



**THE DANISH
INSTITUTE FOR
HUMAN RIGHTS**

**THE HUMAN RIGHTS
COMPLIANCE ASSESSMENT
TOOL**

COMMUNITY IMPACT

CONSULTATION DRAFT JUNE 2015

CONSULTATION DRAFT OF THE HUMAN RIGHTS COMPLIANCE ASSESSMENT TOOL
COMMUNITY IMPACT

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This consultation draft was developed by the Human Rights Development Department of the Danish Institute for Human Rights.

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INTRODUCTION

Welcome to the Community Impact section of the Human Rights Compliance Assessment (HRCA) tool. This section concerns human rights respect while engaging with communities.



The sub-categories for this section are:

- Environmental Impact
- Land Acquisition, Lease and Use
- Resettlement (not published in this version - currently under development)
- Social Impact
- Indigenous Peoples
- Community Engagement and Consultation
- Community Grievance Mechanisms

This section went through a substantial update prior to the launch of this consultation draft, but has not been through an external consultation process.

The Indigenous Peoples section has gone through internal review but limited external review. We would particularly appreciate the input and reflections of the indigenous community on this section.

We have chosen to use as a basis for the questions on land acquisition, lease and use the Voluntary Guidelines on the Responsible Governance of Tenure in addition to international human

rights instruments in the Land Acquisition, Lease and Use section. We would appreciate your views on whether the guidelines are adequately reflected and what additional documentation could be used to strengthen the section.

DIHR would like to engage with stakeholders on the content and implementation of the HRCA. This includes providing case studies, sending submission on specific components and engaging with us on projects to improve and advance the content of the tool.

To submit your feedback, go to the platform [here: http://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib](http://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib)

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5.1 ENVIRONMENTAL IMPACT

No. 5.1.1	Area Community Impact	Section Environmental impact
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Question

Does the company comply with national and international environmental regulations and industry-specific codes of practice, and is such compliance regularly communicated to relevant stakeholders?

Yes	No	F/A	N/A

Description

The company should have an environmental policy commitment in place that describes in sufficient detail the standards that the company complies with. At minimum, the company's environmental standards should comply with the law and where relevant, any gaps in the law should be addressed with reference to industry or international standards and best practices. The company needs to implement its environmental policy commitment through a sound environmental management system that is sufficiently resourced to address any potential or actual environmental impacts.

Suggested Indicators

- 1 The company has a local environmental policy that specifies adequate environmental standards in line with best practice standards for the industry/sector.

True	False	F/A	N/A

-
- 2 The policy is implemented through an efficient environmental management system.

True	False	F/A	N/A

- 3 The company assigns adequate resources to environmental management, including staff and financial resources.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 12 (2b); ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Articles 18 and 19; OECD Guidelines for Multinational Enterprises (2000), s. V., Article 1; Permanent Peoples' Tribunal Charter on Industrial Hazards and Human Rights (1994), Articles 11 and 14.

No. 5.1.2	Area Community Impact	Section Environmental Impact
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Question

Does the company provide all relevant environmental information to the authorities and the public, including information about its safety record and any potentially hazardous activities?

Yes	No	F/A	N/A

Description

Communities have a right to be free from unacceptable levels of harmful pollution and environmental degradation caused by companies. Communities also have a right to access information regarding activities impacting their environment so that they are better able to assess potential and actual impacts as well as take necessary actions to protect themselves and their surroundings from harmful substances and impacts. Specifically, international human rights law increasingly recognizes that all persons have a right to access to information, public participation in decision making and access to justice in environmental matters. While the burden of facilitating the public's access to information generally falls on the state, companies that undertake activities that may have environmental impacts play an important role in respecting and fulfilling the right, because they generate and control environmental information. According to the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) Article 2(3), "environmental information" means any information about the state of the environment, factors, activities and measures that affect or are likely to affect the environment, cost benefit and other economic analyses and assumptions used in environmental decision making, and the state of human health and safety as affected by the environment. If a company fails to

provide necessary environmental information to the right actors in a timely manner, including health and safety information and hazardous activities undertaken by the company, the right to access to information could be abused, which could potentially lead to a greater risk of damage to the environment and the right to health, among other rights.

Suggested Indicators

1	The company meets the public disclosure requirements relating to environmental information, considering international, national, industry, and other relevant law or standards.	True	False	F/A	N/A

2	The company should also ensure that potentially affected community members have correctly understood the environmental information in particular how it would impact their lives. Where public disclosure requirements and practices of relevant local authorities fall below international standards the company communicates to local and national authorities its clear commitment to access to information and to sharing environmental information with all relevant stakeholders.	True	False	F/A	N/A

3	The company identifies through due diligence whether environmental information submitted to public authorities is made publicly available to citizens and communities in practice. Where it is not made available the company takes steps to make such information available to all potentially affected communities in a culturally sensitive manner that is easy to comprehend and non-technical.	True	False	F/A	N/A

- 4 The company allows the public access to environmental information it possesses, including detailed summaries of its occupational health and safety record, hazardous activities and materials, and evaluations by independent external experts (positive and negative), in relevant local languages, including through easy to understand and non-technical summaries.

True	False	F/A	N/A

- 5 The company makes public announcements about any hazardous activities it is considering undertaking, well before commencement of the activities, through means such as press releases, news conferences and community meetings.

True	False	F/A	N/A

- 6 In states where the public authorities fail to establish mandatory systems to ensure the adequate flow of environmental information to the public, companies take measures to ensure free public access to such information in relevant local languages and in an easy to understand non-technical manner.

True	False	F/A	N/A

- 7 Where the company possesses confidential commercial and industrial information that may be legally protected, it still provides information about emissions that is relevant to the project.

True	False	F/A	N/A

- 8 The company ensures that all information provided to the authorities and the public is timely, accurate, complete, relevant, and thorough.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; Convention on Environmental Impact Assessment in a Transboundary Context (1991), Article 3; ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 7 (4); ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Articles 4, 5, 8 10, 12 and 14; Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) Article 2, 3 and 4; OECD Guidelines for Multinational Enterprises (2000), s. V., Article 2; Permanent Peoples' Tribunal Charter on Industrial Hazards and Human Rights (1994), Article 9; Rio Declaration on Environment and Development (1992), Principle 10.

No. 5.1.3	Area Community Impact	Section Environmental impact
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Question

Does the company adequately monitor and control its work processes and emissions to avoid subjecting the local community to harmful substances?

Yes	No	F/A	N/A

Human rights implicated

Right to life, liberty and security of person; right to health

Description

Many state and international laws and standards dictate acceptable levels for the release of emissions and toxins into the air and environment. Careful compliance with these laws is essential to ensuring public health. In addition, the company must continuously strive to decrease the acceptable levels whenever technology so allows.

Suggested Indicators

- 1 Company guidelines and procedures benchmark permitted levels of emissions, waste, and harmful substances in and around its area of operations against prescribed national and international limits, including in the air, water, and soil, both beneath and above the surface.

True	False	F/A	N/A

-
- 2 The company has a monitoring system and the adequate resources to effectively monitor and control the effects of its activities on the environment and the surrounding communities.

True	False	F/A	N/A

-
- 3 The company has an effective and publicised mechanism for receiving, investigating and addressing complaints from affected individuals and communities about the impact of its waste and emissions on the environment. Such an effective mechanism should involve community members in the investigation of such complaints of an environmental nature.

True	False	F/A	N/A

-
- 4 The company takes prompt action to eliminate, mitigate and remediate all harmful emissions, waste and harmful substances when it identifies harmful or illegal levels. If the company is unable to eliminate all harmful emissions, waste and substances it should justify this outcome.

True	False	F/A	N/A

- 5 Rates of exposure to harmful pollutants, substances, pollutants, chemicals and other detrimental elements are within an acceptable range according to international or national standards, whichever is more protective.

True	False	F/A	N/A

- 6 The company implements a system for monitoring the accumulated level of waste, emissions and harmful substances in the local environment and in the potentially affected population. The community is empowered to participate in the monitoring and/or has open access to this monitoring system.

True	False	F/A	N/A

- 7 The company engages with the local community on its impacts and takes action to address their concerns in a prompt and timely manner.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 12 (2b); ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Articles 18 and 19; OECD Guidelines for Multinational Enterprises (2000), s. V., Article 1; Permanent Peoples' Tribunal Charter on Industrial Hazards and Human Rights (1994), Articles 11 and 14

No. 5.1.4	Area Community Impact	Section Environmental impact	
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Question

Does the company have emergency procedures to effectively prevent and manage industrial accidents affecting the community?

Yes	No	F/A	N/A

Human rights implicated

Right to life, liberty and security of person; right to health

Description

The company must take all efforts to prevent industrial accidents affecting the community. If an emergency situation occurs, the company must respond in an efficient and reasonable manner. The level of emergency preparedness required of a company depends upon the nature of its operations and the magnitude of damage its operations could cause. It is not enough that the company has in place emergency procedures to respond to accidents as they occur; the company must use preventative methods. For example, an oil company is not only responsible for implementing efficient emergency procedures in the case of an oil spill, but it must also seek to implement preventative procedures to try to ensure that such a spill does not occur in the first instance. The type and number of emergency response techniques will vary according to the requirements of the industry. The company should ensure that all its emergency procedures comply with the highest level of industry standard, and if the industry standard is insufficient to provide the appropriate level of protection, the company should seek to exceed and improve upon the industry standard

Suggested Indicators

- 1 The company has an emergency management policy with detailed procedures, prevention plans and training programmes, that meets the highest level of industry standard.

