Business and human rights
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Chapter 1

Introduction to the PhD

Photo 1. A translator explains the concern of a woman to a company staff member in the resettlement site, Tete, Mozambique, 2013
Introduction to the PhD

Human rights and business: what is the problem?

In 2011, the United Nations Human Rights Council endorsed the United Nations Guiding Principles on Business and Human Rights (UNGP) (United Nations, 2011). The endorsement of the UNGP confirmed that, regardless of government obligations, all companies have a responsibility to respect human rights wherever they operate. To operationalize and comply with this responsibility, companies are expected to identify all human rights risks and impacts in relation to their project activities and business partners, and they have to avoid, mitigate, and provide remedy for adverse human rights impacts (United Nations, 2011).

A foundational principle of the corporate responsibility to respect human rights is that, “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved” (United Nations, 2011, p. 13). Business enterprises need to implement their responsibility to respect human rights through adequate policies and processes, by: “(a) A policy commitment to meet their responsibility to respect human rights; (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute” (United Nations, 2011, p. 16). After the endorsement of the UNGP, the need to observe corporate human rights responsibilities has become explicitly acknowledged by hundreds of multinational business enterprises (businessandhumanrightsresourcecentre, 2017), especially those from the mining, oil and gas sector.

In international law, only governments are regarded as the primary duty bearers in respecting, protecting and fulfilling human rights. Business enterprises, through their objective of profit maximization, are argued to contribute to the realization of human rights by creating jobs, providing goods and services that satisfy basic needs, and maintain or improve people’s quality of life. However, it has been observed that the inability of governments to effectively monitor and manage corporate activities regarding their negative impacts on the environment
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An early attempt to establish non-voluntary corporate human rights responsibilities was undertaken in 2003 by developing the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (UNESC, 2003). The Norms failed primarily due to lack of support from the business community (Ruggie, 2007, 2013). Subsequently, Professor John Ruggie was appointed as the ‘Special Representative on Human Rights and Transnational Corporations and other Business Enterprises’ to progress the discussion on the issue and to consider an alternative strategy. In 2008, Ruggie proposed the ‘Respect, Protect and Remedy Framework’ (Ruggie, 2008) that clarified the responsibilities of business and obligations of governments with regard to respecting, protecting and fulfilling human rights. The Human Rights Council approved the Framework and extended the mandate of Professor John Ruggie to further operationalize the Framework. Eventually, after 7 years of multiple research projects and extensive consultations between governments, civil society groups, international NGOs, business enterprises and other organization, in 2011, Ruggie issued the UNGP, which was then endorsed by the Human Rights Council (Ruggie, 2013).

Ruggie (2008, p. 3) established that, “the root cause of the business and human rights predicament today lies in the governance gaps created by globalization – between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation. How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge”.

What are these ‘wrongful acts’ John Ruggie is speaking of? Wright (2008) analyzed 320 cases of alleged corporate-related human rights abuses and concluded that all types of industries and business activities around the world can be involved in, or can be the direct cause of, adverse impacts on virtually all the human rights. The study revealed a particular link with extractive industries (see also Kaeb, 2008; Drimmer, 2010) and the majority of human rights impacts were observed in non-Western countries. Also, the report showed that many human rights impacts resulted out of a multi-dimensional complexity involving supply chains with
thousands of companies involved which complicates the provision of effective remedy. Around the world, company involvement in human rights abuses involved poor working conditions and related physical and mental trauma, the use of child labour, and loss of life (Aizawa and Tripathi, 2016). Also, business activities directly affected human rights through excessive forms of environmental pollution, vibrations, and dust creation (van der Voort and Vanclay, 2015; Tuncak, 2017), evictions, expropriation and/or involuntary resettlement (Kemp et al., 2017), as well as through the misconduct of security forces resulting in physical injuries or loss of life of community members (Kaeb, 2008). More specifically, environmental, Indigenous peoples and human rights defenders disputing project developments, form a target of violence and murder (Globalwitness, 2017).

In addition to Wright’s analysis, the establishment of an international non-profit initiative, the Business and Human Rights Resource Centre, resulted in the tracking of human rights performance of over 7000 companies in 180 countries, providing on a daily basis documentation of all kinds of business related human rights harm and company responses to this harm (businessandhumanrightsresourcecentre, 2017).

The intention of this PhD research was to obtain an insider’s corporate perspective on how and why business related human rights impacts occur and what corporate procedures exist to manage these impacts. In addition, through daily engagement with company staff, the aim was to identify how staff members perceive the challenges of implementing these procedures. The research was specifically focused on the construction and operations of development projects; large-scale infrastructures that include dams, mines, oil and gas drilling, factories, ports, airports, pipelines, electricity transmission corridors, roads, railway lines and other infrastructure including large-scale agriculture, forestry and aquaculture projects (Vanclay et al., 2015). In the following section, I will shortly elaborate on the development of the international human rights system and the establishment of the neo-liberal development paradigm.
Why are most development projects not human rights-based?

The international human rights system as it exists today became established after the Second World War through the United Nations. Human rights can be commonly understood as being those “inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being” (Sepuldeva et al., 2004, p. 3). Furthermore, in the UDHR, human rights are proclaimed as a “common standard of achievement for all peoples and all nations”. The ICESCR has been ratified by 149 states, the ICCPR by 152 states, and the Convention on the Rights of the Child (CRC, 1989) has been ratified by 192 states (Sulpeveda et al., 2004).

