

# Addressing Security and Human Rights Challenges in Complex Environments

A Practical Toolkit



UPDATED EDITION 2022

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DCAF – the Geneva Centre for Security Sector Governance works globally to promote good security sector governance through security sector reform. DCAF's Business and Security Division works with companies, governments and communities to promote security, sustainable development and respect for human rights.

[www.dcaf.ch](http://www.dcaf.ch) | Chemin Eugène-Rigot 2E CH-1202, Geneva, Switzerland

## About the ICRC

The ICRC is an impartial, neutral and independent humanitarian organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

[www.icrc.org](http://www.icrc.org) | Avenue de la Paix 19 CH-1202, Geneva, Switzerland

## About the GCBHR

The Geneva Center for Business and Human Rights (GCBHR) is the first human rights center at a business school in Europe. The Center works with companies to identify business models that enable profits and principles to co-exist. The GCBHR offers companies a safe space to discuss pressing human rights challenges and train future leaders to develop and integrate human rights standards in their respective industry contexts.

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## Acknowledgements

DCAF, ICRC and GCBHR would like to express gratitude to a range of different individuals and organisations that have contributed to the redevelopment of the Toolkit. All the challenges and many of the good practices contained in this Toolkit have been identified through consultation with representatives from extractive companies (both at headquarters and at field level), private security companies, host and home governments, civil society organisations and other relevant actors. Sincere thanks to Nelleke van Amstel for her support in redeveloping the Toolkit. Many thanks also to CDA Collaborative Learning Projects for their excellent work on the development and review of Chapter 4 – Working with Communities.

The partners would like to acknowledge the generous support of the Swiss Federal Department of Foreign Affairs Peace and Human Rights Division in making this project possible.

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# What is this Toolkit?

This Toolkit is a practical handbook that brings together all relevant resources and good practices related to human rights compliant security practices, as well as tools and case studies that help translate the good practices to a particular operational context.

## Why use this Toolkit?

Security is an issue for all companies whether it relates to their field operations, supply chains, or contractors. Responsible security management is especially challenging in complex environments where governance is weak and companies face the task of managing overlapping and complex networks of stakeholders. Companies must address the rules, needs and expectations of host governments and communities as well as consider the roles, capacities and impacts of using public or private security. These challenges are compounded today by an evolving security landscape, marked by human rights impacts of major societal disruptions created by global challenges such as climate change and pandemics, as well as by a wide range of expectations from societal actors such as governments, civil society and investors.

An increasing number of regulatory regimes require companies to undertake security and human rights due diligence. Besides, there is a strong expectation that businesses do no harm and contribute to sustainable development in their operations and along their supply chains – with the security dimension being integral to building and maintaining the social license to operate.

Ineffective security management has significant impacts on the rights and development of communities and substantial consequences on the company's social license to operate. Implementing the human rights compliant security practices recommended in this Toolkit is not merely a good practice, but an absolute necessity.

## Sustainability, business and human rights: How does the Toolkit fit in?

The Toolkit makes the management of security and human rights-related risks easier and helps companies address increasing expectations with respect to sustainability as well as business and human rights.

Embedding responsible management of security and respect for human rights into company operations, business relationships and supply chains is a powerful way to drive implementation of the Sustainable Development Goals (SDGs), especially the vision of Goal 16: promoting peaceful and inclusive societies. Yet the relationship between the SDGs and businesses is mutual; by positioning security and human rights respect at the heart of decisions, companies can harness more market opportunities, manage risks more effectively, and maintain their social license to operate. The Toolkit therefore helps companies align their security management efforts with the goals of the SDGs.

Beyond the SDGs, the Toolkit helps companies address their responsibility to respect human rights and humanitarian law as set out by a number of international standards and frameworks as set out below.

## United Nations Guiding Principles on Business and Human Rights (UNGPs)

The UNGPs were unanimously endorsed by the United Nations Human Rights Council in 2011 and have established the authoritative international framework affirming the respective role of States and companies to ensure human rights protection. To this end, the UNGPs reaffirm the State duty to protect human rights and spell out the corporate responsibility to respect human rights. The UNGPs provide companies with a roadmap to meet this responsibility: by making a policy commitment to human rights, establishing a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights, and enable remediation of adverse human rights impacts.

The Toolkit helps companies meet their responsibilities under the UNGPs, supporting companies to harmonize the implementation of the UNGPs with other applicable international instruments where they reinforce each other. The Toolkit also indicates how certain fundamental requirements for human rights due diligence, such as human rights impact assessments and stakeholder mapping, can be used to develop human rights compliant security practices.

The Toolkit also supports heightened human rights due diligence for companies doing business in conflict affected regions. In line with the recommendations of the UN Working Group on Business and Human Rights, the Toolkit promotes a conflict-sensitive approach that supports companies to ensure their security arrangements do not exacerbate conflict dynamics.

National laws and regulations are also increasingly implementing the UNGPs and requiring human rights due diligence. States are required to enact and enforce such legislation as part of their obligations to prevent, investigate and provide effective remedies for victims of business-related abuses.

## The Voluntary Principles on Security and Human Rights (VPs)

The VPs were adopted in 2000, over a decade before the adoption of the UNGPs. The VPs set standards and good practices to help companies identify and mitigate security and human rights risks. The VPs continue to provide the most focused guidance for companies on how to implement responsible corporate security practices, which is at the heart of the UNGP's due diligence approach.

DCAF and the ICRC are longstanding, active Observers to the Voluntary Principles Initiative and developed this Toolkit in successful editions between 2014 and 2016 to provide a practical guide for companies to manage the security of their operations in line with the provisions of the VPs. The development and updating of this Toolkit has benefited from the continuous support of the Swiss government, as part of its own commitment as a government member of the Voluntary Principles Initiative to promote the implementation and respect for those principles. Although this Toolkit has been developed for all companies whatever the nature of their operations, supply chains, or contractors, it has direct relevance for stakeholders who seek to ensure that corporate security management is aligned with the provisions of the VPs.

## OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the OECD Guidance)

In sector-specific initiatives tackling resource extraction or other types of large foot-print operations, security is also increasingly recognised as a core part of heightened human rights due diligence requirements. In 2011, the Organisation for Economic Co-operation and Development (OECD) published its Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas to help companies respect human rights and avoid contributing to conflict through their mineral sourcing practices. The OECD Guidance cultivates transparent supply chains and sustainable corporate engagement in the mineral sector, enabling

countries to benefit from their mineral resources whilst preventing their extraction and trade from becoming a source of conflict, human rights abuses and insecurity. With respect to security and human rights risks, the OECD Guidance's Model Supply Chain Policy recommends that any company that may need to contract public or private security forces becomes a member of the Voluntary Principles to guide them in following best practice policies. To this end, the Toolkit also helps companies meet the due diligence framework of the OECD Guidance. In both artisanal and small-scale mining as well as large scale mining supply chains, the Toolkit responds to the growing pressure for companies to improve how security good practices are incorporated in various industry programmes and how these are verified, checked and reported on.

## International Humanitarian Law

This Toolkit also draws on international humanitarian law (IHL) and is particularly relevant for companies that operate in conflict affected and high-risk areas. IHL binds not only States, but also non-State actors as well as individuals – including managers and staff of companies – whose activities may have a connection to an armed conflict. For instance all entities, groups and individuals whose activities involve a direct participation in an armed conflict are required to respect IHL. The Toolkit integrates provisions of IHL and provides recommendations and examples of good practices to assist companies in managing the security of their operations in a way that respects this body of law.

## Who is this Toolkit for?

### Companies

This Toolkit has been written primarily with companies in mind. It can be helpful:

- **At both headquarters and company operational (field) levels:** The Toolkit can inform corporate policies and provide a checklist for due diligence processes. It can be used as a benchmark to understand where a company stands in implementing human rights compliant security practices. On a more practical level, the examples and good practices can inform specific problem-solving on the ground for security managers and field-level staff.
- **For a range of corporate functions:** Security and human rights issues should be addressed by a wide range of corporate functions including: security, government relations, community relations, sustainability or corporate social responsibility teams, compliance, legal, or business and human rights units where they increasingly exist.
- **For different types of companies:** The Toolkit is relevant for all kinds of companies in all kinds of industries, both large companies and SMEs, for multinationals operating abroad or national companies facing security and human rights issues.
- **In implementing the Voluntary Principles on Security and Human Rights (VPs):** The Toolkit provides comprehensive guidance to support implementation of the VPs. It is an essential tool for new Voluntary Principles Initiative member companies and should be used by existing members to benchmark their security practices against new requirements and emerging best practice.
- **For companies working in complex environments:** The Toolkit focuses predominantly on challenges that are more pronounced in complex operating environments – defined as countries or areas affected by armed conflict or presenting challenging social and economic circumstances where a “social license to operate” is essential to ensure business continuity.

