

**International Human Rights**  
**22 June 2018**  
**Outline Solutions**

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**Duration:** 120 minutes

- Please check both at receipt as well as at submission of the exam the number of question sheets. The examination contains four pages (including this cover page) and three questions.

**Notes on marking**

- When marking the exam each question is weighted separately. Points are distributed to the individual questions as follows:

Question 1	ca 20 % of total points
Question 2	ca 40 % of total points
Question 3	ca 40 % of total points

Total	100 %
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**We wish you a lot of success!**

Please read the following case carefully before answering the three questions at the end of the text.

*The mining company Zeus Minerals has been operating in the country of Tulipa for many decades. Tulipa is a low-income country, ranked in the bottom tier of the Human Development Index, and with serious challenges of state governance and capacity. Zeus Minerals is headquartered in Edelweiss, an OECD-country in the European Union. Zeus Minerals is the majority shareholder of the Apollo Joint Venture seated in Tulipa, which mines for tin in Tulipa. With the growing demand for tin in the global electronics industry, Tulipa has seen an economic upturn. However, the economic benefits have not been distributed evenly. The local community around the Apollo Joint Venture, located in the province of Rose, has extremely poor public infrastructures. This is particularly seen in the dire state of Rose's roads, hospitals, schools, police stations and other public facilities.*

*A few years ago, Zeus Minerals began to be more sensitive about its public image and media relations. Zeus Minerals recently pledged to invest more to improve the living conditions of local residents in Rose, many of whom are miners at the Apollo Joint Venture and members of the miners' families. For instance, Zeus Minerals supports a private hospital in Rose, named Athena Private Hospital, by allowing it to rent a building on the property of the Apollo Joint Venture for a price extremely below the market rate. Zeus Minerals also pays for the building operating costs (maintenance and cleaning), so that Athena Private Hospital can put its savings in rent into lowering the prices of its medical services.*

*Athena Private Hospital has a good reputation in the local community and is widely considered to provide better care than the public hospitals of Rose. This is seen in the maternal and infant mortality numbers for the province of Rose, where mothers and their children are more likely to survive childbirth at Athena Private Hospital than in the public hospitals of Rose.*

*A few weeks ago, an incident came to light that led to an uproar in the local community. A local pregnant mother was brought into Athena Private Hospital by her neighbour, where she was admitted for labour. The woman lives within 10 minutes from a public hospital, but she chose the more distant Athena Private Hospital because she would have needed to pay for the medicine to induce labour at a public hospital, despite Tulipa's national policy for all public healthcare facilities to offer free maternity care as one of the country's implementation measures under CEDAW. It is for this reason that many women risk a longer journey to go to Athena Private Hospital. If they have to pay for maternity services anyways, they reason, it is better to do it at a hospital with a higher rate of maternal and infant survival.*

*Upon her arrival at Athena Private Hospital, the pregnant woman, known as M, was not physically checked or monitored by any Athena Private Hospital nurse. The nurses told M that if she needed medical attention, she would have to walk to the delivery room by herself. When M's labour started, no nurse came to help. M walked alone in great pain to the delivery room, where she found that all the beds were taken. She turned around and tried to find a nurse. Unable to continue walking, M fell and gave birth on the floor, in full and open view of everyone in the hallway. She lost consciousness.*

*Upon finding M on the floor unconscious, two nurses slapped and shouted at M repeatedly. M doesn't remember any of this, but the abuse was captured by an Athena Private Hospital staff, who filmed the whole ordeal on his mobile phone. Once M regained consciousness, she was ordered to go back to the delivery room to be examined. M was released with her baby the next day, but she suffered severe emotional distress as result of her delivery at Athena Private Hospital.*

*The treatment that M received at the hospital also caused resentment in the local community, which has a large population of indigenous people. M and her family are of indigenous origin, and M wore her distinct indigenous clothing on the day of the delivery. Local residents believe that M's origin is the only explanation for why she was singled out for such treatment. The case also tapped into longstanding resentment by the local indigenous community against Apollo Joint Venture. They allege that Apollo Joint Venture did not consult with the local indigenous community on any aspect of the mining operation and that there is simply no respect shown by Apollo Joint Venture for their distinct culture and way of life.*

