

PROJECT REPORT

Effective downstream human rights due diligence: Key questions for companies



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Introduction

Downstream human rights due diligence is already a reality for companies in all sectors.

However, when compared with the supply chain, there are comparatively fewer examples from business practice available from which to learn.

The Global Business Initiative on Human Rights (GBI) set up a working group of members and experts in 2020, which regularly convenes to examine the need for and practice of due diligence in downstream contexts. In November 2022, GBI members gathered for a roundtable discussion to consolidate understanding of this area of practice across sectors.

This document shares lessons learned with a broader audience. It offers an overview of the expectations contained in international standards, and provides key questions for companies to ask when establishing downstream human rights due diligence processes.

Our peer learning conversations on this topic have focused primarily on human rights due diligence as described in principles 17-21 of the UN Guiding Principles on Business and Human Rights. Accordingly, issues pertaining to the remediation of downstream human rights impacts are not expressly addressed. The contents of the document do not necessarily represent the views of GBI's member companies.



TURNING ATTENTION DOWNSTREAM

Turning attention downstream



Downstream due diligence can be understood as human rights due diligence on products and services, and business relationships arising from the production phase onwards to the point of sale and beyond, placing a particular focus on how products and services will be used, and by whom.¹

Much of the discussion to date among business and human rights practitioners on human rights due diligence in the value chain has focused on supply chain (i.e. upstream) contexts. A **risk-based approach** to prioritisation, as embodied in the UN Guiding Principles on Business and Human Rights (UNGPs) and the aligned OECD Guidelines for Multinational Enterprises (OECD Guidelines), may lead a company to place an emphasis on the supply chain if that is where the actual and potential impacts are likely to be most severe.

However, the responsibility to respect human rights is not confined to the supply chain. It is clear that both the UNGPs and OECD Guidelines define human rights due diligence as covering the whole range of possible impacts companies may have across their value chains.

Human rights due diligence seeks to ensure that companies understand the risks that are present in their value chains and can show what they are doing to address these risks. The purpose is not to fetter business, but rather to find ways to ensure that business is approached in a rights-respecting way.



Human rights due diligence: A continuous, dynamic, proactive and reactive process

The corporate responsibility to respect human rights, as articulated in the UN Guiding Principles on Business and Human Rights (UNGPs) includes a responsibility for companies to **seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships**, even if the company has not contributed to these impacts.²

Human rights due diligence is a **continuous** process. Human rights risks may change over time, where there is a change in operations or the operating context, and so an ongoing or iterative approach is typically required.³

In this sense, corporate human rights due diligence processes are often both **proactive and reactive**. Where it is possible to identify and mitigate potential risks in advance, this should be done. Where a human rights impact occurs, or a change in circumstances makes it more likely that it will occur, then a company must react to prevent or mitigate the risk in question.

The actions a company will be expected to take to respect human rights are **dynamic** in nature. If a company does not act to address a situation where it is directly linked to a human rights harm, this may elevate the situation to one where the company is seen to be contributing to the harm.

Are companies accountable for downstream human rights impacts?

The responsibility to exercise human rights due diligence in relation to downstream human rights impacts arises independent of any legislative requirement and **flows directly from international standards**. International consensus has been established on the need for companies to consider human rights risks across their entire value chains since the adoption of the UNGPs and OECD Guidelines in 2011.⁴

Discussion concerning the European Union's proposed Corporate Sustainability Due Diligence Directive and the ongoing (at time of writing) revision of the OECD Guidelines has ignited a focus on how companies can conduct human rights due diligence in downstream contexts. It has highlighted how many companies are already doing so as part of a risk-based approach aligned with the UNGPs and OECD Guidelines.

Simultaneously, it is important for companies to realise that several recent cases have highlighted that courts and non-judicial grievance mechanisms around the world are increasingly recognising **corporate liability** where a company knew or ought to have known that human rights impacts could have occurred downstream. This may extend to legal liability in certain circumstances.

It has been argued that a de facto duty is already emerging through litigation.⁵ In *Begum v. Maran (UK) Ltd*⁶ the Court of Appeal of England and Wales refused to dismiss a claim which seeks damages from a U.K. based company which sold a ship for scrappage to a third party, who proceeded to dispose of the ship in an unsafe manner resulting in loss of life. The case continues in the English courts.

