human rights at project sites

Since the release of the UNGP, there has been an explosion of tools and guidelines demonstrating various views on how the corporate responsibility to respect human rights and specifically how the requirement of human rights due diligence could be implemented. Most tools are lengthy documents describing one or more of the following: how to integrate human rights into corporate management; how to integrate human rights into Environmental and Social Impact Assessment (ESIA); or to conduct community-based human rights impact assessment and stand-alone HR assessments. These tools tend to be applied only by external parties (e.g. consultants, NGOs) and are thus somewhat detached from company operations and local staff. Furthermore, when external parties deploy these tools, it detracts from the necessity of embedding human rights expertise on the ground by improving the knowledge of operational staff at the coalface. Only when company personnel become well trained in engaging with a project's rights-holders and are properly-equipped to recognize, address and manage human rights risks and impacts will corporate human rights due diligence become embedded in the company's DNA (Shift, 2012a, 2012b).

The HRS is a process model comprising seven steps that collectively show how to identify and address the human rights impacts of projects. These seven steps can be depicted graphically (see Fig. 1). The HRS can be utilized by operational staff and internal human rights advisors to embed human rights in any type of large project, but it can also be used by stakeholders and rights-holders to become aware of what they can expect from companies.

Step 1: Identify and engage with the rights-holders;
Step 2: Together with the rights-holders, investigate the social and environmental issues associated with the company's activities and planned actions, and establish the impacts;
Step 3: Assign each identified impact to its relevant human rights;
Step 4: Establish the justification for action (i.e. the business case, in order to get adequate resources);
Step 5: Determine the appropriate department(s) in the company to address each impact;
Step 6: Decide on the type of response and how it will be implemented; and
Step 7: Track how the response is received by all rights-holders and ask for and act on feedback.

The centre of the HRS comprises the operational activities of the project under consideration. In corporate jargon, the project's impacts are usually described as being 'inside or outside the fence', i.e. the physical fence demarcating the licence area. The solid black concentric circle in the middle distance of Fig. 1 represents this concept. From 'Operations' to the solid black concentric circle represents the land required for the project in which construction and operational activities (will) take place (e.g. the licence area). The analysis of a project's HRS should be applied to each distinct operational site. For example, a mining project typically involves the site where the mining takes place; a housing complex for workers; project activities such as the transport of ore over long
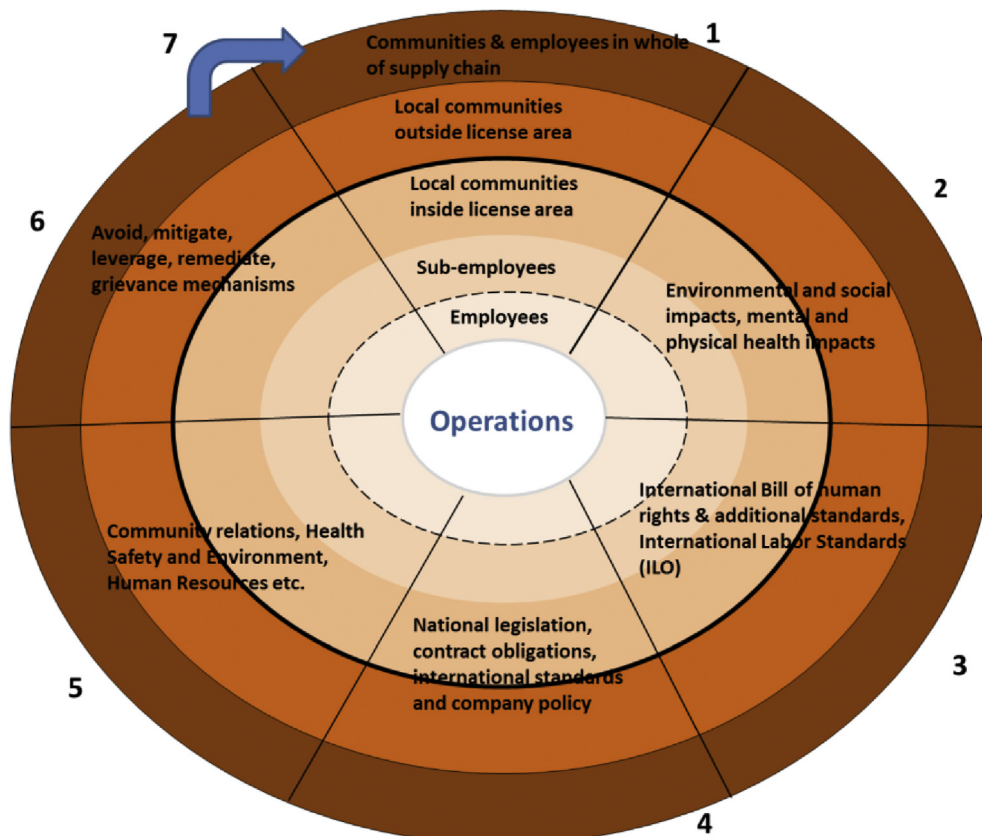

Fig. 1. The Human Rights Sphere of project sites.

distances to a port or processing facility; the activities at the port; and other operations.