True	False	F/A	N/A

- 2 The company has an audible/visible alarm system that warns nearby communities of potential emergencies, if necessary.

True	False	F/A	N/A

-
- 3 The company engages in general emergency rehearsals and tests its warning system on a regular basis.

True	False	F/A	N/A

-
- 4 The company has developed an emergency community evacuation plan with the relevant authorities, which has been communicated to the local community.

True	False	F/A	N/A

-
- 5 The company has measures in place to contain industrial accidents (e.g., on-site fire crews, airtight self-sealing blast-proof doors, etc.).

True	False	F/A	N/A

-
- 6 If the site is located far from a hospital, the company has adequate medical resources and competent staff to provide preliminary relief and treatment to people who might suffer the consequences of an industrial accident.
-

True	False	F/A	N/A

- 7 The company provides free health care to victims of exposure to harmful substances, pollutants or chemicals resulting from company operations.

True	False	F/A	N/A

-
- 8 The company maintains contact with nearby communities, authorities, and external emergency services, to effectively notify them without delay about potential emergencies.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Articles 9 and 14 (2); Permanent Peoples' Tribunal Charter on Industrial Hazards and Human Rights (1994), Article 13.

No. 5.1.5	Area Community Impact	Section Environmental impact	
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Question

Does the company and its direct suppliers/contractors possess adequate means to handle, transport, dispose of and store chemicals (including pesticides), and hazardous and non-hazardous waste so as to avoid polluting land and water supplies?

Yes	No	F/A	N/A

Description

Access to safe and potable water and pollutant free land is a component of the right to health and the company must protect against contamination by chemicals and hazardous and non-hazardous wastes. The company must be particularly careful of water sources that serve the drinking, bathing, or agricultural needs of local communities or the wildlife and livestock upon which they depend for their livelihoods. When evaluating its policies concerning the discharge, handling, storage, disposal and transport of waste and chemicals, the company must take into account local communities as well as other potentially affected communities that live further downstream.

Suggested Indicators

- 1 The company and its direct suppliers/contractors complies with all national laws, regulations, and other applicable standards, and has the necessary permits for the transport, handling, storage, use and disposal of all hazardous and non-hazardous waste and all chemicals, including pesticides.

True	False	F/A	N/A

- 2 The company has Material Data Safety Sheets (MDSS) for all chemicals.

True	False	F/A	N/A

- 3 The company maintains an updated list of all chemicals used which includes the name of the chemical product, the area of use and the CAS number.

True	False	F/A	N/A

-
- 4 Chemicals, hazardous and non-hazardous waste are properly labelled, stored separately in clearly designated areas, stored with adequate ventilation, stored on hard surfaces free of drainage holes, protected by sills, and measures are taken to avoid corrosion or other damage to containers and barrels.

True	False	F/A	N/A

-
- 5 The company and its direct suppliers/contractors do not leak or discharge chemicals and waste into the air, ground and water, and does not allow hazardous waste to be land-filled or incinerated on-site.

True	False	F/A	N/A

-
- 6 The company does not use pesticides banned under the Stockholm Convention on Persistent Organic Pollutants.

True	False	F/A	N/A

- 7** The company conducts quarterly tests to assess the toxicity of local land and water sources and shares the results with local communities.

True	False	F/A	N/A

-
- 8** The company has procedures for the safe handling, storage, transportation, use and disposal of all chemicals and waste.

True	False	F/A	N/A

-
- 9** The company maintains a list of hazardous and non-hazardous waste generated as a result of its activities.

True	False	F/A	N/A

-
- 10** The company maintains records of all contractors charged with transport, storage and disposal of chemicals and waste.

True	False	F/A	N/A

-
- 11** The company obtains the free, prior and informed consent from any indigenous peoples in the locality to having any storage or disposal of hazardous materials

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; Convention on Environmental Impact Assessment in a Transboundary Context (1991), Article 2; Rio Declaration on Environment and Development (1992), Principle 17; UN Declaration on the Rights of Indigenous Peoples (2007), Article 10, 27, 28, 32.

No. 5.1.6	Area Community Impact	Section Environmental impact
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Question

When the company exports hazardous substances or products, are the relevant regional/national authorities informed about the potential environmental and health hazards associated with the cargo?

Yes	No	F/A	N/A

Description

The company must consider the right to health of all potentially affected communities when transporting hazardous material and substances. Typically, the national authorities should warn potentially affected communities about the hazards associated with the transportation of the substances involved in the transfer, but if the local government neglects this duty, then the company should ensure that the people are notified of the proposed transfer, the means of handling, storage and disposal of the substances and locations involved.

Suggested Indicators

- 1 Company export/import record reflects no incidents of violation.

True	False	F/A	N/A

- 2 The company concludes a formal agreement with the relevant authorities in the importing state identifying: the hazardous items or materials and the health and environmental hazards; a clear stipulation of who has the responsibility of informing the local populations or the import/transfer; and who has the responsibility for ensuring that containment, storage and disposal facilities are adequate.

True	False	F/A	N/A

- 3 The company obtains the free, prior and informed consent from any indigenous peoples in the locality to having any storage or disposal of hazardous materials.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1988), Articles 13 and 14; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989), Article 4 (2f), and 6; ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Article 22. UN Declaration on the Rights of Indigenous Peoples (2007), Article 10, 27, 28, 32;

No. 5.1.7	Area Community Impact	Section Environmental impact	
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Question

Is cargo transported by the safest means possible?

Yes	No	F/A	N/A

Description

Regardless of whether delivery drivers and cargo haulers are employees of the company or outside contractors, the company must ensure that they transport their cargo in the safest possible manner. The failure of a company driver to operate his or her vehicle safely endangers the right to health of affected communities and other victims of negligent transport. In addition such unsafe driving can affect the right to an adequate standard of living of some communities if the vehicles cause dust plumes that land on the residents' housing, crops and livestock should they have this.

Suggested Indicators

- 1 Company guidelines prohibit drivers and drivers of direct suppliers/contractors from driving at unsafe speeds and for too many hours, taking into consideration the goods being transported and the driving conditions.

True	False	F/A	N/A

- 2 The company nor its and direct suppliers/contractors does not encourage drivers to operate at unsafe speeds and for an unsafe number of hours by offering monetary incentives or rewards.

True	False	F/A	N/A

- 3 The company's drivers are certified and required to take 'refresher courses' or driving tests on a regular basis.

True	False	F/A	N/A

-
- 4 The company and direct suppliers/contractors assigns two drivers to each delivery vehicle on long and arduous journeys.

True	False	F/A	N/A

-
- 5 Qualified staff regularly inspect and maintain company vehicles, and staff ensure that loads and vehicles meet safety specifications.

True	False	F/A	N/A

-
- 6 The appropriate safety precautions are taken to ensure the safe transport of harmful or hazardous materials, according to the special risks posed by the materials.

True	False	F/A	N/A

- 7 Drivers, pilots and captains are aware of the company's policy on safe transportation.

True	False	F/A	N/A

-
- 8 Company drivers have a low rate of accidents.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; International Covenant on Civil and Political Rights (1966), Article 7 (b); ILO Hours of Work and Rest Periods (Road Transport) Convention (C153, 1979), Articles 4, 5, 6, 7, 8, 9 and 10.

5.2 LAND ACQUISITION, LEASE AND USE

No. 5.2.1	Area Community Impact	Section Land acquisition, lease and use
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Question

When purchasing, leasing or using property, does the company identify all property, tenure rights and interests in State law, as well as the rights and interests of land occupiers and natural resource users whose rights and interests may not be recognised by State law and ensure that the seller/lessor of the property has obtained their interest through legally and that the seller has given their interest legally and in compliance with their obligations?

Yes	No	F/A	N/A

Human rights implicated

Right to land; Right to an adequate standard of living.

Description

Without proper investigation into land and natural resource use rights and interests prior to purchase, the company might unknowingly receive an illegal or improper transfer of land title of resource use rights (e.g. illegitimate title documents, coercion of true owner, overlooking customary tenure rights etc.). Some sellers may not be the legitimate owner of the land or natural resource use rights, or these may be subject to a land title claim, under international law relating to indigenous peoples' tenure rights, or according to treaties between indigenous peoples and the state. The difficulty of spotting illegal or improper land transfers is further complicated because of certain types of coercion and/or manipulation through a variety of different methods. To assist the company in spotting the problem, the more common types of coercion are listed below: 1. Indigenous peoples or other local people may be pressured to sell their property interests to a company by methods that deprive them of their human rights. For example, if poachers are hired to kill animals on which indigenous people rely for their subsistence, indigenous people may be forced to leave their property or sell it. 2. Indigenous or local people may own the land or usage rights to property under colonial or post-colonial treaties, or traditional indigenous customary law. It is common for States not to recognize indigenous peoples' customary land rights, in accordance with international (and some National) law.

