

## **Corporate HRIA - Lessons from the Field**

### **I. ABSTRACT**

Since 2008, when human rights impact assessment (HRIA) was put forth as a major component of corporate human rights due diligence, significant gains have been made in the field. These are illustrated partly by the proliferation of discussion about HRIA and more holistically through case studies. This paper will present a brief summary of recent developments in HRIA policy and show concrete gains made in the completion of field-based HRIAs as exhibited in case studies.

### **II. BACKGROUND**

Although first conceptualized as a government policy tool in the early 1990s (Madsen, 1991; Bollen, 1992; Landman, 2004; Adcock and Collier, 2001; NORAD, 2001; Walker 2009; Gay, 2008; Hunt & MacNaughton, 2006), human rights impact assessment (HRIA) has a much shorter history in the private investment sector. Starting ten years ago with BP's commissioning of an HRIA for its Tangguh Liquid Natural Gas project in West Papua, Indonesia, companies, investors, CSOs and governments have begun investigating HRIA as a risk detection and mitigation tool and as a possible addition to the suite of impact assessments conducted prior to project development (BP, 2004; On Common Ground, 2010).

HRIA became a recognized component of human rights due diligence in 2008, with the United Nations Human Rights Council's release and unanimous endorsement of a *Framework for Human Rights and Business*, which called on companies to demonstrate that they respect human rights in their operations (Ruggie, 2008). With the United Nations Human Rights Council's 2011 endorsement of the *Guiding Principles* for business and human rights, HRIA became a formal component of corporate human rights due diligence (Ruggie, 2011). The *Guiding Principles* and human rights due diligence have been adopted and endorsed by a host of corporate and multi-government associations (ICMM, 2008; IPIECA, 2008; FAO, 2012). In addition, the *Guiding Principles* have now been incorporated into the International Standards Organization's suite of standards ISO 26000, and the Global Reporting Initiative's performance indicators (GRI, 2011). GRI guidelines now require companies to state the percentage of operations that have been assessed for human rights impacts and report on the extent and quality of those assessments.

Financial institutions have also adopted human rights due diligence principles to guide their investment decisions. The IFC Performance Standards now note that some high-risk investments will require HRIAs (IFC, 2012). Some Equator Principles banks have recognized that their due diligence responsibilities have broadened from the environmental and social spheres to the comprehensive human rights sphere (BBVA, 2012). While still developing, the human rights impact assessment component has undergone significant clarification in recent years, owing partly to increasing availability of case studies.

### **III. CASE STUDIES**

The case studies featured here were produced by NomoGaia, a not-for-profit think tank. NomoGaia's methodology is heavily focused on field research and was informed by tools produced by the IFC, the Danish Institute for Human Rights, Rights & Democracy, International Alert (conflict assessment) and social impact assessment frameworks. In addition, human rights assessments produced without published methodologies were analyzed (On Common Ground, 2010; BP, 2004). The case studies featured in this paper were selected to present a diversity of human rights challenges in different locations and industries. All case studies are available in full online at [www.nomogaia.org](http://www.nomogaia.org).





















Assessment was carried out using NomoGaia's methodology and conducted in five phases: Scoping, Cataloging, Impact Assessment, Verification and Monitoring. These phases are detailed and iterative and are described in detail in NomoGaia's Methodology for Human Rights Impact Assessment, available online (Nomogaia, 2011). A minimum of 40 rightholders and stakeholders were consulted for each assessment – in interviews and focus groups. The summary assessment rates impacts ranging from “red” (significantly negative), through the color spectrum to “blue” (significantly positive). High and extreme uncertainty in the ratings caused by future events are additionally given a “grey” and “black” rating.

#### **Case Study 1: Green Resources Uchindile Eucalyptus Farm – Understanding and Addressing Worker Grievances.**

Green Resources is a Norwegian company with operations in Mozambique, Uganda, Tanzania and South Sudan. As a European supplier of carbon credits and a recipient of IFC funding it is subject to numerous audits, which had been conducted with favorable results for several years prior to NomoGaia's commencement of an HRIA. The project under assessment, Uchindile Forest, was the company's oldest operation and was preparing for a transition from growth to harvesting at the time of assessment (February 2009 to December 2010).

