

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

Human Rights Impact Assessment

30.09.24

Gabriela Factor

Chief Consultant

Human Rights, Business & Tech

AGENDA -

15:00-15:40

PART 1

- Overview
 - Human Rights Impact Assessment : the basics and practical advice
-

15:40-15:45

Break

15:45-16:30

PART 2

- 10 min Human Rights in Impact Assessment
 - 20 min Exercise and discussion
 - 10 min Q&A
-



WHO IS WHO?

Introduction to the trainer

- Gabriela Factor
- GAFA@HUMANRIGHTS.DK

Quick profiling of the participants

LEARNING OBJECTIVES

To provide participants with an understanding of:

- How human rights impact assessment fit in the general risk assessment and due diligence
- Key considerations on the process and criteria for human rights impact assessment, along with practical tools to use in practice;
- Key considerations on what it means to integrate human rights in impact assessment, along with practical tools to use in practice;
- Provide a space for participatory learning and exchange of knowledge and ideas.



PART 1 HRIA OVERVIEW

Human Rights Impact Assessment:

- Definition and relation to HRDD
 - 5 important things to know
 - 5 important things to do
 - Different types
 - HRIA Steps
-
- Human rights impact assessment is a part of a company's human rights due diligence
 - Human rights Impact Assessment looks at the impacts to rights-holders – not business
 - Human rights should be considered both in the content and the process of the assessment

EXAMPLES OF HUMAN RIGHTS

Civil and political rights	Economic, social and cultural rights
Right to life, liberty and security of person	Right to an adequate standard of living – housing, food, water
Right to non-discrimination and equality	Right to non-discrimination and equality
Freedom from torture or cruel, inhuman or degrading treatment or punishment	Right to rest and leisure
Right to an effective remedy	Right to social security
Freedom from arbitrary arrest, detention or exile	Right to a family life
Right to privacy	Right to education
Right to own property	Right to freely participate in the cultural life of the community
Right to freedom of thought, conscience and religion	Right to work – just and favourable conditions at work
Specific standards	Core labour standards
Indigenous Peoples' rights	Freedom from child labour
Children's rights	Freedom from discrimination in employment/occupation
Women's rights	Freedom of association and collective bargaining
International Humanitarian Law	Freedom from forced or compulsory labour

RIGHTS-HOLDERS AND DUTY-BEARERS

Duty-Bearer

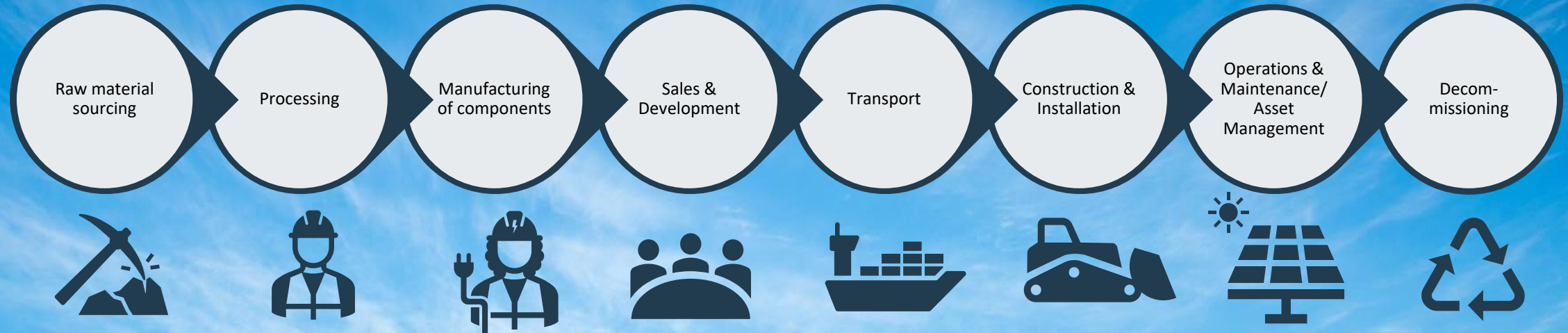
Primarily the State.
But also non-State actors.
Duty-bearers in a business context
may include companies, suppliers,
joint venture partners and
government authorities.

Rights-Holder

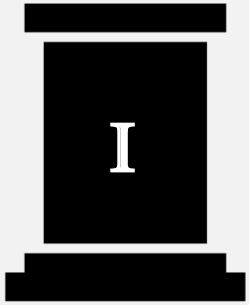
Individuals (and some groups).
Rights-holders whose rights can be
impacted by businesses include
employees, supply chain workers,
local communities and customers.



HUMAN RIGHTS IMPACTS ON THE VALUE CHAIN - SOLAR PANELS



THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS



State duty to protect – effective policies, legislation, regulation, and adjudication



