



© Photo: Rainforest Action Network

Part 2

Human Rights and the Oil & Gas Sector

Human Rights and the Oil & Gas Sector

Human Rights Impacts in the Oil & Gas Sector

Human rights are basic standards aimed at securing dignity and equality for all. Every human being is entitled to enjoy them without discrimination. They include the rights contained in the “International Bill of Human Rights” – meaning the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Those documents set out a range of rights and freedoms such as the rights to life, to freedom of expression, to privacy, to education, and to favourable conditions of work, to name a few. Internationally-recognised human rights also include the principles concerning fundamental rights set out in the International Labour Organisation’s (ILO) Declaration on Fundamental Principles and Rights at Work, which addresses freedom of association and collective bargaining, forced labour, child labour and non-discrimination. In addition, some potentially vulnerable or marginalised individuals and groups are the subject of international human rights instruments that help provide clarity on how human rights apply to them (for more on this, see [Section II-A](#)). (See [Annex 1](#) for a list of relevant instruments.)

Responsible oil and gas companies have become increasingly active in recent years in understanding and addressing the range of human rights issues linked to their operations. They recognise that they can both positively and negatively impact their staff, the workers in their supply chains, or the communities around their operations.

The O&G sector plays an important role in supporting development through the provision of energy and the generation of significant revenues. These revenues can in turn contribute to poverty reduction (if well managed) and the realisation of many human rights, including rights to work, to health, to an adequate standard of living and to education. The sector is also a significant employer of highly skilled workers. Moreover, O&G companies that respect human rights tend to have strong health and safety performance, reduced environmental effects from their operations, and sustainable relationships with local communities that benefit from their presence.

On the other hand, where O&G companies do not pay enough attention to human rights, they can and do have negative impacts. This can lead to very real costs for the individuals whose rights are affected. It can also bring costs to O&G companies themselves, as a result of operational delays, lawsuits, reduced employee satisfaction, lost opportunities in expansion or new investments, and reputational harm.

Several large companies have come together with governments and civil society groups to launch multi-stakeholder initiatives aimed at preventing negative human rights impacts and maximising positive ones in the extractive industry more broadly, most notably through the [Voluntary Principles for Security and Human Rights](#), and the [Extractive Industries Transparency Initiative](#). The global oil and gas industry organisation for environmental and social issues, [IPIECA](#), has also undertaken important work to develop tools and support good practice with regard to respect for human rights, as have some regional associations.

Operating Contexts and Host State Challenges

The extent to which O&G companies may be involved with negative human rights impacts will be heavily influenced by both their operating context and the practices of their business partners. Both factors will shape the policies, processes and practices they need in order to prevent and address such impacts.

The locations where O&G companies operate (whether on or off-shore) are determined by where resources exist. The exploitation of natural resources can generate large revenues that enable states to foster growth, reduce poverty and help ensure the realisation of human rights. However, in states where governance is weak, such exploitation may instead contribute to poverty, corruption, crime and conflict with all the associated negative impacts on individuals’ human rights. When states fail to meet their duty to protect human rights, the responsibility of O&G companies to respect human rights does not change; however, it can become all the more challenging for them to meet that responsibility in practice. The scale of these challenges depends largely on the extent to which:

- ▶ Appropriate legislation exists and is enforced in areas relevant to the sector's impacts such as the human rights of workers, environmental protection and land title and usage;
- ▶ There is rule of law, including access for victims of human rights abuse to justice;
- ▶ There is adequate regulation and oversight of public security forces;
- ▶ There are efforts to combat corruption and provide revenue transparency;
- ▶ The government protects human rights in the terms of investment agreements and has the capacity to ensure their implementation;
- ▶ There is a strong civil society presence.

Where these conditions are weak or absent, merely obeying domestic laws is unlikely to be sufficient to demonstrate respect for human rights. Companies will typically need to do further, enhanced human rights due diligence to meet the increased challenges, as will be discussed in [Part 3](#) of the Guide.

Business Relationships

Historically, the majority of companies directly involved in the production of oil and gas were international O&G companies. Today they are outnumbered by national O&G companies, most of which are wholly or partly state-owned. Of these national companies, some operate only within their home state while others operate in multiple countries. Many national O&G companies have only recently started to engage with human rights issues, recognising that they have the same responsibility to respect human rights as other companies in the sector. In addition, the state's role in their ownership and management means that the state duty to protect human rights is relevant to how their business is conducted.

O&G operations are generally long-term investments (often 40–50 years), based on agreements with the host state that are negotiated during the initial exploration phase. These agreements may affect the state's ability to protect human rights. They can also reduce or increase a company's ability to respect human rights throughout the life of the investment, for instance to the extent they constrain or enable meaningful consultations with communities in advance of a project, or set shared expectations for how all members of a joint venture should implement a project.

