



Human Rights and the Business of Fracking

Applying the UN Guiding Principles on Business and Human Rights to Hydraulic Fracturing

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EXECUTIVE SUMMARY

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I. Introduction

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The day this publication entered into its first draft phase, the state of Texas, home to some of the world's most extensive hydraulic fracturing operations (or more simply *fracking*), announced a *ban on the ban* of fracking. This ironic double-negative is juxtaposed to increasingly frequent actions taken by other jurisdictions around the world, to prevent the extraction of natural gas and oil by fracking. Such is the case of cities such as Denton Texas; of states or provinces such as Florida, Vermont, New York, Maryland and Hawaii, and of Quebec, Canada; and even of *entire countries* such as France and Germany.

Fracking is already a fully evolved industrial activity in the United States. According to official data, over 25,000 new fracking wells were drilled and hydraulically fractured each year between 2011 and 2014. In other countries, fracking operations are nascent, some only in exploratory phases. In Argentina for example, the industry already has several hundred exploratory or operational wells. In yet other countries, such as Mexico, fracking fever in the energy sector is encouraging public officials to push the oil and gas frontier further, but in most of these incipient markets, only a handful of wells have actually been explored or hydraulically fractured.

Meanwhile, in each of these new potential emerging markets, concerns over the social and environmental risks posed by hydraulic fracturing, including those from official public sector environmental agencies, resonate strongly across society. The concerns expressed by many opponents of fracking are grounded on tangible and legitimate past and emerging evidence. Whatever side of the argument one is on, whether embracing fracking for the alleged benefits of energy self-sufficiency or rejecting it for its implied risks and impacts to the environment and human health, it is difficult to deny that the oil and gas sector is *and has been*, for the better part of its existence, a *dirty industry*. Despite the very *recent* arrival of intense fracking activity, the extraction procedure utilized by hydraulic fracturing has already been around long enough to leave a considerable environmental footprint. The most notorious documented fracking impacts are due to burst underground well pipe casings contaminating water aquifers, fugitive methane leaks from pressurized gas not only causing climate change, but creating nauseous clouds that make local communities sick, and the seepage of industrial effluents affecting surface water resources and other sensitive ecosystem resources. Other impacts are related to the arrival of the type of activity associated with heavy industry (noise, traffic, etc.), which are especially intense during certain phases of hydraulic fracturing operations.

In 2011, the EHRA (Environment and Human Rights Advisory) published a primer report for the State of New

York, entitled *A Human Rights Assessment of Hydraulic Fracturing for Natural Gas*, which laid out a basic set of issues for considering human rights impacts of fracking activity at the NY State level. It also drew attention to the responsibilities of the State for assuring human rights compliance as fracking was considered in the State. Another more recent publication published in October of 2014 examined human rights implications of fracking in the United Kingdom also laying out the principal social and environmental concerns of the activity and the UK's responsibilities to ensure human rights protection. About the same time as this publication went public in draft form, academic articles also began to appear calling for a human rights approach and "human rights impact assessments" to analyzing hydraulic fracturing activities.

We feel it is time to bring fracking more generically into the global human rights arena and lay out an even more ample and ambitious arena to have this *human rights and fracking* discussion. In order to seek clarity over the relevance of human rights implications of corporate activity, the United Nations developed a specialized mandate which led to the establishment of basic global General Principles and a set of guidelines to implement those Principles in an effort to address many of the questions and nuances of how human rights are *or can be* affected by corporate activity. These principles are called the [UN Guiding Principles on Business and Human Rights](#), inspired by its predecessor, the *Protect, Respect and Remedy Framework* devised by the UN to address State, Corporate and Access to Justice due diligence and obligations of the business community in the human rights realm.

Our objective in this publication is to filter the fracking debate through these *Guiding Principles*, and in so doing gain insight on how to understand fracking through an ordered and logical (and widely accepted) *business and human rights* lens. We aim to gain perspective and objectivity in the discussion. It is to place this growing social conflict around fracking activity in a more grounded understanding of our social priorities, legal obligations, and in a common universal framework to help sort our discussion *vis a vis* the social and environmental risks and impacts of fracking, and ultimately to address those risks and impacts, either through the responsibilities and obligations of State actors to ban hydraulic fracturing as a non-viable approach to generating energy, or to ensure the highest level of protection possible in all cases where the activity is permitted to move forward; or through the due diligence responsibilities and obligations of non-State actors that are carrying out the activity—*the companies*. Either way, moving the debate and the sector in these directions will surely reduce the impacts of fracking to the environment and to people and communities.

