

Human Rights Impact Assessments: Due Diligence for Drug Control¹

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1. Introduction

Nearly every government in the world has become a party to treaties that include obligations to take steps to reduce supply of and demand for controlled drugs through the imposition of sanctions; confiscation of proceeds; provision of mutual legal assistance in investigations, prosecutions and judicial proceedings as well as other forms of cooperation and training. Due to the transnational nature of the relevant acts, drug control objectives are often pursued through a cooperative approach where states assist one another in their counter-narcotics programmes across an extraordinary range of borders, political systems and criminal justice practices.

However, in many of these environments serious human rights abuses occur in the name of drug control.

For example, in thirty-two countries drug offences are punishable with death – a practice that is widely accepted to be in violation of international law.² Other clashes between human rights and drug control include:

- *Extrajudicial executions*³
- *Specialised courts for drug offenders that do not respect fair trial standards*⁴
- *Corporal punishment of drug users in violation of the prohibition on torture and cruel, inhuman or degrading treatment or punishment*⁵
- *Drug detention centres, arbitrary detention and forced labour*⁶
- *Harm reduction, injecting drug use, HIV and the right to health*⁷

¹ This paper is based on a booklet to accompany Harm Reduction International's CD, Human Rights Impact Assessments. This tool was developed with financial assistance from the European Union.

² ECOSOC (25 May 1984) Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, Resolution 1984/50; UN General Assembly (14 December 1984) Human rights in the administration of justice, Resolution A/RES/39/118; HRC (8 July 2005) Concluding observations: Thailand, CCPR/CO/84/THA, para. 14; HRC (29 August 2007) Concluding observations: Sudan, CCPR/C/SDN/CO/3, para. 19.

³ Human Rights Watch, Thailand: Not Enough Graves: The War on Drugs, HIV/AIDS, and Violations of Human Rights, 8 July 2004;

⁴ See for example, Report of the Working Group on Arbitrary Detention, Visit to the Islamic Republic of Iran, (27 June 2003) E/CN.4/2004/3/Add.2; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, 27 May 2009, A/HRC/11/2

⁵ E Iakobishvili, Harm Reduction International, 'Inflicting Harm: Judicial corporal punishment for drug and alcohol offences in selected countries', (2011)

⁶ UNODC (2010) Drug control, crime prevention and criminal justice: A human rights perspective. Note by the Executive Director (Commission on Narcotic Drugs, Fifty-third session, Vienna, 8–12 March), UN Doc. E/CN.7/2010/CRP.6*–E/CN.15/2010/CRP.1, para. 45; Human Rights Watch, "Skin on the Cable": The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia, 25 January 2010, 1-56432-590-3

⁷ See for example, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, Mission to Sweden' (28 February 2007) UN Doc No A/HRC/4/28/Add.2 para 60; Anand Grover, Foreword, "Harm Reduction and Human Rights, The Global Response to Drug Related HIV Epidemics, Harm Reduction International," 2009; Foreword, "Global State of Harm Reduction 2008: Mapping the Response to Drug-Related HIV and Hepatitis C Epidemics, Harm Reduction International," 2008, <http://www.ihra.net/GlobalState2008>; UN Human Rights Council, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, 14 January 2009, A/HRC/10/44, paras. 57, 71, 74; Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 November to 1 December 2008, Strasbourg, 8 December 2009

Many implementing agencies, such as the United Nations Office on Drugs and Crime (UNODC), and major donors, such as the European Union, have made human rights a central pillar of their work. Nevertheless, risks remain as international organisations, regional organisation like the EU and Member States engage in cooperative projects with governments that have a record of systematic human rights abuses carried out in pursuit of international objectives such as drug control.

The type of programme is of course important. Support for drug enforcement ranges from the establishment of border posts and material assistance (e.g. sniffer dogs or body scanners), to prosecutorial capacity building, legal advice on draft drug legislation. Other programmes are less direct such as funding for an online training programme for police on drug seizures. Whether direct or indirect, human rights risk must be given due consideration in programme design, implementation, monitoring and evaluation.

It is important to highlight that certain drug programmes' impact on human rights may be positive. For example, some programmes may promote community based treatment for people who use drugs over coercive or compulsory programmes, which could reduce the risk of arbitrary detention. Furthermore, programmes that effectively counter adverse health impacts such as the spread of blood-borne viruses and bacterial infections are highly desirable for all.