In the United States, settlements have been reached with pharmacies and management consultancies in relation to their role in exacerbating the opioid epidemic.⁷ In France, a case is pending against a surveillance technology company alleged to have been complicit in torture in Libya under the regime of Muammar Gaddafi.⁸

These court cases represent the extreme end of downstream human rights risks: products or services provided that have been linked to torture or loss of life with resulting legal liability.

A recent paper from OECD Watch and others highlighted a broader selection of cases where OECD National Contact Points recognised downstream impacts as being within the scope of the OECD Guidelines.⁹ Examples include:

- The sale of surveillance equipment, arms and tear gas to authoritarian governments.
- The provision of turbines to a hydroelectric dam with adverse social and environmental impacts.
- The sale of drugs used in lethal injections for capital punishment.
- Multistakeholder certification schemes involved in human rights violations.
- Alleged downstream links to a terrorist organisation.
- Sale of construction machinery used in furtherance of illegal occupation.
- Financing of companies and projects with adverse human rights impacts.
- Divestment of a subsidiary or asset to a buyer with links to adverse human rights impacts.

Downstream human rights due diligence

Downstream human rights due diligence follows the exact same principles for human rights due diligence as at any other point in the value chain, as expressed in the UNGPs and OECD Guidelines.

Identifying and assessing risks

There is wide-ranging potential for risks to arise in connection with downstream **business relationships**, including through **product or service misuse** and **irresponsible or unintended product or service use** that results in human rights harms.¹⁰

Each company will have different risks to consider. Certain risks are identifiable independent of a given customer or transaction, and criteria can be pre-emptively developed to mitigate these.

These include, but are not limited to:

- Risks inherent in the given product, service or solution,
- Past misuses,
- Potential harms arising from irresponsible or unintended use, accounting for their severity,
- Particular foreseeable impacts on groups at heightened risk of vulnerability,
- Context-related risks, including but not limited to the country or market.

Other risks may be more directly related to a specific customer or transaction, and so a separate focus on individual downstream business relationships is also needed. These include:

- Customer risk,
- End user risk (if different),
- The intended use of the product, service or solution.

Processes for identifying and assessing risks will necessarily depend on the nature of the industry and its business model. Companies will need to reflect on what is relevant to their circumstances.

Practitioners seeking to identify and assess risks must look internally: at the company's own operations, products and services, to identify where there are foreseeable risks posed to human rights downstream. Risks that arise externally must also be considered, such as those arising from the company's downstream business relationships – including with respect to customers, distribution partners, and end users.

A range of approaches to identifying and assessing these risks have been deployed by practitioners. These are described in questions 1-10 in this report.

Integrating findings and taking action

Companies can integrate the findings of their impact assessments and take appropriate action to address actual or potential risks to people in a variety of ways.

Effective **integration** of human rights due diligence processes into the company should encompass all relevant business functions. For many businesses this will include sales, marketing and business development teams, and may also include functions, such as procurement and logistics, that are typically considered in upstream analysis. Given the downstream impact of products and services, it is also important to engage research and development, product teams and service providers. Such integration can allow the company to:

- **Seek to address what it can before the product or service reaches the market.** Human rights impact assessments can identify potential risks, including dual-use risks, at the product conception and design phases. Strategies to mitigate these risks can then be adopted from the outset.

- **Collaborate with commercial teams.** With appropriate training, sales colleagues can play a proactive role in the identification and prevention of downstream risks arising from specific transactions, and raise any such issues with internal experts prior to a transaction being agreed.

The right incentives and disincentives are needed to ensure human rights risks are not seen as a hindrance by commercial teams. Staff must feel “adequately empowered, supported and incentivised to walk away from business opportunities if a human rights issue comes to their attention”.¹¹

