



ksapa

Leading local stakeholder engagement on Human Rights

24 MARCH 2020

CONTENT

Ksapa

Introduction

Team & Network

Advice

Advocacy

Investing

Local Stakeholder Engagement

3 Areas Directly Impacting Business in Respect to Human Rights

3 Areas Where State and Business Cooperation is Critical

Leading Local Stakeholder Engagement Activities

Engagement and Project Cycle

Ksapa - Introduction

Ksapa (Sioux language): Discernment, Wisdom, Soundness, Reasonableness

Our purpose is to participate in shifting the economic world towards operating and investment models performing economically, socially & environmentally

Ksapa combines **ESG & CSR consulting** and **Innovative Impact Investment services** to design and implement scalable solutions to build more resilient, inclusive and competitive operating models



We Advise

Ksapa provides strategic advice helping companies and investors to generate competitiveness with resilience and inclusiveness



We Invest

Ksapa provides scalable innovative financing solutions and impact investing programs generating return and accelerating impact on Global Goals



We Advocate

Ksapa is a social purpose corporation sharing insights to show businesses and investors why and how to embed resilience and inclusiveness across investment and business decisions

- ESG / SDG Materiality
- Business Strategy
- Risk & Due Diligence
- Training & Remediation

- Impact Investing Fund
- Sustainability Themed Investing Program
- Active Ownership

