



The Australian mining and resource sector and human rights



Corporations have a responsibility to respect human rights – they must not only ensure compliance with national laws, but also manage risks of human rights harms with a view to avoiding them.

John Ruggie, Harvard University, former UN Special Representative on Business and Human Rights



The impact of mining and exploration activities on the human rights of employees and surrounding communities is well understood. So is the importance of ensuring a strong social licence to operate in those communities.

In 2008, the United Nations Human Rights Council recognised that, while the primary duty to *protect* and *promote* human rights lies with national governments, corporations also have distinct responsibility to *respect* human rights. Three years later the Human Rights Council unanimously adopted the Guiding Principles on Business and Human Rights (the Guiding Principles) which provide a framework for addressing and preventing human rights impacts associated with business activity.

The Guiding Principles are available at <http://business-humanrights.org/en/un-guiding-principles>.

Integrating human rights considerations into core business practice in the extractive sector is not only vital for managing business risks but also for creating opportunities. Recognising this business imperative, an increasing number of Australian mining and resource companies are embedding human rights into their operations by developing human rights policies, referencing human rights in their annual reports or sustainability reports, conducting human rights training for employees or implementing human rights into environmental and social impact assessments. However, for many Australian mining and resource companies challenges remain, and many are unsure how to integrate human rights into day-to-day activities and operations.

This fact sheet provides some basic guidance and resources for Australian extractive companies, operating domestically and abroad, on how to incorporate human rights into everyday business practices.

How are human rights relevant to extractive companies?

Today, industry, and especially the minerals industry, is more thoroughly and appropriately engaged in both the cause of and the means to respecting human rights. The industry has its own framework of operating principles and many companies routinely adopt specific human rights policies for their operations both domestically and internationally.

Mitchell H. Hooke, Chief Executive Officer, Minerals Council of Australia





While the extractive industry impacts on almost all human rights, there are unique human rights challenges and concerns for oil, natural gas and mining companies. The following are some of the more common areas where human rights can create business risks and opportunities for the industry.

Labour practices and human rights

Extractive companies, like all other employers, have a responsibility to make sure that employees enjoy fundamental labour rights like a safe workplace, a living wage, non-discriminatory work practices and collective bargaining.

- Does your company have a Disability Action Plan and Reconciliation Action Plan for Australian operations?
- What is your worker safety policy? Does it apply throughout your supply chain?
- Does your company take measures to ensure that employees are provided with a workplace that is free from harassment, violence and bullying?
- Does your company have an equal opportunity and workplace diversity strategy?



Environmental issues and human rights

Environmental practices of mining, processing and exploration operations have the potential to impact on a variety of fundamental rights including the rights to life, health and an adequate standard of living (which includes access to basic food, clothing, water, housing and sanitation).

- Does your company integrate human rights into environmental, social and health impact assessments?

Rights of Indigenous peoples and other communities

Nearly all extractive industry operations require the purchase of land or the rights to use land. Sometimes land is already being used by others, and other times it is part of a community's traditional resources. In Australia, the land may be subject to native title laws and interests, and sometimes using the land may involve the resettlement of these communities. Failure to appropriately address resettlement, native title and traditional land use issues will most likely generate strong public opposition towards a project and its operators.

- Has your company consulted with the local Indigenous community to secure the free prior and informed consent of the community to use their land or other natural resources?
- Does your company enter agreements with full respect for the rights of Indigenous peoples and provide a framework for genuine consultation and participation?

Security issues and human rights

Oil, mining and gas companies often operate in conflict-prone environments where security issues are prevalent and the rule of law is weak. A company will often hire its own security staff, or rely on law enforcement in the relevant country to protect assets and employees. In certain contexts, security staff may have to use force or become engaged in violence. A mining company could be complicit in human rights abuses committed by a security provider. Some forms of complicity attract legal penalties, however, stakeholder expectations often go well beyond minimum legal standards.

- Has your company conducted an in-country security and human rights risk assessment? Types of questions to consider may include: What is the potential for conflict or violence? What is the human rights record in the area? What is the extent of bribery and corruption? What UN human rights conventions has the country of operation ratified?
- Does your company screen and monitor security contractors?
- Does your company conduct human rights training for staff and security personnel operating in conflict zones?
- Does your company have policies for handling allegations of human rights abuse by employees or security personnel?