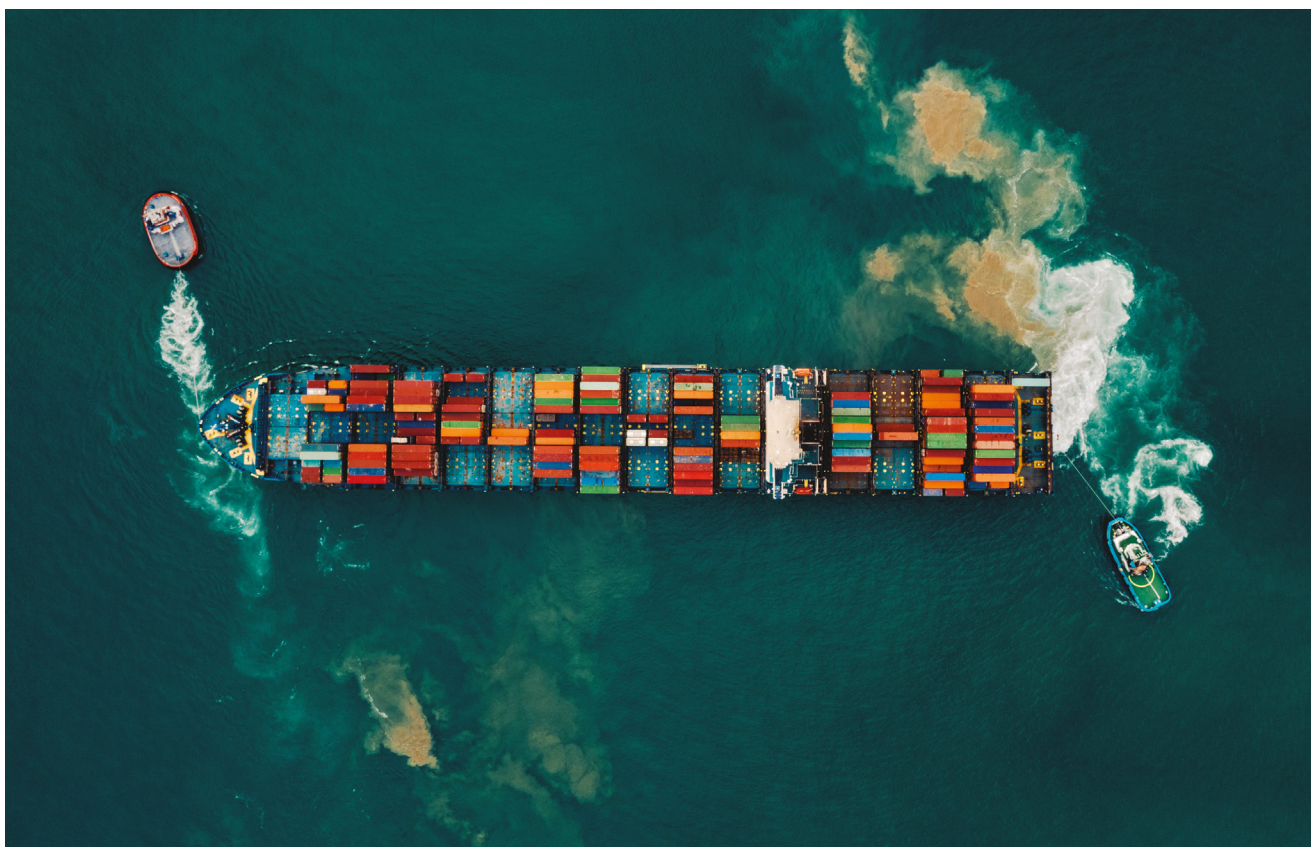
- **Collaborate with other key internal functions.** Downstream risks may arise in other functions, including transport and logistics, mergers and acquisitions, real estate and others. It is important to raise awareness through training on potential or actual risks across functions, and to put processes in place to ensure expert input.

In integrating human rights into downstream-facing functions, adequate resources are required to support downstream due diligence processes, as well as appropriate oversight, with clear processes and expectations regarding how due diligence findings are addressed.

Practitioners approach the integration of their findings across the business in different ways which are often dependent on the industry in question. There are, however, a range of generalisable aspects, both in relation to the governance and process, and potential mitigation measures. These are outlined in questions 11-18.

Tracking and communicating on progress

The remaining steps in the human rights due diligence cycle – tracking the effectiveness of actions and communicating on progress to stakeholders – are also relevant in downstream contexts. Questions 19 and 20 address these aspects.



| KEY QUESTIONS

Key questions

Identifying risks from products, services and business models

Downstream human rights due diligence can address issues at the very heart of a company's business. **Risks to people downstream in the value chain can occur as a result of a company's products, services or business model.** Many such risks can be identified in advance of the product or service coming to market. Integrating human rights due diligence at an early stage of the product or service development cycle can help companies identify and assess such risks in a timely manner.