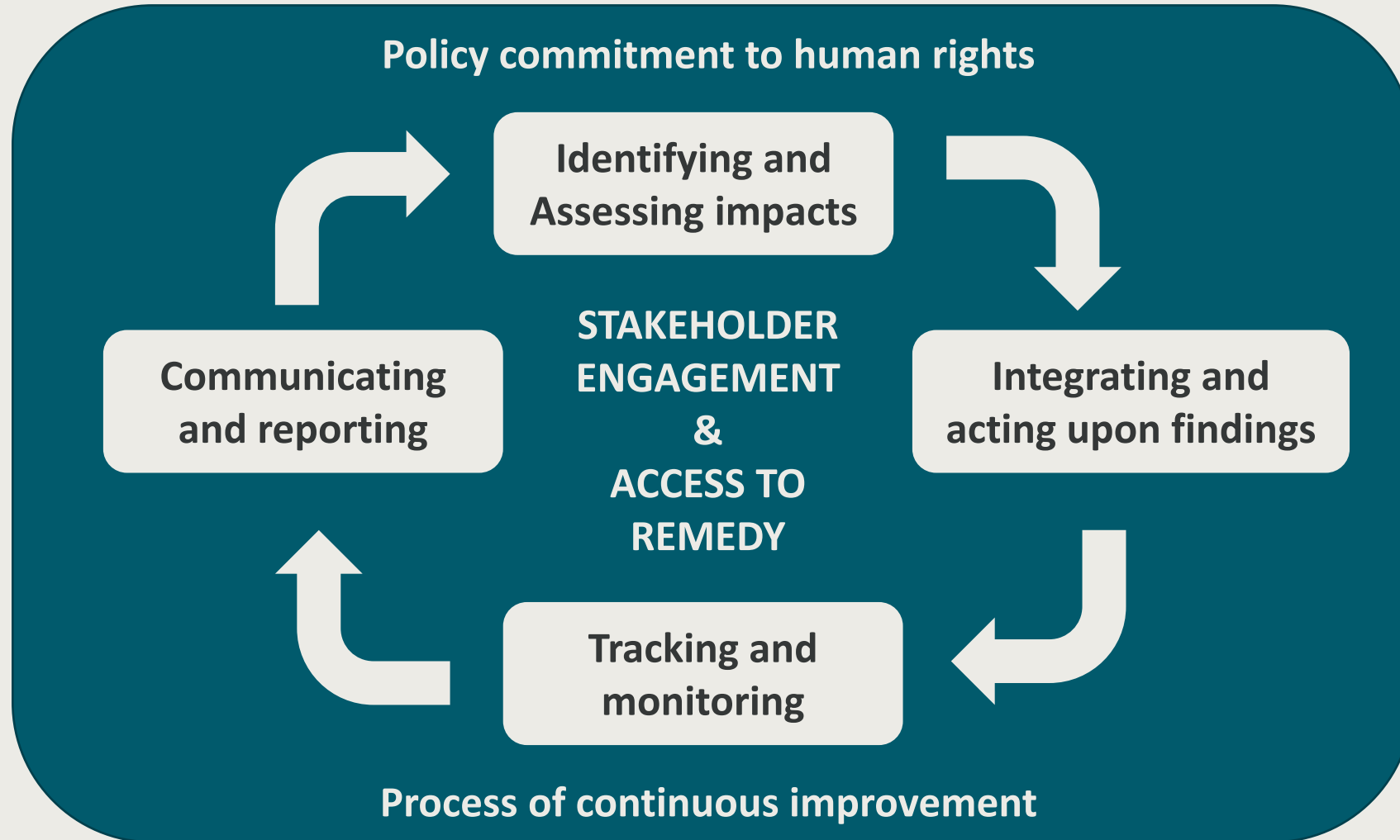
Corporate responsibility to respect – exercise human rights due diligence



Access by victims to effective remedies – judicial and non-judicial

How does Human Rights Impact Assessment relate to the three pillars?

HUMAN RIGHTS DUE DILIGENCE



WHAT IS A HUMAN RIGHTS IMPACT ASSESSMENT?

- A **context specific process** for identifying, understanding, assessing and addressing the adverse effects of a business project, activities or operation **on the human rights enjoyment** of impacted **rights-holders** such as workers and community members.
- It's an elaborate assessment **process** and **iterative** adjustments of **follow up** activities is essential.
- HRIAs work on human rights, through human rights, for human rights.
- Human rights risk assessment (HRRRA) and HRIAs are different though they may be related and inform each other.



EXAMPLE: PV MATERIALS & TOP COUNTRY SUPPLIERS

Solar Panel materials:

Lead, Polysilicon, Silver.

Top Suppliers (% global prod.):

Polysilicon: China 89 % and 35 % of it is from XUAR.

Wafers: China 96%.

Solar cells: China 75%.

Solar PV: China 66%.

(Murphy & Crawford, 2023)

Mounting frames materials:

Aluminum, Chromium, Copper, Iron, Mica, Nickel and Zinc

Top Suppliers:

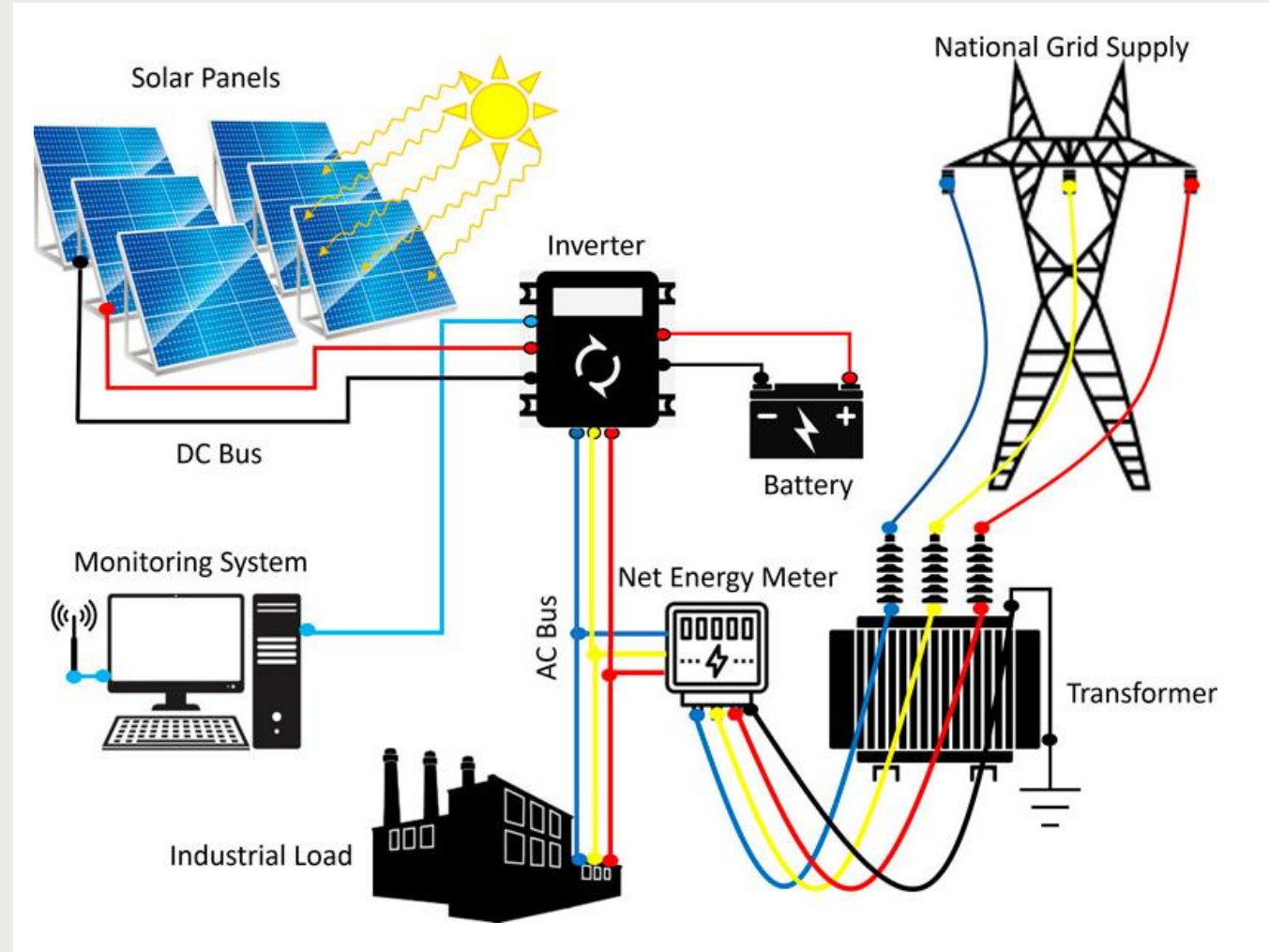
Asia Pacific

Inverters materials:

Aluminum, Copper.

Top Suppliers:

Asia-Pacific region (50%+) China, India, Japan, South Korea and Australia



Batteries materials:

Aluminum, Cobalt, Copper, Graphite, Lead, Lithium, Mica, Manganese, Nickel, Titanium, Vanadium, Zinc.

Top Suppliers:

Asia-Pacific region (40%+) China, India, South Korea.

Transformers materials:

Aluminum, Copper.

Top Suppliers:

Asia-Pacific region (50%+) China, India, Japan, South Korea and Australia. Turkey, Czech Republic

Cables & wires materials:

Aluminum and/or Copper.

Top Suppliers:

China.

China sits on the world's 10 top suppliers of solar manufacturing equipment. Limited available information besides "Asia-Pacific" market dominion re batteries, cables, transformers, inverters and module frame and mounting structure.

HUMAN RIGHT RISKS PER MATERIAL AND COUNTRY

Materials with salient issues	Environmental impacts	Social / human rights impacts	Governance risks
Aluminium (Bauxite)	High	High	High
Cobalt	Very High	Very High	Very High
Copper	Very High	Very High	Very High
Gold	Very High	Very High	Very High
Graphite	High	Moderate	Moderate
Indium	High	Low	Moderate
Lithium	Very High	High	High
Magnesium	Moderate	Moderate	Low
Mica	High	High	High
Nickel	High	Very High	Moderate
Plastics	Very High	High	Moderate
Rare Earth Elements	High	High	High
Silver	High	High	High
Tantalum	High	Very High	Very High
Tin	Very High	Very High	Very High
Tungsten	High	Very High	Very High
Zinc	High	Very High	Moderate

Some tools to identify salient issues:

- [SER: Risk matrix of metals and minerals](#)
- [MVO: CSR risk check tool](#)
- [Löning: Country risk register](#)
- [Tailored risk matrix](#)

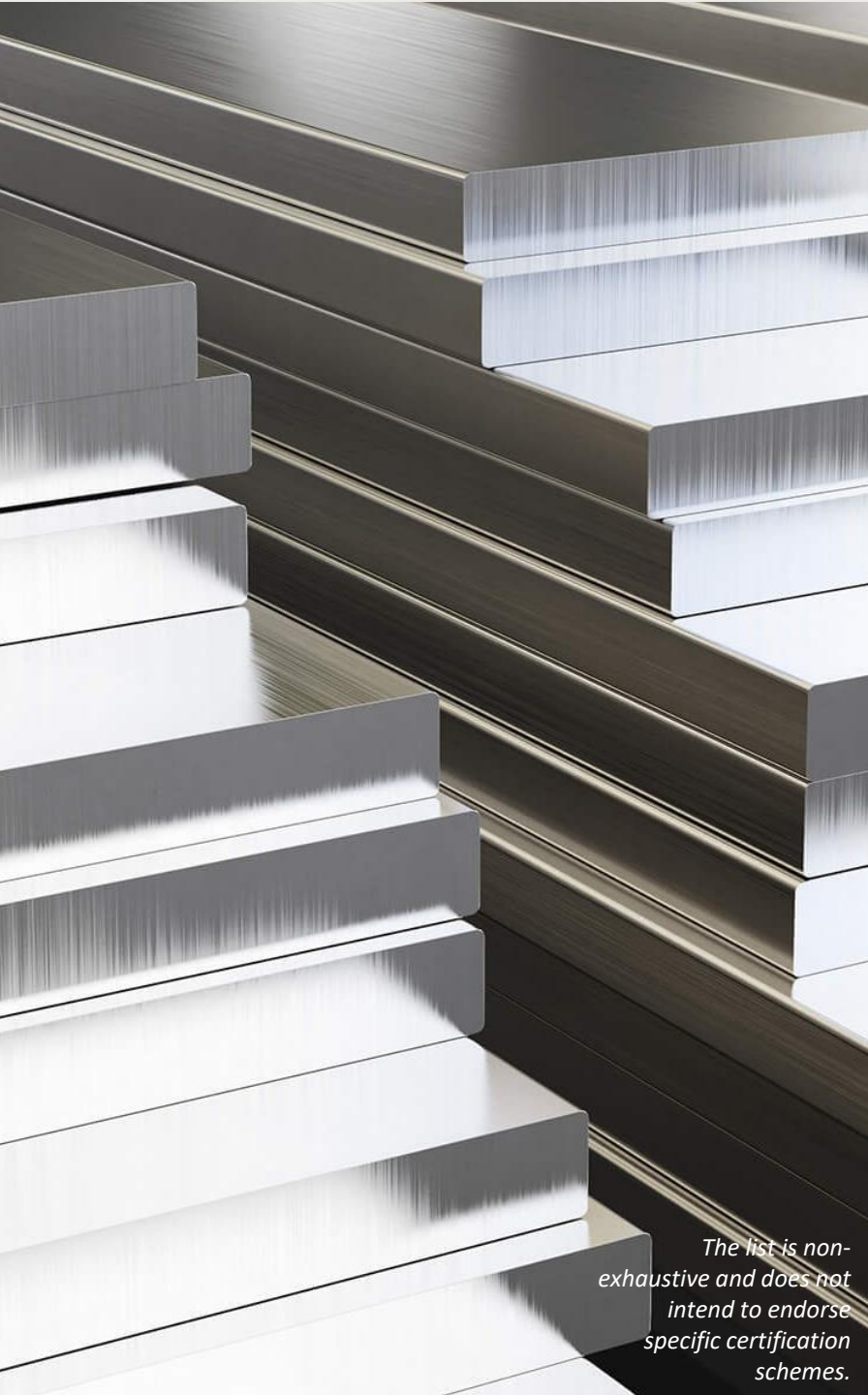
Examples of HRIA options to support the DD of Aluminium supply

