ICMM Human Rights
Due Diligence Guidance

Contents

Foreword

A mining and metals industry that we can be proud of is one that puts people at the centre of how it operates. This means that respect for human rights must be a non-negotiable foundation for the business strategy of any responsible mining company. This is also why it is one of our member commitments.

The United Nations Human Rights Council endorsed the Guiding Principles on Business and Human Rights just over ten years ago. Since then, we have seen significant improvement in how companies across all sectors integrate and manage human rights due diligence across their businesses. Through the ICMM Mining Principles our members commit to upholding the UN Guiding Principles, including assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and transparently communicating how impacts have been addressed.

This update to our 2012 Human Rights Due Diligence Guidance comes at a critical time. Companies remain at different stages of maturity in translating the UN Guiding Principles into practice. The updated guidance is therefore aimed to support all mining companies, to strengthen their capacity to develop and implement established human rights due diligence processes in-line with evolving stakeholder expectations and regulation.

This work assumes special significance given the expected increases in demand for commodities that are critical to the energy transition. While the potential for circular economy solutions as a source of metal supply must be maximised, the scale of the increased demand means that more mining activity will be required, which will take the industry into new frontiers. This will make human rights due diligence processes even more necessary to ensure a safe and just energy transition.

But let me be clear, we won't see the necessary progress if we as the industry work alone. This is especially true in countries with high levels of poverty and systemic corruption. Change begins with us, and we must firstly ensure that all operators have robust human rights due diligence processes in place, and strong policy commitments that demonstrate leadership on human rights at executive and board levels. However, to ensure that fundamental rights and freedoms are respected, governments, civil society and the financial sector play a crucial role too. I know of much good work happening in each of these stakeholder groups, and we will continue to play our part in bringing it all together.

I am not one to shy away from hard truths – human rights violations continue to occur with unacceptable and heart-breaking frequency. In the rare occasions where those are the result of deliberate neglect or malicious intent, it is unquestionable that perpetrators must feel the full weight of the law. For companies wholeheartedly committed to upholding human rights, it is my hope that this guidance will enhance existing practice and encourage continuous improvement.

Ro Dhawan
CEO, ICMM

An Introduction to Human Rights Due Diligence

ICMM Human Rights Due Diligence Guidance

An Introduction to Human Rights Due Diligence

Concerns around how the activities of companies impact upon people have long existed. Yet the corporate responsibility to respect human rights has only been clearly articulated and codified more recently. The United Nations Human Rights Council's 2011 endorsement of the United Nations Guiding Principles on Business and Human Rights (the UNGPs) was a significant milestone in a long journey.

The UNGPs solidified the idea of a "corporate responsibility to respect", as well as the practical application of this responsibility through ongoing "human rights due diligence" – a way companies can proactively manage potential and actual human rights impacts with which they are involved – making both increasingly prominent in how business is done.

More than a decade has passed since the emergence of the UNGPs. While human rights commitments existed in a handful of company policies and industry standards prior to the UNGPs, these have become widespread since. The language of the UNGPs has been absorbed into a range of industry standards (see supporting resource on equivalency benchmark), including ICMM's Mining Principles, and into an increasing number of laws (see HRDD Regulatory landscape resource).

Since the emergence of the UNGPs, and their subsequent inclusion in the Mining Principles, there have been considerable developments in company commitments, culture, and approaches to the management of human rights risk. All ICMM members are required to introduce policy commitments to respect human rights and undertake human rights due diligence. Many members have begun to apply these commitments in practice, identifying and assessing actual and potential human rights impacts associated with business activities, and introducing measures for the management of such impacts. Each company has taken its own route in how it addresses those human rights most relevant to its activities. (See Figure 1 for key human rights issues for mining activities).

This update to ICMM's 2012 Human Rights Due Diligence Guidance is undertaken against this backdrop of increasing traction of the UNGPs, and of human rights due diligence as an established business practice.

This update reflects a maturing in how companies integrate ongoing human rights due diligence across the business. This maturity journey includes how companies bring a human rights lens to their everyday activities, assess actual and potential human rights impacts, take heightened responsibility for heightened risks, and integrate the identification and management of human rights impacts into existing company risk management processes, broader organisational structure, and their business relationships, particularly supply chains.

Yet while progress has been made, challenges undoubtedly remain around integrating ongoing human rights due diligence into the business, so that it is embedded across all relevant functions, and at senior leadership and board levels. As the UNGPs state, "businesses need to strive for coherence between their responsibility to respect human rights and policies and procedures that govern their wider business activities and relationships".

The maturing of company processes, together with the ongoing challenges faced by businesses with respect to human rights, precipitate the need for this updated Human Rights Due Diligence Guidance. It provides new tools to help companies along their own unique maturity journeys, so that rightsholders are put at the centre of how business is done. The tools draw on the practical experiences of ICMM member companies and practitioners. They cover complex issues, and draw on more extensive existing guidance, but are intended to be concise in order to be most useful to practitioners working at the operational level. Many of these more in-depth resources can be found in the references section along with a glossary of useful terminology for those looking to explore these issues in greater depth.

The tools are intended to provide guidance for companies and their application will be dependent on operational context. They are not intended to be exhaustive and reflect only some of the key issues companies are facing, but the tools are designed so that they may be added to over time as understanding and practice evolves.
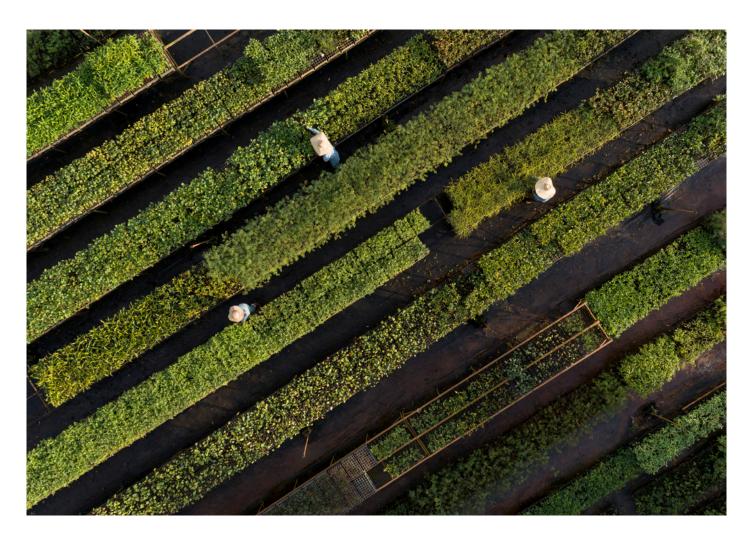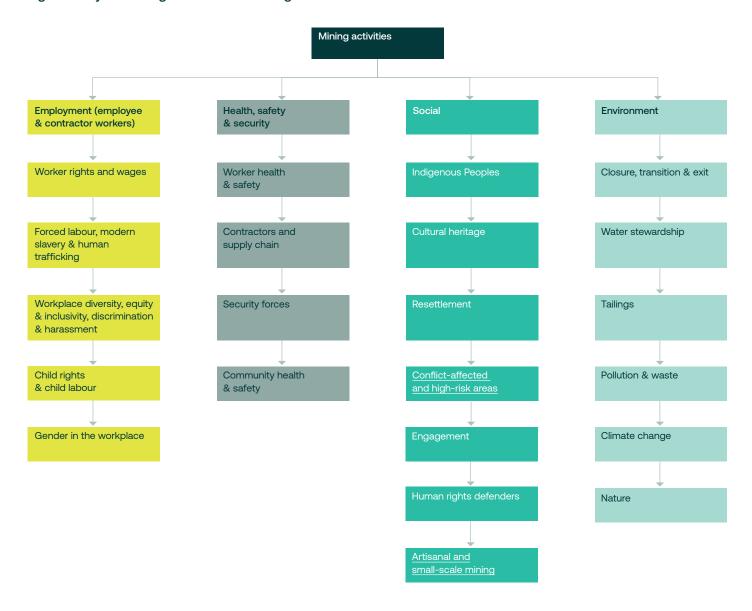
Figure 1: Key human rights issues for mining activities

Mining activities			
Employment (employee & contractor workers)	**Health, safety & security**	**Social**	**Environment**
Worker rights and wages	Worker health & safety	Indigenous Peoples	Closure, transition & exit
Forced labour, modern slavery & human trafficking	Contractors and supply chain	Cultural heritage	Water stewardship
Workplace diversity, equity & inclusivity, discrimination & harassment	Security forces	Resettlement	Tailings
Child rights & child labour	Community health & safety	Conflict-affected and high-risk areas	Pollution & waste
Gender in the workplace		Engagement	Climate change
		Human rights defenders	Nature
		Artisanal and small-scale mining	

How does human rights due diligence relate to the corporate responsibility to respect?

There are 31 UNGPs covering all three aspects of the Protect, Respect and Remedy Framework (see Figure 2).

UNGPs 1 to 10 relate to the state duty to protect human rights, and do not apply to companies. Companies are not expected to act as substitutes for the role of governments, which bear the primary duty for the protection, promotion, and fulfilment of human rights.

UNGPs 11 to 24 address the corporate responsibility to respect human rights. UNGPs 25 to 31 relate to access to remedy (addressed in ICMM's *Human Rights in the Metals and Mining Industry: Handling and Resolving Local Level Complaints and Grievances*).

UNGPs 11 to 15 are referred to as the Foundational Principles and address issues such as what it means to respect human rights (UNGP 11) and concepts such as internationally accepted human rights (UNGP 12).

The Foundational Principles state that the responsibility to respect requires companies to avoid causing or contributing to adverse human rights impacts through their own activities, and to address such impacts when they occur. This responsibility also requires companies to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts (UNGP 13).

The Foundational Principles signal that the responsibility to respect applies to all businesses (UNGP 14), and that companies must have appropriate policies and processes in place to deliver on this (UNGP 15).

The Foundational Principles form the basis for the Operational Principles (UNGPs 16 to 24), which elaborate on the policies and processes companies need to have in place to ensure that they respect human rights. The Operational Principles are clustered under the following four sub-headings:

— Policy Commitment (16),

— Human Rights Due Diligence (17 to 21),

— Remediation (22),

— Issues of Context (23 and 24).

The focus of this guidance is on UNGPs 17 to 21, and human rights due diligence.

Box 1: What is meant by "human rights"?

The term human rights describes the fundamental rights and freedoms that everyone is entitled to. They provide the basis for individuals to lead a dignified life, to freely express independent beliefs and to live free from abuse. They are universal - inherent to all individuals, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Everyone is equally entitled to enjoy their human rights without discrimination.

Universal human rights are often expressed and guaranteed by international law in the form of treaties, customary international law and general principles. At the domestic level, human rights are often enshrined in national constitutions or other domestic laws. International human rights law prescribes the obligations of governments to act (and refrain from acting) in certain ways so as to promote and protect human rights and fundamental freedoms of individuals and groups.

The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. These, together with the core labour standards of the International Labour Organization, form the most widely accepted codification of human rights standards enshrined in international law.

All human rights are indivisible, whether they are civil and political rights (e.g., the right to life, equality before the law, and freedom of expression), economic, social, and cultural rights (right to work, social security, and education), or collective rights (rights to development and self- determination). Human rights are also interdependent – improvement of one right facilitates advancement of others. Likewise, deprivation of one right adversely affects others.

Human rights are subject to progressive clarification, as evident from the 2022 adoption by the UN General Assembly of Resolution A/RES/76/300, which made the right to a healthy environment a discrete right.

Figure 2: The "Protect, Respect, and Remedy Framework" of the UNGPs

Duty to Protect (UNGP 1)
– Set expectations for responsibility to respect (UNGP 2)
– Enforce laws, provide guidance & encourage communication (UNGP 3)

Policy Coherence & Coordination
– Vertical & horizontal policy coherence (UNGP 8)
– Relations with other states (UNGP 9)
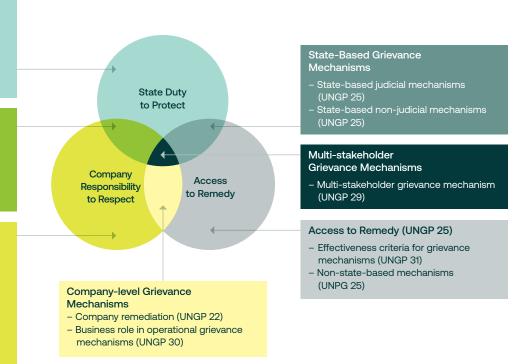– Relations with multilateral institutions (UNGP 10)

State-Business Nexus
– Protect against state-owned company abuses. (UNGP 4)
– State oversight of contracted & transacting business. (UNGP 5 & 6)
– Help companies in conflict areas avoid abuse. (UNGP 7)

Responsibility to Protect (UNGP 11)
– Respect all internationally recognised rights (UNGP 12)
– Treat human rights as legal compliance (UNGP 23)
– Policy commitment (UNGP 15a &16)
– Act proportionately, prioritise severity (UNGP 14 & 24)
– Remediation (UNGP 15c & 22)

Due Diligence (UNGP 15b & 17)
– Identify and assess impacts (18)
– Avoid, Prevent & Mitigate, & Integrate (UNGP 13, 19)
– Verify & track effectiveness (UNGP 20)
– Account and communicate performance (UNGP 21)

State Duty to Protect

Company Responsibility to Respect

Access to Remedy

State-Based Grievance Mechanisms
– State-based judicial mechanisms (UNGP 25)
– State-based non-judicial mechanisms (UNGP 25)

Multi-stakeholder Grievance Mechanisms
– Multi-stakeholder grievance mechanism (UNGP 29)

Access to Remedy (UNGP 25)
– Effectiveness criteria for grievance mechanisms (UNGP 31)
– Non-state-based mechanisms (UNPG 25)

Company-level Grievance Mechanisms
– Company remediation (UNGP 22)
– Business role in operational grievance mechanisms (UNGP 30)

The Protect, Respect, and Remedy Framework was endorsed by the UN Human Rights Council in June 2008, before being developed into the UNGPs, which were subsequently endorsed in June 2011. These tools are concerned primarily with the Corporate Responsibility to Respect.

What is human rights due diligence?

The UNGPs use of the term "due diligence" is similar to a human rights management system. This makes human rights due diligence more like other company risks management systems, such as for health and safety, tailings, or environmental management, rather than only an investigation of human rights issues prior to a business activity. In its most common business use, due diligence refers to an investigation undertaken before entering a contract, agreement, or transaction with another party. The purpose is to ensure informed decision making that mitigates risk. The UNGPs build on this risk-based approach with human rights due diligence. It is a process that is formalised, ongoing, supported by senior leadership, appropriately resourced, integrated through business processes, and enables continuous improvement in managing human rights impacts linked to the business.

According to UNGP 17, business enterprises should undertake human rights due diligence in order to identify, prevent, mitigate and account for how they address adverse human rights impacts. It states that this process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

This process of human rights due diligence amounts to four key steps, namely identify, integrate, track, and report. These four steps are set out in Figure 3, which covers the responsibility to respect framework more broadly, meaning that it includes company commitment to respect human rights, the undertaking of human rights due diligence, and the provision of remedy where appropriate.

UNGP 17 also holds that human rights due diligence:

— Should cover adverse human rights impacts that may be caused or contributed to by a company's own activities, or which may be directly linked to its operations, products, or services through its business relationships;

— will vary in complexity with the size of a company, the risk of severe impacts, and the nature and context of a company's operations; and

— should be ongoing, recognising that human rights impacts may change over time, as the business's operations and operating context change over time.

The UNGPs also emphasise the importance of effective stakeholder engagement if companies are to effectively manage their human rights impacts. The commentary to UNGP 18 states that companies should "seek to understand the concerns of potentially affected stakeholders by consulting them directly in a manner that takes into account language and other potential barriers to effective engagement". Effective stakeholder engagement is a critical component of human rights due diligence.

Box 2: Gaps in current human rights due diligence practice

While recent years have seen much progress in human rights due diligence being adopted as a norm, many gaps in current practice remain. They include:

— Difficulties translating corporate policy to local context, such that there is a disconnect between corporate approaches and implementation on the ground

— Misconstruction of human rights risks as risks to business rather than rightsholders

— Failure to prioritise and address salient actual and potential impacts, focusing instead on the impacts that are easier to address

— Tick-the-box human rights impact assessments that lack meaningful engagement with stakeholders

— Tick-the-box approaches to human rights training, which is too generic instead of being focused on business responsibilities, tailored to specific business functions, and to external business contexts and their specific human rights risk profiles

— Internal gaps and incoherence in approach and implementation between different functions, departments, and leadership levels

— Failure to respond to human rights impacts identified or track responses – this is often the case when human rights impact assessments are conducted, but findings not properly integrated

— Reactive approaches to human rights, such that there are only responses when something goes badly wrong, rather than proactive efforts to manage and prevent salient human rights impacts

— Limited range in supply chain management, such that human rights due diligence is only applied to direct suppliers

— Lack of traction among small and medium-sized enterprises (SMEs), including those in the supply chains of mining companies

— Not making the connection between human rights due diligence and remediation of actual impacts that are identified as part of an assessment.

Figure 3: Corporate responsibility to respect – what are the expectations of companies under the UN Guiding Principles?

The corporate responsibility to respect amounts to six fundamental steps, with the central four together constituting ongoing human rights due diligence. Ongoing stakeholder engagement should be incorporated throughout.

	Commit	Identify	Integrate	Track	Communicate	Remedy
UNGPs	Commit publicly to respect human rights, and ensure that this policy commitment is embedded in its institutional culture	Identify actual and potential adverse human rights impacts	Integrate findings from impact assessment across relevant company processes	Track the effectiveness of measures that address adverse human rights impacts	Communicate with stakeholders on how impacts are addressed and how effectively	Implement processes for helping provide remedy to anyone who is harmed as a result of its actions or decisions
Engagement	Ensure stakeholder engagement includes raising awareness of company human rights policy	Incorporate and draw on meaningful consultation with affected and potentially affected people, particularly vulnerable people	Engage affected people to ensure their awareness of, input, and involvement in planned impact management actions	Engage affected people to involve them in the monitoring and evaluation of impact management	Publicly report on how impacts are being addressed, including performance. Ensure reporting is clear, accessible, and does not create risk to rightsholders.	Engage widely to promote awareness, accessibility, and accountability of grievance mechanism/s

Box 3: Challenges in current human rights due diligence practice

There are also contextual challenges that give rise to or exacerbate the gaps in common practice. These include:

— Failures of states to protect human rights, particularly in complex environments where there is poverty, systemic corruption, weak rule of law, or conflict, which all hinder states in meeting their duty to protect. This can create high expectations on companies to solve human rights challenges outside of their direct control

— The 'first-mover challenge', in which businesses that are transparent about impacts and challenges are criticised for not doing enough, while less responsible competitors avoid scrutiny

— Lack of available expertise on the UNGPs within companies and many consultancies

— Insufficient incentive structures for addressing impacts on people, due to a lack of systematic mechanisms for investors, public agencies, and regulators to reward good practices

— Lack of common understanding and consensus about metrics and indicators to track and evaluate performance, sometimes resulting in markets rewarding often inadequate behaviour and overlooking leading practice

What is the difference between social performance management and human rights due diligence?

Social performance and human rights share a common premise: that a company's activities and relationships have direct and indirect impacts on stakeholders beyond their shareholders and that companies are responsible to manage and mitigate these impacts.

Within companies, responsibility for both areas will often fall to the same function. But, while in many instances overlapping, the two practices differ in some crucial ways. Some of these key differences in theory and approach are outlined below.

Box 4: What is social performance?

The focus of these tools is on human rights due diligence but ICMM has similarly developed Tools for Social Performance in which it sets out a standard definition for social performance.

Social performance is the outcome of a company's engagement, activities and commitments that can directly and indirectly impact stakeholders or affect the quality of its relationships with them. Achieving excellence in social performance requires strong leadership, integrated management systems, and the capability and culture to identify, address and report social risks and impacts.

Social performance management aims to:

— Avoid harm to people and communities from company activities throughout the mining life cycle.

— Ensure respect for human rights.

— Contribute to the social and economic development of affected people and engage society more widely on key issues.

— Establish and maintain relationships of trust between companies and stakeholders for mutual benefit.

Critical to a mining and metals company's social performance is how well a company fulfils its commitments, interactions and activities as they relate to local communities. Broader societal aspects include revenue and contract transparency, mineral resource governance, and engagement with partners across the value chain on social risks.

Emphasis

Human rights due diligence considers impacts both within and beyond the fence line, and up and down the value chain to include employee rights in a company's operations and workers in supply chain, alongside any individual that may be impacted by the company. While well executed social performance management may consider these issues in certain circumstances, they are an inherent and distinct part of a human rights framework. Conversely, inherent to social performance is the management of risks and opportunities relating to socio-economic benefit sharing, social investment, and employment creation, which strictly speaking fall outside of a rights based framework. And while social performance may consider issues related to security, the environment, and resettlement, a human rights lens offers a perspective on vulnerability that a social performance function may miss.

Flexibility

Social performance allows for carefully considered 'trade-offs' as long as accommodations are acceptable to stakeholders and actions remain aligned with applicable standards and best practices. Human rights on the other hand allows for less flexibility. Human rights law and practice are premised on the proposition that human rights are indivisible, inter-dependent and interrelated. Even when faced with competing priorities, companies may not make trade-offs that compromise their obligation to respect human rights. The UNGPs are clear – any activities or commitments made by companies which promote the enjoyment of rights are welcomed but importantly they cannot offset a failure to respect human rights throughout business operations.

Consideration of Business Risk

Business risk is integral to social performance. Good social performance is an indicator of business success and the two are intrinsically intertwined. A human rights lens puts people at the centre and risks to people are considered over any risk to business performance. (This concept is explored at greater length in the tool on Integrating Human Rights in Business Risk Processes).

Regulation

Social performance is uncodified – instead the practice is framed by values, norms, and accepted standards. Conversely, human rights are formally protected by various instruments of international law and the UNGPs set out the global standard of conduct for companies to fulfil their obligation to respect human rights. Responsible business disclosure laws and mandatory due diligence legislation at a regional and national level are increasingly codifying the business and human rights landscape.

Relationship to the state

Through a human rights lens, the delineation of where the responsibility of a company ends and the state's duty to protect begins is clear. The relationship between the state and the company is less defined in social performance and social performance policies and outcomes vary widely across various government contexts.

Concern with the Individual versus the Group

By its nature, human rights practice is primarily concerned with the individual. While collective rights such as those held by organisations like trade unions, or groups of Indigenous Peoples are recognised by human rights law. It is the individuals who make up the group rather than the group itself who are the rightsholders, and whose rights a company has the responsibility to respect. Social performance, however, is often concerned with the wellbeing of a group of people and the benefits shared between the members of that group.

Mandate to Withdraw

As part of human rights due diligence, companies will engage with business partners and use their leverage to prevent, mitigate, and remediate adverse impacts. However, if these efforts fail, companies are mandated to responsibly disengage. The social performance framework is less clear on what the circumstances for disengagement may be.

Applying a Human Rights Lens

ICMM Human Rights Due Diligence Guidance

Applying a Human Rights Lens

Companies involved in producing minerals and metals can significantly contribute to sustainable development globally. But the same companies may also be at risk of contributing or being linked to significant adverse impacts, including serious human rights violations.

The purpose of this tool is to provide an enhanced understanding of what human rights are, why they are important in a business context and how a human rights lens can offer a powerful perspective in company decision-making.

Key Elements of a Human Rights Lens

1. Putting People at the Centre

Human rights have at their core the idea that all people have an equal and absolute right to be treated with dignity. A human rights lens, like any lens, facilitates and influences perception, understanding and evaluation. Applying a human rights lens entails a consideration of human rights not only as a set of abstract aspirations, but also seriously considers the rightsholders themselves. This lens, in essence, adopts a perspective that puts people at its centre.

Adopting this lens means that the perspectives and voices of potentially affected people sit at the centre of a human rights approach. Engagement in general and the ability of companies to listen to people's views and incorporate them where appropriate are vital. Of particular importance is the ability to consult and involve people in understanding impacts to them and how best to manage these.

2. Responsibility to Respect

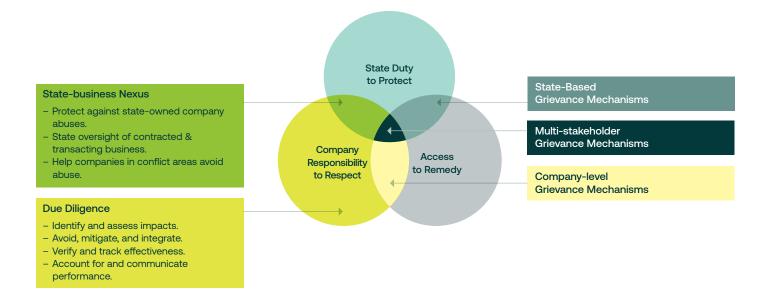As set out in the UN Guiding Principles on Business and Human Rights (UNGPs), companies have the responsibility to avoid infringing on human rights and to address negative impacts on people with which they may be involved.

The traditional three-pillar framework of the UNGPs can be re-imagined as three intersecting spheres: "Protect, Respect and Remedy" (see Figure 1 below).

Section II of the UNGPs describes the responsibility to respect human rights as a global standard of conduct for all companies wherever they operate. This responsibility exists independently of States' abilities and/or willingness to fulfil their own human rights obligations and does not diminish those obligations. In addition, it exists over and above compliance with national laws and regulations protecting human rights.

The UNGPs go on to describe the process for addressing human rights impacts which requires taking adequate measures for the prevention, mitigation and, where appropriate, remediation of adverse impacts.

Figure 1: The Protect, Respect and Remedy Framework of the UNGPs

State-business Nexus
- Protect against state-owned company abuses.
- State oversight of contracted & transacting business.
- Help companies in conflict areas avoid abuse.

Due Diligence
- Identify and assess impacts.
- Avoid, mitigate, and integrate.
- Verify and track effectiveness.
- Account for and communicate performance.

State Duty to Protect

Company Responsibility to Respect

Access to Remedy

State-Based Grievance Mechanisms

Multi-stakeholder Grievance Mechanisms

Company-level Grievance Mechanisms

Any activities or commitments made by companies which promote the enjoyment of fundamental rights are welcomed but importantly they cannot offset a failure to respect human rights throughout business operations.