Question 1:

Does your company's business model pose inherent risks to people?

A company's business model can affect the risk of human rights harm occurring.¹² For example, risks may be elevated where there is little visibility over the end use of products and services. Similarly, where a sales incentive structure encourages the sale of goods or services that may have impacts on the human rights of customers, the company's business model may need to be examined.

Practitioners can assess this risk to determine how products and services may cause, contribute or be directly linked to human rights harms. Companies which engage in project business or other models where leverage is reduced should also assess the impact of the choice of model on the ability to address identified issues.

Question 2:

How can your company's existing product or service portfolio impact human rights?

Human rights impact assessments can be conducted on existing products and services to identify any human rights impacts that these may cause, contribute to or be directly linked to in downstream contexts. Consultation with actually or potentially affected stakeholders or appropriate proxies is an important part of any such process.

Where a product or service that is sold 'off the shelf' can be modified or integrated into another product that causes harm, it may be difficult to foresee all potential risks. A company may not have a relationship with the customer or end user in such circumstances. Previously identified risks and past misuse of a product or service can help a company to understand potential future impacts.

Question 3:

What human rights impacts may arise from new products and services or acquisitions?

Potential human rights impacts of a new product or service on end users, customers and other downstream business partners can be systematically identified as part of the company's research and development process, including through human rights impact assessments. By evaluating the potential for misuse and negative impact at an early phase, addressing potential risks can become part of the design brief for the new product or service.

Where a company adds products or services to its offer through a merger or acquisition, thorough consideration should be given to how the acquired products or services could pose risks to people.

Question 4:

Are there any risks inherent in your company's markets or operational context?

Human rights impacts can arise from the particular industry, geography or context that the business is selling to. Practitioners should consider any structural risks inherent to the given market or context in which the business is operating in or selling to that may give rise to downstream human rights risks. If the company has an existing supply chain country risk analysis protocol, there may be value in updating it to also encompass downstream risks.

Question 5:

What processes and procedures are needed to ensure new issues are identified and assessed?

As human rights due diligence is a continuous process (see Box, [page 5](#)), it is imperative that assessments of product, service and business model risks are not 'one off' exercises. Companies can ensure there are processes and procedures in place to regularly identify and assess risks and issues that were not initially foreseen.

Operational-level grievance mechanisms that are open to people who are actually or potentially impacted by the company's products, services or business activities can also provide a channel to identify and prevent or mitigate issues.¹³

Identifying end-user, customer and other downstream business partner risks

The **risk that a particular end user, customer or other downstream business partner may cause a human rights harm through their use or misuse of a product or service** is also something that should be considered in advance of a sale. This can be done through a screening of the customer or downstream business partner, their expressed intended use, and the risk that the product or service could be used for unintended purposes.

Question 6:

What are the risk factors and determinants of product misuse for your company's products and services?

Different business relationships will carry different risks. Particular classes of end user, customer or business partner may require additional scrutiny before a sale is approved, and so a company should establish what the determinants of heightened risk look like in a given context.

Question 7:

What are the potential risks from product use and misuse by end users? Do certain end users present an elevated risk?

Certain categories of end user may be more likely to use or misuse a product or service in a way that could have adverse human rights consequences.

Marketing a product to groups at risk of vulnerability, such as children, or in certain consumer market categories, may also present heightened risks of human rights harm. Regular stakeholder engagement, and access to operational-level grievance mechanisms for impacted people, can help ensure a company remains apprised of where such risks are present.

Question 8:

Are there any risks inherent in your customers' markets or operational contexts?

Just as a company can consider structural risks in the operational context before a product or service enters a market, new transactions present an opportunity to evaluate the human rights context to ensure any risks are identified.

While elevated country risk may not by itself be a basis to preclude a transaction from proceeding, companies can use country risk assessments integrated with their customer relationship management (CRM) software to flag transactions that may warrant additional scrutiny. Practitioners emphasise the need to ensure 'perfect is not the enemy of the good' in developing such processes, and suggest that the data sources used be kept under review.

Question 9:

How does your customer operationalise their responsibility to respect human rights?

Consider what information is relevant to collect and assess regarding potential customers. For example, what human rights policies does the customer have in place? Are these publicly available? Does your customer publish a human rights report, or other non-financial / sustainability reporting? What is their record to date in respect of product misuse, concerning onward sales? Is the customer a state entity? If so, what is the state's record on human rights issues relevant to your products or services?