However, even as health indicators may be one measure of success, public health goals should not be pursued at the expense of human rights. Without some form of appropriate assessment, it is impossible to know how these projects and activities positively or negatively affect, among others, the right to health, the right to life, the right to liberty and security of person and the right to be free from torture and other cruel inhuman or degrading treatment.

The tool described here is one model – adopting different methods, frameworks and indicators from international authorities – for how risks and impacts may be measured.

There are existing models to assess human rights performance being developed within the United Nations system based on UN human rights treaty standards to which many major donors are firmly committed. The Office of the High Commissioner for Human Rights has developed indicators for a framework to evaluate implementation of human rights at the national level and for state party reporting to treaty bodies. While the OHCHR framework may not have originally been designed for assessment of projects or activities, the structure could inform programming and monitoring processes.

This human rights tool described below is intended to address both negative and positive human rights impacts of projects, and to assist with the incorporation of human rights norms into policy guidance and funding decisions. It is best conceptualised as a simple tool for risk assessment, project monitoring and evaluation and a process of transparency and accountability for human rights.

While focused on drug control, the tool under development could be applicable to many areas of cooperative action with the relevant human rights standards and indicators being amended accordingly. We must make clear from the outset that the indicators used are illustrative, not prescriptive or exhaustive.

Our intention is to present a framework, rather than a full list of indicators. Where possible, the model introduced here relied on indicators produced by external authorities such as the Office of the High Commissioner for Human Rights.

International human rights principles and norms continue to evolve, especially as they relate to other international obligations such as drug control. There is not always unanimous agreement over how to balance human rights and drug control obligations. International agencies such as UNODC, with UN human rights treaty bodies and independent experts, have worked to clarify potential flash points.⁸ Therefore this paper, and the illustrative human rights assessment tool, focuses on an illustrative core set of rights for which there has been some level of clarification and consensus.

2. Human Rights Responsibilities of the European Union in External Action

Partners in cooperative action have varying human rights responsibilities to ensure their external action respects international human rights norms. It has long been understood that the United Nations is an entity with international legal obligations. Human rights are a central pillar of the United Nations' work as set forth in the Charter (Articles 1, 55 and 56), which pledges to promote 'universal respect for, and observance of, human rights and fundamental freedoms'.⁹ In other forums respect for human rights in drug control has also been reaffirmed. The UN General Assembly and Commission on Narcotic Drugs have each stated that 'countering the world drug problem' must be carried out with full respect for 'all human rights and fundamental freedoms'.¹⁰

As the primary obligation to respect, protect and fulfil human rights lies with states, the role and responsibilities of international agencies is an issue of some complexity. For example, it may be difficult to discern what degree an organisation bears responsibility for breaches when the offending act was committed by a state partner.

The International Law Commission's draft articles on the responsibility of international organisations states at Article 13 that, 'An international organization which aids or assists a State or another international organization in the commission of an internationally wrongful act by the State or the latter organization is internationally responsible for doing so if: (a) That organization does so with knowledge of the circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that organization'.¹¹

⁸ See for example: Drug control, crime prevention and criminal justice: A Human Rights perspective Note by the Executive Director, E/CN.7/2010/CRP.6–E/CN.15/2010/CRP.1 (3 March 2010); Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report to the General Assembly (main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines), A/65/255 (6 August 2010)

⁹ United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI

¹⁰ See GA Res 61/183 (13 March 2007) UN Doc A/RES/61/183, para 1.; GA Res 60/178 (22 March 2006) UN Doc A/RES/60/178, para 1; Commission on Narcotic Drugs, Resolution 51/12 Strengthening cooperation between the United Nations Office on Drugs and Crime and other United Nations entities for the promotion of human rights in the implementation of the international drug control treaties, E/2008/28, p 40

¹¹ Report of the International Law Commission on the work of its Sixty-first session, 4 May to 5 June and 6 July to 7 August 2009, ILC Report, A/64/10, 2009, chp. IV. This is modelled on a similar formulation for Draft articles on Responsibility of States for Internationally Wrongful Acts, which states, at Article 16, on 'Aid or assistance in the commission of an internationally wrongful act'

Professor Giorgio Gaja, Special Rapporteur on the Responsibility of International Organizations of the International Law Commission (ILC) wrote of this obligation, '[A]n international organization could incur responsibility for assisting a State, through financial support or otherwise, in a project that would entail an infringement of human rights of certain affected individuals.'¹²

Therefore, as an agency like UNODC provides technical assistance and capacity building to sensitive areas such as law enforcement and criminal justice, this obligation may require the agency ensure that its projects do not facilitate abuses through aid or assistance.

