



chapter 3.7

Stakeholder engagement

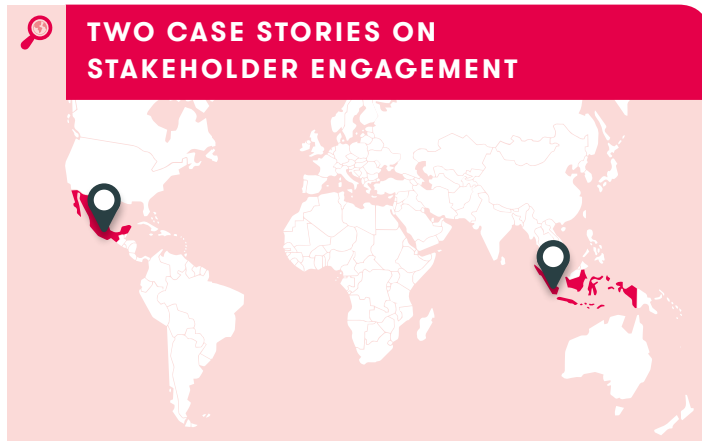
‘Making it meaningful’

Meaningful stakeholder engagement is essential to a company’s efforts to meet its responsibility to respect human rights.⁷⁹ While there is now substantial guidance about how to conduct stakeholder engagement, many companies still face significant challenges in getting it right. Meaningful engagement includes listening to affected stakeholders and taking account of their perspectives in internal decision-making.

Ineffective engagement can lead directly to negative human rights impacts through a failure to address stakeholder concerns early and effectively before they escalate. On the other hand, meaningful engagement can bring benefits to company and stakeholders alike through better-informed decisions and a reduction in the severity of impacts.

SUMMARY OF GUIDANCE POINTS

- Guidance point 1** The benefits of stakeholder engagement
- Guidance point 2** Understanding stakeholder engagement
- Guidance point 3** Considering which stakeholders to engage with
- Guidance point 4** Making stakeholder engagement meaningful



Two of the four cases profiled through the project illustrate the critical importance of stakeholder engagement:

- A stalled wind farm project in Oaxaca state in Mexico (Mexico case story) and
- Asia Pulp and Paper's OKI paper mill in South Sumatra (Indonesia case story).

EXPLORE THE FULL STORIES AT WWW.BUSINESSRESPECTHUMANRIGHTS.ORG.

Guidance point 1 The benefits of stakeholder engagement

Stakeholder engagement is a cross-cutting theme in the responsibility to respect, in particular when assessing impacts and tracking performance. Stakeholder engagement can help companies:

1. *Understand the perspectives of those who may be affected:* people should be at the centre of the due diligence process, which means hearing their perspectives, experiences and ideas. This means directly engaging with them wherever feasible through workers' committees, community dialogues, round-tables, face-to-face meetings, and grievance mechanisms. Of course, companies need to be aware of the power imbalances that can make such engagement challenging in practice. This is discussed further in Guidance point 4 below.

79. This chapter draws substantially on Shift, 'Bringing a Human Rights Lens to Stakeholder Engagement', 2013, available at www.goo.gl/9R84xG.

2. *Improve the quality of analysis of human rights impacts:* stakeholders often have unique knowledge of the context in which companies operate; this can strengthen human rights impact assessment processes and processes for tracking and communicating.
3. *Be able to prioritise those impacts, without the company making those decisions alone:* most of the time, companies cannot address all identified human rights impacts at once and they need to prioritise. Engagement with stakeholders helps to ensure the robustness of the company's efforts. For guidance on how to identify and prioritise human rights impacts, see [Chapter 3.3](#).
4. *Better understand how to manage identified impacts:* once issues have been identified and prioritised, companies need to prevent and mitigate any potential human rights impacts and address any actual impacts that have occurred. Effective action will often involve collaboration with stakeholders. Moreover, many human rights issues are systemic in nature (such as living wage, or impacts on migrant workers) and require a multiplicity of actors to contribute to the solution. By engaging stakeholders, and engaging them early, companies can help create co-ownership of necessary solutions. For guidance on how to address identified impacts, see [Chapter 3.4](#).

