



The Australian mining and resource sector 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.

Integrating human rights considerations into core business practice in the extractive sector is vital for managing business risks and creating opportunities. It is also a corporate responsibility. 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.

Increasing numbers of Australian companies, including mining and resource companies, refer to human rights in their annual reports or sustainability reports and incorporate human rights into their policies. However, it is not always clear what it takes to make human rights part of core business practices.

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

How are human rights relevant to extractive companies?

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?



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). They can also have an impact on climate change.

- Has your company examined the impact of your project on the water needs and livelihood of the local community?

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 customary or traditional resources. Sometimes using the land involves the resettlement of communities. In Australia the land may be native title. Failure to address resettlement, native title and customary land use issues will almost always cause resentment and opposition towards a project and its operators.

- Has your company consulted with the local community to secure the free prior and informed consent of the community to use their land or other natural resources?

Security issues and human rights

Oil, mining and gas companies often find themselves in conflict-prone environments. This often means that a company will hire its own security staff, or rely on law enforcement in the relevant country to protect assets and employees. Sometimes those security staff become engaged in local 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.

- Does your company conduct human rights training for staff operating in conflict zones?
 - Does your company screen and monitor security forces used throughout your supply chain?

No one denies that the activities of business help provide the enabling environment needed for the enjoyment of human rights. At the same time, it is clear that a company's operations can have serious negative impacts on the protection of human rights when not carried out in a responsible manner.

Mary Robinson, Chair,
Realizing Rights

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

The due diligence process should consider the political and social context of the countries where the company operates, the potential and actual human rights impacts of the company's activities and the relationships connected to those activities.

Practicing due diligence with respect to human rights includes the following five steps.

1. 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?

2. Adopt, implement and integrate a human rights policy throughout your company's operations and your supply chain.

- 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 the 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?
- Is the policy publicly available?
- What are the consequences for failing to comply with the policy?

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

Have you considered committing to relevant international principles and voluntary codes or joining international initiatives relevant to the extractive sector? For example:

- Global Reporting Initiative (www.globalreporting.org/Home)
- UN Global Compact (www.unglobalcompact.org)
- Voluntary Principles on Security and Human Rights (www.voluntaryprinciples.org)
- International Finance Corporation Performance Standards on Social and Environmental Sustainability (www.ifc.org/ifcext/sustainability.nsf/Content/EnvSocStandards)
- 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 (<http://eitransparency.org>)

4. Implement a credible and transparent system of internal and independent monitoring and reporting on your human rights policy.

- Does senior management have clear responsibility for monitoring compliance with the policy and addressing problems?
- What do you do to ensure that subsidiaries, contractors, subcontractors and suppliers comply with the policy?
- Is your reporting process public and transparent?

5. Develop partnerships with relevant stakeholders

- 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 appropriate grievance mechanisms in place?

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, UN Special Representative on Business and Human Rights

Need help getting started?

The following are a sample of practical tools for integrating human rights into your business operations and conducting a human rights impact assessment:

- *Good practice, good business – eliminating discrimination and harassment in the workplace*, Australian Human Rights Commission
www.humanrights.gov.au/info_for_employers/index.html
- *Development and Indigenous Land: A Human Rights Approach*, Australian Human Rights Commission.
www.humanrights.gov.au/social_justice/publications/corporateresponsibility/development.html
- *Human Rights Compliance Assessment, Quick Check*, Danish Institute for Human Rights
www.humanrightsbusiness.org/Updates12.04/Quick_Check_august_2006.pdf
- *A guide to integrating human rights into business management*, Business Leaders Initiative on Human Rights
www.blihr.org/Reports/GIHRBM.pdf
- *Embedding Human Rights in Business Practice*, UN Global Compact and Office of the UN High Commissioner for Human Rights
www.unglobalcompact.org/docs/news_events/8.1/EHRBPIL_Final.pdf
- *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*, OECD
www.oecd.org/dataoecd/26/21/36885821.pdf

For more information, tools and case studies from more than 4000 companies see the Business and Human Rights Resource Centre – www.business-humanrights.org/Home

See *Good practice, good business* Fact Sheet 1 for more about human rights and the business case. See Fact Sheets 2 and 4 on human rights for the Finance and Retail and Manufacturing sectors, respectively. You can find these on the Australian Human Rights Commission website (see below).

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W: www.humanrights.gov.au/human_rights/corporate_social_responsibility

The corporate responsibility to respect human rights is a matter of due diligence. Due diligence describes the steps a company must take to become aware of, prevent and address adverse human rights impacts.

John Ruggie, UN Special Representative on Business and Human Rights



**Australian
Human Rights
Commission**

everyone, everywhere, everyday