Donors too must look to different internal instruments to guide their external action. For example, Article 21(1) of the Treaty of the European Union states, 'The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.'¹³

Ensuring external action is consistent with international human rights standards is not merely desirable but an obligation of the EU. Under the Lisbon Treaty, The Charter of Fundamental Rights is afforded the same legal status as treaties and applicable to EU work outside of the Union. The Commission wrote, 'The Union's work in the area of fundamental rights extends beyond its internal policies. The Charter also applies to its external action.'¹⁴

This has resulted in guidance stating that where there are concerns on Charter compatibility with certain legislative proposals or external agreements, impact assessments may be carried out.¹⁵ 'Respect for fundamental rights is a condition of the lawfulness of EU acts' therefore legislation that does not comply with Charter can be declared null and void.¹⁶

The Commission has taken steps to ensure that legislation and acts are compatible with the Charter. There are numerous examples of human rights impact assessments on legislation.¹⁷

Identifying the human rights responsibilities of the Union are largely academic in the present discussion since the EU and its Member States have fully accepted their human rights

that 'A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.'

¹² Third report on responsibility of international organizations by Giorgio Gaja, Special Rapporteur, A/CN.4/553, 13 May 2005, para. 28

¹³ Article 21 of the Treaty of the European Union

¹⁴ COM (2010) 573

¹⁵ European Commission, 'Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments' SEC (2011) 567 (6 May 2011), pp. 10-11

¹⁶ SEC (2011) 567

¹⁷ See SEC (2011) 567. Just a couple of examples include: Communication from the Commission to the European Parliament and the Council on the Use of Security Scanners at EU airports, COM(2010) 311 final (15 June 2010); Commission Staff Working Document, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, COM(2008) 820 final, SEC(2008) 2963 (3 December 2008)

responsibilities and the need for areas of external action, such as drug control, to be carried out in a manner that is consistent with international human rights law.

For example, the EU Drugs Strategy (2005-2012) “is based first and foremost on the fundamental principles of EU law and, in every regard, upholds the founding values of the Union: respect for human dignity, liberty, democracy, equality, solidarity, the rule of law and human rights.”¹⁸

The goal of mainstreaming human rights throughout external action has also appeared in various Communications, which has included focus on impact.¹⁹ For example, in a 2001 Communication, the Commission wrote: ‘The Commission will examine the possibility of systematically assessing the human rights and democratisation impact of co-operation projects, so as to both avoid negative effects and enhance positive impacts.’²⁰

Such safeguards and guidelines have been called for by the European Parliament, which wrote in a December 2010 resolution:

*[The EP] calls on the Commission to develop guidelines governing international funding for country-level and regional drug enforcement activities to ensure such programmes do not result in human rights violations, including the application of the death penalty; stresses that the abolition of the death penalty for drug-related offences should be made a precondition for financial assistance, technical assistance, capacity-building and other support for drug enforcement.*²¹

Assessing human rights risks and addressing potential impacts has already gained traction among certain stakeholders such as the UK Foreign and Commonwealth Office.²²

3. About this Tool

Human rights are occasionally criticised as being intangible or too imprecise to be measured.²³ Such a view ignores the fact that human rights treaties have concrete obligations and terms to which governments have consented, and their normative content has developed significantly over the decades. In fact, the opinion that human rights can and should be measured has been explicitly declared by human rights bodies and sometimes by treaties themselves.

For example Article 31 of the Convention on the Rights of Persons with Disabilities calls on state parties to ‘collect appropriate information, including statistical and research data, to enable them to

¹⁸ Council of the European Union, EU Drugs Strategy (2005-2012), Brussels, 22 November 2004, 15074/04, para. 2

¹⁹ See for example, Communication from the Commission to the Council and the European Parliament, The European Union's role in Promoting Human Rights and Democratisation in Third Countries, COM(2001) 252, Brussels (8 May 2001); Council Secretariat, Mainstreaming human rights across CFSP and other EU policies, 10076/06, Brussels (7 June 2006); General Secretariat of the Council, Mainstreaming Human Rights and Gender into European Security and Defence Policy (2008). For a thorough analysis of the EU's progress on mainstreaming human rights see: Directorate-General for External Policies, Human Rights Mainstreaming in the EU's External Relations, EXPO/B/DROI/2008/66 (September 2009). Reference to CFSP at p. 35