They might lack documentation to prove ownership, and/or other actors may have competing and illegally obtained documentation of ownership to the same property. There may be competing claims of ownership and jurisdiction over lands and resources, based on conflicting interpretations or disputes regarding indigenous land claim treaties, or unsettled land claims. 3. Single women, elderly women, or widows may be deprived of their property rights if relatives or other acquaintances confiscate, or sell their property without their permission, and the local law does not recognise, or allow enforcement of, their rights. Although national law or custom may prescribe otherwise, women have the right to administer property and hold contracts under international law and husbands and wives have equal rights with respect to marital property.

Suggested Indicators

- 1 Prior to acquiring an interest in land for use for company operations the company investigates and evaluates land title rights and practices, including with reference to relevant international standards (e.g. whether indigenous peoples' tenure rights are recognised, number of local people who hold formal land title deeds and any obstacles they might face in doing so, whether land title is individual and/or communal and associated implications, gender and other discrimination, land valuation system etc.). Want to cover international law, State law and customary law.

True	False	F/A	N/A

- 2 Company policy and procedure includes a commitment to identify and seek resolution of all existing claims and conflicts of land title in compliance with international human rights law, national law in line with the principle of Equity whichever is more protective of the rights of the claimants, prior to gaining an interest in the land and establishing operations.

True	False	F/A	N/A

- 3 Company due diligence procedures for purchase, lease or use of land requires a land claim and title check, verifying claimants and rights-holders under national law (including colonial and post-colonial treaties) and customary law of indigenous peoples or local communities.

True	False	F/A	N/A

- 4 In conflict-affected areas, areas with history of colonization etc. ensure that the land title check reaches back sufficiently long to capture any potential land-grabbing, forced displacement etc.

True	False	F/A	N/A

-
- 5 The analysis includes consultation with potentially impacted and communities individuals (inclusive of men and women) according to a good faith consultation (meaning the free, prior and informed consent of the community in the context of indigenous peoples.

True	False	F/A	N/A

-
- 6 Company guidelines require obtaining the informed consent of women and wives prior to acquiring their property through a third party.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17; Convention on the Elimination on All Forms of Discrimination against Women (1979), Article 15 (2) and 16 (h); ILO Indigenous and Tribal Peoples Convention (C169), 1989, Article 14.

No. 5.2.2	Area Community Impact	Section Land acquisition, lease and use
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Question

As part of acquiring an interest in land for use for company operations, does the company investigate and evaluate existing land use patterns, land tenure (including customary titles often including treaties, oral inter-community pacts amongst others) or use rights and any potential impacts operations might have on people living on the land or who have claims or titles to the land?

Yes	No	F/A	N/A

Description

Consistent with the corporate responsibility to respect human rights, business enterprises should avoid infringing on the human rights and legitimate tenure rights of others. As a first step in all land related transactions (e.g. purchase, lease, selling etc.) the company should therefore investigate land ownership and land tenure and consult with all individuals and communities whose livelihoods will be affected by the company's use of land. This should include persons holding contractual and/or formal land tenure rights to the land, those who hold customary rights or title or traditional users of the land, as well as individuals and communities who informally occupy the land, in particular where they rely on it for their livelihoods. The company should seek local communities' free, prior and informed consent by explaining the business operations planned to be carried out on the land and by contributing to the settling of claims or disputes over the land and land title. At no point should coercive measures be used against communities living on the land, holding title or claiming rights to the land to compel them to give up their legal or customary rights over the land. Furthermore, in most circumstances land use and title patterns are gendered, for example women may not have the same legal recognition of land tenure as men or be prevented from exercising them due to established social norms. It is therefore important that any analysis regarding land title and usage pays particular attention to gender, as well as any other potential areas of discrimination or marginalisation, such as those who rely on land on a seasonal or migratory basis. Land tenure, access and usage are also frequent sources of conflict, including aspects such as the recognition or transfer of title rights. In some situations even if land title systems or processes are in place, some individuals may be prevented from obtaining formal title deeds due to costs or back-logs in the land title system, or, more frequently, failure to recognise community lands rights in national legislation. The evaluation of potential impacts of company operations should carefully include and consider such potential barriers. Equally, the specific corruption risks associated with land titling and transfer of title must be considered.

Suggested Indicators

- 1 Prior to acquiring an interest in land for use for company operations the company undertakes a thorough analysis of not only State, customary land tenure and claims to land but also of existing land usage, including identifying any individuals and communities who may not hold State or customary tenure to the land, or whose land title is not recorded, but rely on it for their livelihoods (permanent, seasonal and migratory) as part of their customary rights.

True	False	F/A	N/A

- 2 The analysis of land use patterns is gender sensitive and comprehensively identifies the women and men who occupy or use the land proposed for the development, analyses the nature of this land use and potential impacts on this land use (e.g. livelihoods, housing, food security, cultural and spiritual significance), and proposes concrete measures to avoid and mitigate any adverse impacts.

True	False	F/A	N/A

- 3 The analysis pays particular attention to gender, actual and potential land related conflict issues and any risks for corruption associated with the company gaining interest in the land.

True	False	F/A	N/A

- 4 The analysis identifies and evaluates any rights and claims over or associated with the land which constitute other types of access and usage rights, such as commons land and customary tenure, rights to crops, dwellings, Hunting and fishing, gathering, grazing, rights of way (animals and people), water and air, spiritual practices etc.

True	False	F/A	N/A

- 5 The analysis includes consultation with potentially impacted communities, women and men according to a human rights based approach, including obtaining their free, prior and informed consent.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17; Convention on the Elimination on All Forms of Discrimination against Women (1979), Article 15 (2) and 16 (h); ILO Indigenous and Tribal Peoples Convention (C169), 1989, Article 14.

No. 5.2.3	Area Community Impact	Section Land acquisition, lease and use
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Question

When purchasing or leasing land does the company take steps to ensure that individuals and communities are fairly compensated and that any state actors involved have not abrogated their duties under national law and international (human rights) law in granting the interest to the private investor?

Yes	No	F/A	N/A

Description

States have the duty to ensure effective land tenure systems in accordance with international human rights law. This includes that states should recognise and respect tenure rights holders and their rights, take active measures to promote the full realisation of tenure rights and to provide access to justice to deal with infringements of legitimate tenure rights. Where tenure rights are taken for public purposes (which may constitute a violation of international law) the state should provide prompt and just compensation. The evaluation of the legality and legitimacy of the procedure and “public purpose” must also be included. Where gaining an interest in public land the company should therefore include in its due diligence evaluation consideration of the potential implication of gaining the interest on local peoples, communities and populations; particularly in cases where large-scale land interests are being acquired in circumstances where other investors are gaining similar interests and/or there is a risk in a significant reduction in arable land available for local populations as a result of large scale private investment. Furthermore, companies

should exercise due diligence to verify that any public expropriation of private property interests of individuals and communities was undertaken in accordance with due legal process and promptly providing just compensation in accordance with national law. When gaining an interest in privately owned land, in particular from individuals and communities, the company needs to ensure that the individuals and communities are fairly and adequately compensated. This includes evaluating whether national law and systems for valuation and determining compensation are in line with international standards, and committing to upholding the higher standard. It may also require proactive measures to assist the individuals and communities in question to be able to effectively exercise their land and property rights in the transaction with the company, for example: taking steps to ensure that individuals and communities that hold rights to land have this formally registered; assisting with independent valuation of land, property and crops where necessary; and ensuring that individuals and communities fully understand the valuation and compensation process and the implications of the transfer of land title interest, where necessary by supporting access to independent legal advice and/or non-government support organisations specialising in land rights related matters.

Suggested Indicators

1	The company has done an analysis to assess that national land policy and procedure are in accordance with national law and international standards.	True	False	F/A	N/A

2	The company checks government valuation and compensation processes, where possible and supplement where necessary, e.g. line items not covered in public compensation scheme, but without inflating prices.	True	False	F/A	N/A

- 3 The company checks with the valuers to ensure where possible that they are credible, trained and unbiased.

True	False	F/A	N/A

- 4 The company ensures that compensation is paid in a fair and timely manner.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

FAO land guidelines

No. 5.2.4	Area Community Impact	Section Land acquisition, lease and use
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Placeholder on Forced Evictions

This is a placeholder for a question and indicators on the issue of forced evictions. We would appreciate any input you have regarding this issue:

1. Should we include and recognize it in the HRCA?
2. If so, how should we address this contentious topic (knowing Forced Evictions are violations of human rights).

No. 5.2.5	Area Community Impact	Section Land acquisition, lease and use
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Question

Before acquiring land, does the company take measures to ensure that its activities will not damage or have a negative impact on the cultural heritage of the land?

Yes	No	F/A	N/A

Description

Certain territories may have essential value in terms of cultural heritage and spiritual significance. Cultural heritage includes sites that have architectural, archaeological, paleontological, artistic, historical and unique natural environmental features that embody cultural values and hold particular historical, anthropological, aesthetic, artistic, spiritual, religious or scientific values. Cultural heritage may not only have significant value to the local community and users of the cultural heritage, but may also have outstanding universal value from the point of view of history, art or science. Before purchasing land, the company must address the potential impacts on cultural heritage and sacred sites, and consult with specialist, community authorities and local NGO's who are knowledgeable on the cultural and spiritual significance of the land. The company must respect the rights and address the concerns and priorities of the local communities who have used and/or uses the land to develop and preserve their cultural identity. The company should consult with relevant stakeholders (including government agencies responsible for heritage protection) to determine if its proposed use could damage or have a negative impact on the cultural heritage, and the measures necessary to avoid or mitigate such damage or negative impact. If the company is unable or unwilling to implement the necessary mitigation measures, the company must refrain from purchasing the land or acquiring land use rights.