## Governments

States bear the duty to protect the human rights of their citizens and play a critical role in promoting the responsible management of security around corporate operations. Different states play different roles in this dynamic; States host companies operating within their borders, but they are also home to company headquarters. Increasingly, governments enact laws and regulations that relate to company behavior outside of their territory, through operations or supply chains. Therefore, the commitment and active involvement of government actors is essential to address security and human rights challenges.

Many of the good practices in this Toolkit involve companies' engagement with governments, suggesting ways in which companies and government actors can work together to address those challenges. Both the chapters on "Working with host governments" and "Working with public security forces" are directly relevant to this. The Toolkit recommends that governments require companies to comply with standards on security and human rights. The Toolkit also suggests that companies coordinate and engage constructively with governments to improve respect for human rights and international humanitarian law in the management of corporate security at headquarter levels. Other good practices identify potential synergies that can be realised through bridging 'business and human rights' and broader security sector reform actors and approaches. The Toolkit provides governments with some ideas on how they can contribute to such efforts.

## Civil society and communities

Local and international civil society organisations are critical partners and/or advisers for companies. Civil society organisations are often trusted members of society with networks of contacts, and they are familiar with human rights, security and development issues. Civil society organisations often can provide companies with gateways to communicate directly with communities affected by their business operations. The good practices included in this Toolkit encourage companies to work with civil society organisations to address some of the security and human rights challenges they face. This Toolkit can also help civil society organisations identify how they can engage companies and promote the implementation and operationalisation of good practices.

## How to use the Toolkit?

The Toolkit is structured around real-life security and human rights challenges identified through consultations with a wide variety of stakeholders.

These are included in the list of Challenges.

The document has internal links: by clicking on one challenge in the list, the user is automatically directed to the page where that challenge is discussed, with corresponding guidance. As a result, users do not need to read the whole document, they merely need to identify the challenges they are facing and click to access the relevant pages. To assist in this process, the list of challenges is organized by the type of stakeholders they are connected with (namely: host governments, public security forces, private security providers or local communities). See also: [Quick guide to using the Toolkit](#).

Each challenge is presented on a separate page with a series of related good practices. These good practices are not meant to be prescriptive. It is up to the user to evaluate whether they could be feasible, useful and appropriate to the local context in a specific situation.

Good practices are in many cases followed by a reference to a source where more information or guidance can be found. The main sources used for the development of this Toolkit are mentioned in the list of References, together with the respective abbreviations used throughout the Toolkit. Key words highlighted in the text link to short fact sheets on priority topics.

Practical tools such as checklists and case studies are also key components of the Toolkit. These are geared towards supporting project-level implementation.

## Background and approach

### Background

The Geneva Centre for Security Sector Governance (DCAF) and the International Committee of the Red Cross (ICRC) partnered in 2012 to develop practical tools for companies operating in complex environments. Together with a large number of stakeholders from various sectors of society who were consulted in the early stages of the partnership, the partners identified the need for coherent guidance and practical tools to support responsible business conduct when it comes to the security and human rights arrangements of company operations. The results have been this Toolkit and the creation of the [Security and Human Rights Knowledge Hub](#).

The Toolkit is the result of an extensive literature review combined with interviews with company headquarters and field research. Field missions were conducted between 2013 and 2015. In the same period and as part of the headquarters and field research, the project team held over 200 meetings with representatives from host and home governments, companies, civil society organisations, local communities and other relevant actors. These exchanges enabled the identification of real-life security and human rights challenges related to corporate operations, as well as good practices, tools and case studies that could help address those challenges.

In 2020–2021, DCAF and ICRC partnered with the Geneva Center on Business and Human Rights (GCBHR) to further develop and update the Toolkit with new content, examples and case studies, good practices, and references to tools to ensure that both the Toolkit and the Knowledge Hub remain relevant and fit-for-purpose. The Toolkit is available in English, and will be translated to French, Spanish and Chinese to support companies across different contexts.

### Approach

1. **Living products:** both the Toolkit and the [Knowledge Hub](#) are regularly updated with good practices, tools and resources, and amended based on user feedback, and periodical in-depth revisions.
2. **Integration and practicality:** these products are developed to help address requirements and expectations originating from the main international instruments related to business and human rights; in addition, they are implementation-oriented and reflect field realities, which makes them practical and user-friendly.
3. **Knowledge sharing:** users are encouraged to share knowledge and materials so that they can be integrated in the Toolkit and/or the Knowledge Hub and made available to the wider public. Any confidentiality constraints can be raised with the project team and will be duly addressed.
4. **Non-prescriptive recommendations:** it is up to the user to evaluate whether the proposed good practices are useful and relevant in a specific context.



# Quick guide to using the Toolkit

(see [What is this Toolkit](#) for detail)

## Who is it for?

The primary target audience of this Toolkit are companies facing security and human rights challenges linked to their operations in [complex environments](#). The Toolkit can be used by company staff working in a wide range of functions: those dealing with security, government relations, business and human rights, corporate social responsibility, community relations, and legal issues.

Due to its focus on security and human rights challenges, this Toolkit will directly benefit companies seeking to implement the provisions of the Voluntary Principles on Security and Human Rights (VPs) and provides comprehensive guidance to that effect. It is an essential tool for new VPs member companies, where they can find valuable recommendations and good practices that will support their development of policies and action plans. Companies that have already started to implement the VPs will use the Toolkit as a way to benchmark their security practices against new requirements and emerging best practices.

**The Toolkit may also be useful for governments, civil society actors, clients, and investors.**

## What is the added value of this Toolkit?

- ✓ The Toolkit provides guidance that companies can adapt and apply to address security and human rights-related risks in their operations.
- ✓ The Toolkit makes the management of security and human rights-related risks easier by bringing together requirements drawn from a range of sources, starting by the United Nations Guiding Principles on Business and Human Rights and expanding to relevant guidance developed by bodies such as the Organization for Economic Cooperation and Development, the International Finance Corporation, the Voluntary Principles on Security and Human Rights Initiative, the United Nations Global Compact, the International Code of Conduct Association, etc.
- ✓ The guidance assists companies in establishing strong policies and processes responding to upcoming requirements or expectations on stemming from mandatory [human rights due diligence](#) in various countries or regions or from the work of the United Nations Working Group on Business and Human Rights and in particular its recent report 'Business, human rights and conflict-affected regions: towards heightened action'.
- ✓ Given the very important role of security issues in relation to sustainable development, the Toolkit helps companies build a strong basis for their contribution to the Sustainable Development Goals.

At the corporate level, issues addressed within the Toolkit can inform company policies and demonstrate compliance with international business and human rights standards as well as mandatory due diligence requirements. At the operational level, the practical examples and good practices can help managers and field-level staff develop measures to prevent or mitigate security and human rights related risk.

## How to use the Toolkit

The Toolkit is divided into four chapters that focus on company risks relating to host state engagement, public and private security, and community security. Each chapter identifies key security-related challenges and offers corresponding good practices. Users do not need to read the whole Toolkit. They can instead focus on specific issues or on particular challenges that they are encountering in their operations. Alternatively, companies seeking to develop security and human rights policies or benchmark existing ones should study the Toolkit in its entirety.

The good practices contained in the Toolkit are not meant to be prescriptive. It is up to the user to evaluate their relevance and how they can be adapted to a specific situation or context. Good practices are accompanied by additional resources, in case more information is required.



### Keep in mind:

- Good practices and policies are in principle subject to the national laws in place and it is the company's responsibility to align with those. When the national laws conflict with international human rights standards and the good practices promoted in the present Toolkit, it is the company's responsibility to find the most appropriate balance towards safeguarding the rights and dignity of affected populations.
- Community engagement and inclusive decision-making on security issues are key elements of a company's social license to operate. Proactive engagement can prevent conflicts that may have significant negative consequences on business continuity.

## About the Partners

- The **Geneva Center for Security Sector Governance (DCAF)** works globally to promote good security sector governance through security sector reform. DCAF's Business and Security Division works with companies, governments and communities to promote security, sustainable development and respect for human rights.
- The **International Committee of the Red Cross (ICRC)** is an impartial, neutral and independent humanitarian organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.
- The **Geneva Center for Business and Human Rights (GCBHR)** is the first Human Rights Center at a business school in Europe. The Center works with companies to identify business models that enable profits and principles to co-exist. The GCBHR offers companies a safe space to discuss pressing human rights challenges and train future leaders to develop and integrate human rights standards in their respective industry contexts.

The Peace and Human Rights Division of the Swiss Federal Department of Foreign Affairs has generously supported the DCAF-ICRC partnership since its inception. In particular, Switzerland has supported the development of the Toolkit and its present revision.



# 1. Working with Host Governments



# 1.1. Engagement and coordination with host governments

## A. Host government interlocutors: Dealing with staff turn-over, decentralization of responsibilities and multiple agencies

### Good Practices\*

#### Initiate a stakeholder mapping exercise of key actors working on security and human rights issues in the host government.