II. The Uses of this Publication

This publication will help:

- Better understand the human rights dimensions of fracking;
- Consider impacts of fracking in a rights-based logic framework;
- Identify and document human rights risks and impacts related to fracking;
- Advocacy organizations to identify and address fracking impacts;
- Oil and gas companies understand their human rights risks and impacts;
- Oil and gas companies devise policies/systems to address human rights;
- Inform the formulation of public policy and regulations for fracking activity;
- Public officials conduct human rights audits at oil and gas companies.

We envision three likely (or potential) users of this publication:

a) Individuals, communities and civil society organizations

People, communities and organizations concerned with the potential or actual risks and impacts of *fracking* activity could use this publication to consider the State duties and obligations to protect human rights at risk from fracking, as well as corporate responsibilities to address these risks. This can help identify concrete demands to authorities and to companies to request bans or regulations of fracking activity. It can also help individuals, communities and organizations set advocacy goals more clearly in binding language and demands. It can help inform and structure complaints and claims where a State or a company has not complied with human rights obligations and due diligence requirements. Advocates can use this publication to develop strong legal grounds to take legal or other action against the State or the company in question to stop fracking, to change the activity, or to seek reparations and remediation for past impacts.

b) Corporations

This publication will be useful to oil and gas (and associated) companies to map out human rights issues which are material to their operations, as well as to consider their sphere of influence in their contractual relations (either with the State or with subcontractors and suppliers) in order to address the growing concerns expressed by individuals, communities and many civil society organization and other environmental and human rights policy groups related to fracking operations. It can be a guide for companies to develop in-house corporate policies, management systems and grievance mechanisms to address human rights concerns of *fracking* activity.

c) Public Officials

This publication will be useful to public officials governing the oil and gas sector. For public officials willing to explore governance alternatives to monitor, regulate, and bring the oil and gas sector into human rights compliance, this publication offers useful guidance to achieve this objective. It can also help legislative representatives develop stricter laws to lower impacts of the oil and gas sector. It can also be used to consider bans on fracking or to limit fracking activity where impacts may be especially significant.

In sum, we hope that his manual will be useful to a multiplicity of actors engaged in the fracking debate.



III. Fracking: What is it and why is it risky?

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This extensive section focuses on the nature of fracking, explaining in simple layman’s terms, *what* the procedure involves, *how* it works, and *what are the risks* to health, and to society and to the environment.

It covers the key controversial issues related to hydraulic fracturing, such as:

- Water volume usage
- Surface water contamination
- Sub-surface water contamination
- Generation of large volumes of industrial effluents
- Land use choices and exclusions
- Atmospheric contamination
- Climate change impacts
- Geological security (earthquakes)
- Long term environmental security
- Deforestation
- Transportation security
- Noise pollution
- Long term clean up
- Indigenous entitlements, culture and lifestyles
- Worker health and safety
- Access to information about social and environmental risks
- Participation in decision-making about development models
- Sector proceeds / taxation proceeds usage
- Long term energy generation choices

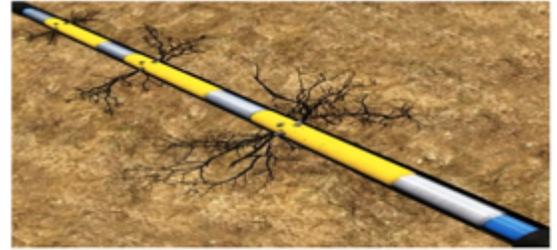


Figure 4: Explosives are used to perforate the casing and hydraulic pressure generates micro fractures in the geology which branch out into the shale rock. Source: Baker Hughes