If the customer has consistently failed to demonstrate that they are committed to meeting their responsibility to respect human rights, the company should consider whether it has any leverage to exercise. If leverage is likely to be limited, some companies maintain internal watchlists, which rule out or flag for further scrutiny those customers known to present elevated human rights risks.

Question 10:

How can sales teams support the identification of human rights risks?

Downstream due diligence and risks will likely engage a different set of colleagues than those in the supply chain. In many businesses, sales colleagues will typically have the greatest level of access to potential customers or business partners. They are therefore well placed to identify risks, but may need to receive training to understand what to look out for. This can help to ensure that the presence of risk factors is identified.

Taking action to prevent and mitigate downstream risks

Once risks have been identified and assessed, they should be prevented or mitigated. Some risks may be inherent to the company's business model, products or services. Efforts should be made to mitigate such risks for new business lines, products or services **before the product or service comes to market**. Other risks may relate primarily to the nature and activity of the customer and the intended end use of the product or service.

As the producer of the product or service, it follows that a company "will sometimes have the most knowledge, competence, and capability to devise meaningful steps to minimise the risk" to people of product and service misuse.¹⁴ The UNGPs offer a clear framework for understanding the appropriate actions for companies where they cause, contribute or are directly linked to adverse human rights impacts. [Figure 1](#) elaborates.

Potential impacts should be prevented or mitigated through the **integration of findings across the business**, and by **using leverage in business relationships**. However, it should be acknowledged that the leverage available may be limited in downstream contexts. As one practitioner put it, "with our suppliers, we choose them, but with our customers, they choose us, and that creates a very different relationship".