Companies must refrain from undermining a state's ability to protect human rights. Conversely, where states have little ability to uphold the rule of law, companies have a greater responsibility to ensure they do not take advantage of this.

3. A unique perspective and language

Applying a human rights lens to a business often highlights issues which other approaches may not. A human rights lens ensures that impacts on people are the primary focus rather than any impact to the business, while recognising that the two often converge.

Adopting a human rights lens ensures special attention is paid to rights impacts on individuals or groups that may be at heightened risk of harm and should always integrate a gendered perspective. Companies should pay attention to the human rights conditions of a person

or community before the impact of business activities and be aware of intersecting forms of vulnerability and discrimination such as race, class, access to economic resources or essential services such as health and education. Measures taken by companies to implement human rights due diligence should be responsive to these conditions. Companies should identify the vulnerabilities that may be particularly susceptible to impacts from their activities (such as asthmatic people living near a company refinery).

A human rights lens provides not only a way of seeing the way a business interacts with people, but also a shared language for describing and managing those interactions responsibly.

Most companies find that long-standing company policies, codes and practices already address human rights issues but that they use a different language, e.g., equality standards or health, safety and environment policies. Using human rights language will not always bring to light new risks but can help articulate and link existing knowledge in a different way, highlighting issues and impacts that might otherwise be ignored.

4. Drivers for Change

There is a fast expanding number of drivers for companies to undertake human rights due diligence as part of meeting their responsibilities to respect human rights.

There is growing recognition that aside from it simply being "the right thing to do," demonstrating respect for human rights gives companies a competitive advantage. Exercising human rights due diligence can help companies attract responsible investment or improve credit ratings.

In addition, increasing responsible business legislation is impacting global markets. Mandatory human rights due diligence regimes are already in place or in development across a growing number of jurisdictions, predominantly, though not exclusively, in the European Union.

Increasing scrutiny from civil society organisations and public interest law firms means that companies are facing litigation for their connections to human rights impacts and inadequate human rights due diligence.

The multi-national nature of corporations allows cases alleging violations all over the world to be heard in the jurisdictions of parent companies, where strong legal precedent is being set.

The climate emergency intersects with a vast range of human rights, including the right to life, a clean environment, water and sanitation, food, health, development, security of person and an adequate standard of living. Companies are having to respond to the need for decarbonisation urgently which adds to complex human rights pressures in supply chains and issues related to land access and engagement.

5. Human Rights Due Diligence as a Management System

Human rights due diligence (HRDD) refers to an integrated system for managing human rights. The UNGPS outline a management system that, when properly used, allows companies to actively assess their human rights risks and impacts, take appropriate measures to address, integrate, track, and report on these measures.

HRDD can be integrated into existing business risk-management systems, as long as it goes beyond managing material business risks, to include risks to people.

Traditional business due diligence inherently focuses on those risks that have the highest potential to materially affect business performance. Because a human rights lens puts people – specifically potentially affected people – at the centre, it therefore requires risk management to change the focus of its analysis and response. On top of this, traditional due diligence broadly refers to the exercise of reasonable care in making business decisions and is generally an exercise with a beginning and end. Instead, HRDD is the ongoing process companies carry out to identify, asses, prevent, mitigate, and account for adverse human rights impacts.

6. Engagement

Engagement with affected people is foundational to a human rights approach. Not only is the right to seek, receive and impart information recognised as universal, but meaningful engagement with affected people is essential in order to respect a whole host of other universally recognised rights. Adopting a human rights lens requires a commitment by a company to engagement with people, ensuring appropriate transparency, and a focus on people.

Proper engagement is a process of ongoing dialogue between a business and potentially affected people that enables companies to properly listen, understand and respond to how its decisions and actions affect people's lives and empowers people to make and communicate informed decisions.

A company's responsibility to respect people's substantive rights such as the right to life, or health, is contingent in part on a company's responsibility to respect their procedural right to participate in decisions that affect them. Fundamental to these processes is ensuring that people are meaningfully engaged on the impacts, both potential and actual, that could limit their enjoyment of human rights, and are able to actively participate in decision-making processes that concern the management of these impacts.

Meaningful consultation with people that is sensitive to vulnerability is necessary to an effective HRDD process that effectively identifies and responds to human rights impacts. By way of example, meaningful engagement with Indigenous Peoples will also mean respect of the principle and process of Free, Prior and Informed Consent (FPIC). In the case of emergency response planning, people with limited mobility should be engaged to ensure their circumstances are considered. For resettlements, census data should be aggregated by gender, and women and girls should be engaged specifically, to ensure there are no additional impacts upon them.

7. Integration Throughout the Whole Business

The UNGPs envisage that companies embed the responsibility to respect human rights within internal functions and processes, across all levels. Companies need to build the necessary internal capacity and systems to manage actual and potential human rights impacts effectively. A useful reference in this respect is the global status enjoyed by health and safety in modern industry in comparison to its historical position.

There is no single, correct approach to integrating the responsibility to respect human rights across the business. A company's approach should be cognisant of context, particularly the most pressing challenges in fulfilling its responsibility to respect.

HRDD can be integrated in company decision-making processes which are in place already and cover all activities of a business, including its relationships with contractors, supply chain and partners. Some human rights issues will already be considered by existing management processes including environmental and social impact assessments (ESIAs).

An ESIA and human rights approach share a common premise: that businesses have responsibilities beyond their shareholders. There are however some key differences. While ESIAs are well placed to identify environmental and social risks, they do not explicitly address potential infringements of human rights. This exposes an assessment to potential gaps; worker rights and working conditions are notable examples.

However, if a human rights lens is explicitly and sufficiently applied to existing processes such as ESIAs, a standalone human rights management system may not be necessary.

8. Ongoing Journey

The HRDD process is dynamic – ongoing and responsive. It is a journey of continuous improvement and increasing maturity. The process includes feedback loops so that a company can learn from past experiences and respond to changing circumstances.

A company should aim to be able to adequately respond to potential changes in the impacts identified, and that human rights assessments are undertaken periodically throughout the lifetime of every operation.

9. Focus on Most Significant Harm

Companies should focus on those human rights issues that are most salient. The most salient issues are those that stand out because they present a risk of severe negative impact on people through the company's activities or business relationships. The salience of an impact is assessed based on the severity of the impact, which is a combination of scale, scope, and irremediability.

Assessing salience allows for the prioritisation of impacts, such that the company or operation can allocate its efforts and resources most effectively, as it seeks to manage human rights impacts.

The UNGPs make clear that while the most salient impacts will logically receive more attention, care should be taken not to ignore other less salient impacts that may emerge, as salience in different issue areas is likely to change over time.

Beyond this, a company should reasonably prioritise actions based on their likelihood, linkage, and leverage – and focus on those people that are most vulnerable.

10. Heightened HRDD Where High Risks Exist

The risk of companies being linked to serious human rights abuses and violations of international humanitarian law is particularly high in higher risk contexts such as armed conflict, political volatility, or least developed countries.

Heightened risk calls for heightened due diligence procedures to meet a company's responsibility to protect. Heightened due diligence enhances a contextual understanding and ensures that a company's activities do not contribute to existing violence, vulnerability, or other complexity. Recognising that actors in conflict situations are often linked to business activities, heightened HRDD also focuses on business relationships. When companies are operating in – or their activities are linked to – high risk contexts, they should take additional conflict-sensitive steps (see resource on Approaches to Assessment of Human Rights Impacts, Box 2: Conducting heightened human rights due diligence in conflict-affected contexts).

Human Rights
Due Diligence
Maturity Matrix

ICMM Human Rights Due Diligence Guidance

Human Rights Due Diligence Maturity Matrix

Mining companies' approaches to managing human rights impacts are continually developing. The ICMM Human Rights Due Diligence (HRDD) Maturity Matrix is a tool for companies to evaluate their approach to HRDD, and to understand how it can be improved over time.

Management maturity models are used elsewhere in the mining industry, including for risk, health and safety, closure, security management, as well as social performance.

This HRDD maturity matrix is closely aligned to the ICMM Social Performance Maturity Matrix. It is also based on the baseline expectations of companies set out in the UN Guiding Principles on Business and Human Rights (UNGPs).

The HRDD maturity matrix is intended to help industry actors develop more strategic and systematic processes for the management of human rights impacts, and thereby develop a roadmap to ensure the ongoing improvements to HRDD that is expected under the UNGPs.

The story of how companies can mature their HRDD systems over time, is also a story of integration and engagement; of how companies can integrate HRDD systems into existing company processes, activities, and functions; and how companies can more closely engage with their stakeholders, particularly impacted people. Much of the matrix therefore focusses on this integration and engagement, as do the other tools in this HRDD guidance.

How to use the HRDD Maturity Matrix

The matrix is a tool to support continuous learning and improvement. Companies can use it to critically analyse and diagnose their HRDD systems to identify strengths and gaps, and plan and take action to improve those systems. In so doing, they will be able to identify actions and improvements appropriate to moving towards the next level of maturity.

The HRDD maturity matrix can be used at either a corporate or asset level, as well as being used to track progress over time. To best use the maturity matrix, companies may want to involve a cross-section of representatives from within the company, and to get as wide a variety of perspectives as possible in determining which level of descriptor best suits the company's current maturity. It is likely that there will be variation in the maturity of different parts of the business and different assets, as well as different views of the level of maturity. The discussions around this are often a constructive process in themselves, and may help in deepening insights, learning and new approaches.

The maturity matrix could also be useful to consider how external stakeholders might perceive the maturity of the company's approach to human rights. Companies can consider involving external stakeholders in the maturity assessment. It is not intended that it be used by external parties or 'verified' in any way, nor is evidence required to support a company's own assessment of its maturity. Yet, companies may also seek an independent assessment of maturity undertaken by a third-party, at their discretion.

HRDD Maturity Matrix Overview

The maturity matrix has five maturity levels (from nascent to leadership) that apply to four key steps of ongoing HRDD, as set out under the UNGPs (identify, integrate, track, and report), as well as the foundational step of commitment to respecting human rights.

The level of HRDD maturity within an organisation will often be reflective of the maturity of wider management systems within the organisation as a whole. Organisations will also tend to show decreasing or varying levels of maturity through each of the steps. For instance, an organisation may achieve a high level of maturity on commitment, and successively lower maturity levels for the identifying, integrating, and tracking steps, but then a higher level of maturity on reporting due to meeting legal and investor standards for public reporting.

The figure below summarises the key points of the maturity matrix. This is followed by more detailed descriptions of each level of maturity for each step.

Figure 1: Human Rights Due Diligence Maturity Matrix – overview

	LEVEL 1 Nascent	LEVEL 2 Basic	LEVEL 3 Managed	LEVEL 4 Aligned with International Good Practice	LEVEL 5 Leading Practice
Commit	No formal commitment to human rights	Respect for human rights reflected in some policies	Public commitment to respect human rights in accordance with UNGPs	Coherence between public commitment to respect human rights and company-wide policies & procedures. Strong leadership oversight	Use of leverage, influence and cooperation to improve other stakeholder commitments to respect
Identify	No formal process for assessment	Assessment of some human rights impacts	Formal company-wide process for assessment of human rights impacts	Integration of human rights assessment throughout business processes and meaningful consultation	Support for joint and/or independent assessments involving rightsholders and support for assessments by business partners
Integrate	Human rights only managed in a crisis. No formal systems or expert capability	Some procedures specific to human rights with limited coherence & consistency. Some human rights capability	Management system that includes human rights aspects implemented coherently. Fit-for-purpose human rights capability at corporate and asset levels	Human rights hard-wired into business management systems and processes & external engagement. Human rights capability and capacity are linked to impact management, risk profile and context	Coherence between human rights management and wider business strategy, policies and procedures Responses to human rights impacts include collaboration & systemic interventions
Track	No tracking of human rights metrics	Tracking of a limited number of human rights metrics, with limited engagement	Consistent company-wide tracking of indicators linked to most salient human rights impacts, with regular engagement	Regular, up to date, monitoring and evaluation of all-of-asset performance (both outputs and outcomes), based on meaningful engagement	Participatory tracking of performance with rightsholders & other external parties. Tracking demonstrates continuous improvement
Report	No public reporting	Some ad hoc reporting	Regular public reporting of how human rights impacts are identified and addressed	Proactive reporting of serious human rights issues. Proactive reporting tailored to impacted rightsholders	Support to independent external reporting. Support to reporting by business partners

The maturity levels of the ICMM HRDD Maturity Matrix are defined in the following table.

Table 1: Definition of maturity levels

Maturity Level	Descriptor	Definition
1	Nascent	Practice is emerging: Human rights management is reactive and firefighting. Policies and procedures may (or may not) exist at corporate level but at asset level they, and activities relating to them, are informal, ad hoc, and disjointed. There is limited understanding of human rights across the company or asset.
2	Basic	Practice is established: Some relevant policies exist at corporate level and apply at asset level, and some procedures are in place, however implementation is inconsistent, largely disconnected and/or not achieved systematically. Management of human rights is driven by legal compliance and/or risks to business. Any staff with human rights responsibilities may operate in a silo, largely disconnected from most other functions and operational decision-making. There is a basic understanding of human rights across the company or asset.
3	Managed	Practice is compliant: Corporate policies are translated/reflected at asset level, procedures are generally followed and compliance with them is generally achieved. The most salient human rights impacts are generally well identified and proactively managed. A human rights lens is not yet thoroughly embedded into business decision-making and throughout all parts of the business. There is sound understanding of human rights across the company or asset and increasing acknowledgement of what needs to occur to embed and integrate human rights.
4	Aligned to International Good Practice	Practice is embedded: Management of human rights is well aligned with UNGPs, as well as ICMM Mining Principles and other international good practice. Increasing bandwidth means human rights management is proactive and understood across the business; continuous improvement of policies and procedures occurs in line with stakeholder expectations; emerging global trends and outcomes from incident investigations audits, and assurance are integrated; and adherence to policies and procedures is internalised/embedded (i.e., is business as usual).
5	Leading Practice	Practice is consistently integrated and supports the participation of external parties: The company/assets not only meet the performance expectations of ICMM's Mining Principles and operate in alignment with international good practice, but human rights is coherently, consistently, and fully integrated. The company/assets continues to find ways to improve its management of human rights. Innovative approaches to work with business partners, supply chain and other stakeholders through support, leverage, and partnerships, supported by high levels of accountability and transparency. Respect for human rights is part of the organisational fabric, continues unhindered during significant changes and disruptions.

Human Rights Due Diligence Maturity Matrix

Aspect	Level 1 Nascent	Level 2 Basic	Level 3 Managed	Level 4 Aligned with International Good Practice	Level 5 Leading Practice
Commit	— No formal commitment to human rights — Most other policy commitments do not imply respect for human rights issues — No or limited understanding by senior management of human rights and their relevance to business	— Some public policy positions to some extent reflect respect for some human rights issues important to the business — Some awareness by senior management of human rights and their relevance to business	— Public commitment to respect human rights in accordance with UNGPs — Policy endorsed by the most senior level of management — Policy communicated internally to most personnel and business partners	As per Level 3 and: — Policy informed by relevant internal and/or external expertise — Assigned senior management or board-level responsibilities and accountability — Senior leadership has strong oversight of HRDD implementation & effectiveness, and driving continuous improvement — Policy communicated internally and externally to all personnel, business partners and other relevant parties — Human rights policy commitment embedded in relevant business functions	As per Level 4 and: — Human rights policy commitment appropriately embedded throughout all business functions — Senior management and board adept at consistently applying a human rights lens — Coherence and implementation maintained through significant changes — Company-wide consistent living respect for human rights beyond technical, financial and production — Company uses leverage, influence, and cooperation to improve others' commitments to respect for human rights

Aspect	Level 1 Nascent	Level 2 Basic	Level 3 Managed	Level 4 Aligned with International Good Practice	Level 5 Leading Practice
Identify	— No formal process for assessment of actual and potential adverse human rights impacts	— Assessment of some human rights impacts — Assessment conducted for some business activities — Assessment of human rights may be as part of other assessment processes or standalone human rights assessments — Assessments mainly desk-based and/or draw on limited external consultation on human rights impacts — Assessment processes driven by legal compliance and/or risks to business — Limited integration of human rights in business risk processes — Assessments conducted irregularly	— Company-wide formal process for identifying and assessing the nature of the actual and potential adverse human rights impacts the company may cause, contribute, or be directly linked to — Assessments based on a documented knowledge base of the human rights context — Assessments draw on internal and / or independent external human rights expertise — Assessments include internal and external consultation with potentially affected groups, suppliers, and stakeholders — Assessments ensure understanding of the specific impacts on specific people, given a particular operational context — Assessments explicitly consider vulnerable and marginalised people — Business risk processes broadly align and integrate most salient human rights impacts — Assessments are conducted at regular intervals	As per Level 3 and: — Assessment of human rights impacts is integrated throughout other assessment processes in the business (e.g. ESIAs) — Business risk processes consistently integrate human rights assessment — Approaches to assessment are appropriate to the size of the company, risk of severe human rights, and nature & context of activities, including heightened assessment in high-risk contexts — Assessments conducted cover all business activities, including supply chain and all phases of project development, including exploration, acquisitions, divestments, and closure — Assessments explicitly cover all internationally recognised human rights — Findings of assessments are publicly disclosed — Assessments involve meaningful consultation with internal & external rightsholders — Assessment is ongoing and responsive to changes in business activities and operating context	As per Level 4 and: — Company supports rightsholders and independent parties to conduct joint and/or independent assessments of human rights impacts — Findings of independent assessments are integrated in company assessment processes — Support for assessments by business partners which have linked activities, such as throughout the supply chain

Aspect	Level 1 Nascent	Level 2 Basic	Level 3 Managed	Level 4 Aligned with International Good Practice	Level 5 Leading Practice
Integrate	— Human rights only managed in a crisis — No formal systems or expert capability — No external engagement on or through any measures undertaken — Frequent failures to adequately avoid, mitigate and/or remedy some serious human rights impacts — Business activities increase people's vulnerability	— Some corporate and asset level procedures and responses specific to human rights, with limited coherence and consistency — Management of human rights issues is driven by legal compliance and/or risks to business — Some human rights capability at corporate and/or asset level and may be isolated from wider business decision-making — Certain management measures may include some external engagement	— Planned and appropriate management system, that includes human rights aspects, are developed and implemented coherently for priority identified salient impacts — Responses are based on mitigation hierarchy of prevention, mitigation, and remedy — Responses are according to business linkage to the impact and extent of leverage — Internal decision-making, budget allocation and oversight enable effective responses to such impacts — Fit for purpose human rights capability at corporate and asset levels — Programme of ongoing human rights training for key personnel — External engagement to inform potentially affected people of planned responses — Serious human rights impacts are generally avoided, mitigated and/or remedied effectively	As per Level 3 and: — Company-wide long-term improvement plan for human rights management systems — Human rights aspects are hard-wired into business management systems and processes — Responsibility for addressing salient impacts is assigned to the appropriate level and function and integrated across relevant internal functions and processes within the business enterprise — Management of human rights impacts includes support to and leverage on suppliers and business partners — Heightened care for high-risk scenarios (e.g., conflict-affected & high-risk areas) consistently applied — Lifecycle approach incorporates human rights criteria into stage-gating process to investment decision-making — Human rights capability and capacity are linked to impact management, risk profile and context and integrated throughout business decision-making — Ongoing training for all staff with responsibilities for managing human rights issues — External engagement involves potentially affected rightsholders in design of planned responses	As per Level 4 and: — Human rights an integrated part of business strategy, business objectives, business models, and long-term business performance improvement — Coherence between human rights specific policies and procedures and those that govern wider business activities and relationships, such as incentives, procurement and lobbying — Human rights lens consistently applied throughout business decision-making processes — Collaboration with business partners, suppliers, and peers on human rights management — Active support to and partnership with vulnerable groups in the management of human rights risks they face — Responses to human rights impacts including systemic interventions, addressing wider root causes, vulnerabilities, legacy issues, reconciliation, and stakeholder capacity

Aspect	Level 1 Nascent	Level 2 Basic	Level 3 Managed	Level 4 Aligned with International Good Practice	Level 5 Leading Practice
Track	— No metrics to define performance or achievement of objectives or commitments — Informal internal reporting only — No external engagement on tracking	— Some metrics measuring inputs and activities — Metrics for human rights apply to a limited number of human rights issues — Infrequent and/or one-off tracking of performance — Some tracking draws on engagement with stakeholders — No audit or management review of human rights risk management	— Tracking is based on appropriate qualitative and quantitative indicators — Leading and lagging indicators linked to most salient human rights impacts — Tracking covers key business activities linked to salient human rights issues — Tracking includes business partner and supplier human rights performance — Tracking is consistent over successive time periods (e.g. annually) — Tracking consistently and regularly draws on feedback from both internal and external sources, including affected rightsholders	As per Level 3 and: — Comprehensive, systematic, consistent tracking process allows for an overall performance evaluation — Metrics measure meaningful outputs and outcomes of activities — Tracking integrated into relevant internal reporting processes. — Operational-level grievance mechanisms used to provide feedback on the effectiveness of company human rights management — Tracking includes effectiveness of responses to impacts on individuals or groups that may be at heightened risk of vulnerability or marginalisation — Tracking is ongoing and responsive to changes — Potentially affected stakeholders consistently and meaningfully engaged to track and evaluate measures — Human rights management systems are regularly audited and reviewed by management	As per Level 4 and: — Human rights metric(s) established and are understood across the business, equivalent to safety (e.g. all injury frequency rates) — Participatory tracking of performance with rightsholders and other external parties — Tracking process demonstrates continuous improvement and learning in managing human rights impacts — All key business processes are regularly and comprehensively audited for human rights effectiveness and reviewed by management

Aspect	Level 1 Nascent	Level 2 Basic	Level 3 Managed	Level 4 Aligned with International Good Practice	Level 5 Leading Practice
Report	— No public reporting relating to human rights impacts	— Some ad hoc reporting of human rights issues	— Regular and formal public reporting of how human rights impacts are identified and addressed — Information provided is sufficient to evaluate the adequacy of the response to particular human rights impacts — Communication is in a form and frequency that reflects the operations' human rights impacts — Reporting appropriate and accessible to potentially impacted individuals and groups, including vulnerable people — Reporting is regular (e.g., annual)	As per Level 3 and: — Formal reporting on how risks of severe human rights impacts are addressed, whether this is due to the nature of the business operations or operating contexts — Prompt and proactive public reporting of serious human rights incidents — External reporting particularly when concerns are raised by or on behalf of affected stakeholders. — Proactive measures to ensure impacted rightsholders are able to evaluate the adequacy of the response to particular human rights impacts relevant to them — Communications do not pose risks to affected rightsholders, personnel or to legitimate requirements of commercial confidentiality	As per Level 4 and: — Support to external parties to independently report on company human rights management and performance — Support to reporting by business partners to their potentially affected stakeholders in accessible ways

Assessing Salient
Human Rights Issues

ICMM Human Rights Due Diligence Guidance

Assessing Salient Human Rights Issues

The UN Guiding Principles on Business and Human Rights (UNGPs) expect companies to 1) commit to respecting human rights, 2) identify and assess their human rights impacts both actual and potential, 3) integrate the findings of their assessment into business processes, 4) track and 5) report on these efforts, and to 6) provide remedy if adverse human rights impacts do occur.

Identifying and assessing salient human rights impacts is fundamental to companies' practical efforts towards managing their human rights impacts, and ensuring they meet their responsibility to respect human rights. It is a prerequisite for knowing what adverse impacts to prevent, mitigate, or remedy, and for knowing where there is a responsibility to seek leverage over other parties to encourage them to change their behaviour and prevent, mitigate, or remedy their impacts.

The purpose of this resource is to set out UNGPs and ICMM requirements for assessing human rights impacts, before offering a set of basic tools for undertaking such assessment and for integrating the findings into subsequent business processes. These basic tools include:

1. Key steps for assessing salient human rights issues

2. Metrics for assessing salience

3. Metrics for assessing involvement

4. Indicative examples for detailed assessment of an impact, presentation of assessment findings, assessment action plans, and monitoring and evaluation frameworks

While this resource provides the above basics, the Approaches to assessment of human rights impacts resource unpacks a range of different approaches to the process of human rights impact assessment. Each of these approaches will apply the above basics in different ways and along different journeys of maturation.

Assessment Requirements

What do the UNGPs expect?

UNGP 18 states that, in order to gauge their human rights risks, companies 'should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships.'

The UNGPs do not require companies to undertake a separate human rights impact assessment (HRIA). They do expect that, in assessing human rights impacts, companies:

— Draw on internal and / or independent external human rights expertise

— Involve meaningful consultation

— Cover all internationally recognised human rights

— Consider vulnerable and marginalised people

— Understand the specific impacts on specific people, given a particular operational context

— Do assessments at regular intervals

— Inform subsequent human rights due diligence (HRDD) steps, such that assessment findings are integrated into business activities as management measures, and these are tracked and reported on internally and externally

What do the ICMM Mining Principles and associated Performance Expectations require?

Under Performance Expectation 3.1, undertaking human rights due diligence means having 'mechanisms to identify, assess, and control potential/actual human rights risks and impacts in consultation with potentially affected groups, suppliers, and stakeholders, as appropriate to the size of the company and the nature and context of the asset.' Broad stakeholder consultation is therefore key.

Whether implicitly or explicitly, Performance Expectations 3.2 to 3.9 require identification and assessment of actual and potential human rights impacts in various issue areas, such as security and human rights, land-based rights, worker rights, indigenous rights, and women's rights.

Performance Expectation 4.3 also requires mechanisms in place for the identification, assessment, management, and reporting of risks related specifically to conflict and human rights.