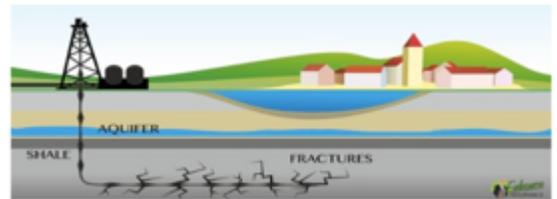


Figure 8: Depiction of a fracking well (rig close to a water aquifer) shows risks of fractures close to the water resource. Source: <http://www.enhancedinsurance.com/news/seen-fracking-insurance-risks/>

Truck Traffic Volumes

The Division of Mineral Resources within the New York State Department’s Environmental Conservation Department has appraised the volume of truck traffic associated with building a pad for shale gas operations, and also for each well drilled from the pad (consider that transport to market is not included):

Purpose	Truck Trips	
	Per Well	Per Pad
Drill pad and road construction equipment	10	45
Drilling rig	30	30
Drilling fluid and materials	25	90
Drilling equipment (casings, drill pipe etc.)	25	90
Completion rig	15	15
Completion fluid and materials	10	20
Completion equipment (pumps, wellhead)	5	5
Hydraulic fracture equipment (pump, trucks, tanks)	150	200
Hydraulic fracture water	400	800
Hydraulic fracture sand	30	25
Flowback water removal	200	300
	1,200	1,800

Figure 25: Trucking Volumes flows by well and pad.
 Source: <http://www.shinesustainability.com/reports/CFFI-Shale-Gas-Guidance-Note-April-2013.pdf>

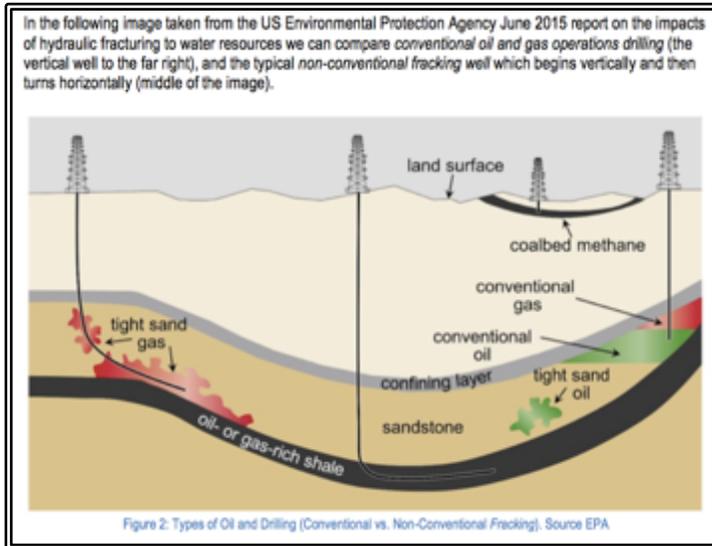


Figure 22: Intense land fragmentation from oil-gas extraction surrounding a residential area in Texas, USA. Source: Google Earth

IV. The Human Rights Dimensions of Fracking

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This section focuses on the *human rights* implications and dimensions of the risks and impacts caused by hydraulic fracturing activities, both listing relevant human rights treaties, declaration and other doctrine, but also highlighting those rights that are most attributable to fracking.

Human Rights Affected by Fracking Activity

While we could envisage a situation where nearly *any human right* could be potentially violated by fracking activities or related operations, some human rights issues are more evidently attributable to hydraulic fracturing than others.

The Right to Health (a corollary to the right to Life)



Figure 32: Water contamination by hydraulic fracturing could affect the right to health, the right to a healthy environment, and many other rights
source: www.ohh.org

Some consequences of fracking activity that have the potential risk of violating human rights might be:

- The contamination of a community's water supply (affecting for example the *right to health, right to life, or newer evolving rights such as the right to a healthy environment or the right to water, etc.*)
- The effects on the livelihood of local agricultural producers after the arrival of a fracking operation (affecting the *right to a livelihood, right to work, right to development*)
- A drop in property values in a given area as a result of impacts caused by fracking operations, (affecting the *right to property*)
- Contamination of the air around a fracking operation (affecting the *right to health, right to life, right to a healthy environment*)
- Risks to the health of workers at fracking sites (affecting the *right to health*)
- If companies or the State do not reveal information about toxic fracking fluids used in fracking activity (affecting the *right of access to information*)
- Failure to consult an indigenous community about the arrival and development strategy affected by fracking activity on autonomous indigenous lands, or displaced communities as a result of fracking operations (affecting *cultural rights or indigenous rights*)⁴³

The Right of Access to Information

We have also seen how social and environmental advocacy has identified systemic violations by State and corporate actors of rights of access to information. In developing countries, such as Argentina, violations of the right to information have surfaced recently regarding fracking investment contracts between the State and multinational companies.