The multiple rings indicate the various groups of rights-holders who can experience impacts in relation to the project site and its operational activities: inside the fence, outside the fence, and further down the supply chain. Companies are expected to go beyond the simplistic notion of proximity, the use of which leads them to believe they only have a limited responsibility for adverse impacts occurring beyond the project site, such as in relation to their business partners. From a human rights perspective, companies need to recognize their responsibility for human rights impacts in relation to their web of activities and relationships inside and outside the licence area, thus responsibility for human rights impacts is not limited by geographical proximity (Ruggie, 2008b). The rights-holders are those individuals and groups whose rights are potentially and/or actually impacted by the project's activities and by the activities of the company's business partners. The HRS presents five groups of rights-holders, all of whom should be equally considered by companies including: (1) employees directly employed by the company; (2) 'sub-employees', i.e. workers employed by contractors and subcontractors of the company (for example cleaners, caterers, truck drivers); (3) communities inside and (4) outside the licence area; and (5) communities and workers throughout the supply chain and along transport routes that are not considered to be separate project sites in their own right. The dotted line between sub-employees and employees indicates that these groups need to be considered separately because, even though companies might claim that the same standards apply to all employees 'inside the fence', in practice there can be substantial differences (Barrientos and Smith, 2007).

The arrow in the HRS indicates that the process of identifying and addressing human rights impacts is ongoing and should be a process of learning, and of continuous improvement and innovation. Also, since operations can expand and business activities and relations can change, groups of rights-holders and impacts are subject to change and therefore have to be regularly re-assessed. Consequently, a company needs to be in continuous dialogue with its rights-holders.

4.1. Step 1: identify and engage with the rights-holders

In the process of identifying and acting on the human rights impacts of a project, companies should start by assessing impacts and risks from the perspectives of the rights-holders. The HRS shows that project rights-holders need to be identified within and beyond the area required for land acquisition. To obtain a complete depiction of the rights-holders related to a project, companies should take into account the perspectives of employees, sub-employees and subgroups within affected and neighbouring communities including women, men, village elders, and the youth. A company must specifically identify vulnerable groups such as minorities, historically-marginalized and Indigenous peoples.

The principle of Free Prior and Informed Consent (FPIC) safeguards the right of Indigenous communities to withhold their consent to proposed projects that will affect the land they customarily own and/or use (ILO, 1989; UN, 2007; Hanna and Vanclay, 2013). These groups must be engaged by project staff in a culturally-sensitive manner and with due consideration to their specific rights and interests (Doyle, 2015; Rodhouse and Vanclay, 2016). Furthermore, vulnerability needs to be identified at multiple levels. For example, at the household level, it relates to widows, single or child headed households, the elderly, and to people with disabilities (Adam et al., 2015). An important vulnerable group that is often overlooked in assessments is children. Because children are in an important part of their life, developing their emotional and

physical health and wellbeing, they can be especially vulnerable to the negative impacts of a project (UNICEF, 2012).

With regard to labour and human rights issues, the process of engagement should include all employees and sub-employees working within the licence area and those related to the project's activities and those of business relationships outside the licence area. The assessment should include the perceptions of a wide variety of employees and sub-employees, including for example migrant and seasonal workers, locally-hired workers, and expats. Migrant workers can typically be a vulnerable group because of their marginalized position in many societies in which they (temporarily) work (de Schutter, 2009). It is also important to consider separately the voices of women, men, youth, and, in situations of identified or suspected child labour, children working in relation to the project and its supply chain.

It can be a challenge to identify who are (potentially) affected by a project and its activities and to include all groups, including the vulnerable, in engagement and participation activities. It is important that companies move away from discussions and bargaining solely with local chiefs or 'key informants' towards designing and implementing an inclusive participatory approach that is 'active, free and meaningful' (see UN Declaration on the Right to Development, 1986). In each project context, the human rights principles of equality, non-discrimination, participation and inclusion (Stamford Agreement, 2003) should become applied to community engagement activities as much as possible. Communities and workers have a right to participate in the decision-making processes that affect their lives and wellbeing (Stamford Agreement, 2003). The notion of participation implies that all groups of rights-holders are included as active participants in shaping the processes and outcomes of project design and implementation, and in contributing to local development goals (Stamford Agreement, 2003; Götzmann, 2014). Meaningful participation means that all rights-holders have been adequately informed and have had genuine ownership and control over the changes and decision making processes affecting their lives. They should be involved in influencing all phases of the project cycle, including assessment, analysis, planning, implementation, monitoring and evaluation (Stamford Agreement, 2003). With the principle of FPIC established in the UNDRIP (UN, 2007), Indigenous peoples have a legitimate ability to say no to projects (Hanna and Vanclay, 2013). Thus, participation goes well beyond the statutory consultations typically undertaken as a regulatory requirement in the preliminary phases of projects (HRBA Portal, 2016; Hanna et al., 2014).