- ✓ Note that comprehensive stakeholder mapping is a crucial part of [human rights due diligence](#), a process for identifying, preventing, mitigating and accounting for human rights impacts. Due diligence is a core responsibility under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, and is necessary for their full implementation. Mapping key actors in the host government should be part of wider stakeholder mapping. [UN Guiding Principles on Business and Human Rights, commentary for no.18](#)
- ✓ Collect information across different corporate functions (e.g. security, community relations, governmental or external affairs, environment) to develop a global picture of relevant points of contact. Use an internal data sharing system.
- ✓ Consult existing contacts within the host government, if any (e.g. ministry of trade and investment, ministry of interior, ministry of defence).
- ✓ Consult with other companies and the home State embassy to identify key stakeholders and their respective roles and responsibilities. In particular, seek to identify 'champions' (i.e. supporters of key business, security and human rights initiatives) or potential 'spoilers' within host governments (i.e. host government contacts who are sceptical to business and human rights initiatives). There will always be differing attitudes within the host government; it is likely that there will be some government actors willing to engage with companies to address challenges.
- ✓ Consult with local experts (e.g. NGOs, academia, media).

#### Stakeholder mapping

Stakeholder mapping should seek to answer the following questions:

1. Who are the national stakeholders with a clear role and/or interest in security and human rights issues?
2. What are the economic and social agendas and interests of key actors?
3. Who has the necessary influence to foster change?
4. Which stakeholders can be 'champions of change' in support of good security and human rights practices?
5. Which stakeholders represent the interests of particularly vulnerable groups?
6. What is the legal/policy framework for security and human rights issues? Which actors have a formal role/responsibility in this area?

- ✓ Conduct a review of different print and online sources to identify key issues and actors.
- ✓ Repeat the stakeholder mapping exercise regularly to ensure that the company's network does not become outdated or overly biased in favour of particular groups.
- ✓ Identify which relevant host government actors to establish first contact with.

## How to engage with stakeholders in a broad and inclusive manner

**Work at the local level.** Coordination around safety and security issues, as well as a willingness to problem-solve to produce results, can be easier to realise at the local level. Furthermore, building a sense of ownership for safety and security at the local level may help minimize the impacts of changes in the national government.

**Develop varied strategies for different government stakeholders.** Consultations can be social (e.g. through informal discussions), more formal and structured (e.g. through workshops, public hearings or negotiations) or a combination of the two.

- Support and participate in focus groups, roundtables and town hall meetings to discuss security and human rights issues. Attending these events will allow the company to meet relevant actors and to take part in dedicated security and human rights working groups ([see in-country working groups](#)).
- Consult a wide range of individuals and agencies. Engaging only with a narrow group can mean that others feel left out and do not respect agreements. This can have the unintended consequence of reinforcing existing power imbalances.

## Strengthen interpersonal relationships.

- ✓ Make relationship-building a priority. Meet regularly with a range of government actors and agencies and establish informal links with different company representatives. In many contexts, it is important to develop a personal rapport before entering into negotiations or difficult discussions. This rapport also helps ensure mutual understanding. Be aware, however, of any negative impacts these relationships may have on how an individual is seen within their institution and/or community and take mitigating actions where necessary. [Security Sector Reform Integrated Technical Guidance Notes \(UN Security Sector Reform Task Force 2012\)](#)
- ✓ If possible, hire personnel with local language skills. This is an important part of building trust, confidence and understanding of the local context. Hiring local staff who also understand culture, politics and traditions helps with understanding local dynamics and building trust. [Security Sector Reform Integrated Technical Guidance Notes \(UN Security Sector Reform Task Force 2012\)](#)
- ✓ Build partnerships with honesty, openness, mutual respect, trust and empathy. Be aware that relationships develop over time, and be patient. Networks of personal relationships often provide access to key host government representatives. Be aware, though, that political transitions and staff turnover make it important to establish relations with a range of individuals and departments. [Security Sector Reform Integrated Technical Guidance Notes \(UN Security Sector Reform Task Force 2012\)](#)

**Practical Tools:**

- 🔧 [Human Rights Impact Assessment Guidance and Toolbox: Stakeholder Engagement \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, module 1.2 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- 🔧 [Stakeholder Mapping in Human Rights Due Diligence: A Business Guide \(Global Compact and twentyfifty 2014\)](#)
- 🔧 [Host Government Engagement Strategy Tool \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)
- 🔧 [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)

**Join and promote the establishment of a broad-based security and human rights working group at the local level.**

- ✓ Support local or **in-country working groups** on security and human rights in order to promote coordinated bottom-up approaches to addressing security and human rights challenges. In-country working groups can also offset the impact that national-level changes in the government have on local-level progress.
- ✓ Invite the police chief, the military commander, the local head of government, one or two local leaders, other companies operating in the area and/or other relevant actors to participate in a working group.
- ✓ Invite representatives of civil society organisations and communities, including representatives of different groups considered vulnerable (e.g. **women**, children, elderly people, youth, **indigenous people**, ethnic and religious minorities).
- ✓ Encourage the working group to meet regularly and support the appointment of a neutral facilitator to serve as the Secretariat—a clear focal point responsible for overseeing logistics, setting the agenda and recording key points from meetings.
- ✓ Consider co-chairing meetings (e.g. one company and one civil society representative) to enhance the legitimacy of the group.

**Key Resource:**

- 📖 [From Commitment to Impact: A Guide for Working Groups on Business, Security and Human Rights \(DCAF and Fund for Peace 2020\)](#)

## Multi-stakeholder in-country working groups (ICWGs)

Best practices in human rights due diligence are very clear that companies should undertake meaningful consultations and maintain ongoing dialogue with potentially affected groups and other relevant stakeholders. This includes stakeholders both around the company's operations and along the entire value chain.

When it comes to security issues, this means that companies should adopt a proactive approach that focuses on prevention of company-community conflicts. Security risks are frequently the result of unaddressed concerns, negative impacts or misunderstandings about non-security related issues such as employment, land, environment, compensation and resettlement. This also includes negative legacy issues from previous projects or interactions between businesses, communities and security actors. When concerns and grievances go unaddressed or unmitigated, these issues can escalate into tensions and may eventually result in situations of violence.

Multi-stakeholder in-country working groups can be effective platforms to build trust and engage in constructive dialogue, with the goal of preventing and resolving security and human rights issues. Though diverse in their origins, implementation backgrounds, leadership, resourcing and objectives, such working groups aim to discuss and advance respect for human rights and security by companies and their security providers. These groups bring together national and local stakeholders from governments, companies, civil society and communities. Through participation in such working groups, representatives from diverse backgrounds incrementally build trust to hold open exchanges on operational-level challenges, address collective issues and needs for intervention, and generate best practices for reducing conflict risks in different sites and community areas. Working groups enable different stakeholder groups to overcome their entrenched positions by working together to develop workplans and calendars, conduct meetings and workshops, build tools and resources, and implement activities like monitoring and oversight.

### What does this mean in practice?

- Companies should become involved in existing in-country working groups. Some working groups operate on the national level, while others operate on the regional, local or operational level. Working groups address different levels of issues. If a regional, provincial or operational-level working group does not exist, company representatives should participate in national-level meetings, in close dialogue with field staff who come into regular contact with communities.
- Some working groups might be focused on issues such as children's rights, general business and human rights or monitoring and implementation of the OECD Guidelines for Multinational Enterprises. Company representatives can bring the security element into these forums as a key part of the puzzle.
- Companies should encourage coordination and linkages with other initiatives at the international and national level, where possible. Companies should table and promote in-country working group activities in different forums, such as the Extractive Industries Transparency Initiative (EITI), the International Code of Conduct Association (ICoCA), the Organisation for Economic Co-operation and Development (OECD) or local initiatives. This will not only help break silos, but will also ensure sustainability and visibility of the working group.
- Where appropriate, companies should provide financial or in-kind support to working groups. To maintain the legitimacy and neutrality of working groups, companies should cooperate with in-country working groups to implement transparent funding mechanisms and processes, such as a trust fund. The contribution to working groups' activities should be considered an investment in securing the social license to operate, not merely a cost for companies.

- Companies should proactively input into working groups' workplans ([see 4.2.](#)).
- Civil society organisations and governments often take an active lead in collective engagement through working groups at the local, national and international levels. Companies should be equally active in sharing experience, challenges and good practices.
- Companies should encourage the learning and sharing of lessons between operations and other functions within the company to ensure that efforts are sustainable and not personality-driven.
- Companies should report on their engagement in multi-stakeholder in-country working groups to demonstrate how they are implementing commitments to identify and mitigate security and human rights risks.

## B. Host government and in-country process on business, security and human rights: Dealing with limited commitment

### Good Practices\*

#### Promote good practices and standards on business, security and human rights.

- ✓ Raise good practices like the Voluntary Principles on Security and Human Rights during regular meetings and consultations with government officials.
- ✓ Incorporate these standards and good practices into formal agreements with the government where possible, including in investment agreements, concession contracts (including if shared with other companies) and memoranda of understanding concerning security arrangements ([see 2.3.](#)).
- ✓ Make the case for the implementation of good practices and international standards using arguments tailored to the local context. Demonstrate the benefits that support for initiatives such as the Voluntary Principles can bring, including in terms of security, social and economic development and other payoffs.