Right of Participation

Like the right to information, the right of participation becomes highly contentious when addressing large industrial investment decision-making, largely because of the long-term implications and political underpinnings of large-scale investment decisions. In most cases, the entitlement of people and communities to participate in the conduction of public affairs (established in international law such as in the UDHR or the Covenants, or in more recent international multi-lateral declarations like the Rio Declaration).

Right to remedy

The right to remedy stems back to the *Universal Bill of Human Rights*, and is a fundamental backbone to human rights approach to development and to the consideration of business conduct in the realm of human rights. When something goes wrong (and things can go very wrong with fracking operations), individuals and communities must be assured they can bring their complaints through either judicial or non-judicial mechanisms and find remediation and reparation to the wrongs that have been caused.

Indigenous Rights

Conflicts between tribal communities and oil and gas operations are long-standing. Fracking is no different. One place where this has been especially candescent is in Argentina, where Mapuche communities in the Patagonia region of Neuquén and Chubut provinces have been very outspoken against the advancement of fracking operations in the *Vaca Muerta* shale formation. This is one of the world's largest non-conventional shale and oil reserves and also one of the few regions outside of the United States where fracking is advancing at full speed.

Right to a healthy environment

An over-arching right generally focused on the general health and quality of the environment, and more recently appearing in international law, the *right to a healthy environment* has recently evolved as a new generation right now appearing in many constitutions, establishing a newer legal understanding of the essential and integral function of our environment to our well being and to the general well-being of the planet. Without a healthy environment, other human rights like the right to health become immediately

Labor Rights in Hydraulic Fracturing

Much of the collateral hype related to the arrival of hydraulic fracturing activity is job creation. Fracking operations bring new, highly technical jobs to areas that may already have oil and gas operations underway, or create a new industry where little or no extraction activity has taken place. The safety, health, and quality of the working environment, embodied as human rights in multinational, as well as regional and national labor rights standards are a critical in the arrival of fracking operations.

Human Rights and Climate Change

Increasing trends of climate destruction have brought forth a very engaged debate on the effects of climate change on the realization of human rights. Like the right to a healthy environment, without which we cannot realize other rights like the right to health, we cannot envisage a world where human rights are fully realized if we do not have an accompanying healthy climate. This includes clean air to breathe, but also a healthy climate where we can cultivate crops effectively and live free of natural climate-related disasters.

Human Rights and Atmosphere / Air

Linked together with the right to a healthy environment and to the human rights and climate change discussion is the right to clean, breathable air. As mentioned above, one of the major environmental and human rights risks associated with fracking activities is the release of excess methane gas and other toxic gases into the air and atmosphere. The typical leaks of methane and other noxious gases into the air in the diverse phases of fracking operations, are affecting human rights of workers and local communities near operations, and are also affecting climate conditions.

Right to water

Eighty five percent of the world's population lives in the driest part of the planet, while over 750 million people lack access to clean drinking water.³⁷ As has been described above, hydraulic fracturing activities are very water intensive, and could potentially add to the already existing problem of water availability for

V. The UN Guiding Principles on Business and Human Rights

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The UN Guiding Principles on Business and Human Rights⁶¹ were adopted in 2011, after an extensive multi-actor consultation on the human rights impacts caused by corporate behavior.