What should extractive companies do to ensure they respect human rights?

In accordance with the Guiding Principles on Business and Human Rights, companies that seek to engage in resource extraction should perform due diligence to ensure that their actions will not violate or be complicit in violating indigenous peoples' rights. This diligence entails identifying with particularity, at the very earliest stages of planning for an extractive project, the specific indigenous groups that may be affected by the project, their rights in and around the project area and the potential impacts on those rights.



James Anaya, former UN Special Rapporteur on the Rights of Indigenous Peoples

The Guiding Principles outline a number of steps that businesses should take to embed human rights into core practice, and provide a framework to manage human rights risks through due diligence. The process will vary for each company depending on the type of business and where it operates, but it should include, as a minimum, the following steps:

1. Adopt, implement and integrate a human rights policy*

- Does your human rights policy explicitly invoke the Universal Declaration of Human Rights and the International Labour Organisation Declaration on Fundamental Principles and Rights at Work?
- Are there clear roles and responsibilities for implementing your human rights policy throughout your business?
- Do your staff understand what it takes to comply with your human rights policy?
- Are there enough resources to support compliance with your human rights policy?
- Does the policy apply to the company's business partners including state-owned enterprises, suppliers, contractors and other relevant stakeholders? What do you do to ensure compliance?
- Is the policy publicly available?
- What are the consequences for failing to comply with the policy?

2. Assess the human rights impacts of your company's operations

- Do you understand the scope and scale of the human rights risks facing the business?
- Have you consulted with stakeholders such as community groups, indigenous communities, NGOs, industry bodies and unions to find out how their human rights might be affected?
- Have you conducted a human rights impact assessment?

3. Ensure compliance with all local laws and adopt relevant codes of practice relating to human rights

- Do you understand your legal obligations under Australian law – including anti-discrimination and OH&S?
- Have you considered committing to relevant international principles and voluntary codes or joining international initiatives relevant to the extractive sector? For example:
 - Voluntary Principles on Security and Human Rights: www.voluntaryprinciples.org



- International Finance Corporation Performance Standards on Social and Environmental Sustainability: www.ifc.org
- International Council on Mining and Minerals Sustainable Development Framework: www.icmm.com/our-work/sustainable-development-framework/10-principles
- Kimberley Process Certification Scheme: www.kimberleyprocess.com
- Extractive Industries Transparency Initiative: <https://eiti.org>
- UN Global Compact Network Australia: www.unglobalcompact.org.au
- Global Reporting Initiative: <https://www.globalreporting.org/home>
- ISO 26000 Guidance on Social Responsibility: www.iso.org/iso/home/standards

4. Implement a credible and transparent system of monitoring and reporting on your human rights impacts and performance

- Does senior management have clear responsibility for monitoring compliance with your human rights policy?
- Is your reporting process public and transparent?
- Do you draw on both internal and external sources in your monitoring and reporting processes?

5. Communicate externally on your human rights impacts and performance

- Do you work on an ongoing basis with community groups, indigenous communities, NGOs, industry bodies, other companies and unions to address the human rights challenges identified?
- Do you have communication mechanisms in place to inform stakeholders on human rights impacts and steps taken to mitigate them?
- Do you communicate in a way that is accessible and appropriate?

6. Establish accessible and appropriate systems to address grievances

- Do you have appropriate and accessible grievance mechanisms in place?
- Do your operational-level mechanisms reflect the cultural environment in which you operate?
- Do you work with external remediation processes?

Need help getting started?



To find out more about relevant business and human rights guidelines, voluntary codes of practice and case studies see www.humanrights.gov.au/employers

See the following *Good practice, good business* fact sheets at www.humanrights.gov.au/employers to read more about human rights and business: *Integrating human rights into Australian business practice*, *The Australian finance sector and human rights* and *The Australian manufacturing and retail sectors and human rights*.

Further information

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* A guide to developing a human rights policy is available at: https://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/HR_Policy_Guide.pdf

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