How business can be involved in human rights impacts

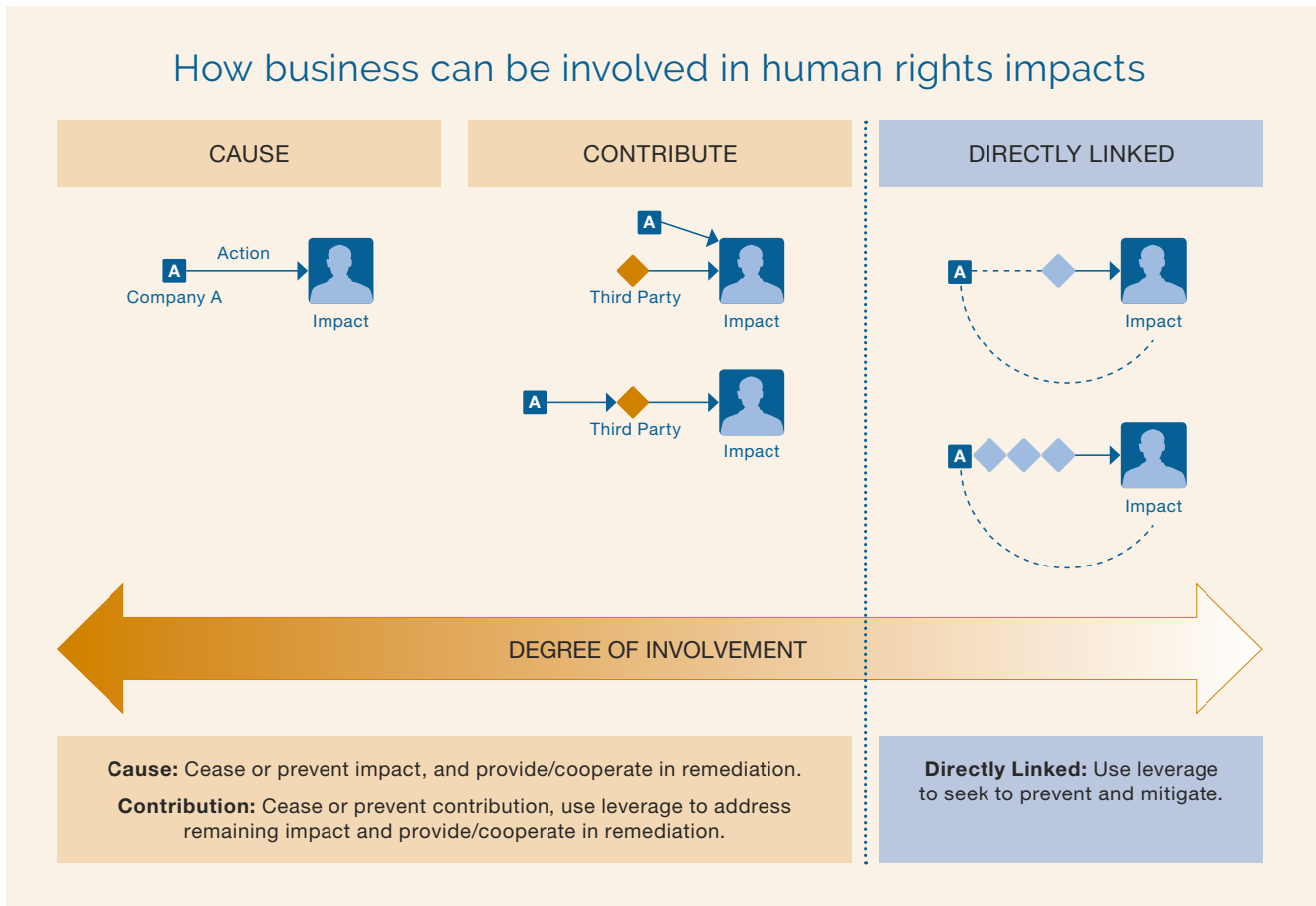


Figure 1: Degree of involvement: Appropriate actions

The degree of leverage a company will be able to exercise over its customers will vary by industry, customer type and at different points through the sales cycle.

Leverage over customers is **likely to be strongest before the sale is completed**, so ideally strategies to prevent or mitigate any potential risks to people will be implemented at an early stage of negotiation and certainly prior to the conclusion of a transaction.

If adverse human rights impacts come to light after the sale has concluded, a company may still have potential avenues to exercise leverage. Leverage could be built by refusing further sales or support, for example. Integration of human rights-related expectations in standard contractual clauses may also enable the company to establish and use leverage.

Establishing robust processes to respond to identified risks

Question 11:

What due diligence checks can be integrated before or at the point of sale?

Once risk factors and determinants are identified, a system for screening transactions should be put in place to ensure that transactions which could give rise to concern are scrutinised more closely.

Consider whether there are existing processes, such as pre-bid screening, that can be built upon. Consider other factors as relevant, for example whether the prospective customer is a government or state-owned entity, a politically exposed person or subject to sanctions.

Some companies make use of such processes to place customers of concern on an internal watchlist, which can flag a transaction for scrutiny when a transaction is created on their CRM system.

Post-sale, operational-level grievance mechanisms that are open to those impacted by a company's products and services can help provide an ongoing check on the effectiveness of the company's due diligence.

Question 12:

What governance mechanisms can be put in place to support your company's response?

The management of downstream human rights due diligence – as with human rights due diligence in other parts of the company and its value chain – should be supported by robust governance processes with clear lines of accountability. This not only helps with day-to-day decision-making, it can also help companies to ensure the non-repetition of human rights harms.

When it comes to particular transactions, companies can establish mechanisms to assess cases that have been escalated by sales colleagues. For example, some companies make use of a 'decision tree' to assess the severity of the potential impact, the degree of involvement, and whether the impact is reasonably foreseeable. Depending on the answers, a transaction may be referred to a human rights subject matter expert for advice.

Question 13:

What expectations do you have of distribution partners?

Where the customer and the end user are not the same, channel partners and other customers should be encouraged to establish similar downstream due diligence processes to mitigate the risk of direct linkage to human rights harms.

Developing mitigation measures

Question 14:

Are there design changes that can be made to a product or service to prevent or limit product end use risks?

Integrating ‘human rights by design’¹⁵ into the research and development cycle has advanced in the technology industry in relation to user privacy. This approach, is, however, applicable to all industries and contexts.

Where it is unlikely that the company will have a relationship with the end user, tracking batch or product-level unique identifiers can improve traceability. This may allow the company to prevent a recurrence of product or service sales through a given distribution channel where there has been evidence that products or services have been misused, or used in an unintended manner.

Question 15:

What contractual clauses can you adopt to help minimise misuse and unintended use?