Top 3 producing countries	<p>% of global production:</p> <ul style="list-style-type: none"> • Australia (27%) • Guinea (23%) • China (18%) <p>RMIS - Raw materials' profiles (euronerd)</p>
Issues and rights at risk	<p>Workers rights at risk:</p> <ul style="list-style-type: none"> • Freedom of Association and collective bargaining, occupational health and safety, living wage, working hours, discrimination, child labor, gender-based violence, conflict related impacts <p>Community rights at risk:</p> <ul style="list-style-type: none"> • Pollution affecting health and land, water resources (including neurological damage and cancer) • Risk related to security forces in bauxite mining sites <p>Human Rights and Business - Risk Matrix Metals and Minerals</p>
High-risk areas	<ul style="list-style-type: none"> • Guinea (red mud affects land rights, economic, social and cultural rights, security related issues) • China (forced labour) <p>Human Rights and Business - Risk Matrix Metals and Minerals</p> <p>Guinea - Land and Climate Review</p> <p>Guinea - HRW</p> <p>Aluminum- HRW</p> <p>Cambodia, Chile, Guinea and Peru - BHRRC</p>
Certification schemes	<ul style="list-style-type: none"> • Aluminium Stewardship • Initiative for Responsible Mining Assurance (IRMA)

Full HRIA of a new Bauxite supplier
Assessment of labour rights risks

2-3 specific issues not covered by the ESIA's

SWIA of the bauxite mining sector in one country
HRIA of one specific mine



The list is non-exhaustive and does not intend to endorse specific certification schemes.

HRIA: FIVE IMPORTANT THINGS TO KNOW



Human rights impacts should be assessed from the perspective of risk to people, not business

Human rights harms cannot be “offset” by positive impacts

Relevant internationally-recognized human rights standards are the benchmark for all human rights aspects. All human rights should be considered, not only a few specific rights

HRIA requires a finer disaggregation of data to better understand specific impacts and to identify discrimination

All adverse human rights impacts should be addressed. If prioritization is determined by severity of human rights consequences

HRIA: FIVE IMPORTANT THINGS TO DO

THINGS TO DO

TEAM
ENGAGEMENT
SCOPE OF IMPACTS
RISK OF REPRAISALS
TRANSPARENCY

1- TEAM

Multi-disciplinary team
Human rights expertise
Capacity to interview vulnerable groups
Knowledge of the local context, culture, and languages.

2- ENGAGEMENT

Inclusive, active, free, meaningful, non-discriminatory, and accessible participation
Build necessary capacity
Engage people with divergent views.

HRIA: FIVE IMPORTANT THINGS TO DO

3- SCOPE

Actual and potential impacts by project operations

Contributing or linked to, as well as cumulative and legacy impacts.

4- REPRISALS

Evaluate the risk of retaliation in advance

Structure the engagement accordingly

Assessors should make themselves available to learn of threats and reprisals.

5- TRANSPARENCY

Be transparent about the impact assessment process, findings, and impact management.

Never reveal sensitive information.

DIFFERENT TYPES OF HUMAN RIGHTS IMPACT ASSESSMENTS

Integrated HRIAs

Human rights integrated into environmental, social and/or health impact assessments

Specific topics integrated into wider HRIAs (gender/child rights)

Stand-alone HRIAs

Company-led HRIAs

Community-led HRIAs

Issue based HRIAs

Product based HRIAs

Sector-Wide Impact Assessments

Looking at an entire business sector rather than a project

Collaborative HRIAs

Different ideas around collaborative HRIAs.

Do not exist yet – could this be one of the ways forward?

SECTOR-WIDE IMPACT ASSESSMENT

Human rights based	Human rights lens to consider project impacts and policy & legal frameworks (based on UNGPs, OECD Guidelines for MNEs)
Wider audience than project-level EIA/SIA/ESIA/HRIA	Addressed at government and parliamentarians, local and multinational business, local communities, civil society, workers and trade unions and development partners
Aims to shape policy, law and projects	Examines national context and legal and policy frameworks, and business practices. Identifies what actions by gov & business will help shape or impede better human rights outcomes for the sector
Information goes into the public domain	HRIAs → mostly confidential SWIA → public good, with aim of improving practices and outcome of business investment for the population
Different levels of Analysis	Looks at different levels of impacts of the sector: at <u>sectoral</u> (economic, governance and social/environment), <u>project</u> and <u>cumulative</u> levels
Aggregation of findings	Findings are not attributed to particular companies or individuals

SITUATIONS WHERE A STAND-ALONE ASSESSMENT MAY BE NECESSARY

Context

- Conflict-affected areas, or regions with poor human rights track record or systemic human rights abuses.
- Communities vulnerable due to extreme poverty, natural disasters, and climate change.
- Systemic gender discrimination or discrimination against vulnerable groups.
- Presence of Indigenous Peoples in or around the project area.
- Complex land tenure arrangements, a weak land rights regime, or a history of displacement and resettlement.

