

Human rights policy implementation in the oil and gas sector

Translating policy into practice, a practical guide



**Social
responsibility**
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The global oil and gas industry association for environmental and social issues

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Introduction	2
Part 1: Human rights defined	3
Part 2: Human rights business risks and opportunities	4
Part 3: Key human rights challenges for the oil and gas sector	5
Part 4: Human rights policy implementation	9
Good practice examples and obstacles	9
Elements to assist integrating human rights into operating management system	18
References	20
Interviews	22

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IPIECA OBJECTIVES

This report has been developed at IPIECA's request by a third party. It is a useful resource document rather than a document representing the views of IPIECA or its members. It is meant to assist IPIECA member companies that are deliberating on how best to grapple with human rights issues and translate policy into practice. It is descriptive rather than prescriptive and is not meant to represent consensus among the widely varying views held by member companies.





Oil and gas companies can find themselves operating in areas of human rights violations by nature of the location of oil and gas reserves. Companies are particularly at risk of association with human rights violations in zones of conflict, in territories with indigenous populations, where land rights are contested or inadequately protected, or in countries with oppressive or corrupt governments. Ensuring respect for human rights will help maintain positive relations in areas where a company has a presence or relationships, which will contribute to a more stable and productive business environment. In addition, business and society are increasingly recognizing a legitimate role for companies to address respect for human rights throughout their sphere of influence.

This paper examines the practical ways in which the oil and gas sector has been grappling with human rights in its day-to-day operations. In many cases a corporate human rights strategy involves gaining a greater awareness of the issue, creating policy, and implementing policy by folding it into practice areas such as employment practices, security management, and impact management, among others. The process, and this paper, commences with an attempt to define human rights, grounded in widely accepted international principles, and examines the connection between human rights and petrochemical corporations. An overview of risks to and opportunities for corporations is then presented.

With little consensus, industry-wide, on how to approach the question of human rights in terms of scope, focus, and the role corporations should play, a framework has been formulated to divide responsibility and influence into four categories: primary, shared, contributory, and indirect influence. Key human rights challenges and approaches to dealing with them are then presented within each category and tied back to the relevant article of the Universal Declaration of Human Rights (UDHR).

Translating corporate policy into operational practice has been a challenge for many companies. To assist those making this transition good practice examples and potential obstacles have been provided from a variety of extractive companies. Subjects include: consultation, leadership, pre-investment impact assessment, practical management guides, training, communications systems, supply chain management, monitoring and verification, and reporting transparency.

Companies have different operating management systems and, therefore, varying processes to systematically incorporate new core business issues. To this end, a variety of elements that companies have found useful to begin the process of integrating human rights into their operating management systems are outlined. Each company must identify the most appropriate elements and processes to suit their own needs and capacities. The paper closes with information sources and advisory services' contact details.

Human rights defined

Human rights, in their broadest definition, are the basic liberties allowing a person freedom to live a dignified life, freedom to express independent beliefs, and freedom from abuse and violations.

The Universal Declaration of Human Rights (UDHR) was established in 1948 by the UN General Assembly and serves as the international standard and codification of human rights norms. 148 countries have signed the UDHR and none of the world's nations has publicly disputed it. With signatories spanning the globe, the UDHR is not culture-specific and has been used as the model for non-UN codes such as the African Charter on Human Rights and People's Rights. The UN has also developed other protocols, based on the UDHR, to address specific human rights principles. The International Covenant on Economic, Cultural and Social Rights, and the International Covenant on Civil and Political Rights, combined with the Core Labour Standards of the International Labour Organisation serve as the basis for human rights in the legal, political, and social spheres.

WHAT DO HUMAN RIGHTS HAVE TO DO WITH BUSINESS?

While generally directed at governments, the UDHR holds every organ of society responsible for upholding the principles outlined in it. Corporations, because of their scope, scale, and influence, are thus considered pivotal organs of society. Furthermore, a perception has emerged in this age of globalization, where there is a growing trend to view corporations as a proxy for governments and expect them to effect political and social change. Inappropriate as it may be to demand that business step in where governments have failed, this new landscape has created new complexities with which the oil and gas industry must grapple.

On a less theoretical level, companies, particularly in the extractive industries, face complex human rights-related issues. That being the case, there are several points of intersection between corporate issues and matters covered under the umbrella of human rights.

The following paper is an attempt to outline proactive techniques that corporations currently use, or can consider employing, to integrate human rights into the operating management system.

BOX 1 TYPES OF HUMAN RIGHTS IMPACTS

An **actual impact** is already present in the project area prior to the project initiation. Legacy impacts are those caused by previous operators or activities, e.g. insufficient compensation provided to communities following government-led resettlement undertaken in relation to project activities.

A **potential impact** is one that may occur at some point, e.g. the project design shows the need for a permanent resettlement of households.

