



## Adapting social impact assessment to address a project's human rights impacts and risks<sup>☆</sup>



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### ABSTRACT

We address the weaknesses inherent in the social risk assessments undertaken for business, especially in the extractive industries. In contrast to the conventional approach that considers consequence to the company rather than to impacted communities, conformance with the *United Nations Guiding Principles on Business and Human Rights* requires that consequence to affected communities has precedence. In order for social risks to be properly assessed, we consider that: companies need to know and understand the human rights impacts of their activities; contemporary approaches to project impact and risk assessment need to be adapted to consider human rights; and environmental impact assessment (EIA) and social impact assessment (SIA) methods need to be adapted to give greater attention to impacts on human rights. Using an example from the mining, oil and gas sector, we provide a method that differentiates social risks from business risks, and we position impact assessment as an instrument that actively facilitates the improved identification, analysis and management of social risks. Practical adaptations to SIA activities and risk assessment processes are provided. Taking human rights impacts into account and using the dimensions of gravity, extent, vulnerability and remediability, we nominate criteria to assess the significance of negative social impacts.

### 1. Introduction

The responsibility of business to respect human rights was outlined in the *United Nations Guiding Principles on Business and Human Rights* (usually abbreviated UNGP) (United Nations, 2011). The UNGP has heightened industry awareness of 'rights-holders' and 'duty-bearers', and has facilitated a shift in how companies are encouraged to address harmful impacts to human rights from the 'naming and shaming' of negligent companies by third party observers (e.g. NGOs or regulatory bodies) to companies 'knowing and showing' how they take responsibility for their human rights impacts and manage their human rights risks effectively (Kemp and Vanclay, 2013; Götzmann et al., 2016).

While consideration of human rights should be central to the impact assessment and risk assessment practices of business (van der Ploeg and Vanclay, 2017a, 2017b), dominant industry practice has been to not explicitly consider human rights (Kemp and Vanclay, 2013). Arguably, the reason for this is not that companies are opposed to human rights,

but rather it is unclear what they actually have to do to address human rights issues. We contribute to the literature by showing how an integrated approach to impact assessment practice can be enhanced to enable industry conformance with the UNGP in relation to their obligations to affected communities. To do this, we start from three pre-mises:

- Conformance with the UNGP requires that companies understand and address the human rights impacts of their activities;
- Contemporary approaches to project risk assessment need to be adapted in order to properly consider human rights risks; and
- Social impact assessment (SIA) has a key role to play, however, impact assessment methods and company management systems need to be adapted to take the impacts on human rights into account.

The arguments in our paper derive from our experiences as social

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practitioners in different institutional settings (including a social consulting firm, university, and a national human rights institution). We have project experience across a range of cultural settings and industries, especially in the extractives and energy sectors. Our approach has been iteratively developed since the release of the UNGP in 2011. It draws on our reflections on our professional practice and on our discussions about social performance and how human rights can be implemented into corporate practice. It also draws on our extensive discussions about what human rights means for SIA (Esteves and Vanclay, 2009; Esteves et al., 2012; Götzmann et al., 2016). In addition to the UNGP (United Nations, 2011), our approach also incorporates perspectives from a range of other published sources and models, including: the AAAQ Framework (Holst Jensen et al., 2014); the SIA guidance document from the International Association for Impact Assessment (Vanclay et al., 2015); the Social Framework for Projects (Smyth and Vanclay, 2017); and the Human Rights Sphere (van der Ploeg and Vanclay, 2017a). Our approach includes a tool for assessing the significance of social impacts, which was initially developed for training purposes in 2010. Following the release of the UNGP in 2011, it was adapted to take human rights into account. The revised version was pilot-tested in 2014 in a workshop with social performance representatives from various companies in the extractives industry operating around the world. The tool was further enhanced and tested in 2016 by applying it to the site operations of a specific multinational mining company.

Following a summary of the weaknesses in current research and practice regarding social risk management, we offer suggestions about how these weaknesses can be addressed and specifically how human rights risks can be considered alongside social risks. We differentiate social risk from business risk, and we position SIA as an instrument for the improved identification, analysis and management of social and human rights risks. We provide practical adaptations to SIA and to the processes associated with ongoing risk assessment as implemented in environmental and social management systems.

We consider that impact assessment means ‘integrated impact assessment’, and is an approach that takes into account all the social, cultural, economic, health, environmental, and human rights impacts, as well as expert and stakeholder views on an ongoing basis (Esteves et al., 2012; Vanclay, 2015a). Throughout this paper, we use ‘social impacts’ as an umbrella term that includes human rights impacts on affected communities. A specific contribution of this paper to the field of impact assessment is the provision of a tool for assessing the significance of negative social impacts that takes into account relevant human rights.