- Media
- Social Media
- Blog
- Briefing Papers
- Reports

Ksapa – Team & Network

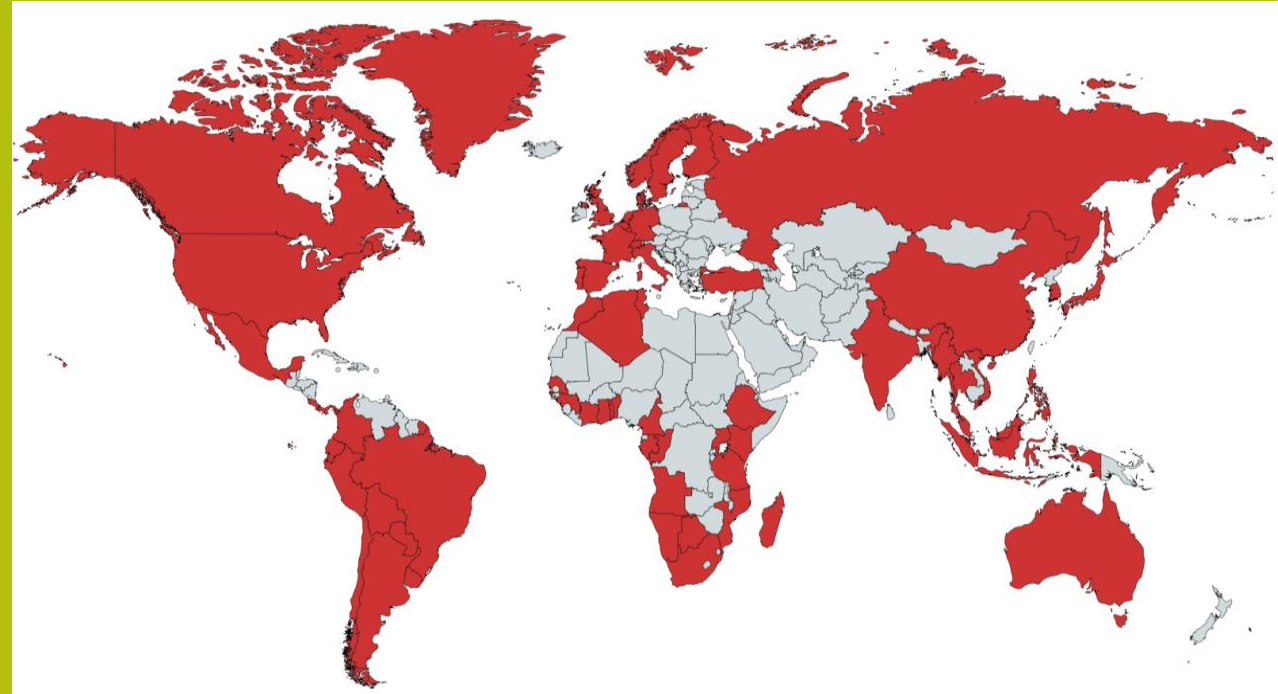
Founded in 2019

Team of 6 complementary persons to date

Headquartered in Paris

Strong network of +150 partner experts worldwide

Ksapa can ensure **close contextual and operational support** and deliver **high quality results to global players**



Ksapa – Advice



We Advise

We provide **strategic advice** on **ESG & CSR** policies relevant to your business and assets

We drive transformations, improving both short-term competitiveness and long-term performance: by harnessing the potential from more inclusive business models, improving relevancy by accelerating the impact on the **2030 SDGs**, and building greater resilience towards rising uncertainties

With our **expertise in Sustainability and Investment**, we assist companies and investors in improving their strategies and operations



**ESG / SDG
MATERIALITY**



BUSINESS STRATEGY



DUE DILIGENCE
**RISK & DUE
DILIGENCE**

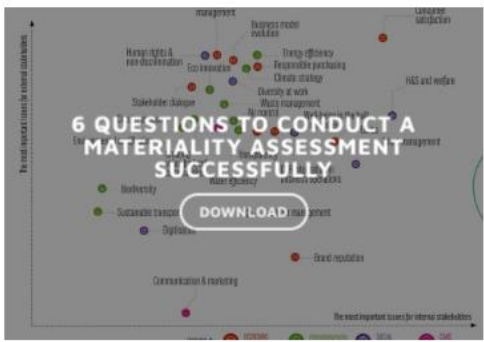
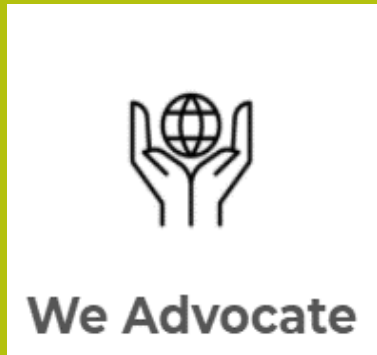
- Materiality Assessments
- Engage Stakeholders
- ESG Risks in AUM

- Define Purpose & Profit Approach
- ESG in Financial and Business Strategy
- Develop targets, metrics and impact measurement criteria
- Upgrade Management Systems
- Plans to drive transformational change

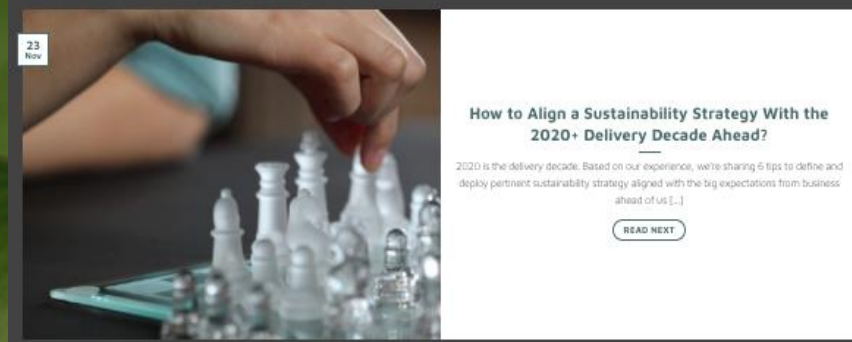
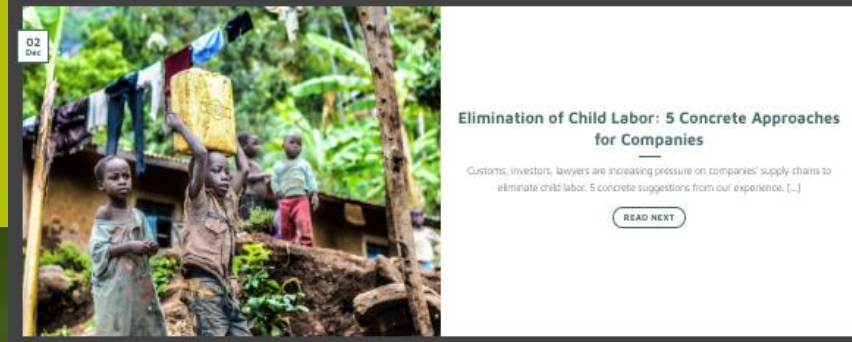
- Due Diligence Processes
- Translate into risk management policy and investment strategy