A project may **cause** human rights impacts, e.g. if discrimination occurs in a hiring process.

A project may **contribute** to human rights impacts, e.g. if it uses project contractors with poor labour practices.

A project may be **directly linked** to an impact, e.g. if public security forces stationed to protect assets use excessive force against protesters.

Human rights risks & opportunities

RISK MANAGEMENT

A corporate human rights strategy, in tandem with community initiatives, is relevant to oil companies for a profound reason. Risk management. As in other spheres of business competence, when dealing with risk the best course of action is to be pre-emptive. In terms of human rights, the following risks have presented themselves:

- **IN-COUNTRY RISK:** In unstable, corrupt, or resource-rich and economically underdeveloped countries, there are pre-existing conditions that make human rights an issue to grapple with for any company entering the region. When establishing a presence in such areas it is wise to be pre-emptive and consider human rights as an external risk that must be accounted for and contended with in project planning and implementation. This holds true for human resource, safety, and health issues globally.
- **LEGAL RISK:** Increasingly, those concerned about companies' complicity with human rights abuses have turned to the legal system. France's recent judicial inquiries and U.S.-based legal precedents set by the Alien Tort Statute and Sarbanes-Oxley Act are examples of such legal and regulatory action that are likely to continue in the near and mid-term.
- **REPUTATION RISK:** The impact of human rights abuse allegations can affect the targeted organization's reputation and can also tar the industry as a whole. While it is difficult to measure the business impact of reputational risk resulting from human rights issues, the potential for industry-wide risk may make a collective approach to dealing with the issue advisable.

OPPORTUNITIES A proactive approach can realize opportunities for business driven by:

VALUES

- **Contributing to Social Investment:** Companies that view their operations and impacts through a sustainable development lens may begin to understand the merit of taking proactive measures that move beyond their direct operations and employees to consider their spheres of influence. Such an approach to human rights, within the concept of sustainable development, can transform corporate perceptions of communities from potential threats to potential allies or partners. This perspective can assist in designing policy to actively prevent getting into trouble rather than managing to crisis.

BUSINESS

- **Ensuring Social License to Operate:** Defined as the formal and informal approval a company needs from stakeholders to conduct its business, social license is imperative to the company's ability to operate effectively. A positive relationship with communities that involves respect for human rights is one factor to ensuring a continued social license to operate.

APPROACH

- A key element to being proactive is improving stakeholder relations. Addressing human rights by involving local communities and NGOs enables collaboration that can transform relations from antagonistic to cooperative. This calls for community involvement and context analysis at the field level that includes key indicators, diagnostic tools, and conflict impact assessments, in addition to providing training to demystify human rights and create a problem-solving approach.

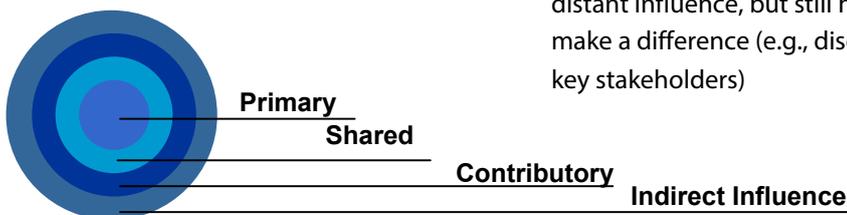
Key human rights challenges in the oil & gas industry

SCOPING THE ISSUE

There is little consensus, industry-wide, on how to approach the question of human rights in terms of scope, focus, and the role corporations should play. Adding to the complexity is the fact that companies are expected to address respect for human rights within all of their spheres of influence, while these spheres are often ill defined, both within and outside the corporation. A useful framework generated at IPIECA's stakeholders meeting divided responsibility and influence into four categories, which were defined as:



- **PRIMARY:** where responsibility is held mainly by a company (e.g., employee actions)
- **SHARED:** where two or more parties are more or less equally involved in having influence and / or responsibility for a situation (e.g., actions of contractors)
- **CONTRIBUTORY:** where a company has a contribution to make, but not direct responsibility (e.g., working to enhance education on the issue in a community)
- **INDIRECT INFLUENCE:** where a company has distant influence, but still has an opportunity to make a difference (e.g., discussing the issues with key stakeholders)



It must be stated clearly that corporations are not responsible for replacing governments in their legitimate and primary responsibilities for the protection of human rights.

PRIMARY SPHERE

Employment related concerns

Universal Declaration articles 4, 20, 23

- **Issue:** Concerns about the labor force remain a challenge for most multinational enterprises. Petroleum companies face issues, either through direct or contractual employment, such as the freedom of association (trade unions), non-discrimination and equal opportunity, compensation, health, safety, (contractual) bonded and slave labor, and, in very rare cases, child labor.
- **Approach:** The ILO conventions and the experiences of other sectors can be a guide when mapping out an approach to labor issues.