The company anticipated a positive assessment and reacted coolly to numerous negative impact scores at Uchindile. This initial skepticism was overridden several months later when a disgruntled worker set fire to 100 acres of eucalyptus trees, citing numerous concerns from assessment as the impetus. Management swiftly implemented recommendations issued by NomoGaia's team. A follow-up assessment 18 months later revealed that worker dissatisfaction had reduced markedly with the increase of wage rates to levels recommended in the HRIA. Provision of midday meals, improvement in worker transportation, and improvement in worker access to water had increased energy levels, morale and goodwill within the workforce. Negative impacts on the Rights to Housing, Just Remuneration, Adequate Standard of Living and Education were mitigated to neutral or positive impacts. Negative impacts on Rights to Favorable Working Condition, Unionization, Health and Nondiscrimination required further mitigation, but the company has expressed an intention to improve performance with regard to these rights and has requested follow-up monitoring to demonstrate ongoing improvements. Below is the summary of ratings in which the initial assessment and the follow up monitoring can be compared:

TABLE 1





<b>Human Rights Impact Ratings – Green Resources Uchindile</b>		
	Rating	Monitoring
Right to Favorable Working Conditions	 Red	 Orange
Freedom of Association/Union/Strike	 Red	 Orange
Right to Housing - Uchindile	 Orange	 Green
Right to Housing - Dormitories	 Red	 Yellow
Right to Adequate Standard of Living, Just Remuneration	 Orange	 Yellow
Right to Education	 Orange	 Green
Right to Health - General	 Orange	 Orange
Right to Health - HIV	 Red	 Red
Right to Water	 Yellow	 Yellow
Nondiscrimination	 Orange	 Orange






















### **Case Study 2: Paladin Kayelekera Uranium Mine – Understanding and Addressing the Human Rights Implications of Epidemics.**

Kayelekera, a uranium deposit with an estimated 10-year mine life, represented a significant expansion for Paladin, a mid-sized uranium mining company based in Australia. It was the company's second mine in Africa, but its first in a country with minimal capacity and low development, from both an infrastructure standpoint and a public welfare standpoint. Paladin recognized early on that training local workers would be a challenge, but the company did not recognize that maintaining the health of that workforce would also fall to them. HRIA, conducted between March 2009 and October 2011, revealed not only the extent to which the company might be responsible for bringing HIV to a previously underexposed area, but also the scale on which an HIV epidemic would affect the social fabric of the Kayelekera community.

Assessment determined that HIV would affect Rights to Health, Education, Nondiscrimination, Work and Public Participation. These impacts, it was found, would likely be compounded by the impacts of in-migration, and gender disparities in hiring. The company was swift to implement the HRIA's recommendations and instituted an HIV policy and Human Rights Policy in the months after assessment. The HIV program has expanded steadily for three years, as have women's empowerment programs. Here are the initial and follow-up ratings:

TABLE 2

<b>Human Rights Impact Ratings – Paladin Kayelekera</b>		
	Rating	Monitoring
Adequate Standard of Living, Just Remuneration	 Yellow	 Green
Freedom of Association/Union/Strike	 Green	 Yellow

Right to Favorable Work Conditions	 Yellow	 Green
Right to Housing	 Yellow	 Green
Nondiscrimination	 Orange	 Yellow
Right to Health - General	 Yellow	 Green
Right to Health - HIV	 Red	 Orange
Right to Water	 Green	 Blue
Freedom from Fear	 Yellow	 Yellow
Right to a Clean Environment	 Yellow	  Yellow
Right to Education	 Orange	 Green
Right to Work	 Green	 Green

### **Case Study 3: Dole El Muelle Pineapple Plantation – Reinforcing Positives and Exposing Weaknesses in Corporate Actions.**

Assessment of Dole's El Muelle pineapple plantation in San Carlos, Costa Rica (conducted between February 2010 and December 2011) presented a striking contrast to assessments in countries with less infrastructure and fewer social supports. In Costa Rica, the government recognizes its duty to fulfill the Rights to Health, Water and Food for its citizens. Complementing this proactive government stance, the company commits itself to high standards for labor conditions.