Project proponent

- Projects that involve impacts on or restrict access to natural resources and areas critical for water provision, food security, income generation, and cultural identity of communities.
- Projects that involve significant resettlement and/or economic displacement.
- Projects that induce migration and/or rely on migrant work forces.
- Allegations of human rights impacts or abuses related to the project, the project area, or its business partners

SITUATIONS WHERE A STAND- ALONE ASSESSMENT MAY BE NECESSARY

ESIA has been done and did not include human rights

ESIA has been done and indicated a deep-dive on human rights or certain human rights topics is necessary in the given context

ESIA is being performed for a regulator who is unsympathetic to human rights

Internal and/or external capacity building on human rights is an objective



PURPOSE OF A COMPANY-LED HRIA

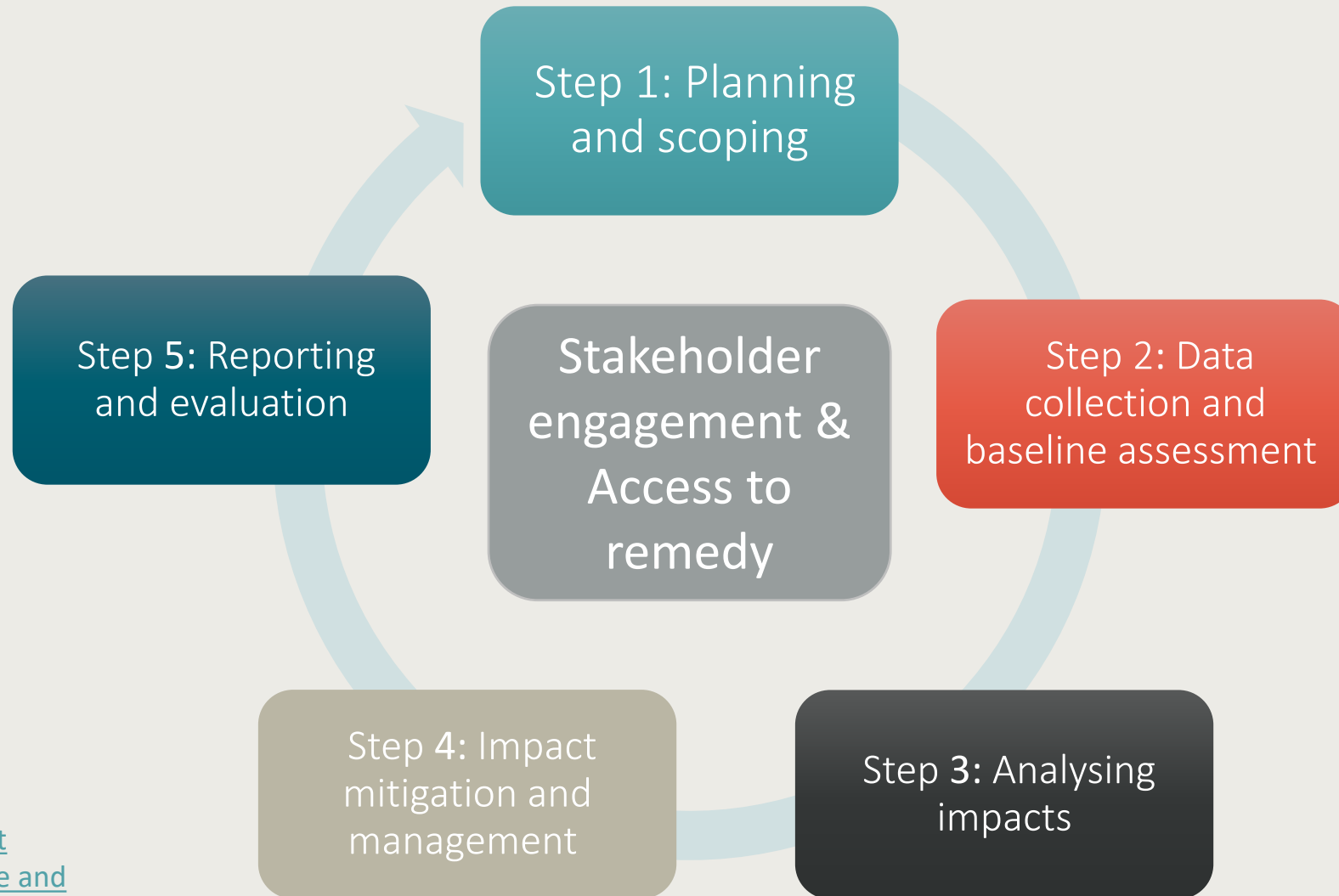


- Identify, avoid and address adverse human rights impacts
- Establish meaningful dialogue between stakeholders in a particular context, including through developing joint actions
- Facilitate capacity building and learning of internal and external stakeholders involved
- Enhance the transparency and accountability of business through documenting the impacts that have been identified and the actions taken to address these
- Empower rights-holders to hold business to account for adverse human rights impacts

10 KEY CRITERIA FOR HUMAN RIGHTS IMPACT ASSESSMENT

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

HUMAN RIGHTS IMPACT ASSESSMENT STEPS



[More information:
Human rights impact
assessment guidance and
toolbox | The Danish Institute
for Human Rights](#)