Guidance point 2 Understanding stakeholder engagement

According to the Office of the UN High Commissioner for Human Rights, stakeholder engagement in the context of respect for human rights is “an ongoing process of interaction and dialogue between a company and its potentially affected stakeholders that enables the company to hear, understand and respond to their interests and concerns, including through collaborative approaches”.⁸⁰

This definition highlights several elements that are critical to stakeholder engagement with a human rights lens. It should be:

- ▶ Based on *dialogue*: stakeholder engagement is not just about conveying information; it should be a two-way exchange.
- ▶ *Ongoing*: it is not a one-off exercise to satisfy licensing requirements or to be able to say the company ‘did’ stakeholder engagement, but an ongoing process focused on building a mutually beneficial relationship.
- ▶ *Focused on potentially affected stakeholders*: engagement should be focused on people who are or may be affected by the company's operations, or their legitimate representatives, not just organisations the company has a friendly

80. OHCHR, 'The Corporate Responsibility to Respect Human Rights: An Interpretative Guide', 2012, p.8, available at www.goو.gov.uk/6Zjln7.

relationship with. Companies also need to be aware that local communities are not one homogenous group, but a variety of different groups, and impacts on them may be quite distinct.

- *Focuses on stakeholders' interests and concerns:* stakeholder engagement is (primarily) about the impacts associated with the company's activities; more broadly, it is about what potentially affected stakeholders want to discuss with the company in relation to the company's impacts.

Guidance point

Considering which stakeholders to engage with

A 'stakeholder' is an individual who may affect, or be affected, by a company's activities. In the context of the UN Guiding Principles, there are three groups of relevant stakeholders:

- *Potentially affected stakeholders and their legitimate representatives:* individuals whose human rights have been or could be affected by a company's operations, products or services, for example, employees, contract workers, workers in the supply chain, smallholder farmers and their families, members of the community around a business facility or site, consumers or end-users.
- *Credible proxies for the views of affected stakeholders:* individuals with sufficiently deep experience in engaging with the people from a particular region or context (for example, women workers on farms, indigenous peoples or migrant workers) who they can help to effectively convey their likely concerns. In practice, this can include development and human rights NGOs, international trade unions and local civil society, including faith-based organisations.
- *Human rights experts:* individuals who can bring particular knowledge or expertise that the company needs to effectively manage human rights, for example, a labour rights expert, a land-related human rights expert or an expert on compensation standards. They are not a replacement for engaging with affected stakeholders.



At Asia Pulp and Paper's OKI mill in South Sumatra, the company engaged with representatives of all three categories of stakeholder:

- Community members living around the concessions to discuss impacts and future employment opportunities
- Local and international NGOs to help facilitate the process and provide input at the policy level
- Subject matter experts on, for example, free, prior and informed consent, to ensure alignment with international standards.

Read more in the Indonesia case story on the [project website](#).



LEARNING FROM PRACTICE

There is often a significant imbalance of power between large companies and people affected by their operations. Communities often lack the opportunity and capacity to meaningfully participate in decision-making processes that will affect their lives. Even businesses that provide information and seek to consult with the community often need to focus more on empowering the community to ensure that such engagement is meaningful and takes account of the reality of the power differential.

Guidance point

Making stakeholder engagement meaningful

In order for stakeholder engagement to be meaningful, companies need to consider the following elements:

▸ **Engaging the right stakeholders**

Companies tend to engage with those stakeholders who have a high degree of influence over the company or who can pose a business risk. For the purposes of human rights due diligence, companies need to make sure they seek to engage with potentially affected stakeholders, especially those who may experience severe impacts but have relatively limited influence over the company, such as members of vulnerable groups that are marginalised in law or practice.

Sometimes, a company's most influential stakeholders may be credible proxies for the views of affected individuals, but that will not always be the case. Companies need to consider carefully whether they are investing sufficient effort in trying to engage with the right stakeholders from a human rights perspective.

▸ **Engaging about the right issues**

Stakeholder engagement should include discussions about how the company manages its impacts, not just about its positive contributions or philanthropic programmes. This means taking the time to explain the business to stakeholders in order for them to provide informed input and constructive feedback. This usually requires good internal alignment within the company before engagement begins, so that everyone is clear on what the objectives are and what the company hopes to learn from the engagement.