Key Steps for Assessing Salient Human Rights Issues

There are four fundamental steps that should be undertaken in identifying and assessing human rights impacts, both actual and potential, and developing findings from this assessment for integration across relevant company processes, so that appropriate actions can be implemented. These are as follows:

1. Assess Human Rights Baseline	2. Identify and Prioritise Human Rights Impacts	3. Assess Potential Involvement and Responsibilites	4. Develop Management Measures

1. Assess Human Rights Baseline

Determine scope of business activity areas to be assessed, including up and downstream-business relationships

Assess human rights context surrounding business activity areas – including country context, local context, the sector, and determine the key human rights issues (see supplementary resource: Key Issue Areas)

Map potentially impacted people, paying specific attention to vulnerable individuals and groups, and being aware of intersecting forms of vulnerability

2. Identify and Prioritise Human Rights Impacts

Identify human rights impacts, both actual and potential, related to all company activities

Separate impacts into actual and potential, into site activity areas, and into human rights issue areas for a clearer view

Prioritise impacts by assessing salience (severity and likelihood) (see metrics for assessing salience below)

3. Assess Potential Involvement and Responsibilites

Assess the company's potential involvement in each impact

Differentiate between cause, contribute, and directly linked, as per UNGPs (see metrics for assessing corporate below)

Use assessment of involvement to determine company responsibilities regarding each impact – does it have responsibility to prevent, mitigate, remedy, increase or exercise leverage? These responsibilities help determine the appropriate management measures

4. Develop Management Measures

Detail existing management systems for human rights, including those specific to identified impacts and human rights generally

Develop management measures for each impact; ensure measures are developed with reference to mitigation hierarchy (see "Integrating human rights in business risk assessment" Fig 2); incorporate into an action plan that can be tracked

If appropriate, also develop overarching recommended measures for Human Rights Due Diligence systems generally

Metrics for assessing salience

The salience of impacts (both actual and potential) should be assessed based, firstly, on severity, which is a combination of scale, scope, and irremediability (see definitions and metrics below – adapted from the Danish institute for Human Rights HRIA toolbox).

Secondly, the UNGPs also refer to likelihood in the consideration of salience. Likelihood can thus be considered in combination with severity, as per the three steps set out below, to fully assess salience.

Assessing salience is vital under the UNGPs, because it allows for the prioritisation of impacts, such that the company or operation can allocate its efforts and resources appropriately and effectively, as it seeks to manage (identify, prevent, mitigate, and account for how it addresses) human rights impacts. The most salient impacts will logically receive most attention, though care should be taken not to completely ignore other less salient impacts that may emerge, as the salience of different issues is likely to change over time.

Note that the metrics below are illustrative, and companies and operations may need to adapt definitions to fit their own contexts and systems.

Step 1: Assess severity

Parameters for evaluating impact severity (adapted from Danish Institute for Human Rights HRIA toolbox)	
Scale	**Seriousness of the impact, including an assessment of vulnerability**
A	Will cause death or adverse health effects that could lead to significant reduction in quality of life and / or longevity
B	A tangible human right infringement of access to basic life necessities (including education, livelihood, etc.)
	Impact to cultural, economic, natural and social infrastructure/assets that have been identified as highly valued by identified groups or subject matter experts in the impact assessment process
	Impact to ecosystem services identified as priority to livelihoods, health, safety or culture in the impact assessment process
C	All other impacts
Scope	**Number of people affected**
A	Significant number of members of one community or across multiple communities
B	Multiple individuals or families
C	Single person or family
Irremediability	**How easy or difficult it would be to remediate the impact**
A	Difficult – complex technical requirements, little acceptance of remediation by the identified group, low capacity of implementation partner, no viable replacement for loss caused by impacts
B	Moderate – simpler technical requirements, acceptance by the identified group, implementation partner can deliver with some capacity development
C	Easy – simple technical requirements, acceptance by the identified group, implementation partner has capacity to deliver
Severity	**Attributes**
Insignificant	CCC
Minor	BBC / CBC
Moderate	ABC / ACC / BBB
High	AAB / ABB / AAC
Major	AAA

Step 2: Assess likelihood

Parameters for evaluating likelihood	
Certain or almost certain	The adverse human rights impact is either certain or almost certain to occur, and/or it has occurred frequently before.
Likely	There is a high probability that the adverse human rights impact will occur, and/or it has occurred infrequently before.
Possible	It is possible that the adverse human rights impact could occur, and/or it has occurred previously more than once.
Unlikely	There is a low probability of the adverse human rights impact ever occurring, and/or it has happened at some point previously.
Rare	There is a very low probability of the adverse human rights impact ever occurring. The impact has never been known to occur.

Step 3: Combine severity and likelihood to obtain salience

Likelihood	Severity: Based on scale, scope, and irremediability of impacts upon rightsholders. Note that focus is on harm to human rights, not promotion of human rights, nor business or legal risks.				
	Insignificant	Minor	Moderate	High	Major
Almost certain or certain	Medium	Significant	Significant	High	Severe
Likely	Medium	Medium	Significant	High	Severe
Possible	Low	Medium	Significant	High	Severe
Unlikely	Low	Low	Medium	Significant	Severe
Rare	Low	Low	Medium	Medium	High

Metrics for assessing corporate involvement

A company's involvement in an impact is defined using the UNGPs terms 'cause', 'contribute', and 'directly linked'.

Involvement is important to understand, because, as per the UNGPs, it determines what responsibility a company has in relation to each impact. Through assessing salient human rights issues, and applying the metrics below, companies should understand the extent and limits of their responsibilities, and better address what responsibilities they do have.

Where a company is involved in an impact through contributing or being directly linked, the UNGPs introduce the concept of leverage, which is the ability of the company to effect change in the wrongful practices of another party that is causing or contributing to a risk. Where the company has leverage, it is expected to use it with other responsible parties to prevent or mitigate the impact. Where it does not have leverage, it is expected to seek to build it. If the company cannot build leverage, or effect a change in behaviour, it should consider terminating the business relationship.

	Cause	Contribute	Directly Linked	Not Linked
Involvement	Company activity causes the impact	Company activity contributes to the impact, but is not by itself the sole cause	Impact is caused by an entity linked to company via its operations, products or services	Impact is not connected to company operations, products, or services in any way
Examples	Mine's activity leads to destruction of cultural heritage	Site is one of several sites in an area that all impact upon water	Contractor imposes unfair working conditions on its employees	There are abuses by local police, but no business relationship between them and site
Responsibilities	— Prevent or mitigate the impact — Remediate the harm of the impact	— Prevent or mitigate contribution to the impact — Use or increase leverage with other responsible parties to prevent or mitigate the impact — Contribute to remediating the harm of the impact	— Use or increase leverage with other responsible parties to prevent or mitigate the impact — Consider terminating relationship if leverage remains limited or non-existent — No responsibility to remediate, but can still choose to	— No responsibility to prevent, mitigate, use leverage, or remediate

Detailed assessments

While identified impacts, both actual and potential, will need to be grouped and prioritised in one place (see assessment dashboard further below), the assessment behind the identification of each impact will need to happen in more detail elsewhere. The detailed assessment table below is an example of how this assessment could be done. Note that there are many ways to categorise business activity areas, depending on the context, and separating them into mine development, operation, and closure is one of many options. They need not be categorised by project phase. Furthermore, a deeper discussion may need to precede the table below, to provide more context and more of an issue-specific evidence base to support the findings in the table.

Description	Rights impacted	Prioritisation / saliency assessment				Potential involvement
Describe impact on people, who the impacted people are, if there are vulnerable people, if it is an actual or potential impact, and what the causes are (particularly what business activities). *For example:* Risk that the use of security personnel in and around site results in inappropriate use of force against local community, including women and children, who may come onto site.	Identify what rights are or could be impacted. *For example:* — Right not to be subjected to torture, cruel, inhuman and/or degrading treatment or punishment — Rights to liberty and security of person — Right of detained persons to humane treatment	**Activity area**	**Development**	**Operation**	**Closure**	Determine if cause, contribute, or directly linked. Explain why. *For example:* Human rights violations committed by security personnel who were not properly vetted or trained in the Voluntary Principles on Security and Human Rights.
		Scale	A	A	A	
		Scope	C	C	C	
		Irremediability	A	A	A	
		Likelihood	Unlikely	Possible	Rare	
		Overall rating	Significant	High	Medium	

Existing management measures

Bullet point account of current management measures in place, which address impact in question. For example:

— Site security personnel are prohibited from carrying firearms.

— Site security personnel are appropriately vetted for previous human rights harms

Recommendations

Bullet point recommendations – these will be incorporated into an action plan. For example:

— Ensure induction and repeat annual training of all site security personnel on the Voluntary Principles and the responsible, proportionate use of force.

Assessment dashboards

Assessment dashboards are vital as a means of putting all identified impacts in one place for quick viewing. They should sit upfront in an assessment, with the detailed assessment available below. They should also clearly prioritise all impacts identified, ranking them based on salience and be followed by an action plan. The dashboard and action plan are the centre piece of an assessment.

Salient human rights impacts		Actual or potential	Human rights issue area	Activity area					
				Development		Operation		Closure	
				Salience	Potential involvement	Salience	Potential involvement	Salience	Potential involvement
Rank impacts by salience	Describe impact on people, who the impacted people are, if it is an actual or potential impact, and what the causes are (particularly the types of business activities).	Determine if impact is actual or potential[1]	Determine human rights issue area	Determine salience of impact in / during activity area	Determine potential involvement in impact in / during activity area	Determine salience of impact in / during activity area	Determine potential involvement in impact in / during activity area	Determine salience of impact in / during activity area	Determine potential involvement in impact in / during activity area
1	Risk that the use of security personnel in and around site results in inappropriate use of force against local community, including women and children, who may come onto site.	Potential	Security forces	Significant	Cause	High	Cause	Medium	Cause
2									
3									
4									
5									

1. If an impact is determined to be actual then it needs to be responded to immediately and is no longer a risk assessment but should be escalated and treated as a remedy process.

Assessment action plans

Assessment action plans provide the company or operation a set of responses to the assessment findings. These responses are actions specific to each impact identified. Assessment action plans can also include overarching recommendations that relate to improving human rights management systems more generally. As opposed to the dashboard above, which groups all impacts in one place in an order that prioritises them by salience, it normally makes sense for an action plan to group impacts and their recommended actions by human rights issue area (e.g., community health and safety and security forces below), as particular personnel, functions, or departments are often responsible for specific issues (e.g., the health and safety and security teams).

Grouping actions by issue area is therefore likely to assist with better integration of assessment findings. Action plans can also include who is responsible, resources required, and timing.

Human rights issue area	Security forces			
Human rights impacts	Recommended actions	Responsibility	Resources	Timing
1 Risk that the use of security personnel in and around site results in inappropriate use of force against local community, including women and children, who may come onto site.	Mandate induction and repeat annual training of all site security personnel on the Voluntary Principles and the responsible, proportionate use of force Additional recommendations…	Site Security Team	— External contractor to provide training — Training material — Budget TBD	— Induction of new security personnel: Month 1 — Annual refresher training: Month 3 then annually
Human rights issue area	Community health and safety			
Human rights impacts	Recommended actions	Responsibility	Resources	Timing
Additional impacts…	Additional recommendations…			

Assessment action plan monitoring and evaluation frameworks

A monitoring and evaluation framework is useful in ensuring that actions plans are fully integrated, and their implementation tracked and reported on. The template below provides an indicative example.

Impact	Objective	Activities	Outputs	Outcomes (targets)	Outcomes (indicators)	Timing
Description of impact	Objective of actions planned – intended human rights outcomes for people i.e., who benefits and whose behaviour changes	What needs to be done	The intended results from the activities	What will be achieved, for whose benefit, by when?	How can the change that occurs if the outputs are achieved be measures?	Indicate monitoring period
Risk that the use of security personnel in and around site results in inappropriate use of force against local community, including women and children, who may come onto site.	Local community members who come near or onto site (even if to carry out illegal activity) are not in danger of having force used disproportionately against them.	Mandate induction and repeat annual training of all site security personnel on the Voluntary Principles and the responsible, proportionate use of force.	All relevant site personnel attain valid Voluntary Principles training and can demonstrate an understanding of what responsible, proportionate use of force means in practice.	— Improved security personnel conduct — Zero confirmed incidents of irresponsible use or force / human rights violations against site security — Improved community trust of site security	— Percentage of personnel trained — Number of confirmed incidents of irresponsible use of force through site grievance mechanism, community engagements, and local courts — Perception changes in community surveys	Annually

Approaches to Assessment of Human Rights Impacts

ICMM Human Rights Due Diligence Guidance

Approaches to Assessment of Human Rights Impacts

There are a range of different approaches for assessing human rights impacts all of which can be drawn upon at different points and in different circumstances, to ensure a company continues to understand its human rights impacts. The UN Guiding Principles on Business and Human Rights (UNGPs) do not expect companies to conduct a single standalone human rights impact assessment (although this is one approach that can be adopted), but rather they expect companies to work towards ensuring an ongoing process of assessment that draws on various sources and approaches over time and is integrated into core business processes.

Companies should therefore seek to maintain an ongoing awareness of their actual and potential human rights impacts, as these change over time, and be sure to integrate this awareness into their core business decision-making. This integration of a human rights lens is a key marker of maturity in the development of a company's human rights due diligence (HRDD) systems.

Among the range of human rights impact assessment approaches, there are different characteristics, uses, strengths, and weaknesses. Each approach is applicable to different scenarios. Each offers specific stepping-stones in the journey towards integration and maturation.

An increasing number of companies are proactively assessing their human rights impacts, and drawing on these different approaches, in different contexts and in different combinations, as they mature their HRDD systems.

This tool has several purposes:

1. Present the key defining aspects of human rights impact assessment

2. Define the different approaches to human rights impact assessment

3. Describe in more detail how the approaches differ, in terms of the key defining aspects, and how each is useful

4. Provide some indicative examples of different human rights impact assessment journeys that companies have undertaken over time.

Key defining aspects of human rights impact assessment

Key defining aspects of any assessment of human rights impacts will include:

1. scope, or what is included in the assessment

2. the process itself, or how the assessment is implemented, and

3. its integration into broader company risk management and decision-making processes.

In the following diagram, these three aspects are unpacked, setting out some essential elements, and the associated questions that can be asked when designing an assessment process. While some elements may be common across all assessments, other elements may be treated differently, depending on the approach.

Scope	
What will be included in the assessment?	
Knowledge base	Does the assessment consider context? Who are the rights holders, who are the vulnerable people, and what rights are likely at risk?
State duty to protect	How is state protection of human rights assessed? Do gaps in state regulation create more responsibilities for the company in terms of responsibility to respect?
Business operations	What are the business's activity areas, its footprint, products, and services?
Business relationships	What are the company's business relations (including business partners, contractors, and supply chain entities)?
Company systems	What policies and processes are already in place that help embed HRDD?
Human rights in scope	What human rights issue areas are covered in the assessment? Does it cover all issues or is it issue specific?
Saliency and prioritisation	How is saliency assessed to prioritise impacts?
Company involvement	How is company involvement in salient risks assessed to determine the company's responsibilities?
Remediation and legacy issues	Are there grievance mechanisms assessed for effective remedy? Are there legacy issues to be resolved?

Process	
How will the assessment be implemented?	
Integration into other processes	Will the assessment be standalone or integrated into another assessment process?
Timing	How will it be an ongoing or repeat process? When will it be undertaken, and how much time will it require from start to completion?
Expert involvement	To what extent will the assessment need to draw on internal and / or independent human rights expertise?
Desk-based or site-based	Will it be desk-based or involve site visits?
Stakeholder engagement	Which company stakeholders, potentially affected rightsholders, and vulnerable groups will be engaged?
Independence	Will the assessment be conducted by an independent third party, or will it be conducted internally?
Regularity	How often can this type of assessment be undertaken?
Action plan	How will the assessment findings lead into actions? Will it have a detailed action plan with a timeline?
Monitoring and reporting	How will the changing context, impacts, and action plan implementation be monitored and reported on?

Integration	
How will it be part of broader company risk management and decision-making?	
Integration into other assessments	If assessment is integrated into another assessment, how will this be achieved?
Expertise	How will experts with different technical backgrounds collaborate effectively?
Assessment responsibility	How broadly will responsibility for implementing the assessment be allocated? Will personnel across company functions be included?
Metrics	How will human rights metrics be integrated with other company risk management metrics?
Stakeholder engagement	Can the engagement elements of the assessment be integrated with broader stakeholder engagement?
Action plan responsibility	Who will be responsible for implementation of the action plan? How broadly and high up within the company will responsibility be allocated?
Training	What internal training will be required to facilitate integration of the findings?
Monitoring	Can implementation of the assessment action plan be tracked using established internal monitoring and evaluation processes?
Reporting	Can regular internal and external company reporting channels be used to report on findings and actions?

Different approaches to human rights impact assessment

This section presents a range of different approaches to human rights assessment, summarising their defining characteristics, as well as their specific uses. It should be noted that third-party human rights expertise can and, in some instances, should play a role in all the approaches. Box 3 provides further information on third-party human rights expert competencies.

Human rights assessment
Includes short-term, desk-based assessment of company and / or operational human rights impacts, both actual and potential. It is less demanding in terms of time, resources, engagement, and expertise, and can therefore be done more regularly to help ensure HRDD is ongoing, while continuing to familiarise and train company personnel in the practicalities of HRDD.

Human Rights Impact Assessment (HRIA) integrated into an Environmental and Social Impact Assessment (ESIA)
An HRIA that is integrated as one component in a broader impact assessment process an ESIA, or other assessment. Integrated HRIAs are normally undertaken prior to project commencement and create opportunity to ensure a human rights lens is woven into policies, plans, practices, engagement, and capacity-building from the outset. They incorporate a wider range of expertise, methods, and metrics. It is often part of a permitting process during project development. See Box 1 for further integration guidance.

Standalone HRIA
Include detailed impact assessment that focusses specifically on human rights impacts, both actual and potential. HRIAs are time, resource, engagement, and expertise intensive, and often involve site-based information gathering. They give a detailed view, a vivid snapshot of company and / or operational human rights issues, HRDD systems in place, and actions and mitigation plans needed. This option may be appropriate for existing operations facing widespread concerns over a range of human rights (for example from NGOs or local communities). Yet, it may also be used for proposed new projects or acquisitions where there are a range of potentially problematic human rights issues (for example in conflict-affected areas or where governance is weak), and where analysing these separately, rather than as part of an ESIA, could bring greater clarity and enhanced credibility. HRIAs must also be undertaken by a human rights expert, ideally a respected, independent third-party.

Issue specific assessment
An assessment that focuses either on a specific human rights issue company-wide (e.g. worker rights) or a specific aspect of an operation that has specific human rights issues (e.g. resettlement and land, or cultural heritage impacts). Narrow, detailed focus presents an opportunity to mature ongoing management of specific salient human rights issue areas.

Supply chain human rights assessment

Assessment focussed on human rights impacts within a company or operation's supply chain. Crucial in ensuring that HRDD systems are broad enough in scope to include relationships with contractors and supply chain partners. They are useful in determining if there are priority areas within a supply chain that require particular attention, such as modern slavery and conflict minerals.

High-risk context assessments

Heightened HRDD exercise in conflict-affected and high-risk contexts. Heightened focus is directed particularly at the surrounding context, and the potential for the company or operation to influence context in ways that may exacerbate the situation. They provide tools to do more rigorous HRDD where necessary. Embeds key UNGP concept of proportionality – the higher the risk, the more complex the processes. See Box 2 for guidance on heightened human rights due diligence in conflict-affected contexts.

Project lifecycle event assessment

Assessments focused on a particular stage in the lifecycle of an operation or the development of a business, and the associated human rights impacts can be crucial in ensuring ongoing HRDD throughout the lifecycles of operations, despite significant changes. This approach is useful for ensuring that ongoing HRDD processes can respond to changing circumstances.

Countrywide / regional / corporate assessment

Assessment of human rights impacts associated with all of a company's activities in a country, region, or corporate-wide. Useful as a first step in prioritising more issue-specific or detailed assessment processes. Also useful for integrating the identification and management of human rights impacts at different levels of business activity, especially at site versus corporate level.

Independent or community-led assessment

Assessment undertaken by community members, sometimes with assistance from CBOs (community-based organisations), CSOs (civil society organisations), or third-party experts, to evaluate impacts of a business project or activity on human rights. This approach promotes increased accountability of company HRDD systems to the rightsholders whose rights they are meant to respect. It also raises the standard for meaningful consultation with potentially affected stakeholders.

Full integration

This occurs when HRIA is fully incorporated into existing business processes (especially business risk management) and across all relevant internal functions. Through this integration, HRDD becomes a key input in internal decision-making at all levels. Separate assessments are less necessary. Full integration strongly signifies a maturing in company or site-level HRDD systems.

Box 1: HRIAs integrated into ESIAs

In the case of ESIAs, leading practices to maximise coverage of human rights include:

— Explicit reference to human rights in ESIA scope and throughout the assessment

— Ensuring the social baseline around operations is fully understood with a thorough examination of local issues from a human rights-based perspective, based on extensive fieldwork and interviews with a range of stakeholders. This should include an understanding of the enjoyment of human rights in the local context, but also the human rights landscape nationally, including to what extent the state is fulfilling its duty to protect human rights

— Identifying human rights impacts across the full range of social, political, economic, and cultural issues, using UNGPs aligned metrics for salience and involvement

— Ensuring impacts are assessed with specific attention to risks to vulnerable groups, based on thorough assessment of vulnerability in the operational context, considering who is systemically vulnerable in society, the extent to which their rights are protected, the capacity of people and systems to respond to impacts, and who is specifically vulnerable to operational impacts

— Recognising that some human rights issue areas are not always well covered in ESIAs (such as labour issues) and taking steps to address ESIA gaps

— Ensuring the team undertaking the ESIA includes sufficient human rights expertise, including knowledge of social, political, and cultural issues in the region and how these issues may intersect with human rights

— Ensuring the ESIA process includes effective consultations with, and participation of, affected communities and other stakeholders, that issues relating to human rights are explicitly addressed, that the process is transparent and that outputs are published and made widely available

— Developing robust management systems to mitigate potential adverse impacts, consistently monitoring and evaluating the impacts and their mitigation over time, and ensuring management buy-in and accountability

— Assessing where the operation can exercise leverage to address human rights impacts that it has not caused, but rather has contributed to or is directly linked to

— Engaging and involving affected stakeholders in the development of impact management systems and the process of monitoring and evaluation

— Establishing an operational grievance mechanism that is accessible to affected stakeholders, who can utilise the mechanism to lodge grievances concerning operational impacts, particularly human rights impacts

Box 2: Conducting heightened human rights due diligence in conflict-affected contexts

The UNGPs are built around a concept of proportionality, which dictates that the higher the risk, the greater the amount of attention and effort required in managing it.

Because the risk of gross human rights violations is heightened in conflict-affected contexts, businesses operating in these areas are obliged to conduct heightened HRDD.

Businesses operating in conflict-affected areas should be aware that conflict will always create adverse impacts on human rights. Therefore, any business activity that causes, contributes to, or is directly linked to conflict will also mean causing, contributing to, or being directly linked to human rights abuses. In addition, businesses activities in a conflict-situation will never be 'neutral' or without impact, even if a business seeks to be impartial.

Heightened HRDD strengthens a company's understanding of a context, and ensures that business activities do not contribute to violence, by identifying flash points, potential triggers, or the forces driving the conflict. It also emphasises relationships, given that conflict actors are often also linked into business activities.

When to undertake heightened human rights due diligence? It is required when the answer is yes to any of the questions below:

— Is widespread 'non-conventional' armed violence taking place?

— Is there an international armed conflict between two states (regardless of intensity)?

— Is there an internal armed conflict?

— Is there a military occupation?

— Are gross human rights violations (genocide, crime against humanity, war crimes) taking place?

— Are there early warning signals of any of the above?

How to do heightened HRDD	
What to do	**How to do it**
Understand the context in which you operate	Carry out a conflict analysis
Understand the interaction between your business activities and the context	Link the conflict analysis with the cycle of your business activities
Understand your impact on human rights	Carry out a HRIA
Use this understanding to avoid or mitigate negative impacts	Plan, implement, monitor and evaluate your business activities, taking issues identified by heighted human rights due diligence into account, and design the activities accordingly

Source: Derived from the UNDP's Heightened Human Rights Due Diligence for Business in Conflict Affected Contexts – A Guide, 2022.

Box 3: Third-party human rights experts

A third-party human rights expert brings more credibility to a HRIA process, both externally and internally. The expert brings neutrality, gives the process rigour, and ensures issues are explored with appropriate attention to detail.

Where third-party experts are used to conduct assessments, it can also be useful to include training components as part of or alongside the assessment. Training can include general introductions to human rights and HRDD, and to key tools. Yet, it can also be tailored to particular functions in an operation or company, and the human rights issues areas likely to be most pertinent for each function (e.g., security and human rights issues for security teams or worker rights for human resources). Where the training provider has also been involved in assessing human rights impacts, training can also then be tailored to fit not only particular functions, but also the specific human rights context, how to manage the salient human rights issues, and how to track and report on these efforts.

When looking to draw on the services of external human rights experts, or building capacity internally, companies should consider:

Technical human rights expertise
— Detailed understanding and application of international human rights norms, including international laws, domestic regulations, industry standards and frameworks, best practices, and current trends

— Advanced information gathering, data analysis, presentation and reporting skills.

— Ability to undertake detailed human rights baseline assessments, including identification of potentially affected rightsholders (especially vulnerable people), and key duty-bearers

— Ability to identify, assess and articulate actual and potential impacts on people with a human rights lens that can identify what, if any, human rights are in question

— Expertise in how to assess potential and actual impact salience, and thereby prioritise them, as well as how to assess company involvement and thereby determine company responsibilities

— Understanding of how engagement is central to HRDD and of when it should be done in the process of ongoing HRDD

— Ability to formulate fit-for-purpose risk management measures or action plans for actual and potential impacts identified

Working with the business
— Ability to quickly understand a business, including its strategy, decision-making processes, day-to-day activities, culture, and how HRDD can best be incorporated

— Can contribute to the development of site and business level strategy through the incorporation of a human rights lens

— Deep understanding of the design and implementation of business risk management processes, and how HRDD can be integrated into these processes, rather than running separately to them

— Ability to adapt human rights metrics to existing business risk metrics

— Ability to design and implement processes for tracking and reporting, including M&E frameworks

— Delivers results that are timely, high-quality, and create value for businesses

Working together and in complex contexts
— Ability to help build relationships and change behaviours by stimulating common understanding, mutual interest, and collaboration between different people in and outside of a company or operation

— Ability to understand complex operating environments and contribute to the management of conflict though focused listening, finding common ground, and promoting fairness and cooperation within the bounds of what is practical and possible for a company or operation

— Able to engage, work with and manage people with an awareness of how issues of diversity, equality and inclusion may affect relationships, and of how barriers can be overcome

— Strong grasp of what meaningful engagement is, and practical knowledge and ability in how to implement it effectively both internally and externally

Case study

Freeport-McMoRan

Freeport-McMoRan seeks to further embed respect for human rights across its organizational activities, and has various due diligence processes that help it identify and assess which human rights topics are most salient at the site-level so that they can manage and integrate these risks into their ongoing operational work. The company uses a risk register process to identify risks to people at its existing operations. It also has a risk identification process for new or growth projects to address potential and actual impacts on rights holders. The company implements and refines its approach to human rights through ongoing stakeholder engagement, grievance management and the findings from its HRIAs.