#### Foster commitment to good practices and standards on business, security and human rights within different levels of government.

- ✓ Foster top-level commitment within the host government, since this has a trickle-down effect on behaviour and responsiveness.
- ✓ Seek support at national, regional and local levels of government. Even if the national government does not want to officially participate in an in-country process, regional or local authorities may be ready to engage in initiatives to improve security and human rights implementation.
- ✓ Identify who needs to be kept informed of the different processes, even if they are not directly involved, and agree on the best means to do so. This should flow from the stakeholder mapping exercise ([see 1.1.a.](#)).

#### Be informed of national laws. Establish links with international standards and good practices on business, security and human rights.

- ✓ Map relevant national laws, including laws relating to human rights, labour rights and rights of specific groups (e.g. indigenous peoples, women, migrant workers, children).
- ✓ Take stock of international humanitarian law (including when it is applicable) and international human rights law. Pay particular attention to which international laws and conventions the host State has ratified.
- ✓ Reference National Action Plans on Business and Human Rights, as well as any specific security elements.
- ✓ Consider the most effective way to use this information. For example, this legal mapping may provide leverage in discussions with governments on implementing good practices in business and human rights. Such a legal mapping also helps inform a company's wider [human rights due diligence](#) process, particularly the analysis of the operational context.

**Practical Tools:**

- 🔑 [Host Country Security Assessment Guide \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)
- 🔑 [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, module 1 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

**Key Resource:**

- 📖 [National Action Plans on Business and Human Rights Database \(Danish Institute for Human Rights\)](#)

**Promote national ownership.**

- ✓ Ensure that implementation of good practices and international standards is an inclusive and consultative process, based on the perspectives, priorities and visions of different national stakeholders (i.e. not only government institutions, but also civil society, media, and informal and traditional justice and security actors). Even if host government actors do not want to engage, progress can still be made by engaging with other national actors.
- ✓ Develop close working relationships with community leaders. Community support can provide a solid base to promote in-country processes on business, security and human rights. Note that in conflict-affected areas, local civil society and community leaders may be reluctant to speak publicly about topics such as human rights or the Voluntary Principles on Security and Human Rights. Companies need to be very aware of this and find ways to engage that do not put communities or individuals at risk.
- ✓ Sensitise stakeholders to the importance of greater coordination and promotion of good practices. In-country workshops may be useful forums in this regard ([see in-country working groups](#)).

**Key Resources:**

- 📖 [Implementation of the Voluntary Principles Initiative \(Voluntary Principles Initiative 2021\)](#)
- 📖 [From Commitment to Impact: A Guide for Working Groups on Business, Security and Human Rights \(DCAF and Fund for Peace 2020\)](#)

**Work with other stakeholders ([see in-country working groups](#)).**

- ✓ Work with other companies, industry associations and local partners in order to raise awareness of good practices and international standards (e.g. the Voluntary Principles on Security and Human Rights) and/or to jointly engage in dialogue with the host government on these topics.
- ✓ Work with the home government to obtain high-level host government support.
- ✓ Engage with the embassies of members of in-country working groups.
- ✓ Strengthen the knowledge and engagement of civil society organisations and the media on security and human rights issues.
- ✓ Sponsor civil society networks or 'observatories' that provide a repository for knowledge of national-level security and human rights. These observatories can serve as a means to reach out to concerned stakeholders, ensuring the participation of representatives of vulnerable groups such as [women](#), children and [indigenous peoples](#).

**Examples of Resources:**

- ☰ [African Societal Analysis: The African Security Sector Network Think Tank](#): Resources on security and development governance challenges in Africa
- ☰ Marsad Observatories: Resources on security sector governance in [Egypt](#), [Libya](#), [Palestine](#) and [Tunisia](#) ([see 1.3.a.](#))
- ☰ [Private Security Governance Observatory](#): Country-specific resources (e.g. baseline studies) on the regulation and challenges of private security companies

**Be creative and find synergies across security and human rights initiatives and commitments.**

- ✓ Develop creative ways of building host government support. Although an in-country process may be the most effective way of promoting the implementation of security and human rights good practices, other activities (e.g. collaboration on human rights programmes or capacity-building within the security sector) can also provide alternative opportunities to generate impact on the ground.
- ✓ Use the different initiatives that a government subscribes to and the commitments it makes within these initiatives as leverage to advance standards that are in line with security and human rights principles. Other initiatives not yet supported by the government may be held up as examples of standards or good practices. Consider, in this regard, the UN's Protect, Respect and Remedy Framework and the UN Guiding Principles; the OECD Guidelines for Multinational Enterprises; the UN Global Compact; any commitments stemming from a government's National Action Plan on Business and Human Rights; and/or multi-stakeholder platforms, such as the Voluntary Principles on Security and Human Rights, the International Code of Conduct Association, and the Extractive Industries Transparency Initiative (EITI).

**Get the right person for the right job.**

- ✓ Ensure that the staff responsible for government engagement are willing to listen, show good understanding of the local context and have a long-term commitment to the role. Attach remuneration to key performance indicators, including advancement of human rights within the company and reduction or absence of incidents ([see 4.4.a.](#)).



## CASE STUDY

**Colombia Mining and Energy Committee<sup>1</sup>**

The Colombia Mining and Energy Committee (CME) is a permanent, independent platform focused on dialogue and collaborative cooperation among various stakeholders from the Colombian government; civil society; and companies that are interested in the protection, promotion and respect of security-related human rights.<sup>2</sup> The purpose of this multi-stakeholder initiative, which has been present in Colombia since 2003, is to improve the business operational environment through impacts on public policy, knowledge generation, better tools and practices, and promotion of human rights due diligence.

Currently, the CME has 28 members among companies in the oil, mining and energy sectors; national government entities;<sup>3</sup> civil society organizations; academia; business associations; and diplomatic missions. The CME obtains funding through annual fee payments made by company members, as well as grants provided by governments and other international organizations.

Through its work strengthening security practices and respect for human rights, the CME has made significant contributions towards Colombia's implementation of the Voluntary Principles on Security and Human Rights, as well as the UN Guiding Principles on Business and Human Rights. The CME works with companies, civil society, and government actors to ensure that the export of mining and energy products is aligned with human rights.

**In its years of operation, the CME has undertaken the following activities:**

- Publishing ten recommendation documents for risk management in the mining and energy operations sector in Colombia.
- Maintaining a proactive dialogue with the Colombian public forces to ensure that security management in extractive areas is done in compliance with human rights standards.
- Improving the interaction mechanisms between companies and the public forces in order to ensure transparency and adequate management of the risks of human rights violations.
- Establishing itself as a pioneer initiative in Colombia, acknowledged and consulted in the materialisation of public policies, with a direct impact on the mining and energy sector.
- Designing, in collaboration with CREER and the Ministry of National Defence, a protocol for the identification and management of security-related human rights risks.
- Applying the security and human rights incident analysis tool, allowing the identification of the most repeated incidents in the operating environments of CME companies.
- Analysing the challenges and lessons learned through the implementation of the Voluntary Principles on Security and Human Rights and due diligence during the Covid-19 pandemic in Colombia.

**Key factors that have made the CME successful:**

1. The willingness of the Colombian government to acknowledge serious concerns regarding human rights and violations of international humanitarian law in the country.
2. A commitment from companies and the Colombian government to work collaboratively to protect and respect human rights by:
  - a. Raising awareness of the Voluntary Principles on Security and Human Rights and the UN Guiding Principles on Business and Human Rights.
  - b. Implementing the CME's recommendations.
  - c. Identifying best practices on security-related human rights issues.
3. A reasonable level of trust between members.
4. A commitment to continuous improvement, as opposed to perfection. To this end, the CME has developed a verification mechanism that is applied annually by CME members.
5. Knowledge generation from the articulation of experiences, perspectives and best practices on crucial issues for the operation in the territory. This research is disseminated to working group members.

## C. Misalignment of national and local authorities: Ensuring implementation of national level agreements at the local level

### Good Practices\*

#### Conduct an in-depth situation analysis of structures and responsibilities in the host government.

- ✓ Examine how the host government is organised and the way authority and responsibilities are devolved from the national to the regional and/or local authorities. The in-depth situation analysis<sup>4</sup> can be led in-house and/or can be built through consultations with other knowledgeable stakeholders. It should include an analysis of the host State institutions, legal frameworks, political structure, formal systems and informal systems. This analysis can draw on or be part of the wider analysis of the operational context—done for [human rights due diligence](#) purposes—and/or the legal mapping process.
- ✓ Indicate where coordination challenges between national and local bodies can lead to risks to communities, such as gaps in judicial accountability, monitoring of public security or licensing of private security.