²⁰ Communication from the Commission to the Council and the European Parliament, The European Union's role in Promoting Human Rights and Democratisation in Third Countries, COM(2001) 252, Brussels (8 May 2001), p. 12

²¹ European Parliament resolution of 16 December 2010 on the Annual Report on Human Rights in the World 2009 and the European Union's policy on the matter (2010/2202(INI)), 16 December 2010, P7_TA-PROV(2010)0489, para. 65

²² UK FCO, Overseas Security and Justice Assistance, Human Rights Guidance (December 2011)

²³ T. Landman and E. Carvalho, 'Measuring Human Rights' (Routledge 2010) p. 7 (emphasis in original)

formulate and implement policies to give effect to the Convention'.²⁴ Furthermore, various human rights committees have called for figures and statistics to ensure compliance with treaty obligations.²⁵ For example, the Committee that monitors the implementation of the Covenant on Economic Social and Cultural Rights – which ensures the right to health – wrote in General Comment 14, that, 'National health strategies should identify appropriate right to health indicators and benchmarks. The indicators should be designed to monitor, at the national and international levels, the State party's obligations under article 12 [Right to Health].'²⁶ The Committee on the Rights of the Child is consistent on the importance of disaggregated data collection to measure progress on the implementation of the CRC,²⁷ and has called for child rights impact assessments of specific drug control efforts.²⁸

A major area of difficulty for donors and implementing agencies is that certain projects operate in environments where domestic drug laws, policies and practices conflict with international human rights standards. It is crucial to identify which rights a project may encroach upon in advance of the project and to ensure that during its lifetime a project does not facilitate human rights abuses.

It is important to recognise that human rights abuses may occur at different levels. For example, in some jurisdictions, there are laws that codify discrimination (against women, sexual minorities, ethnic or religious groups, et al). Even if these laws are not enforced, their very existence violates human rights standards.

Another level where rights violations may occur are in practice. For example, some jurisdictions may boast that they have robust laws that protect the right to peaceful assembly. Yet people who gather for public demonstrations are beaten by law enforcement and chased away, thereby preventing the realisation of this right.

Lastly, these laws and practices may result in quantifiable outcomes, such as prosecutions, people held in custody or reported incidents of abuse.

A framework to measure these factors has already been initiated within the United Nations system. This framework has been informed by states, treaty bodies, special procedures of the UN Human Rights Council, UN agencies as well as scholars and NGOs. In 2003, the UN Special Rapporteur on health, Professor Paul Hunt presented a basic framework for measuring the right to health and for classifying indicators into three categories – structure, process and outcome.²⁹

²⁴ UN General Assembly, Convention on the Rights of Persons with Disabilities, 13 December 2006, A/RES/61/106; as stated in the Report Asian Sub-Regional Workshop, Using Indicators to Promote and Monitor the Implementation of Human Rights, New Delhi India, 26-28 July 2007. This report includes numerous examples. For more on this work see: Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, p. 5.

²⁵ For more details see 5th Inter-Committee Meeting (19-21 June 2006) and 18th Meeting of Chairpersons of the Human Rights Treaty Bodies (22-23 June 2006) Report on Indicators for Monitoring compliance with International Human Rights Instruments - Summary, HRI/MC/2006/7, para. 11

²⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4, para. 57

²⁷ General Comment No. 5 *General Measures of Implementation of the Convention on the Rights of the Child* (UN Doc No CRC/GC/2003/5, 2003).

²⁸ *Concluding Observations, Colombia*, (UN Doc No CRC/C/COL/CO/3, 2006) para. 72 (on aerial fumigation of illicit crops)

²⁹ The right of everyone to enjoy the highest attainable standard of physical and mental health Note by the Secretary-General, A/58/427, 10 October 2003

The UN Office of the High Commissioner for Human Rights has elaborated on this framework and developed illustrative indicators for a number of rights including life; liberty and security of person; freedom from torture; the right to adequate food; the right to the highest attainable standard of physical and mental health; and others. This work represents a significant step towards the establishment of a common approach to an evaluative method for human rights compliance.