Suggested Indicators

- 1 Company policy requires an impact assessment that of company activities on cultural heritage (including tangible and intangible cultural heritage such with language, traditional knowledge, practices, ceremonies and spiritual beliefs such as dreams) before acquiring, leasing or using land.

True	False	F/A	N/A

- 2 The company conducts, publishes and carries out meaningful public consultation with participation of those potentially impacted regarding, including through professionally certified ESIA's, that include assessment, and recommendations for elimination, of impacts of cultural and natural heritage values.

True	False	F/A	N/A

- 3 If the land contains sites of cultural heritage (such as forests, mountains, lakes, rivers, land) and company operations will negatively affect this cultural heritage, the company refrains from acquiring the land or adjusts its operations plan to avoid damage to cultural heritage.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 27; International Covenant on Civil and Political Rights (1966), Article 18 and 27; International Covenant on Economic, Social and Cultural Rights (1966), Articles 15 (1a); UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (1972); ILO Indigenous and Tribal Peoples Convention (C169, 1989), Articles 2 (b), 3, 4, 5, 14 and 15

No. 5.2.6	Area Community Impact	Section Land acquisition, lease and use	
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Question

When the company decommissions land, does it leave the land in suitable condition for future habitation?

Yes	No	F/A	N/A

Description

When decommissioning land, the company has a responsibility to ensure that the land is left in a condition that makes it suitable for other activities. When plans for leaving an area are made, the company should consult with the local authorities and local community to identify the future needs for the land. If housing is scarce in the area of operation, and there is a need to develop further housing on the land, the company must take special measures to ensure that the land is left in an adequate condition for habitation. A thorough and participatory environmental impact assessment must be undertaken and any pollution identified must be cleared. When selling/leasing the land, the company should give first priority to local buyers or original owners, and consult with the local community to learn about their needs, so that their future needs from the land will be met after decommissioning.

Suggested Indicators

- 1 The company conducts an environmental impact assessment to assess the condition of the land prior to decommissioning.

True	False	F/A	N/A

- 2 The company, as far as possible, restores the natural resources on the land when retiring from a location.

True	False	F/A	N/A

- 3 Any contamination or damage found in an participatory environmental impact assessment is repaired or remedied so that the land becomes habitable for future occupants if for occupation and rehabilitated for e.g. hunting and foraging. The company adequately rehabilitates any land used when retiring from a location.

True	False	F/A	N/A

- 4 If the company sells or leases the land (after gaining Free, Prior, Informed Consent from Indigenous Peoples), it includes a clause in the sales contract obligating the buyer to respect the usage, access, property and other associated rights of the local community.

True	False	F/A	N/A

- 5 Before selling the land or lease to third parties, the company offers the local community the opportunity to buy the land back.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1), ILO Indigenous and Tribal Peoples Convention (C169, 1989), Articles 7 (3) and 7 (4); UN Declaration on the Rights of Indigenous Peoples (2007), Article 28, 29.

5.3 RESETTLEMENT

No. 5.3.1	Area Community Impact	Section Resettlement
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Placeholder on Resettlement

This is a placeholder for a question and indicators on the issue of Resettlement.
We would appreciate any input you have regarding this issue.

5.4 SOCIAL IMPACT

No. 5.4.1	Area Community Impact	Section Social Impact
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Question

Does the company ensure that its lease or purchase of residential property and sourcing of food commodities does not considerably make housing and food scarce or too expensive for the local people?

Yes	No	F/A	N/A

Description

If the company decides to purchase large tracks of local farmland or if it attracts a large number of foreign employees to an area, the company's presence may burden the local food supply and create a need for extra food production which cannot be met locally. In such situations, the company should undertake special measures to help bolster local food production or ship food in from outside the area to cover the food intake of its own employees. In locations where the company's property ownership or leasing inflates real estate or rental prices such that the members of the local community are unable to obtain housing at an affordable price, the company might indirectly abuse local people's right to adequate housing. Naturally, a number of actors and new government policies can influence housing prices in a certain area, so the company may not be held solely responsible for the rise in prices in a certain area. However, the company must do what it can to avoid flooding the housing market with its own employees or inflating prices by paying unreasonably high rents for local property. A company employing a significant number of foreign or non-local employees in an area with a lack of adequate housing should construct and provide its own housing units for those individuals and their families, rather than relying on the local market. Often when there is a significant influx of migrant workers needed for a project the need to construct housing for them can also deplete local resources such as forests and green spaces.

Suggested Indicators

- 1 The company researches conditions of food commodities and the local housing market before starting operations or bringing non-local employees into the area in order to develop a plan for addressing their expected potential impact upon arrival.

True	False	F/A	N/A

- 2 The company monitors prices in the local housing market and pays food and housing prices considered normal for the area, to avoid causing inflation.

True	False	F/A	N/A

-
- 3 In areas suffering where food and housing supply are threatened or are likely to become too expensive, the company sources food commodities externally and constructs housing for its employees, to avoid causing further scarcity.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1) and (2) ; ILO Workers Housing Recommendation (R115, 1961), Articles 18 and 24.

No. 5.4.2	Area Community Impact	Section Social Impact	
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Question

Does the company ensure that its operations do not detrimentally affect the cultural, spiritual and religious life of the local community?

Yes	No	F/A	N/A

Description

Prior to initiating business operations in a community, the company must undertake a participatory assessment of the potential impact on cultural life of company operations. If the land appears to be culturally significant or sacred to the local population, the company must allow reasonable access to the place of significance or reconsider its operations in that area. Certain plots of land may hold religious, spiritual or cultural significance to the local community and may be used for a variety of cultural practices, such as religious rites, burial grounds and other forms of spiritual expression. Company operations located on or near these special lands may interfere with the rights of indigenous peoples and local communities to observe particular religious and cultural traditions and obligations, and the company must ensure that its presence does not repress the local cultural life and/or result in the displacement of local cultural traditions and activities. The company must also refrain from disrupting the cultural, religious or spiritual expressions and practices of concerned communities and individuals. This includes, but is not limited to, avoiding the use of noisy and disruptive machinery during religious and spiritual ceremonies and refraining from blocking access to ceremonial sites or inlets on sacred days of worship.

Suggested Indicators

- 1 As part of its impact assessment prior to commencing activities, the company consults with the local community to assess whether its operations may result in adverse impacts on local cultural life and local cultural traditions and activities.

True	False	F/A	N/A

- 2 If the company's use of land that is culturally significant to the local community will harm their cultural practices, the company either seeks alternative solutions through using different land, or jointly identifying a solution with the community.

True	False	F/A	N/A

- 3 Company guidelines provide for access by affected communities and individuals to company land that has religious, spiritual and cultural significance to them in cases where affected communities have given their Free Prior and Informed Consent to use their territory.

True	False	F/A	N/A

- 4 Personnel responsible for limiting access to company land, such as security guards, are trained to allow entry to the land to persons who need to access sites of religious, spiritual and cultural significance.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 18, 19, and 27; International Covenant on Civil and Political Rights (1966), Articles 18, 19 and 27; International Covenant on Economic, Social and Cultural Rights (1966), Article 15 (1a); ILO Indigenous and Tribal Peoples Convention (C169, 1989), Articles 2 (a and b), 3, 4 and 5, UN Declaration on the Rights of Indigenous Peoples (2007), Article 25.

No. 5.4.3	Area Community Impact	Section Social Impact	
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Question

Does the company ensure that local communities are not deprived of basic services and natural resources as a result of its use of the land?

Yes	No	F/A	N/A

Description

Many rights are fulfilled through provision of basic public services (such as water, electricity, sewage treatment, waste disposal, adequate police force etc.), including the right to food, right to an adequate standard of living, the right to housing, and others. Therefore, if public resources are scarce, company consumption of resources may result in a shortage of public resources for local residents. In such cases, the company should either refrain from carrying out the activities causing the shortage, or ensure that any shortage of public resources due to company operations is fully mitigated. A company might overuse, harm or destroy resources over which the local community or individuals have property rights, or which they use to fulfil basic needs, such as in food collection or cultivation. For example, if a company dries up a water source that five neighbouring property owners also use, such a river, the neighbouring property owners could be deprived of their right to use their land. Similarly, if the company overuses local natural resources relied on for hunting or agricultural activities, the local community might be unable to feed itself. Particular attention must be paid to disenfranchised individuals, such as women, persons of lower-caste, illegal squatters and immigrants. The needs of these individuals and their dependence on local natural resources might not be represented by government and local leaders in negotiations with the company over land usage and natural resources.

Suggested Indicators

- 1 The company has a policy stating that before initiating operations, it will measure the impact of its activities to ensure that the local community will not be deprived of basic services and local natural resources as a result of company operations.

True	False	F/A	N/A

- 2 The impact assessment process includes consultation with all local land owners (in a participatory process with indigenous peoples) and users so as to identify and avoid potential harm to local food-producing activities.