In addition, national human rights institutions (NHRIs) were established in each country to monitor government impact on human rights in each national context. Around 2000, human rights advocates within and outside of the United Nations started to consider human rights in development policy (Hamm, 2001). A Human Rights Based Approach (HRBA) was agreed with the aim of improving the mainstreaming of human rights protection in national law and policies, and in development policies and programs (Stamford Agreement, 2003). The human rights principles that should be embedded are universality and inalienability; indivisibility; inter-dependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law (Stamford Agreement, 2003). The application of the HRBA means that in all phases of development plans and projects, human rights principles guide assessment and analysis, design, implementation, monitoring and evaluation.

In addition to the formation of the international human rights system after the Second World War, an international neo-liberal economic order, also referred to as the Bretton Woods system, became established, accompanied by the creation of international economic institutions such as the World Trade Organisation (WTO), the World Bank, and the International Monetary Fund (IMF). From the 1980s on, these institutions have imposed a set of neoliberal principles (called the Washington Consensus) that required countries to follow the norms of free markets, private property and individual incentives; and governments were expected to deregulate, as well as to privatize their state enterprises (Gore, 2000). Adherence to the principles of the Washington Consensus was a great promise, especially for governments of developing countries to enable their economies to grow rapidly and develop in similar fashion as western countries. Development, from this economic perspective, was regarded as the need for a societal and economy-wide transition from a ‘traditional society’ (e.g. rural, backward, agricultural) to a ‘modern society’ (e.g. urban, advanced, industrial) and
is predominantly measured by a country’s GDP growth (Gore, 2000). However, the application of the Washington Consensus has, especially for developing countries, not proven to be successful. A top-down approach with a narrow focus on national economic growth resulted in increased inequalities and impoverishment within and between developing countries (Stiglitz, 2002; Pogge, 2011).

A fundamental yet contested aspect of the dominant economic development paradigm is the promotion of large-scale capital-intensive projects involving multinational corporations (Oliver-Smith, 2009). This resulted in a shift in scale from local markets to international markets (i.e. economic globalisation). A further implication of the shift to large-scale development activities meant that it displaced and changed the traditional and rural livelihoods of local communities resulting in millions of peoples becoming impoverished on an annual basis (Cerna & McDowell, 2000; Vandezeeest et al, 2007; Termenski, 2015). Whereas the technical uncertainties and risks that go along with the implementation of large-scale projects were studied and well recognized governments and project developers initially did not consider the social and human rights dimensions of large-scale project development (see Hirschman, 1967). More specifically, internationally ratified human rights law, human rights standards and principles (such as the HRBA) were not utilised to guide the design, construction, and anticipated outcomes of large-scale projects (see Marks, 2014). Economic globalisation and human rights are argued to be poorly integrated (Freeman, 2013).

According to Ruggie (2008), the institutional misalignment of the human rights system and the economic system forms a critical factor in business related human rights abuses occurring around the globe. There are various reasons that can explain this misalignment. At a national level, there is resistance within governments to accept a dialogue based on human rights due to their human rights record, or for fear of another form of conditionality that will delay or complicate development projects (Frankovits, 2006). Even in the UN agencies, there exists a lack of awareness, understanding and conviction about the added value of a human rights approach in development programming (Frankovits, 2006). Furthermore, the principles of international investment law that form the basis of the international economic system (as negotiated and established under the WTO) sustain the protection of business interests over and above national concerns such as the environment, adverse impacts on local communities and thus human rights (Ruggie, 2008; see also Miles, 2010). Through stabilization clauses in investment agreements, foreign investments can be exempted from social, environmental and
labour laws that come into force after the agreement, or can require the government receiving the project to compensate the investor for compliance with these new laws (United Nations, 2009). Thus, contract agreements between governments and foreign investors do not (clearly) designate responsibilities for managing the potential adverse impacts and these costs can become simply externalized (Ruggie, 2011).

Some human rights scholars (see Alston, 2015; Evans, 2016) have placed emphasis on the responsibility of International Financial Institutions (IFIs) investing in large-scale projects that are often characterized by significant social and environmental risks. The authors are critical of the fact that IFIs avoid explicit expectations regarding human rights towards their business and government clients. McBeth (2008) explained that the World Bank’s principle of ‘political prohibition’ means that IFIs cannot become involved in any political matter of the country they invest in. Human rights tend to be seen by governments as a political matter and therefore the Bank is kept from imposing any such obligations. IFIs could thus undermine the international human rights system, and obstruct the integration of economic development and human rights. However, arguably, IFIs policies have become influenced by human rights standards and ideals, but through an implicit approach (Marks, 2014). For example, the poverty reduction mission of the World Bank involved increased investment in health and education, as well as an emphasis on improving governance issues (see World Bank, 1998). Therefore, although not explicitly, the main objective of the World Bank may be concerned with contributing to fulfilling the social and economic rights of peoples. Also, the World Bank and IFC social and environmental performance standards have, over the last decades, significantly improved, and these arguably cover human rights issues. However, recently, the World Bank and other IFIs publicized major deficits in the implementation of their performance standards, especially concerning project-induced displacement and resettlement (see AfDB, 2015; World Bank, 2015). From a human rights perspective, ‘deficits’ in implementing environmental and social performance standards suggest human rights violations of economic, social and cultural rights, such as the rights to adequate housing, work, food, health and life.