The UN Guiding Principles for Business and Human Rights (the UNGPs) distilled this discussion into three basic pillars, on which most actors, including Government, Business and Civil Society could generally agree; namely that duties, obligations, responsibilities and entitlements could be divided into three basic realms:

1. The State Duty to Protect Human Rights
2. The Corporate Responsibility to Respect Human Rights
3. The Right to Remedy of Victims

Considered in the realm of fracking activities we can interpret these pillars to conclude very simply that:

- States are legally bound to protect individuals and communities from human rights violations caused by, or potentially caused by hydraulic fracturing.
- Oil and gas companies are responsible for taking measures to avoid and must abstain from causing human rights violations in their hydraulic fracturing operations. The expectation is that corporations *must* adhere to such commitments.
- When things go wrong in hydraulic fracturing activities, victims must have remedy, either through judicial recourse or through some non-judicial mechanism which they can freely choose, but which must guarantee the protection of their rights, the hearing of their problems and the remedial resolution of their conflict.

VI. The UN Guiding Principles Through the Lens of Hydraulic Fracturing

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This section turns the discussion to the main content and purpose of this publication: how the *UN Guiding Principles on Business and Human Rights*¹ are relevant and useful to address human rights concerns associated with fracking operations. The added value of and the opportunity created by the UN Guiding Principles for Business and Human Rights is that it lays out how each of these actors relates to a given conflict or potential human rights violation situation. The UNGPs aid us in sorting out the various obligations, responsibilities, and due diligence requirements that each of these actors must comply with, or otherwise be in violation of internationally binding human rights treaties.

As we analyze hydraulic fracturing activities through the lens of the UNGPs we propose the consideration four basic questions that we should address:

1. What Human Rights are at stake in the given fracking activity or concern?
2. What actions has the State taken (or omitted) in order to ensure that human rights have not been violated (including establishing a policy/regulatory framework)?
 Or: how has a State action resulted in a direct or indirect human rights violation, either by the State itself, or by a third party (such as a company)?
3. What due diligence must the company carry out in order to avoid the violation of human rights?
 Or: what action has the company taken (or omitted) that has resulted in a human rights risk or violation?
4. Do victims have an effective channel through which to bring a complaint and gain redress?

Three due diligence checklists are offered for STATE, CORPORATE and VICTIMS

STATE DUTY CHECKLIST
 This checklist is not exhaustive and should be considered in conjunction with column 3 of the Annex Table: Fracking by Phase, Issues, Human Rights and the UN Guiding Principles Requirements

Some questions that might help guide the analysis concerning State Duty to protect human rights in fracking activity might include (derived from UNGP Principle 1):

- ✓ Does the State have a national and sustainable energy policy that includes reducing dependency on fossil fuels and lowering short-term CO₂ emissions and other climate pollutants?
- ✓ Has the State developed an effective Climate Strategy and is it addressing emissions by sector, including recognizing the emissions from the oil and gas sector, and specifying the role of emissions from methane and other climate pollutants in hydraulic fracturing?
- ✓ Has the State conducted a proper stakeholder and vulnerable group identification?
- ✓ Has the State conducted proper stakeholder consultation to identify human rights vulnerability?
- ✓ Has the State mandated transparency and access to information as well as participation channels throughout the evolution (or consolidation) of fracking activity?
- ✓ Has the State engaged interested indigenous communities and does it guarantee their input in its consultative processes and definition of development plans? And does the State guarantee indigenous communities the right to consent before fracking operations are allowed to take place in or near indigenous territories?
- ✓ Has the State ratified ILO Convention 189 and is it complying with the indigenous consultative and participation rights established in the Convention?
- ✓ Has the State established NO-GO scenarios for fracking and conditions in the event that assessments show human rights conditions, or that the impacts of fracking outweigh benefits?
- ✓ Has the State established NO-GO areas due to protection, environmental vulnerability, etc.?
- ✓ Has the State published all contracts with multinational companies investing in fracking operations and allowed for public discussion about investments before signing contracts and commitments to advance with hydraulic fracturing?
- ✓ Does the State streamline Human Rights, social and environmental protection across ministries, agencies, industrial sectors and geographical regions?
- ✓ Do State environmental authorities have effective and independent control over fracking operations?
- ✓ Has the State conducted its own human rights impact assessment of proposed fracking activity or more generally for its energy sector, and for example, engaged its national human rights agency or consulted with human rights focused civil society organizations in this process?
- ✓ Has the State engaged or and gas companies to conduct human rights impact assessments of their proposed fracking activity for all phases of production, including establishing NO-GO scenarios?
- ✓ Has the State published information regarding land-use and permitting issuance or proposed permitting, in order for stakeholders to raise concerns regarding land use issues?
- ✓ Has the State mandated or quietly monitoring all sensitive plants and on a regular and systematic basis, reporting and mandating best practices employed in all aspects and phases of hydraulic fracturing activity?
- ✓ Does the State mandate high efficiency vehicles and motors, affording to the extent possible, renewable energy and does it mandate the use of best practices to lower emissions from vehicle and industrial equipment?
- ✓ Has the State consulted with its own agencies related to natural resource protection, human rights protection, labor, and other agencies of the state that would have an interested stake in the evolution of fracking operations?
- ✓ Has the State consulted with non-State actors associations/organizations etc. related to natural resource protection, human rights protection, labor, and other agencies with related focuses that would have an interested stake in the evolution of fracking operations?
- ✓ Has the State carried out a baseline assessment of the natural and social resources that might regularly be affected by proposed hydraulic fracturing activity? And does it mandate companies to regularly monitor and publicly report on key indicators related to this baseline?