STEP 1: PLANNING AND SCOPING

- Understand the business project or activity
- Understand the country, regional and local human rights context
- Understand who the relevant stakeholders are and the relations among them
 - Rights holders, specially the vulnerable ones
 - Duty bearers analysis

Mostly desktop
TERMS OF REFERENCE



STEP 2: DATA COLLECTION AND BASELINE DEVELOPMENT

DEVELOPING A HRIA BASELINE



Field Work and Interviews

Qualitative and quantitative indicators

STEP 3: ANALYSING IMPACTS

ESTABLISHING IMPACT SEVERITY

- Number of people affected
- Seriousness of the impact
- Vulnerability of those affected
- How difficult is to remediate



BUSINESS CONNECTIONS TO HUMAN RIGHTS IMPACTS

Establishing complicity

- Caused or contributed to the human rights abuse(s) by enabling, exacerbating or facilitating the abuse
- Knew or should have foreseen that human rights abuse(s) would be likely to result from its conduct; and
- Was proximate to the human rights abuse(s) either geographically or through the strength, duration or tone of its relationships.



STEP 4: IMPACT MITIGATION AND MANAGEMENT

- Planning and resourcing for impact management
- Developing actions to address impacts
- Outline resources and responsibilities

Some mitigations can better be addressed through collective actions

Responsibility is still by individual companies





Part 1 – Key Messages

- Human rights impact assessment is a part of a company's human rights due diligence
- Human rights Impact Assessment looks at the impacts to rights-holders – not business
- Human rights should be considered both in the content and the process of the assessment
- There are different possible approaches and scopes for a human rights impact assessment. Consider your options carefully.



Break

PART 2

HUMAN RIGHTS IN IMPACT ASSESSMENT

Q&A



PART 2 OVERVIEW

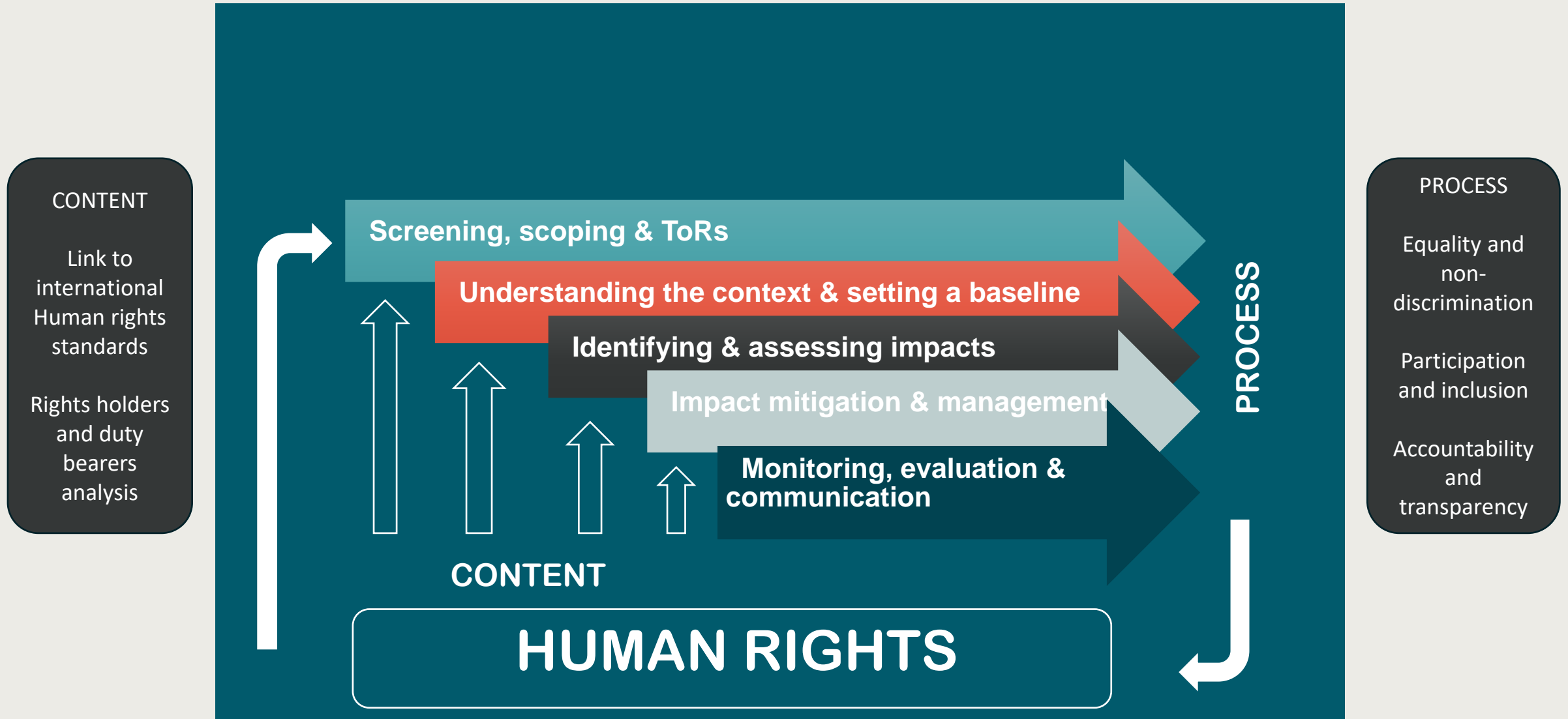
- **Human rights based approach integrated in an ESIA**
- Basic information and considerations