▸ **Engaging in the right way**

The nature of the engagement is likely to depend on the number of people engaged: the fewer the people, the more intense the engagement. Sometimes, stakeholder groups need to be engaged with individually; sometimes, joint sessions will be more appropriate.

At the heart of engagement is building a relationship of trust between the company and affected stakeholders, including by frequently discussing how to better engage, which takes time. Some companies have asked neutral third parties, such as mediators, to help facilitate more constructive dialogues with affected stakeholders, especially where there are issues in dispute or a history of distrust.

Companies need to pay attention to whether consulting with potentially affected stakeholders could put those individuals at risk of reprisals or other threats to their, or their families', safety. These threats are real and, in some places, increasing⁸¹ Companies will need to seek the guidance and support of NGOs, trade unions or others with direct experience of the risks that stakeholders can face in evaluating how best to pursue meaningful engagement in such situations.

► **Engaging at the right time**

Companies tend to engage when they need something. Stakeholders are quick to sense this and may distrust the company because of past experiences. Relationship building from the very start of a project or investment, even when there are no formal decisions to be made, may be critical to develop the trust needed for meaningful engagement 'when it really matters'.

It is always important for the company to provide feedback to stakeholders on how their inputs have been taken into account, as this can help show that the company took the input seriously.



**Understanding the social context is
challenging but not impossible**

“The social context is always important to recognise. For companies and investors, it’s important to understand that due diligence on your behalf – like somebody else attesting to the community’s consent – cannot be accomplished through Google searches and talking to a handful of international human rights groups just because they’re convenient. The local context is rich, interesting, and diverse – yes, complex – but not mysterious. It can be understood, dialogue can happen and it’s worth investing in learning who communities and their local advocates are, how we operate, and about our connections to these issues locally. That kind of dialogue at the local level makes companies’ and investors’ investments on these big projects much more of a sure thing.” Benjamin Cokelet, Executive Director, PODER

Read more in the Mexico case story on the [project website](#).

81. See, for example, Global Witness, 'On Dangerous Ground', 2016, available at www.goo.gl/dMBDbL



WRAPPING UP - COMMON PITFALLS TO AVOID

OVERESTIMATING LEVELS OF TRUST

Companies can be surprised by stakeholders' distrust, for example, because of legacy issues that stem from before the company tried to establish a relationship with stakeholders. It is important not to overestimate the trust that stakeholders are likely to have when entering into a new engagement or relationship, and to find ways to test this, for example, by whether stakeholders feel truly free to speak their mind, particularly where women or other groups may be vulnerable or marginalised in practice.

THINKING COMPANIES CAN MANAGE ENGAGEMENT WITHOUT SPECIALIST SKILLS

Research and anecdotal evidence has shown that policing-based auditing models lead to limited sustained improvements in relation to human rights (see discussion in the box above). Audits can provide important snapshots in time but are not enough, on their own, to address improvements in supplier performance. Companies can learn from a growing body of experience with engagement and capacity-building approaches, and reflect on what may make most sense for their business given their salient human rights risks.

NOT HAVING ANYTHING SUBSTANTIVE TO ENGAGE ABOUT

Stakeholders want to feel that they can influence how the company makes decisions, and that their input leads to real change. Engagement with stakeholders without a particular purpose suggests poor planning and risks being seen as a mere public relations exercise.

FAILING TO ENGAGE THE GOVERNMENT WHEN IT IS NEEDED

If the government is important in the context of a project that may affect surrounding communities – for instance, because the government is encouraging outside investment, has to provide a concession for using the land, or is an investor in the project itself – then it needs to be at the table as part of the stakeholder process. This doesn't mean that all engagements must be joint ones, but, rather, that a company risks running into problems if government agents are only included as an afterthought.



Key sources and websites

- IFC, ‘Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets’, 2007
www.googl/YJyF6w
- Luc Zandvliet and Mary B. Anderson, ‘Getting it Right: Making Corporate–Community Relations Work’, Greenleaf, 2009
- Oxfam Australia, ‘Guide to Free, Prior and Informed Consent’, 2014, available in multiple languages at www.googl/tkETCO