Particular human rights abuses linked to development are arising out of land acquisition for large-scale projects. Project-induced displacement and resettlement (PIDR) involves the expropriation and/or relocation of local peoples and/or their assets (Vanclay, 2017). Particularly in developing countries, the practice of land acquisition, or more critical
academics would refer to *land grabbing* (Zoomers, 2010), is considered an increasingly prevalent phenomenon creating widespread environmental and social injustices, and human rights violations. Decades of research has shown that PIDR has systematically led to the impoverishment of millions of peoples worldwide, especially affecting rural, tribal and Indigenous communities with a disproportional negative effect on women, children, the elderly, and the disabled (Cernea & McDowell, 2000; World Commission on Dams, 2000). An estimated 15 million of people displaced annually for the purpose of development, have experienced a loss of access to natural resources (water, land, forests), loss of livelihoods, loss of access to essential public services (access to markets, health and education facilities), loss of cultures, loss of social structures and relationships, children dropping out from school, and impacts on mental health (Cernea & McDowell, 2000; Wright, 2008; Ruggie, 2008; de Schutter, 2009; Anaya, 2011; Carmona, 2013). As a consequence of this, local resistance in the form of protests have escalated into grave conflicts involving intimidation, beatings and killings of project-affected peoples and their representatives such as lawyers and other human rights defenders (Wright, 2008; Laplante & Spears, 2008; Ruggie, 2008; Earth Rights International, 2013; Hanna & Vanclay, 2016).

The realisation of economic development can be linked to a global observed pattern of large-scale project related adverse impacts involving personal and community trauma, excessive conflicts and human rights abuses. Initially, human rights principles and standards were clearly not respected or adequately implemented in the local environment of development projects. But today, given the widespread acceptance of the corporate responsibility to respect human rights, what are responsible project operators doing about it? How should business enterprises improve their impact on human rights, especially in relation to displaced communities? *Can the cause be the cure?*

**The research questions and theoretical approach**

The objective of this research was to outline the challenges of implementing the corporate responsibility to respect human rights in the context of project sites, and to provide recommendations for improving project management so that human rights abuses are avoided and positive impacts on human rights are enhanced. Respect for human rights is a fundamental aspect of corporate responsibility in achieving sustainable development, specifically in contributing to the social sustainability of local communities. According to
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The objective of this research was to outline the challenges of implementing the corporate responsibility to respect human rights in the context of project sites, and to provide recommendations for improving project management so that human rights abuses are avoided and positive impacts on human rights are enhanced. Respect for human rights is a fundamental aspect of corporate responsibility in achieving sustainable development, specifically in contributing to the social sustainability of local communities. According to Ruggie (2008, p. 4), to improve respect for human rights and enhance the social impact of business in society, “all social actors – States, businesses, and civil society – must learn to do many things differently”. This research is primarily concerned with whether and, if so, how business enterprises need to change their procedures and practice.

The main research question that guiding this research is: How can the implementation of the corporate responsibility to respect human rights be improved at project sites, in order to enhance the social sustainability of local communities?

There is no single definition of social sustainability, and it is defined in different ways in different contexts (see Vallance et al., 2011 for a clarification of the concept). However, the expansion and mainstreaming of the concept is increasingly observed in academia and by policy-makers (Dillard et al., 2008). Magis and Shinn (2008) formulated four universal principles that that together describe social sustainability: human wellbeing, equity, democratic government, and democratic civil society. Businesses are regarded as a major actor for contributing to (aspects of) social sustainability. The connection between corporate actions and social sustainability arise from the social impacts of corporate activities in particular locations and by specific industries involving the workforce, suppliers and consumers, and local communities (Bebbington and Dillard, 2008). The United Nations Global Compact (UNGC, 2017, website), the world’s largest corporate sustainability initiative, described social sustainability as “identifying and managing business impacts, both positive and negative, on people”. In my view, social sustainability is a broad, holistic concept that emphasises healthy, liveable and equitable communities that allow individuals to achieve their full potential as human beings. Human rights are thus fundamental to social sustainability. Social sustainability necessitates meaningful community involvement in decision-making, and forms the basis of environmental and economic sustainability.

An important objective of this research was to study in the real world how large-scale projects are operated by private business enterprises, and how company staff manages adverse impacts on human rights. The research consisted of an analysis of two project sites in Mozambique: a mining project and a linear project that involved the construction of a railwayline and port.
The research was guided by the following sub-questions:

1) What does the corporate responsibility to respect human rights mean at the project site level?
2) What are the existing corporate procedures and practice, and to what extent are these aligned with respect for human rights?
3) What challenges do company personnel perceive in implementing respect for human rights?
4) How can respect for human rights become integrated in the identification and management of environmental and social risks and impacts?
5) When you are being involuntary resettled, what are your human rights that the company needs to respect, protect and fulfill?
6) Are the requirements set out in the international performance standards of international financial institutions adequate in terms of respecting the human rights of project affected peoples?

Business and Human Rights Theory

The human rights responsibilities of business have been a topic of academic examination for a couple of decades (see Donaldson, 1989; Ratner, 2001; Kinley and Tadaki, 2004; Clapham, 2006; Deva and Bilchitz, 2014). Apartheid in South Africa, as well as processes of globalization including the growth and spread of powerful multinational enterprises has resulted in various moral argumentations regarding the human rights responsibilities of business enterprises (see Ruggie, 2008, 2013; Enderle, 2016). In the 1980s, Donaldson (1989) argued that the foundational basis of corporate responsibility has to go beyond Friedman’s profit maximization (see Friedman, 1962). He considered that multinationals should respect the human rights of those individuals and groups affected, especially when the rights affected are of the most fundamental sort (Donaldson, 1989).