*Local residents were also angered by the fact that M's husband, a miner at Apollo Joint Venture, could not be by M's side on the day of the delivery. They complain that miners at Apollo Joint Venture often work overtime without adequate rest. The miners are also too afraid about losing their jobs to complain about the long working hours or to take a day off, even if the long working shifts exceed the maximum working hours allowed under the labour laws of Tulipa. Apollo Joint Venture has a trade union of miners to represent their interests. However, a few years ago, this trade union staged a strike to protest the unsafe working condition at the mines, but all the trade union leaders were dismissed over time for one reason or another. Now, no miner really dares to go up against the management.*

*In recent days, M's case has received widespread national attention. The hospital staff who had filmed the incident uploaded the video to the website of a national state newspaper in Tulipa, with permission from M. The national state newspaper carried the video clip for a few hours before it was taken down without stating any reason.*

*Both Tulipa and Edelweiss have ratified all the instruments contained in the International Bill of Human Rights, including the related optional protocols. Both countries are members of the UN and the ILO.*

**Question 1 (10 points max.)**

What human rights issues are raised in the above case, please explain? Please also give one example of each type of state duty.

<b>Required elements</b>	<b>Points awarded</b>
<p><b>Relevant human rights (issues) outlined and explained</b></p> <ul style="list-style-type: none"> <li>- Right to dignity, Art. 1 UDHR</li> <li>- Right to life, Art. 6 ICCPR; Art. 2 ECHR; Right to life, liberty and security of person, Art. 3 UDHR</li> </ul>	<p><b>0.5 point</b> per applicable right mentioned <i>and</i> its link to the case,</p>

<ul style="list-style-type: none"> <li>- Right to physical and mental health, Art. 12 ICESCR; Right to adequate standard of living (including medical care), Art. 25 UDHR; Art. 24 CRC; Enjoyment of the right to public health without racial discrimination, Art. 5(e)(iv) ICERD</li> <li>- Elimination of discrimination against women in the field of health care, Art. 12 CEDAW; Right of rural women to adequate health care facilities, Art. 14(2)(b) CEDAW</li> <li>- Right to education, Art. 26 UDHR; Arts. 13-14 ICESCR; Art. 28 CRC; Art. 10 CEDAW</li> <li>- Right to an adequate standard of living, Art. 11 ICESCR; Art. 25 UDHR; Art. 27 CRC</li> <li>- Prohibition of torture or other cruel, inhuman or degrading treatment or punishment, Art. 5 UDHR; Art. 7 ICCPR</li> <li>- Right to non-discrimination, Art. 2 UDHR; Right to non-discrimination and equal right of men and women, Arts. 2-3 ICCPR; Arts. 2-3 ICESCR</li> <li>- Right to self-determination, Art. 1 ICESCR; Art. 1 ICCPR; (as a collective right)</li> <li>- Right to privacy, Art. 12 UDHR; Art. 17 ICCPR</li> <li>- Right to freedom of thought, conscience and religion, Art. 18 UDHR; Art. 18 ICCPR</li> <li>- Freedom of opinion and expression, Art. 19 UDHR; Art. 19 ICCPR</li> <li>- Freedom of assembly and association, Art. 20 UDHR; Arts. 21-22 ICCPR</li> <li>- Right to work, to just and favourable conditions of work and to form and to join trade unions, Art. 23 UDHR; Arts. 6-8 ICESCR; Freedom of association, including the right to form and join trade unions, Art. 22 ICCPR</li> <li>- Right to rest and leisure, including reasonable limitation of working hours, Art. 24 UDHR; Art. 7(d) ICESCR;</li> <li>- If the overtime situation continues to deteriorate and miners are not compensated, it may potentially reach the threshold of “forced or compulsory labour,” especially if the prolonged working hours are exacted under the menace of penalty (dismissal), Art. 2, ILO Convention No. 29 on Forced Labour</li> <li>- Right to take part in cultural life, Art. 27 UDHR; Art. 15 ICESCR; Art. 27 ICCPR</li> <li>- Right to effective remedy, Art. 8 UDHR; Art. 2(3) ICCPR; Art. 13 ECHR</li> <li>- Protection and assistance to the family, with special protection accorded to mothers and children, Art. 10 ICESCR</li> <li>- Violence against women, General Recommendations No. 19 of 1992 and No. 35 of 2017</li> <li>- Rights of indigenous peoples and Free, Prior and Informed Consent (FPIC), Arts. 10, 11, 19, 28 and 29 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)</li> </ul>	<p>including the reference to the respective legal source.</p> <p>Up to <b>1 point</b> each for putting the human right issue into the context of the case in a well-elaborated manner.</p>
<p><b>One example of each type of state duty</b></p> <ul style="list-style-type: none"> <li>- <b>Duty to respect</b> examples <i>inter alia</i>: <ul style="list-style-type: none"> <li>• Freedom of opinion and expression, Art. 19 UDHR; Art. 19 ICCPR (with regards actions of the state newspaper taking down the uploaded video)</li> <li>• Right to physical and mental health, Art. 12 ICESCR; Right to adequate standard of living (including food, clothing,</li> </ul> </li> </ul>	<p><b>1 point</b> for providing an example of each type of state duty.</p> <p>Up to <b>1.5 point</b> for putting the example of</p>