#### Practical Tool:

- 🔧 [Host Country Security Assessment Guide \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)

#### Key Resources:

- 📖 [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, annex F \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- 📖 [Governance Indicators Interactive Database \(World Bank\)](#)
- 📖 [Core+ Political Risks \(Control Risks\)](#) (partial paid access)

#### Complete a stakeholder mapping of the host government in order to determine who to engage on security and human rights issues (see 1.1.a.).

#### Work with the host government, both at the national level and the local level.

- ✓ Meet regularly with government representatives, including security officials.
- ✓ Nuance the message at each level. The company should draw on its own expertise and consult others with experience in the host country's culture, laws and social practices. By communicating in a contextually appropriate manner, the company can more effectively share concerns and develop acceptance at local levels.
- ✓ Promote coordinated approaches across ministries (e.g. defence, interior, mining) and other host government agencies through organising joint meetings.
- ✓ Ensure consistency of agreements with different levels of government. In coordination with government representatives, address challenges surrounding implementation of the decisions from the national level down to the local level.

- ✓ Support exchanges between national, regional and local security bodies. Contribute to coordination mechanisms that foster communication and cooperation between different levels of government.
- ✓ Promote targeted dialogues on human rights and humanitarian concerns surrounding the provision of security in order to facilitate greater understanding and trust between security forces and local communities. Invite representatives of vulnerable groups (e.g. [women](#), children, indigenous peoples) to participate in these dialogues ([see 4.3](#)).

### **Work with other stakeholders to increase coordination between security actors ([see in-country working groups](#)).**

- ✓ Work with home governments, other companies, NGOs and multilateral organisations in order to promote effective government coordination.
- ✓ Engage with actors supporting security sector reform in order to promote coordination within host government structures.
- ✓ Support initiatives to create or reinforce a national coordinating agency for business and human rights issues. This agency would seek to increase cooperation between different stakeholders, increasing their responsiveness and accessibility.

### **Support the establishment of [in-country working groups](#) on business, security and human rights, where none already exist.**

- ✓ Such a process should include actors at different government levels. It should promote coordination among relevant national and local stakeholders, follow up on agreements and monitor progress ([see 1.1.b](#)).
- ✓ Note that working groups can be set up at the local or national level. There are advantages and disadvantages to each. Consider what is more relevant in the operating context.

## 1.2. Contexts with weak governance and transparency

### A. Engagement with host governments in contexts of weak governance: Avoiding (the perception of) complicity

#### Good Practices\*

##### Clearly and widely communicate the company's commitment to respect the rights of local communities.

- ✓ Ensure the company's human rights policy covers economic, social and cultural rights of communities and is reflected in all corporate procedures ([see 1.3.a.](#)). This is an important element in the implementation of the UN Guiding Principles on Business and Human Rights.
- ✓ Report transparently on the implementation of soft law guidelines, as well as on how severe human rights risks are addressed. Communicating how human rights risks and impacts are addressed is a key elements of human rights due diligence procedures.

##### Key Resources:

- 📖 [UN Guiding Principles on Business and Human Rights, commentary for no. 19 and 21](#)
- 📖 [Due Diligence Guidance for Responsible Business Conduct, Due Diligence Process, no. 5 \(OECD\) \(see human rights due diligence\)](#)
- ✓ Publicly condemn violence against civilians in the region where the company operates, as well as more broadly.
- ✓ Be aware that silence or inaction in case of government malfeasance can be seen as a demonstration of indifference by the company and hence expose it to dangers and risks. In particular within conflict-affected areas, businesses are not neutral actors; their presence is not without impact. Even if a business does not take a side in the conflict, the impact of its operations will necessarily influence conflict dynamics ([see armed conflict](#)). Even the perception of collaboration with States that are allegedly involved in significant abuses can polarize local communities. It can also attract the ire of local and international civil society groups, as well as shareholders who perceive that the company has aligned itself with illegitimate actors.
- ✓ Ensure the company's grievance mechanism is known and accessible to internal and external users ([see 4.2.e.](#)).

##### Key Resources:

- 📖 [Human Rights Due Diligence in Conflict-Affected Settings: Guidance for Extractive Industries \(International Alert 2018\)](#)
- 📖 [Due Diligence Guidance on Responsible Business Conduct \(OECD 2018\)](#)
- 📖 [Business, Human Right and Conflict-Affected Regions: Towards Heightened Action \(UN Working Group on Business and Human Rights 2020\)](#)
- 📖 [Business and Armed Non-State Actors: Dilemmas, Challenges, and a Way Forward \(CDA 2014\)](#)

## Ensure the human rights impact assessment includes a legal assessment.

- ✓ Assess how and to what extent the legal system is able to address security and human rights issues.
- ✓ Evaluate the potential for the company to be indirectly or directly complicit in human rights abuses, the illegal use of force and/or gross human rights violations. [UN Guiding Principles on Business and Human Rights, commentary for no. 18](#)
  - Approach the risk of causing or contributing to gross human rights abuses as a legal compliance issue. [UN Guiding Principles on Business and Human Rights, commentary for no. 23](#)
  - Do not assume that conducting human rights due diligence, by itself, will automatically and fully absolve the company from liability for causing or contributing to human rights abuses. [UN Guiding Principles on Business and Human Rights, commentary for no.17](#)
  - Consider the emergence of mandatory human rights legislation in different jurisdictions, as it may impact the company's operations or supply chains ([see human rights due diligence](#)).

### Practical Tool:

- 🔧 [Host Country Security Assessment Guide: Social Responsibility \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)

### Key Resource:

- 📖 [What Liability, Operational and Reputational Risks Does Your Business Face in Armed Conflict? \(Australian Red Cross\)](#)

## Conduct a human rights impact assessment to ensure that any proposed development do not adversely affect the human rights of local communities ([see human rights due diligence and 4.2.a.](#)).

## Develop human rights due diligence procedures in line with the UN Guiding Principles on Business and Human Rights and in consultation with communities and other relevant stakeholders ([see human rights due diligence and 4.5.a.](#)).

- ✓ Develop detailed policies on bribery and put in place robust management procedures, such as training and whistle-blower protection mechanisms, to prevent corruption ([see 1.2 b.](#)).
- ✓ Prioritise the most serious risks and impacts. Where risks or potential impacts are high or extreme, do not start the project or activity until the risks have been reduced or mitigated. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 18 \(Prospectors and Developers Association of Canada, CDA Collaborative Learning Projects and World Vision Canada 2012\)](#) The UNGPs make clear that severity is judged by the scale, scope or irremediable nature (i.e. irreversibility) of the impact. [UN Guiding Principles on Business and Human Rights, no. 15](#)
- ✓ If a company is unable to operate without avoiding harm, it should consider withdrawing from the area. Companies should carefully weigh the human rights implications of withdrawing versus the human rights implications of staying.<sup>5</sup> If a company's operations exacerbate the conflict, it may be necessary to withdraw in order to avoid causing harm. On the other hand, if a company provides key services, withdrawing may have more negative than positive impacts. ([see responsible exit, below.](#))

- ✓ The Institute for Human Rights and Business explains that companies should ‘exceed national legislation on human rights where it falls short of best practice or international law’. [From Red to Green Flags, The Corporate Responsibility to Respect Human Rights in High Risk Countries, p. 42 \(Institute for Human Rights and Business 2011\)](#)
- ✓ As part of [human rights due diligence procedures](#), tailor the risk mitigation strategy to the company’s involvement in particular risks or impacts, considering also the seriousness of each of those risks and impacts.
- ✓ Ensure that the company does not exacerbate the situation. For example, OECD guidance says companies should ‘avoid contributing to the criminalisation of human rights defenders or the use of law enforcement agencies to repress peaceful protest or other forms of opposition to the project’. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 54 \(OECD 2015\)](#)
- ✓ Engage local communities, through their own representatives, in any decision-making process involving the exploitation of natural resources or construction on land. This is especially relevant where stakeholders are likely to be impacted, but are not necessarily protected by the government negotiating the agreement (see [4.2.b.](#) and [4.2.c.](#)). Comply with international standards, laws and best practices on the rights of [indigenous peoples and free, prior and informed consent](#) (FPIC).
- ✓ Be aware that conflict resolution and peacebuilding are highly complicated, and a business cannot solve local issues unilaterally. There are no ‘quick fixes’ for conflicts, and while companies can support peace processes, they should not try to address conflicts on their own. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 4 \(CDA Collaborative Learning 2012\)](#)
- ✓ Constantly evaluate the effectiveness of [human rights due diligence](#) procedures and update them when appropriate to better assess, prevent and mitigate actual and potential adverse human rights impacts. [Harmful Impacts of Mining: When Extraction Harms People, Environments and Economies \(Responsible Mining Foundation 2021\)](#)

#### Practical Tools:

- 🔧 [International Instruments on Understanding Free, Prior, and Informed Consent \(IPIECA 2017\)](#)
- 🔧 [Preventing Conflict in Exploration Toolkit \(CDA 2016\)](#)
- 🔧 [Indigenous Peoples Mapping Tool \(IPIECA 2015\)](#)
- 🔧 [Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, section III.B. \(Institute for Human Rights and Business, Shift and the European Commission 2014\)](#)
- 🔧 [Identifying and Prioritizing Human Rights Risks \(Shift 2014\)](#)
- 🔧 [Human Rights Impact Assessment Guidance and Toolbox \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Community Voice in Human Rights Impact Assessments \(Oxfam 2015\)](#)
- 🔧 [Human Rights Due Diligence and Impact Assessment Database \(Business and Human Rights Resource Centre\)](#)

## Engage with relevant government agencies to advocate for effective resource governance and compliance with human rights standards ([see 1.3.b.](#)).