Ksapa – Advocacy

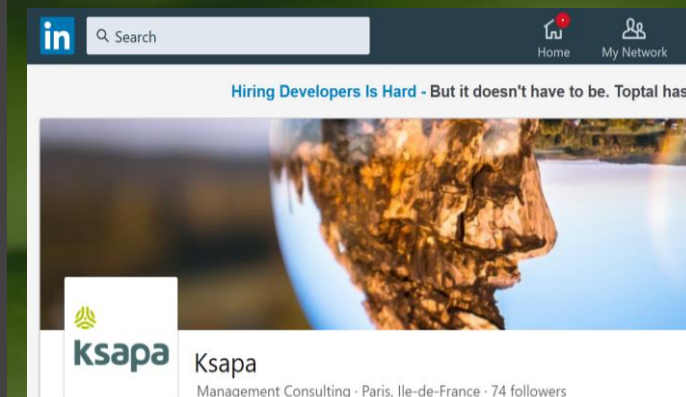
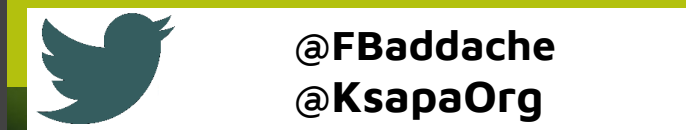
BRIEFING PAPERS



BLOG POSTS



SOCIAL MEDIA



Ksapa - Investing

A Ksapa program aiming at:

- developing **large scale Technical and Vocational Training programs**
- focusing predominantly on **low income rural people** working across **fragmented supply chains** in **emerging countries** having low access to good practices
- deploying an efficient learning process based on a **hybrid approach: face-to-face training sessions combined with digital solutions**
- significantly **increasing participant revenues** while improving both social & environmental impacts
- favoring the adoption of **sustainable agricultural practices**
- improving **agricultural commodity traceability**
- implementing **economically performing solutions** in an added-value sharing scheme benefiting to all: participants, local & global partners & investors



SUTTI

(Scale Up Technical Training Initiative)

CONTENT

Ksapa

Introduction

Team & Network

Advice

Advocacy

Investing

Local Stakeholder Engagement

3 Areas Directly Impacting Business in Respect to Human Rights

3 Areas Where State and Business Cooperation is Critical

Leading Local Stakeholder Engagement Activities

Engagement and Project Cycle

Then and Now

Since 2011 The Guiding Principles on Business and Human Rights

Has built more trust & more constructive approaches to managing human rights across businesses
Still, many governments have recognised that voluntary measures – while important
– are insufficient to ensure companies' respect for human rights

Soon to be expected A legally binding instrument to regulate the activities of companies
(discussed for the last 5 years across United Nation processes)

Revamped approaches respecting human rights are needed

Tax evasion vs. fully paying respect human rights, i.e. contributing to society by paying taxes where in operation (e.g. in manufacturing locations) – especially in times of growing inequalities...

Ruled using bilateral investment treaties and related access to investor-state dispute settlement (ISDS) or similar system generates poor trust in decision transparency, and actual capacity for companies to respect human rights and provide effective remedy and justice.