While originally designed to measure State human rights performance, this framework is adaptable to measure the impact of donor activities.

a. Structural indicators have been said to reflect the existing state-of-play vis-à-vis human rights in the relevant context (e.g., ratification and adoption of human rights treaties and the existence of basic institutional frameworks required for the realisation of a human right). This can be a first step to establish the 'policy context' or to identify the 'intent of the State in undertaking measures for the realization of the concerned human right.'³⁰ In the context of a project – it should also measure the environment based on domestic policies. For example, a structural indicator may be domestic laws that prescribe the death penalty for offences that do not qualify as 'most serious' – such as drugs – or failure to ratify core international human rights instruments.

b. Process indicators are understood as 'policy instruments with milestones' – which refer to programmes or interventions to give effect to 'intent/commitments' – that 'cumulate into outcome indicators'³¹. This may manifest in some measurable unit or benchmark. For instance, process indicators to assess a state's respect for the right to life may be 'the proportion of accused persons facing capital punishment provided with access to a counsellor or legal aid' or 'the proportion of convicted persons facing capital punishment exercising the right to have their sentence reviewed by a higher court'.³²

c. Outcome indicators reveal the results of particular processes. OHCHR has written, 'Outcome indicators capture attainments, individual and collective, that reflect the status of realization of human rights in a given context. It is not only a more direct measure of the realization of a human right but it also reflects the importance of the measure in the enjoyment of the right.'³³ Outcomes and processes should not be understood to be mutually exclusive. 'The guiding concern being that, for each right or rather attribute of a right, it is important to identify at least one outcome indicator that can be closely related to the realization or enjoyment of that right or attribute. The process indicators are identified in a manner that they reflect the effort of the duty-holders in meeting or making progress in attaining the identified outcome.'³⁴

³⁰ OHCHR, United Nations International Human Rights Instruments, Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, p. 11; Interim report of the Special Rapporteur of the Commission on Human Rights on the right of everyone

³¹ OHCHR, United Nations International Human Rights Instruments, Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, p. 11.

³² OHCHR, United Nations International Human Rights Instruments, Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, Annex 1 List of Illustrative Cases, p. 22.

³³ OHCHR, United Nations International Human Rights Instruments, Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, pp. 12.

³⁴ OHCHR, United Nations International Human Rights Instruments, Report on indicators for monitoring compliance with international human rights instruments, 6 June 2008, HRI/MC/2008/3, pp. 12.

As has been said, many of the indicators developed for this framework were intended as country measures of human rights compliance. Thus not all are easily adaptable to activities or to donors. Nevertheless, by choosing relevant indicators that can be accurately applied to activities and projects it may be possible to operationalise human rights standards into external action.

The use of such indicators, however, may also require making sure the indicator would be relevant to geographically limited projects. Many projects supported through external partners are restricted to certain regions and therefore countrywide figures could potentially overstate a project's potential or actual impact, positive or negative. Thus an outcome indicator may have to be able to be adapted to measure regional figures.³⁵

Data should also be able to be disaggregated in order to understand how certain policies and projects affect vulnerable groups. Where possible, impacts should be able to be assessed on women, children, minorities, drug users, and so on. In many environments this may not be possible. However, an inability to measure impacts on particular groups is by itself an indication of risk for discriminatory impacts and should be highlighted for action.

4. How to Use this Assessment

This assessment is intended to serve as both a risk assessment and measure of progress or regression in certain contexts. Therefore, the first assessment may be considered a risk assessment that also sets the benchmark against which future progress will be measured.

- **Step one** includes naming your assessment (a simple date may suffice) and then selecting a country in which a drug control project is to take place. If the assessment is regional it may require doing assessments for more than one country.

Step 1

Choose Country

Review of your current assessment:
Assessment name: 10 April 2012
Country: Iran, Islamic Republic Of
Topic: Right to life - The death penalty

Select a country from the list below: 

- Iceland
- India
- Indonesia
- Iran, Islamic Republic Of
- Iraq

³⁵ This should not be difficult in the case of the death penalty where many people are tried and executed in the regions where they are captured or where arrest figures and major seizures are collected.

- **Step 2:** As mentioned above rights abuses occur at multiple levels therefore any assessment must be capable of linking rights to laws, policies and practices to particular human rights. For example, extrajudicial executions and the death penalty for offences that do not qualify as most serious³⁶, engage the right to life. Or laws prescribing corporal punishment or abusive law enforcement practices implicate the right to be free from torture or other cruel, inhuman or degrading treatment or punishment. Therefore Step 2 allows you to select the policies or themes associated with particular rights from a dropdown menu. Once this is done, illustrative indicators for those rights should appear.