housing and medical care), Art. 25 UDHR, Art. 11 ICESCR (with regards to the country of Tulipa taking actions that are seen to result in the discriminatory implementation of its own national pledge concerning maternal health in Rose and curtailing the enjoyment of economic, social and cultural human rights by the residents of Rose)

- **Duty to protect** examples *inter alia*:
  - Ensuring that Zeus Minerals and Apollo Joint Venture do not violate human rights (Freedom of opinion and expression, Art. 19 UDHR; Art. 19 ICCPR; Freedom of assembly and association, Art. 20 UDHR; Arts. 21-22 ICCPR; Right to just and favourable conditions of work and right to form and to join trade unions, Art. 23 UDHR; Arts. 7-8 ICESCR; Art. 22 ICCPR)
  - Ensuring that Athena Private Hospital does not violate human rights (Right to life, Art. 6 ICCPR; Right to life, liberty and security of person, Art. 3 UDHR; Right to physical and mental health, Art. 12 ICESCR; Prohibition of torture or other cruel, inhuman or degrading treatment or punishment, Art. 5 UDHR; Art. 7 ICCPR; Right to non-discrimination, Art. 2 UDHR; Art. 2 ICCPR; Art. 2 ICESCR)
- **Duty to fulfil** examples *inter alia*:
  - Establishing an environment where human rights obligations can be met by, for instance, taking proactive engagement to bring about and facilitate a greater enjoyment of human rights; can include policy-oriented, administrative, training measures to bring about more effective implementation of international human rights obligations (examples can include training for medical staff, public education sessions on labour standards and applicable laws for residents and mining personnel and national policy to improve standards of living in various communities that have yet to benefit from economic development)

state duty provided in a particularly well-elaborated manner, linked to the facts of the case.

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**Question 1:  
10 points max.**

### **Question 2 (20 points max.)**

Zeus Minerals recently hired you to join its Corporate Responsibility Team at the Apollo Joint Venture in Tulipa.

- 1) How would you categorise the business relationship between Apollo Joint Venture and Athena Private Hospital?
- 2) What are the responsibilities of Apollo Joint Venture with regard to human rights issues that may arise in its tin mining operations in Rose?
- 3) How would you advise Zeus Minerals if it is currently thinking about opening a gold mining operation under another joint venture in Tulipa?