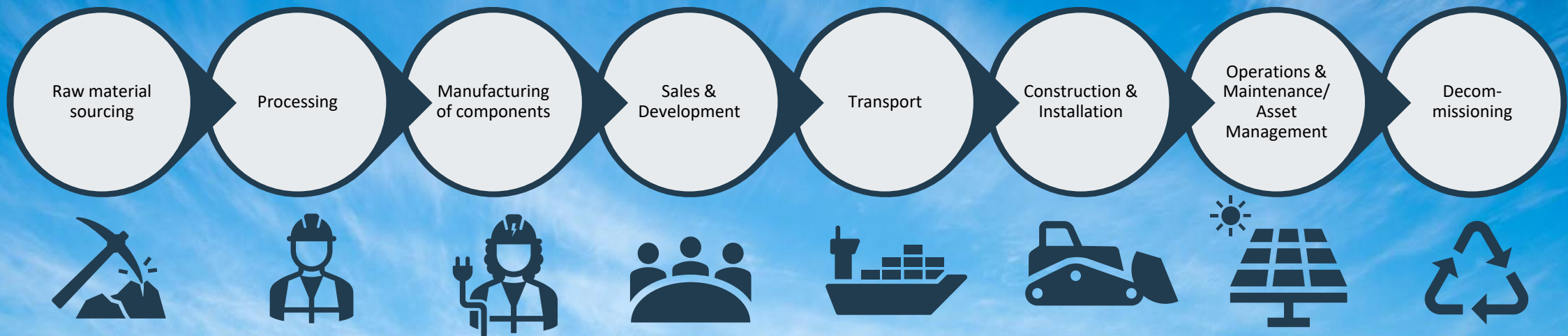
- **Exercise**

- **Q&A**

- **If we have time: Human rights based approach integrated in an ESIA (cont.)**
 1. Scene setting
 2. Context analysis
 3. Scoping considerations
 4. Baseline
 5. Assessment of impacts
 6. Priority for action

INTEGRATING HUMAN RIGHTS INTO IMPACT ASSESSMENT

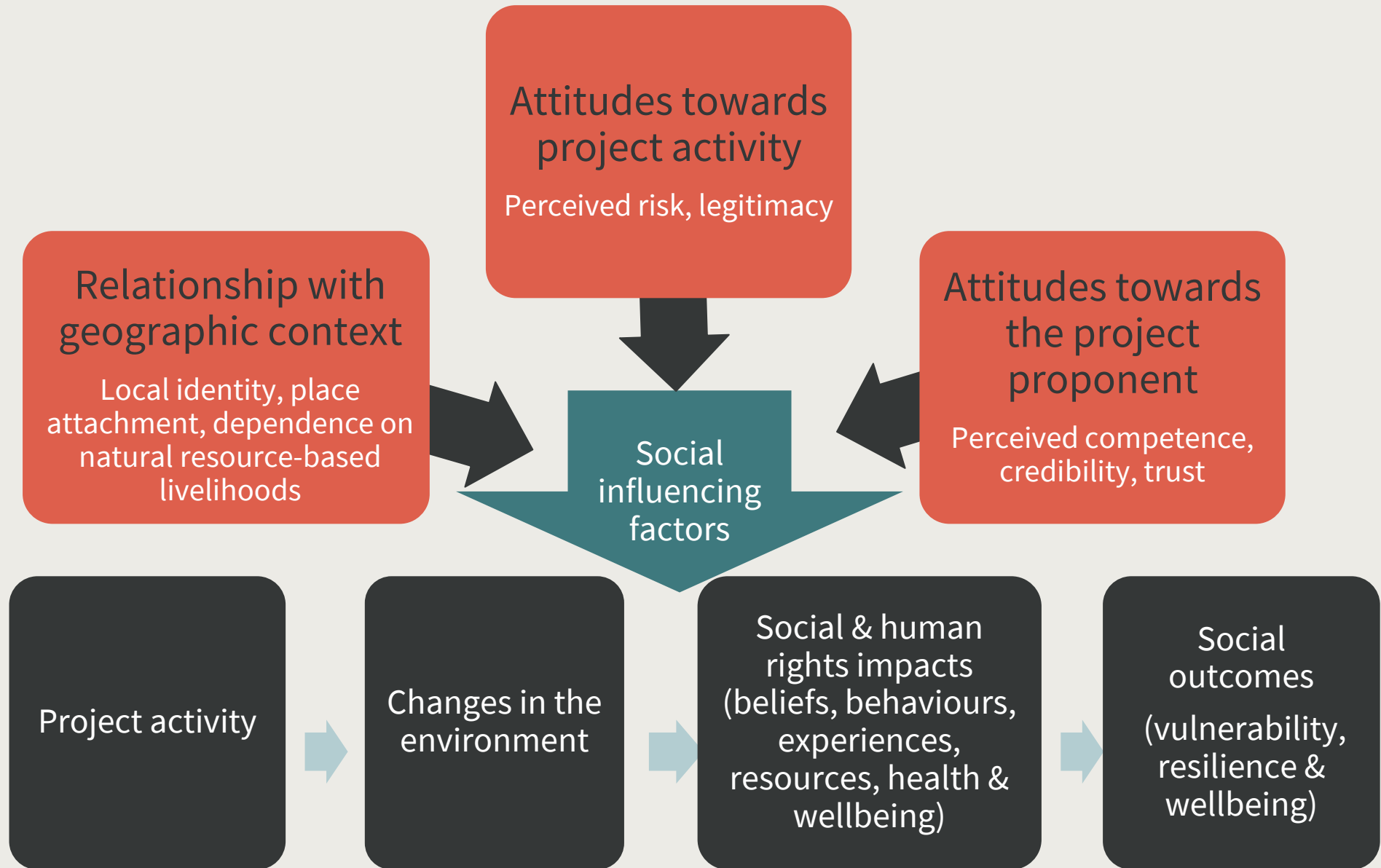




WHICH ACTIVITIES OR PHASES?

TIMING: ONGOING? FUTURE? BOTH?





SCENARIO EXERCISE I

You are the HR Director of a large Coffee company in Europe. The coffee is imported by European Coffee traders with whom you have a well established working relationship. The trader company has a long standing relationships with local coffee producers.

Coffee is imported mainly from Brazil and Vietnam (80%), but high quality coffee is also imported from Ethiopia, Kenya, Colombia, Honduras and Guatemala. Coffee grains are pre-processed in-country and roasted in Europe.

