

Training Course Proposal for IAIA'15

Florence, Italy, 18-19 April 2015

Section 1 – Basic information

(a) Course title: **Human Rights and Impact Assessment**

(b) Level: (foundation, intermediate or advanced)

Intermediate.

(c) Prerequisites for participants (all proposals for courses at the intermediate and advanced courses must list necessary prerequisites):

There is no specific prerequisite, however it is presumed that participants will have a general understanding of impact assessment.

(d) Language of delivery: English

(e) Duration: 2 days

(f) Maximum number of participants:

Maximum 30 (but we note that to some extent this depends on the room configuration and the acoustic quality in the room)

(g) Is each participant required to bring a laptop?

No requirements.

(h) Name and contact details of each trainer, including whether each is an IAIA member and has signed IAIA's Code of Conduct.

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Both trainers are dedicated IAIA members, and both have signed the Code of Conduct.

Section 2 – Course description

- (a) Summary of the purpose(s), content, and anticipated learning outcomes of the course (maximum 300 words). Please include within the text the level of the course and its prerequisites. This text will be published on the IAIA14 web site.

This two-day, intermediate level master class outlines the human rights issues associated with large projects (with an emphasis on the extractive industries), and provides participants with practical ways to operationalise the corporate responsibility to respect human rights as established in the *United Nations Guiding Principles on Business and Human Rights*, which were developed by Prof John Ruggie (who received the IAIA 2014 Global Environment Award). The course seeks to bring human rights issues into the impact assessment field of practice and, by using integrated impact assessment methods, will provide an effective way to identify the human rights issues of projects. The master class is designed for practitioners involved in the impact assessment of private sector projects who have some understanding and knowledge of social impact assessment methodologies and practice and who want to increase their knowledge of human rights issues. This can include: those individuals within companies or institutions (e.g. financial institutions) who are responsible for commissioning and overseeing impact assessments; and internal and external practitioners that carry out impact assessments. The course has been developed as a partnership between the Danish Institute of Human Rights and the Community Insights Group.

- (b) Detailed description of the course structure and content (2-5 pages), including an outline of participatory and/or case-study based exercises. Interactive approaches to courses are strongly encouraged.

Utilisation of participatory methods

The training program is designed to have an effective blend of instruction and participatory process, and uses a real life case study as a central component of the learning process. The trainers establish a friendly supportive environment which enables participation by all, being mindful of the cultural background and personal learning styles of the participants. The experiences of the participants are utilised by encouraging personal contribution and general discussion. Learning is facilitated through the use of table-based group work.

Details of case study exercise

After much consideration of the many contenders for a case study, the trainers have selected the Cerrejón mine in Colombia as the case to use as an indicative example. The handout resource for the case study is included below. A video that discusses some of the issues is shown to give participants a sense of what the context is like.

Outline of structure and content

The general outline of the course is as follows.

Day 1

1. Introduction

What are the UN Guiding Principles on Business and Human Rights and the corporate responsibility to respect? What are the differences and synergies between social impact assessment and human rights impact assessment? What are the considerations in assessing & addressing human rights impacts? Where does impact assessment sit in the context of a broader human rights due diligence process, and to grievance mechanisms and access to remedy? What does a human rights-based approach to impact assessment look like? What are the course assumptions on 'good practice' ESIA?

2. Introduction to the Case Study

3. Screening & Scoping

Tools to apply during screening to decide when to do stand-alone vs integrated human rights impact assessment; and to identify the human rights themes that need to be covered in an integrated assessment.

4. Baseline

Tools to assist with identifying rights-holders and duty-bearers; analysing vulnerability of rights-holders and institutional capacity of duty-bearers; benchmarking against international human rights and identifying existing access to remedy; and identifying the additional scope of issues to inform data collection and where to find the information.

Day 2

5. Impact Prediction & Assessment

Tools to help identify the human rights implications of identified impacts; and to supplement significance assessment with evaluation of human rights impact severity.

6. Mitigation & Management

Tools and examples to help understand the UN Guiding Principles concepts of causation, contribution, direct linkage and leverage; including the relevance to mitigation strategies and management plans.

6. Terms of Reference

Guidance on how to design a ToR for an impact assessment that integrates human rights and uses a human rights-based approach.

Case Study: Cerrejón Iiwo'uyaa Expansion Project, Colombia

Introduction

This document describes a proposed extension (the Iiwo'uyaa Expansion Project) of the current Cerrejón mine in Colombia to enable discussion of the human rights and social issues likely to arise from the proposed extension.