Required elements	Points awarded
<p><b>2(1). The categorisation of the business relationship between Apollo Joint Venture and Athena Private Hospital:</b></p> <ul style="list-style-type: none"> <li>- Based on terminology of UNGP 13(a) or (b): <ul style="list-style-type: none"> <li>• Contribute to or directly linked: through financial support in the forms of low building rent and providing for the building's operation costs, while the joint venture is not providing the medical care or involved in Athena Private Hospital's staffing</li> </ul> </li> </ul>	<p><b>1 point</b> for an explanation not based on UNGP 13 categorisation of cause, contribute or directly linked.</p> <p><b>2 points</b> for an explanation based on UNGP 13 categorisation.</p> <p><b>Max. 4 points</b> were only given for a well-explained and supported categorisation of the business relationship, linked to the facts of the case and based on UNGP 13 categorisation.</p>
<p><b>2(2). The responsibilities of Apollo Joint Venture with regard to human rights issues that may arise in its tin mining operations in Rose:</b></p> <p>States, not businesses, are the subjects of international law. Nonetheless, with the UNGPs (and later incorporated into the Human Rights Chapter of the OECD Guidelines for MNEs, Ch. IV) a “Protect, Respect and Remedy” framework has been established to guide states and businesses with regard to issues pertaining to business and human rights.</p> <p>Apollo Joint Venture, as a business enterprise, should:</p> <ul style="list-style-type: none"> <li>• respect human rights (refers to internationally recognised human rights, at the minimum, the International Bill of Human Rights and principles concerning fundamental rights in the ILO's Declaration on Fundamental Principles and Rights at Work, <b>UNGP 12</b>); avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved (<b>UNGP 11</b>); and that such responsibility applies regardless of their size, sector, operational context, ownership and structure (<b>UNGP 14</b>).</li> <li>• comply with all applicable laws of Tulipa and respect internationally recognised human rights (<b>UNGP 23</b>)</li> <li>• avoid causing or contributing to adverse human rights impacts through their own activities, address such impacts, [treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue (<b>UNGP 23</b>)]; and seek to prevent or mitigate adverse impacts directly linked to their operations, products or services (<b>UNGP 13</b>)</li> </ul>	<p><b>1 point</b></p> <p><b>1 point</b> for each explanation (represented by each bullet point) not referencing UNGP or OECD Guidelines for MNEs.</p> <p>Up to <b>2 points</b> for each well-developed and supported explanation, linked to the context of the case and using references to the relevant UNGP or OECD Guidelines for MNEs.</p> <p>Merely copying general UN Guiding Principles or the OECD Guidelines for MNEs without relating them to the specific case</p>

Required elements	Points awarded
<ul style="list-style-type: none"> <li>• have a policy commitment to meet their responsibility to respect human rights <b>(UNGP 16)</b> that is appropriate to their size and circumstances <b>(UNGP 15)</b></li> <li>• a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights <b>(UNGPs 17, 18, 19, 20 and 21)</b> that is appropriate to their size and circumstances <b>(UNGP 15)</b></li> <li>• processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute <b>(UNGP 22)</b> that are appropriate to their size and circumstances <b>(UNGP 15)</b>; and in accordance with the effective criteria for non-judicial grievance mechanisms in <b>UNGP 31, Pillar III</b> for operational-level grievance mechanisms (OGM) <b>UNGPs 28-30</b> and also state-based non-judicial grievance mechanisms, such as the OECD National Contact Points <b>(UNGP 27)</b></li> <li>• priority should be first placed on seeking to prevent and mitigate negative impacts that are the most severe or where delayed response would make them irremediable <b>(UNGP 24)</b></li> </ul> <p>Furthermore:</p> <ul style="list-style-type: none"> <li>• Conflict minerals (3TG), such as tin, may fall under additional rules, such as the EU Conflict Minerals Regulation for importers based in the EU, to come into force on 1 January 2021.</li> <li>• For industry guidance, Apollo Joint Venture can refer to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.</li> <li>• On issues of labour rights, Apollo Joint Venture should also refer to other international standards, guidelines and conventions, such as ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, Convention No. 98 on Right to Organise and Collective Bargaining Convention, and Employment and Industrial Relations Chapter of the OECD Guidelines for MNEs, Ch. V.</li> <li>• Apollo Joint Venture should also be mindful of its social license to operate and the potential negative impacts on its reputation (and also that of its parent company) if it does not meet its responsibility to respect human rights. Not respecting human rights also increases the risks of costly litigations, either in the host country where the venture operates or in Edelweiss where the parent company is domiciled, provided that there is a recognised jurisdictional basis in its legal framework for a company to be held responsible for human rights abuses abroad (extraterritoriality).</li> </ul>	<p>awards less points.</p> <p><b>Max . 8 points</b> were only given for a well-developed, contextualised and evaluated discussion.</p>