The establishment of the Guiding Principles by Ruggie has resulted in both criticism and praise from various groups, especially human rights academics and NGOs (Blitt, 2012). Scholars from the discipline of Business Ethics have criticised the UNGPs foundations, particularly the principle of the corporate responsibility to respect human rights (Brenkert,
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Some human rights scholars and many activists find that only by formally regulating multinational enterprises through establishing corporate human rights obligations, will corporate related human rights abuse become effectively addressed. Especially, corporate human rights obligations should ensure people’s access to remedy when they have experienced adverse impacts. Therefore, human rights scholars and activists continue to advocate for the development of a business and human rights treaty (Bilchitz, 2016; de Schutter, 2016). However, Blitt (2012) stressed that the endorsement of the UNGP does not present a failure, instead it has provided an important starting point for further future development of strengthening corporate human rights duties and access to remedy. Also, the upsurge of interest by academia has resulted in the first Business and Human Rights Journal by Cambridge University Press, with its first issue in 2016.
Human rights form the foundational concept applied in this research. Therefore, obtaining a broad understanding of human rights concepts, their development and critical issues was an important inquiry. The core human rights were established in the International Bill of Human Rights that includes the Universal Declaration of Human Rights (UDHR) (United Nations, 1948), the International Covenant of Economic, Social, and Cultural Rights (ICESCR) (United Nations, 1968a) and the International Covenant of Civil and Political Rights (ICCPR) (United Nations, 1968b). When human rights became formalized in 1948, the UDHR proclaimed that human rights are universal, which means that the protection of human rights form a common standard to be ultimately achieved by all governments (Sulpeveda et al., 2004). A more-or-less accepted universality could be observed by a large number of states that have ratified the foundational International Bill of Human Rights.

The most problematic aspect of the concept of human rights is that human rights scholars, as well as scholars from various social science disciplines, conceive the concept very differently and with a varied enthusiasm. Scholars differ on the foundation, universality, possible realization, and legal embodiment of human rights (Dembour, 2010). The establishment of human rights resulted from a naturalist perspective that considered human rights as an intrinsic part of being human, independent of social recognition and/or actual fulfillment. Other perspectives emphasize the existence of human rights as part of a societal agreement, or regard human rights as not being relevant to the whole of moral or social life (Dembour, 2010). Further critiques on the human rights concept involve cultural relativist, feminist, realist, Marxist and post-colonial perspectives. The purpose of this research is not to go in-depth in discussing these critiques. However, all these criticisms come down to one single practical or conceptual critique: Why is there a gap between the human rights ideal and practice? Has the practice, so far, failed to live up the theory and should we be concerned with how this can be improved? Or, is the concept of human rights as a standard invalid? (see Dembour, 2014). This PhD research is primarily concerned with the application of existing human rights principles and standards. Therefore, I take on the naturalist approach to human rights assuming that the existence of human rights is a universal concept as established in numerous human rights Treaties, Covenants and documents. The starting point of this PhD
research is thus practical, and is concerned with implementation of human rights rather than challenging the concept.

It is important to emphasize that the interpretation and application of the human rights concept is continuously evolving. The development and endorsement of the UNGP, and specifically the developments related to the corporate responsibility to respect human rights could be observed as part of an on-going paradigm shift from applying human rights solely to governments, towards analysing the activities and impacts of multinational corporations regarding human rights. Furthermore, the understanding of human rights is evolving through the establishment of other new principles. For example, through the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) the principle of Free Prior and Informed Consent (FPIC) became acknowledged (United Nations, 2007). In addition, a imminent global environmental crisis resulted in the United Nations appointing a new Special Rapporteur on the enjoyment of a safe, clean, healthy and sustainable environment (Knox, 2012). Also, the mandate of John Ruggie to consider human rights in relation to business enterprises has resulted in other United Nations Special Rapporteurs increasingly considering the impact and responsibilities of private actors on human rights including the rights of Indigenous peoples (see Anaya, 2011, 2013), the right to food (see de Schutter, 2009), extreme poverty (see Alston, 2015) and environmental rights (see Knox, 2012).

An interdisciplinary approach

Human rights do not tend to be part of many academic discourses and social research inquieries. The concept has been largely neglected by social scientists and repeatedly criticized for not being relevant in various cultural and socio-economic contexts (Donnelly, 2007). Freeman (2013) considered that human rights should become more used in the social sciences in the form of an interdisciplinary approach linking with, inter alia, studies of culture, globalization, development and poverty. Thereby, he argued, can the concept of human rights become more relevant in the real world.

This PhD research connects the current understanding of human rights (as established in the International Bill of Human Rights) with current ideas on the social aspect of sustainable
development. The international human rights system has defined what constitutes ‘development’ in the Declaration on the Right to Development (United Nations, 1986), as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom”. Over the years, academic human rights and development scholarship has resulted in the establishment of a wide range of approaches, including: Human Development (UNDP, 1990); Development as Freedom (Sen, 1999); and Capability Theory (Nussbaum, 2011). These approaches recognize the relevance of human rights as part of development goals and outcomes. The human development approach articulated development as “a process of enlarging people’s choices. The most critical of these wide-ranging choices are to live a long and healthy life, to be educated and to have access to resources needed for a decent standard of living. Additional choices include political freedom, guaranteed human rights and personal self-respect” (UNDP, 1990, p.1). The United Nations Human Development Reports measure and promote a more balanced view of development outcomes by moving away from measuring growth primarily through GDP, to including indicators that measure improvements in, for example, access to education and healthcare.