The right to participate in decision-making is closely aligned with the right to information (Stamford Agreement, 2003; Frankovits, 2006). How full access to information can be realised must be considered in each context and for each group of rights-holders. Illiteracy, mental or physical deficiencies, religion, local cultures and beliefs, and local languages should all be taken into account to adjust the way information is provided so that all people can become adequately informed. The establishment of permanent, physical places (e.g. listening rooms) where communities and workers can go to discuss their concerns and where they will always be welcome can be a useful way to establish and maintain dialogue between rights-holders and the company. Through such channels, various types of information can be shared. Because of frequent changes in many project plans, having a place where the most current information on the project is continuously updated is very important.

An important aspect of realising participation and inclusion of rights-holders is the establishment of a functional operational grievance mechanism at the start of a project to enable communities and workers to express their views and concerns with regard

to the project or in relation to the activities of contractors and other business relationships (UN, 2011). Awareness of the local cultural context is essential when selecting the appropriate type of grievance mechanism (Kemp and Owen, 2016). Engaging with communities and workers can provide useful insights into what grievance mechanism can be most effective to them and thus to the company (UN, 2011). A grievance mechanism that meets the expectations of the UNGP needs to be legitimate, accessible, predictable, equitable, rights-compatible, and transparent (UN, 2011; see also ICMM, 2013, 2014). This is important because companies that do not have effective mechanisms for responding to grievances are more likely to leave them unaddressed, which fuels discontent towards the company, and can result in subsequent impacts and conflicts that are difficult to remediate at a later stage (Knuckey and Jenkin, 2015). Thus, having an effective non-judicial grievance mechanism is of considerable importance to a company in terms of being able to troubleshoot problems early, avoid major crises and reputational harm, and to earn and maintain a social licence to operate (Vanclay et al., 2015).

Companies should establish a grievance mechanism for labour issues for workers inside the fence and in the supply chain, as well as a grievance mechanism for community issues. When a project results in community displacement and/or involuntary resettlement, a specific grievance mechanism for displaced families and communities is required to capture their questions, concerns and grievances, which need to be received and handled in a timely manner. Company staff need to document all the grievances, suggestions and questions they receive so that appropriate responses to the various types of grievances can be determined. Operational grievance mechanisms also provide an opportunity for continuous learning by company personnel (UN, 2011).

Ensuring the right to information, participation and access to remedy through grievance mechanisms is an essential basic step in addressing the power imbalances between corporations and communities that often underlie local conflict and human rights abuses (Ruggie, 2013; EarthRights International, 2013). Meaningful participation and ensuring full access to information are time-consuming processes, require culturally sensitive staff, and can be difficult to ensure when highly technical economic issues are at stake (Frankovits, 2006; Kemp and Owen, 2013, 2016), which is usually the case for large scale projects. Thus, meaningful participation demands that there is sufficient investment and time available for company personnel to engage genuinely with workers and communities, and should be seen as a long-term process of building relationships (Frankovits, 2006). Furthermore, in order to obtain trust from the rights-holders, it is vital that the legitimacy of a project and how it benefits the public *and* local communities is clarified (Tagliarino, 2016). It is also important that company personnel do not break any promises they make to workers and communities (ICMM, 2014; Jijelava and Vanclay, 2016).

4.2. Step 2: together with the rights-holders, investigate the social and environmental issues associated with the company's activities and planned actions, and establish the impacts

Social and environmental impacts can be interpreted in human rights terms, but not all impacts necessarily imply adverse impacts on human rights. To understand the human rights context of a project, company personnel need to know how a project affects the wellbeing, livelihoods and life aspirations of communities and workers. Companies need to have a thorough understanding of the community (recorded in a social profile) and collect robust baseline data. This information should cover all the pre-existing (i.e. before the project) relevant aspects of the livelihoods of the rights-holders established through primary data collection (qualitative and quantitative) and desktop research (Vanclay et al., 2015). This information is often gathered in environmental, social and health impact assessments (ESHIAs) for a specific project phase or activity (see Vanclay et al., 2015). Company personnel need to dedicate time and effort (i.e. they need to go to the field) to engage with the rights-holders on a continuous basis, to investigate with them the ongoing social issues and impacts throughout all project phases. Companies should identify the impacts for each group of rights-holders (and the subgroups within these groups including children), and they need to understand the differential distribution of impacts.