HRIAs, conducted by third-party consultants using methodologies aligned with the UNGPs, are the company's primary method for conducting specific human rights due diligence at its operations. These assessments involve direct input from a broad cross-section of internal and external rights holders and support continuous improvement of the company's management systems by testing their effectiveness in identifying and addressing potential, actual and perceived human rights risks and impacts. Findings from the HRIAs also help to inform its approach when pursuing potential expansion opportunities and updating corporate- and site-level practices. The company is also integrating human rights into social baseline studies for its operations as well as the social baseline studies and impact assessments conducted for its greenfield projects and brownfield expansions.

In addition to HRIAs, the company's responsible sourcing programs require human rights due diligence on suppliers of both goods and services, and minerals and metals for further processing. The development of these programs is informed by the company's HRIA findings.

Detailed comparison of approaches to HRIA

The table below compares the different approaches to HRIA according to the key defining aspects of scope, process, and integration.

As it helps to illustrate, different approaches have different uses and applicability to different situations. None are sufficient in and of themselves for achieving full maturity in HRDD systems, but each can make a crucial contribution to the journey.

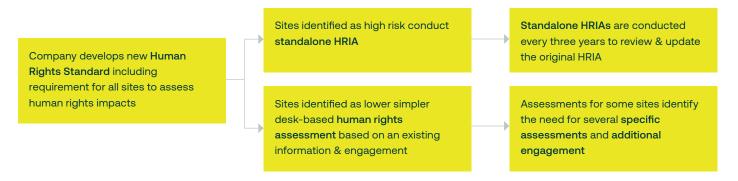| Approach	Scope	Process	Integration
Human rights assessment	— Includes all human rights issue areas — Can be undertaken at various levels, including for individual operations, company-wide risks, or policy changes — Lack of in-depth focus allows for a broader scope with limited resourcing	— Desk-based, short-term process — Focused on internal engagement at company / operation — Unlikely to include extensive external engagement — Does not need to draw extensively on human rights expertise	— Focus on internal engagement creates opportunity for capacity-building on human rights risk management — Capacity-building enables integration into wider risk management processes — Can be undertaken regularly to facilitate ongoing HRDD and capacity-building
Standalone HRIA	— Includes all human rights issue areas — Detailed coverage of social baseline, state duty to protect, business operations, business relationships, and existing company systems — Detailed coverage will increase comprehensiveness of action plan that sets out recommendations	— Often site-based, longer-term process — Based on extensive engagement with internal and external stakeholders — Extensive use of human rights expertise, and is normally undertaken independently by third-party experts — It is difficult to undertake this detailed process often	— Due to their detailed human rights focus, HRIA processes may remain separate and isolated from broader risk management processes — This can be countered with an action plan that 1) involves and assigns responsibility to personnel across multiple company functions (thus creating a cross-functional team) and 2) integrates findings into existing risk management processes.

Approach	Scope	Process	Integration
Integrated HRIA	— Incorporates social, environmental and health impacts more broadly than a pure human rights focus, but there can be a risk of narrower scope in terms of human rights issues covered, due to more emphasis on such issue areas as environment and health — May also overlook or under-emphasise human rights specific considerations, such as state duty to protect and the mapping of business relationships	— Long-term process — Site-based work likely — Multiple experts involved — Greater information and robust analysis available through coordination with other studies and collaboration with other experts — Avoidance of duplication across stakeholder engagements — Undertaken less frequently – normally during project development or approval milestones	— An integrated HRIA is one example of working towards full integration, especially if any human rights gaps in the scope are comprehensively addressed — More effective in integrating human rights risk management due to involvement of a broader range of experts and risk management functions — Can be challenges around use of different methods, metrics, standards to manage risk
Issue specific assessment	— Narrow focus on one or just a select few salient human rights issue areas — Could focus on a specific issue across the company (such as modern slavery), or a specific part of an operation (such as resettlement, land and livelihoods). — Can be problematic in excluding other salient issue areas	— Use of expertise in a specific human rights issue area (e.g., resettlement experts) — Engagement internally and externally, particularly with affected stakeholders — Action plan will be relatively detailed as all the focus is on issue area	— Comprehensive treatment of specific human rights issue areas facilitates more in-depth learning and capacity-building internally on how to handle particularly salient issues, rather than being distracted by broader assessment — Issue specific assessments can point to specific internal functions or personnel appropriate for responsibility in an issue area (e.g., human resources for modern slavery, procurement for supply chain)
Supply chain human rights assessment	— Narrow focus on human rights issue areas linked to supply chain – this is one kind of issue specific assessment — Strong emphasis on business relationships and potential company involvement in human rights impacts within supply chain — Can be problematic in excluding other salient issue areas	— Less engagement with rightsholders — More engagement with business partners specifically suppliers — Challenges around action plans, monitoring and reporting of management measures undertaken, as much will need to be undertaken by actors outside of the company	— Brings a human rights lens to supply chain management – a key step in the broader process towards full integration — Internal responsibility for undertaking assessment is likely to be narrow i.e. undertaken by personnel involved in managing company supply chain — Supply chain focus creates opportunity to integrate and extend HRDD systems beyond the company itself

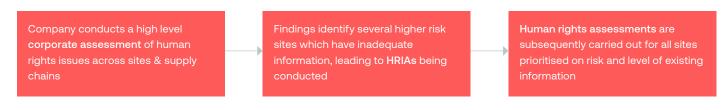| Approach	Scope	Process	Integration
High-risk context assessments	— Covers all human rights issue areas — However, tends to focus on human rights issues that arise in conflict — Includes respect for international humanitarian law, as well as regular international human rights laws — State protections of human rights likely to be highly lacking	— Undertaken if certain contextual flags exist (e.g., military occupation, armed conflict, gross human rights abuses) – see Box 2 — Starts with a conflict analysis, which is then linked with business activities to understand rights impacts	— Promotes understanding across company that even if not taking sides, its activities can still impact on conflict dynamics and thereby link the company to the resultant human rights impacts — Significant challenges with monitoring and reporting in complex environments
Project Lifecycle Event Assessment	— Covers all human rights issue areas — Specific to a certain stage, period, or developing situation (e.g., market entry, unplanned country exit, closure, or expansion of operation)	— Likely a one-off process — Undertaken in advance to ensure risks arising from a period of change are managed — Includes engagement with stakeholders effecting change and those potentially affected by change	— Will often coincide and interact with parallel risk management processes elsewhere in company, which must also address the event or period in question — Action plan implementation may be difficult to monitor and report on when assessment relates to a closure or exit
Country-wide / regional assessment	— Includes all site-level impacts in a country or region — May also consider cumulative impacts of all business activities countrywide	— Likely to involve limited engagement with potentially affected stakeholders at project level due to broader focus	— Helps integrate project level impacts and their management into broader country level risk picture, and corporate risk management processes — Promotes both top-down and bottom-up integration
Community-led assessment	— Covers all human rights issue areas, — However, likely to focus on the human rights of the potentially affected community driving the assessment	— High involvement of rights holders, particularly those potentially affected — Likely to require third-party experts to assist communities with design and implementation of process — Potential for collaboration with company (but also potential for considerable disagreement)	— Not likely to be integrated into decision-making, due to high involvement of external stakeholders — However, can be an opportunity to better integrate meaningful engagement and stakeholder / rightsholder views into risk management processes
Full integration	— Includes all human rights issue areas — Includes all stages of the operations lifecycle, corporate risk management systems, site level risk management, and supply chain due diligence	— Process is ongoing, due to being integrated into all risk management and decision-making processes — Includes ongoing engagement with internal and external stakeholders	— All company risk assessment and management processes incorporate a human rights lens, so comprehensively that there is no need for separate human rights impact assessments

Human rights assessment journeys – indicative examples

The diagrams below set out a number of indicative examples of how companies can take different approaches to developing their assessment of human rights, based on actual experiences. Companies can combine different approaches over time, with each approach helping to pave the way for the next approach, as the company broadens and deepens its view of human rights, and progresses in its journey towards integration and maturation.

Risk-based approach driven by new company standard or policy

Company develops new **Human Rights Standard** including requirement for all sites to assess human rights impacts	Sites identified as high risk conduct **standalone HRIA**	**Standalone HRIAs** are conducted every three years to review & update the original HRIA
	Sites identified as lower simpler desk-based **human rights assessment** based on an existing information & engagement	Assessments for some sites identify the need for several **specific assessments** and **additional engagement**

Company-level assessment used to identify and prioritise site level assessments

Company conducts a high level **corporate assessment** of human rights issues across sites & supply chains	Findings identify several higher risk sites which have inadequate information, leading to **HRIAs** being conducted	**Human rights assessments** are subsequently carried out for all sites prioritised on risk and level of existing information

Lessons from a high-risk site assessment rolled out company-wide

Company conducts a comprehensive **high risk context assessment** at one site in a context of conflict	Based on learnings from first assessment, scaled-down **HRIAs** are conducted at other sites	Based on experience from site assessments, company formalises the approach in a **company procedure and guidance** applicable to all sites

Supply chain requirements drive assessments and subsequent revisions

Responding to modern slavery legislation and mineral supply chain requirements, company conducts **supply chain assessment**	Findings highlight a number of areas of uncertainty, prompting an **issue-specific assessment** focused on worker conditions in several high-risk suppliers	Experience from supply chain & issue specific assessments leads to **revision to supplier processes, contractor terms** & monitoring

Human rights assessments integrated through the project lifecycle

An **integrated HRIA** is undertaken as part of an ESIA during the project development phase

Human rights component of ESIA flags cultural heritage issues, leading to **issue-specific assessment** on cultural heritage

As the project nears completion of construction, an updated **project lifecycle event assessment** is undertaken prior to operations

Certification process prompts progressive approach to assessments

Audit process for a site-level responsible mining **certification process** identifies gaps in the assessment of human rights

In response to the findings a standalone **HRIA** is conducted to address the gap

Significant community concerns prompted by the certification eventually lead to a **community-led assessment** to complement the standalone HRIA

Integrating Human Rights in Business Risk Processes

ICMM Human Rights Due Diligence Guidance

Integrating Human Rights in Business Risk Processes

The purpose of this tool is to provide a better understanding of how human rights issues can be integrated within existing processes which businesses have in place to assess and manage business risks, including a range of approaches which can be used to help achieve this integration.

The UN Guiding Principles (UNGPs) expect companies to integrate findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

Business risk processes are a fundamental part of how mining company operations organise and manage the wide variety of aspects which can create uncertainty in achieving business objectives. Therefore, integration of a human rights lens in business risk processes is a critical step in building effective human rights due diligence.

However, UNGPs guidance notes that human rights risks cannot be the subject of a simple cost-benefit analysis, whereby the costs to the enterprise of preventing or mitigating an adverse impact on human rights are weighed against the costs to the enterprise of being held to account for that harm.

The ICMM Mining Principles also set out how member companies should integrate human rights in business risk processes and the central role this plays:

— reflected in expectations to integrate sustainable development principles in corporate decision-making processes (2.1)

— support the adoption of risk-based responsible human rights policies and practices by joint venture partners, suppliers and contractors (2.2)

— implement effective risk-management strategies and systems which account for stakeholder perceptions of risks (4)

— assess the risks of new projects and significant changes to operations (4.1)

— implement risk-based controls to avoid/prevent, mitigate and remedy impacts on workers and communities (4.3)

— as well as consideration of human rights aspects in managing specific risk areas, such as tailings and biodiversity.

The practicalities of integrating human rights in business risk processes can be challenging. In particular, two over-arching issues which can create challenges are covered in this resource:

— Tensions and differences between approaches to focusing on material risks to business and approaches to focusing on salient human rights issues. The first part of this tool outlines approaches to aligning these differences.

— Ensuring a human rights lens is applied when assessing specific risks. The second part of this tool provides examples of questions to consider and key controls for managing some of these specific risks.

Salient human rights risks and material business risks

Business risk processes inherently focus on those risks that have the most potential to materially affect business performance – putting the business at the centre of the process. However, a human rights lens puts people – specifically potentially affected people – at the centre, focusing on those human rights that are at risk of the most severe negative impacts through a company's activities or business relationships.

A human rights lens requires a focus on issues which are most salient in terms of human rights impacts – those issues that are further right in Figure 2.

There will often be close correlation between the level of salience of human rights issues and the level of materiality to business – the diagonal line indicates where there is close correlation between these levels. Where this is the case, it will be inherently more straightforward to integrate these human rights issues into business risk processes.

Integration of human rights in risk assessment processes is most important for highly salient human rights issues which may not be considered as relatively material to business (those issues below the diagonal line and further right). Highly salient human rights risks with low materiality to the business still need to be fully addressed, regardless of materiality. This is particularly relevant where it concerns vulnerable groups. Improved integration is likely to lead to them being considered as more material and will help ensure appropriate controls are implemented.

Care should also be taken to avoid confusing highly material business risks also as highly salient human rights issues where they may not be (issues in the top left quadrant). Businesses may prefer to take action on those human rights issues which are more important to the business, even though they may be relatively less salient in terms of impacts on rightsholders.

Figure 1: Salient human rights risks and material business risks

Focus on issues that are most salient in terms of human rights impact

There will often be close correlation between the salience of human rights issues and the level of materiality to business

Improved integration of human rights in risk assessment processes is most important for highly salient human rights issues which may not be considered as relatively material to business

Increasing Business Materiality

Increasing Human Rights Salience

Approaches to integrate human rights in business risk processes

This section outlines a variety of different approaches to help better integrate human rights issues into business processes. These approaches support improved alignment between salient human rights risks and material business risks. The approaches are based on ICMM member company experience. They are not comprehensive and may be implemented in different combinations and ways in different contexts.

The approaches outlined broadly fall into several different stages throughout the risk management process (see table below):

— Reflecting human rights issues and policy commitments in business objectives and strategy, which then flows into risk processes (as they deal with risks to achieving business objectives)

— Building human rights into the risk assessment process for conducting assessment, such as by including appropriate expertise in risk workshops

— Integrating a human rights lens into the detailed risk assessment procedures for assessing business risks

— Applying a human rights lens to risk control measures that are identified to manage risks

Business objectives	Assessment process	Assessment procedures	Risk controls
— Integrate human rights in business strategy and objectives	— Identify high risk contexts — Ensure human rights competency and expertise in risk assessment processes — Ensure cross-disciplinary involvement — Align and integrate human rights assessments with business risk processes	— Treat serious human rights abuses as legal compliance issues — Ensure low tolerance for high consequence low likelihood salient issues — Align risk consequence descriptions with human rights impacts — Consider risks contributed and directly linked to business — Consider potentially affected peoples' perspectives when assessing severity of impacts — Clearly flagging human rights risks — Clearly consider human rights in risk descriptions	— Use a mitigation hierarchy of controls — Focus on avoidance and prevention of impacts — Demonstrate controls to mitigate unavoidable impacts as far as practical — Use engagement as a control measure — Use leverage as a control measure — No offsetting impacts — Consider disengagement as a control measure — Consider human rights impacts of controls — Allocate responsibility for implementing controls

Integrate human rights in business strategy and objectives

ICMM member companies have clear policy commitments to respect human rights and establishing human rights due diligence (HRDD) processes. These policy commitments and human rights issues facing companies are increasingly reflected more explicitly in business strategies and objectives, as part of a wider move to more closely integrate environmental, social and governance issues in core business.

Risk is the effect of uncertainty on objectives. Therefore, if business objectives include respect for human rights (explicitly or implicitly) then this should consequentially be reflected in business risks – even if these risk processes themselves may not explicitly integrate human rights.

Ensure human rights expertise in risk assessment teams

A fundamental factor in ensuring a human rights lens is applied in business risk assessment processes is to ensure that the team involved in the processes have appropriate human rights expertise. This may be achieved in a variety of ways.

Ideally, for integrating into risk assessment processes, there would be a human rights specialist or expert who would participate in the risk assessments of operations, and sit in management and relevant functional areas, although this may not always be feasible. Companies increasingly have dedicated human rights specialists at corporate level or business unit level to provide this sort of expertise. It should be noted that whilst human rights specialists may have expertise in applying a human rights lens in general, and some specific technical human rights areas, they are unlikely to have technical expertise in all human rights issues and may need to seek further advice from other technical specialists.

In-house or external risk experts will often be involved in significant business risk assessment exercises. Ensuring they have the ability to apply a human rights lens and understand how it may be distinctive from a purely business risk-focused approach will often be an effective way to ensure integration of human rights in risk assessments.

Similarly, ensuring that the technical specialists involved in the risk assessment process have an understanding of a human rights lens will also ensure alignment between assessing material business risks and salient human rights risks.

Where it is not feasible to have specific human rights expertise in the risk assessment process, as a minimum one or more people should be designated to ensure that the human rights perspective is integrated into the risk assessment process (i.e., to look at the risks from the perspectives of potentially affected people). This is to ensure that people-centred risks are not overlooked or even not considered.

One challenge with not having a dedicated human rights expert in business risk assessment exercises is that it may be easy for a non-specialist to assert that this issue doesn't apply here and a potentially salient human rights risk is missed. It may therefore be useful to apply additional measures around the risk assessment process such as pre-risk assessment research or input from a human rights specialist, research on relevant human rights issues by a non-specialist prior to the assessment, or a human rights specialist might review the risk assessment output.

Ensure cross-disciplinary involvement

A human rights lens can often highlight the connections between impacts and issues throughout the business. The inter-connected nature of many human rights issues also means that greater cross-functional collaboration may be beneficial to identifying human rights risks and integrating this in business decision-making.

Therefore, even where a risk assessment process may be focused on a specific issue – as well as technical specialists focused on the issue itself, risk specialists to facilitate the process and human rights expertise involved to provide an over-arching human rights lens – it is often beneficial to ensure a wide range of disciplines are involved in the processes.

Align and integrate human rights assessments with business risk processes

Human rights assessments will tend to focus on identifying potentially salient human rights risks, rather than on business risks – and it can be important to ensure this distinction. However, it can be helpful to ensure these assessments are designed in a way to make it easier to align and integrate with business risk processes. In particular, it may be useful to align how consequence and likelihood are defined and categorised.

It can also be useful for the human rights assessment to review relevant material business risks (e.g. in site risk registers). This can help identify potential human rights issues and ensure more consistent use of language between human rights assessments and business risk assessments.

Business risk assessment processes may unintentionally under-estimate human rights issues due to a lack of information. Assessment of human rights impacts can therefore provide an important basis for clearer definition of the human rights aspects of business risk assessments, such as providing better information to assess risks, incorporating stakeholder perspectives on risk consequences, and better identifying impacts on vulnerable groups.

Identify higher human rights risk contexts

The scope of the risk assessment should accurately reflect the context in which the mine/asset is operating. Existing baseline studies, area of influence determinations, supply chain mapping and impact assessments will all help inform the scope of the risk assessment. If there is insufficient information to make informed decision, additional studies may be needed.

Business risk processes may benefit from identification of contexts where human rights risks may be higher. In these cases heightened HRDD may be required – and this includes heightened business risk assessment. This may particularly be the case where business risk controls are considered adequate for similar business activities in lower risk contexts, but they fail to consider heightened risks due to the different external context they take place in. For instance, heightened due diligence may be required where a new supplier is used which manufactures its product in a region where there are known modern slavery risks, or where a new project is developed in an area where public security forces are known to threaten and intimidate community representatives.

However, heightened human rights risks may occur in any context. Simple broad approaches to identifying higher risk contexts, such as Conflict and High Risk Areas (CAHRAs) or Least Developed Countries (LDCs), can be useful but need to be supplemented with understanding specific human rights issues which may be high risk despite the wider context (such as systemic discrimination against Indigenous Peoples) and care taken to ensure a human lens is applied to all contexts.

Case study

Vale
Vale´s global integrated risk map considers human rights risk and all operations assess this risk. This involves the assessment of salient issues, such as degrading work conditions and modern slavery, child labor and sexual exploitation, violation in labor relations, among others. For the management of these risks the company adopts preventive and mitigatory controls measures related to cross-disciplinary processes. Besides that, Vale' s business risk assessment methodology considers the 'Social and Human Rights' severity dimension to classify its operational and non-operational risks, along with financial, reputational, environment, people dimensions.

Treat serious human rights abuses as legal compliance issues

UNGP 23 a) expects that business should treat gross human rights abuses in the same way as they would a serious legal non-compliance, wherever they operate. The first ICMM Performance Expectation (1.1) expects member companies to have systems to maintain compliance with applicable law. This will usually be reflected in how businesses assess the consequences of risks – with potential serious non-compliance issues being rated with a high consequence level.

States will often meet their duty to protect by reflecting treatment of gross human rights abuses in laws and regulations. Therefore, there will often be a close correlation between companies meeting their commitments to comply with relevant legislation and avoiding serious human rights abuses. However, where legislation or its enforcement does not align with protecting internally recognised human rights, treating these issues in the same way as serious non-compliance issues will help align assessment of business and human rights risks, and help companies better meet their responsibility to respect human rights.

Low tolerance for high consequence low likelihood salient issues

The UNGPs state that "Standard approaches to risk assessment may suggest that the probability of an adverse human rights impact is as important as its severity. However, if a potential human rights impact has low probability but high severity, the former does not offset the latter. The severity of the impact… is paramount". This approach is reflected for instance in the Global Industry Standard on Tailings Management (GISTM), where operators are required to only consider the consequences of an event, not the likelihood and therefore design mitigations according to the identified consequences to people. However, in some circumstances, probability may be relevant in helping prioritise the order in which potential impacts are addressed.

Practically, this may mean that prioritisation of risks in a risk matrix may have the highest level of classification for the highest consequence risks, regardless of the likelihood unless the probability of the event is almost not credible or feasible.

Align risk consequence descriptions with human rights impacts

The UNGPs state that the severity of human rights impacts will be judged by their scale, scope and irremediability. Therefore, consequence descriptions should consider the gravity of the impact on the ability of an individual to enjoy their human rights (its scale) and the number of individuals that are or will be affected (its scope), as well as any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the adverse impact (its irremediability). In particular, irremediability should consider aspects of vulnerability including: particular sensitivity to impacts due to the business activities or wider trends and shocks; the assets and capacity of affected rightsholders to support recovery from impacts; and the extent to which the wider context may help or hinder remediation (such as access to emergency relief, or discrimination against the impacted rightsholders).

Many company risk matrices include descriptions of the consequences for each level of severity (e.g. from very low to very high) for different categories of consequence, such as financial, legal, reputation, workers, environment and community. Similar descriptors can be developed for human rights.

Human rights can be integrated in these descriptions in two different ways; either by ensuring a specific category for human rights, with specific descriptions of the human rights consequences at each level and/or by reflecting human rights impacts in the descriptions for other categories e.g. communities or people. As noted earlier, wording for descriptions for legal consequences could ensure serious human rights impacts are treated as legal compliance issues.

These clearer and more explicit descriptions of human rights impacts can also help distinguish serious human rights impacts from other social impacts.

Consider risks from contribution and direct linkage

The UNGPs expect companies to consider all actual and potential human rights impacts which their business activities may be involved with, from causing or contributing to them through their own activities, or being directly linked to their operations, products or services by their business relationships.

Business risk processes will often consider business activities which the company has more control over, and by default will tend to cover those risks resulting from impacts which it causes solely through its own activities, or to some extent those which it contributes to. A human rights lens will often apply a broader scope and consider risks resulting from them being directly linked to impacts through their operations, products or services via their business relationships.

Where business risk processes consider these directly linked impacts, there may often be internal resistance or discomfort at their inclusion. Helping to overcome this may require ensuring those involved have a good understanding of a human rights approach, as well as ensuring risks to the business are clearly articulated, as well as controls which can be put in place to address them.

Consider rightsholder perspectives when assessing severity of impacts

Business risk processes are typically internal processes and therefore views of external stakeholders may be overlooked. Putting people at the centre of analysis with a human rights lens means that greater consideration of rightsholder perspectives on risks is important, particularly for more severe impacts.

Business risk assessments may be able to draw upon existing engagement, where the company has already meaningfully engaged with rights holders around the human rights issues being considered. Where engagement has not been adequate, these limitations may need to be identified in the risk assessment process itself and addressed prior to future iterations.

For instance, the Global Industry Standard on Tailings Management glossary definition of 'catastrophic failure' broadens the definition beyond loss of human life to one that "results in material disruption to social, environmental and local economic systems. Such failures are a function of the interaction between hazard exposure, vulnerability, and the capacity of people and systems to respond. Catastrophic events typically involve numerous adverse impacts, at different scales and over different timeframes including loss of life, damage to physical infrastructure or natural assets, and disruption to lives, livelihoods, and social order" – clearly making it a salient human rights issue as well as a business risk. This broader definition emerged from an understanding of how affected people experienced catastrophic tailings failures.