True	False	F/A	N/A

-
- 3 The company consults with the local community (including women and indigenous people) to ensure that current and planned activities will not have a negative impact on their access to basic services.

True	False	F/A	N/A

-
- 4 The company consults with indigenous peoples and obtains their free, prior and informed consent to establish a joint plan of use, management and conservation of any natural resources that the company uses, and to which indigenous peoples have rights.

True	False	F/A	N/A

-
- 5 The company has an agreement with the local municipality or authority regarding its use of public natural resources, which includes a schedule of use and replacement, or various predetermined limitations.

True	False	F/A	N/A

-
- 6 The company develops a schedule defining the amount, location and timing of public services and natural resources needed for its activities, so that the local authorities know when to expect rising demand and have sufficient time to prepare.
-

True	False	F/A	N/A

- 7 If public services or natural resources are scarce, the company arranges to source alternative resources from outside the community.

True	False	F/A	N/A

- 8 The company takes measures to eliminate (or diminish if they are incapable of eliminating) the spread of water run-off, heat, light, noise or other impacts that may negatively impact the local farming community, local wildlife or fishing areas.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17, 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1); ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962), Articles 1, 2 and 4 (c); ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 15; UN Declaration on the Rights of Indigenous Peoples (2007), Article 28, 29.

No. 5.4.4	Area Community Impact	Section Social Impact	
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Question

Does the company avoid, minimize and mitigate the effects of disruptive or harmful activities in residential areas near the operation's location?

Yes	No	F/A	N/A

Description

The company must assess and aim to eliminate the impact its operations may have on the surrounding areas, if they are incapable of doing so they should mitigate the impacts. Consultations must be held with the local community both before and during company operations to determine and eliminate (or mitigate) any negative effects. Disruptions that might force affected individuals to relocate include company activities producing substantial air, marine and land pollution, loud and disturbing noise, disruptions to traditional land use patterns, etc. During the course of its operations, the company must monitor its pollution output together with the affected community residents and regulate its work processes in order to prevent harmful pollutants and other detrimental effects on local communities. However, if the government has placed an industrial zone close to an educational facility and the company is involved in disruptive activities (e.g. loud drilling, the production of toxic material, or noxious fumes), it should refrain from operating in the area. If the operations of the company result in permanent disruptions, it either refrains from undertaking the disruptive operations or provides the school with alternative and suitable facilities in another location. This process must be undertaken in close cooperation with representatives from the school to ensure their acceptance and support.

Suggested Indicators

- 1 Company guidelines require participatory impact assessments to be performed (including environmental among other topics), so as to measure the potential impact of company activities on the local community.

True	False	F/A	N/A

- 2 The company consults with potentially affected communities about its plans before and after investment, about the possible impact and proposed elimination (or mitigation) measures.

True	False	F/A	N/A

-
- 3 The company consults with local authorities and school officials regarding anticipated disruptions to the learning environment in local school facilities.

True	False	F/A	N/A

-
- 4 The company continually monitors its pollution output and also installs equipment in affected communities to allow residents to monitor the pollution output also.

True	False	F/A	N/A

The company makes sure that levels remain in compliance with local and international standards for the industry.

-
- 5 If disruptions in residential areas and local educational facilities arise, the company eliminates the disruption, if incapable of eliminating it remedies and provides alternative and suitable educational facilities, or fully compensates affected residents.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25, 26; International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1), 13 (1); ILO Indigenous and Tribal Peoples Convention (C169, 1989), Articles 14 and 15 (1).

No. 5.4.5	Area Community Impact	Section Social Impact	
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Question

Does the company have a purchasing and recruitment policy that favours the communities in which it operates?

Yes	No	F/A	N/A

Description

Where possible the company should have in place provisions for local purchasing and recruitment that are implemented in accordance with the right to non-discrimination.

Suggested Indicators

- 1 Where possible and appropriate the company has measures in place to promote local recruitment and purchasing.

True	False	F/A	N/A

-
- 2 Where implemented, local purchasing and recruitment measures may include incentive structures and skills development, e.g. continuous improvement provisions for local supply chains, or skills development for local individuals.

True	False	F/A	N/A

-
- 3 Local recruitment and purchasing are implemented in accordance with the right to equality.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17, 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1).

No. 5.4.6	Area Community Impact	Section Social Impact
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Question

Does the company identify and address any adverse impacts that its operations may have upon women and girls?

Yes	No	F/A	N/A

Human rights implicated

Right to life, liberty and security of person; Right to work and just and favourable conditions at work; Right to an adequate standard of living; Right to freedom from degrading treatment and punishment; Right to freedom of discrimination.

Description

Women and girls frequently bear a disproportionate burden of adverse impacts associated with large resource developments. For example, in locations where women are primarily responsible for agricultural activities and water provision, women are likely to bear a disproportionate burden of adverse impacts on these resources. Where women are the primary caregivers, impacts on women are also associated with having a 'knock-on' effect, impacting on other members of the community, such as children or the elderly. In addition, women and girls are often less likely to benefit from positive impacts, such as job creation, supply contracts or compensation. Consistent gender analysis can help to identify and address discrimination. Key issues to consider include the gendered division of labour; access to, and control over, resources and the distribution of benefits; social, economic and environmental factors which influence the above; absence of land rights under customary law; and decision-making capacity and participation. To undertake gender analysis, it is essential to collect and analyse sex-disaggregated data and apply gender-sensitive engagement methods.

Suggested Indicators

- 1 Company policies, procedures and processes that involve indigenous peoples or local communities take a gender-sensitive approach, e.g. provide for the consideration of impacts on women and girls, collection of sex-disaggregated data, and gender-sensitive engagement methods.

True	False	F/A	N/A

- 2 The company identifies and addresses any discrimination, harassment or sexual violence associated with public or private security forces that protect company assets.

True	False	F/A	N/A

- 3 The company has a sexual health awareness program for employees and communities.

True	False	F/A	N/A

- 4 The company ensures that women have equal opportunities to share in benefits, such as local services provision or community development projects that the company is involved in.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948); International Covenant on Economic, Social and Cultural Rights (1966); Convention on the Elimination of all forms of Discrimination against Women.

No. 5.4.7	Area Community Impact	Section Social Impact	
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Question

Are community development projects/strategic social investment projects that are supported or implemented by the company selected and implemented on the basis of clear human rights based criteria, considering participation, empowerment, transparency, vulnerable groups and consultation?

Yes	No	F/A	N/A

Human rights implicated

Right to work and just and favourable conditions at work; Right to an adequate standard of living; Right to freedom of discrimination.

Description

The corporate responsibility to respect human rights addresses the adverse impacts of business on human rights. In addition, businesses may contribute positively towards human rights through community development projects and corporate social responsibility measures. Job creation, building infrastructure, providing public utilities such as power and water, stimulating positive changes in the labour market conditions and contributing to small business development can all help to create conditions in which human rights can be fulfilled. However, the UN Guiding Principles on Business and Human Rights state clearly that positive contributions by business towards the realisation of human rights may not be off-set against any adverse human rights impacts, nor may they substitute for robust and on-going human rights due diligence. For example, if a company supports social projects, such as building or funding a health clinic or school, this does not relieve or reduce the company's responsibility for any negative impacts on human rights, including on the right to health, for example, as a result of poor health and safety standards or environmental pollution. Likewise, positive contributions to the local economy through job creation do not mitigate a company's responsibility for human rights abuses resulting from discriminatory hiring processes or failing to provide workers with a living wage.

Community development projects and other CSR activities undertaken by companies should themselves be human rights-based in their planning and implementation to avoid any adverse impacts on human rights. In addition, in conflict-affected, remote or weak governance regions, companies should ensure that any contribution they make to local development is sustainable and reinforces the capacities of local actors, including government agencies, rather than replacing or undermining these.

Suggested Indicators

- 1 The company has a robust human rights due diligence in place and does not seek to offset adverse human rights impacts with contributions to community development projects.

True	False	F/A	N/A

-
- 2 Any community development projects that are supported or implemented by the company are selected and implemented on the basis of clear human rights based criteria, considering transparency, vulnerable groups and consultation.

True	False	F/A	N/A

-
- 3 Where possible and appropriate, community development projects align with local and national government development plans and priorities.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

5.5 INDIGENOUS PEOPLES

No. 5.5.1	Area Community Impact	Section Indigenous peoples
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Question

Has the company taken active steps to identify whether there are indigenous peoples that may be affected by its operations?

Yes	No	F/A	N/A

Description

Due to historical patterns of colonization, imposition, dominance, discrimination and marginalization faced by many indigenous peoples, these peoples are afforded special protection under international law.

Primarily, the granting and enforcement of such special protections are the role of the state. However, in practice, sometimes states do not identify indigenous peoples and do not ensure that their rights are duly protected. Consequently, the state may fail to afford indigenous peoples the rights that they are owed under international law. Therefore, it is important that companies take active steps to identify any indigenous peoples that may be affected by their operations. Indigenous peoples are not a homogenous group and are identified by different names or concepts across the world, including, for example ethnic nationalities, Adivasi, hill tribes, hunter-gatherers, pastoralists, First Nations, Aboriginals or Janajatis. It is important to identify rather than define indigenous peoples, as there is no objective or conclusive 'definition' of indigenous peoples. There are, however, a number of objective criteria that have been highlighted in international law as non-conclusive identification criteria for most indigenous peoples:

- They descent from populations which inhabited the country or region at the time of conquest, colonisation or establishment of state boundaries
- Irrespective of their legal status, they retain some or all of their own social, economic, cultural and political institutions
- They have distinct social, cultural and economic conditions

Further, the subjective criteria of self-identification as an indigenous people is regarded as a fundamental criterion for identifying who these peoples are.