Engaging with communities / indigenous people

Universal Declaration article 27

- **Issue:** Engagement with communities has long been a complex issue for the extractive sector as it faces matters such as relocation, land rights, allocation of oil wealth, capacity-building in the local community, and host community expectations of the company. compensation, health, safety, (contractual) bonded and slave labor, and, in very rare cases, child labor.
- **Approach:** Early engagement with local community leaders, respectful negotiations, taking the time to understand the real needs and expectations of local communities, as well as engagement with NGOs can transform historically antagonistic relationships into win-win situations.

Use of state and private security forces

Universal Declaration articles 5, 9, 22

- **Issue:** Defending property and personnel with armed guards either from private security firms or state security forces, particularly in conflict zones, is a necessity for oil and gas companies. These relationships, however, pose some of the largest human rights risks to corporations because of the potential for the arbitrary use of power by such forces resulting in abuse of local communities.
- **Approach:** Screening, training, and monitoring security forces. There are several organizations well placed to assist the corporation including: the Lester Pearson Peacekeeping Centre, (trains security personnel on human rights issues) and Human Rights Watch, (has developed "Specific Recommendations to Companies on Security Arrangements." hrwnyc@hrw.org)

SHARED SPHERE

HIV/AIDS¹

Universal Declaration article 25

- **Issue:** Once considered only a health issue, the concern about spread of disease and responsibility for assisting afflicted groups is now coming to the fore as a human rights challenge for the extractive industries.
 - Business drivers for contributing to the fight against HIV/AIDS and assist those afflicted. In many countries, companies' target local hires have a very high probability of being HIV+, and escalating death rates will further diminish the availability of local skilled labor. Another impact of death rates from disease is the lack of resources to man civil service, law enforcement and military roles, undermining the effectiveness of government institutions, which in turn creates a high-risk business environment. In addition, the devastating effects of HIV/AIDS are present in countries of great oil and gas exploration importance – not only in Africa, but also Russia, Central Asia, India, and China.
 - Concerns about company complicity in spread of disease: Building infrastructure in remote areas increases population mobility, which increases the opportunity for spread of HIV/AIDS. In addition, should security forces abuse their position and commit sexual abuses, the infringement on human rights is compounded by the high potential of spreading HIV/AIDS. The rate of HIV+ in security personnel in many countries is staggeringly high.
- **Approach:** Information on the impacts of health issues, particularly HIV/AIDS, in the oil and gas industry and potential approaches to addressing these issues can be found in IPIECA publication. Of particular interest may be *no e ge Poi an tion H anagement oos or the i an as n ustr*

¹ Sources: "Human Immunodeficiency Virus Infection in Nigeria" *Braz J Infect Dis* 1998 Jun;2(3):143-159; "HIV and STD prevalence among bus and truck drivers in Cameroon" (MedLine); Nzyuko S, Lurie P, McFarland W, Leyden W, Nyamwaya D, Mandel JS. "Adolescent sexual behavior along the Trans-Africa Highway in Kenya." PMID: 9376097 [PubMed - indexed for MEDLINE]; <http://www.learningclinic.co.za/aids1.html>; The Futures Group International: Lori Bollinger, John Stover; http://www.synergyaids.com/documents/Nigeria_final.PDF; Anthony D. Okonmah "Social and Economic Impact of HIV/AIDS in Africa" <<http://democracy-africa.org/hivaids.htm>>

CONTRIBUTORY SPHERE

Access to Energy

Universal Declaration article 25

- **Issue:** By some estimations world demand for energy will grow 40% by the year 2020. The challenge to the oil and gas industry is to meet the growing demand for oil as well as replace mature resources. In addition, many of the communities who live in oil-rich regions are unable to meet their most basic energy needs. This paradox remains a challenge lying close to the core values expressed by many oil and gas companies.
- **Approach:** Some companies may approach access to energy as a sustainable development issue closely tied to their core business values. For example, contributing to the development of local infrastructure, in conjunction with governments, to enable communities to meet their energy needs.



Revenue transparency²

Universal Declaration article 21

- **Issue:** The public is concerned that some governments have used the wealth generated from oil and gas royalties, taxes, and other revenues in ways that further human rights abuses, such as funding conflict. Companies are being asked to publicly communicate the amount of revenues paid to governments in order to facilitate governmental accountability for the uses of oil-generated funds. There is a particular interest that such funds are used to benefit local populations through social services and equitable wealth distribution.
- **Approach:** Community transparency initiatives, trusts, and revenue sharing schemes are three means by which corporations, particularly in the extractive sector, have increased the transparency of their revenues to national governments. These initiatives are pre-emptive tactics to facilitate determining whether revenues are applied to local populations. In addition, these plans enable the corporation to distance itself from perceived collusion with corrupt or otherwise less-than-savory government practices. Some extractive corporations are joining the “Publish What You Pay” initiative. Others are very involved in the Extractive Industries Transparency Initiative (EITI). Further information on the EITI can be found on OGP’s website [<http://www.ogp.org.uk/Issues/>] which includes a ‘statement of principles’ highlighting their standpoint on transparency. Undertaking an industry-wide approach to revenue transparency can be an answer to critics claiming that oil companies have a critical role in the perpetuation of conflict. Such a joint approach can also enable companies to step ahead of regulation on reporting.