The majority of O&G operations are undertaken by joint venture partnerships between a number of international O&G companies or between international and national O&G companies. They often enter into agreements to jointly bid for the management of a certain asset and then reach a joint operating agreement to share the operational and financial burdens and risks of the project. One partner will be designated as the operator (often the one with the most significant financial investment). When operating outside their home states, international O&G companies are usually required to contract with the relevant national company. The national company may then act as the operator, with the international company providing technical or other expertise and/or financial support.

Companies in the O&G sector – in particular the larger ones – typically have numerous contractor relationships for O&G field services and other activities. Those contractors may be international, national or local. Contractors have their own responsibility to respect human rights. In practice, smaller contractors may be less aware of, or lack the capacity to meet, this responsibility. This poses risks to the O&G company that is relying on them, as will be discussed in [Part 3](#) of the Guide.

Understanding Potential Negative Impacts

While this Guide acknowledges the range of positive impacts that the oil and gas sector can have on human rights, respecting rights – that is, the avoidance of harm to human rights – is the baseline expectation of all companies. The Guide therefore focuses on the prevention, mitigation and remediation of negative human rights impacts.

The following matrix provides examples of the kinds of negative impacts that O&G companies may have. It is not intended to imply that every company will have these impacts, nor does it represent the full range of potential impacts of an activity. Rather, it is illustrative of the kinds of impacts that may arise and the rights that may be involved.

The matrix is structured in the following way:

- ▶ On the vertical axis, it lists a number of typical activities of upstream O&G companies;
- ▶ On the horizontal axis, it lists some of the key stakeholder groups that upstream O&G activities may impact upon;
- ▶ In each box it gives an example of an impact that the particular activity may sometimes have on the stakeholder group, and the human rights that can be affected.

The matrix aims to show that:

- ▶ Different types of activities can have quite distinct impacts on different human rights;
- ▶ Negative impacts can happen throughout the project life cycle, not just at the start;
- ▶ Different kinds of negative impacts can fall on different groups, and even on individuals within certain groups. Impacts can be more severe where individuals or groups are vulnerable or marginalised.

Analytical Framework for Assessing Potential Impacts of Company Activities on Stakeholder Groups

	Company Workers	Supply Chain/ Contractor Workers	Affected Communities	Vulnerable or Marginalised Groups	Other Relevant Groups...
Land Acquisition/ Resettlement	E.g., Staff are required to carry out resettlement processes amidst strong resistance and conflict with affected communities, exposing them to risks to their safety - <i>Rights to Life, Liberty and Security of the Person, Right to Highest Attainable Standard of Health</i>	E.g., Contractor staff from local communities are involved in activities to acquire land in the face of local opposition, exposing them to retaliation by <i>other community members - Right to Security of the Person</i>	E.g., Compensation policies and processes are flawed, such as compensating for crops not land, below market rate compensation, or failure to compensate individuals who hold customary title to the land - <i>Right to an Adequate Standard of Living, Right to Housing</i>	E.g., Land acquisition process does not allow sufficient time to consult meaningfully with indigenous peoples, and obtain their consent where necessary - <i>Rights of Indigenous Peoples, including Right to Self-Determination and Cultural Property rights</i>	
Drilling/ Seismic Testing	E.g., Staff are pressured to obtain access agreements from resistant local landowners under extreme time pressure, leading to severe stress - <i>Right to Highest Attainable Standard of Health</i>	E.g., In remote areas, contractor staff are provided with poor living and housing conditions in worker camps - <i>Right to Just and Favourable Conditions of Work, Right to Highest Attainable Standard of Health</i>	E.g., Communities have restricted access to land/ fishing grounds due to drilling/ dredging activities/ seismic campaigns and are not provided with appropriate compensation - <i>Right to an Adequate Standard of Living, Right to Food, Right to Liberty of Movement</i>	E.g., Seismic testing results in destruction of sacred sites or places of cultural heritage belonging to indigenous peoples - <i>Rights of Indigenous Peoples, including Right to Self-Determination and Cultural Property rights</i>	
Construction of Facilities/Pipelines	E.g., Staff are pressured to work excessive amounts of overtime, or to abstain from taking religious holidays, to meet a project schedule - <i>Right to Just and Favourable Conditions of Work, Non-discrimination</i>	E.g., Migrant workers' passports are taken away by recruitment and employment agencies supplying workers for construction, and/or such workers are subjected to high fees, placing them in a position of bonded labour - <i>Freedom from all forms of Forced or Compulsory Labour</i>	E.g., Access to land needed for cattle grazing is restricted due to a pipeline route, with inadequate consultation and compensation; or the pipeline route blocks children's route to school, with inadequate consultation and mitigation measures - <i>Right to an Adequate Standard of Living, Right to Education</i>	E.g., Failure to prepare for influx of mostly male construction workers results in increased sexual exploitation/abuse against local women and children and a rise in HIV/AIDS - <i>Rights to Life, Liberty and Security of the Person, Prohibition Against Torture, Cruel, Inhuman or Degrading Treatment, children's rights (eg Freedom from Sexual Exploitation), Right to Highest Attainable Standard of Health</i>	
Environmental Management	E.g., Staff are exposed to petrochemicals without adequate preparation and training for handling potential industrial risks - <i>Right to Highest Attainable Standard of Health</i>	E.g., Contractor staff lack adequate protective equipment during the clean up of spills/leakages - <i>Right to Highest Attainable Standard of Health, Right to Just and Favourable Conditions of Work</i>	E.g., Air and water emissions are not effectively controlled, impacting on local community's land and environment - <i>Right to an Adequate Standard of Living, Right to Highest Attainable Standard of Health, Right to Food, Right to Access to Clean Water and Sanitation</i>	E.g., Due to the new location where communities have been resettled, women and children are required to travel greater distances to secure water supplies without protection - <i>Rights to Life, Liberty and Security of the Person, Right to Adequate Standard of Living, Right to Water and Sanitation</i>	