The issue of considering "perceived versus actual risks" is also often raised as a challenge in business risk processes. This framing implicitly downgrades concerns raised by rightsholders as not 'actual' risks and potentially not warranting inclusion in risk assessments. Consideration of these issues which stakeholders perceive as risks may however help identify areas which have not been adequately considered by the business (for instance where local stakeholders have better long-term experience of extreme weather events which the business may not have factored in to risk assessments), or identify different but underlying risks relating to the differing perceptions of risk (for instance there may wider risks resulting from lack of information sharing by the business about its activities, potential impacts and controls in place).
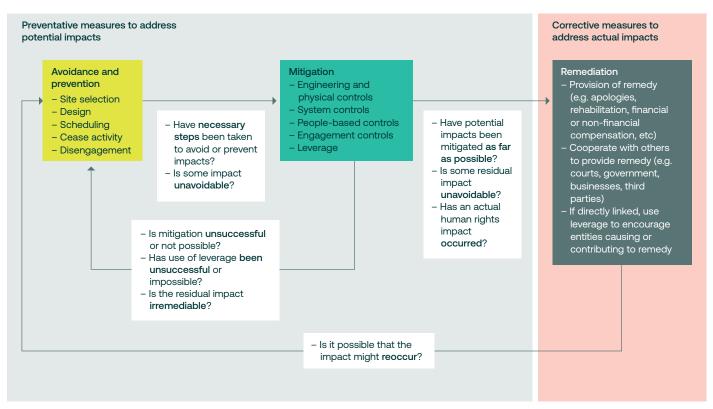
Clearly flagging of human rights risks

A simple approach is to flag, label or categorise business risks which also have significant human rights impacts associated with them. This may help with having an integrated approach to risk assessment, whilst also being able to separate out or highlight the salient human rights risks.

Clear consideration of human rights in risk descriptions

The specific wording with which risks are described will influence how they are assessed. Business risk registers which have integrated human rights will tend to use explicit human rights issues, such as referring to the human rights impacts (as well as business impacts), identify rightsholders and consider issues such as vulnerability. For example, Vale adopts the bowtie method to structure the risks that are registered in its business risk management system. For the Human Rights risks specific salient human rights issues, such as degrading work conditions, child and forced labor, child sexual exploitation, sexual harassment etc. are detailed in the risk causes

Figure 2: Mitigation hierarchy of controls for human rights impacts

Adapted from UNGPs and ICMM Guide for Implementing the Mitigation Hierarchy

Use a mitigation hierarchy of controls

Risk assessment processes will tend to use a hierarchy of control measures in order to identify and prioritise the most appropriate measures to manage risks. These may be tailored to the specific issues they are addressing. For instance ICMM has produced a Health and Safety Critical Control Management Good Practice Guide (https://www.icmm.com/website/publications/pdfs/health-and-safety/2015/guidance_ccm-good-practice.pdf) and a Guide for Implementing the Mitigation Hierarchy to work

towards no-net-loss of biodiversity (https://www.icmm.com/website/publications/pdfs/environmental-stewardship/2015/guidance_mitigation-hierarchy.pdf).

Figure 2 illustrates a mitigation hierarchy for controls to manage human rights impacts, based on the UNGPs.

The focus is on preventative measures, particularly avoidance, and then only taking corrective, or remediative, measures where impacts have been prevented and mitigated as far as possible and residual impacts are unavoidable.

The following approaches outline key aspects of this mitigation hierarchy, and how it differs from mitigation hierarchies for other issues.

Focus on avoidance and prevention of impacts

The UNGPs put a strong emphasis on the importance of companies taking all necessary steps to avoid and prevent human rights impacts through their due diligence processes. The integration of human rights into the businesses' risk assessment processes, done well, is a highly effective means by which to ensure potential human rights impacts are avoided and prevented. This human rights approach differs from other established mitigation hierarchy approaches, which tend to put less emphasis on avoidance and more on mitigation. In practical terms this means companies need to 'design out' potential human rights impacts from their operations and activities at the point of project design and capital investment decision-making. Companies are also expected to be able to 'know and show' how they have considered steps to avoid and prevent impacts.

In some cases of potential serious human rights impacts, this may mean not going ahead with an activity, stopping it or disengaging.

If severe residual human rights risks remain which are irremediable, even after steps to prevent and mitigate them, then it may be necessary to consider ceasing or disengaging the activities.

It is also important to learn from remedy processes to ensure that measures are taken to avoid reoccurrence in the future of impacts similar to those which required remediation.

Demonstrate controls to mitigate unavoidable impacts as far as possible

Where some human rights impacts are unavoidable, companies should then put in place measures to mitigate impacts as far as possible. This involves controls which reduce risk, both probability and consequences, to as low as reasonably practicable (ALARP). Ideally, the level of impact is deemed 'reasonably practicable' should be verified with the affected rightsholders.

Use engagement as a control measure

Mitigation hierarchies will often consider different schemes of controls, including engineering and physical controls, systems-based controls, and people-based controls. In health and safety, the most effective controls for the highest severity levels are engineering (physical) controls

An additional type of control which should be considered for human rights impacts is engagement. Often it is possible to reduce the probability and/or consequence of a risk through appropriate provision of information, consultation or agreement-making with affected rightsholders and other stakeholders. However, engagement should not be considered as an easy alternative to implementing controls which could result in a material reduction in exposure to the human rights impact, or avoidance of the impact altogether.

Use leverage as a control measure

As noted above, risk assessments should also consider risks from direct linkage. In these cases, where controls related to business activities alone are not adequate to manage the human rights impact, it may be necessary to use leverage, and seek to increase leverage, on other entities. Leverage is the ability of a business to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.

Leverage is not a commonly considered risk control measure and therefore may need to be introduced by human rights specialists involved in the risk management process.

No offsetting impacts

The UNGPs guidance states that "Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations."

Unlike some other mitigation hierarchies, such as for biodiversity impacts, negative human rights impacts cannot be offset with positive impacts elsewhere. Measures which enhance the enjoyment of rights should be considered as a completely separate category of measures to those controls which prevent or correct harms to human rights.

Consider disengagement as a control measure

Disengagement or ceasing activities should also be considered as a potential control.

Stopping activities is particularly important where business activities may be linked to serious human rights abuses, including:

— any forms of torture, cruel, inhumane and degrading treatment

— any forms of forced or compulsory labour

— the worst forms of child labour

— other gross human rights violations and abuses such as widespread sexual violence

— war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

However, this may well be a challenging decision with potentially significant implications and the company will need to carefully consider a variety of aspects before doing so. Various factors need to be considered in relation to any decision on potential disengagement, including: the risk and severity of the adverse impacts; the degree of connection with potential adverse impacts; the company's leverage over the entity concerned; how crucial the business relationship is to the company; the potential adverse impacts of disengagement; the extent to which attempts at mitigation have been successful, and; whether mitigation is deemed to be feasible.

Consider human rights impacts of controls

Whilst controls are intended to prevent, mitigate or remedy human rights impacts, it is important to consider whether these control measures may themselves also have further human rights impacts.

Questions and Controls for Integrating Human Rights in Risk Processes for Key Issues

This section provides guidance on applying a human rights lens to business risk processes for a range of human rights issues which are common across mining operations (see supporting resource on Key Issue Areas). Specifically, the table below provides indicative questions to consider to help understand the human rights aspects of these issues more fully, and indicative controls which might be used to help manage the potential human rights impacts for each issue.

Key questions

Illustrative questions for each issue help identify potential salient human rights risks. These are questions which human rights specialists may raise during the risk assessment process, or non-technical staff with responsibilities for human rights might want to consider. The focus is therefore on questions which complement a material business risk approach with one also looking at salient human rights risks, e.g.:

— Considering if activities take place in high-risk contexts or where significant adverse human rights impacts are known to have occurred.

— Considering the human rights impacts the activities might have.

— Considering whether potential human rights risks could be avoided and prevented.

— Considering if there are any particularly vulnerable people who may be impacted by the activities.

Key controls

Illustrative examples are provided of controls to manage potential human rights issues. The focus of these controls is based on the mitigation hierarchy (see Figure 2), with a focus on controls to avoid and prevent potential human rights impacts, and mitigation controls which are most effective at reducing serious human rights risks.

Issue area	Focusing questions	Preventative and corrective controls
Worker rights, forced labour, child labour, modern slavery, and human trafficking	— How are employees recruited? Does the company use external or third-party recruiters or labour hire firms? — Who pays the recruiters fees? — Have there been any reports or instances of recruitment agency withholding workers' documentation e.g. passports? — Do employees have contracts that clearly specify the terms and conditions of employment, e.g. length of employment, working hours, wages, benefits, holidays, overtime remuneration? — What are the normal working hours for different categories of employee? — Do people work overtime, if so what types of staff work overtime, how often, and how are they compensated for overtime? — What systems does the company have in place to manage excessive working hours and overtime? — Do employees take breaks during their working day? When, where and how? — Do employees get any paid leave (e.g. sick, maternity and annual leave)? — How are wages determined? Does the company consider cost of living in determining wages? — Are any young employees (under 18) or child employees (what age?) employed? If yes, what kind of work do young workers do? Do they work during school hours? — Does the company check the age of employees when first hired? If so, what age verification methods are used? — Are there any trade unions? If so, are most employees unionised or non-unionised? — Does the company engage with unions in collective bargaining? — Where can employees raise any concerns or complaints they might have about their working environment?	**Human Resources:** — Company policy to allow collective representation, or no policy explicitly excluding union representation — Clear documented worker terms prior to employment e.g. formalised contracts — Background checks including checks on legal status of workers and age — Due diligence on labour hire firms — Anti-retaliation, anti-bullying policies — Clear policies and procedures relating to any fees or deductions associated with recruitment and employment — Procedures relating to provision & retention of worker passports and papers — Employee privacy protections and data management — Provisions to allow workers to reasonably leave worksites and terminate employment — Whistleblower mechanism — Employee complaints mechanism **Contractor Management:** — Requirements in contract to meet policies of company — Means for enforcement written into contract — Due diligence on providers and subcontractors

Issue area	Focusing questions	Preventative and corrective controls
Workplace diversity, gender, equity & inclusivity, discrimination, and harassment	— Are local employees or indigenous employees or similar treated fairly? Are there additional measures to ensure they are not subjected to discriminatory treatment in the workplace? — How would an employee raise a concern about a manager? — How would an employee raise a concern about an ethics or compliance issue? — What measures are in place to protect those who make a complaint or raise an issue? — Does the company track and report gender wage gap data?	Human Resources: — Company policies for fair treatment in the workplace — Internal committees including worker representatives e.g. Diversity Equity & Inclusion committees — Unconscious bias training for leaders and human resources involved in recruitment — Anti-nepotism policies in ethics and compliance procedures — Whistleblower mechanism — Employee complaints mechanism — Anti-retaliation, anti-bullying policies — Employee privacy protections and data management Contractor Management: — Requirements in contract to meet policies of company — Means for enforcement written into contract — Due diligence on providers and subcontractors
Workplace health & safety	— Does the company have a health and safety management system? — How are safety procedures maintained and enforced on the shop floor? — Have there been any accidents/injuries at the workplace in the past? — What are the main types of health and safety issues or incidents for the company? — How is health and safety managed at the mine? — Are safety incidents investigated and corrective actions implemented to avoid reoccurrence? — Is the company inspected by the government on health and safety standards. If so, how often?	Operations: — Implementation of comprehensive workplace health and safety requirements, which are meaningfully audited — Workplace leadership and support to stop work in unsafe situations — Working time and rest provisions Contractor Management: — Requirements in contractors' contract to implementation company's health and safety requirements — Auditing of compliance with health and safety requirements written into contractor's contract — Health and safety performance included in due diligence of contractors and suppliers
Contractors and supply chain	— What is known about the company's suppliers, in respect of human rights? — Is due diligence undertaken on suppliers? — Does supplier due diligence include all relevant human rights areas and issues? — Is there a mechanism for screening or identification of suppliers, service providers or contractors who may have increased exposure to human rights risks and issues? — Do suppliers provide their workers with access to grievance mechanisms?	— Identify contracts / work packages that have exposure to human rights issues — Include human rights issues in tender process, and assessment of tendering submissions — Include requirements in contract to meet policies and procedures of the company — Provision of human rights awareness and training — Include KPIs or performance outcomes expected of the contractor, service provider or supplier in respect of relevant and specific potential human rights exposures

Issue area	Focusing questions	Preventative and corrective controls
Security	— What is the reputation or known history of public security in the area of interest and operations? — Are there reports or history of human rights issues in respect of security forces? — Are there NGOs in area of interest who have reported human rights and security issues? — Has engagement been carried out with communities and local stakeholders on security issues, as appropriate to context? — Do communities and local stakeholders fear public security? — Are there NGOs present who will scrutinise companies' actions and / or events involving security, public or private? — Have there been recent incidents with other companies? — Are there particular operational activities that pose a greater security threat or present an additional risk exposure compared to routine operations? (Export of final product from gold or diamond mine, for example)	— Implementation of the Voluntary Principles on Security and Human Rights — Complete due diligence out on public and private security providers. Mitigate any red flags arising from due diligence. — Establish a Memorandum of Understanding or some form of agreement or understanding with public security providers in relation to the deployment and escalation of security responses — Include human rights compliance requirements in the contract of private security providers — Provide training to private security forces on human rights and use of force. — Offer training to public security on human rights and use of force
Indigenous Peoples & FPIC	— Are there Indigenous people with historic or current links to lands and waters where the company is operating? — If so, are these current or historic connections to lands and waters recognised by authorities, government or in permitting regulations and requirements? — Is there any history of conflict, violence, abuse, or dispossession of Indigenous Peoples in the area of operations?	— Undertake baseline assessments of history of Indigenous Peoples in the area of interest — Undertake good-faith engagement with Indigenous Peoples and their representatives. — Develop Free Prior and Informed Consent-based engagement and Indigenous land use agreements — Understand legal aspects, identification of correct peoples and their rights (formal and informal), — At all times respect representatives and those Indigenous Peoples who choose to work with them / advise / support them
Cultural heritage	— What is known about cultural heritage in the area of interest and operations? — Are there regulatory procedures related to the recording, protection, and authorised destruction of cultural heritage? — Has engagement been undertaken with local communities about their cultural heritage, including graves, historic places, intangible cultural heritage? — What systems and procedures does the company have for the identification and protection of cultural heritage in the area of interest?	— Implement a cultural heritage management system, to ensure no cultural heritage is impacted without authorisation of regulators and relevant stakeholders. — Ensure tangible and intangible cultural heritage is identified — As part of cultural heritage management system, develop system for ensuring there is no unauthorised ground disturbance which includes recorded CH information — Implement and train all relevant employees and contractors on a cultural heritage chance finds procedure

Issue area	Focusing questions	Preventative and corrective controls
Resettlement	— Are there communities located on or near the mine's orebody or other operational areas that have a fixed location? — Are there communities located on or near associated infrastructure, such as tailings facilities, processing plant, railway or roads? — Are communities' livelihoods or natural resource use potentially impacted by fixed assets (ore body) or associated infrastructure? — Are there regulations in respect of resettlement, land access and compulsory acquisition, and are these aligned with international standards?	— If resettlement is possible, initiate early socio-economic data acquisition to inform mine design and infrastructure planning to reduce resettlement and economic displacement — Develop Resettlement Action Plan (RAP) aligned with international standards. — Ensure rigorous auditing and assessment to ensure real-time monitoring of RAP implementation — Ensure grievance mechanism is effective, e.g. resolves emerging issues promptly
Conflict and high-risk areas (CAHRAs)	— Is there armed conflict in the area of influence or operations? — Is there a history of armed conflict in the area of influence or operations? — Is there a history of violence or conflict within or between communities in the area of influence or operations? — Is there a likelihood of intra-community conflict or violence if there is rapid socio-economic change? — What is the likelihood of in-migration? — What is the capacity of existing towns and public services to absorb likely in-migrants?	— Assess potential for operations to be located in conflict-affected or high-risk areas, including consulting external information and advice about conflict status — Conduct conflict risk assessments for activities in or linked to conflict-affected or high-risk areas — Ensure risk management processes consider conflict-related risks — Supply chain mapping — Supply chain risk assessment — Supplier due diligence — Ongoing supply chain improvement plans — Supply chain monitoring
Closure, transition, and exit	— Are relevant communities and local stakeholders involved in planning for closure? — If so, are relevant stakeholders and communities involved in engagement early enough to enable their substantive input and influence over eventual closure outcomes? — Does this engagement include rehabilitation and final landform design? — Does this engagement include economic transition?	— Include discussions about closure in routine engagement, at least 10 years ahead of anticipated closure — Ensure that communities and local stakeholders' involvement in closure discussions increases in alignment with the company's increasing focus on closure planning
Water stewardship	— Is water scarcity an issue for communities and local stakeholders? — Is there potential for the company / operation to contribute to water scarcity? — Are communities' and local stakeholders' water usage included or considered in ESIA and permitting processes?	— Assessment of catchment-level water-related risks — Identification of and proactive engagement with rightsholders affected by water usage — Support to catchment-level water stewardship initiatives — Public reporting on water performance

Issue area	Focusing questions	Preventative and corrective controls
Tailings	— Have all possible site emergencies been identified that could impact on communities (fire, Tailings Storage Facilities or impoundment failure, chemical spill, etc)? — Have communities and local stakeholders been engaged on identified scenarios and the plans the operation has in place to minimise consequence, respond, manage and recover? — Have local emergency services been engaged to assess their capacity to respond to identified scenarios? — Have emergency evacuation drills been undertaken? — Are those with vulnerabilities identified and additional measures in place to account for additional or special requirements?	— Implement Global Industry Standard on Tailings Management — Work with local emergency service providers to develop plans to ensure adequate response to catastrophic scenarios — Implement additional onsite control measure to reduce likelihood of catastrophic failures / emergency scenarios
Pollution & waste	— Are nuisance impacts – dust, noise, light – becoming intolerable to communities and local stakeholders – even if and especially if dust noise and light are controlled within permitted limits? — Are there any complaints or claims of chronic deterioration in communities or local stakeholders' health as a result of company emissions or waste?	— Continually reduce impacts, over and above what is permitted by regulators — Establish community-based environmental monitoring — Deploy third party monitoring of environmental data on potentially severe impacts — Ensure ongoing engagement with communities and local stakeholders to ensure nuisance impacts remain within their tolerance
Climate change and just transition	— Are communities or local stakeholders vulnerable to impacts arising from climate change? — If so, is this vulnerability increased as a direct or indirect result of the company's activities and operations? — Are there environmental incidents or events in the area of influence (floods, fires, etc) that have been attributed to climate change?	— Assess human rights impacts of operational level adaptation and mitigation solutions, including net zero and energy transition initiatives — Engagement with and support to host communities on improved community resilience to adapt to the physical impact of climate change
Biodiversity	— Has the mitigation hierarchy been applied to biodiversity mitigations and impact management? — Have community and local stakeholder livelihoods and natural resource use been assessed as part of developing biodiversity mitigations? — Have communities and local stakeholders whose livelihoods or natural resource use could be impacted by biodiversity mitigations been engaged and involved in the development of mitigations and impact management?	— Develop biodiversity enhancement projects designed so as to not impact social values and sustainable local use of natural resources. — Ensure local stakeholder (natural resource users) participation in design and implementation of biodiversity enhancement projects. — If a biodiversity offset has potential to have negative impact on livelihoods of local stakeholders' social impact assessments, and potentially resettlement / economic displacement and livelihood restoration programmes, should be triggered.

Issue area	Focusing questions	Preventative and corrective controls
Engagement	— Is the company's engagement programme sensitive to the needs and circumstances of those who the company is engaging with? — Does the engagement with communities and local stakeholders include provision of information about impacts, risks to communities and other information about the company that could impact lives and livelihoods of communities? — Does the engagement approach sensitive to assessing the human rights impacts particularly on vulnerable peoples? — Is the complaints / grievance system effective? Is it used, can everyone access it, do complaints get closed out, are records kept, can complainant appeal, are complainants engaged all through the process? — Are there complaints / grievances on issues that have not been included in risk assessment? If so, update the risk assessment	— Design the stakeholder engagement programme to ensure those who are vulnerable or who have differentiated engagement needs – Indigenous Peoples, for example – are engaged in a way that makes sense for them — Ensure that anything which might affect local communities and stakeholder is shared transparently and proactively – include those who are potentially impacted in the design of mitigations and controls — Ensure those who are intended to use the grievance and complaints mechanism are substantively involved in the design of the mechanism — Audit the effectiveness of the grievance and complaints mechanism on a regular basis
Human rights defenders	— Are there representatives of communities or local stakeholders who are claiming the right to speak for those impacted or affected by the company? — What are the company's procedures for engaging with community representatives? — What are current anti-retaliation procedures and policies?	— Screen for and monitor risks to human rights defenders — Raise staff awareness, building internal capacity — Engage with human rights defenders and trusted intermediaries; — Processes to respond to and monitor all allegations of harm — Track and communicate how impacts are addressed.
Artisanal and small-scale mining (ASM)	— What is the legal position in respect of ASM in the relevant jurisdiction? — Is there a history of violence between ASM and public security?	— Collaboration with government and other stakeholders to identify and assess the risks and opportunities associated with ASM, and to establish a support mechanism or control strategy — Support to efforts of local ASM to operate in a manner that minimises impacts to human health and the environment. — Participation in government-led partnerships to transfer low- to no-mercury technologies into the ASM sector

Human Rights Due Diligence in Supply Chains

ICMM Human Rights Due Diligence Guidance

Human Rights Due Diligence in Supply Chains

Serious human risks can be linked to a range of mining and metals supply chains. Where they are not identified and addressed, they could result in severe, actual impacts upon people, while also posing serious reputational and legal risks to companies. There is an increasing legal expectation for companies to understand the actual and potential impacts in their supply chains and develop measures to address these.

This tool highlights the key human rights issues in high-risk supply chains and provides a six-step guidance to help companies prevent, mitigate, and, where appropriate, remediate impacts in their supply chains and business relationships. It aims to support ICMM members at various levels of Human Rights Due Diligence (HRDD) maturity to develop and strengthen supply chains risk management systems.

The United Nations Guiding Principles on Business and Human Rights (UNGPs) set out an international framework on human rights due diligence, outlining steps companies can take to incorporate human rights considerations into their supply chains management systems and commitment to responsible sourcing. Similar approaches are set out in the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the ILO Multinational Enterprises and Social Policy Declaration, national due diligence legislation, and other international voluntary and regulatory instruments.

This tool features the human rights due diligence in supply chains processes set out in these standards as detailed in Supporting Resource: HRDD Regulatory Landscape.

What is human rights due diligence in supply chains?

Human rights due diligence in supply chains is a systematic approach of ongoing assessment and management of human rights impacts in supply chains. Its purpose is to ensure that actual and potential human rights in a company's upstream and downstream supply chains are identified, and appropriate measures are put in place to prevent and mitigate such impacts, and, where appropriate, provide remediation.

Key mining supply chains and their salient human rights impacts

Actual and potential human rights impacts have been identified in the supply chains of mining and metals companies, including in construction services, mining services, facilities management, transport, equipment, and raw materials supply chains. Within each area, there may be worker rights issues, as well as impacts on communities. The table below sets out the salient impacts that tend to be associated with each area.

Matrix on key procurement categories and their salient human rights issues

■ Human rights issue in supply chain category

Salient human rights issues		Key high risk supply chains category											
		Construction services	Mining services	Facilities management						Transport		Equipment and mineral supply chain	
		Engineering, procurement, & construction management	Mining contracting	Security	Catering	Cleaning services	Personal protective equipment	Maintenance repairs & operations	Waste management	Road and freight services	3rd party warehousing	Raw material supply chain	Equipment
Workers' rights issues	Exploitative working conditions	●	●	●	●	●	●		●	●	●	●	●
	Discrimination in the workplace	●	●										
	Health and safety	●						●		●		●	
	Restrictions on trade unions and freedom of association	●	●		●	●	●					●	
	Forced labour/ modern slavery	●	●		●	●	●			●	●	●	●
	Child labour						●						
Impact on communities	Environment/ community impacts	●	●						●				
	Access to water	●							●				
	Cultural heritage and land rights	●											
	Sexual harassment/ exploitation	●	●	●								●	
	Use of force			●								●	

Salient human rights issues in supply chains

Human rights are indivisible and interrelated. An impact on one set of human rights could automatically impact other human rights. However, in terms of a company's operations and supply chain, some human rights are at greater risk of being severely impacted. As outlined in the table above, the human rights issues that are more pronounced in the supply chains of mining and metals companies include:

1. Unfair working conditions
The mining supply chain, particularly construction and facilities management, is often characterised by a low-skilled workforce who may be seasonal or migrant workers sourced through contractors and subcontractors. Low-skilled workers are vulnerable to exploitation due to limited financial resources or viable means of employment. This creates room for unfair treatment of workers, such as unfair hiring and firing practices due to temporary contracts, unpaid wages and underpaid wages, excessive working hours, substandard, overcrowded, and unsanitary living conditions, and restrictions of workers' freedom of movement (e.g by removal of passports or personal identification documents).

2. Discrimination
Workplace discrimination has been found to be widespread in the practices of contractors at different mine sites. Workers report experiencing racial discrimination by foreign contractors in the form of physical violence, verbal abuse, and degrading name-calling. Other forms of discrimination prevalent in the mining sector include gender discrimination, sexual harassment, disproportionate working hours, lower rates of pay based on race and gender, lack of access to training opportunities, poor housing conditions and lack of access to health care or education.

3. Workplace health and safety
Health and safety is a salient issue in the supply chains of mining companies. Construction and mine workers can often be exposed to unsafe working conditions and accidents that may result in fatalities, due to events such as mine collapse, faulty equipment, or risk of explosion of volatile materials. Lack of personal protective equipment (PPE) can exacerbate accidents and life-threatening conditions.

4. Restrictions on trade unions and freedom of association
Contractors can take advantage of the limited employment opportunities available to low-skilled workers by threatening retrenchment where workers attempt to form or join a trade union. The vulnerability of seasonal and migrant workers, and the lack of employment alternatives, limit the opportunities for redress or improvement of their working conditions through unions.

5. Forced labour
Forced labour is characterised by situations where workers – especially migrant workers are forced to work under threats of violence or intimidation, or through debt bondage schemes, retention of identity papers or threats of exposure to immigration authorities. The shipping, cleaning, PPE, and electronics equipment supply chains are particularly susceptible to practices that involve recruitment agencies or intermediaries charging high fees to recruit workers and subjecting them to debt bondage. Migrant workers can have their travel documents held by the employer as a condition of work. Parts of these supply chains may also be in conflict-affected and high-risk areas (CAHRAs), and may be connected to organised crime and corruption, widespread human rights abuses, and the fuelling or exacerbation of conflict.