Project Details

Cerrejón, a consortium involving Anglo American, Xstrata and BHP Billiton, is an integrated mining and export complex in La Guajira, on the Caribbean coast of Colombia. It includes an open-pit coal mine producing 32 million tons per year, a 150 km railway, and a port handling 360 loadings/year of ships of up to 180,000 tonnes. The mining area covers 69,364 hectares extending 50 km along the Rio Ranchería valley. The project currently provides jobs for around 10,000 workers, 99% of whom are Colombian nationals. There are also at least 30,000 jobs likely to be created through goods and services contracting and in the supply chain. Paying taxes and royalties of over USD 580 million per annum, Cerrejón is the biggest taxpayer in Colombia.

In order to access deposits of high quality coal under the Rio Ranchería, an expansion project is proposed. This will include the following activities:

- creation of two new mine pits;
- construction of two new waste rock disposal areas;
- expansion of mine support infrastructure;
- expansion of the railroad and the port facilities;
- re-routing 26 km of the river, which will affect 115 communities, including 12 Indigenous communities;
- construction of a dam on the Palomino River to increase water security, because the new open pit will reduce groundwater reserves;
- company-led resettlement of 19 communities, 4 of which are Indigenous Wayúu.



Anticipated changes

(incomplete, listed here to initiate discussion)

- an additional 4,300 jobs during construction and 5,000 full time jobs in operation (sourced from 60% La Guajira, 12% Wayúu);
- payment of \$4.3 billion in additional income tax and \$2.0 billion in royalties to the Colombian government;
- increase in the direct physical footprint by 5,900 ha;
- removal of 3,500 ha of native vegetation and associated habitat loss;
- a likely 60% reduction in water flow in the river;
- the mining activities will expose the aquifer leading to a loss of 45% of groundwater (some 34 million m³). What will ultimately happen to this water is unclear, but the level of the aquifer will be lowered leading to a drying-off of many community wells;
- increased dust and noise, especially in adjacent communities and along the railway;
- more than 50 significant heritage sites affected.

Contextual information

The population of La Guajira is 681,575, of which 45% is Indigenous. The non-Indigenous population lives mostly in towns, with scattered Indigenous settlements, a small population of Afro-Colombians, and several campesino (rural peasant) communities. A fully-equipped residential compound for 3,000 inhabitants caters for high-ranking technical and administrative staff and their families.

Coal mining at Cerrejón contributes 41% of provincial economic activity, and its taxes provide 84% of the revenue of provincial and municipal governments. Other economic activities in the area include herding (cattle, sheep and goats) and the selling of goods and services in the municipal centres. There is also a large informal sector, including petrol smuggling into Venezuela. Agriculture and fishing are largely subsistence rather than commercial. Men are primarily responsible for herding activities, whereas women and the elderly hold most responsibilities for agricultural activities. Upstream from the mine, Ranchería River water is used for domestic consumption and agriculture. Downstream, in the arid low basin, 1,640 wells provide the main source of water supply for domestic and agricultural purposes.

La Guajira faces many social challenges: the porous border with nearby Venezuela is a popular route for narcotics gangs and guerrilla groups, fueling violent conflicts among Wayúu clans. There is an evident association between changes in the mining project and instances of armed conflict between public military forces and local communities, i.e. changes in project activities tend to lead to increased instances of armed conflict. Members of human rights and Indigenous activist NGOs, most of whom are women, are the most common victims of instances of violent conflict. Furthermore, Cerrejón equipment is regularly attacked by guerrilla groups.

Case Study: Cerrejón Iiwo'uyaa Expansion Project, Colombia

There are also divisions between communities in terms of support for and opposition to the proposed expansion project. For example, company-led consultation processes identified that of the communities who will be impacted by the re-routing of the river, some supported the re-routing of the river while others opposed it.

Around 67% of the La Guajira population live in poverty, with 37% classified as 'indigent' (i.e. income insufficient to cover basic needs). Among the most marginalised are the region's Indigenous Wayúu people. Only 21% of the Indigenous population have access to piped water, 12% to sewerage, and 13% to garbage collection.

The Wayúu People

Most Indigenous people of La Guajira are Wayúu, a recognized Indigenous group in Colombia. They speak their own language, Wayuunaiki. A matrilineal society of 32 clans, they are largely a rural, pastoral society based around goat herding, fishing and salt production. Wayúu extended families live in isolated autonomous traditional units (rancherías) located far apart to prevent the mixing of goat herds. Education levels and knowledge of Spanish are low, but higher among women than men. Wayúu women are skilled weavers, and besides fetching water and firewood, are responsible for selling their produce in markets. Most rancherías maintain an orchard. Wayúu spirituality emphasises relationships with the land, water (especially Rio Ranchería) and sacred sites, e.g. family burial grounds.