- ✓ According to the commentary on the UN Guiding Principles on Business and Human Rights, '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. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm. The company may have leverage to prevent or mitigate the adverse impacts on security and human rights.' [UN Guiding Principles on Business and human Rights, commentary for no. 17](#) Companies can increase their leverage and ability to affect more effective risk mitigation of their security service suppliers or sub-contractors in a variety of ways. For example, companies can offer capacity-building or other incentives to the related security supplier.<sup>6</sup>
- ✓ Clearly set out expectations with regards to human rights from the start of engagement with the host government. Negotiate contracts and agreements accordingly ([see 1.3.a.](#)).
- ✓ Seek to ensure the government fulfils its responsibility regarding consultations with indigenous peoples to ensure that any responsibilities to obtain free, prior and informed consent are fulfilled. Ensure that consultations with communities start early and are carried out according to international standards ([see 4.2.d.](#) and [4.3.a.](#)).
- ✓ Ensure investment agreements do not reinforce weak governance by interfering with national efforts to implement laws, regulations or policies. As explained by the UN's interpretive guide to the UN Guiding Principles on Business and Human Rights, 'Contractual stabilization clauses, if used, should be carefully drafted so that any protections for investors against future changes in law do not interfere with the State's bona fide efforts to implement laws, [regulations or policies in a non-discriminatory manner in order to meet its human rights obligations](#)'. [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide, p. 39 \(UN Office of The High Commissioner for Human Rights 2012\)](#)
- ✓ When investment agreements, concessions or licenses include third party companies which are co-licensees, ensure that the Voluntary Principles on Security and Human Rights and/or other human rights standards, such as the International Code of Conduct for Private Security Providers are included so that all parties are bound by the same standards.
- ✓ When necessary, ensure that land acquisition and resettlement are conducted in accordance with human rights standards, including free, prior and informed consent ([see 4.2.d.](#)). Communicate expectations clearly with the host government and ensure these standards are incorporated in agreements. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 2:6 \(International Alert 2005\)](#)
- ✓ When governments are unwilling to include human rights provisions in agreements, try to include these issues through other avenues, such as memoranda of understanding with security forces, training programmes, capacity-building and operating procedures ([see 2.3.](#) and [2.5.](#)).
- ✓ Coordinate with competent authorities to strengthen their ability to respond to increased risks, ensuring that any security measures adopted are appropriate to the risks.
- ✓ Advocate for changes in royalty distribution to ensure that portions of private sector royalties are reaching local communities and having a positive impact on local wellbeing and economic diversification.
- ✓ Develop plans of action with local authorities in order to foster responsible investment.



**Key Resources:**

- 📖 [UN Guiding Principles on Business and Human Rights, commentary for no. 19](#)
- 📖 [Using Leverage in Business Relationships to Reduce Human Rights Risks \(Shift 2013\)](#)
- 📖 [Using Leverage \(Global Business Initiative on Human Rights\)](#)
- 📖 [Community Development Agreements: Guidance Document for the Oil and Gas Industry \(IPIECA 2019\)](#)
- 📖 [Indigenous Peoples Mapping Tool \(IPIECA 2015\)](#)
- 📖 [International instruments on Understanding Free, Prior, and Informed Consent \(IPIECA 2017\)](#)

### **Engage with other actors to develop host government capacity and promote good governance and respect for human rights.**

- ✓ Develop a dialogue with international and national actors playing a role in governance reform and state-building.
  - Support efforts by international donors to assist host governments with security sector reform, developing national institutions' capacities and strengthening the rule of law. [Voluntary Principles on Security and Human Rights, p.2](#)
  - Support capacity-building in the legal system to strengthen judicial grievance mechanisms related to human rights.
  - Identify and support programmes to build capacity of national and local authorities on business and human rights. Ensure these are adapted to the local context.
  - Support efforts to strengthen local government institutions, such as anti-bribery programmes.
- ✓ Support efforts to promote fair rules for investment. This may include rules allowing for a better division of the territory between areas assigned to private companies and areas reserved for the use of the local population (e.g. artisanal miners, farmers).
- ✓ The Institute for Human Rights and Business recommends that companies 'harness the potential of multi-stakeholder initiatives to lobby host governments on relevant human rights matters'. [From Red to Green Flags: The Corporate Responsibility to Respect Human Rights in High Risk Countries, p. 42 \(Institute for Human Rights and Business 2011\)](#)
- ✓ Promote the establishment of local, regional and national forums to discuss potential and actual social and environmental impacts of projects in order to prevent, mitigate and remediate them.
- ✓ Consider collective corporate action for addressing government policies that have negative impacts on local communities. [Getting it Right: Making Corporate-Community Relations Work, p. 42 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Support the efforts of media and civil society—including human rights institutions—to hold the local government accountable.

## Responsible Exit

Anticipate and plan a clear exit strategy in advance. This will include:

- Designing a responsible exit plan as part of the [human rights due diligence](#) process from the onset of the project. Ensure any human rights impacts that might arise from the company's exit are identified in advance, and create a plan to mitigate these.
- Providing reasonable notice to communities, suppliers, workers and other partners of the pending disengagement.
- Ensuring, to the best extent possible, that staff continue to receive income, both in the event of loss of employment and in the event of temporary suspension. Enact a plan to mitigate the loss of employment; this might include providing employees with training, capacity-building and/or other support initiatives (as relevant to the local context).
- Creating plans to protect the security of remaining staff.

If a company is offering engagement or input in community activities and programmes, it should seek to mitigate the effects of its exit. For instance, the company might create a plan to hand over its community programmes to an adequate entity, such as a civil society actor or a multi-stakeholder initiative.

### Sources:

- [Business, Human Rights and Conflict-Affected Regions: Towards Heightened Action \(UN Working Group on Business and Human Rights 2020\)](#)
- [The Role for Business in Human Rights in Myanmar: Confronting Dilemmas and Improving Outcomes \(Triponel Consulting 2021\)](#)
- [Total's CEO Cites Humanitarian Reasons for Continuing Myanmar Gas Production \(World Oil 2021\)](#)

### Key Resource:

- [Should I Stay or Should I Go? Exploring the Role of Disengagement in Human Rights Due Diligence \(SOMO: Centre for Research on Multinational Corporations 2016\)](#)

## B. Lack of transparency in payments from extractive companies: Managing the potential fall-out

### Good Practices\*

**Include questions on governance and transparency in the human rights risk assessment and update it regularly ([see human rights due diligence](#)).**

**Make a clear and unequivocal commitment to transparency, including of all revenue flows to governments.**

Conflict Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 9:6 (International Alert 2005)

- ✓ Develop a detailed company policy on transparency and anti-corruption.
- ✓ Highlight international, regional and national legislation on bribery and corruption (from both host and home country) prominently on the company's website.
- ✓ Put in place robust management procedures—such as anti-bribery training, risk assessment, tip hotlines and whistle-blower protection mechanisms—to prevent corruption. [Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors, p. 15 \(UN Global compact and Principles for Responsible Investment 2010\)](#)
- ✓ Publish payments to governments in a clear and accessible form. [Conflict Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 9:6 \(International Alert 2005\)](#)  
Make all payments to governments available in the company's financial reviews. Guidance on related good practices can be found at [Publish What You Pay](#).
- ✓ Inform communities about payments to the host government. Use booklets, video and audio that explain the company's operational processes and payments in simple language. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 1:6 \(International Alert 2005\)](#)
- ✓ If appropriate, become an [Extractive Industries Transparency Initiative \(EITI\)](#) supporter and join its in-country multi-stakeholder group.

#### Key Resources:

- 📖 [Publish What You Pay](#)
- 📖 [The EITI Standard: The Global Standard for the Good Governance of Oil, Gas and Mineral Resources \(Extractive Industries Transparency Initiative 2019\)](#)
- 📖 [Anti-Corruption Collective Action \(UN Global Compact\)](#)
- 📖 [Anti-Corruption Call to Action \(UN Global Compact\)](#)

#### Practical Tools:

- 🔧 [Anti-Corruption Ethics and Compliance Handbook for Business \(OECD and UN Office on Drugs and Crime 2013\)](#)
- 🔧 [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas \(OECD 2016\)](#)

- 🔧 [How to Address Corruption and Bribery Risks in Mineral Supply Chains \(OECD 2021\)](#)
- 🔧 [Uniting Against Corruption: A Playbook on Anti-Corruption Collective Action \(UN Global Compact 2021\)](#)

#### Example of Good Practice:

- 📖 [Business Integrity Guide: Understanding and Preventing Risks \(Total 2016\)](#)

### Promote international good practice on transparency of payments and financial management in all engagement with the host government.