CORPORATE RESPONSIBILITY CHECKLIST
 This checklist is not exhaustive and should be considered in conjunction with column 4 of the Annex Table: Fracking by Phase, Issues, Human Rights and the UN Guiding Principles Requirements

Some questions that might help guide the analysis of specific responsibility and due diligence by oil and gas companies (derived by considering UNGPs 11-24) could include:

A) Policy

- ✓ Does the company have a human rights policy in place and it is known to management, staff, sub-contractors and to the public?
- ✓ Does the company reference the human rights legislation applicable to its operations, including the UNGPs? At the international, regional and national levels?
- ✓ Does the company have management mechanisms in place to streamline human rights into all operations and does it report on human rights policy compliance?
- ✓ Does the company have a policy on and operate with transparency and access to information as well as participation channels throughout the evolution prior to and at each stage of hydraulic fracturing operations? Does this include transparency of investment agreements and contracts with the State or State agencies or companies and any payments made to such agencies or companies?
- ✓ Does the company condition investments to local informed consent from affected indigenous communities?
- ✓ Has the company established NO-GO policies or conditions related to potential human rights impacts revealed in assessment phases, including prior to deciding to invest in the territory?
- ✓ Does the company commit to protect the "Right to Water" and refrain from activities that could put vulnerable or key fresh water resources at heightened risk?
- ✓ Does the company provide training to workers and other associates on human rights and social/environmental policies and procedures?
- ✓ Does the company have a comprehensive Climate Change Policy committing to immediate and long-term reduction of CO₂ emissions and reduction of other climate pollutants such as black carbon, methane, HFCs, and other Short-Live Climate Pollutants?

B) Human Rights Assessment

- ✓ Has the company carried out an extensive identification of all human populations and groups living in the company's area of influence including all areas immediately above all planned drilling and other outlying areas that could be affected by operations?
- ✓ Has the company conducted human rights assessments of its operations including identifying material issues and all human rights (international, regional, national, local) applicable to operations?
- ✓ Has the company carried out effective stakeholder consultation to identify human rights vulnerability of its operations by stakeholder group, identified and other potentially affected individuals or communities?
- ✓ Has the company identified the presence of specific vulnerable groups needing special treatment, attention and engagement in project design?
- ✓ Has the company identified culturally sensitive sites at or near planned operations and areas of influence?
- ✓ Has the company engaged/contacted national human rights organizations or agencies, civil society human rights organizations, or other relevant actors in the human rights field to consult, gather information about, or to inform its own human rights assessment activity in the country and area of operations?
- ✓ Does the company review its human rights impact assessment and its impact materiality periodically as operations evolve?