6. Child labour
In some parts of the mining supply chain, particularly upstream, children are employed and subjected to long hours of work. In an artisanal mine, for example, children may work underground without protective equipment, and may be made to carry heavy loads into hand-dug mines. Child labour has also been identified in PPE and garment supply chains, where children are employed in the production of rubber gloves, apparel, and footwear, which could potentially end up in the supply chains of mining companies.

7. Environmental impact

A common human rights issue in mining is the environmental impacts of mining activities and the resulting impact on local communities. Environmental impacts such as dust, noise, and increased traffic caused during construction, constitute a nuisance and, in some cases, a health hazard for community members. Water and soil pollution linked to improper waste disposal by waste management contractors can also threaten the health and standard of living of nearby communities, as well as endanger livelihoods and food sources of households who rely on natural resources. Biodiversity could also be threatened by poorly managed mining activities.

8. Access to water

Significant demand for water due to mining activities, such as mineral processing, dust suppression and slurry transport, can interfere with the right of communities to access clean water. Mine sites are sometimes located in areas where water is already scarce, forcing local communities to compete for available water sources. Improper disposal of mining waste can also affect water quality in streams and contaminate groundwater, interfering with the rights of the communities to clean water.

9. Land rights

Construction activities in mining supply chains sometimes interfere with the land rights of community members, where contractors fail to respect the cultural heritage of the community, or impact the land rights of individual members.
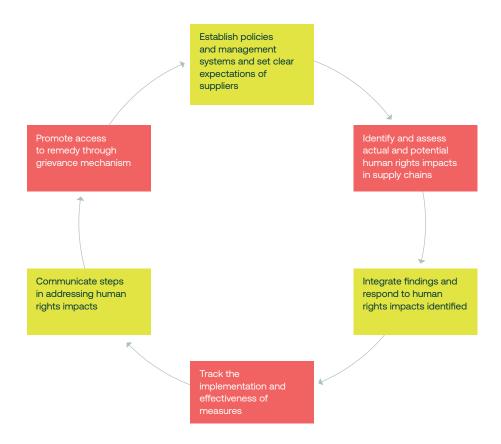
10. Trafficking/gender-based violence

Human trafficking and sexual exploitation, including the possibility of sex trafficking, can be a risk around mining sites due to the transitory nature of the workforce, the high influx of workers and isolation of the worksites. Construction activities may attract many job seekers (mainly male), which can create a boom town effect. Gender-based violence and public health concerns, such as an increase of HIV/Aids within local communities, may arise.

11. Security and use of force

Human rights violations by public and private security forces have long been a major issue in the supply chains of mining companies. Allegations of excessive use of force, intimidation, beatings, torture and the killings of community members, especially peaceful protesters and human rights defenders, by private and public security forces assigned to secure mining sites have been highlighted by civil society organisations. In conflict zones, there is potential for security contractors to be complicit in fuelling conflict by aiding illegal armed groups. Security forces have also been reported to use excessive force on artisanal miners and community members around guarded mine sites.

Overview of the Steps to Human Rights Due Diligence in Supply Chains

Steps in undertaking human rights due diligence in supply chains

Establish policies and management systems and set clear expectations of suppliers

Identify and assess actual and potential human rights impacts in supply chains

Promote access to remedy through grievance mechanism

Integrate findings and respond to human rights impacts identified

Communicate steps in addressing human rights impacts

Track the implementation and effectiveness of measures

The UNGPs, the OECD Guidelines, the ILO Declaration, as well as mandatory and disclosure legislations by different states adopt a similar approach to human rights due diligence in supply chains. This may vary depending on the size of the company, operational context, the severity and the likelihood of risks, and the potential involvement of the company. Overall, companies can adopt the following steps in their supply chains risks management.

Step 1 – Establish policies and management systems

— The first operational principle a company should adopt to ensure respect for human rights in its supply chains is a clear policy commitment that is embedded into its management systems

— The statement of policy provides a base against which a company assesses itself and its suppliers. The policy should define the company's standards and procedures, as well as its expectation for suppliers throughout the supply chains. This should be communicated within the company and to all external stakeholders

— The policy should be approved by senior level management and should cover the human rights issues that are more salient in supply chains, as well as the company's commitment to address those issues

— In line with the expectations of the policy, the company should establish clear roles and a system of accountability to ensure the implementation of the policy.

What can companies do?

— Update or create a Statement of Policy outlining the company's intention to address human rights issues in its supply chain. This can be embedded in general company policy on responsible business conduct (human rights, environmental and social performance)

— Actively involve senior management in the development and oversight of the human rights policies

— Assign responsibilities for implementing aspects of the policy across relevant departments and ensure that teams are aligned on the different processes

— Provide training for personnel with key responsibility for implementing the policy and to suppliers where possible

— Publicly communicate the policy to relevant stakeholders

— Revise Supplier / business partner Code of Conduct to incorporate UNGP requirements and define responsibilities of both the company and the supplier.

Example statement of policy clause

Excerpt is based on Glencore and Anglo American's human rights policies

We are committed to respecting human rights recognised in all international human rights laws in line with the UNGPs.

We aim to avoid causing, or contributing to, adverse human rights impacts, both actual and potential; and to prevent or mitigate adverse human rights impacts linked to our operations, products or services through our business relationships.

We commit to address adverse human rights impacts, and to contribute positively to an enabling environment for human rights to be respected. We are also committed to paying special attention to the rights of potentially vulnerable groups.

As part of our commitment to respect human rights and to a comprehensive approach, we will also undertake appropriate due diligence throughout the lifecycle of mining operations. Where we have caused or contributed to adverse human rights impacts, we will contribute to their remediation as appropriate. We will inform and engage appropriately with affected and potentially affected persons on actual and potential impacts and management measures, and keep them involved in monitoring performance.

Suppliers' and contractors' human rights performance will likewise be monitored as stipulated in their contractual agreements.

Step 2 – Identify and assess actual and potential impacts in supply chains

— The second step a company needs is to identify and assess the actual and potential human rights impacts it may be causing, contributing to, or directly linked to through its business relationships with suppliers.

— The UNGPs acknowledge that a company with an extensive supply chains may find it difficult or impracticable to identify and assess all its suppliers for human rights impacts. In such situations, depending on what an initial scoping exercise reveals, a company should prioritise supply chains where the actual and potential adverse human rights impacts are most salient. This could be due to the previous human rights record of the supplier, the operating context of the supplier, the sector, or the country.

— Where it is necessary to prioritise, companies must first take actions to prevent and mitigate the human rights impacts that are the most salient (for guidance on assessing salience, see tool on assessing salient human rights issues).

— Companies should pay special attention to the rights of individuals and groups that may be vulnerable and have a heightened risk of being disproportionately impacted.

What steps can companies take?

— Carry out a supply chains mapping exercise to understand the scope of the company's supply chain.

— Start with an initial high-level map that shows goods and services procured by the company through direct suppliers and then work further upstream.

— Engage with the suppliers and consult with relevant stakeholders and experts to fill in the gaps at the point where the supply chains begins to lack visibility, usually after Tier 1 suppliers.

— Research the human rights records of suppliers and check the country, sector, or activity risks in reports. This may also be done through a questionnaire sent to suppliers focused on human rights issues.

— Identify the most significant issue areas where impacts are likely to occur and prioritise the most salient impacts, as a starting point in addressing actual and potential impacts in the supply chain.

— Engage with the suppliers and affected stakeholders to identify the drivers of risks.

How far into supply chains should companies assess?

Although it is important for companies to identify and address actual and potential human rights impacts related to their business relationships, supply chains are complex and challenging in most contexts. Companies are expected to prioritise aspects of their supply chains with the most salient risks either due to the sector, the country context, or the human rights records of suppliers, while working towards promoting respect for human rights all through its supply chains.

Some companies, for example BHP, use open-source information to conduct human rights impact assessment of their Tier 1 and Tier 2 suppliers, but most companies focus their due diligence on Tier 1 suppliers and in turn, require them through contracts, policies, and Code of Conducts, to perform due diligence for their own suppliers.

For mineral supply chains, companies like Glencore require their metals and minerals suppliers to conduct due diligence based on the 5-Step Due Diligence Framework outlined in the OECD's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas (the OECD Due Diligence Guidance).

Step 3 – Integrate findings and respond to identified impacts

— After adverse actual and potential human rights impacts have been identified and assessed, companies should adopt measures to prevent and mitigate the actual and potential human rights impacts in their supply chain, and provide remedy where appropriate.

— Companies should review internal processes and management systems, and ensure that they are effective for mitigating and preventing the identified human rights impacts in supply chains.

— Clear roles and responsibilities, including senior management oversight, should be defined, and adequate resources allocated for addressing the impacts.

— Appropriate actions should be taken to respond to the identified human rights impacts in a company's supply chain. The actions taken will depend on the company's assessment of its involvement, the leverage it has over suppliers, the importance of the relationship to the company, the severity of the impact, and any adverse human rights risks that may result from terminating the relationship.

— Where a company has leverage over its suppliers, it should use its leverage to prompt suppliers to avoid, prevent, mitigate, or remedy the adverse human rights impacts.

— If a company lacks sufficient leverage, it should consider ways it can increase its leverage to enable a level of influence over how suppliers address impacts in the supply chain. Alternatively, the company can decide to terminate the business relationship.

What steps can companies take?

— Design a strategy and action plan to respond to human rights impacts identified in supply chains, and ensure this plan is integral to the human rights due diligence processes of the company.

— Assign clear responsibilities for addressing actual and potential human rights impacts identified in supply chains.

— Designate adequate resources for implementing effective management measures for addressing human rights impacts in supply chains.

— Ensure collaboration internally between functions responsible for procurement, human rights, and corporate social responsibility.

— Actively involve senior management in the development and oversight of supply chain action plans and implementation measures.

— Regularly engage the senior management of suppliers to keep the channels of communication and influence open.

— Provide training to suppliers to meet the responsibility of respecting human rights.

— Collaborate with other actors through sectoral, cross-sectoral, and multi-stakeholder initiatives, to increase leverage on suppliers and their suppliers.

— Incorporate human rights in prequalification processes and in contracts with suppliers. Prequalification questionnaire, for example, could incorporate questions related to the human rights due diligence practices of the supplier.

Integrating findings into supply chains management systems

In recent years, Freeport-McMoRan has improved its systems and processes related to due diligence, risk-monitoring and in-depth assessments to allow for quicker access to supplier data and information as well as streamlined risk identification. This includes implementing SAP Ariba Supplier Risk Management and Supplier Lifecycle and Performance onboarding tools, which enable it to more effectively identify and mitigate risks in these relationships. In 2022, the company finished integrating relevant Verisk Maplecroft country- and industry-level ESG risk indices into the SAP Ariba platform based on its potential supply chain risks and selected supplier metrics. With these screening tools in place, the company is working to complete a risk-based decision making tool to identify higher risk suppliers where closer collaboration is warranted, for example through on-the-ground audits or partnerships.

How can companies exercise leverage in their supply chain?

Companies in the sector exercise leverage by requiring suppliers to incorporate the human rights requirements of codes of conducts in their suppliers' contracts or through collective engagement with peers or other stakeholders.

Glencore, for example, incorporates its Supplier Code of Conduct into its Supplier Contracts, expecting suppliers to respect human rights of workers and communities where they operate.

Newcrest Mining and Vale similarly incorporates human rights clauses in supplier contracts, requiring suppliers to respect the provisions of international human rights laws and standards, as well as local laws in the countries where they operate. They also retain the right to terminate a supplier contract for breaches of its human rights clauses.

Anglo American requires its suppliers to develop corrective action plans, with realistic timelines to address human rights impacts where identified and to report on their progress. Where a supplier refuses to remediate an identified impact, or fails to demonstrate progress towards resolution, the company may review its relationship with the supplier.

Step 4 – Track implementation and effectiveness of measures

— The fourth step is for companies to track the effective implementation of the measures adopted to address the adverse actual and potential human rights impacts identified in their supply chains.

— Companies should develop credible indicators for measuring the performance of the tools and processes in place for identifying and mitigating adverse human rights impacts.

— It is important for companies to adopt monitoring approaches that incorporate the feedback of internal and external stakeholders, including the affected stakeholder groups, in measuring the effectiveness of the mitigation measures.

— The monitoring process should be structured to drive improvement in the broader human rights due diligence process.

What steps can companies take?
— Establish internal systems to measure the effectiveness of the company's human rights due diligence processes for identifying and mitigating human rights impacts in supply chains.

— Develop credible key performance indicators to measure the performance of suppliers in addressing actual and potential human rights impacts in their operations and supply chains.

— Carry out periodic internal reviews of suppliers due diligence processes.

— Establish systems for independently verifying the prevention, mitigation and remediation measures adopted by suppliers in addressing identified human rights impacts.

— Engage affected stakeholders to understand the effectiveness of supplier efforts to prevent, mitigate, and remediate.

— Incorporate feedback during evaluation of suppliers to improve their human rights due diligence processes and systems.

Examples of tracking how suppliers manage their human rights impacts

Anglo American conducts third-party assessments after self-assessment questionnaires identify human rights issues with suppliers. The company engages the relevant suppliers on remediating any identified actual impacts, and afterwards puts in place a corrective action plan. The supplier is re-audited to ensure that the identified issues were indeed rectified.

South 32 monitors the implementation of suppliers remediation measures, using its internal risks management system. In some cases, the company complements the assessment of a remediation action plan by requesting a re-audit.

Vale conducts a risk assessment process for suppliers that classifies the sensitivity of contracts (based on the supplier segment, location and manpower mobilised) and the vulnerability of the supplier (based on the application of a self-diagnosis questionnaire) on its human rights management practices. The suppliers that present higher risk through the human rights lens are engaged through training and meetings on human rights to share good practices, through desktop and field inspections and, when necessary, with the preparation of an action plan to address weaknesses which is then monitored.

Step 5 – Communicate steps in addressing human rights impacts

— Companies are expected to communicate to stakeholders their human rights due diligence processes, including how they address actual and potential human rights impacts in their supply chains.

— The information provided by a company should be publicly available and accessible to external stakeholders at regular intervals.

— Reports on the human rights due diligence of a company should reflect all the company's salient human rights impacts and the steps taken to address them.

— Companies should be mindful of confidentiality and ensure that information on HRDD performance does not pose risks to its stakeholders.

What steps can companies take?

— Communicate internally the performance of the HRDD in supply chains processes with management, employees, and contractors.

— Publish annual reports disclosing information on HRDD in supply chains processes, and how impacts identified in supply chains are addressed.

— Avoid publishing information that may pose a risk of retaliation to affected stakeholders or individuals who report human rights incidents.

— Ensure that published reports, such as modern slavery reports and sustainability reports, are approved by the board of directors and signed by the directors.

Common information companies communicate:

— Organisation and supply chains structure

— The category of goods and services procured

— The salient human rights risks in the supply chain

— Source countries for goods and services

— Policies on modern slavery and human trafficking

— Risk assessment and management systems

— Actions taken to remediate human rights impacts including modern slavery and human rights trafficking

— Case studies of mitigated human rights impacts

— Approaches to measuring effectiveness of human rights management

Step 6 – Ensure access to remedy through a grievance mechanism

— Companies should ensure access to remedy for actual and potential adverse human rights impacts in their supply chains.

— Companies should ensure that stakeholders in their supply chains who are adversely impacted have access to an effective grievance mechanism.

— Companies are encouraged to contribute to remediation where appropriate, and support suppliers in providing remediation for actual human rights impacts.

What steps can companies take?

— Ensure that suppliers establish their own effective grievance mechanism and support them in this process.

— Assess the performance of the grievance mechanism through audits or external assessment at intervals.

— Establish a whistle-blower policy to encourage and protect persons who raise concerns about adverse human rights risks in supply chains connected to the company's behaviour.

— Make available a hotline or dedicated email where external stakeholders can report human rights concerns in their supply chains.

— Collaborate with civil society organisations in creating channels for identifying adverse human rights impacts in supply chains.

— Where appropriate, provide remedy for human rights impacts.

Example

Anglo American and Rio Tinto's whistle-blowing programmes allow any individual – whether it is employees, suppliers, supply chains workers, subcontractors, community members or the general public – to raise concerns about potential or actual human rights impacts, including in supply chains. Where a supplier may have a concern about Rio Tinto's conduct, they are encouraged to use myVoice, the company's whistleblower channel. Rio Tinto also encourages its suppliers to develop grievance mechanisms for their workers and those in their value chain.

Supporting Resource:
Key Issue Areas

ICMM Human Rights Due Diligence Guidance

Key Issue Areas

A range of human rights issues are of specific relevance to the mining and metals sector and potentially throughout project lifecycles. These are set out in Table 1 below. Considering the full range of these issues will help companies ensure that the identification and assessment of human rights impacts, and their subsequent management, is comprehensive. It should be noted that Table 1 is not exhaustive, however; and that the UNGPs state that companies should consider all internationally recognised rights.

Table 1: human rights issues relevant to the mining and metals sector

Issue area	Key ICMM Performance Expectations	Examples of potentially impacted rightsholders	Examples of potentially relevant human rights
Worker rights and wages	3.4 3.5	— Employees — Contractor workers	— Right to just and favorable conditions of work — Right to just and favourable remuneration — Right to freedom of association — Right to organise and participate in collective bargaining — Right to strike — Right to effective remedy
Forced labour, modern slavery, and human trafficking	3.4	— Employees — Contractor workers	— Right to life, liberty, and security of person — Right to just and favourable conditions of work — Equal recognition and protection under the law — Right not to be subjected to slavery, servitude or forced labour

Issue area	Key ICMM Performance Expectations	Examples of potentially impacted rightsholders	Examples of potentially relevant human rights
Workplace diversity, equity & inclusivity, discrimination, and harassment	3.4 3.9	— Employees — Contractor workers	— Right to non-discrimination — Right to just and favourable conditions of work — Equal recognition and protection under the law — Right to equal pay for equal work
Child rights & child labour	3.4	— Employees — Contractor workers — Affected community members	— Rights of protection for the child — Right to life, liberty, and security of the person — Right to health — Right to education — Equal recognition and protection under the law — Right to a family life — Right not to be subjected to slavery, servitude or forced labour
Gender in the workplace	3.8	— Employees — Contractor workers	— Right to equal recognition and protection under the law — Right to non-discrimination — Right to a family life — Rights of protection for the child — Right of mothers to special protection before and after birth — Right to just and favourable conditions of work — Right to health — Right to an adequate standard of living
Workplace health & safety	5.1	— Employees — Contractor workers	— Right to life, liberty and security of the person — Right to safe work environment — Right to health — Right to rest and leisure — Right to a family life
Contractors and supply chain	2.2	— Contractor and supply chain workers	— Right not to be subjected to slavery, servitude or forced labour — Right to liberty and security of person — Right to freedom of movement — Right to freedom of thought, conscience and religion — Freedom of opinion and expression — Freedom of assembly and association — Right to just and favourable conditions of work — Right to non-discrimination — Right to freedom of association — Right to organise and participate in collective bargaining — Right to effective remedy

Issue area	Key ICMM Performance Expectations	Examples of potentially impacted rightsholders	Examples of potentially relevant human rights
Security forces	3.3	— Affected community members — Contractor and supply chain workers	— Right to life, liberty and security of person — Right not to be subjected to torture, cruel, inhumane and/or degrading treatment or punishment — Right to freedom from arbitrary arrest and exile — Right of detained persons to humane treatment — Right to freedom of assembly — Right to effective remedy — Right to a fair trial
Indigenous Peoples & free, prior, and informed consent (FPIC)	3.6 3.7	— Indigenous Peoples	— Right to life, liberty and security of the person — Right to a clean, healthy, and sustainable environment — Right to participate in cultural life — Right to hold opinions, freedom of information and expression — Right not to be arbitrarily deprived of property — Right to self-determination and self-governance — Right to equal recognition and protection under the law — Rights of minorities — Right to non-discrimination — Right to effective remedy
Cultural heritage	3.7 4.3	— Indigenous Peoples — Religious and ethnic groups	— Right to participate in cultural life — Right to hold opinions, freedom of information and expression — Right to freedom of thought, conscience and religion — Right not to be arbitrarily deprived of property — Right to self-determination and self-governance — Right to equal recognition and protection under the law — Rights of minorities — Right to non-discrimination — Right to effective remedy
Resettlement	3.2	— Affected community members	— Right to life, liberty, and security of person — Right to freedom of movement — Right to own property — Right to an adequate standard of living — Right to effective remedy — Right to education — Right to health — Right to work

Issue area	Key ICMM Performance Expectations	Examples of potentially impacted rightsholders	Examples of potentially relevant human rights
Conflict and high-risk areas (CAHRAs)	4.2	— Affected community members — Employees — Contractor and supply chain workers	— Right to life, liberty, and security of person — Right to freedom of movement — Right not to be subjected to torture, cruel, inhumane and/or degrading treatment or punishment — Right to freedom from arbitrary arrest and exile — Right of detained persons to humane treatment — Right to freedom from incitement to racial, religious, or national hatred — Right to freedom of assembly — Right to equal recognition and protection under the law — Right to effective remedy
Closure, transition and exit	6.1	— Employees — Contractor workers — Affected community members	— Right to a clean, healthy, and sustainable environment — Right to an adequate standard of living — Right to effective remedy
Water	6.2	— Affected community members	— Right to a clean, healthy, and sustainable environment — Right to life — Right to health — Right to an adequate standard of living — Right to water and sanitation
Tailings	6.3	— Employees — Contractor workers — Affected community members	— Right to a clean, healthy, and sustainable environment — Right to life, liberty, and security of person — Right to health — Right to an adequate standard of living
Pollution & waste	6.4	— Employees — Contractor workers — Affected community members	— Right to a clean, healthy, and sustainable environment — Right to life, liberty, and security of person — Right to health — Right to an adequate standard of living
Climate change	6.5	— Employees — Contractor workers — Affected community members	— Right to a clean, healthy, and sustainable environment — Right to life, liberty, and security of person — Right to health — Right to an adequate standard of living

Issue area	Key ICMM Performance Expectations	Examples of potentially impacted rightsholders	Examples of potentially relevant human rights
Biodiversity	7.2	— Affected community members — Employees — Contractor and supply chain workers	— Right to a clean, healthy, and sustainable environment — Right to health — Right to an adequate standard of living — Right to participate in cultural life
Engagement	9.3	— Affected community members	— Right to freedom of opinion and expression — Right to peaceful assembly
Human rights defenders	9.3	— Human rights defenders	— Freedom of opinion and expression — Right to life, liberty and security of person — Right not to be subjected to torture, cruel, inhumane and/or degrading treatment or punishment — Right to freedom from arbitrary arrest and exile — Right of detained persons to humane treatment
Artisanal and small-scale mining (ASM)	9.4	— Artisanal and small-scale miners — Affected community members	— Right to life, liberty and security of person — Right not to be subjected to torture, cruel, inhumane and/or degrading treatment or punishment — Right to freedom of movement — Right to work — Right to safe work environment — Right not to be arbitrarily deprived of property

Supporting Resource:
HRDD Regulatory Landscape

ICMM Human Rights Due Diligence Guidance

The HRDD Regulatory Landscape

Since its inception, the human rights due diligence regulatory (HRDD) framework has evolved towards obligatory provisions requiring companies to take certain steps to know and show respect for human rights.

The purpose of this resource is to provide analysis of the emerging international, regional and state-level HRDD laws and map the key requirements for mining and metals companies. The aim is to present a brief picture of the current, emerging, and predicted company obligations with regards to human rights to help companies know where they stand and get ahead of the trend.

The Shift from Voluntary to Mandatory HRDD

The direction of travel is clear: emerging regulatory provisions aimed at promoting effective company oversight of salient human rights issues both inside and outside the fence line are moving towards mandatory HRDD requirements.
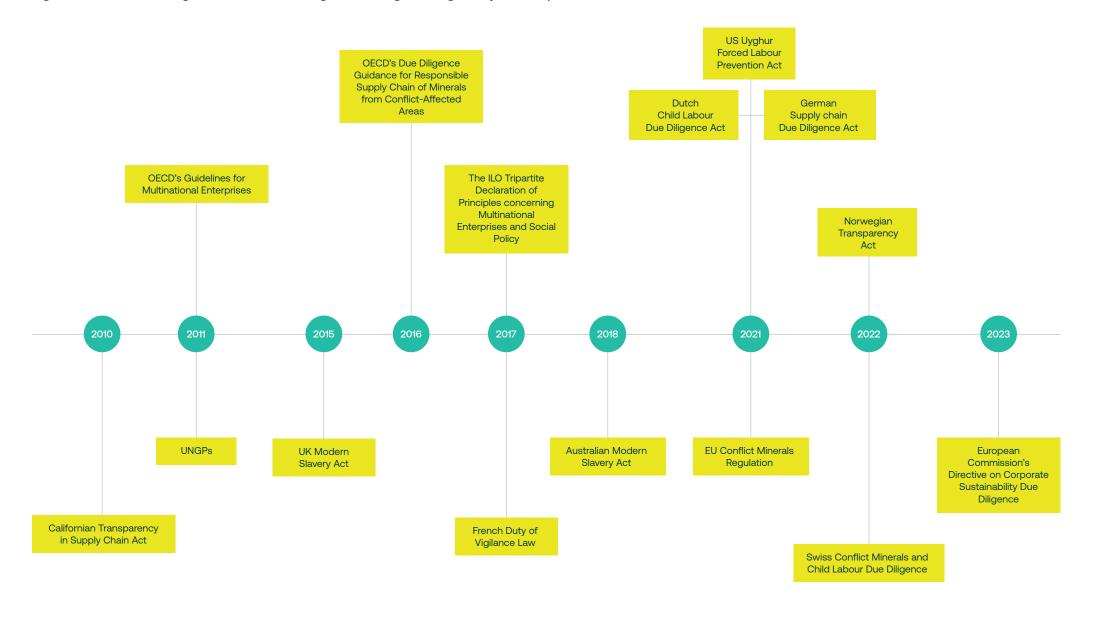
This represents a shift away from the voluntary corporate accountability standards that many companies currently incorporate into their strategies and practices as part of their responsible business conduct.