- ✓ Include a clause on transparency in agreements and/or memoranda of understanding with the host government. Agree with the host government to make information regarding payments, transfers or any other support ‘unclassified’ and available to the public (subject to legitimate commercial and security concerns).
- ✓ Encourage the host government to distribute a part of the taxes paid by the company to regional and/or local governments, making this commitment known to the population so that local authorities are held accountable for the use of these revenues.
- ✓ Promote engagements and compliance with the [EITI](#).

#### Practical Tool:

- 🔧 [The EITI Standard: The Global Standard for the Good Governance of Oil, Gas and Mineral Resources, requirement 4 \(Extractive Industries Transparency Initiative 2019\)](#)

### Engage in efforts to improve government management of revenues from corporate operations.

- ✓ Support host government efforts to develop, implement, enforce and strengthen legislative frameworks for transparency, anti-corruption and oversight of financial processes. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 22 \(UN Department of Peacekeeping 2012\)](#) Also consider engaging with parliamentary committees to understand their roles and responsibilities with regard to oversight of resource management.
- ✓ As noted by the UN Department of Peacekeeping, identify ways to ‘support the development of national capacity in financial management – including a reliable corps of accountants, auditors and bookkeepers who can ensure that the financial integrity and probity of the process is guaranteed from a national perspective’. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 23 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Encourage the oversight of public investment decisions by relevant State bodies, such as anti-corruption commissioners and security sector oversight bodies (e.g. parliamentary committees, independent oversight institutions).
- ✓ Engage constructively in multi-stakeholder processes that provide forums for business-government engagement on transparency and accountability at both national and international levels. This may include Extractive Industries Transparency Initiative (EITI) multi-stakeholder groups. [Guidance on Responsible Business in Conflict Affected and High Risk Areas: A Resource for Companies and Investors, p. 17 \(UN Global Compact and Principles for Responsible Investment Initiative 2010\)](#) and [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 5 \(International Alert 2005\)](#)

- ✓ Take part in collective action to stop corruption, such as the UN Global Compact's [Anti-Corruption Collective Action](#) and [Call to Action](#).
- ✓ Support the role of civil society organisations in analysing how revenues are utilised in order to provide additional transparency to the process.
- ✓ Promote broad participation and transparency in decisions regarding the use of revenues, as this contributes positively to national ownership by enhancing popular understanding of the dynamics and challenges involved in the national management of revenues from corporate operations. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 23 \(UN Department of Peacekeeping 2012\)](#)

#### Practical Tool:

- 🔧 [The EITI Standard: The Global Standard for the Good Governance of Oil, Gas and Mineral Resources, Requirement 4 \(Extractive Industries Transparency Initiative 2019\)](#)

#### Key Resources:

- 📖 [Anti-Corruption Collective Action \(UN Global Compact\)](#)
- 📖 [Anti-Corruption Call to Action \(UN Global Compact\)](#)

## C. Perception of undue influence exerted by companies on the host government: Supporting transparency and public institutions

### Good Practices\*

#### Share information on any company involvement in strengthening public institutions.

- ✓ Ensure clear communications on the company's involvement in strengthening public institutions and why. Share these communications both nationally and locally.
- ✓ When engaging with local communities, solicit ideas on how to support capacity-building for public institutions. Where possible, integrate these suggestions in ongoing efforts to strengthen public institutions.

#### Support national ownership of host government security sector reform processes.

- ✓ Ensure that company engagement with host governments is inclusive and consultative, and that company policies are informed by the perspectives, priorities and vision of national stakeholders (i.e. not only by company executives, but also civil society, communities, the legislature, the media, etc.). [UN Security Sector Reform Integrated Technical Guidance Notes, p. 13-16 \(UN Department of Peacekeeping 2012\)](#) If the public is involved in consultations and planning, they will be able to see more clearly and have confidence that the company is operating transparently and not unduly influencing public institutions.
- ✓ Where feasible, provide the host government with matching funds rather than grants or donations. This ensures national ownership, empowers government officials, encourages a national process of prioritisation and contributes to national capacity-building. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. V-3 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Cooperate with government monitoring agency (auditor or transparency board) to ensure effective oversight of the use of funds provided by the company.
- ✓ Support appropriate efforts by the government in its re-organisation of law enforcement around project sites (e.g. by providing some financial support) while leaving decision-making to the relevant institution.

#### Engage with other actors to develop host government capacity and promote good governance (see 1.2.a.).

## D. Lack of basic public services to local communities: Supplementing the provision of services ([see 4.6.](#))

### Good Practices\*

#### Carry out an analysis of the government's capacity to provide public services ([see human rights due diligence](#)).

- ✓ Analyse the government's capacity and deficiencies in providing public services and protecting the population's rights. Consider the risks associated with any gaps in resources or capacity. [From Red to Green Flags: The Corporate Responsibility to Respect Human Rights in High-Risk Countries, p. 49 \(Institute for Human Rights and Business 2011\)](#)
- ✓ Include current developments (e.g. an influx of migrant workers, health crises) that further draw on services, and observe how poor services may cause social unrest.
- ✓ Be sure to analyse the impacts of the company's operations on the provision of public services (e.g. water, sanitation, electricity), especially in times of crisis. This includes cumulative impacts arising from multiple companies or projects. For example, if several companies are collectively using high amounts of electricity during shortages, this can negatively impact communities' ability to access electricity, even if each individual company's usage is within legal limits.

#### When engaging with all stakeholders, emphasise the central role of the State in ensuring respect for the rule of law, providing social services and developing the local economy.

#### Work together with host governments to improve public service provision at the local level.

- ✓ Provide technical assistance to strengthen the government's capacity to deliver social services efficiently. [Learning from Company-Community Conflicts: Understanding Practical Dilemmas \(International Alert and International Council on Mining and Metals 2014\)](#)
- ✓ Exercise the company's convening power to bring government representatives and local communities together. Discuss gaps and steps for improving government-provided services. [Getting It Right: Making Corporate-Community Relations Work, p. 145 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Form a tripartite partnership with government and local communities, where each of the three partners contributes to making the project successful. Ensure there is a good understanding about the roles and responsibilities of each party, in alignment with the UN Guiding Principles on Business and Human Rights. [Getting It Right: Making Corporate-Community Relations Work p. 146 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

## Engage in efforts that enhance governance capacity and support international best practice in resource governance ([see 1.2.a.](#)).

### Ensure that social investment programmes are sustainable and developed with local communities.

- ✓ Use the findings from the analysis of the operational context to identify development opportunities. In particular, identify any gaps and deficiencies in areas such as logistics, suppliers, distribution channels and/or training. Consider investing in development projects that fill those gaps, drawing on the company's own expertise.<sup>7</sup>
- ✓ Prioritise projects in consultation with community members and development partners. Develop, implement and manage social investment programmes in partnership with local communities and with the support of government authorities.<sup>8</sup>
- ✓ Work directly with national, regional and local governments to ensure that the company's social investments are in line with and do not displace regional and local community development plans. [Guidance on Responsible Business in Conflict Affected and High-Risk Areas: A Resource for Companies and Investors, p. 26 \(UN Global Compact and Principles for Responsible Investment 2010\)](#)
- ✓ Design all social investment with a clear and conscientious exit strategy and ensuring that other parties, including local communities and government, can take them over ([see responsible exit](#)). [Guidance on Responsible Business in Conflict Affected and High-Risk Areas: A Resource for Companies and Investors, p. 26. \(UN Global Compact and Principles for Responsible Investment 2010\)](#) This means that local stakeholders must have a sense of ownership over the programmes from the beginning.
- ✓ Assess the effectiveness of the social investment in terms of impacts rather than short term outputs. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 5 \(International Alert 2005\)](#)
- ✓ Consider concluding a community development agreement or a similar arrangement. Community development agreements aim to minimize negative impacts and advance local socio-economic development. They are formal agreements negotiated in good faith between companies and communities in relation to resource projects; they should be coordinated with national and local authorities.

#### Key Resources:

- 📖 [Community Development Agreements Guidance \(IPIECA 2019\)](#)
- 📖 [IRMA Standard for Responsible Mining, chapter 2.3 \(Institute for Responsible Mining Assurance 2018\)](#)



## 1.3. Human rights concerns

### A. Sensitive discussions on security and human rights: Addressing issues constructively

#### Good Practices\*

##### Develop a comprehensive human rights policy that is endorsed by senior management (see human rights due diligence).