REMEDY AND GRIEVANCE MECHANISM CHECKLIST
 This checklist is not exhaustive and should be considered in conjunction with column 5 of the Annex Table: Fracking by Phase, Issues, Human Rights and the UN Guiding Principles Requirements

Some questions that might help guide the analysis of compliance with remedy obligations (established by the UNGPs 25-31) could include:

- ✓ Has the company established internal and external grievance mechanisms to address complaints from workers, contractors, individuals, communities, human rights or environmental or other interest groups, indigenous communities and/or other actors?
- ✓ Does the company publish information about its grievance mechanism, rules, procedures, etc. and whether or not it has been effective in resolving complaints?
- ✓ Do stakeholders have discretionary rights, entitlements or opportunities to contest any decisions by the company or by the State regarding permitting, location of activity, that may be deemed to impact human rights?
- ✓ Can all self-proclaimed stakeholders access company and/or State grievance mechanisms to address their claims and objections?
- ✓ Do the grievance mechanisms offered by the company or the State mention, or are they framed in, human rights language and policy?
- ✓ Does the company and/or State provide a hotline service for concerned individuals and groups to present information or complaints regarding potential human rights violations, environmental impacts or other problems brought about by fracking activity?
- ✓ Does the company and/or State ensure the reception of anonymous denunciations about fracking operations and ensure adequate follow-up and treatment of such complaints?
- ✓ Does the company publish information about legal complaints (number, reason, status, resolution)?
- ✓ Has the company consulted and communicated an effective Whistle Blower Policy that allows for anonymous denunciations of human rights, environmental and other social impacts?
- ✓ Are local, provincial or national courts, or other conflict resolution mechanisms deemed by the State effective in resolving grievances brought to the mechanisms regarding fracking operations?
- ✓ Does the State promote and facilitate public awareness and understanding of the mechanisms that exist to seek redress from human rights violations that may occur in the sector?
- ✓ Are there excessive financial or administrative barriers to accessing remediation for fracking related activities?
- ✓ Do national human rights institutions recognize the risks posed by hydraulic fracturing and are they engaged in the discussion, and the treatment of cases of alleged abuses?
- ✓ Does the identity witness systematic conflicting jurisdictional complications regarding fracking cases? For example, a federal court or a provincial court systematically overruling local court decisions regarding bans, or rulings on reparations/contaminator?

VIII. Conclusions

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The same week we completed the first public draft of this publication, organizations on two continents concerned with human rights compliance and realization, announced that the Permanent People's Tribunal (PPT) will hold a session on hydraulic fracturing and other un-conventional fossil fuel extraction processes. Societies around the world are firmly behind the conviction that development and energy production should not occur at the expense of the very basic fabric of our global social order. Energy production or energy self-sufficiency should not come at the expense of human health, of physical integrity, or be built upon the unnecessary destruction of our most sensitive natural resources, nor should it trample the rights of local or indigenous communities, or violate our very basic right to life.

It is very clear that the exploration, extraction and production of hydrocarbon fossil fuels places individual and collective human rights at enormous risk. Experience over the last few decades also clearly shows that continuing our dependency on fossil fuel generation comes at great social and environmental costs. One of these costs is the destruction of the balance of our very vulnerable climate. We cannot live as a human race without a healthy climate. And yet, at the same time that we are expanding our global concern over human rights violations that continue to occur in the name of development and for the sake of energy production and self-sufficiency, and while we are striving evermore to guarantee the effective and full realization of all human rights around the world, the oil and gas sector is firmly set on expanding and deepening global dependency on fossil fuels.

We must send clear signals to our leaders and demand from them that they help lead the way to the more sustainable future that we desire. We must call on them to mandate a progressive *reduction* (and not an expansion) of our global dependency on oil and gas and that they push for a progressive replacement of our energy matrix focusing on one that promotes real and tangible growth of renewable energy relative to fossil fuels.

This means *unequivocally* that in the long term, *we must say no to oil and gas*, and that is also means that unequivocally we must oppose the expansion of oil and gas dependency through hydraulic fracturing or through any other means devised to extract and produce more fossil fuels. *Fracking* is not a solution to our climate emergency, as some actors in the oil and gas sector have suggested. The arguments that burning natural gas is cleaner than coal, only hold at a very superficial level, as in fact, before we ever burn gas as a fuel, the production of natural gas has other significant climate impacts that make natural gas even worse for the climate than some of the most contaminating fossil fuel choices.