Step 2

Select Human Rights Topic

Review of your current assessment:
 Assessment name: 5 April 2012
 Country: Afghanistan
 Topic: The death penalty

Select a human rights topic from the dropdown menu below: 

The death penalty

Right to life

The death penalty

Extrajudicial executions

Right to be free from torture or other cruel, inhuman or degrading treatment or punishment

Corporal punishment

Abusive law enforcement

Right to liberty, security of person,

- **Step 3** allows you to fill out the structure, process and outcome indicators for the relevant right and its associated policy/theme. These indicators can be viewed as a kind of questionnaire that measures human rights performance.
 - The question mark icon provides sources for where answers for these indicators can be found. Sources may include information provided for the Universal Periodic Review of the UN Human Rights Council; reports of NGOs like Human Rights Watch and Amnesty International; or official reports of the States themselves. That said, there may occasionally be instances where answers simply cannot be found. One need not provide answers for every single question. Yet the person filling out the form should recognise that enough indicators must be answered in each section – structural-process-outcome – to be able to measure future progress.
 - Again, it must also be emphasised that these indicators are illustrative, not prescriptive or exhaustive. For some stakeholders standardised indicators will not be acceptable. Therefore, each section has space at the bottom to allow the respondent to develop unique indicators suitable to the user.

³⁶ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171

Step 3

Indicators

Review of your current assessment:

Assessment name: 10 April 2012

Country: Iran, Islamic Republic Of

Topic: Right to life - The death penalty

Create or edit your own indicators

The death penalty


Risk:

The application of the death penalty for drug-related offences evidenced by death sentences and/or executions for drug-related offences in the past decade and proximity to activities that could lead to the arrest and prosecution of death penalty-eligible drug offenders.

Law and policy assessment (Structural indicators)

1. International human rights instruments, relevant to the right to life, ratified by the state 

ICCPR (Date of ratification: 24 June 1975)

2. Date of entry into force and coverage of the right to life in the Constitution or other forms of superior law 

The government reported that the Constitution of the Islamic Republic of Iran and consists of 14 chapters and of the Constitution, under the title of "The Rights of People" comprises 24 articles dealing with human rights and freedoms. However, the UN Secretary-General reported to the Working Group on the Universal Periodic Review Constitution guarantees a wide range of human rights and fundamental freedoms, but in practice there are serious their full protection and to the independent functioning of State institutions.

RESOURCES:

UNITED NATIONS

- See OHCHR Compilation of UN information of the UN Universal Periodic Review [\(Link\)](#)

- **Step 4:** Once risks or impacts have been identified and a benchmark assessment has been filled out, an appropriate action must be decided upon. These responses should be guided by what will have the most impact and added value for the project and decided in consultation with relevant stakeholders. Action may involve the augmentation of the delivery of the project or programme to take into account and address those risks, based on their proximity to the project and potential responses. These responses can be viewed as a sliding scale (see box 1) depending on the severity of the abuses identified. Actions need not be limited to a single response and in fact many may already be happening. In some cases the risk assessment may reveal that any activity is simply too fraught with human rights risk to commence.

Box 1³⁷:

Complementary Activities	Activity Safeguards:	State Undertakings:	Political Intervention:	Temporary Freeze:	Withdrawal of Support:
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- **Step 5:** Involves the overall evaluation of the success of the response in influencing the desired outcome.

³⁷ These types of responses were conceived by the UN Office on Drugs and Crime for its own 2011 Human Rights Guidance Note.

The assessment must be saved and should the indicators should serve as a benchmark against which future assessments are compared. Failure to successfully attain the desired results may require augmenting responses as shown in Box 1.

There may be a need to include multiple-rights based assessments on a single project. Assessments may look at the death penalty, corporal punishment, the right to health, HIV/AIDS and overdose, among others. Where people are required to work in treatment, indicators on the right to be free from servitude may also need to be added.

The thoroughness of the assessment would depend on the environment. An assessment on servitude may be superfluous if a closed treatment centre does not require people in detention to work. Nor would the death penalty need to be assessed if a country has abolished capital punishment. In some instances the human rights priorities of a particular user (e.g., a country mission) may be decided in advance.

In other situations, the risk assessment could be dependent on the sector or nature of the project that is being considered. For example, when funding is provided for a project focused on HIV-prevention, the death penalty is unlikely to be a risk. However, capital punishment policies could be very relevant to cooperative law enforcement projects that are carried out in retentionist states.

A guiding question behind this is the proximity of a project to certain negative impacts. Once this proximity has been established, the risk, laws, process and impacts detected should guide the action taken.

The action should work toward minimising the negative impacts. Failure to do so, or in some rare instances, severe escalation in violations – such as the death penalty for example – may require cessation of funding and assistance.



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