Data collection, usage or sharing of data of clients, employees or business partners – implications of tech on human rights of privacy, freedom of expression, surveillance and others...

3 Areas Directly Impacting Business in Respect to Human Rights

1

Comply with Mandatory Transparency & Human Rights Due Diligence – In Operations, Joint Ventures & Supply Chains

U.K.'s Modern Slavery Act (2015), France's Duty of Vigilance Law (2017), Netherland's Child Labour Due Diligence Law (2019) are recent examples. Germany, Switzerland, Finland, or Austria are also considering similar initiatives

Growing regulations – but also growing convergence of **soft law** with hard law

**This is calling companies to seriously explore,
document, demonstrate impact**



3 Areas Directly Impacting Business in Respect to Human Rights

2 Develop Granular Understanding of Vulnerable Segments & Their Specificities

Often wrongly understood as part of risk management activities

- Not only risks that *may* impact, but instead, *risks in need of being properly addressed*
- Not about *protecting against impact on assets*, but, *how the company may impact right holders* (the protection of people)

Examples of more specific **vulnerable** segments include:

- Vulnerable customers: e.g. teenagers, children or gambling addicts, who are easier to persuade with marketing
- Vulnerable employees or contractors: migrant workers, gender, LGBT+, less educated workers...
- Vulnerable communities: minorities, poorest, least educated, not well-represented in local institutions

It's about respecting human rights - of everyone



3 Areas Directly Impacting Business in Respect to Human Rights

3 Human Right Responsibilities Derived From Environmental Business Impacts

Pressure is mounting from youth, who are challenging every business on its climate impacts which depraves them, and future generations, right to live and to have a future.

The movements are getting stronger around the world, and in the future, businesses are also expected to be **held account for past actions**

The very **same trend** applies across numerous **environmental impacts** such as water depletion, air pollution, biodiversity and artificial lands, plastics and waste

Businesses need to connect environmental impacts with a human right agenda





3 Areas Where State and Business Cooperation is Critical

1

The Role and Protection of Whistleblowers

Whistle Blowers and human right defenders are taking risks. Their lives change dramatically the day they decide to stand up.

They need protection. Their role needs to be further defined.

The regulatory environment remains weak, but will become **strengthened**: The Whistleblower EU Directive (adopted 2019) Companies will have to **comply with whistleblowing regulations**, and cooperate and encourage such laws

Companies need to clarify role, process, protection and remedy of whistleblowers who protect workers & rightholders

For instance, they can provide a clear and transparent avenue enabling rightholders seeking for remedy and justice to access solutions no matter local legal entity or joint venture operations



3 Areas Where State and Business Cooperation is Critical

2

Land Development & Free Prior and Informed Consent (FPIC)

Insufficient public consultation often lead to conflictual situations and where FPIC regulations exist and are enforced, ownership of local people is also encouraged

Foreign investors often lose trust in local authorities when they discover that they are expected to take care of strong local resistance and develop programs due to poor prior consultations. Their interest to invest more may therefore also decrease significantly

Companies are often split between respecting agreements as tenders to authorities and discovering the need to manage a high level of stakeholder engagement

The more there will be regulations respecting FPIC principles, the more business will find it easier to respect human rights

