

## Appendix 6 Human Rights Compliance Assessment tools

Shortly after the Shell Group explicitly expressed its support for human rights in 1997, the need arose to understand and address the human rights risks faced when entering or operating in such politically sensitive countries and regions. At the time, the company found little information available on how private corporations should address or manage human rights. The company faced difficult challenges, such as how to translate the human rights conventions drafted for states to measurable indicators that are relevant to the business context. Shell started to proactively look for solutions and came across the DIHR.

At that time, the DIHR had a Human Rights & Business project that sought to combine the expertise of the human rights community with the experience of business to develop practical and efficient human rights tools for companies. The ultimate aim was to assist business develop while maintaining good human rights practices.

To that end, the DIHR developed the Human Rights Compliance Assessment (HRCA) tools. One of these tools, the Country Risk Assessment, compares local laws and practices against the Universal Declaration of Human Rights in addition to more than 80 other international treaties. It identifies the main risk areas in a country, like labour rights for foreign labourers or the behaviour of security forces. Companies can use the tool to test the procedures and practices they have in place for respecting these rights and work to close any gaps.

Spurred by this mutual interest in connecting business and human rights, Shell International B.V. and the DIHR began collaborating in 2001 to road test these HRCA tools and deepen the understanding about what human rights means in practice for companies.

### What is the HRCA?

The HRCA is a database of 350 questions and 1,500 indicators. These questions and indicators have been developed based on the minimum responsibilities of companies with regard to human rights, as defined by the DIHR, towards its employees, business partners and the wider communities in which they operate.

The HRCA uses the Universal Declaration of Human Rights (UDHR) as an overall framework and refers to the dual Covenants (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights). In addition, more than 80 major human rights conventions and treaties, as well as the major ILO (International Labour Organisation) conventions are taken into account.

The HRCA was developed by the DIHR through extensive consultation with companies and NGOs all over Europe, with the goal of including necessary input from both audiences.

The HRCA consists of several tools that provide a practical step-by-step approach to assess all potential risks to violate human rights.

### What are the HRCA tools?

The following HRCA tools are discussed below: the Country Risk Assessment, the Company Assessment, the Action Plan and the Quick Check.

### 1. Country Risk Assessment (CRA):

The CRA builds on twenty human rights drawn from the UDHR. The CRA is performed by the DIHR and evaluates how formal law and the social and cultural practices of a specific country compare with human rights norms.

Based on this assessment, the level of risk for a company operating in a specific country, with regards to the potential violation of human rights, is determined in terms of high, medium and low. This business risk evaluation is based on the risk ratings in law and practice for each right, combined with an assessment of the relevance, link and proximity to company operations in general. The proximity of company operations includes relations with suppliers, contractors, security forces, communities and government.

Table 1 shows the outcomes of a Country Risk Assessment (CRA) performed for a country, indicating the compliance level (high, medium or low) of formal law and social and cultural practices with human rights norms and the business risk level (high, medium or low) for twenty human rights:

<i>CRA Score country</i>	<i>High</i>	<b>Medium</b>	<b>Low</b>
Non-compliance with formal law	7	10	3
Non-compliance with practices	11	7	2
Business risk	5	11	4

**Table 1 CRA scores for country**

The CRA scores for the country shows that the formal legislation regulates human rights to a reasonable degree (3 human rights have strong compliance and 10 have medium compliance in formal law), but the balance shifts when looking at the practice level (11 human rights are in high non-compliance with human rights). For example, formal law regulates the right to privacy, but this right is sometimes violated by various arms of the state.

Based on the formal law and practices check, five human rights are identified to be high risk for business and their operations (across all sectors). For example, this country does not have a national minimum wage system, which may lead to employees not being able to obtain an adequate standard of living.

#### *Focal areas*

This business risk assessment then allows for the selection of a number of focal areas for companies. The focal areas are selected in a two-stage process: 1) according to the status of the particular human right and the severity of the human rights violation; and 2) the company risk of human rights.

For this country, five focal areas have been identified for all companies and their business partners working in that country: working conditions, trade unions, discrimination, salary and government relations.

The selected focal areas are complemented with recommendations for companies to help mitigate the identified human rights risks. For example, a company operating in this country is recommended to focus on working conditions of especially foreign workers because those workers are the most vulnerable group. A sample recommendation for foreign workers in this country is to ensure that such workers are provided with labour contracts and valid work permits.

#### *Available CRAs*

CRAs are developed based on the preferences of the member companies of the DIHR and/or the DIHR itself. CRAs are currently available for: Algeria, Brazil,

China, India, Kazakhstan, Libya, Oman, South Africa, Tanzania, Ukraine and Vietnam (2007). Expected CRAs include Russia and Kenya.

## **2. Company Assessment:**

The second step is to create a customized HRCA check with the purpose of evaluating how company policy, procedures and practices cover human rights risks.

The DIHR selects the questions and indicators from the HRCA database, based on the business risk identified in the CRA, as well as consider taking into account the human rights risks related to the type of business operations in the country. In practice, this usually means that approximately 15% of the questions and corresponding indicators are selected.

For instance, based on the focal area of working conditions identified as a high risk area for business in this country, questions and corresponding indicators are selected for the company assessment. The following is an example of such a question and indicators:

*Q: Does the company ensure that its employment-related decisions are based on relevant and objective criteria?*

- Employment advertisements do not reference irrelevant characteristics, such as race, unless listed as part of an equal opportunities promotion.
- Hiring managers receive training regarding the company's non-discrimination policies.
- An individual or department in the company is responsible for monitoring company compliance with the company's non-discrimination standards and policies.

Then, in the form of a self-assessment, companies can assess coverage of human rights risks for the selected indicators at policy, procedure and performance levels. For example, a company checks whether there is a procedure in place that ensures all employment advertisements are non-discriminatory.

## **3. Action Plan:**

After the company assesses its policies, procedures and performance on coverage of human rights risks, an overview will arise where the company has strong and weak coverage. This may result in a plan of action for mitigation. The company may choose to invite key stakeholders to discuss the plan of action.

## **4. Quick Check**

Besides this step-by-step plan, a short version of the company assessment, called the 'Quick Check', can also be used. This check comprises of approximately 10% of the questions and indicators (28 and 230 respectively) from the full HRCA database. The Quick Check contains the most essential human rights issues, determined by the DIHR, for a company to consider in relation to its business operations. These fall into the following three categories:

1. Employment practices: forced labour, child labour, non-discrimination, workplace health and safety, freedom of association, conditions of employment and work;
2. Community impact: security, environmental health and safety, corruption and bribery, company products;
3. Supply chain management: relationship with suppliers.

The advantage of the Quick Check is that it takes considerably less time than the full HRCA and can therefore be used to quickly gain an insight into the human rights issues facing a particular company. The disadvantage is that it does not

include the full pallet of human rights and it is not country-specific (although it can be made country specific in combination with the other tools). The Quick Check is freely available and can be found along with the other HRCA tools at <https://hrca.humanrightsbusiness.org>.

A dialogue between the DIHR and its corporate members allows for a continuous adaptation of the tools that fit business needs. Future projects include sector specific and country specific HRCA checks.

After these tools are used, the company can choose to involve key stakeholders to review findings and discuss the action plan. Also, in the interests of transparency, each company may report externally on the results of its human rights performance.