An important body of research for this PhD was the Impact Assessment discourse (e.g. Vanclay et al., 2015). Recently, the notion of human rights became a growing subject of interest in the Impact Assessment community (see Kemp and Vanclay, 2013; Boele and Crispin, 2013; Graetz and Franks, 2013; Götzmann et al., 2016; Esteves et al., 2017). There has been debate about normative and methodological issues for integrating the analysis of human rights impacts into Impact Assessment (see Götzmann et al., 2016). Eventually, the need to consider human rights in Social Impact Assessment (SIA) has become firmly acknowledged (Vanclay et al., 2015). At the same time, stand-alone human rights impact assessment (HRIA) is being developed to specifically address corporate projects (Götzmann, 2017). However, scholars and practitioners differ in their opinion about the need for separate assessments (Salcito et al., 2012) and whether it would improve the actual practice of project management. Given the existing challenges of integrating social into environmental impact assessment both in theory and practice (Slootweg et al., 2001), adding another layer of human
Another relevant discourse is that of development-induced displacement and resettlement (DIDR), project-induced displacement and resettlement (PIDR) and mining-induced displacement and resettlement (MIDR) (see Kemp, 2013; Vanclay, 2017). These acronyms are interchangeable, and in this PhD research I will mostly refer to the abbreviation of PIDR. Michael Cernea has brought considerable contributions to understanding and theorizing the social risks and consequences of economic development projects (see for example Cernea, 1996, 1997, 1999, 2000, 2003; Cernea and Mathur, 2007). He particularly advocated for an improved role of governments and social scientists in the construction and management of large-scale infrastructure projects (Cernea, 1996). He argued that, as a supplement to compensation resources, investment financing was needed to help resettled populations to improve their livelihoods (Cernea, 2003). His research and advocacy has led to the development and improvement of Resettlement Policies and Handbooks in the World Bank. These outline the requirements for resettlement so that affected peoples are not impoverished, but that their lives become improved, or at least be restored. In addition to Cernea, various other scholars, particularly Anthropologists, have studied the adverse consequences of development programmes, and have developed their own models and suggestions for change (for example Scudder, 2005; Mathur, 2006). However, not many scholars concerned with this topic have applied a human rights perspective. Also, human rights scholars have only a few studies undertaken considering PIDR. For example Stavropoulou (1993) and Morel (2014) discussed the right not to be displaced from an international law perspective.

Research methodology

To gain insights in the perceptions and experiences of company staff in managing human rights issues, a mixed method approach was chosen. The methodology consisted of an ethnographic approach with various qualitative research methods (see Hennink et al., 2012) as well as a human rights research method (see Coomans et al., 2009). Two project sites in Mozambique were selected for undertaking organisational and analytical ethnography involving participant observations, and in-depth interviews with selected company staff and
some key human rights stakeholders. The fieldwork in the two project sites formed important input for the development of various frameworks that can address how to improve implementation of respect for human rights. The fieldwork was also fundamental for the formulation of policy recommendations and for developing ideas for future research.

**Data collection in Mozambique**

Mozambique is an East African country, stipulated as a rapid development context. Similar to many other (developing) countries, Mozambique is utilising foreign investments in large-scale projects to advance the country’s development. Especially large foreign investments in mining (Kirshner and Power, 2015), oil and gas (Santos et al, 2016), commercial agriculture (ProSavannah, 2016), real estate projects and transportation (IFC, 2016) have been implemented and are currently planned. Many of these projects evoked the displacement of thousands of local communities, particularly in remote and rural areas. Project-induced displacement and resettlement can pose a serious challenge, when performed poorly, to achieve social development and sustainability in the country. Therefore, in 2012, the Mozambican government established new legislation, *Regulations for the Resettlement Process Resulting from Economic Activities*, defining the requirements of resettlement caused by economic development projects. The Regulations established that resettlement should result in a better quality of life of the affected population taking into account physical, environmental, social and economic aspects (Republic of Mozambique, 2012). Furthermore, the Regulations determined that the project proponent is primarily responsible for performing the resettlement process (Republic of Mozambique, 2012).

Besides recent changes in the national legal framework, few academic studies have analyzed the social, environmental and economic impacts of some of the large-scale projects, particularly from mining and gas extraction. Abelvik-Lawson (2014), Kirshner and Power (2015), and Symons (2016) identified some of the structural challenges, such as a lack of government oversight, planning, and knowhow about the investing industries, as well as major difficulties in managing ‘boomtowns’ with preexisting high levels of unemployment, poverty and illiteracy. One particular challenge is the occurrence of resettlement in remote and rural areas, where people are relocated away from natural resources that are important for their small-scale economic activities and subsistence livelihoods.
The countryside in Mozambique is relatively highly populated, of which Nampula is the most densely populated province in Mozambique. A large share (70 percent) of the population of Mozambique can be defined as rural (Chiziane et al., 2015). Rural communities are scattered in many villages varying in size and often households have various farm plots in the area where they live (this can be up to 10 plots within a few kilometres range). At present, Mozambique is regarded as one of the poorest countries in the world with an average of 55 percent of the population living below the poverty line, and an average life expectancy of 50 years (World Bank, 2016). There is generally limited access to public services such as health clinics and schools, and there is little infrastructure, especially in rural areas. Also, the majority of the population in rural areas does not have access to electricity and potable drinking water.

Most communities in rural areas have land-based livelihoods, which means that they depend on the use of various kinds of natural resources for their survival and for a small income activities to buy additional goods (Isaacman and Isaacman, 2013). Most communities have distinct traditions and beliefs involving ancestral spirits that are directly connected to the land and the natural resources they make use of (for example particular trees or a river). Local communities often have considerable traditional medicinal knowledge, knowing how local plants and herbs can cure common illnesses. In each province multiple languages are spoken, and often in rural and remote communities people do not speak the National Portuguese language. Throughout Mozambique, but especially along the coast, local communities have mixed Islamic and Catholic cultural and religious traditions.

Then purpose of this PhD research was to investigate the implementation of the corporate responsibility to respect human rights in practice, therefore two projects were selected that involved two different multinational enterprises. The first project was studied between April and August in 2013 and involved a coalmine project in the Province of Tete (the left square in Map 1). The second project was studied between July and November and involved a railway line between Tete and Nacala a Velha, and the construction of a new port in Nacala a Velha (the right square in Map 1).