Social impacts can be experienced or felt in corporeal, perceptual or emotional terms at various levels: the individual, the family or household, social groups or organisations and institutions, or as a community as a whole (Vanclay, 2002). Direct social impacts result from a proposed intervention or project activity. Indirect social impacts result from changes in the biophysical environment or from subsequent social changes (Slootweg et al., 2001; Vanclay, 2002). Cumulative impacts are defined as "the successive, incremental and combined impacts of one or more activities on society, the economy or the environment" (Franks et al., 2013, p. 202). In most cases, cumulative impacts arise as a consequence of multiple projects and/or activities. The social impacts experienced by vulnerable groups need to be identified separately from the generic impacts because they can imply specific human rights issues that could otherwise be overlooked (for example child labour, impoverishment of women in displacement, and loss of Indigenous peoples' territory). Social impacts may apply only to one particular project phase or may occur across several phases. They can change over time and new social impacts may arise after years of operation of a project (van der Voort and Vanclay, 2015).

The HRS shows how each group of rights-holders can be linked to various social and environmental impacts that can adversely affect people's mental and/or physical wellbeing. Local communities inside and outside the fence comprise those individuals and families directly affected by the land acquisition and operational activities, and can experience economic displacement and/or involuntary resettlement. Frequently, communities outside the fence become the 'host communities' for the resettlement of communities previously inside the licence area and can experience adverse impacts that need to be analysed (Reddy et al., 2015). In a situation of involuntary resettlement, acquiring specific expertise can be useful to guide the examination of all tangible and intangible losses experienced by affected communities in a resettlement action plan (IFC, 2012). In addition, companies should engage with communities and workers in relation to how the project's environmental impacts can have adverse impacts on their livelihoods, health and cultures. Environmental impacts can lead to social impacts and have a subsequent adverse impact on human rights (Wright, 2008; see DIHR and IPIECA, 2013; Götzmann et al., 2016). Therefore, environmental issues need to be taken seriously, as they must not result in harming the health or livelihoods of local communities (de Schutter, 2009; Anaya, 2011; Knox, 2012). In addition, companies need to identify how project activities impact on the cultural and spiritual sites inside and outside the fence. Such impacts are especially detrimental to the wellbeing of Indigenous peoples and can promulgate resistance towards projects (Anaya, 2011; Doyle, 2015; Hanna et al., 2016b).

With the endorsement of the UNGP (UN, 2011), impact assessment also has to identify the social impacts experienced by workers in project sites and further down the supply chain (see Vanclay et al., 2015). When applying a human rights lens to project sites, companies have to outline the actual and potential impacts experienced by workers inside the fence (employees and sub-employees), as well as those throughout the supply chain. Social

impacts on workers occur through, inter alia, poor working conditions, unfair labour practices, and environmentally-destructive operating practices (McBeth, 2008). Forced labour, the ill-treatment of workers, and child labour are examples of the abuses that can occur in project sites and in the supply chains of companies (Mares, 2010; de Schutter, 2009; Wright, 2008). These abuses potentially have injurious (physical) impacts and can adversely impact on workers' families including children (Barrientos and Smith, 2007; UNICEF, 2012). The project should actively engage with all groups of workers to understand what social impacts they may experience. It is important that throughout the process of engagement, the principles of participation, non-discrimination, equality and inclusion are observed (Stamford Agreement, 2003). Companies need to become aware of the potential differences in impacts experienced between female and male workers. For example, women can be faced with different wages and hiring standards than men, and are more likely to experience sexual intimidation and harassment. In some cases, where issues have already resulted in conflict or are highly culturally sensitive, it might be necessary to involve an independent party.

A recent topic in social impact assessment relates to awareness of the social impacts of the conduct of any private or public security forces linked to the project (Kemp and Vanclay, 2013; Vanclay et al., 2015). Most large projects have security staff, either as direct employees or as sub-employees through the subcontracting of a private security company. Government security forces (police, military) can also be involved in company activities. These groups can pose a severe human rights risk to local communities, for example when they are involved in enforcing expropriation of land. Public security forces can pose a risk to workers, communities and especially to women and children, particularly in situations of dispelling riots, or quelling violent or substantial protests (McFetridge, 2008). In 2000, governments, NGOs and companies established the Voluntary Principles on Security and Human Rights (VP) (VP, 2000). The VP require that companies should undertake a risk assessment to analyse the potential of violence in their operating context taking into account the human rights record of the security forces and local paramilitaries, and the root causes of (existing) local conflict and/or potential for future conflict. Companies should regularly investigate the interactions between private and/or public security forces and local communities and workers (see Columbia Law School and IHRC, 2015). Companies also need to take into account the wellbeing of the security personnel themselves, and assess their working conditions, which may negatively affect their wellbeing and behaviour.