Contractual stipulations that limit the ability of end users to use a product or service in ways that adversely impact human rights can help to mitigate the risk of misuse and unintended use. They also provide an entry point during contractual negotiations to highlight the company’s approach and gauge the counterparty’s commitment and capability as regards human rights risk management.

While the use of human rights language is preferable, in some cases, particularly with state-owned enterprises or government customers, a company will have limited leverage to insist on contractual amendments. Some practitioners have found that common ground can be reached on terms such as ‘responsible business conduct’, and/or by referencing human rights protections in national law. Having a policy commitment you can point to can also be beneficial in negotiations.

Question 16:

Can you seek – and use – audit rights?

In some industries, it may be possible to seek audit rights downstream. Companies should explore this possibility as part of contractual negotiations.

Question 17:

Can after-sales service, support or warranties provide an additional source of leverage?

Where the company will have an ongoing relationship with the product or service’s end user through after-sales service, support or warranty offerings, this creates an additional avenue for leverage to ensure that the product or service is not misused or used in a way that may result in adverse human rights impacts.

Question 18:

Can your company provide training and guidance for customers on acceptable use?

Training and guidance for customers can ensure that products and services are not unintentionally utilised in a way that negatively impacts human rights. Such support is of particular importance where there is a potential for misuse or use in an unforeseen or unintended manner.

In certain industries and transactions, companies have found that customers in emerging markets who are seeking to expand their global footprint are willing to engage more readily on human rights issues when capacity-building support is offered.

Tracking effectiveness and communication

The last steps in the due diligence cycle are to track the effectiveness of actions and communicate about the company's approach. In developing downstream human rights due diligence processes, companies can consider approaches to ensure performance is tracked over time, and information on the human rights due diligence undertaken is made available to stakeholders. Efforts to track progress and effectiveness are more likely to generate meaningful insights if considered early in the design of due diligence processes or interventions to address identified human rights risks.

Question 19:

How can your company track performance through qualitative and quantitative measures?

Tracking performance is crucial to understanding if human rights policies and processes are being implemented optimally, and whether the responses to identified human rights impacts have been effective. As in other parts of the value chain, practitioners can consider the development of relevant qualitative and quantitative key performance indicators and metrics upon which to assess the effectiveness of the downstream due diligence programme.

Question 20:

How will your company communicate on the management of downstream risks?

The UNGPs are grounded in the expectation that businesses must be able to 'know and show' that they respect human rights in practice. The same expectation of transparency and accountability to impacted people and other relevant stakeholders applies to downstream due diligence. Companies should seek ways to communicate meaningfully on the nature and extent of their downstream due diligence programme, as well as the principal outcomes.

I APPENDICES

Appendix: Examples of corporate practice

Identifying risks from products, services and business models

Product responsibility assessments

One company includes an assessment of potential human rights risks in the research and development of its products and services. This enables the company to design products and services in a way that prevents or reduces the risk of customers and end users using them for inappropriate or dangerous purposes.

The company also has a mechanism to receive feedback from customers and end users and monitors cases where its products and services have been used, in order to ensure that risks not pre-emptively identified can be addressed in a timely manner.

Identifying end-user, customer and other downstream business partner risks

Know Your Customer (KYC) checks

Companies are already utilising Know Your Customer (KYC) processes for anti-money laundering and anti-corruption checks. Such processes may be leveraged to undertake human rights due diligence on customers.

Due diligence on the customer can complement checks on the specifics of the transaction (e.g. what products are being sold, does the country risk profile warrant additional due diligence, etc.)

For example, one bank addresses ESG risks within its wholesale banking division in two parts:

- A **client assessment**, which is part of the bank's mainstream KYC process. This assessment involves checks on the country risk, policy standards, reporting, and the client's track record on stakeholder engagement. It also involves checks against the bank's designated list of restricted activities and sanctions lists.
- A **transaction assessment**, which forms part of the bank's credit approval process. This assessment will again review the country risk, as well as any alleged labour and human rights violations, other relevant risks (e.g. risks to Indigenous peoples), a media/NGO screening and a review of sensitive activities. The bank has sector-specific policies that include additional topics, which require ongoing monitoring, depending on the sector context.