The human rights assessment revealed positive impacts on every labor right, sometimes finding that the company proactively empowered workers in their private lives, beyond providing skills-training, favorable work conditions and desirable wages. Employee families benefitted from healthcare, education programs, and the Project's generous approach to worker transportation, allowing them freedom to live in any of the surrounding communities within an hour of site.











































Negative impacts were restricted to non-employees who lived along major transportation routes for the Project. Dust, noise, pesticide and herbicide sprays and road damage resulted in negative impacts to the rights to an adequate standard of living, privacy and education. School children and elderly shopkeepers were disproportionately impacted. Additionally, water tables in the area had been dropping, which some residents attributed to pineapple cultivation. The veracity of these claims could not be verified, because neither the company nor the government had recorded water table changes.

Given the overall positive bent of the assessment, the company was slow to act on recommendations. However, as labor discontent increased in the months after assessment, when layoffs became increasingly frequent and conflicts with human resources personnel were left unresolved, the company expressed growing interest in the issues addressed in assessment. Recommendations calling for improved monitoring of dust and water were implemented. Shortly thereafter a water treatment facility was constructed on site. Management has turned to assessors for recommendations to address dust issues, recognizing that their proposed solutions have been

ineffective. These improvements are reflected in the initial and subsequent ratings as shown below:

TABLE 3

**Human Rights Impact Ratings - Dole El Muelle**

	Rating	Monitoring
Right to Work / Nondiscrimination	 Blue	  Green
Equal Work for Equal Pay	 Blue	 Blue
Just Remuneration/Holidays with Pay/Favorable Work Conditions	 Green	 Green
Freedom of Association	 Green	 Green
Right to Favorable Work Conditions	 Green	 Green
Right to Housing (General)	 Green	 Green
Right to Housing (San Jorge)	 Red	  Red
Right to Health	 Green	 Green
Right to Clean Environment	  Yellow	 Green
Right to Clean Air (San Jorge)	 Red	  Red
Right to Clean Air (Other)	 Yellow	 Green
Right to Water (Santa Teresa and San Jorge)	  Orange	 Black
Right to Adequate Standard of Living (Employees)	 Green	 Green
Right to Adequate Standard of Living (Local Residents)	 Orange	 Orange
Right to Education (Workers' Children)	 Green	 Green
Right to Education (Local Children)	 Red	 Red
Right to Privacy (Communities)	 Orange	  Orange
Right to Privacy (Workers)	 Blue	 Blue

#### IV. CHALLENGES

NomoGaia conducted these assessments as a research entity with independent funding. As such, we had the flexibility to conduct assessment over a span of two to four years. In converting the methodology to a corporate tool, companies may be reluctant to accept a timeline that includes monitoring. Yet, as demonstrated above, ongoing monitoring repeatedly document improvement, which ultimately benefits the companies involved. At Kayelekera for example, ongoing monitoring revealed improvements in education quality at local schools and rapid increases in HIV testing and treatment. Companies have been grateful for ongoing monitoring, recognizing the opportunity to demonstrate progress.

## V. CONCLUSION

These case studies are not intended to exhaustively demonstrate the uses and value of HRIA. They do expose some of the areas where HRIA fills in gaps left by the standard suite of impact assessments and audits conducted on large-scale corporate projects. HRIA can comprehensively address the socioeconomic, health, political and security issues likely to accompany project development. This is partly because the human rights “lens” is broad enough to cover the wide range of topics connected with human rights. It is also because the fieldwork and rightsholders engagement is conducted rigorously. Perhaps most relevant to HRIAs effectiveness as a tool for companies is that it includes a ratings process that is clear and transparent, so that companies can understand precisely where their strengths and weaknesses lie within the human rights framework.

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