Emerging business and human rights laws can generally be categorised into either disclosure/reporting requirements or mandatory human rights due diligence laws.

Disclosure Laws Promoting Transparency

Disclosure legislation is focused on increasing transparency with regards to human rights risks, with a particular focus on fair labour practices and climate-related governance and sustainability practices.

Figure 1: Timeline showing shifts in the human rights due diligence regulatory landscape

US Uyghur Forced Labour Prevention Act

OECD's Due Diligence Guidance for Responsible Supply Chain of Minerals from Conflict-Affected Areas

Dutch Child Labour Due Diligence Act

German Supply chain Due Diligence Act

OECD's Guidelines for Multinational Enterprises

The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

Norwegian Transparency Act

2010 2011 2015 2016 2017 2018 2021 2022 2023

UNGPs

UK Modern Slavery Act

Australian Modern Slavery Act

EU Conflict Minerals Regulation

European Commission's Directive on Corporate Sustainability Due Diligence

Californian Transparency in Supply Chain Act

French Duty of Vigilance Law

Swiss Conflict Minerals and Child Labour Due Diligence

Modern Slavery Disclosure

Under these laws, companies are required to publish reports disclosing modern slavery and human trafficking risks in their operations and supply chains and the steps they are taking to address these risks. Notable among disclosure legislation of this nature is the UK Modern Slavery Act, the California Transparency in Supply Chains Law, and the Australia Modern Slavery Act.

The aim of this kind of "transparency through disclosure" strategy is to encourage companies to undertake HRDD by requiring them to report on it. These laws rely on public scrutiny by consumers, investors, civil society actors and the public to promote compliance with the provisions. The laws also rely on market competition and industry-wide good practices driving change within companies. As part of this, companies are obliged to report on their HRDD. The overarching features of disclosure legislation, as detailed in Table 1 below, include:

— Reporting on modern slavery and human trafficking risks and human rights due diligence steps in operations and supply chain.

— Reporting company policies on modern slavery and human rights.

— Involvement of senior management in publishing a report.

— Inclusion of a statement on website homepage.

Sustainable Finance and Environmental, Social and Governance (ESG) Disclosure

Sustainability investment standards are also driving climate conscious ESG disclosure requirements. In recent years, efforts to hold investors and financial market actors accountable for disclosing how ESG considerations have been integrated into investment decisions is being doubled by countries and government bodies. This proliferation of ESG and sustainable finance standards has been driven by key developments, including the Paris Agreement in 2016. The aim is to make decisions around ESG investment more transparent. The EU Sustainable Finance

Disclosure Regulation, the proposed EU Corporate Sustainability Reporting Directive and the Green Taxonomy are examples of sustainability standards leading the move towards increased transparency on ESG issues. They are focused on pushing investment managers to assess the sustainability-related risks of their investment and designed to influence a broader approach to climate mitigation and adaptation, as well as the restoration of biodiversity sustainability in investment decisions. The disclosure standards require the following from investment management:

— Publish information on their websites disclosing the integration of sustainability risks in their investment decisions.

— Publish statements relating to any adverse impacts of investment decisions and how they were considered. Where not considered, a statement explaining why.

With the growing focus on social and environmental impact investing, mining companies will also face pressure from investors to disclose the sustainability risks related to the operations and supply chains of funded projects.

Mandatory HRDD requirements

Mandatory HRDD legislation goes beyond disclosure to impose legally binding obligations on companies to undertake HRDD in their operations and supply chains. Non-compliance with the provisions of these laws, as detailed in Table 2, may present a legal risk for companies. This is not legal advice. Companies should seek their own legal advice. France, Germany, the Netherlands, and Norway now require companies to actively identify, prevent, mitigate, and redress human rights impacts in their operations and business relationships. Other countries are proposing mandatory HRDD laws and countries with reporting legislation in place are considering further revisions.

To get ahead of the emerging mandatory HRDD obligations, companies need to understand the trends in the current and expected laws in order to adapt their systems to meet changing obligations.

Figure 2: Mandatory HRDD requirements of companies:

Scope	Companies are required to look beyond modern slavery to broader human rights and environmental issues.
Approach	Companies are required to move away from reactive approaches by pro-actively identifying human rights risks in operations and supply chains.
Implementation	Companies are required to develop and implement an action plan to prevent, mitigate and address human rights risks in operations and supply chain.
Resourcing	Companies are required to create human rights dedicated roles and systems to implement HRDD action plans.
Pre-qualification	Companies are required to integrate human rights policies into contracts agreements with suppliers.
Monitoring	Companies are required to establish a monitoring system to track the effectiveness of measures taken.
Remedy	Companies are required to provide remedy and compensation for adverse human rights impacts.
Public information	Companies are required to provide information, on request, to anyone with legitimate interest on the due diligence measures.
Stakeholder consultation	Companies are required to integrate stakeholder consultation in the HRDD process.
Non-compliance	Companies will be required to pay a financial penalty (and in some cases be criminally liable) for non-compliance

With the direction HRDD is headed, companies will face increasing human rights legislation with greater accountability and legal risks in the event of non-compliance. The EU has already proposed a Corporate Due Diligence and Accountability Directive with (HRDD) provisions that would apply to EU companies. The working group established by the UN Human Rights Council to elaborate a treaty to regulate business and human rights at an international level has concluded negotiations over the third revised draft of the proposed binding instrument. If passed, state parties to the instrument will be required to draft HRDD laws obliging companies to conduct and demonstrate due diligence.

In order to stay ahead of the trend, companies are encouraged to familiarise themselves with this regulatory shift and start to improve their systems to adapt to the change.

Table 1 – Key pieces of disclosure legislation

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
California Transparency in Supply Chain Act, 2010	In force	Modern slavery and human trafficking	Companies registered in California with a gross annual revenue exceeding $100,000	Publish a statement annually disclosing the efforts of the company in eradicating modern slavery within their supply chain.	The statement must include efforts by the company to: — Evaluate and address risks of modern slavery and human trafficking. — Conduct audits of suppliers to evaluate compliance with modern slavery and trafficking standards (specifying whether it was a third party unannounced audit) — Require direct suppliers to certify that materials incorporated into products comply with modern slavery and human trafficking laws — Maintain internal accountability standards related to modern slavery and human trafficking — Train management and employees — Include statement on the website with link in homepage.	The California Attorney General may seek an injunction requiring compliance with the reporting requirements. Does not include fines or remedies
UK Modern Slavery Act, 2015	In force – Revisions proposed	Modern slavery and human trafficking	Companies conducting business in the UK with an annual turnover of £36m or more	Publish a statement annually on the steps the company has taken in a financial year to ensure that slavery and human trafficking is not occurring in its supply chains or in its own operation. In the absence of that, a statement that the company has not taken any steps.	The published statement which may include the following relating to modern slavery and human trafficking: — Its policies — Due diligence processes in operations and supply chains — Other parts of operations with risks of slavery and human rights trafficking — Effectiveness measured by performance indicators — Training — The statement must be approved by the board of directors (or equivalent) and signed by a director (or equivalent) — Include statement on the website with link in homepage	The secretary of state can seek injunction requiring compliance in cases of non-compliance.

Table 1 – Key pieces of disclosure legislation *Continued*

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
Australian Modern Slavery Act, 2018	In force – Revisions proposed	Modern slavery	Companies domiciled or operating in Australia with a consolidated annual revenue of at least $100 million	Publish a statement annually outlining the risks of modern slavery in its operations and supply chain and the steps taken by the company to address this.	The published statement must include: — The risks of modern slavery in the operations and supply chain of the company — The actions taken by the company and any other entity that the company owns or controls to assess and address the risks — The effectiveness of the actions taken — The structure, operations and supply chains of the company — The process of consultation with any entity that the company owns or controls or is issuing a joint modern slavery statement with.	The minister can require a company that has failed to comply to do so and then publish a statement on the register about a company's failure to submit a statement, where to company fails to comply.
Canadian Modern Slavery Act	Proposed	Modern slavery	Companies domiciled or operating in Canada with at least, $20 million in assets, $40 million generated annual revenue and 250 employees.	Publish a statement on the steps that have been taken to prevent and mitigate forced or child labour in operations and supply chain.	The report must include: — The structure, activities and supply chains of the company — It's policies, and due diligence processes — The risks in its operation and supply chains and the steps that has been taken to prevent, mitigate and address the risks — Training provided to employees — The systems in place for monitoring the effectiveness of measures implemented to prevent, mitigate and address human rights risks in operations and supply chains.	Non-compliance is an offence with a fine of up to $250,000

Table 2 – Key pieces of mandatory HRDD legislation

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
French Duty of Vigilance Law (Loi de Vigilance) 2017	In force	Human rights, labour rights and environment	French-based companies employing 5000 employees in France, or 10,000 employees in global subsidiaries	Establish, implement and publish a "Vigilance Plan" which establishes measures to effectively identify risks and prevent serious violations of human rights and environmental damage from a company's operation, subsidiaries or supply chains.	— The vigilance plan must establish effectiveness measures to Identify, assess and rank risks. — Design procedures to assess subsidiary and supply chain risks. — Take appropriate actions to mitigate and prevent risks. — Develop an alert mechanism to collect existing and actual risks. — Install a monitoring scheme to track the effectiveness of the actions taken. — Stakeholder consultation in drafting the vigilance plan.	Where a company fails to comply within three months after receiving a notice to comply, it can be urged by the enforcing authority to comply following a request by any person with legitimate interest. Civil claims can be filed by anyone with legitimate interest
Dutch Child Labour Due Diligence Act 2021	In force	Child labour	Companies that sell and/or supply goods or services to Dutch customers (with no exemption with regards to size, turnover or domiciliary status)	Undertake HRDD to prevent the use of child labour in its products and services supply chain.	Companies are required to: — Investigate their supply chains for adverse child labour impacts. — Following such investigation, to draft and implement a plan of action where there is a reasonable suspicion of child labour in its supply chains. — Publish a statement declaring that the company has undertaken HRDD.	Financial penalty for non-compliance Criminal sanctions against directors in case of repeat offences

Table 2 – Key pieces of mandatory HRDD legislation *Continued*

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
German Supply Chain Due Diligence Act 2021	In force	Human rights, labour rights, and environment	Companies domiciled in Germany with at least 3,000 employees (a minimum of 1,000 employees in 2024) and foreign registered branches in Germany of the same size	Undertake HRDD measures to identify, assess, prevent, and remedy human rights risks and environmental impacts in their operations and supply chains	Companies are required to: — Implement a human rights risks management system. — Establish internal human rights dedicated resources. — Conduct regular human rights risks assessment. — Establish a complaints procedure. — Document HRDD steps — Report on HRDD steps and outcome — Make a policy commitment to respect human rights and environmental rights in operations and supply chains. — Implement preventive measures in operations and supply chains. — Monitor effectiveness of preventive measures. — Provide remedy in cases of human rights impacts. — Monitor effectiveness of remedial measures.	Financial penalty of up to €800,000, against natural persons, €8m against entities or up to 2% of their average annual global turnover. Exclusion from public tenders for up to 3 years
Uyghur (US) Forced Labour Prevention Act 2021	In force	Forced labour	Companies importing goods sourced, mined, produced, or manufactured from Xinjiang Uyghur Autonomous Region (XUAR) of China	Rebut the presumption that goods or materials imported into the United States are sourced, mined, produced, or manufactured using forced labour.	Companies must demonstrate: — Full compliance with the Forced Labour Enforcement Task Forces guidance and corresponding regulations. — Substantively respond to all US Customs and Border Protection inquiries regarding the goods. — Establish by clear and convincing evidence that the goods were not mined, produced, or manufactured using forced labour.	The enforcing authority can seize or detain goods Payment of a monetary penalty

Table 2 – Key pieces of mandatory HRDD legislation *Continued*

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
Swiss Conflict Minerals and Child Labour Due Diligence Legislation 2022	In force	Child labour and conflict minerals	Companies domiciled in Switzerland including Swiss subsidiaries of foreign-based multinationals with more than 500 employees and an annual turnover of CHF 40m importing or processing 3TG minerals or metals	Conduct risk-based HRDD with regards to child labour and/or conflict minerals.	In conducting a HRDD, a company must do the following: — Comply with due diligence obligation in its supply chains. — Publish information updating its suppliers and the public on its supply chain policy. — Integrate supply chain policy into contracts and agreements with suppliers. — Report on child labour concerns in supply chains. — Conduct HRDD in supply chains. — Adopt a management plan to avoid or mitigate adverse impacts. — Establish a traceability system in supply chains (including the name of suppliers, country of origin and volume of product). — Establish a grievance mechanism. — Publish an annual HRDD report.	Criminal sanction of up to CHF 100,000
Norwegian Transparency Act 2022	In force	Human rights and labour rights	Companies domiciled in Norway and foreign companies operating in Norway with at least 50 full-time employees and an annual turnover of NOK 35m	Conduct HRDD in their operations and supply chains	Human rights due diligence expected of companies includes: — Establish human rights and supply chain policies. — Regularly assess actual and potential human rights impacts in its operations and supply chains. — Implement mitigation measures. — Track the effectiveness of actions taken. — Provide remedy and compensation for adverse human rights impacts. — Publish annual reports disclosing the due diligence performance of the company. Companies are also expected to ensure access to information where any person with legitimate interest request information on how a company addresses actual and potential adverse impacts that have been identified through the due diligence assessment.	Financial penalty of up to 4% of company's annual turnover or NOK 25m

Table 2 – Key pieces of mandatory HRDD legislation *Continued*

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
Austrian motion on Supply Chain Act, introduced in 2021	Proposed	Human rights, labour rights and the environment	Companies domiciled and operating in Austria	Conduct due diligence in operations and supply chains	Companies would be required to: — Carry out due diligence annually — Publish a statement on the due diligence process — Conduct risks analysis — Monitor the measures implemented to prevent, mitigate and address human rights risks in operations and supply chains — Set up an early warning system appropriate to the size of the company	Victims of harms that could have been prevented with HRDD have access to institute cases in courts
Belgium Duty of Vigilance Law, introduced in 2021	Proposed	Human rights, labour rights and the environment	Companies domiciled and operating in Belgium with 250 employees and annual £50 million turnover	Establish and effectively implement a vigilance plan to prevent and mitigate social and environmental risks in supply chains	Companies would be required to: — Establish and implement a vigilance plan which should include a description of value chain, the risks and the measures for assessing the risks in operations and supply chains. — Design an action plan to mitigate and prevent impact in operations and supply chains — Develop an alert mechanism to flag risks — Create a complaint and remediation mechanism — Establish a monitoring system to track the effectiveness of measures adopted	Where harm is alleged, companies must prove that they conducted due diligence
Canadian Bill C-262 Corporate Responsibility to Protect Human Rights, introduced in 2022	Proposed	Human rights, labour rights, and the environment	Companies domiciled and operating in Canada	Conduct due diligence and publicly report on the steps taken to prevent human rights and environmental harms	Companies would be required to: — Identify actual and potential human rights and environmental impacts in their operations and supply chains. — Take steps to prevent, mitigate and address the impacts. — Provide remedy to affected persons	Possibility of legal action against non-compliant companies

Table 2 – Key pieces of mandatory HRDD legislation *Continued*

Legislation	Status	Issue area	Target companies	Requirement	Particulars	Consequence of non-compliance
Spa Law on the Protection of Human Rights, Sustainability and Due diligence in Transnational Business Activities, included in Plan Normative 2022	Proposed	Human rights, labour rights and environment	Companies domiciled and operating in Spain	Undertake due diligence in their value chain	Companies would be required to: — Develop a due diligence plan to prevent, mitigate and remediate human rights risks in operations and supply chains	Possibility of sanctions for non-compliance

Brazilian Bill 572, National Framework on Business and Human Rights introduced 2022	Proposed	Human rights, including social, labour and environmental rights	Companies domiciled or operating in Brazil	Conduct HRDD to prevent, identify, monitor and remedy human rights impacts	HRDD of companies would include:
					
					— Prior and free consultation of Indigenous Peoples and communities potentially affected by business activities
					
					— Ongoing due diligence recognising the change in business operations and supply chains
					
					— Bi-annual report that should demonstrate the following:
					
					  - A risks assessment of proposed business activities, the potential human rights impacts and action plan on preventive measures
					  - Actual impacts caused, contributed or directly linked to the company's ongoing projects
					  - A policy commitment to respect human rights
					  - Dedicated resources for implementing action plans
					  - A risks assessment of supply chains human rights risks
					  - Creation of a reparation fund to cover the needs of affected persons until full reparation for damages
						Where a company fails to comply, an embargo could be placed on the company's operation in Brazil
						
						Possible liability of company directors and the company

Table 3 – Key international and regional HRDD instruments

Framework	Status	Issue area	Target companies	Guidance	Particulars

UN Guiding Principles on Business and Human Rights 2011	In force	Human rights	Applies to all companies with no exception	Undertake ongoing HRDD in their operations and supply chain	Companies are advised to:
					— Make a policy commitment to respect human rights.
					— Carry out HRDD which involves:
					  - Identifying and assessing human rights risks in their operations and supply chains
					  - Integrating findings into internal functions and processes
					  - Tracking the effectiveness of measures taken
					  - Reporting on human rights performance
					  - Provide access to remedy

The OECD Guidelines for Multinational Enterprises, 2011	In force	Human rights	Multinational enterprises operating in or from OECD countries	Undertake ongoing HRDD in their operations and supply chain	Companies are advised to:
					— Make a policy commitment to respect human rights
					— Conduct human rights due diligence which involves:
					  - Identifying and assessing human rights risks in their operations and supply chain
					  - Integrating findings into internal functions and processes
					  - Tracking the effectiveness of measures taken
					  - Reporting on human rights performance
					  - Provide access to remedy

OECD Due Diligence Guidance for Responsible Supply Chain of Minerals from Conflict-Affected Areas, 2016	In force	Human rights in conflict affected areas	Upstream and downstream companies sourcing minerals and metals from conflict-affected and high risks areas	Undertake HRDD to avoid contributing to conflict and respect human rights	It provides detailed due diligence steps that can be adopted by upstream and downstream companies based on their level in the supply chain and the minerals they source. The steps includes: — Establish strong company management systems — Identify and assess risk in the supply chain — Design and implement a strategy to respond to identified risks — Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain — Report on supply chain due diligence.

Table 3 – Key international and regional HRDD instruments *Continued*

Framework	Status	Issue area	Target companies	Guidance	Particulars
The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE declaration), 2017	In force	Just and fair working conditions	All enterprises including multinational enterprises	Carry out HRDD	— Identify, prevent, mitigate and account for how they address actual and potential human rights in their operations and business relationships including global supply chains.
EU regulation on Conflict Minerals, 2021	In force	Conflict minerals	EU-based importers of tin, tantalum, tungsten, and gold	Conduct HRDD in operations and supply chains	Adopt the following steps: — Establish strong company management systems — Identify and assess risks in the supply chain — Design and implement a strategy to respond to identified risks — Carry out an independent third-party audit of supply chain due diligence; and — Report annually on supply chain due diligence.

Table 3 – Key international and regional HRDD instruments *Continued*

Framework	Status	Issue area	Target companies	Guidance	Particulars
European Commission's Directive on Corporate Sustainability Due Diligence 2023	Proposed	Human rights and environment	Group 1 companies – all EU limited liability companies with at least 500 employees and €150 million in net annual turnover worldwide Group 2 companies – Other limited liability companies operating in defined high impact sectors, which do not meet both Group 1 thresholds, but have more than 250 employees and a net turnover of EUR 40 million worldwide and more. For these companies, rules will start to apply 2 years later than for group 1. Non-EU companies active in the European Union that meet the criteria for group 1 or 2 above	Conduct human rights and environmental due diligence	Companies are required to do the following: — Establish policies that reflect due diligence strategy — Identify actual and potential human rights and environmental impacts — Prevent and mitigate human impacts — Maintain a complaints mechanism — Monitor the effectiveness of due diligence measures — Publicly report due diligence performance — Develop and implement a human rights due diligence action plan — Integrate due diligence expectations in contractual agreements — Provide support for smaller companies that the company has a business relationship with to ensure compliance — Adopt a business model compatible with the transition to sustainable economy — Directors will be responsible for overseeing the implementation of the due diligence action plan.
Binding Treaty	Proposed	Human rights	State Parties would be obligated to draft HRDD laws to apply to businesses in the state	Conduct HRDD	— Identify and assess human rights risks — Take steps to avoid, prevent and mitigate risks — Monitor the effectiveness of measures adopted — Communicate risks and performance to stakeholders.

Supporting Resource: Equivalency Benchmark

ICMM Human Rights Due Diligence Guidance

Equivalency Benchmark

ICMM's Mining Principles are aligned to other responsible mining initiatives through a shared objective of improving environmental, social and governance practices at the operational level.

Most schemes are broadly similar in their treatment of human rights issues and follow UN Guiding Principles on Business and Human Rights (UNGPs).

ICMM's Mining Principles and associated Performance Expectations are generally well aligned with other industry frameworks in this regard, though there are minor points of difference. This may pose a challenge for member companies, investors, or other interested parties who want to gauge how different standards and initiatives compare. This resource provides a quick reference guide to indicate how different schemes compare to ICMM Mining Principles which are particularly relevant to human rights.

ICMM has done equivalency benchmarking with some key industry standards. The summary table below identifies those ICMM Performance Expectations which are particularly relevant to Human Rights Due Diligence (HRDD) and indicates the extent to which other standards (for which ICMM has done equivalency benchmarking) meet or exceed ICMM Performance Expectations. For details on each of the benchmarks, please refer to the full reports on the ICMM website.

Overall, ICMM Performance Expectations are well aligned with other standards and initiatives and meet or exceed requirements relating to human rights, aside from a few key areas.

It should be noted that Performance Expectation 3.9 is a new expectation introduced in June 2022, after the benchmarks with some of the standards had been conducted which explains why the expectation appears below as "not assessed" for most standards.

Table showing relevant ICMM Performance Expectations against key industry standards

ICMM Performance Expectation	Aluminium Stewardship Initiative Equivalency rating	The Responsible Gold Mining Principles Equivalency rating	Risk Readiness Assessment Equivalency rating	Responsible Jewellery Council Code of Practice Equivalency Rating	Towards Sustainable Mining Equivalency Rating
1.2	Meets	Partially Meets	Exceeds	Exceeds	Does Not Meet
1.4	Meets	Meets	Not Applicable	Meets	Does Not Meet
1.5	Meets	Meets	Does not Meet	Does Not Meet	Does Not Meet
2.1	Meets	Partially Meets	Does not Meet	Does Not Meet	Does Not Meet
2.2	Meets	Exceeds	Meets	Meets	Partially Meets
3.1	Meets	Meets	Meets	Meets	Does Not Meet
3.2	Meets	Meets	Meets	Meets	Does Not Meet
3.3	Meets	Meets	Meets	Meets	Does Not Meet
3.4	Meets	Meets	Meets	Exceeds	Partially meets
3.5	Meets	Exceeds	Exceeds	Exceeds	Does Not Meet
3.6	Meets	Meets	Meets	Meets	Meets
3.7	Meets	Meets	Meets	Meets	Meets
3.8	Meets	Meets	Meets	Partially Meets	Does Not Meet
3.9*	Meets	Not Assessed	Not Assessed	Not Assessed	Not Assessed
4.2	Exceeds	Exceeds	Meets	Meets	Does not Meet
4.3	Meets	Meets	Meets	Meets	Partially Meets
9.1	Meets	Meets	Meets	Meets	Meets
9.2	Partially Meets	Meets	Meets	Partially Meets	Does Not Meet
9.3	Meets	Exceeds	Meets	Meets	Meets
9.4	Not Applicable	Exceeds	Meets	Exceeds	Does Not Meet
10.1	Meets	Meets	Not Applicable	Meets	Does Not Meet
10.4	Partially Meets	Meets	Does not Meet	Meets	Partially Meets
Total PE met:	17	14	14	13	4
Total PE Exceeded:	1	5	2	4	0
Total PE partially met:	3	2	0	2	4
Total PE not met:	0	0	3	2	13

*Performance Expectation 3.9 is a new expectation introduced in June 2022, after the benchmarks with some of the standards had been conducted.

Supporting Resource:
Glossary

ICMM Human Rights Due Diligence Guidance

Glossary of Key Terms

Term	Definition
Accessible	In reference to grievance mechanism or engagement processes, means being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.
Adverse Human Rights Impact	When an action removes or reduces the ability of an individual to enjoy his or her human rights.
Actual Human Rights Impact	An adverse impact that has already occurred or is occurring.
Affected Community	A community that is subject to potential risks or impacts from a project.
Affected Stakeholder(s)	An individual whose human rights have been or may be affected by a company's operations, products or services.
Area of Influence	The area within which a project may potentially directly and indirectly cause impacts. The area of direct impacts caused by mining-related activities includes the physical mine site footprint, areas adjacent to the project site that are affected by emissions and effluents, power transmission corridors, pipelines, borrow and disposal areas, and the area affected by associated facilities that, although not part of the project that is being assessed, would not have been constructed in the absence of the project. Areas indirectly affected by mining-related activities include the physical footprint of non-project activities in the surrounding area that are caused or stimulated by the project plus the area affected by their emissions and effluents.
Artisanal and Small-Scale Mining (ASM)	Formal or informal operations with predominantly simplified forms of exploration, extraction, processing and transportation. ASM is normally low capital intensive and uses high labour intensive technology. ASM can include men and women working on an individual basis as well as those working in family groups, in partnership or as members of cooperatives or other types of legal associations and enterprises involving hundreds or thousands of miners. For example, it is common for work groups of 4-10 individuals, sometimes in family units, to share tasks at one single point of mineral extraction (e.g. excavating one tunnel). At the organisational level, groups of 30-300 miners are common, extracting jointly one mineral deposit (e.g. working in different tunnels), and sometimes sharing processing facilities.
Broad Community Support (BCS)	A collective expression by the community in support of the mining project. Support may be demonstrated through credible (i.e., transparent, inclusive, informed, democratic) local government processes or other processes/methods agreed to by the community and company. There may be BCS even if some individuals or groups object to the business activity.