Required elements	Points awarded
<p data-bbox="188 192 1054 293"><b>2(3). Advising Zeus Minerals if it is currently thinking about opening a gold mining operation under another joint venture in Tulipa:</b></p> <p data-bbox="284 331 1082 734">It is important to note that Zeus Minerals is not starting from a blank slate in terms of operating in the country of Tulipa. There is much for it to learn from Apollo Joint Venture’s experiences to date in how it should have addressed human rights issues that arose in its tin mining operations in Rose, drawing on international standards on business and human rights, with particular reference to the responsible supply chains of minerals. In this way, the answers in the previous section dealing with an existing tin mine are also applicable to similar venture for gold mining in the future, given that human rights situations are dynamics and human rights due diligence should be on-going as the operating context evolve (<b>UNGP 17</b>).</p> <p data-bbox="284 779 1062 943">Nonetheless, given the history of the operation of Apollo Joint Venture in Rose and the difficulties it has had with the local community of indigenous people, there are particular issues that one could raise in the planning stage of the new gold mining operation, including:</p> <ul data-bbox="320 981 1078 2056" style="list-style-type: none"> <li>• Learn from past mistakes with the view to prevent negative human rights impacts</li> <li>• Introduce human rights provisions in contracts with suppliers and subcontractors</li> <li>• Consult early with the local indigenous population to obtain FPIC (UNDRIP)</li> <li>• Plan and build the gold mining operation more in line with OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, with special focus on its 5-step plan for due diligence</li> <li>• Recognise the special challenges inherent in gold mining, such as traceability and extraction</li> <li>• Recognise the need for and undertake comprehensive consultation with all relevant stakeholders</li> <li>• Use leverage with the government of Tulipa and local government to implement policies to ensure more equitable access to the enjoyment of ESC rights</li> <li>• Cooperate with international organisations, such as the ILO and OECD, and voluntary industry initiatives similar to the Responsible Mining Index</li> <li>• Recognise that the regulatory landscape is fast changing, as standards in soft-law instruments such as the UNGP are becoming legal obligations in different jurisdictions; future gold mining operation needs to be proactive in assessing litigation risks if it does not conduct human rights due diligence</li> <li>• Relevant EU legislations already in place or soon to come into effect that will affect how the parent company of Zeus Minerals plans for the new gold mining operation: EU Conflict Minerals Regulation and</li> </ul>	<p data-bbox="1118 331 1414 427"><b>1 point</b> for recognizing the overlapping nature of 2(2) and 2(3).</p> <p data-bbox="1118 465 1422 667"><b>1 point</b> for each relevant advice on corporate responsibility to respect human rights (see above question section).</p> <p data-bbox="1118 741 1422 1077">Up to <b>2 points</b> for a particularly well-articulated and supported discussion that seeks to draw upon the lessons learnt and adopting it for the planning of a gold mining operation in the future.</p> <p data-bbox="1118 1115 1430 1283"><b>Max. 8 points</b> were only given for a well-developed, contextualised and evaluated discussion.</p>

Required elements	Points awarded
<p>the EU Directive on non-financial reporting</p> <ul style="list-style-type: none"> <li>Learn from experiences from other similar gold mining operations; for instance, the use of private security forces by the Porgera Gold Mine in Papua New Guinea and lessons learnt from the operational-level grievance mechanism established by Barrick Gold for remediation</li> </ul>	<p>==</p> <p><b>Question 2:</b> <b>20 points max.</b></p>

**Question 3 (20 points max.)**

You work for a non-governmental organisation that aims to shed light on human rights abuses behind global businesses. Your organisation has good local contacts in Tulipa and is long aware of the human rights issues that come up in the context of the Apollo Joint Venture.

Representatives of the local indigenous community of Rose have recently approached your organisation and asked about how to best address their grievances against Apollo Joint Venture. The M incident in Athena Private Hospital has heightened their sense of grievance, given that Tulipa’s constitution explicitly states that every person has a right to health, including reproductive health for women. The President of Tulipa also issued a national policy guaranteeing that all pregnant women are to receive free maternity health care. In reality, there is simply not enough state funding going to public hospitals. Public hospitals remain overcrowded and unable to cope with the level of demand.