States must plan today for a tomorrow that is less dependent on fossil fuels. They must plan for a tomorrow that in real terms should have *less fossil fuel consumption and not more*, and where there is *more renewable energy produced and not less*. As we indicated in the introduction of this publication, this manual is written in an age of a rapidly growing call for human rights accountability of public agency and corporate behavior. Society is calling for a stop to human rights violations perpetrated by irresponsible and illegal corporate behavior that is in many cases knowingly tolerated or even encouraged by States. Hydraulic fracturing has quickly become one of the most controversial industrial activities of our time, generating suspicion and fear. Communities that have lived with hydraulic fracturing can attest to real impacts affecting their health and environment.

This publication enumerates many of the human rights concerns brought about by hydraulic fracturing, and proposes a framework to consider State and Corporate Responsibilities and Obligations enumerated by the highest global authority on human rights. Our proposition is to utilize the UN Guiding Principles on Business and Human Rights to help identify and sort out the risks and responsibilities that we as a society have to uphold universally accepted human rights. As we have seen in the preceding pages, rights such as the right to health, the right to property, the right to access information and to participate in public affairs, the right to life and the right to a healthy environment, among many others, are affected by hydraulic fracturing in many tangible ways. We hope that the work we offer in these pages will bring clarity to the debate and in the end, help protect human rights around the world.

DUE DILIGENCE ANNEX:

Download annex here: <http://wp.cedha.net/wp-content/uploads/2015/11/Fracking-and-UNGPs-Draft-2-September-29-2015.2.pdf>

This ANNEX is a useful reference to check in a *step-by-step* fashion, where human rights are applicable to fracking operations by issue, dividing due diligence responsibility, rights and context between STATE, CORPORATIONS and VICTIMS.

SAMPLE TABLE from ANNEX on the issue of Energy Policy :

Annex: Fracking by Phases, Issues, Human Rights and the UN Guiding Principles Requirements

Risks/Issues by Phase of Hydraulic Fracturing	Potentially Affected Human Rights	State Duty to Protect HR (due diligence expected of Government)	Corporate Responsibility to Respect HR (due diligence expected of Corporations)	Remedy
I. Energy Policy/Strategy Development				
- Social engagement	Right to development Right to information Right to participation Right to energy (new concept) Right to climate (evolving concept) Right to a healthy environment	-Develop an appropriate consultative processes for Regional or National Development Strategies -Ensure wide access to information -Identification of stakeholders -Facilitate participation of stakeholders -Identify HR issues in Energy Policy Development -Streamline Energy Policy with Climate Change Strategy -Identify and commit the State to NO-GO scenarios or partial ban scenarios to hydraulic fracturing activity based on the conclusions of strategy consultation and development and assessment of risks and impacts	-Establish a corporate policy on Energy, Climate Change, and Sustainability, fossil fuel vs. renewable fuel scenarios and how the company is addressing these future scenarios -Establish a Corporate Human Rights Policy, Management Systems, Measurement and Monitoring Indicators and Systems, and Reporting Procedures and Products -Establish and respect NO-GO criteria for investments / operations before committing to the investment	-Accessible publication of stakeholders identifies and means by which non-identified stakeholder can add themselves to stakeholder list -Clear and transparent rules and mechanisms of engagement for affected stakeholders by State and business actors -Formal channels of treatment and response to inquiries, requests, complaints, etc. -Publication of policy development decisions taken by state or company
- Public consultation	Right to participation	- Identification of stakeholders - Facilitate participation of stakeholders - Mandate company to develop a public consultation plan	-Conduct stakeholder assessment / identification -Establish plan and methods of public consultation in stakeholder communities before investing	-Clear and transparent rules and mechanisms of questions and responses procedures and results of public consultation conclusions
- Participation in decision-making (FPIC)	Right to participation Rights of indigenous peoples (ILO 169)	-Establish channels for public consultation with interested stakeholders -Engagement with indigenous communities and development of participatory channels	-Ensure consent and social license from communities is granted before any operational activity begins -Ensure any indigenous rights of consent or consultation are	-Establishment of opportunities for public to engage with and participate in development decisions regarding whether hydraulic fracturing will be allowed and/or banned;