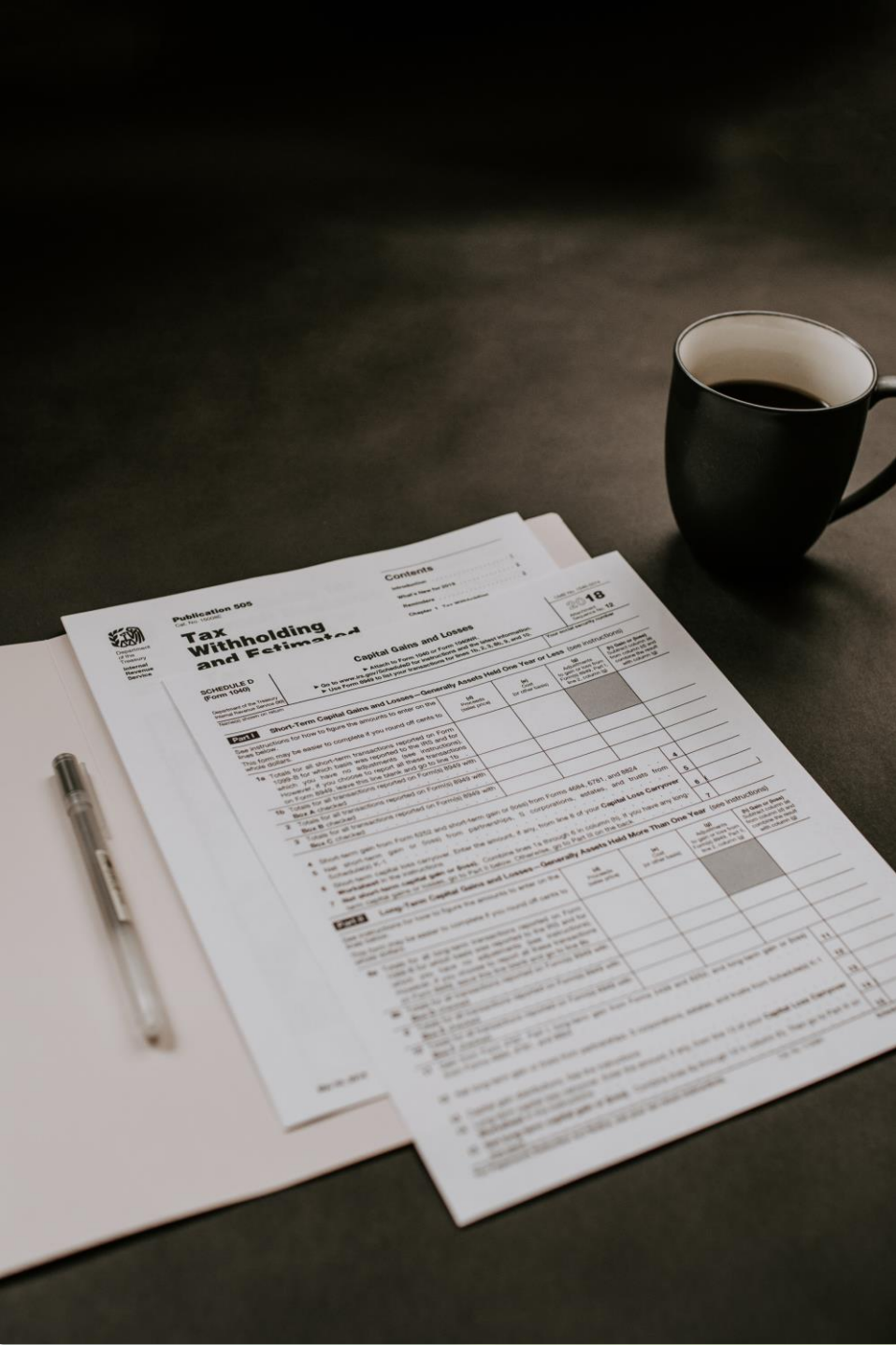
3 Areas Where State and Business Cooperation is Critical

3

Bilateral Trade Agreements Treaties & Access to Effective Remedy and Justice, both Nationally & Extraterritorially

ISDS and other bilateral vehicles enabling companies to benefit from significant tax incentives or poor legal responsibility and accountability are under close scrutiny of stakeholders

Legally binding discussions are exploring solutions to increase transparency and ensure that States and companies can provide effective remedy and justice