- 1) How would you advise representatives of the local indigenous community of Rose on ways they can seek remedies under UNGP Pillar III?
- 2) How would you advise your organisation on ways to bring greater attention to the human rights issues raised by the representatives of the local indigenous community at the international level?

Required elements	Points awarded
<p><b>3(1). Advise representatives of the local indigenous community of Rose on ways they can seek remedies under UNGP Pillar III:</b></p> <p>UNGP Pillar III sets out both state and non-state based grievance mechanisms. State-based mechanisms have two types: judicial and non-judicial (<b>UNGPs 26 and 27</b>). Non-state-based mechanisms are non-judicial and consist of operational-level grievance mechanisms (OGM) (<b>UNGP 29</b>). Such mechanisms, along with state-based non-judicial mechanisms should meet the effectiveness criteria listed in <b>UNGP 31</b>.</p> <p>Some examples of grievance mechanisms under UNGP Pillar III:</p> <ul style="list-style-type: none"> <li>Possibility to invoke affected human rights against the government of Tulipa in domestic courts based on domestic law; for instance, in Tulipa’s constitutional court based on constitutional law</li> <li>Possibility to invoke affected human rights in domestic courts of Tulipa against Apollo Joint Venture or Athena Private</li> </ul>	<p><b>1 point</b></p> <p><b>1 point</b> for each relevant avenue.</p> <p>Up to <b>2 points</b> for a particularly well-articulated and supported explanation,</p>

Required elements	Points awarded
<p>Hospital if provided in domestic law</p> <ul style="list-style-type: none"> <li>• Possibility to invoke affected human rights in domestic courts of Edelweiss against Zeus Minerals if relevant domestic laws of Edelweiss allow for extraterritorial application, as in the example of the Alien Torts Act in the United States</li> <li>• If Tulipa has ratified a regional human rights treaty, lodge a case on behalf of the victims against Tulipa, after exhausting all local remedies, at this regional human rights body (note: it cannot be the ECtHR because the reported human rights violations in the case did not occur under the jurisdiction of a member of the Council of Europe, who is a state party to the European Convention on Human Rights)</li> <li>• Submit a case concerning Zeus Minerals for mediation at the OECD National Contact Point of Edelweiss</li> <li>• If existing, approach national human rights institutions in both Tulipa and Edelweiss to submit complaints and/or seek assistance in resolving disputes arising from the venture’s negative human rights impacts in Tulipa</li> <li>• If existing, other state-based bodies, such as the labour inspectorates, employment tribunals, environmental tribunals, privacy and data protection bodies, public health and safety bodies and professional standards bodies can also be considered</li> <li>• Approach an ombudspersons mandate, if available, which is usually tasked to receive, investigate and resolve disputes between individuals and business enterprises; and other arbitration and specialised tribunals established by the state to oversee dispute resolution</li> <li>• Seek operational-level grievance mechanism, if any, established by the Apollo Joint Venture and/or Zeus Minerals either internally or in cooperation with other industry members</li> </ul> <p>Non-state-based grievance mechanisms also can include the category of regional and international human rights bodies, for some of these bodies have begun to address cases where a state has not met its duty to protect against human rights abuses by business enterprises (<b>UNGP 28 Commentary</b>). As business enterprises are not subjects of international law, the examination by these regional or international mechanisms is not directly on business enterprises’ negative human rights impacts; rather the focus is on the respective state breaching its duty to protect against human rights abuses by business enterprises, either within its territory or extraterritorially, ICESCR General Comment 24). Some possible international human rights mechanisms seeking to address grievances resulting from business-related human rights harms on behalf of victims:</p>	<p>linked to the facts of the case.</p> <p><b>Max. 10 points</b> were only given for a well-developed, contextualised and evaluated discussion.</p>