Business Activities	Everything that a company does in the course of fulfilling the strategy, purpose, objectives and decisions of the business. This may include activities such as mergers and acquisitions, research and development, design, construction, production, distribution, purchasing, sales, provision of security, contracting, human resource activities, marketing, conduct of external/government relations including lobbying, engagement with stakeholders, relocation of communities, social investment and the activities of legal and financial functions, among others.
Business Partner	Entities with which a company has some form of direct and formal engagement for the purpose of meeting its business objectives. This includes but is not limited to contractual relationships. Examples include joint venture partners, vendors, franchisees or licensees, business customers, clients, governments, suppliers, contractors and consultants.
Business Relationships	Relationships which a business enterprise has with business partners, entities in a value chain, and any other non-state or state entity directly linked to its business operations, products or services. They include indirect business relationships in its value chain, beyond the first tier, and minority as well as majority shareholding positions in joint ventures.
Cause	Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact (UNGP 19 Commentary).
Child Labour	Work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.
Civil Society Organisations (CSOs)	Non-state, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the state and the market. CSOs represent a wide range of interests and ties. They can include community-based organizations as well as non-governmental organizations (NGOs). In the context of the UN Guiding Principles Reporting Framework, CSOs do not include business or for-profit associations.
Community grievance mechanism	A community grievance mechanism is a process for receiving, investigating, responding to and closing out complaints or grievances from affected communities in a timely, fair and consistent manner.
Community engagement	Community engagement is a specific aspect of stakeholder engagement that prioritises communities local to an asset as a key cohort of stakeholders, alongside other external stakeholders, such as government or civil society. Engaging with these communities shares information and builds relationships. It is, therefore, critical to effective social performance and an enabling mechanism for and the achievement of broader business objectives.
Community engagement specialists	Community engagement specialists are usually responsible for, or provide support to, planning and coordinating engagement activities on a day-to-day basis. An integrated approach to engagement requires internal alignment, and collaboration across the asset and company. Understanding the approach to and objectives sought from community engagement by other functions is critical for positive outcomes, especially by the function leading the engagement. For more information see ICMM Social Performance Tools (https://www.icmm.com/en-gb/guidance/social-performance/2022/tools-for-social-performance).
Commitment Log	Any commitments made publicly or locally by any function need to be logged and tracked on a commitment database. This includes verbal commitments, commitments contained within publicly disclosed documents, such as ESIAs, or regulatory requirements.

Conflict Analysis	The systematic study of the profile, issues and stakeholders that shape an existing or potential conflict, as well as factors in the interaction between the three. It helps companies gain a better understanding of the environment in which they operate and their role in that context.
Conflict-Affected and High-Risk Areas	Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of serious and widespread harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars. High-risk areas are those where there is a high risk of conflict or of widespread or serious abuses (see definition in this glossary). Such areas are often characterised by political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence and violations of national or international law.
Conflict Risk	Any conflicts that may emerge or be exacerbated because of a company's presence, activities or relationships; and the likelihood that such conflicts will occur. Conflicts may arise within or between communities and/or stakeholder groups, or between the company and communities/stakeholders.
Consultation	An exchange of information between a company and its stakeholders that provides an opportunity for stakeholders to raise concerns and comment on the impacts and merits of a proposal or activity before a decision is made. In principle the company should take into account the concerns and views expressed by stakeholders in the final decision.
Contractor	An individual, company, or other legal entity that carries out duties related to a mining project that are subject to a contractual agreement that defines, for example, work, duties or services, pay, hours or timing, duration of agreement, and that remains independent for employment, tax, and other regulatory purposes. This includes sub-contractors.
Contracted Workers	Workers engaged through third parties (for example contractors, brokers, agents, or intermediaries) who are performing work or providing services directly related to core business processes of the mining project for a substantial duration (i.e., employment other than on a casual or intermittent basis) who are geographically working at the project location. These workers may be engaged at any point during the mine life cycle (including prior to or during construction phase).
Contribute	Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (UNGP 19 Commentary).
Corporate Owner(s)	The corporation(s) or other business institution(s) including any private or state-run enterprises that have complete or partial financial interest in or ownership of a mining project.
Critical Cultural Heritage	Consists of: (i) the internationally recognised heritage of communities who use, or have used within living memory the cultural heritage for long-standing cultural purposes, (ii) legally protected cultural heritage areas, including those proposed by host governments for such designation; or (iii) natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees, and sacred rocks.

Critical Control	An action, object (engineered) or system (combination of action and object) put in place to prevent or reduce the likelihood of an unwanted event, or to minimise or mitigate the negative consequences if an unwanted event occurs, in particular for high-consequence risks.
CSR	Corporate social responsibility.
Cumulative Impacts	Additive, synergistic, interactive or nonlinear outcomes of multiple development or disturbance events that aggregate over time and space." Examples of cumulative impacts (or effects) may include: reduction of water flows in a watershed due to multiple withdrawals; increases in sediment loads to a watershed over time; interference with migratory routes or wildlife movement; or more traffic congestion and accidents due to increases in vehicular traffic on community roadways.
Direct/Indirect Impacts	Direct impacts are those caused by activities that are undertaken, and facilities that are owned and managed by the mining company. Indirect impacts are those that are caused or stimulated by the mining project's presence (e.g., impacts related to the influx of workers or others seeking economic opportunities due to the mine development).
Direct linkage	Where adverse impacts have occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations, products, or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation. (UNGP 22 Commentary). Providing remedy could still be considered, but is optional. A company is expected to use its leverage to prevent or mitigate the impact, however (UNGP 13).
Disclosure	All information released by a company for the purpose of informing shareholders or other stakeholders.
Displacement	A process by which projects cause people to lose land or other assets, or access to resources. This may result in physical dislocation, loss of income, or other adverse impacts.
Economic Displacement	The loss of assets or access to assets that leads to a loss of income sources or other means of livelihood (i.e., the full range of means that individuals, families, and communities utilise to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering). Economic displacement results from an action that interrupts or eliminates people's access to jobs or productive assets, whether or not the affected persons must move to another location.
Ecosystem	A dynamic complex of plant, animal and micro-organism communities, and their non-living environment, interacting as a functional unit.

Ecosystem Services	The benefits people obtain from ecosystems. These include provisioning services such as food, water, timber, and fibre; regulating services that affect climate, floods, disease, wastes, and water quality; cultural services that provide recreational, aesthetic, and spiritual benefits; and supporting services such as soil formation, photosynthesis, and nutrient cycling.
Embedding respect of Human Rights	The macro-level process of ensuring that a company's responsibility to respect human rights is driven across the organisation, into its business values and culture. It requires that all personnel are aware of the company's public commitment to respect human rights, understand its implications for how they conduct their work, are trained, empowered and incentivised to act in ways that support the commitment, and regard it as intrinsic to the core values of the workplace. Embedding is one continual process, generally driven from the top of the company.
Equitable	In reference to grievance mechanism, equitable means seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.
ESHIA	Environmental, social and health impact assessment.
Forced Eviction	The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.
Forced Labour	Any work or service not voluntarily performed that is exacted or coerced from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements required to pay off a debt; or slavery or slavery-like practices. It also includes requirements of excessive monetary deposits, excessive limitations on freedom of movement, excessive notice periods, substantial or inappropriate fines, and loss or delay of wages that prevent workers from voluntarily ending employment within their legal rights.
Free, Prior and Informed Consent (FPIC)	FPIC comprises a process, and an outcome: engagement that is free from external manipulation, coercion and intimidation; notification, sufficiently in advance to the commencement of any activities, that consent will be sought; full disclosure of information regarding all aspects of a proposed project or activity in a manner that is accessible and understandable to the people whose consent is being sought; acknowledgment that the people whose consent is being sought can approve or reject a project or activity and that the entities seeking consent will abide by the decision.
Free, Prior and Informed Consent (FPIC) Scoping	Identification of the Indigenous Peoples that need to be involved in an FPIC process, and an evaluation of the information and capacity needs that must be addressed in order for Indigenous Peoples to make a free, prior and informed consent decision.
Grievance	A perceived injustice evoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.

Grievance Mechanism	Any routinised, state-based or non-state-based, judicial or non-judicial process through which mining-project-related complaints or grievances, including business-related human rights abuses stakeholder complaints, and/or labour grievances, can be raised and remedy can be sought.
Hazard (in relation to the workplace)	A potential source of harm or adverse health effect on something or someone under certain conditions at work.
Hazardous Work (in relation to child labor)	Work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
Health Surveillance	Procedures and investigations to assess workers' health in order to detect and identify an abnormality. The results of surveillance should be used to protect and promote health of the individual, collective health at the workplace, and the health of exposed working population. Health assessment procedures may include, but are not limited to, medical examinations, biological monitoring, radiological examinations, questionnaires or a review of health records.
Host Country Law	May also be referred to as national law, if such a phrase is used in reference to the laws of the country in which the mining project is located. Host country law includes all applicable requirements, including but not limited to laws, rules regulations, and permit requirements, from any governmental or regulatory entity, including but not limited to applicable requirements at the federal/ national, state, provincial, county or town/ municipal levels, or their equivalents in the country where the mine is located. The primacy of host country laws, such as federal versus provincial, is determined by the laws of the host country.
Human Rights	Basic international standards aimed at securing dignity and equality for all. Every human being is entitled to enjoy them without discrimination. They include the rights contained in the International Bill of Human Rights (that is to say the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights) as well as the principles concerning fundamental rights set out in the International Labour Organisation's Declaration on Fundamental Principles and the Rights at Work.
Human Rights Defenders	Any person or group of persons working to promote human rights and contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals. Defenders can be of any gender, of varying ages, from any part of the world and from all sorts of professional or other backgrounds, i.e., not only found within NGOs and intergovernmental organisations but might also, in some instances, be government officials, civil servants or members of the private sector and individuals working within their local communities.
Human Rights Due Diligence	An ongoing risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. HRDD includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.
Human Rights Performance	The extent to which a company achieves the objective of effectively preventing and addressing negative human rights impacts with which it may be or has been involved.
Human Rights Risks	Human rights risks are understood to be the business enterprise's potential adverse human rights impacts. (May also be referred to as potential human rights impacts).

Inclusive	In the context of stakeholder engagement, inclusive means that engagement includes men, women, the elderly, youth, displaced persons, vulnerable and disadvantaged persons or groups.
Indigenous Peoples	Indigenous Peoples – also known as First Peoples, Aboriginal Peoples or Native Peoples – are those who self-identify as Indigenous Peoples and often have a historical link with those who inhabited a country or region at the time when people of different cultures or ethnic origins arrived. They have a strong link to the land and surrounding natural resources and are resolved to maintain and develop their ancestral environments and systems as distinct peoples. Indigenous Peoples have distinct social, economic and political systems, language, culture and beliefs. They share a common experience of oppression and marginalisation by the state. Indigenous Peoples have specific rights over land or natural resources, as defined in Article 1 of the International Labour Organization's Indigenous and Tribal Peoples Convention (ILO 169). To respect these rights, there are more stringent requirements related to engaging Indigenous People, which often means using forms of engagement that give greater decision-making authority to representatives of these communities, including Free, Prior and Informed Consent (FPIC). (See ICMM, Indigenous Peoples and Mining: Position Statement – https://www.icmm.com/en-gb/about-us/member-requirements/position-statements/indigenous-peoples and ICMM Social Performance Tools for more information).
Inform	The provision of information to inform stakeholders of a proposal, activity or decision. The information provided may be designed to help stakeholders in understanding an issue, alternatives, solutions or the decision-making process. Information flows are one-way. Information can flow either from the company to stakeholders or vice versa.
Intangible Cultural Heritage	Knowledge, innovations and/or practices, including oral expressions of folklore, performing arts, rituals, festivals, that are inherited from past generations, maintained in the present and bestowed for the benefit of future generations.
Integrated Risk Management	This pre-empts and defines the behaviours, organisational pressures, aspects of the business and system implications that cause risk to the business, individuals and communities. This combines international good practices with the ability to create and implement practical tools and techniques. Proactively identifies and addresses the behaviours that detract from effective management of risk.

Involuntary Resettlement	Resettlement & Land Acquisition is sometimes initiated by a new project or initiative (such as, mine expansion, exploration, tailings management or biodiversity offsets). Land acquisition results in the physical or economic displacement of communities. In these cases, the asset should take a more collaborative approach to resettlement planning, implementation and monitoring. Capacity building should be provided to communities to ensure they are able to fairly participate in negotiation and decision-making. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. (See ICMM Land Acquisition and resettlement: Lessons learned for more information: https://www.icmm.com/website/publications/pdfs/social-performance/2015/guidance_land-acquisition-and-resettlement.pdf)
Legitimate	In reference to grievance mechanism, this means enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.
Leverage	Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes or contributes to a harm (UNGP 19 Commentary). Leverage is an advantage that gives power to influence. In the context of the Guiding Principles, it refers to the ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.
Linkage	The UNGPs discuss three separate concepts – cause, contribute, and directly linked – to define a company's connection to a negative impact and subsequent duty to provide a remedy. Companies are expected to conduct ongoing HRDD to identify, prevent, mitigate, and account for actual and potential human rights impacts they may be causing, contributing to, or directly linked to.
Livelihood	The full range of means that individuals, families, and communities utilise to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.
Livelihood Restoration Plan	A plan that establishes the entitlements (e.g., compensation, other assistance) of affected persons and/or communities who are economically displaced, in order to provide them with adequate opportunity to re-establish their livelihoods.
Living Wage	Remuneration received for a standard work week by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.
Managing Social Impacts	Ensures appropriate management of social impacts and makes effective use of resources to add value to both the operation and local communities. Ensures consideration of social impacts from a holistic perspective, including human rights and cumulative impacts.
Materiality	A human rights lens is more concerned with salience than materiality. Materiality defines the significance of a particular issue on the basis of a specific set of stakeholders and their objectives. While materiality relates to perceived priorities, salience relates to the risk of the most severe human rights impacts through a business' activities or relationships.

Mine Closure	A period of time when ore-extracting and processing activities of a mine have ceased, and final decommissioning and mine reclamation are occurring. It typically includes pre-closure (detailed closure design and planning), closure (actual activities of closure of mine workings and construction/decommissioning) and post-closure (mainly long-term reclamation, monitoring, and treatment) periods, each with its own specific activities.
Mining-Related Activities	Physical activities (e.g., land disturbance and clearing, road building, sampling, airborne surveys, facility construction, ore removal, ore processing, waste management, reclamation, etc.) carried out during any phase of the mine life cycle (planning, impact assessment, exploration, mine construction, mining, mine closure, post-closure).
Mitigation	Actions taken to reduce the likelihood of a certain adverse impact occurring. The mitigation of adverse human rights impacts refers to actions taken to reduce its extent, with any residual impact then requiring remediation.
Mitigation Hierarchy	The mitigation hierarchy is a set of prioritised steps to alleviate environmental or social harm as far as possible through avoidance, minimisation and restoration of adverse impacts. Compensation/off-setting are only considered to address residual impacts after appropriate avoidance, minimisation and restoration measures have been applied. The biodiversity mitigation hierarchy is as follows (but the steps can be applied for any environmental or social impacts): Avoidance: measures taken to avoid creating impacts from the outset, such as careful spatial or temporal placement of elements of infrastructure, in order to completely avoid impacts on certain components of biodiversity. This results in a change to a 'business as usual' approach. Minimisation: measures taken to reduce the duration, intensity and/or extent of impacts that cannot be completely avoided, as far as is practically feasible. Restoration: measures taken to assist the recovery of eco-systems that have been degraded, damaged or destroyed. Involves altering an area in such a way as to re-establish an ecosystem's composition, structure and function, usually bringing it back to its original (pre-disturbance) state or to a healthy state close to the original. Offset: measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse impacts on biodiversity arising from project development after appropriate prevention and mitigation actions have been taken. The goal of biodiversity offsets is no net loss or a net gain of biodiversity on the ground with respect to species composition, habitat structure, ecosystem function and people's use and cultural values associated with biodiversity.
Negative Impact on Human Rights	A negative human rights impact occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.
Operating Context	A location in which a company carries out business activities. It may refer to a country, region within a country or a local area.
Operational-Level Grievance Mechanism	An operational- or project-level grievance mechanism is a formalised means through which individuals or groups can raise concerns about the impact an enterprise has on them – including, but not exclusively, on their human rights – and can seek remedy.

Post-Closure	The period after the reclamation surety holder declares the activities required by the reclamation and closure plan are complete. Any significant objections raised during the public comment period on the final release of the financial surety have been resolved; and the reclamation surety has been returned to the operator, or it has been converted to a post-closure trust fund or equivalent (e.g., if there is a need to fund long-term management and monitoring of the site). This phase continues until final sign-off and relinquishment can be obtained from the regulator and stakeholders.
Potential Human Rights Impact	An adverse impact on human rights that may occur but has not yet done so. (May also be referred to as human rights risk).
Practicable	Practicable means giving equal weight to environmental, social, and economic benefits and costs. This is not a technical definition. It is the discussion between the affected parties on the balance between these interrelated costs and benefits that is important.
Predictable	In reference to grievance mechanism, this means providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.
Prevention	The prevention of a negative human rights impact refers to actions taken to ensure the impact does not occur.
Public Commitment to Respect Human Rights	A high-level and widely available statement by a company that sets out its intention to respect human rights with the expectation of being accountable for achieving that aim.
Remediation/ Remedy (including in relation to Human Rights Impacts)	Remediation and remedy refer to both the processes of providing remedy for an adverse (human rights) impact and the substantive outcomes that can counteract, or make good, the adverse impact. These outcomes may take a range of forms, such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of further harm through, for example, injunctions or guarantees of non repetition.
Remedy	Refers to the process of providing remedy for a negative human rights impact and the substantive outcomes that can make good the negative impact. These outcomes may take a range of forms such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative), as well as prevention of the harm through, for example, injunctions or guarantees of non-repetition.
Remedy for Harms "Caused or Contributed"	Remedy for harms "caused or contributed": Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes (UNGP 22). Remediation and remedy refer to both the processes of providing remedy for an adverse human rights impact and the substantive outcomes that can counteract, or make good, the adverse impact. These outcomes may take a range of forms, such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.

Replicable Cultural Heritage	Tangible forms of cultural heritage that can themselves be moved to another location or that can be replaced by a similar structure or natural features to which the cultural values can be transferred by appropriate measures. Archeological or historical sites may be considered replicable where the particular eras and cultural values they represent are well represented byother sites and/or structures.
Resettlement Action Plan	A plan designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities). Such a plan is required when resettlement involves physical displacement of persons.
Residual Impacts	Project-related impacts that remain after on-site mitigation measures (avoidance, minimisation, restoration) have been applied.
Responsibility to Respect Human Rights	The responsibility of a company to avoid infringing on the human rights of others and to address negative impacts with which it may be involved, as set out in the UN Guiding Principles on Business and Human Rights.
Restoration	Measures taken to assist the recovery of ecosystems that have been degraded, damaged or destroyed. Involves altering an area in such a way as to re-establish an ecosystem's composition, structure and function, usually bringing it back to its original (pre-disturbance) state or to a healthy state close to the original.
Retrenchment	The elimination of a number of work positions or the dismissal or layoff of a number of workers by an employer, generally by reason of plant closing or for cost savings. Retrenchment does not cover isolated cases of termination of employment for cause or voluntary departure. Retrenchment is often a consequence of adverse economic circumstances or as a result of a reorganisation or restructuring.
Rightsholders	Rightsholders are individuals or social groups that have particular entitlements in relation to specific duty bearers (e.g., state or non-state actors that have a particular obligation or responsibility to respect, promote and realise human rights and abstain from human rights violations). In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights. In particular contexts, there are often specific social groups whose human rights are not fully realised, respected or protected.
Rights-Compatible	In reference to grievance mechanism, this means ensuring that outcomes and remedies accord with internationally recognised human rights.
Risk Control	An action, object (engineered) or system (combination of action and object) put in place to prevent or reduce the likelihood of an unwanted event, or to minimise or mitigate the negative consequences if an unwanted event occurs.
Salience	In the context of human rights, salience refers to those issues where there is risk of the most severe negative impact through a business' operations or relationships. An assessment into salience will consider how severe an impact would be, which includes the seriousness of the impact, the number of people affected, and how difficult it would be to remedy the resulting harm. Alongside severity, it should also consider what the likelihood is of the impact occurring. Salience considers the risk to people as its starting point rather than the risk to business, while recognising that the two are more often than not convergent.
Salient Human Rights	Those human rights that are at risk of the most severe negative impacts through a company's activities or business relationships. They therefore vary from company to company.

Serious Human Rights Abuses	i) Any forms of torture, cruel, inhuman and degrading treatment; ii) any forms of forced or compulsory labour, which mean work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily; iii) the worst forms of child labour (as per ILO Convention 182); iv) other gross human rights violations and abuses such as widespread sexual violence; v) war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.
Severe Human Rights Impact	A negative human rights impact that is severe by virtue of one or more of the following characteristics: its scale, scope or irremediability. Scale means the gravity of the impact on the human right(s). Scope means the number of individuals that are or could be affected. Irremediability means the ease or otherwise with which those impacted could be restored to their prior enjoyment of the right(s).
Social Performance	Social performance is the outcome of a company's engagement, activities and commitments that can directly and indirectly impact stakeholders or affect the quality of its relationships with them. Achieving effective social performance requires strong leadership, integrated management systems, and the capability and culture to identify, address and report social risks and impacts. The social performance function leads, organises, facilitates, and influences these outcomes, and consequently its role within and contribution to the company go beyond the activities and outputs of the social performance function.
Stakeholders	Persons or groups who are directly or indirectly affected by a project, such as rightsholders, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively.
Stakeholder Engagement	An ongoing process of interaction and dialogue between a company and its stakeholders that enables the company to hear, understand and respond to their interests and concerns, including through collaborative approaches. Stakeholder engagement is an essential component of social performance because it builds resilient relationships between companies and stakeholders. This engagement can involve a broad spectrum of activities, including sharing information, co-creating plans, agreeing on programmes, joint decision-making and collaborative performance monitoring. There are several forms of engagement and they differ depending on the level of involvement of communities in business decision-making processes, as follows: Inform – Consult – Involve – Collaborate – Empower (see ICMM Tools for Social Performance for a detailed explanation of engagement in its multiple forms).
Sustainability Report	A generic term for a company report that provides information about a company's performance on a number of sustainability dimensions such as economic, social, environmental and corporate governance issues, including human rights.
Systems Thinking	Ability to see and understand interconnections and interdependence between actors (stakeholders, relationships, etc) and domains (social, economic, environmental), across time (past, present to future) and scales (local to global) to reframe and address challenges and opportunities for business and societal progress. (See ICMM Social Performance Tools for more information, https://www.icmm.com/en-gb/guidance/social-performance/2022/tools-for-social-performance)

Tailings	The waste stream resulting from milling and mineral concentration processes that are applied to ground ore (i.e., washing, concentration, and/or treatment). Tailings are typically sand to clay-sized materials that are considered too low in mineral values to be treated further. They are usually discharged in slurry form to a final storage area commonly referred to as a tailings storage facility (TSF) or tailings management facility (TMF).
Tangible Cultural Heritage	A unique and often non-renewable resource that possesses cultural, scientific, spiritual, or religious value, and are considered worthy of preservation for the future. Includes moveable or immovable objects, sites, structures, groups of structures, natural features, or landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural value.
Traditional Knowledge	A cumulative body of knowledge, innovations practices and representations maintained and developed by peoples with extended histories of interaction with the natural environment.
Trafficking in Persons	The recruitment, transportation, transfer, harbouring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Women and children are particularly vulnerable to trafficking practices.
Transparent	In reference to grievance mechanism, means keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.
UNGPs	United Nations Guiding Principles on Business and Human Rights. A set of 31 principles that set out the respective roles of states and companies in ensuring that companies respect human rights in their business activities and through their business relationships. The Guiding Principles were endorsed by the UN Human Rights Council in 2011.
Value Chain	A company's value chain encompasses the activities that convert input into output by adding value. It includes entities with which it has a direct or indirect business relationship and which either (a) supply products or services that contribute to the company's own products or services or (b) receive products or services from the company.
Voluntary Resettlement	Voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail) that lead to the relocation of willing sellers.
Vulnerable Group	Vulnerable or marginalised people are individuals or groups who may be disproportionately adversely impacted by the company, may not be in a position to experience project benefits, or may experience challenges getting their opinions or concerns heard. Steps should be taken to ensure vulnerable or marginalised people are fairly represented in decision-making process and their views and concerns are listened to and responded to.

Worker	Workers include both directly employed workers that have contracts with the company and indirectly employed workers that regularly work at members' sites and that have employment contracts with a third party, such as a labour agent, labour provider or contractor/subcontractor.
Workforce	All individuals working for a company, including employees and contract workers.
Worker grievance mechanism	A procedure through which a grievance can be raised by a worker, assessed, investigated and responded to. It is also a framework through which workers can gain access to remedy for any adverse impacts or damage they have suffered as a result of business activities.
World Heritage Site	A site/property inscribed on the World Heritage List, which has outstanding universal value and meets the conditions of authenticity and integrity. The World Heritage property includes within its borders all of the attributes that are recognised as being of outstanding universal value.
Workers' Organisations	Typically called trade unions or labour unions, these organisations are voluntary associations of workers organised on a continuing basis for the purpose of maintaining and improving their terms of employment and workplace conditions.
Workers' Representatives	A worker chosen to facilitate communication with senior management on matters related to working conditions, occupational health and safety or other workers' concerns. This is undertaken by the recognised trade union(s) in unionised facilities and, elsewhere, by a worker elected by non-management personnel for that purpose.

Supporting Resource:
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ICMM Human Rights Due Diligence Guidance

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ICMM Health and Safety Performance Indicators (2021)	https://www.icmm.com/en-gb/guidance/health-safety/2021/performance-indicators
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ICMM stands for mining with principles.

We bring together a third of the global metals and mining industry, along with key partners to drive leadership, action and innovation for sustainable development, ultimately delivering a positive contribution to society.

Through collaboration, ICMM member companies set the standard for responsibly produced minerals and metals in a safe, just and sustainable world.

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