Leading Local Stakeholder Engagement Activities



Stakeholder: anyone who may be affected by, or may affect, a project

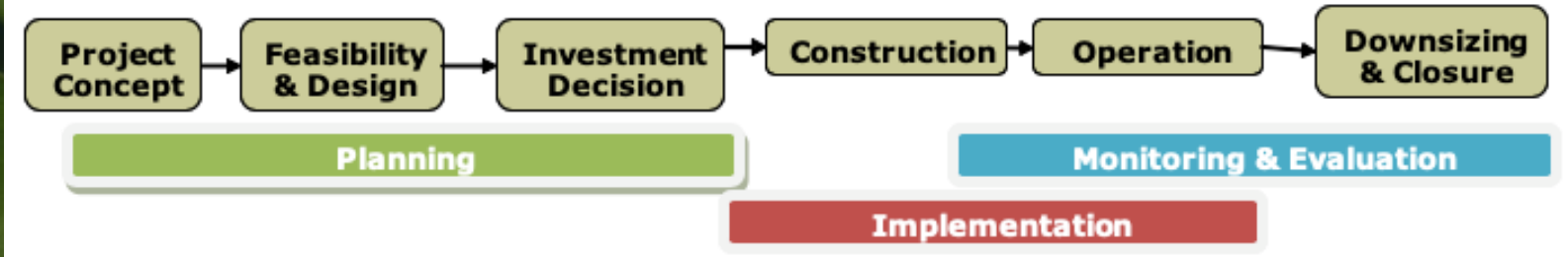
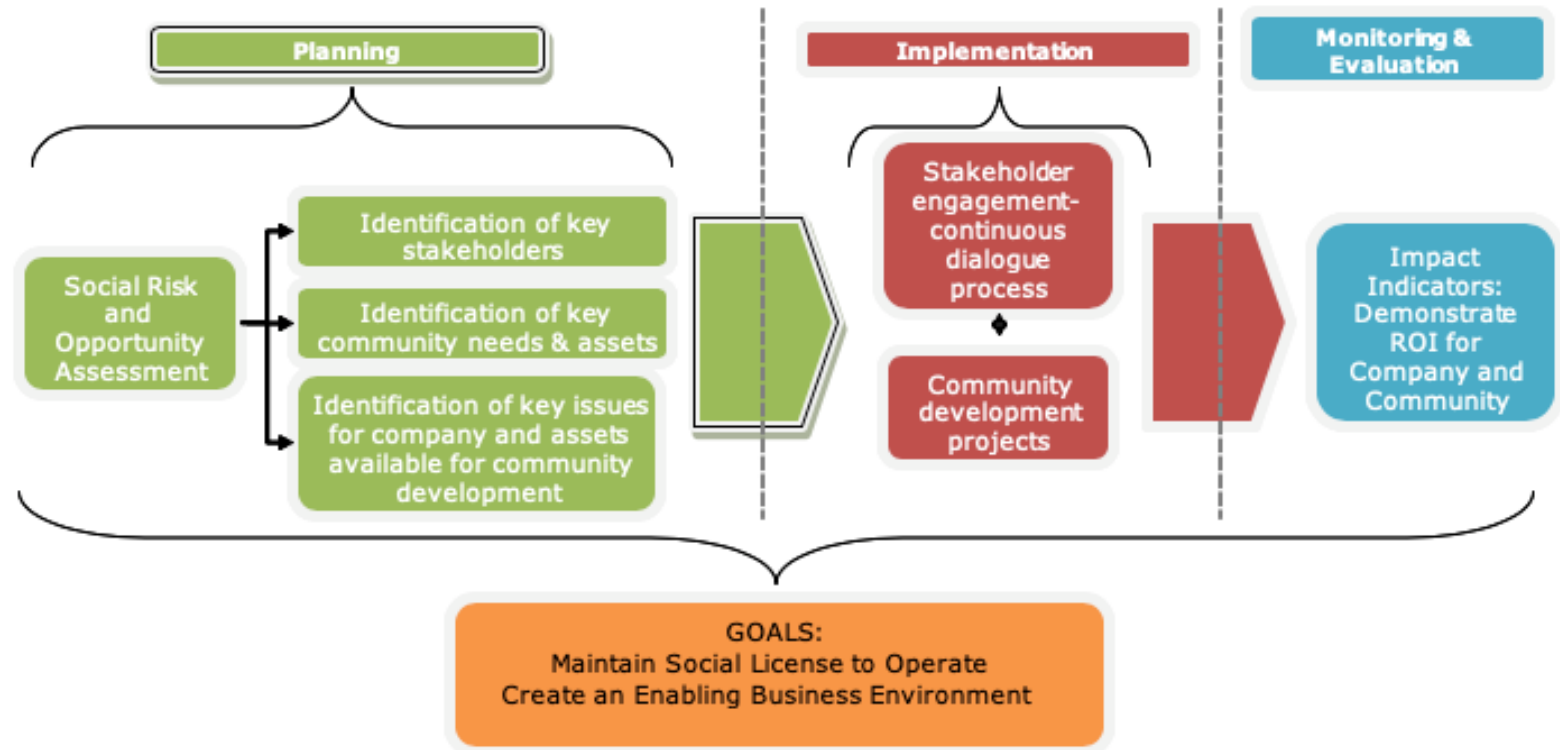
Stakeholder Engagement: substantive, two-way dialogue, i.e. participatory approach to community development that requires an investment of time as well as resources to be successful