	Company Workers	Supply Chain/ Contractor Workers	Affected Communities	Vulnerable or Marginalised Groups	Other Relevant Groups...
Human Resources Management	E.g., Full-time staff and/or agency workers lack the opportunity to join a legitimate trade union – <i>Right to Form and Join a Trade Union and Right to Collective Bargaining</i>	E.g., On-site contractors are subject to poorer employment conditions than company employees and lack access to any grievance mechanism. – <i>Right to Just and Favourable Conditions of Work, Non-Discrimination; Right to Form and Join a Trade Union and Right to Collective Bargaining</i>	E.g., Job seekers from local communities are excluded from the company/ contractor’s selection process because of bias in the recruitment system that favours the dominant ethnic group – <i>Non-Discrimination</i>	E.g., Failure to foster a workplace that is free from severe forms of harassment of women – <i>Non-Discrimination, Prohibition Against Torture, Cruel, Inhuman or Degrading Treatment</i>	
Security	E.g., Use of force by security providers leads to threats from local community against company workers – <i>Rights to Life, Liberty and Security of the Person</i>	E.g., Private security providers lack opportunity to join a legitimate trade union – <i>Right to Form and Join a Trade Union and Right to Collective Bargaining</i>	E.g., Security providers use force to break up a peaceful community protest – <i>Right to Security of the Person, Freedom of Assembly</i>	E.g., Private security providers are hired from the dominant ethnic/racial group, with a subsequent rise in harassment and assaults against vulnerable or marginalised individuals from minority groups – <i>Non-discrimination, Right to Security of the Person</i>	
Planning/ Management of Decommissioning	E.g., Agency workers are given risky decommissioning work and no follow up health checks – <i>Right to Just and Favourable Conditions of Work; Right to Highest Attainable Standard of Health</i>	E.g., Contractor staff are dismissed without payment of benefits due to them – <i>Right to Just and Favourable Conditions of Work</i>	E.g., Lack of proper rehabilitation of industrial sites leads to long-term pollution resulting in erosion of food and water resources over time – <i>Right to an Adequate Standard of Living, Right to Food, Right to Water and Sanitation, Right to Highest Attainable Standard of Health</i>	E.g., Lack of adequate consultation with vulnerable or marginalised groups in the development of the decommissioning plan leads to them disproportionately suffering from impacts – <i>Right to an Adequate Standard of Living, Right to Highest Attainable Standard of Health</i>	
External Communication and Consultation	E.g., Management refuses to engage with trade union representatives duly elected by workers – <i>Right to Freedom of Association, Right to Collective Bargaining.</i>	E.g., Government Affairs staff lobby government against an increase in the minimum wage, which is insufficient to cover workers’ basic needs – <i>Rights to Fair Wages and a Decent Living, Right to an Adequate Standard of Living.</i>	E.g., The Company does not inform local communities about a toxic spill that threatens local waterways – <i>Right to Highest Attainable Standard of Health, Right to Safe Drinking Water and Sanitation.</i>	E.g., Community consultations are held only in the majority language of communities, excluding the indigenous population – <i>Various Rights of Indigenous Peoples</i>	
Other Relevant Activities					