Impacts of coal on ecosystem services of the Wayúu

Mining activities are fragmenting the traditional territories of Indigenous communities, disturbing their use of space and disrupting their food-gathering and herding circuits. This has the potential to reduce their ability to sustain their traditional ways of life, and places severe stress on their ethnic integrity and wellbeing, generating intra and inter-ethnic conflict over local natural resources and the economic benefits generated by the mine. Mining activities also disrupt Wayúu social activities, games and oral traditions, and spiritual beliefs, especially those related to the river.

Access to drinking water in La Guajira is significantly lower than in the rest of the country. Natural water sources, permanent or intermittent, have great value for livelihoods and for culture and spiritual life. Access to water and water infrastructure define power and influence, as they allow for larger goat herds, and possibilities for development. For the Wayúu, goats and other livestock mean wealth and prestige. Besides being a source of income and food, goats provide multiple services, being central in the systems of conflict prevention and resolution, reciprocity and redistribution. Goats are used, for example, to pay brideprice, and to settle disputes.

Yosú, or Dagger Cactus, (*Stenocereus griseus*) is the preferred source of wood (*yotajora*) and roofing for traditional houses. It is also planted to create 'living fences' around pasture blocks, and young shoots are fed to goats. The fruit (*iguaraya*) is popular among the Wayúu. Communities complain that the mine has restricted access to areas rich in *yotajora*, and argue that coal dust impedes its vigor, thus reducing the availability of goat food and construction materials, now being replaced by metal and plastic scrap from the mine.



Labour Issues

In 2013 a coalition of community organisations and trade unions led by Sintracarbon (a trade union representing about half the employees), protest groups, and consumer associations called for a civic strike in La Guajira, arguing that mineral revenues have failed to deliver benefits. Claims by workers include:

- Tercerisation (third-party contracting): About 60% of the workers at Cerrejón are hired by third-party contractors in over 300 companies. They earn 30% less than direct employees and it is claimed they are prevented from joining unions.
- Health: There are more than 700 workers suffering from work-related diseases, as confirmed by independent medical diagnosis. However, Cerrejón fails to acknowledge these occupational diseases. A class action has been initiated. Workers also demand that the company provides health care services that are currently not available in La Guajira due to limited government capacity to provide such services.



Disclaimer: The information presented here was drawn from various publications and the details may not be completely correct. Presented here for teaching purposes only, the intention of the case study is to be a story that is generally indicative of issues facing projects around the world.

(c) Description of the materials participants will receive prior to or during the course

The materials to be provided include: an agenda/program, a case study description, a quick reference guide on human rights, a USB with copies of the PPTs and PDFs of useful resources.

A key resource for the course is the guide “Integrating human rights into environmental, social and health impact assessments: A practical guide for the oil and gas industry” (DIHR and IPIECA, 2013), which will be provided to participants to support their learning. That guide can be downloaded from: <http://www.ipieca.org/publication/integrating-human-rights-environmental-social-and-health-impact-assessments-practical-gu>

(d) Description of any technology/equipment required to facilitate this course beyond the usual flip charts and PowerPoint projectors

None.

(e) Provisions for pre-conference and post-conference communication with participants. Trainers are expected to register for and attend the full conference to allow for maximum face-to-face communication immediately following course delivery.

The trainers will attend the full conference and will make it clear to participants that they are welcome to approach them for further discussion during the conference or afterwards.

Pre-conference communication will include a welcome email and a small amount of optional preliminary reading material, which will be distributed on receipt of the list of attendees from the conference organisers.

Post-conference communication will comprise any materials and resources that come to attention during the course that were not provided in the workshop materials.

Section 3 – Qualifications of the trainers

(a) An abridged curriculum vitae (maximum 1 page) for each trainer.

Nora Gotzmann

Nora Gotzmann, a qualified lawyer, works as an Advisor at the Danish Institute for Human Rights, in the Human Rights and Business Department. She is also an adjunct researcher at the Centre for Social Responsibility in Mining, University of Queensland, Australia. She works with multinational companies to improve understanding of human rights risks and impacts and to develop ways of integrating human rights into business practice. Her work focuses primarily on the extractive industries, working in a range of international corporate and site-level settings. Nora also works with civil society actors and National Human Rights Institutions to build capacity to engage on human rights and business.

Nora's current project and research work focuses on: assessment of human rights risks and impacts, community-company grievance resolution, Export Credit Agencies, human rights training for business and National Human Rights Institutions, and business for development.