Risk-based questionnaires

When reviewing customer and transaction risk from a human rights perspective, consideration must be given to the likely volume of transactions that will require assessment. Here, engaging sales colleagues and providing appropriate training are necessary. To assist in the proper prioritisation of customers and transactions with the greatest degree of risk, simple, fact-based questions can help to highlight where risks to people are more likely and can help the company to prioritise its human rights due diligence capacity appropriately.

One example: an infrastructure company has identified a repeating pattern of human rights risks arising in the context of civil works related to large projects. As part of the compliance process, commercial colleagues are presented with an initial questionnaire which includes simple questions that can help in the identification of potential risks. The responses to these questions help the company to identify which projects to prioritise for heightened due diligence.

Taking action to prevent and mitigate downstream risks

Companies can seek to mitigate risks by working with customers to ensure that products and services are not used in ways that have an adverse impact on human rights. Some actions a company may take to prevent and mitigate downstream adverse human rights impacts include:

- Using product design interventions to limit the potential misuse of the product.
- Delivering training to the customer/end user on the appropriate use of the product.
- Adding specific provisions in the terms of sale or in after-sales or service contracts to maintain control over the distribution of products/services or to restrict their unauthorised use.
- Tracking deliveries, for example using radio frequency identification (RFID) and GPS to track products to their intended destination.¹⁶
- Providing appropriate grievance mechanisms for those impacted by the client's use of the product or service to raise concerns about its unintended use.
- Engaging in collective action with other companies and multi-stakeholder initiatives to establish accepted baseline standards.
- Collaborating with the customer, who may share a mutual interest in risk mitigation further up the value chain to reduce their own downstream risks.



Appendix: List of key questions

Identifying risks from products, services and business models

- 1 Does your company's business model pose inherent risks to people?
- 2 How can your company's existing product, service or solution portfolio impact human rights?
- 3 What human rights impacts may arise from new products and services, or acquisitions?
- 4 Are there any risks inherent in your company's markets or operational context?
- 5 What processes and procedures are needed to ensure new issues are identified and assessed?

Identifying end-user, customer and other downstream business partner risks

- 6 What are the risk factors and determinants of product misuse for your company's products and services?
- 7 What are the potential risks from product use and misuse by end users? Do certain end users present an elevated risk?
- 8 Are there any risks inherent in your customers' markets or operational contexts?
- 9 How does your customer operationalise their responsibility to respect human rights?
- 10 How can sales teams support the identification of human rights risks?

Taking action to prevent and mitigate downstream risks

Establishing robust processes to respond to identified risks

- 11 What due diligence checks can be integrated before or at the point of sale?
- 12 What governance mechanisms can be put in place to support your company's response?
- 13 What expectations do you have of distribution partners?

Developing mitigation measures

- 14 Are there design changes that can be made to a product or service to prevent or limit product end use risks?
- 15 What contractual clauses can you adopt to help minimise misuse and unintended use?
- 16 Can you seek – and use – audit rights?
- 17 Can after-sales service, support or warranties provide an additional source of leverage?
- 18 Can your company provide training and guidance for customers on acceptable use?

Tracking effectiveness and communication

- 19 How can your company track performance through qualitative and quantitative measures?
- 20 How will your company communicate on the management of downstream risks?

Endnotes

1. The Office of the High Commissioner for Human Rights (OHCHR) defines downstream as “the part of the value chain that involves the production, sale/licensing and distribution of goods and services.” See: OHCHR. 2022. [Mandating Downstream Human Rights Due Diligence](#), p.1.
2. Human Rights Council. 2011. [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#). A/HRC/17/31 (UNGPs), Principle 13.
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11. Global Business Initiative on Human Rights and Institute for Human Rights and Business. 2012. [State of Play: The Corporate Responsibility to Respect Human Rights in Business Relationships](#), p. 121.
12. Shift. 2021. [Business Model Red Flags](#).
13. UNGPs, Principle 29 and Commentary.
14. OHCHR. 2020. B-Tech: [Key Characteristics of Business Respect for Human Rights](#).
15. The concept of ‘human rights by design’ stems from an earlier focus on protecting user privacy in the design of digital products. The principles are equally applicable to all human rights. See, for example: International Conference of Data Protection and Privacy Commissioners. 2010. [Resolution on Privacy by Design](#); Information and [Privacy Commissioner of Ontario](#). 2011. “[Privacy by Design: The 7 Foundational Principles](#)”.
16. Human Rights and Business Dilemmas Forum. [Product misuse](#).



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