In the African context, it is further highlighted that their cultures and ways of life differ from the dominant society (their traditional lifestyles often include pastoralism or hunting-gathering); their cultures are under threat, and; they suffer from political and social marginalization.

These criteria can be used by companies in stakeholder analysis, baseline studies and impact assessments to assist in identifying whether there are indigenous peoples that may be affected by the company's operations. Further, in many cases, states have officially identified who are the indigenous peoples of a given country and keep an official register. In other cases, there will be ample information made available by indigenous peoples, academic institutions or civil society to determine who these peoples are.

Suggested Indicators

- 1 The company has undertaken a thorough stakeholder analysis, baseline and impact assessments to identify whether there are indigenous peoples that are potentially affected by the company's operation. Analysis is conducted using internationally accepted criteria to determine identification. Criteria include: self-identification as indigenous peoples, historical continuity with pre-colonial and/or pre-settler societies, distinct social, economic or political systems and, often distinct traditional livelihoods as well as political marginalisation.

True	False	F/A	N/A

- 2 The company has consulted with local communities; local and traditional authorities; national, regional and international indigenous peoples' organisations; academic institutions, and; NGOs, to identify whether there are any indigenous peoples that may be affected by the company's operations.

True	False	F/A	N/A

- 3 The company has consulted with the representative institutions of indigenous peoples and undertaken initial participatory assessments to determine whether the planned operations may have any social, spiritual, cultural or environmental impact on indigenous communities.

True	False	F/A	N/A

- 4 Representative institutions of indigenous peoples confirm that the company has undertaken adequate consultations and active steps to identify indigenous peoples that may potentially be affected by the company's operations.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 1, 2; ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 1, Declaration on the Rights of Indigenous Peoples, (2007) Article 2, 7, 9.

No. 5.5.2.	Area Community Impact	Section Indigenous Peoples
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Question

Where company activities occur on lands claimed, owned or traditionally occupied or used by indigenous peoples, has the company exercised due diligence, in order to ensure that company acquisition, access and usage rights to the land and natural resources have been granted and are exercised in a manner that respects indigenous peoples' rights, including confirmation of Free, Prior and Informed Consent?

Yes	No	F/A	N/A

Description

International law recognizes that indigenous peoples have a special connection to their lands, territories and resources and that this relationship gives rise to the need for special consideration and protection of indigenous peoples' land and natural resources rights, including the collective aspects of those rights. These rights cover not only the land that indigenous peoples directly cultivate or inhabit, but also the broader territory, encompassing the total environments of the areas, which they occupy or otherwise use, inclusive of natural resources, rivers, lakes, and coasts.

In some cases, indigenous peoples may have rights to lands or resources not used exclusively by them. This, for example, is the case with grazing lands, hunting, fishing and gathering areas and forests, which, for example, may be used by nomadic pastoralists, hunters or shifting cultivators on a rotational or seasonal basis. In other cases, certain communities may have rights to certain types of resources within a shared territory, as they have developed complementary livelihood strategies. Also such non-exclusive land rights are established on the basis of traditional occupation or use and must be fully respected.

States are under a duty to ensure that indigenous peoples' rights over the lands and territories that are traditionally owned, occupied and used by them are recognized and effectively protected. Further, indigenous peoples have the right to develop their own priorities and strategies for the use and development of their lands and territories, including right to participate in the management and conservation of natural resources on their lands and to be consulted about the development of such resources. Indigenous peoples also have the right to share in the benefits of resource development occurring on their lands and to full and fair compensation for any damages to land inflicted by company

activities. However, sometimes states fail to identify indigenous peoples’ lands and protect their rights. Therefore, companies must exercise due diligence to inform themselves regarding indigenous peoples’ rights in the jurisdiction of operation, including law, policy and procedures, and ensure that, if they are operating in an environment where indigenous peoples' land rights are not recognized and upheld in accordance with international standards, then alternative measures are developed to ensure that indigenous peoples' rights with regard to land, territories and resources are duly protected.

Suggested Indicators

1	Company policy recognises the need for Free, Prior and Informed consent of indigenous communities for companies to operate on their land. Company policy and procedures require the company to identify the land and natural resource rights of indigenous peoples before engaging in natural resource development on indigenous peoples’ lands. This includes consideration of land and resource rights under national, international and customary laws.	True	False	F/A	N/A

2	The company has thoroughly investigated whether the state has obtained Free, Prior and Informed Consent from indigenous peoples in adequate consultation processes regarding any decisions where indigenous peoples alienate their lands or otherwise transmit their rights outside their communities. This includes whether the state has taken active steps to identify and ensure the effective protection of indigenous peoples’ rights regarding lands, territories and resources, including waters. Where the state does not recognize and protect indigenous peoples’ rights relating to land and natural resources in accordance with international law, the company encourages government led consultations with the affected indigenous peoples regarding the land and resource rights.	True	False	F/A	N/A

-
- 3 The company has publicly disclosed its request for, and the government's confirmation of, the details regarding the steps it has taken to obtain Free, Prior and Informed Consent through adequate consultations with indigenous peoples who have rights over the lands and resources potentially impacted by the company's proposed use or occupation.

True	False	F/A	N/A

-
- 4 The company has investigated whether indigenous peoples' land rights are recognized in the national jurisdiction and whether there are any potential land claims by indigenous peoples in relation to the land proposed for company activities. The company facilitates the recognition of indigenous peoples' land rights claims if requested to do so.

True	False	F/A	N/A

-
- 5 Where the company finds that the lands owned or used by the company were secured by the state from indigenous peoples without their Free, Prior and Informed Consent, the company consults directly with the indigenous peoples regarding land tenure and use to ensure that they give their Free, Prior and Informed Consent to the planned company operations.

True	False	F/A	N/A

-
- 6 The company works with government, affected communities and NGOs to seek effective resolutions for indigenous peoples to any disputes relating to land ownership and possession, including company land use of indigenous lands and territories. This entails companies refraining from influencing indigenous peoples and other actors with a view to obtaining the required Freed, Prior and Informed Consent and legal licenses.

True	False	F/A	N/A

7	Where the company is engaged in a project affecting indigenous lands or territories after having obtained their initial FREE, PRIOR AND INFORMED CONSENT, the company collaborates with indigenous peoples and obtains their consent for natural resource development strategies and activities.	True	False	F/A	N/A

8	During pre-land purchase due diligence processes, the company identifies non-exclusive indigenous rights holders to the land or resources, obtains their free, prior and informed consent and then establishes adequate procedures to ensure them to freely enter, cross, or use the land.	True	False	F/A	N/A

9	Company employees and security personnel are trained to interact appropriately with local and indigenous rights holders, ensuring safe and unimpeded use of the land and its resources.	True	False	F/A	N/A

10	The company ensures that there are strategies in place to facilitate the equitable sharing of benefits from projects and activities conducted on indigenous lands and territories, in particular resource development.	True	False	F/A	N/A

11	The company has strategies in place to ensure that appropriate measures are designed and implemented to eliminate or, if this is not possible then mitigate, adverse environmental, economic, social, cultural or spiritual impacts that may result from company activities on indigenous lands and territories.	True	False	F/A	N/A

12 The company ensures that indigenous peoples are fully and fairly compensated for the use of lands owned, used or occupied by them, including for damages caused by company activities. Redress for activities includes compensation for adverse impacts or damages relating to environmental, economic, social, cultural or spiritual impacts.

True	False	F/A	N/A

13 The company maintains a publicly available register of the details of the steps it has taken to adequately and meaningfully consult and obtain Free, Prior and Informed Consent from indigenous peoples, together with the indigenous peoples' responses.

True	False	F/A	N/A

14 The company ensures the full participation of indigenous peoples in the development and implementation of plans and schemes concerning the protection of cultural heritage, natural resource management and conservation.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948) Article 17; International Convention on Civil and Political Rights (1966) Article 27; ILO Indigenous and Tribal Peoples Convention (C169, 1989) Articles 7, 14, 18; Declaration on the Rights of Indigenous Peoples Articles 25, 26, 28, 29, 31, 32.

No. 5.5.3	Area Community Impact	Section Indigenous Peoples	
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Question

If resettlement occurs, did the company ensure that Free, Prior and Informed Consent was given by indigenous peoples before they were resettled prior to initiating company operations?

Yes	No	F/A	N/A

Description

Indigenous peoples have specific rights under international law and should not be moved from their lands unless it is necessary as an exceptional measure. Indigenous peoples must give their free, prior and informed consent prior to such resettlement and are entitled to return immediately after the reason for their relocation has ceased to exist. Indigenous peoples have a right to be provided with lands of at least equal quantity, quality and status to the land previously occupied or used and to receive full compensation for any loss or injury resulting from relocation.