Prior to joining the Danish Institute for Human Rights, Nora worked at the Centre for Social Responsibility in Mining, where her work focused on human rights due diligence and community-company grievance resolution. She has also contributed to the work of the former Special Representative of the UN Secretary-General on Business and Human Rights, Prof John Ruggie, on several topics, including the Corporate Law Tools Project.

Ana Gabriela Factor

Gabriela is a senior consultant at the social performance and social impact assessment consulting firm, Community Insights Group, and is currently based in Copenhagen, Denmark. Gabriela is an Environmental and Social Impact specialist who has over 16 years of working experience in international environmental, development and extractive projects in Latin America, South East Asia, Africa and the Arctic. She is Technical Committee member of the Community Relations Research Unit at the Centre for Social Responsibility in Mining, University of Queensland.

In addition to her experience in leading and carrying out social and environmental impact assessments and management plans, Gabriela has hands-on experience with the training of technical staff, governmental officers and civil society organizations in environmental and social issues, gender mainstreaming and elaboration and review of ESIA. Gabriela has provided numerous training courses, reviewed training programs and has contributed to curricula for the training components of projects in Ghana, Bolivia, Laos, Uruguay, among others. Course organisers and clients include the World Bank, DANIDA, FINIDA, SIDA and UNOPs (the UN's operational arm). Gaby is an active IAIA member and was one of the trainers of the conference courses: "Ecosystem Services in Impact Assessment" at the 2013 IAIA Conference in Calgary; and "Social Impact Assessment and Management in Spanish" at the 2014 IAIA Conference in Vina del Mar.

Gabriela's experience includes the assessment of impacts during construction and operation phases of major projects, stakeholder analysis, design and implementation of engagement plans, grievance mechanisms, multi-stakeholder consultations and social investments. Gabriela is currently working on environmental and social due diligences, social and human rights performance and impacts of NGOs, oil companies and renewable energy projects in Africa and Latin America.

Gabriela has a Masters in Environmental Engineering from the Technical University of Denmark and holds qualifications on gender and health impact assessment. She is a native Spanish speaker, fluent in English and Danish, and speaks some Portuguese.

(b) History of the course: title(s), number of times, where and to whom it has previously been delivered and evidence of its success, number of attendees.

The course was first developed in late 2013 and early 2014 in response to an evident need for training on addressing human rights issues in projects. The development of the course was initiated by the Danish Institute for Human Rights in conjunction with the Community Insights Group and Prof Frank Vanclay (University of Groningen). The course was piloted/trialled 25-26 June 2014 in Copenhagen with 15 or so people from companies such as BP, Eni, London Mining, Maersk, Respol, Statoil, Shell, Tullow Oil and organisations such as IPIECA (the oil and gas industry association for environmental and social issues) and the Danish Export Credit Agency. The participants were encouraged to provide detailed feedback which has been considered in our revision to the course.

(c) If the course is new, give history of a comparable course, with the same information as in 3b.

See above.

Section 4 – Commitment of the trainers

- (a) Identify how many times any course by any of the trainers has been offered. If applicable, explain the reasons why a course offering has been cancelled.

This is a new course that has been offered once as a pilot course. No course offered by the trainers has ever been cancelled.

- (b) Similarly, identify earlier approved training courses you were involved in organizing, but where changes in trainers or course structure were amended, and explain the reasons for this.

No course offered by the trainers has resulted in a significant departure from the advertised course.

- (c) Indicate the level of commitment to give this course at IAIA15 by noting any circumstances that would cause the course to be cancelled (other than if the minimum enrolment is not reached) or circumstances that would cause the instructor(s) not to be in Florence to offer the course. Note also that courses that require a minimum of more than 10 participants will be at a disadvantage.

The trainers have a high level of commitment to this course and to IAIA in general, and will attend the conference regardless of whether the course proceeds or not. Both trainers are EU citizens and do not need a visa for entering Italy. Because the course has been designed to be able to be delivered by a person with human rights skills and a person with impact assessment experience, it can be offered by a range of people, which gives it much flexibility. Therefore it is extremely unlikely that the course would be cancelled under any foreseeable circumstance.

- (d) Note backup strategy in the event an instructor must withdraw unexpectedly

As indicated above, the course has been developed so that it can be offered by any one of several people from the Danish Institute together with any one of several people associated with Community Insights Group. Thus, in the event that one of the nominated trainers is required to withdraw unexpectedly, a replacement trainer would be engaged.

- (e) Statement agreeing to provide free places to students based on formula described in the “Student participation” paragraph below.

We agree not only to the IAIA policy (which we actively endorse), but are happy to accept up to three bona fide students regardless of the number of other participants in the course.