² Sourced, in part, from “Conflict Prevention and Revenue-Sharing Regimes,” Global Compact Policy Paper Series.

INDIRECT SPHERE

Environmental Justice

Universal Declaration article 21

- **Issue:** The term “environmental justice” is an umbrella that encompasses the general environmental impact of large-scale industrial projects, particularly in developing countries, and the disparity between those who have the option to live amongst clean and safe natural resources and those who do not. Issues related to environmental justice and oil include: the frequent co-location of polluting industries with disadvantaged communities in U.S. cities; the general environmental impact of exploration and extraction activities; allegations of community exposure to hazardous materials; and accusations of toxic waste disposal hazards experienced by local communities.
- **Approach:** Some companies may opt to take proactive steps to work with effected communities and / or initiate clean-ups of existing hazardous materials. The oil and gas industry is improving its environmental footprint by striving to create new technologies to reduce its environmental impact.

OTHER KEY CHALLENGES

Contribution to Policy

- **Issue:** Companies have a wide range of views when it comes to engaging host governments on the topic of human rights, from the strong belief that it is outside the scope of their business to an approach of “quiet diplomacy”.
- **Drivers:** Under some circumstances, complete silence from corporations on the topic of human rights can be viewed by the public as complicity in abuse. To combat this risk, some corporations have chosen to make their views known publicly. Other drivers may include the occurrence of human rights incidents or pressure from a joint venture partner or progressive government.
- **Approach:** Corporate input in governmental human rights policy must be approached on a case-by-case basis, evaluating the country context, the issue’s connection to the company, and the potential positive or negative consequence of corporate contributions. This activity on this extremely complex and delicate issue must also reflect each corporation’s views on involvement with host governments.



Integrating human rights into operating management systems

- **Issue:** The challenge for oil and gas companies is to ensure that human rights be integrated into existing operating management systems so that it can be dealt with in day-to-day business functions in a seamless manner in tandem with such vital issues as health, safety, and the environment, rather than as an ancillary issue.
- **Approach:** Training personnel, at both the corporate and country levels, to be sensitive to the issues falling under human rights is a step to ensuring that this issue is integrated. As with all other functions in the corporation, adequate mechanisms for internal reporting and verification can be helpful.

Human rights policy implementation

GOOD PRACTICE EXAMPLES & POTENTIAL OBSTACLES

Companies have varying approaches to both the conceptual and practical aspects of human rights as it relates to both their business and society at large. It is critical to note, however, that a corporate human rights strategy is a means to avoid becoming entangled in, or creating, a human rights dilemma. Therefore, in order to accomplish its intended goal, corporate human rights policies should not be stand-alone programs. Rather, a corporate approach to human rights ought to be incorporated into a well thought out and thoroughly implemented corporate social responsibility plan and be integrated into the operational management of the company. What follows are some examples of good practices that corporations have undertaken to address a wide range of human rights issues. These include:

- consultation
- leadership
- pre-investment impact assessment
- practical management guides
- training
- communications systems
- supply chain management
- monitoring & verification
- reporting transparency



CONSULTATIONS

Consultation with NGOs or academic institutions knowledgeable about HR issues has several advantages.

- Many NGOs, even those who appear to be anti-corporate advocacy groups, will sit at the table for constructive discussions about particular issues; such a process can transform critics into advisors, leading to a win-win for all parties.
- Petroleum companies are not experts on social issues. External specialists are crucial to creating an effective, long-term plan to deal with such matters.

EXAMPLE FROM PRACTICE:

BP: Danish Centre for Human Rights

BP engages NGOs and other non-corporate actors in an informal fashion, finding that learning through dialogue can be helpful

Newmont-Normandy Mining: local human rights groups, Global Witness

Newmont gets input on the local situation from local and international NGOs

Hydro: Amnesty Norway

Hydro and Amnesty have created a unique co-operation agreement in which Amnesty provides human rights knowledge for Hydro-employees, and Hydro contributes with NOK 1 million to Amnesty's work for human rights. The company has also convened high-level talks between its CEO and the AI's Executive Deputy Secretary General