Engaging with these stakeholders can help to:

- Identify and prioritize community development needs and opportunities
- Identify potential positive or negative impacts from industrial operations that development projects may further leverage or help to mitigate
- Gather innovative ideas
- Encourage community member involvement in project design, implementation and monitoring
- Identify and evaluate potential partners
- Monitor project impacts and ensure that development projects are meeting community expectations
- Respect human rights across operations, and document risk mitigation activities in compliance with relevant regulations

Proactive investments are a way cheaper than reactive management of a crisis!

Leading Local Stakeholder Engagement Activities



Leading Local Stakeholder Engagement Activities

Stakeholder Mapping

To ensure that the stakeholders who are most likely to be impacted by or have the ability to impact an operation are identified



Stakeholders such as potential project partners (who may not necessarily be impacted by the operation), should not be overlooked!

And importantly, stakeholder maps represent the knowledge of their creators and constitute an initial hypothesis regarding an operation's relationships to its stakeholders. It is imperative to conduct interviews with stakeholders to **validate** these assumptions and regularly re-evaluate the status of the relationships

Going beyond the comfort zone when mapping stakeholders is essential! Using social media, include stakeholder representatives who might seem far from operations, focus on vulnerable groups

A more difficult task is defining the community who will benefit or negatively impacted from development efforts:

1. Neighbouring communities
2. Vulnerable groups or social communities
3. Existing government, community, or partner development plans...

Leading Local Stakeholder Engagement Activities

Consultation

Initial consultation with stakeholders can take a variety of forms, such as:

- Community meetings
- One on one conversations with individual stakeholders
- Small group workshops
- Meetings with community organizations
- Surveys



There is no perfect format – all have biases!

There are engagement techniques to use and adapt to sensitive people and contexts.

Conducting the consultation process in a culturally appropriate manner, in the local language and providing information in oral and visual format, as well as written to accommodate different levels of literacy, is key

For sensitive human right related discussions, selection of a translator might also be closely considered to ensure neutrality, confidentiality and make sure people feel safe sharing their perspective with presence of someone local

Leading Local Stakeholder Engagement Activities



Ongoing Engagements

After initial stakeholder engagement to identify needs, opportunities and assets, and design development projects, ongoing processes for engaging with stakeholders are needed to:

- Make key decisions about project direction & resource allocation
- Allow for ongoing stakeholder participation in implementation
- Build capacity
- Enhance transparency and communication
- Oversee project budgets

Mechanisms for engagement include:

- Multi-stakeholder community development committees/boards
- Project advisory committees
- Regular project update communications
- Information offices
- Grievance mechanism
- Social media activities following and engaging in relevant online discussions