Suggested Indicators

- 1 Prior to any proposal regarding potential resettlement, the company has verified, through consultation with indigenous peoples and independent experts, that there is no alternative project design that could avoid resettlement. If the company is unable to identify any reasonably feasible or practical alternatives to resettlement, this should be supported by technical and/or commercial justification.

True	False	F/A	N/A

- 2 The company and its agents use no coercive tactics and provide no monetary inducements (excluding court ordered settlements) to decision makers related to the resettlement of indigenous peoples.

True	False	F/A	N/A

- 3 The indigenous peoples participated in impact assessments and were fully informed about the implications of the project on their rights and interests, and were provided with enough time and resources to fully consider, discuss, debate and reach a decision, in accordance with the processes used in their culture and governance system.

True	False	F/A	N/A

-
- 4 Indigenous peoples who were resettled had provided clear evidence, in writing, of their free, prior and informed consent to be resettled.

True	False	F/A	N/A

-
- 5 Where indigenous peoples do not grant their Free, Prior and Informed Consent to resettlement the company either develops an alternative project plan that does not involve resettlement or does not proceed with the development.

True	False	F/A	N/A

-
- 6 Where indigenous peoples agree to resettlement after giving their free, prior and informed consent, they are fully and fairly compensated for any damages incurred as a result of relocation.

True	False	F/A	N/A

-
- 7 The resettlement agreement to which indigenous peoples have given their Free, Prior and Informed Consent clearly identifies the conditions and the aspects of the land they regard to be necessary and important for on-going preservation.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17; ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 16; UN Declaration on the Rights of Indigenous Peoples (2007), Article 10, 28, 32.

No. 5.5.4	Area Community Impact	Section Indigenous Peoples
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Question

Are indigenous peoples consulted and give their Free, Prior and Informed Consent to any development of their natural resources, do they participate in the benefits and are they compensated for damage caused by the company's land use or resource extraction?

Yes	No	F/A	N/A

Description

Indigenous peoples have a general right to the natural resources pertaining to their lands and territories and right to develop their own priorities and strategies for the use and development of these resources. Under international law, the state is under an obligation to recognize, identify and guarantee the protection of the rights of ownership and possession of the lands and resources that have been traditionally occupied by indigenous peoples.

However, in some countries, the rights to mineral or sub-surface resources, including exploration and development, lie with the State. Nevertheless, even where the state retains ownership of certain natural resources, it must establish procedures through which indigenous peoples are consulted for their consent prior to the exploration or exploitation of such resources or granting permits to third parties for the undertaking of such actions. Indigenous peoples also have the right to a share of the benefits of resource

extraction occurring on their lands and full and fair compensation for any damages to land inflicted by company activities, including from resource development.

Under international law, indigenous peoples have a right to be consulted and to give or withhold their Free, Prior and Informed Consent to decisions that affect them and the lands they traditionally occupy, use or own. Whilst indigenous peoples have a right to be consulted in relation to a variety of issues, topics of land use, access and natural resource development have been highlighted as particularly important in the corporate context. It is on these issues that company activities and indigenous peoples' rights and interests frequently intersect. Indigenous peoples have the right to determine their own strategies and priorities for development and meaningful consultation regarding activities that may impact on the indigenous community is an essential element of exercising this right. For indigenous peoples, the right to be consulted is not only an important right in and of itself but also an element that gives substance to a number of other rights, including the right to cultural integrity, equality, property and self-determination. Consultations should be undertaken in 'good faith' and should occur prior to commencement of the proposed activities and throughout the project life cycle in a manner and format that is acceptable to the affected indigenous peoples. This includes consideration of factors such as the use of culturally appropriate languages, processes and locations, full disclosure of objective and relevant information relating to the matter of the consultation well ahead of time and the allocation of sufficient time for the consultation process. It is important that the consultation process addresses imbalances between the parties and contains strategies for confidence building. Such strategies can include culturally appropriate consultation processes but may also involve provision of resources, such as funding for independent advice, to enable the indigenous peoples to participate fully and in a meaningful way in the consultation process. Diversity within the Indigenous community/ies, for example gender divisions, must also be considered and addressed. Consultation must be free of coercion and manipulation. Moreover, consultations must always be undertaken with a view to obtaining the Free, Prior and Informed Consent of the concerned indigenous peoples, as an integral element of the right to self-determination and the right to development. Generally speaking, the duties to consult and to obtain free, prior and informed consent are the duties of the state. In this case it will be a matter of company due diligence to investigate whether the state has duly met consultation and FPIC requirements, and where a state has not done so, the company should take active steps to facilitate such processes. In some jurisdictions, however, the practical elements of the duties to consult and gain FPIC have been delegated to private actors, including companies. Therefore, it is very important that companies clarify the duties to consult and to obtain Free, Prior and Informed Consent in the particular jurisdiction of operation. Regardless of legal requirements, consultation and consent is always an element of best practice and is an integral part of gaining and maintaining an effective social license to operate.

Suggested Indicators

- 1 Company policy and procedures require the company to identify the land and natural resource rights of indigenous peoples before engaging in natural resource development on their lands, including consideration of rights under national, international and customary laws.

True	False	F/A	N/A

-
- 2 The company exercises due diligence to confirm whether the State has duly consulted with indigenous peoples to attain their Free, Prior and Informed Consent regarding the development of the resources prior to granting the company the rights to develop the resources. If the State has not done so then the company should use its leverage to request to the State that such a process be executed in the affected community.

True	False	F/A	N/A

-
- 3 If the State has not engaged in consultations to obtain the Free, Prior and Informed Consent of indigenous peoples, the company consults directly with the indigenous peoples for their Consent about resource development on their land and ensures that their decision is respected.

True	False	F/A	N/A

-
- 4 Where the company engages in consultation, such consultation is undertaken in accordance with relevant best practice principles, including at minimum: seeking consensus on the procedures to be followed for the consultation, taking active steps to address imbalances between the parties, providing full and objective information well ahead of time, consulting prior to commencement of activities and throughout the project lifecycle, conducting consultations in a culturally appropriate manner and location, taking into consideration and addressing diversity within communities, for example gender, and respecting the decision made by the indigenous people concerned to give or withhold consent.

True	False	F/A	N/A

- 5 Where the company obtain Free, Prior and Informed Consent to engage in a project affecting indigenous lands or territories, the company collaborates with indigenous peoples and ensures their active and free participation in land use management and natural resource development strategies and activities.

True	False	F/A	N/A

- 6 Where the company obtain Free, prior and informed consent, it takes measures to facilitate the equitable sharing of benefits from projects and activities conducted on indigenous lands and territories, in particular resource extraction.

True	False	F/A	N/A

- 7 The company takes measures to eliminate or, where not possible, to mitigate adverse environmental, economic, social, cultural or spiritual impacts that may result from company activities on indigenous lands and territories.

True	False	F/A	N/A

- 8 The company ensures that indigenous peoples are fully and fairly compensated for the use of lands owned or occupied by them, including for damages caused by company activities. Redress for activities includes compensation for adverse impacts or damages relating to environmental, economic, social, cultural or spiritual impacts.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 17; ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 6,7, 15; UN Declaration on the Rights of Indigenous Peoples (2007), Article 28, 32, 38; Rio Declaration, Agenda 21 Article 22.

5.6 COMMUNITY ENGAGEMENT AND CONSULTATION

No. 5.6.1	Area Community Impact	Section Community Engagement and Consultation
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Question

Does the company regularly engage in dialogue with affected communities about environmental, social and human rights impacts and management?

Yes	No	F/A	N/A

Description

Communities that are potentially affected by the method and type of operations conducted by the company should be given an opportunity to express their consent or rejection of a proposed project regarding major company decisions affecting; health, such as heavy air pollution or water contamination; access to public natural resources such as the redirecting of a stream; possible negative impacts upon the cultural heritage of the land, which may undermine their human right to preserve one's culture and traditions. Encouraging community involvement and gathering perspectives of the affected community through stakeholder dialogue also allows the company to operate in a socially responsible and informed manner and to increase its legitimacy to operate in the area. Other types of operational impacts, particularly negative effects on any person or group means of subsistence and income, should be avoided at all costs, to ensure that the land remains suitable for future usage by the community. All activities should be undertaken with a view to avoiding, minimising, and mitigating environmental damage, and ensuring that no irreversible environmental damage takes place.

Stakeholder engagement, in particular engagement with project-affected rights holders (that is, the individuals and communities whose human rights are impacted adversely by the project activities) should apply the principles of a human rights-based approach, including the principles of non-discrimination and inclusion, participation and empowerment, transparency and accountability.

The human rights-based approach originates from international development practices but can also effectively inform the company's engagement and consultation processes and activities. For example, as indicated above, the principles of the human rights-based approach should be applied by the company when assessing human rights impacts. The approach can also inform how a company designs and implements a community investment project, for example, by ensuring that impacted individuals and communities participate in the design of the project, that the governance structure is transparent and that vulnerable individuals have access to participate in, and benefit from, the project.

In short, **a human rights-based approach to development** rests on four principles:

- **Explicit link to human rights.** A human rights-based approach implies that practices are guided by human rights principles and standards. For example, whereas ordinary approaches to land acquisition might only involve compensation to legal title holders, a human right-based approach would consider impacts on the rights and livelihoods of all affected individuals, including legal and informal title holders and the usage and passage rights of non-owners.