Rio Tinto: Indigenous Groups

A crucial issue facing Australian mining companies both at home and abroad is that of indigenous peoples. "In many regions in the world, indigenous people have owned and occupied lands for many generations, frequently for longer periods than the prevailing sovereign government. Under these circumstances it is appropriate, and indeed frequently required under statute, that Rio Tinto negotiates a mining access agreement directly with the indigenous landowners. These agreements are rights based in that they recognise the rights and interests of indigenous landowners and seek an equitable distribution of benefits between Rio Tinto, indigenous peoples and government. The agreements set out to produce constructive, mutually beneficial relationships between Rio Tinto and host indigenous communities." In order to accomplish this in one flagship project, the company paid for independent lawyers to represent the indigenous parties, and engaged in 18 months of negotiations to settle on a final solution which provides for community development, training, employment and business assistance in a package estimated to cost \$A60 million over the next twenty years. As a result of the Agreement, three indigenous business enterprises were set up to help in the construction of the mine and, now that the mine is operating, those same enterprises continue to provide earthmoving, equipment hire and accommodation management and services. A company representative said that trust- building was one of the most important elements of a successful outcome.

Talisman: Human Rights Watch, CSIS, International Peace Academy

POTENTIAL OBSTACLES TO SUCCESS

- Underestimating the benefit of non-corporate entity input and consultation
- Engaging NGOs without fully understanding, and addressing, their expectations, even if this
- Not including local population input, NGO assistance and / or multilateral advisory services in

LEADERSHIP, OWNERSHIP, PERSONNEL

Human rights as a corporate issue must have buy-in from top-level management (CEO, Board) in order to give credibility within the firm. The issue is often assigned as a responsibility to a senior manager at corporate HQ (if this fits the operational model) and to a field-based manager. Clear leadership and defined responsibilities can help to integrate policy into the business structure, project analysis, and project assessment. Most companies interviewed train managers in country.

EXAMPLE FROM PRACTICE:**Rio Tinto: CSR Unit, Aboriginal Relations Unit, Anthropologists**

BRio Tinto's Aboriginals Unit and Anthropologists are key personnel that enable the company to better understand its stakeholders and the land-rights issues that it grapples with both at home and abroad.

Shell: Social Performance Management Unit

Hydro and Amnesty have created a unique co-operation agreement in which Amnesty provides human rights knowledge for Hydro-employees, and Hydro contributes with NOK 1 million to Amnesty's work for human rights. The company has also convened high-level talks between its CEO and the AI's Executive Deputy Secretary General

Rio Tinto: Indigenous Groups

In 2001, the businesses created a dedicated Social Performance Management Unit (SPMU) to support their efforts to improve our social performance. The SPMU has established a common language and framework for social performance across Shell. It develops guidance notes for managers, implements training workshops to help share best practice and provides direct support to a number of projects. The unit also undertakes in-depth social performance reviews in operations

Total: Ethics Committee

Oversees issues such as transparency, human rights, and corruption.

POTENTIAL OBSTACLES TO SUCCESS

- Lack of leadership and/or expertise within the organization
- Not ensuring buy-in of personnel at both corporate and country levels
- Not providing managers with sufficient support when preparing for and coping with human rights challenges, particularly in conflict zones

PRE-INVESTMENT IMPACT ASSESSMENT

Assessing HR issues as part of a pre-investment investigation helps managers to create appropriate, pre-emptive programs at the project outset that help to avoid involvement or creation of a human rights incident.

EXAMPLE FROM PRACTICE:

BP: Pre-Investment Human Rights Impact Assessment (Indonesia)

BP undertook, with the assistance of Gare Smith (Foley Hoag) and Bennett Freeman (Burson-Marsteller), a human rights assessment of its proposed Tangguh LNG Project. The main points covered in this study were:

- Identifying broad human rights risks to the project:
 - Repressive Regimes/Weak Governance, Rule of Law
 - Revenue Mismanagement/Corruption
 - Company Roles and Responsibilities in Conflict Zones
 - Security Arrangements/Public and Private Forces – if Indonesian security forces will respect the rights of people living and working in the project area
 - Indigenous Rights/Right to Consent to Development – if indigenous Papuans will have an appropriate voice in developing Papua's natural resources and be able to participate equitably in the project revenue stream
 - Labor Rights – if the influx of migrant labor associated with project construction will inevitably displace indigenous communities
- Offering specific proposals to avoid violations and resolve unavoidable conflicts
- Proposing broader approaches and model processes to protect and promote rights of communities and peoples affected by project

Rio Tinto: Heritage Land surveys, Base-line Socio-Economic Impact Assessment

Rio Tinto conducts baseline surveys of the social, economic and cultural characteristics of local communities which are relevant at each stage of mine development, from pre-exploration, to post closure.

Shell: Social Impact Assessment Survey (China)³

Shell undertook, in conjunction with UNDP, a study of its West-East Gas Pipeline project. The assessment sought to understand what households and stakeholders in affected communities thought about the project and what their expectations were. The report emphasizes a need for ongoing dialogue with stakeholders and the need to take pre-emptive action with these groups to avoid potential negative impacts. The survey covers seven Chinese provinces and concludes with recommendations, made by UNDP, to the corporate entities, society at large, and the Chinese government. The company noted that, while the social impact study was an extension of its environmental impact assessment, that measurement in the social sphere is a challenge.