Known risks of coffee production include child labour; health, safety and environmental impacts related to pesticide use; persistent poverty among independent producers; poor labour conditions of temporary workers; deforestation and biodiversity loss.

You know which are the human rights context and general sector-specific risks at each country but have never done a HRIA. The company needs to prepare for CSRD and wants to develop both Human Rights capacity and procedures.

You decide to develop the company first HRIA.

SCENARIO EXERCISE II

A. How do you start the process?

1. Map and rank HuRi risks at each step in the value chain
2. Map and rank HuRi context risks in every country
3. Discuss with the Trader
4. Contract an HRIA expert

B. Which type of HRIA and scope would you implement?

1. Sector Wide Impact Assessment in the country where I have less information
2. Sector Wide Impact Assessment in the country with highest contextual risk
3. HRIA of the full value chain in one region of a country
4. HRIA in one or several farms
5. HRIA on the value chain step with most severe risks

SCENARIO EXERCISE

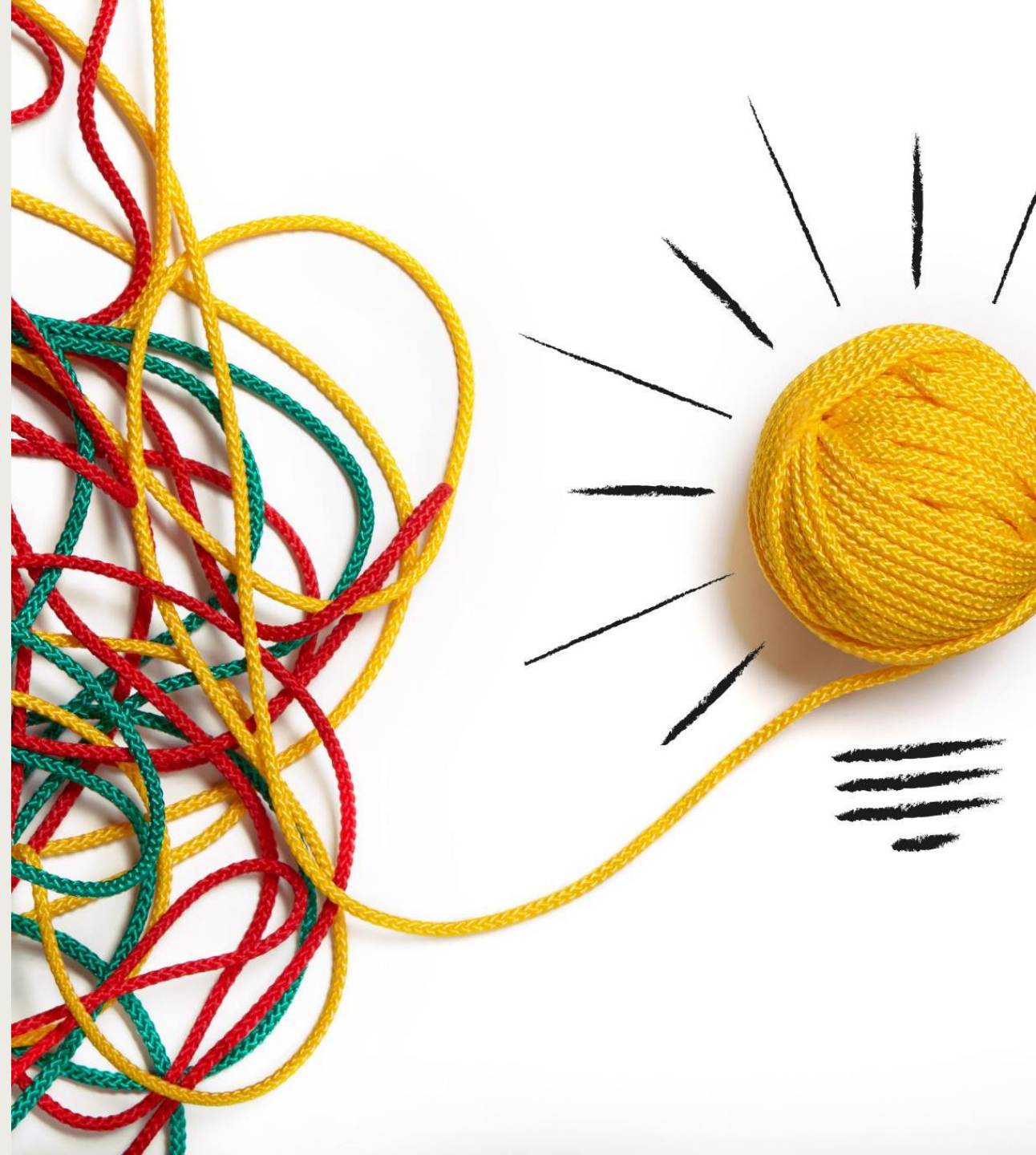
- C. Would you involve the coffee trader in the implementation of the HRIA? Why?
- Yes
 - No
- D. Rank which skills would you require for the HRIA team?
1. Knowledge of the coffee sector
 2. Experience interviewing children
 3. Women in the team
 4. Human rights expertise
- E. The HRIA has identified significant number of woman headed houtholds among the producers and systemic child labour in the harvesting process in one of the countries. What do you do?
1. I disengage from the country
 2. I disengage from producers where child labour has been identified
 3. I work with local industry associations
 4. I work with local specialised NGOs to address the issue within my producers.



Joint discussion

Main learnings/takeaways

Any aha moments?





Hardback

Handbook on Human Rights Impact Assessment

Research Handbooks on Impact Assessment series

Edited by Nora Götzmann, Senior Adviser, Human Rights and Business, The Danish Institute for Human Rights, Denmark

Publication Date: 2019 | ISBN: 978 1 78811 999 3 | Extent: 512 pp

Human rights impact assessment (HRIA) has increasingly gained traction among state, business and civil society

[Handbook on Human Rights Impact Assessment \(e-elgar.com\)](https://www.e-elgar.com)