- **Equality and non-discrimination.** This includes paying particular attention to vulnerable and marginalised groups, as well as gender. It also involves taking steps to ensure that all affected and impacted women and men, girls and boys, are empowered to understand and participate in decisions that affect them.
- **Participation.** In a human rights-based approach participation is both an objective, as well as a means of development. Participation should aim to create genuine ownership by people over the development processes with which they are involved and which impact on them. For this, participation should be ‘active, free and meaningful’. From a rights based perspective, participation is more than consultation, or a technical add-on to development activities, but an integral part of shaping these.
- **Accountability, transparency and the rule of law.** In a human rights based approach to development, development is seen as an entitlement rather than an act of charity. This has important implications for how the company would relate to its community stakeholders. For example, in a rights-based approach the individuals affected by the project would be seen as rights-holders rather than as stakeholders, that is, as people who have entitlements for which they can hold a relevant duty-bearer accountable. A rights-based approach delineates between rights-holders and duty-bearers, and seeks to ensure that rights-holders have the capacity to claim their rights, and that duty-bearers correspondingly uphold these rights.

When enacting stakeholder engagement, companies should also include a focus on gender, indigenous peoples’ rights and vulnerable individuals and groups. This requires:

- Consideration of which individuals or groups will require extra attention and assistance to participate in the impact assessment engagement and consultation processes, including groups who are unlikely to be well represented through formal structures.
- Consideration of who is likely to be more adversely affected by different types of impacts, or likely to have a reduced ability to recover from adverse impacts.
- Consideration of who may be disadvantaged in terms of their ability to benefit/derive benefits from the projects potential positive impacts.

Vulnerability and Marginalisation.

Vulnerable individuals or groups are those that face a particular risk of being exposed to discrimination and other adverse human rights impacts, including a reduced ability to cope with or recover from adverse impacts. People who are disadvantaged, marginalised or excluded from society are often particularly vulnerable. Vulnerable individuals or groups in areas impacted by mining projects may include:

- Minorities (e.g. national, ethnic, linguistic, religious, political)
- Women and widows
- Children and young people, including young heads of households
- Single headed households
- Elderly people
- Landless people and/or land users lacking formal title to land
- Nomadic people
- Informal and casual workers
- Migrants, illegal settlers, refugees and displaced persons
- Indigenous Peoples
- People with disabilities
- Lesbian, gay, transgender groups and other sexual minorities
- Persons living with HIV&AIDS or other marginalising diseases
- Human and labour rights defenders and trade union activists
- The poor, illiterate and unemployed

Suggested Indicators

- 1 The company has a stakeholder engagement plan in place that requires regular engagement with a range of stakeholders, including affected communities, government stakeholders, civil society, traditional leaders, and others.

True	False	F/A	N/A

-
- 2 Company guidelines establish that open consultations will be held with peoples potentially affected by the company's operations and activities, prior to commencing activities that may have health-related impacts such as pollution and traditional sources of livelihood.

True	False	F/A	N/A

-
- 3 Affected communities and individuals are identified and prioritised in stakeholder engagement.

True	False	F/A	N/A

-
- 3 Stakeholder engagement and consultation activities are tailored to include women, and pay special attention to vulnerable individuals and groups.

True	False	F/A	N/A

- 4 Affected communities are engaged in impact management, mitigation and monitoring where possible, and their participation supported through capacity building as necessary.

True	False	F/A	N/A

-
- 5 Where engagement occurs through community representatives or representative institutions the company takes steps to validate that representatives are considered legitimate by their defined constituents.

True	False	F/A	N/A

-
- 6 Stakeholder analysis and engagement considers which stakeholders are rights-holders and which are duty-bearers, including considering their respective rights, duties and responsibilities.

True	False	F/A	N/A

-
- 7 The company has an effective mechanism for responding to legitimate community complaints and concerns raised through any engagement and consultation.

True	False	F/A	N/A

- 8 Where the company engages in consultation, such consultation is undertaken in accordance with relevant best practice principles, including at minimum: seeking consensus on the procedures to be followed for the consultation, taking active steps to address imbalances between the parties, providing full and objective information well ahead of time, consulting prior to commencement of activities and throughout the project lifecycle, conducting consultations in a culturally appropriate manner and location, taking into consideration and addressing discrimination within communities, for example, gender.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights (1948), Article 25; Convention on Environmental Impact Assessment in a Transboundary Context (1991), Article 3; ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 7; ILO Prevention of Major Industrial Accidents Convention (C174, 1993), Article 4; OECD Guidelines for Multinational Enterprises (2000), s. V., Article 2; Permanent Peoples' Tribunal Charter on Industrial Hazards and Human Rights (1994), Article 10; Rio Declaration on Environment and Development (1992), Principle 10.

5.7 COMMUNITY GRIEVANCE MECHANISMS

No. 5.7.1	Area Community Impact	Section Community Grievance Mechanisms
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Question

Does the company have a responsive grievance mechanism for receiving, processing and finding resolutions to grievances raised by affected individuals and communities?

Yes	No	F/A	N/A

Human rights implicated

Right to remedy

Description

From time to time individuals and communities may have grievances relating to a company's conduct or impact on the local environment or community. It is increasingly recognized that the availability of non-judicial remedies to resolve grievances arising in the course of company operations is one of the pillars of the framework for human rights and business. A company should have a responsive grievance mechanism to deal with such grievances and complaints. To ensure that the mechanism is legitimate and trusted by the local community the mechanism should be jointly designed by the company and community. The mechanism must be widely publicized to local communities, be accessible via a number of different access points and follow clear and timely pre-determined criteria and processes to resolve grievances. All information about the grievance mechanism should be available in a language and format that can be understood by the community, with due consideration for factors such as illiteracy, educational levels, and lifestyles that might be an obstacle to regular communication, such as nomadic living patterns. Wherever possible and appropriate, grievance resolution should allow for dialogue between community members and the company as a preferred method for resolving grievances. It is important that all complaints and complainants are taken seriously with the aim of finding resolutions to the issues raised in a collaborative and transparent manner. An effective and respected grievance mechanism is an essential element in building and maintaining sustainable company-community relations.

The grievance mechanism should be established and function according to the following general principles, as articulated in UN Guiding Principles of the UN Guiding Principles on Business and Human Rights:

- Legitimate*: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- Accessible*: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- Predictable*: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- Equitable*: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- Transparent*: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;

- f) *Rights-compatible*: ensuring that outcomes and remedies accord with internationally recognized human rights;
- g) *A source of continuous learning*: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- h) Operational-level mechanisms should also be:
- i) *Based on engagement and dialogue*: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

Suggested Indicators

- 1 Community members who file grievances and parties who participate in grievance resolution (e.g., local community members, NGOs, independent experts) report that they do not suffer retaliation as a consequence of their participation.

True	False	F/A	N/A

-
- 2 Company personnel responsible for grievance resolution are trained in a variety of grievance resolution methodologies, including alternative dispute resolution, and have a good knowledge of the local communities.

True	False	F/A	N/A

-
- 3 Complaints are systematically and objectively reviewed in a timely manner and community members who have lodged a grievance are updated regularly on the grievance resolution process.

True	False	F/A	N/A

- 4 Corrective and remedial measures are promptly implemented and monitored, where necessary by an independent third party. Outcomes and remedies facilitated by the grievance mechanism accord with internationally recognized human rights standards.

True	False	F/A	N/A

- 5 Grievances can be submitted on a confidential basis and guidelines state clearly that retaliation for submission of complaints is not tolerated.

True	False	F/A	N/A

- 6 Members of local and affected communities report that they are fully aware that they have access to the grievance mechanism and clearly understand the processes and procedures that would be followed if they wished to make a complaint.

True	False	F/A	N/A

- 7 The company has written procedure detailing the function and processes of the grievance mechanism, including governance structure and staff, accessibility, timeliness, processes used to resolve grievances and avenues for appeal. Procedures state clearly that access to the company grievance mechanism in no way precludes recourse to courts or other formal or informal dispute resolution avenues and remedies.

True	False	F/A	N/A

- 8** The company keeps thorough records of all grievances lodged and reports regularly both internally and externally on the number and types of grievances that are received and the methods and rate of resolution.

True	False	F/A	N/A

-
- 9** The function and processes of the grievance mechanism are widely publicized and clearly and regularly communicated to project affected individuals and communities in a manner that is understandable to them.

True	False	F/A	N/A

-
- 10** The grievance mechanism is accessible via a number of different access points and vulnerable groups are provided with assistance in lodging grievances, for example, where literacy and language barriers may be an issue.

True	False	F/A	N/A

-
- 11** The grievance mechanism makes available a variety of dispute resolution methods to address and resolve grievances, such as dialogue, mediation and investigation by an independent third party. Wherever possible appropriate resolutions to grievances are drafted in collaboration with the parties, rather than being unilaterally determined by the company.

True	False	F/A	N/A

-
- 12** Top management has overall responsibility for the grievance mechanism, and procedure requires that top management is immediately involved in particularly serious grievances.

True	False	F/A	N/A

Comments:

Basis for assessment:

Question references:

Universal Declaration of Human Rights, Articles 1,7, and 10, International Covenant on Civil and Political Rights (1966) Article 2(3).