Total: Social Impact Assessment

Sustainable Development Division, HSE, community relations experts, and reps from various branches do a pre-investment assessment of environmental, social relations, and societal effects of company's presence in area. Engage in dialogue with NGO's very early, sometimes even before tender. This allows the company to develop an understanding very early in the project planning, to be flexible on technical points, and to build into the project the economics to reduce social impact.

POTENTIAL OBSTACLES TO SUCCESS

- Creating pre-investment impact assessment tool that measures only what is easily available and/or desired outcomes and does not account for hard-to-measure issues
- Poor comprehension of site-specific human rights issues

PRACTICAL MANAGEMENT GUIDES & TOOLS

Primers and Guides are a good basis for sharing the corporate human rights approach with personnel, both at HQ and abroad. Coupled with training they are invaluable and can serve well as an ongoing reference guide.

EXAMPLES FROM PRACTICE

AngloAmerican: Socio-Economic Toolbox

Shell: Human Rights Compliance Tool (HRCT), Primer on Human Rights, Guidance Note on Resettlement

- *HRCT*⁴ Developed by the Danish Center for Human Rights, piloted in South Africa in 2001, and revised in 2002, the HRCA is “a web-friendly computer program comprising 1000 indicators and 300 questions together forming a searchable database. The questions, (based on the UDHR, the ILO Core Conventions, and several other major human rights treaties and conventions) are drawn wide enough to enable companies to select and modify the program to suit their particular requirements. If applied successfully they will also generate concrete indications of areas of non-compliance.” Shell pilot tested this tool.
- *Primer on Human Rights*⁵ Aims to facilitate a better understanding of human rights, its history, vocabulary and dilemmas and to help Shell companies identify and understand their roles and responsibilities in supporting human rights.
- *Human Rights dilemmas arising in resettlement*⁶ Presents human rights in a way that business managers can relate to; breaks issues down into areas outlining policy, examples of a potential situation, and points to consider when facing such an issue.

Rio Tinto: Guidance on Human Rights, Dilemma Management Primer⁷

The situations described in the Guidance are drawn from practical experience in over fifty operations on six continents. Its composition drew not only on in-house experience but also on the advice of those outside the resources industry, including human rights advocates and organizations such as Amnesty International and the office of the UN High Commissioner for Human Rights.

Hydro: E-learning Kit on HR, Practical CSR Toolbox

In conjunction with Amnesty Norway, the company has developed an intranet-based learning tool that covers facts about human rights, a section on human rights and industry, allows for discussion and feedback from a team of human rights specialists, and has a dedicated news service with stories relevant to the oil industry generally, and Norsk Hydro’s country sites, specifically. The Practical CSR Toolbox (’04) will cover a variety of CSR issues and will strive to find key performance indicators.

POTENTIAL OBSTACLES TO SUCCESS

- Creating management guidelines without implementing training sessions to help managers understand issues and responsibilities – relegates the issue to “paperwork”

⁴www.humanrightsbusiness.org/HRCA_overview.htm

⁵http://www.shell.com/home/ExitPage?URL=http://www.shell.com/static/mediaen/downloads/business_and_human_rights_primer.pdf&Source=CON&Sourceid=royalen

⁶http://www.shell.com/static/royalen/downloads/human_rights_dilemmas.pdf

⁷www.riotinto.com/library/reports/PDFs/corpPub_HumanRights.pdf

TRAINING

Training staff, and when possible 3rd parties involved with the business, about the meaning and application of the corporate human rights approach is a crucial element to sound policy implementation. Trainings can be done by company staff or external trainers and should include explanations of standards on indigenous peoples, use of force by security personnel, corruption, forced labor, and how best to interact with the local community, as well as other relevant, company-specific issues. Case studies can be useful, as are techniques to avoid human rights related events, and action steps to take at the outset of a human rights-related incident. Some companies interviewed mentioned that role-playing was helpful for personnel.

EXAMPLES FROM PRACTICE**General Staff**

Newmont-Normandy Mining: Holds trainings for Senior Managers and higher

Rio Tinto: Cultural Awareness Training: site-specific information created in conjunction with local NGOs, State-based antidiscrimination commission, or country's Human Right Commission

Shell: On-line and on-site trainings including:

- Shell General Business Principles training: train-the-Trainer program (every 2-3 years), enables country-specific issues, examples, local language, etc.
- SGBP portal with case studies
- Social Performance training

Total: Seminar on Ethics & Human Rights: has developed workshop that: explains basic international human rights documents; grounds the Code of Conduct in int'l standards; presents case studies with role-playing as general manager facing issues such as corruption, bribery, human rights incidents. All French staff have been trained and rolling out to all country staff.