4.3. Step 3: assign each identified impact to its relevant human rights

When environmental and social issues are ignored or not properly addressed by the company, they can escalate into human rights impacts. When affected livelihoods are not adequately restored and improved (see IFC, 2012), affected peoples can experience serious impediments to the enjoyment of their human rights including the right to an adequate standard of living and rights to food, water, housing, education, work, and health (McBeth, 2008; van der Ploeg and Vanclay, 2017). More specifically, projects that obstruct access to essential public services including health care facilities, markets, and schools, adversely impact on various human rights including the right to health, the right to work and the right to education (van der Ploeg and Vanclay, 2017). In addition, a project's adverse impacts on the natural environment can underlie many negative social impacts, and consequently adversely impact on human rights. The cumulative nature of various forms of

pollution, contamination and environmental degradation can translate into human rights abuses such as rights to adequate food, health, culture, and the right to life (de Schutter, 2009; Knox, 2012). Adverse impacts on the mental and physical wellbeing of rights-holders through environmental changes resulting in obstructed access to water sources, agricultural lands, and forests can also involve severe human rights impacts. For example, reduced access to water, which is a frequent outcome of projects, is a significant risk to local communities and their wellbeing, and constitutes an adverse human rights impact (DIHR, 2014; Kemp et al., 2010; Kevany and Huisingh, 2013). Therefore, projects that ensure a safe, clean, healthy and sustainable environment is the basis of respect for, and realisation of a wide range of human rights (Knox, 2012; Brown, 2016).

Project staff need to become aware of various internationally-established human rights standards and frameworks that can be useful in identifying and addressing human rights impacts. In human rights terminology, the criteria of availability, accessibility, acceptability, and quality (the AAAQ Framework, DIHR, 2014) can be used to understand whether a project poses an obstruction to the realisation of economic, social and cultural rights, especially the right to adequate food (UN, 2010a), the right to water (UN, 2010b), or the right to adequate housing (UN, 2014b). To respect human rights means that, at a minimum, projects cannot adversely impact on the availability, accessibility, acceptability, or quality of essential public services including health-related facilities, goods and services, public roads, education and water facilities, as well as individual or family housing and natural resources significant for people's wellbeing and livelihoods. When such impacts are identified, companies have a responsibility to restore and/or replace the affected assets in similar or better conditions (see IFC, 2012; van der Ploeg et al., 2016).

For each subgroup of workers, the assessment of human rights impacts should focus on identifying the conditions of employment (i.e. hours, wages, leave), forms of discrimination, the potential for harassment and intolerance in the workplace, workplace health and safety, freedom of association, and the effectiveness of existing grievance mechanisms. The ILO Decent Work Agenda (ILO, 2012) has established the key goals for workers around the world in improving various aspects of their labour conditions. Also, the risks and impacts identified in relation to workers' individual wellbeing (mental and physical health) as well as the wellbeing of their families needs to be analysed in human rights terms. Companies need to be aware that adverse impacts on labour rights can have a consequential adverse impact on: (1) the right to an adequate standard of living, including basic subsistence; (2) the right to work, including non-discrimination, decent work, and fair wages; and (3) the right to basic income guarantees for those who cannot work anymore (e.g. social security) (Hertel, 2009). When applying a human rights lens to the situation of workers, company personnel might discover that the social issues and impacts may constitute abuses of internationally-recognized labour and human rights, and that they therefore have a responsibility to change their practices.

4.4. Step 4: establish the justification for action (i.e. the business case, in order to get adequate resources)

The corporate responsibility to respect human rights comprises a primary concern about risk to people rather than risk to business. However, it remains critical to develop and promote a strong business case with compelling reasons why human rights impacts and risks must be addressed (Shift, 2015). In order to address human rights impacts, company personnel likely have to compete for legitimacy and resources (Kemp and Owen, 2013). Even where there is an established corporate human rights policy, this may not

be sufficient to construct a case that will win the resources needed to address adverse impacts. Company personnel will need to demonstrate the added value that will be gained from the resources they request. Through the establishment of a convincing business case, company personnel can ensure that the necessary financial and human resources will be made available to effectively address the project's human rights impacts and risks (Shift, 2014). The development of a strong business case should include reference to corporate values, doing the right thing, and inspiring the workforce (Shift, 2012a, 2012b). Company policies that promote respect for human rights do not necessarily interfere with other company objectives, and may make 'good business sense' and be 'the right thing to do' (Shift, 2014). It should be emphasised that the timely assessment and addressing of social and human rights risks will enhance relationships with rights-holders and stakeholders, which will reduce the likelihood of local conflict, enhance certainty, maintain or improve a company's reputation leading to increased long-term success and the avoidance of costly delays (Franks et al., 2014; Vanclay et al., 2015).