The two companies involved are from the mining industry sector originating form different home countries. The primary focus of the two studies was the same; identifying the practices and implementation challenges of company staff in managing human rights impacts, especially relation to displacement and resettlement. Both companies had a human rights
policy in place with specific acknowledgement of the UNGP (United Nations, 2011). Also, both companies established internal human rights staff members, whom were both based in the company’s head offices. In addition, in both projects, the multinational companies were responsible for all the costs and management related to community displacement and resettlement.

An ethnographic approach was used to obtain an insider’s perspective, and was both interpretative as analytical (David et al., 2003; Hennink et al., 2012). Via my presence in the company on a daily basis, the objective was to participate in the internal activities of the company and in the activities held for the affected communities by company staff. By conducting in-depth interviews, the purpose was to understand how company policies and procedures were perceived and implemented. After the fieldwork periods in the two project sites, the obtained data was transcribed and analysed, and upon reflection, resulted in two Frameworks (a Human Rights Based Approach to Resettlement, and the Human Rights Sphere) in which the implementation of respect for human rights is elaborated for project site management.
Introduction to the PhD

Table 1 provides an overview of the research methods used including all the fieldwork activities that were undertaken.

Table 1. Overview of research methods and fieldwork activities

<table>
<thead>
<tr>
<th></th>
<th>Open-pit coal mine project</th>
<th>Railway project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Brief description of project</strong></td>
<td>Acquisition of an open-pit coal mine by a multinational mining company. The project created economic displacement and required the involuntary resettlement of a village.</td>
<td>Construction/restoration of a railway line (900 kms in total) between a mining area and a port involving a consortium of Mozambican and other African enterprises and a multinational corporation, financed by international banks.</td>
</tr>
<tr>
<td><strong>Duration of the field study</strong></td>
<td>April to August 2013</td>
<td>July to November 2015</td>
</tr>
<tr>
<td><strong>Social research techniques used</strong></td>
<td>Participant observation, document analysis, in-depth interviews, field notes, notes from formal and informal discussions</td>
<td>Participant observation, document analysis, in-depth interviews, field notes, notes from formal and informal discussions</td>
</tr>
<tr>
<td><strong>Field visits to affected communities</strong></td>
<td>Accompanied community relations personnel on a daily to weekly basis to affected communities.</td>
<td>Accompanied community relations personnel including from the contractors along the railway line to various rural and (semi-) urban communities.</td>
</tr>
<tr>
<td><strong>Number of formal in-depth interviews with company staff and breakdown in terms of department within company</strong></td>
<td>Total 20 8 Community Relations 1 Global Team Social Performance 2 Exploration 1 Environment 1 Health and Safety 4 Operations higher corporate management level 3 Stakeholders (NGOs and Mozambican Human Rights League)</td>
<td>Total 17 15 Community Relations 1 Construction 1 Human Rights Division</td>
</tr>
<tr>
<td><strong>Business partners (contractors) interviewed</strong></td>
<td>None (community relations activities were mainly undertaken by their own staff)</td>
<td>3 (because the multinational company partly outsourced a large part of its community relations activities)</td>
</tr>
<tr>
<td><strong>Language of interviews</strong></td>
<td>English (the main language of the company)</td>
<td>Portuguese (the main language of the company)</td>
</tr>
<tr>
<td><strong>Typical length of interviews</strong></td>
<td>50 to 90 minutes</td>
<td>50 to 90 minutes</td>
</tr>
<tr>
<td><strong>Location of formal interviews</strong></td>
<td>Either in the local office in Tete or the head office in Maputo</td>
<td>In various offices in Nampula city</td>
</tr>
<tr>
<td><strong>Interview protocol</strong></td>
<td>In depth</td>
<td>In depth</td>
</tr>
</tbody>
</table>
Besides the fieldwork that was focussed on the specifics in each project site, I participated in various international workshops and events about business and human rights, and displacement and resettlement. These events were attended by the company staff from various companies and countries responsible for managing human rights and community related impacts. Table 2 provides an oversight of all the activities and projects that I undertook and that contributed to my understanding of the business and human rights predicament.

Table 2. Activities as part of the PhD that contributed to knowledge building on business and human rights

- Participation in ICMM workshop on Human Rights and Indigenous Peoples in Africa, Johannesburg
- Organising and presenting workshop on human rights and resettlement during Summer School on Oil and Gas (NUFFIC project), Maputo, Mozambique
- Participating in IAIA Special Symposium on Resettlement and Livelihoods, Skukuza, South Africa
- Participating in Human Rights and Impact Assessment Course, Danish Institute of Human Rights
- Participating in Summer School on Land Acquisition, Resettlement and Social Sustainability, RUG, Work Bank, CIG, Groningen, the Netherlands
- Participating in fieldtrip to resettlement in Germany, Garzweiler
- Participating in session with Netherlands Institute for Human Rights regarding gas extraction in Groningen

Through my participation in various workshops and summer schools I developed a broader and deeper understanding of business related human rights issues in other country contexts. These events also provided an opportunity to engage with company staff from other companies in other operational areas responsible for managing displacement, resettlement and human rights, as well as to engage with staff members from NGOs and International Financial Institutions that were involved in these matters.
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• Participation in Second United Nations Business and Human Rights Forum, Geneva
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Positionality in ethnographic research

The objective of using an ethnographic approach is to seek the insider’s point of view and, therefore, an essential element is to obtain the insider’s trust (Hennink et al., 2012). I was positioned as a research intern in both the company’s community relations department. The general manager of this department introduced me to the staff members of the team, as well as to all other general managers of the company on site. I was given my own desk inside the department of the community relations team. In this way I could easily interact with the staff and establish trust by becoming involved in their daily activities and meetings, as well as by going for coffee and tea breaks, driving together to and from the company’s main office, and by spending some leisure time in the weekends. Both projects were located in remote areas, where staff members are ‘on site’ for a couple of months, as well as during the weekends. This meant that some staff members and I were staying in the same accommodation (build or rented by the multinational company). I spend basically all my time with staff members of the companies, both from Mozambican and various foreign origins. I was wearing company clothes and safety boots, and I was required to check in with a badge as everyone else. So, I was, quite literally, walking in their shoes.