Country Managers

Newmont-Normandy Mining: "Ambassador Training" to create awareness of issues ('04)

Talisman: Modules for personnel in Sudan

Total: Seminar on Ethics & Human Rights (described above)

Security Personnel (Corporate & local)

Talisman: Security Training for corporate and local security personnel at the Lester Pearson Peacekeeping Center in Canada (Sudan, now Colombia)

COMMUNICATIONS SYSTEMS

Systems to communicate about human rights and community issues are crucial to help country-based managers deal with these difficult, and often opaque, subjects. Such systems can also provide managers with a support network to share strategy on issues that, until recently, have been considered external to the company and to their job description. Many managers, according to interviews, have expressed a sense of isolation when dealing with complex community matters. Often they have been presented with policy from HQ and there are no systems by which they can discuss challenges without it reflecting badly on their capabilities.

EXAMPLES FROM PRACTICE

Best Practices Sharing

AngloAmerican: Good Practices Website (coming 1st quarter)

BP: Peer Reviews

ExxonMobil: Intranet: an informal means for managers and others to discuss issues and get information.

Shell: Regional Conferences

Total: Intranet & meetings: bi-yearly general managers meetings, yearly top management meeting. Total encourages middle managers to exchange best practices and has enabled its Nigeria manager to travel to Indonesia to observe community and human rights practices, and vice versa.

Incidents

Having a system by which personnel and/or community members can report on suspected human rights violations is crucial. In order to ensure that such a reporting mechanism will be used, however, it is vital to create an atmosphere of trust within the company so that suspected abuses may be reported without fear of reprisal. This atmosphere can be built by establishing an understanding that a human rights reporting mechanism is a facet of the company's early-response reporting system.

- Newmont-Normandy Mining: Rapid Response, Best Practice Sharing (bi-monthly conference call)
- Talisman: Human Rights Monitor & Reporting System

Note: "In Sudan we had a Human Rights Monitor and tried to have ways of reporting abuses/issues which preserved the identities and maintained anonymity. In various cultures this is very difficult as they can be a closed society and would, if at all, only report these types of issues after a relationship is well established and mutual trust is present. We had some success in this area but it takes time for a relationship and trust to develop."

POTENTIAL OBSTACLES TO SUCCESS

- Inadequate communications systems that do not allow for interactive exchange

SUPPLY CHAIN MANAGEMENT

Overseeing the supply chain on human rights issues is as central to the corporation as doing so for core business practices. As one executive put it, "Increasingly, neither the public nor the courts differentiate between the company and its suppliers. Failing to understand this invites enormous risk to an oil company." Many companies try to integrate a code of conduct either formally or informally. Many audit their supply chains.

EXAMPLES FROM PRACTICE

Rio Tinto: Code of Conduct

Rio Tinto's suppliers are required to adopt its code of conduct and are audited. The company draws no distinction between contract staff and staff in terms of human rights.

Talisman: Advocacy with partners, introduces Code of Conduct into discussion.

Its executive acknowledges that supply chain issues, "can be a challenge. We attach our various policies and procedure to contracts that makes contractors aware of our business ethics. E.g. procurement policies on transparency and proper procedures; security p&p on what is allowable and what not - this touches on human rights protection and our adherence to the International Code on Business Conduct. We ask our contractors (as applicable) on the use of child or forced labor, adherence to ILO conventions and their hiring practices. In Sudan we did spot checks on contractors to ensure proper conduct is followed. You can run into issues with sub-contractors and thus it is imperative to have a good working relationship and be able to trust your immediate contractors. Training helps but it comes down to relationships and trust."

Total: Based on Code of Conduct

Suppliers must adhere to a code of conduct equivalent to the corporation's; this is signed into the contract and is a general condition of hiring. Security is a particular issue that has a subsidiary policy. The company's internal guards are unarmed – the Security Division oversees the selection of subsidiary security companies, which also monitors recruitment and training. Total believes that protection is the responsibility of the host government.

POTENTIAL OBSTACLES TO SUCCESS

- Not acknowledging supply chain (contractors, 3rd party security personnel) as potential risk thereby not including them in trainings, awareness campaigns, etc.
- Not integrating human rights issues into formalized relationships with 3rd parties
- Formalizing agreements on 3rd party behavior but not monitoring for compliance

REPORTING & TRANSPARENCY

Some companies feel that revenue transparency is outside the scope of a discussion on human rights, while others mention it as a core issue when doing business in difficult countries. The latter group asserts that, particularly in conflict zones, transparency and reporting can serve as a risk mitigation tool for the corporation. In brief, these schemes are a means of allocating corporate social investments and payments to host governments, including project related taxes, transfer payments, and royalties. The aim is to extricate the corporation from a perceived link between its payments and governmental misuse of oil revenues. By declaring such payments publicly the onus for further use of company-generated transfer payments and taxes lies with the host government. For more detail see *Challenges to the Industry: Transparency* (pp. 6-7).