Various other justifications can also help establish the argument why action must be undertaken. These include compliance with the requirements of national law, contract obligations, corporate codes of conduct, and international standards. Companies are subject to national law provisions, which may have human rights obligations, although not necessarily with an explicit human rights label (McBeth, 2008). Contractual obligations between the government and the company should provide for the adequate protection of human rights, including requiring contributions to provide positive human rights impacts such as through the company's investment in improving basic services, employment opportunities, and in respecting culturally-significant locations and/or resources (Ruggie, 2011; Brown, 2016). Contract agreements between the main operator and its direct employees, contractors and sub-contractors should also contain clauses about respect for human and labour rights, which can be established through favourable employment conditions, health, safety, security, and observance of social needs nominated by the local community. In addition, compliance with international standards — for example, the International Finance Corporation's environmental and social performance standards (IFC, 2012) are generally accepted as constituting the international standard for all business activities (Vanclay et al., 2015) and cover some important human rights principles (van der Ploeg et al., 2016; van der Ploeg and Vanclay, 2017).

4.5. Step 5: determine the appropriate department(s) in the company to address each impact

The assessment of potential and actual human rights impacts could reveal an overwhelming number and wide variety of human rights issues that need to be managed (Shift, 2012a,b). Therefore, each department needs to become involved in respecting human rights by understanding how their activities intersect with human rights (ICMM, 2013, 2014). The responsibility for addressing impacts has to be assigned to the appropriate levels and functions within the business enterprise. How this is done will depend on each company's corporate structure and procedures. The effective management of human rights risks and impacts will often require collaboration between departments. For example, adjusting workers' contracts to respect their rights involves cooperation between the human resources and legal departments.

With regard to communities, addressing human rights issues must be integrated in the policies and activities associated with community relations (Kemp, 2010a). Similarly, the policies and practices of construction, engineering and supply chain departments may need to be adjusted. There is a need to strengthen

cooperation between the departments driving social and human rights compliance and those departments driving construction, purchasing, procurement or supply chain management decisions (Shift, 2012a). Social departments need to become more involved in decision-making regarding overall project design (Kemp, 2010b). When they have the possibility to propose alternatives, many of the adverse impacts on human rights will be able to be avoided.

The legal department usually plays a significant role in how the business as a whole approaches the corporate responsibility to respect human rights. However, legal departments may observe human rights as a risk or threat to the company, or might prefer to avoid the subject rather than engage meaningfully with it (Shift, 2012a, 2012b). There is a need for legal departments to go further than just the narrow legal aspects of business interests, and instead to conduct analyses of human rights risks and impacts and support the company to comply with the requirements set by international standards (such as the IFC social and environmental performance standards, see IFC, 2012), which may go beyond those in national law. For example, in situations where labour conditions or community displacement involve human rights harm, even when the practice is in concordance with local laws, corporate lawyers should extend their counsel beyond private and national law to the international human rights standards that business are expected to respect (Lewis, 2016).

A specific human rights function should be established at corporate headquarters and at local, project site levels in order to bring human rights expertise fully into business operations (Shift, 2012a, 2012b). A company's internal human rights advisor needs to have a strategic role in coordinating actions across departments. The responsibility of the human rights advisor is to look into the environmental and social risks and impacts of a project, and to examine where there are potential or actual human rights infringements. This person can direct and support departments in addressing the social and environmental issues in terms of their impacts on respecting human rights. A human rights advisor should play a coordinating role between the legal, financial and other departments to encourage their cooperation. With a mandate from head office, a human rights advisor can, for example, ensure that community relations managers have a place at the table in discussions surrounding the various technical phases of project design.

4.6. Step 6: decide on the type of response and how it will be implemented

All human rights impacts need to be addressed; a company cannot offset human rights harm by performing good deeds elsewhere (Ruggie, 2008a). Actions that avoid human rights impacts are of primary importance and should be investigated with the rights-holders first (UN, 2011). This means that projects should not interfere in people's livelihoods — in their ways of making a living, in their family or cultural life. For example, to respect the right to property, the project area should be adjusted to avoid displacement and related human rights risks. Where projects are planned on the lands of Indigenous peoples, companies are expected to recognize Indigenous peoples' right to say no to any policy, plan, or project that may adversely affect their lives (Hanna and Vanclay, 2013). This means that companies should particularly avoid acquisition of Indigenous lands. Companies should also avoid damaging land that has special (e.g. spiritual) meaning to people in order to respect the right to culture and the right to religion. However, changing or reducing land requirements including safety buffer zones may decrease the human rights risk of displacement and involuntary resettlement, but could increase the risk of adversely impacting on the right to health of the local population, especially when they

remain close to the project.