My strategy was to first obtain information about all the important desktop studies undertaken by and for the company, such as environmental and social impact assessments, internal risk assessments, company gap analyses, resettlement actions plans, stakeholder engagement plans, and social development plans. Second, I would participate in the staff’s community activities that involved provision of information to affected communities, negotiation of compensation with households, the relocation of families, livelihood restoration projects, and resettlement monitoring activities. In the final month of the period, my plan was to conduct formal in-depth interviews with a selected group of staff members to dive deeper into the issues and challenges they experienced and perceived. However, in reality, after having arrived in the two projects, I was immediately invited to join the community engagement activities with company staff in the field. In between these activities with communities, I spend time at the company office to become familiar with company policies and procedures, plans and programs. Also, I regularly planned meetings with staff members to clarify the content and purpose of the documentation. These meetings were not recorded, I noted down all the information received as part of my fieldwork diary.
When in the office, I started talking to each member of the social team informally, and slowly by slowly I received more and more information (including the relevant documentation) about how they worked on a daily basis on community related issues, and what internal procedures were established. Similarly, I started to talk with staff from other departments in the company, as well as with staff from the relevant contractors that were executing some of the community relations activities. After a few weeks, most staff members got to know my research and myself on a more personal level, and more spontaneous conversations started. During the often long and dusty drives to affected communities, conversations with staff helped to establish trust and learning about the various perspectives. My participation in the meetings with (affected) communities was an opportunity for me to learn more about the challenges of the operational context, and to experience the traditional customs of the local communities, as well as becoming familiar with rural and/or remote areas in Mozambique.

The objectives of the observations were to comprehending the local contextual challenges that company staff worked in, getting an understanding of the main issues and impacts from the perspective of community members, as well as the interaction between staff members and community members. I was also observing the cultural settings, the ambiance between staff members and community members; was it calm, was it tense? Did it change? Did certain issues make people feel upset, and how did they express this? All these observations were noted down in a field research diary. In most engagement activities I stayed in the background and when necessary the local language was translated for me into Portuguese.

After spending extensive periods of time in the field and studying the company policies, procedures and reports, I undertook a desk study comparing the company procedures with what was happening in reality, and I was considering the expectations of international human rights standards (those set out by the UNGP and others specifically related to displacement and resettlement). Eventually, all the recorded in-depth interviews were planned in the last month of my stay. I developed a wide range of questions for in-depth interviews taking into the responsibilities of each interviewee. I tried to cover as many human rights issues as possible in the interviews, such as management of financial compensation, livelihood restoration, grievances management, access to information and participation, as well as broader management questions. I concluded asking each interviewee about how they experienced the observed gaps in the actual practice, and how they believed implementation could be improved.
The business and human rights discourse is contentious and characterized by activism that has resulted in many incidents of severe violence around the world towards environmental and human rights defenders of local communities (see businessandhumanrightsresourcecentre.org). However, there is a distinction between human rights scholarship and human rights activism. Human rights activism has the assumption that the human rights system must be promoted and further realized, whereas human rights scholarship is interested in the ‘goods and bads’ of the system and has an open eye to a direction opposite to human rights (Coomans et al, 2009). Throughout the PhD research, I had to become aware of my own ‘desired’ or judgemental assumptions.

In the process of engagement and negotiation with the social general manager of the two companies to undertake a human rights study for my PhD, an important aspect was to maintain company anonymity in my research. In addition, all the interviewees and staff I engaged with were guaranteed anonymity and confidentiality in my writings. For both companies a contract was established that outlined the responsibilities of the research intern (me) and the responsibilities of the company during my stay with them. In this agreement the company management were aware that I was going to write and publish articles based on the data collection. In addition, I was confirmed getting access to internal documentation, meetings, to join staff on community engagement activities and to conduct in-depth interviews. To also provide useful output for the company staff, especially the community relations department, we agreed that I would write up a final report about my observations in the company, with recommendations for how respect for human rights could become improved. In terms of financial support, I was not being paid a salary but the companies covered my local expenses such as accommodation, sustenance, and local transport.

Another ethical issue comprised how I would conduct myself towards the staff members. The overtly negative literature regarding business practices and human rights, displacement and resettlement, and extractive industries in general, meant that I had to avoid developing my own negative bias. So, when introducing myself to the company staff and in my daily engagement with them, I had to maintain an open-minded view. I often introduced myself as a student very interested to learn from the staff members’ experiences. Sometimes, this meant that I would avoid human rights language when I noticed that some staff members would
become defensive. For example, one staff member opened a conversation with me by saying that local communities are not so vulnerable as all NGOs say. I decided not to give my response about agreeing with this or not, as it was very important to establish trust, and it was not my place to judge. However, there were also situations that staff members would come to me and ask me about a human rights issue in a situation they had encountered. For example, I was attending a training session on security and human rights with security staff members, and the security staff (whom had to work in remote areas) reported that they did not receive adequate provision of food from their bosses (a contractor of the mining company). In this situation, I decided to speak to the responsible security manager of the mining company to inform him about the issue.