EXAMPLES FROM PRACTICE

ExxonMobil: World Bank trust initiative on Chad-Cameroon pipeline

At the World Bank's urging Chad's government has instituted a legal framework in which 72% of Chad's project revenue is to be devoted to education, health, other social services, and infrastructure, while 10% will be held in trust for future generations when this project revenue is expired. Five percent of revenue is earmarked for additional resources for the oil-producing Doba region of Chad in an effort to minimize the type of regional grievances experience in Nigeria's oil producing Delta region has experienced in the past. An oversight committee including Chadian civil society will monitor product revenue. The World Bank will play a role in auditing oil accounts, and the audit results will be made public. The hope is that this will help to deter corruption.

Newmont-Normandy Mining: Publish What You Pay

Shell: EITI, attend DFID-sponsored transparency meetings, support Nigeria transparency initiative

Statoil: Reports annually on signature and bonus payments made by its subsidiary companies to host countries. Files copies, as part of a statutory requirement, with the Brønnøysund Register of Annual Company Accounts and makes them public record.

POTENTIAL OBSTACLES TO SUCCESS

- Non-unified industry approach to transparency issue
- Human Rights policy is not integrated into comprehensive strategy
- Human rights approach is created as add-on element to communications plan, rather than being viewed as a strategy issue; neglecting to integrate human rights into core business processes
- Neglecting to define the boundaries of engagement of human rights issues
- Poor resourcing, both in terms of personnel and financing
- Poor comprehension of site - specific human rights issues

TABLE 1 ELEMENTS TO ASSIST INTEGRATION OF HUMAN RIGHTS INTO OPERATING MANAGEMENT SYSTEM

Companies have different operating management systems and, therefore, varying processes to systematically incorporate new core business issues. The following are a variety of elements that companies have found useful to begin the process of integrating human rights into their operating managements systems. Each company must identify the most appropriate elements and processes to suit their own needs and capacities.

System	Process Elements
Identify Values as Company	Gives permanence to undertaking and consistency at field level
Consultation	<ul style="list-style-type: none"> • Interface with NGOs for input • Interface with stakeholders for input
Create human rights & social responsibility policy	<ul style="list-style-type: none"> • Reference International Conventions, Voluntary Principles, UDHR, ILO core standards, etc. • Embed HR policy in well-run community plan that includes community dialogue, understanding of local situation, consultation with NGOs, etc.
Ownership, leadership & personnel	<ul style="list-style-type: none"> • Assure buy-in from CEO or equivalent • Identify Corporate-level Lead Manager / Group • Identify field-level lead manager, include social responsibility manager, security manager, human resources manager, community affairs manager
Design pre-investment human rights impact assessment tool	<ul style="list-style-type: none"> • Identify consultants &/or NGOs to assist • Ensure HR issue is folded into country / project risk analysis
Create practical guides for managers	<ul style="list-style-type: none"> • Engage directly with affected communities and individuals to the Guidelines on Resettlement • Corporate Security Policy • Human Rights Guidance Document • Community Relations Guide
Training	<ul style="list-style-type: none"> • Communicate Policy to all parts of business; hold company-wide trainings • HQ – workshops to raise awareness of HR • Field – workshops raise awareness of HR • Security – both corporate and 3rd party, if possible
Communications systems	Create communications systems for: <ul style="list-style-type: none"> • best-practices sharing among in-country personnel • anonymous alerting system to report suspected abuses • ongoing support to managers in zones of conflict / trouble spots
Supply chain	<ul style="list-style-type: none"> • Write human rights compliance statements into contract • Train 3rd parties to understand / implement human rights practices into applicable operations, when possible • Audit human rights practices of 3rd parties as part of contractual audits either with site visits or with external auditors

continued...

TABLE 1 ELEMENTS TO ASSIST INTEGRATION OF HUMAN RIGHTS INTO OPERATING MANAGEMENT SYSTEM *(continued)*

System	Process element
Monitoring & verification	<ul style="list-style-type: none"> • Require managers to demonstrate awareness of HR issues: scorecard, annual letter of assurance • Monitor site compliance: letter of assurance, community plan • Consider getting an internal or external verifier audit
Reporting & transparency	<ul style="list-style-type: none"> • Create mechanisms for systematically reporting on human rights performance (can remain internal) • Consider transparency reporting / revenue - sharing schemes • Consider public reporting on human rights and sustainable development
Integrate HR into operating management system	<ul style="list-style-type: none"> • Promotes likelihood that human rights issues are dealt with in day-to-day business functions in a seamless manner in tandem with such vital issues as health, safety, and the environment, rather than as an ancillary issue.



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