In practice, the UNGP requirement of 'not to interfere' with all human rights can be difficult because, by their nature, large projects require vast amounts of land and significantly alter the natural environment, even when measures of avoidance have been undertaken. Thus, when avoidance is not possible, companies should develop and implement appropriate mitigation measures that restore and improve access to impacted assets and other experienced losses (IFC, 2012). The process and outcomes of compensation and livelihood restoration programs and remediation procedures need to result in respect for human rights (Shift, 2014). For example, the provision of only financial compensation for loss of land or for adverse health impacts would still likely result in human rights harm, especially to vulnerable groups (Cernea and Mathur, 2007; van der Ploeg and Vanclay, 2017). Also, in the development of resettlement action plans and compensation packages, the criteria of the right to adequate housing (UN, 2014a, 2014b) should be considered (van der Ploeg and Vanclay, 2017).

The content of mitigation and/or remediation plans are context dependent; in essence, to be effective, mitigation measures must be tailored to the rights-holders' priorities (Götzmann, 2014; Watson et al., 2013). The development and implementation of mitigation and remediation plans need to have the goal of sustainable and inclusive development of local communities and be based on a process of meaningful participation (Vanclay et al., 2015). Mitigation and remediation measures need to reflect the needs and aspirations of various subgroups including women, men, and youth (the expectations and needs of community members have been obtained through step 1 and 2). Communities need to feel a sense of ownership in developing and implementation these plans, which will help them to better cope with the changes to their lives. Community participation in mitigation and remediation plans can contribute to increasing cooperation amongst community members and in building community cohesion, improving feelings of security, and strengthening people's trust in the future, leading to fewer grievances, and less potential for conflict and human rights abuses (Vanclay et al., 2015).

For employees and sub-employees inside the fence, companies can avoid, mitigate and remedy impacts through employment policies and requirements, and by making actual changes in the workplace. Such improvements can include: providing reasonable and equal rates of pay to women and men; changes in the workplace that guarantee reasonable working conditions including training for local workers to improve their awareness of safety and health risks; policies and engagement activities that aim to reduce discrimination in the workplace; and efforts to not obstruct the workers' right to organize. On a project site level, there should be regular gatherings and/or seminars with employees and sub-employees where issues, suggestions and questions can be discussed in an open setting. Through such meetings, information and training can be provided to help workers better understand their rights and responsibilities in the workplace.

Companies have a responsibility to use their leverage (UN, 2011) to pressure their (sub)contractors and other business partners inside and outside the licence area and throughout the supply chain to improve working conditions and meet if not exceed international standards. A company needs to clarify its requirements and expectations towards its contractors and sub-contractors regarding the health, safety and security conditions for employees. With regard to security staff, companies need to express the expectation of compliance with the VP to contractors, which should be clearly articulated in contracts (VP, 2000). The main operator needs to establish training courses on security and human rights to make sure that the conduct of security staff is in line with the expectations in the VP (EarthRights International, 2013). Also, companies

need to undertake actions to address the harsh conditions in which security staff may need to work (e.g. in remote areas with little access to services such as shops, toilets, etc.) to protect them from adverse human rights impacts, such provision of access to proper water, food, shelter and clothing, as well as reasonable working hours. Companies may need to be 'creative' in using their leverage over their business relationships (Shift, 2014). In cases where noncompliance with expected standards is detected in the supply chain, the primary company should consider an appropriate response. Through leverage, a constructive and continuous dialogue can bring structural change over the longer term to respect labour and human rights (Shift, 2014).

Where an adverse impact on human rights has already taken place, a company should actively engage in the provision of remedy either directly or in cooperation with others (for example with the courts, the government, or other companies that may be involved) (UN, 2011). The responsibility to provide remedy refers to processes that can counteract or make good the adverse impact (UN, 2012). It is important that companies consider judicial and non-judicial forms of remedy (Ruggie, 2010, 2008a; UN, 2011). Although there are significant challenges in providing access to effective judicial remedy, national and local law systems are often weakest where and when they are most needed (Ruggie, 2013). Compared to the legal counsel that companies have access to, local citizens are at a disadvantage by lacking sufficient knowledge of the legal and company procedures as well as financial resources for independent legal representation and advice (Columbia Law School and IHRC, 2015). Non-judicial forms of remedy should always be provided by the company and, in any case, may be more effective in repairing harm. However, non-judicial forms of remedy provided by the company must not restrict affected peoples from seeking access to courts (Knuckey and Jenkin, 2015).