During the preparations of the in-depth interviews, after having observed and spoken informally about many of the challenging aspects regarding impacts on communities, I needed to remind myself of asking open questions. The advantage was that I had become familiar with each of the participant for my in-depth interviews, so discussing sensitive topics and issues were not difficult; they knew I knew about these issues, as I had joined them many times in the field with the communities. Nevertheless, to make clear that I was not doing the interview to find their errors, I emphasized to each interview participant that I was seeking their perspective, how they perceived the challenges for implementation, and what they would recommend in terms of policy or implementation changes. Prior to the interviews, the participants were informed with a one-page letter (in English and in when appropriate in Portuguese) about my research goals and objectives, as well as about the use of the recorder. Before the start of the actual interview I would discuss the letter with them, and ask their approval for using the recorder. They were also informed that their names were kept anonymous and that, for further analysis and writing of the articles, the recordings were only handled by me. Finally, after I had conducted all the interviews and my stay in the company came to an end, I organized a moment to have drinks together, to thank all the staff, especially from the community relations department.

I believe trust was most essential in order to have interviews that involved open and honest conversations about how things really were. Some participants told me that the interview had provided an opportunity for them to reflect on their work and the community issues, and on the challenges they experienced on a daily basis in their working environment. They usually did not have the time for this. Also, the discussions had reminded them of the importance of
their work, for the company, but also for the need to contribute to the sustainable development of the local communities, and the country as a whole.

Outline of the Thesis

This PhD research consists of six chapters. In the first chapter I have outlined the research problem, research questions, methodological approach and the related ethical considerations. The second chapter provides the empirical basis of the research. It presents the results and analysis of the organisational ethnography that was undertaken in the two project sites in Mozambique, in 2013 and 2015. The chapter first highlights some of the practical aspects of implementing respect for human rights and provides a reflection on community relations practice, particularly considering Community Relations mining industry literature. The chapter continues outlining the observed practice of two multinational companies and the challenges of implementing respect for human rights. This chapter provides important insights in organisational processes in which company staff manage impacts of displacement and resettlement.

Chapter three provides empirical results in relation to the mining project on a particular human rights impact, namely the loss of access to public services as a consequence of displacement. Restoring and improving access to essential public services is an important but underexposed human rights issue in project-induced displacement and resettlement. The company of the project was committed to follow the IFC performance standards, particularly the IFC PS 5 on Land Acquisition and Involuntary Resettlement. An important question was whether adherence to the IFC PS 5 would also imply compliance with the corporate responsibility to respect human rights. Whereas human rights standards (such as the AAAQ) are very elaborative on the how to achieve access to public services, the IFC PS 5 approach regarding public services was limited. The IFC PS 5 considers the issue mainly from a technical perspective by stating that a plan should be provided about which of the services need to be replaced. The IFC PS 5 thus does not stress the importance of restoring and improving adequate public services, so to respect economic, social and cultural rights, especially the right to health, water and education. In the resettlement site of the mining project a health clinic, electronic waterpump system and school were constructed with better-
quality materials and equipment. However, this resulted in excessive maintenance requirements and costs which the community and local government were not able to cover.

In the fourth chapter, I outline the first conceptual framework drawn from the fieldwork in the two project sites: the Human Rights Based Approach to Resettlement (HRBAR). The HRBAR is furthermore based on a broad range of Human Rights Treaties, Covenants, General Comments, the Human Rights Based Approach (HRBA) and related documents, as well as Country Reports from United Nations Human Rights Rapporteurs concerned with business related human rights issues. I considered the content of these human rights documentation, and how improved implementation of these would fill that gaps I had observed in the two project sites. To the best of my knowledge, the HRBAR is the first analysis outlining and clarifying all the relevant human rights of people affected by resettlement, and it suggests how these human rights standards should be implemented. Also, the chapter addresses the IFC performance standards, especially the PS 5 on Land Acquisition and Involuntary Resettlement and provides a comparison with human rights standards. The HRBAR is intended to improve the awareness of resettlement practitioners and company staff regarding the human rights to be respected and fulfilled in resettlement situations.

In chapter five, I have generalized my findings from the fieldwork in the two project sites into a framework for how large-scale projects should identity, address and monitor human rights impacts. I was particularly concerned with how human rights issues can become better integrated in existing corporate management procedures including in environmental and social impact assessment (ESIA). This investigation resulted in the Human Rights Sphere (HRS), which shows how project phases and project activities can affect various groups of rights-holders and result in various inter-related environmetnal, social and human rights impacts.

In the final chapter I return to the implementation challenges observed in the two project sites of which I provided an analysis in chapter two and three. By utilizing Project Management literature, the analysis is somewhat extended to identify the potential root-causes of corporate related human rights abuses, and subsequently how these can be resolved. In addition, potential limitations to fully implementing respect for human rights in the context of displacement and resettlement have been discussed. Large-scale projects tend to create highly complex social and human rights risks and impacts, and the weak management by inexperienced staff can worsen the impacts. Individuals at the top management in
multinationals lack awareness or commitment to address early-on human rights issues at the bottom of local project sites, therefore a qualified community relations team is not present prior to project development. I emphasise that a much stronger and independent role for National Human Rights Institutions in overseeing resettlements can be important to improving resettlement processes and outcomes. Currently NHRI's play a very limited role in corporate-related human rights abuses. They are not involved in independently monitoring resettlement actions, investigating claims of violations and ensuring corporate accountability.

I conclude that education and training must be adjusted to improve the awareness and abilities of future project managers and other staff regarding the social and human rights impacts of business activities. Today's students are our next decision-makers and leaders, and they should not merely be trained in how to make most profit, but in how to build a sustainable environment including local community.
References


United Nations. (1966a). *International Covenant of Economic, Social, and Cultural Rights (ICESCR)*. Retrieved from...