Engagement and Project Cycle

Business Context			Practical Tools	
Characteristics	Stakeholder Engagement (Operation)	Stakeholder Engagement (Development)	Development Opportunities Specific to Phase	Practical Tools
Project Concept (Exploration) Surveying, project exploration (e.g.: drilling, seismic testing related to extractive projects)				
Competitive Short time frames High uncertainty	1) Initial identification of key stakeholders 2) Initial contextual review		Short-term projects, contributions to existing projects, or commitment to risk mitigation of specific concerns related to the project (regardless of decision to pursue industrial project) are ways to make a contribution at this stage, and can help establish good relations	Stakeholder mapping (right holders, duty bearers) Environmental and Social Risk Assessment Human Right Contextual Overview
	Establish tone for company-community relationship	Provide basic information about company and project		
Feasibility & Design Technical feasibility studies, review of social and environmental impacts; meet investor requirements & obtain permits				
Most intensive period of consultation around operations	Create and execute stakeholder engagement plan (possibly part of official consultation processes)		Invest in skills development of local workforce and business preparation/development for local suppliers	Environmental, Social, and Health Impact Assessment Participatory Assessment Tools Human Right Impact Assessment
	Obtain clear understanding of: Social, environmental impacts Community concerns Communicate about project design and timeline	Identify project impacts and Engage with community members to identify and prioritize needs and opportunities for development		

Engagement and Project Cycle

Investment Decision				
Finalize all permits and financing				
Development budgets discussed and set	1) Ongoing engagement	Create community development committee (governance) Engage development partners Set up grievance mechanisms	Identify resettlement & alternative livelihood projects Partner capacity building	Identify local partnerships Strengthen contractual clauses of contractors mitigating human right risks Strengthen contractual clauses as part of license discussions with local authorities to clarify roles, responsibilities and standards managing human right related risks Structures for Ongoing Stakeholder Engagement in Development
	Community comment on final design Communicate about expected project impacts Begin planning for closure	Prepare for construction impacts		
Construction				
Development of industrial site and supporting facilities				
Largest labor need; frequently involves influx of workers. Funds available for development are usually greater during this phase than during operation	1) Ongoing engagement	Create community development plan with all partners Set goals and indicators for success Set up monitoring processes Learn from grievance mechanism to improve data collection or risk mitigation activities Engage partners/ community in implementation	Identify and begin "soft" (short term) development projects Identify projects to counteract potential negative impacts of construction (influx of workers, new income inequality, etc.) Infrastructure Establish community trust funds	Financing Community Development See Monitoring & Evaluation
	2) Community monitoring of project impact	Address social and environmental impacts of industrial developments		

Engagement and Project Cycle

Operation				
Industrial activities in ramp-up and running mode				
Stable period of company presence and activity Opportunity to implement long term development programs with partners	Ongoing engagement Community monitoring of project impact	Ongoing participation in project implementation, monitoring & adjustment Communicate about implementation and success Learn from grievance mechanism to improve data collection or risk mitigation activities Build partner capacity for post-closure sustainability Define closure strategy	Implement long term community development programs & meet expectations set out in community development plan Guidance or monitoring of distribution & investment of taxes & royalties	Measure local impact Update human right impact assessment findings moving to operation phase
	Downsizing or Closure			
End of operations; site closure and environmental rehabilitation/ re-vegetation				
Closure will inevitably have an impact on community income & tax base	Establish ongoing responsibility for site monitoring and remediation	Execute closure strategy	Create systems for sustaining services and providing alternative livelihoods	



ksapa

Q&A

Contact:

Tel: +33 9 50 85 48 48

10, rue de Louvois – 75002 Paris – France

Ksapa.org – contact@ksapa.org

Farid Baddache: fb@ksapa.org / + 33 6 21 50 60 89



ksapa

Advise

Invest

Advocate