## 2. Limitations in how social risk is conceptualised

The International Organization for Standardization (2009) defines risk in the ISO 31000 standard (Clause 2.1) as the “effect of uncertainty on objectives”. Although this standard perhaps provides the most frequently cited definition of risk, its definition is rather limited (Hanna et al., 2016a; Kemp et al., 2016). By comparison, in the social sciences risk tends to be defined along the lines of uncertainty about and severity of the consequences (outcomes, events) of an activity, especially in terms of what humans and their institutions value (Aven and Renn, 2009; Mahmoudi et al., 2013; Graetz and Franks, 2016). Risk is generally considered to have two components: probability, which refers to the likelihood that a risk will eventuate; and consequence, which refers to the severity of the impact. Strictly speaking, while risk and impact are similar, in the risk assessment discourse, impact is only the consequence whereas risk is consequence together with likelihood. In reality, the experience of social impact is complex, and is discussed in greater detail in later sections of this paper.

A risk management system is a standard component of contemporary project management. The system records information about the process of decision-making and the implementation of actions in

response to known risks, and is regularly updated. Risk responses are typically tracked in a risk register. Many companies employ risk managers who have responsibility for facilitating the identification and assessment of risk and ensuring that agreed actions for managing risk are implemented (Barclay et al., 2009). To identify risks, these risk managers tend to engage other internal departments of a company. In our experience, it is unusual for risk managers to deal with external stakeholders, as they typically rely on information from the individuals within the company who are responsible for external stakeholder relations.

Risk assessment involves the identification, analysis and evaluation of risk at different levels. The levels and classifications vary according to purpose, and tend to be overlapping, however the categories frequently used include (Jaafari, 2001; Barclay et al., 2009; Graetz and Franks, 2016; Hanna et al., 2016a):

- General business risk, which covers topics such as: financial (cash flow, return on investment); strategic/commercial (earnings, capital and competitive advantage); health and safety (employees/contractors); legal/compliance (aspects constraining ability to comply with existing legislation/standards, risk of changing regulations); marketing (demand for product and time to market); and reputation (stakeholder perceptions).
- Technical risks that arise from design and engineering, manufacturing, technological processes and test procedures.
- Environmental risk, which refers to potential negative impacts on the environment, e.g. air quality (emissions, noise pollution, dust), water quality, soil quality, and biodiversity.
- Non-technical risk, which tends to be an umbrella term for the external factors encompassing the social, political and institutional issues (including stakeholder opposition, Hanna et al., 2016b) that create uncertainty for the project.

Miller and Lessard (2001, p. 439) highlighted the importance of stakeholder engagement in reducing non-technical risks, and introduced the notion of ‘social-acceptability risks’ as “the likelihood that sponsors will meet opposition from local groups, economic development agencies and influential pressure groups”, in effect what is currently known as social licence to operate (Thomson and Boutilier, 2011; Jijelava and Vanclay, 2017). In a similar vein, Lynch (2008) and Barclay et al. (2009) considered ‘social risk’ to be a form of business risk, and specifically as the range of potential impacts on a project that might result from its interaction with communities and stakeholders. Risk communication is promoted by them as a means by which to engage external stakeholders and bridge the divide between expert and non-expert perceptions of risk in order to promote fuller understanding and, where appropriate, acceptance of the risks associated with social and environmental harms.

In contrast, Franks et al. (2014) position social risks as risks to society, social groups, or individuals, and differentiate these from business risks, which are risks to the business. They emphasise that social risks do not always translate into conflict, which they argue has a real cost implication to the business. Conflict is interpreted as ranging from “low level tension to escalated situations involving a complete relationship breakdown or violence” (Franks et al., 2014, p. 7576). In their analysis, in cases where social conflict did lead to business risk, this was triggered by factors such as the “failure of companies to respond to expressed concerns about risk, company engineers dismissing community perceptions of risk as unfounded and ‘unscientific’, the presence of organizations that heighten awareness and perception of risk and present them in stark form, and the failure of government to mediate these different perceptions of risk in ways deemed impartial” (Franks et al., 2014, p. 7578).

Social risk is given less attention than other forms of risk in project risk assessments. In a review of the literature on social risk in the mining sector, Kemp et al. (2016) observed numerous inconsistencies in

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