4.7. Step 7: track how the response is received by all rights-holders and ask for and act on feedback

The UNGP (UN, 2011, p. 23) state that "tracking is necessary in order for a business enterprise to know if its human rights policies are being implemented optimally, whether it has responded effectively to the identified human rights impacts, and to drive continuous improvement". For the purpose of sustainability reporting, human rights performance indicators can be developed that reflect on the outcomes of all mitigation and remediation measures. Increasingly, investors (export credit agencies, insurance companies, international development banks) require evidence of human rights performance from the projects in which they invest, or in which they may decide to invest (Vanclay et al., 2015). Ultimately, the effectiveness of responses must be investigated for local purposes and from the perspectives of the affected rights-holders (UN, 2011; Shift, 2015). The involvement of expert stakeholders can be important for a company to 'know and show' what is *really* going on. Stakeholders need to be engaged in a tracking process when their involvement increases the legitimacy and transparency of how a project manages its impacts on human rights (Shift, 2014). Also, other actors, such as National Human Rights Institutions (NHRIs) should fulfil a more prominent and independent role in tracking the human rights performance of a company, and investigate the process and outcomes of mitigation and remediation responses, especially in conflict situations (Shift, 2015; see also Götzmann and O'Brien, 2013).

As companies need to know whether their responses towards the grievances were considered adequate by the affected individuals or the community, it is important that company personnel regularly engage with communities and workers (going back to step 1 in the HRS). This often means that companies need to

have an understanding of the past, and they may need to acknowledge old grievances, regardless how dated they may be, in order to establish constructive relationships with the rights-holders (Doyle, 2015; Earth Rights International, 2013; Graetz, 2014). The participation of the rights-holders throughout project phases, as well as listening and acting on their concerns and grievances, are the only ways in which companies can become more aware of their adverse impacts and improve their practice in remediating and avoiding human rights abuses now and in the future.

5. Final comments

The Human Rights Sphere provides an inclusive picture of a project's rights-holders, the environmental, social and human rights risks and impacts of a project, and advice on the practices that should be undertaken to adequately avoid and address human rights infringements. The first three steps of the HRS will result in the identification of a wide range of human rights issues. Although this may be overwhelming to project staff, it is important that companies 'get started' and make genuine efforts to identify the risks and impacts. Operational staff need to learn how to think about the social issues in human rights terms, including which human rights principles and standards they should apply. They need to fully comprehend that business activities must not obstruct access to essential services, spiritual or religious sites, or natural resources. Also, projects cannot harm the health of local communities or workers. When projects impede this access, adequate ways to restore or improve access so that human rights are not infringed must be found. Company personnel need to be able to identify those human rights risks and impacts that require immediate action, especially when the harm has already occurred and when certain risks will be difficult to remediate.

While there is growing human rights awareness in business, the stronger concern for profit maximisation can still hamper, if not block, the adequate addressing of the actual and potential human rights impacts at the ground level. One way in which this plays out is that, all too often, promises are made to communities when the resources needed to implement those promises have not been secured and internal support has not been obtained. The effective implementation of the various steps of the HRS requires a change in corporate culture towards one in which identifying and addressing human rights abuses is not only accepted, but is positively encouraged. Leadership in human rights is necessary at the corporate level in order to bring human rights risks and abuses to the attention of the Board. But, equally, personnel with human rights expertise and commitment must be established at the project site level to support local staff. There is a particular need to improve the practical implementation of the human rights principles of full access to information and meaningful participation, and to consider how these principles can be integrated in project procedures and decision-making. Only then will the full range of impacts and risks become fully identified, and plans for avoidance, mitigation and remediation become more effective. Human rights advisors have to play a key coordinating role in and between departments by indicating what adjustments to contracts, compensation plans, procedures, working conditions, and grievance mechanisms are necessary so that respect for human rights becomes more effectively implemented and realised.

The HRS provides insights into how project sites (whether they constitute factories, mines, railway lines, harbors, agriculture etc) are interlinked with human rights. However, there will likely be different human rights issues depending on the sector and location of operation. Human rights risks can differ according to the technical requirements of projects, as well as the local cultural, legal,

political and socio-economic context of operations. Sometimes, the human rights issues may appear relatively similar across various types of projects, but what may be considered to be an adequate response by the local communities and workers may vary due to their different needs and local realities. We believe that the widespread use of the HRS will help to better comprehend and assist in the management of context-specific human rights issues.

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