Required elements	Points awarded
<ul style="list-style-type: none"> <li>• Communications on behalf of the victims against Tulipa to the Human Rights Committee (Arts. 1-2 OP-1 ICCPR) and the Committee on Economic, Social and Cultural Rights (Arts. 1-2 OP ICESCR)</li> <li>• Communications on behalf of the victims to the Committee on the Elimination of Discrimination against Women against Tulipa (Arts. 1-2 OP CEDAW)</li> <li>• Submit a complaint to relevant Special Procedures mandates of the Human Rights Council and/or the mechanism established by Human Rights Council Res. 5/1 to examine consistent patterns of gross and reliably attested human rights violations [Note: UPR is not a complaint mechanism]</li> <li>• Submit complaint to ILO’s Committee on Freedom of Association, a special tripartite procedure that examines complaints regarding freedom of association submitted by a government or an organisation of workers or employers</li> </ul>	
<p><b>3(2). Ways to bring greater attention to the human rights issues raised by the representatives of the local indigenous community at the international level:</b></p> <p>It is important to note here that the process of seeking remedies can also serve to bring greater attention to the human rights situation in Tulipa and the adverse human rights impacts of Tulipa’s tin mining operation. This can then potentially facilitate the process of remediation by increasing public pressure on the business enterprises to meaningfully engage with the various grievance mechanisms as elaborated in UNGP Pillar III. This can be seen, for instance:</p> <ul style="list-style-type: none"> <li>• Cases submitted for mediation at OECD National Contact Points, which are often backed by public campaigns to highlight the extent of the negative human rights impacts being discussed</li> <li>• Individual complaint mechanisms of human rights treaties (Arts. 1-2 OP-1 ICCPR; Arts. 1-2 OP ICESCR; Arts. 1-2 OP CEDAW)</li> <li>• Individual complaint to Special Procedures mandates of the Human Rights Council and/or Human Rights Council Res. 5/1 mechanism to examine consistent patterns of gross and reliably attested human rights violations</li> <li>• Strategic litigation: lodging lawsuits against the governments of Tulipa or Edelweiss or against business enterprises in domestic courts, provided that jurisdictional basis is met</li> </ul> <p>Additionally, these following measures can be considered:</p> <ul style="list-style-type: none"> <li>• Submit a NGO parallel/shadow report to the Committees of</li> </ul>	<p><b>1 point</b> for each relevant advice to increase international attention and awareness.</p> <p>Up to <b>2 points</b> for a particularly well-articulated and supported discussion.</p> <p><b>Max. 10 points</b> were only given for a well-developed, contextualised and evaluated discussion.</p>

ICCPR and ICESCR regarding the implementation of Tulipa of its obligations under these two international human rights treaties for the country's next periodic review

- NGO can submit information to the Office of the High Commissioner for Human Rights, who is responsible for compiling a "Summary of Stakeholders' Submission" for the next Universal Periodic Review (UPR) session for Tulipa
- Lobby government representatives of other countries to address questions to the representatives of Tulipa at its next UPR review, and also for other diplomatic missions to raise their concerns on the human rights situation in Tulipa in their meetings with the mission of Tulipa
- NGO can send report to a labour union in their country of origin for consideration by the ILO under the organisation's regular system of supervision that examines the application of labour standards in member states. The ILO also has a special tripartite procedure to address complaints regarding freedom of association submitted by a government or an organisation of workers or employers
- Raise public awareness via NGO activities in Tulipa and abroad, such as public campaigns; contact other NGOs in order to increase mobilisation leverage by building collaborations, especially those that also work on indigenous people's rights, human rights or corporate accountability
- NGO can also engage directly with the governments of Tulipa and Edelweiss and the concerned business enterprises for direct dialogue to inform its public campaigns
- NGO and collaboration partners can work towards legislative change in various jurisdictions by introducing domestic law that are more consistent with the rights of indigenous peoples as internationally recognised by UNDRIP, human rights provisions in international investment treaties, etc.
- NGO can learn from other sectoral initiatives, such as the Bangladesh Accord on Fire and Building Safety for the country's garment industry, bringing together businesses and trade unions for more effective remediation and public awareness on business-related human rights impacts
- Attend the annual UN Forum on Business and Human Rights, organise sessions and side events to bring greater awareness of the human rights situation in Tulipa, especially negative human rights impacts associated with its mining operations

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**Question 3:**  
**20 points max.**

**Total: 100% = 50 Points**