



Sector-Wide Impact Assessment

Human Rights and Business Fact Sheet Environment & Ecosystem Service



This factsheet was compiled for the use of the Myanmar Centre for Responsible Business (MCRB) sector-wide impact assessment (SWIA) research teams, but may be of wider use in understanding the human rights risks involved in particular business issues. For more information on MCRB's SWIAs, please see www.mcrb.org.mm.

Short Summary of the Human Rights Issue

Impact on the environment surrounding a community is one of the most common ways that companies have impacts on communities. Company operations can affect the environmental resources that the community uses (air, water, soil, biodiversity) or directly affect the state of people's health.

Communities have a right to be free from unacceptable levels of harmful pollution and environmental degradation caused by companies. Myanmar is in the process of updating its laws on environmental protection and does not currently have very strong or rigorously enforced laws on environmental protection. Companies are nonetheless required to comply with the environmental laws and any particular requirements on environmental protection attached to their investment approval. In particular, companies have to comply with Environment Impact Assessment (EIA) Procedures (Notification 616 of 29 December 2015). International companies may have their own, higher standards and stricter practices that they apply when operating in Myanmar.

Communities also have a right to access information regarding activities that may impact their environment. If communities have relevant information, they will be better able to understand potential and actual environmental impacts and take necessary actions to protect themselves and their surroundings from harmful substances and impacts. The information should be accessible, understandable and in the local language. Communities should have a chance to comment on the company's plans and the company should consider these comments and provide answers back to the community about how it will address their concerns.

If a company will have operations that are particularly dangerous, it should prepare emergency plans about how to deal with an accident. These should be discussed with and disclosed to the local community and the local government. If there is an accident, the company should alert people and take action to make sure workers and community members do not come to harm.

Companies can also have a positive impact on the environment, such as improving water quality or cleaning up soil pollution.

There are a number of different human rights issues involved:

Impacts on the right to health:

- Company impacts on the air, the water and soil can lead to negative impacts on the right to health. This can be a very direct impact – where pollution causes lung diseases or polluted water results in illness or more indirect, whereby company operations introduce new diseases into the area or increase the spread of existing diseases. One of the most typical cases is when the project results in a lot of standing water – due to construction or ruts in the road from transportation and this attracts mosquitos that are malaria infested. Another example is where a project discharges its human waste directly into water bodies -- lakes, rivers, ocean-- that communities rely of for domestic use, agriculture or fishing and they get sick as a result. Children are far more likely to be more harmed by pollution compared to an adult and the same is often true of older people. It is important therefore to pay attention to vulnerable groups in the community and the impact on their health.

- If the project involves a lot of transportation, there can be a rise in the level of road accidents and harm or death to community members. This can be a particular risk for children. An increase of road transportation may also lead to a lot of dust and thus respiratory problems for community members.
- Accidents at a company's operations can sometimes have much wider impacts in the community – dangerous chemical releases or fires involving toxic chemicals, for example.

Impacts on the right to food and water:

- Companies can have more indirect impacts whereby pollution reduces the productivity of the soil so people are not able to grow sufficient food or graze their animals, or where pollution poisons the food which cannot any longer be consumed by humans.
- If company operations reduce or damage the habitats for plants & animals living in the area, this can mean a decrease in food available for community members who rely on hunting, fishing and gathering wild plants.
- Companies can have an impact on the right to water by making the water unusable or dangerous as a result of pollution, or a company may use some or all of the water supply that the community needs for its own consumption, its animals or crops.

Workers' right to health:

Companies have a responsibility to make sure workers are not harmed while working at the company (see Labour Fact Sheet)

Disclosure of environmental information:

- Myanmar has adopted the EIA Procedures (Notification 616 of 29 December 2015) which require companies disclose environmental information and publish the EIA report (Article 38 for IEEs, Article 65 for EIAs). Companies are required to disclose information on their potential environmental impacts and their plans on how they plan to address this to local communities, and local governments should make sure companies make this information available to the public.
- A company's impacts on the environment last as long as their operations (and sometimes even after they close the operations). They are required to monitor their air or water emissions (see the guidelines on emissions accompanying the EIA procedures). The environmental authorities also monitor operations. Communities should have access to the information about a company's on-going operation impacts – in addition to information about planned operations; before the company starts up the project in the area (see above).

Grievances

Companies should set up a system to enable community members and workers to report a concern or file a complaint, if they feel that company operations are harming the environment, in a way that may impact their health, their ability to obtain food or water, or their livelihoods. If these rights have been impacted negatively, a person or community should have a remedy. (See Fact Sheet on Remedies). A useful resource is IPIECA's "Operational level grievance mechanism: good practice survey" available here: <http://www.ipieca.org/publication/operational-level-grievance-mechanisms-good-practice-survey> (for Burmese translation see <http://www.myanmar-responsiblebusiness.org/my/publications/ipieca-guide-translation.html>).

Why this is Relevant to Local and International Companies Operations

It is relevant to ask about company or government actions to understand potential impacts on the environment in order to establish whether:

- Companies are consulting with communities on their potential and actual impacts.
- Communities have options to address environmental grievances with the company or the local government.
- Local governments are taking any role in regulating and monitoring company operations. As part of EIA Procedures companies now have to submit monitoring reports on how they progress on implementation of Environmental Management Plan (EMP) and recommendations for remedying those difficulties, and monitoring data of environmental parameters, among other requirements (Article 109, EIA Procedures)

Human Rights References

- A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water, which are protected under international human rights law (in particular articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights).
- International human rights law increasingly recognizes that all persons have a right to access to information, public participation in decision making and access to justice in environmental matters. While the burden falls primarily on the state, companies can play an important role in respecting and fulfilling the right, because they generate and control environmental information.