- ✓ UN Guiding Principle no. 16 and its commentary emphasise that a company's human rights policy should:
  - Be approved at the most senior level of the business enterprise.
  - Be informed by relevant internal and/or external expertise.
  - Stipulate the enterprise's human rights expectations of personnel, business partners and other parties directly linked to company operations, products or services.
  - Be publicly available and communicated internally and externally to all personnel, business partners and other relevant parties.
  - Be reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

##### UN Guiding Principles on Business and Human Rights, no. 15 and 16

- ✓ Include a commitment to implement the provisions of the Voluntary Principles on Security and Human Rights.
- ✓ Human rights policies for companies should include an explicit commitment to respect all internationally recognised human rights standards. As a minimum, this includes:
  - The Universal Declaration of Human Rights.
  - The International Covenant on Civil and Political Rights.
  - The International Covenant on Economic, Social and Cultural Rights.
  - The International Labour Organization's Declaration on the Fundamental Principles and Rights at Work.

##### Practical Tool:

- 🔧 [Guide on How to Develop a Human Rights Policy \(United Nations Global Compact 2015\)](#)

## Examples of company policies and how they address different human rights elements

Company policies should examine various aspects of human rights standards. A few examples are included below.

Recognition of international human rights standards, from [Anglo American's Human Rights Policy](#):

Our commitment to respect human rights includes recognition of all internationally – recognised human rights, in particular: those contained in the International Bill of Human Rights (which includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights); the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work; and international humanitarian law, where applicable.

Provisions on labour/workplace rights, from [Barrick Gold's Human Rights Policy](#):

Barrick does not tolerate the use of child labour, prison labour, forcibly indentured labour, bonded labour, slavery or servitude, and adheres to the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. Barrick does not tolerate discrimination against individuals on the basis of race, colour, gender, religion, political opinion, nationality or social origin, or harassment of individuals freely employed. Barrick recognizes and respects their freedom to join or refrain from joining legally authorized associations or organizations, and respects the safety and health of workers.

Provisions on security procedures, from [Kosmos Energy's Human Rights Policy](#):

We will implement the Voluntary Principles on Security and Human Rights as the foundation for our security arrangements in each country where we have an established and continuing presence. We will seek to understand the underlying context of potential and actual conflict situations and how we may either ease or exacerbate them through our actions, including our security arrangements. We will seek to ensure that personnel engaged in providing security services to our operations have been vetted against prior involvement in human rights abuses; are appropriately trained; use only proportional force and work within appropriate rules for the use of force; respect human rights; and are respectful in their interactions with people. We will ensure that timely and accurate details of security-related incidents are collected and reported both within Kosmos and to the appropriate authorities.

Provisions on community relations, from [Repsol's Human Rights and Community Relations Policy](#):

Repsol commits to:

- Continuing to respect their [communities'] human rights.
- Assessing and understanding the social and economic context where we operate in order to identify all groups within the communities in our area of influence, especially vulnerable groups.
- Recognizing and respecting the identity and unique nature of communities; their cultural diversity; their potentially differing needs and aspirations; and their right to maintain their customs and social practices.
- Establishing enduring relationships with communities in the area of influence of our projects and assets, based on principles of respect, cultural sensitivity, integrity, responsibility, transparency, good faith and non-discrimination.

- Promoting transparent and proactive engagement with communities in a timely, honest and culturally appropriate manner at appropriate stages throughout the life-cycle of projects and assets on the basis of an open exchange of information.
- Establishing grievance mechanisms at the operational level, from the start of our activities, so people directly affected by our assets and right holders (employees, suppliers, contractors, communities or whoever third party) can notify Repsol of any situation of possible impact on human rights. These mechanisms shall not be used to preclude access to judicial or other extrajudicial grievance mechanisms, as well as the legitimate and peaceful activities of human rights defenders.
- Identifying opportunities to optimize positive impacts and promote the shared value and sustainable development of communities by contributing to local economic development, social progress and environmental preservation of the areas of influence of our projects and assets.
- Endeavouring to obtain and maintain broad-based support of the communities in the areas of influence of our projects and assets, in ways that are respectful and appropriate to local cultural processes and traditions.
- Recognizing and respecting the unique nature of indigenous, tribal and aboriginal peoples. Recognizing and respecting their rights, in accordance with existing legislation and with ILO Convention 169, whether or not incorporated into the national legislation of the countries in which we operate. Their rights include, among others, rights to their lands, territories and resources, right to water, their organizational, economic and social structure and their right to free, prior and informed consultation in good faith and with the objective of procuring understanding and helping reaching consent in relation to any proposed mitigation measures, such consultation to occur through appropriate procedures and in particular through their representative institutions, with consideration being given to legislative or administrative measures which may affect them directly.

Policy coherence across operation, from [Norsk Hydro's Human Rights Policy](#):

This document has relevance for all employees working for Norsk Hydro ASA and its wholly owned subsidiaries, including all temporary personnel, consultants and others who act on behalf of or represent Hydro. It is also relevant to the employees of partly owned companies if, and to the extent, approved by the governing body of such companies. For legal entities where Hydro holds less than 100 percent of the voting rights, Hydro's representatives in the boards of directors or in other governing bodies will endeavor to follow the principles and standards in this document.

Policy coherence in the supply chain, from [Hess' Human Rights Policy](#):

We are committed to a strong and diverse supplier network which supports our goal of making a positive contribution in the communities where we do business. We expect contractors and suppliers to respect our voluntary commitments, Code of Business Conduct and Ethics, and Environment, Health and Safety, Social Responsibility and related policies.

Policy coherence between company departments, from [Cerrejón's Human Rights Policy](#):

Cerrejón's Human Rights Policy is aligned with the Cerrejón Way, the company's Vision on Sustainable Development and other company policies, in particular Ethics, Social Labour Responsibility, and Health, Safety, Environment, and Communities. It is part of and contributes to the development of the Community Relations Plan, Cerrejón's Mission, and the practice of Responsible Mining to which we are committed.

### Additional topics that can be explicitly included in human rights policies:

- Provisions on gender ([see 4.5.a.](#)).
- Commitments to [indigenous peoples](#) (which should further take account of and fully respect the principles of free, prior and informed consent).
- Engagement with government officials.
- Stipulations concerning the company's expectations of personnel, business partners and other relevant parties.
- Information on how the company will implement its commitments.

#### Key Resource:

- [How to Develop a Human Rights Policy: A Guide for Business \(UN Global Compact 2015\)](#)

### Clearly set out the company's human rights expectations from the start of engagement with the host government.

- ✓ Refer to the host country's relevant laws, highlighting the links between national legislation and good practices on business, security and human rights. Refer to international human rights standards, especially if the government has committed to those standards.
- ✓ Refer to the company's human rights policy and commitment to business and human rights initiatives, and explain the need to uphold the company's reputation. Articulate from a company perspective the need for effective and accountable national security institutions. Highlight links between the company's concerns and areas of interest for the host government (e.g. well-trained security forces).
- ✓ Advocate for reform of domestic legislation that conflicts with international human rights standards. [From Red to Green Flags: The Corporate Responsibility to Respect Human Rights in High Risk Countries, p. 42 \(Institute for Human Rights and Business 2011\)](#) Appeal to the government's self-interest in making conditions easier for responsible foreign investors.
- ✓ Use language that resonates with host government actors. In certain situations, it may be better not to explicitly mention human rights, but to find alternative ways of raising related issues, such as by referring to good policing practices or adherence to professional standards.
- ✓ Acknowledge the government's positive efforts on human rights before suggesting improvements.

### Incorporate clauses on human rights into investment agreements and commercial contracts with the host government.

- ✓ Include references to widely recognized standards such as the UN Guiding Principles on Business and Human Rights, the Voluntary Principles on Security and Human Rights, the Core International Labour Organization Conventions and the International Finance Corporation's Performance Standards.
- ✓ Ensure that agreements with the host government specify that land acquisition and resettlement be conducted in accordance with international standards, in particular:

- [UN Declaration on the Rights of Indigenous Peoples.](#)
- [International Labour Organization Indigenous and Tribal Peoples Convention, 1989.](#)
- International Finance Corporation [Performance Standard 7 – Indigenous Peoples.](#)
- International Finance Corporation [Performance Standard 5 – Land Acquisition and Involuntary Resettlement.](#)
- [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 2:6 \(International Alert 2005\).](#)

### **Work with other stakeholders to raise security and human rights issues with the host government (see 4.3. and 4.4.).**

- ✓ Use stakeholder mapping to identify key interlocutors on security and human rights issues the company can work with. Stakeholder mapping is an integral part of the development of wider [human rights due diligence](#) procedures (see 1.1.a.).
- ✓ Work with other companies to jointly address issues of common concern with the authorities. At times, collaborative action can be more effective than individual companies approaching the government regarding security and human rights.
- ✓ Work with civil society organisations. Civil society organisations can serve as valuable interlocutors or mediators to communicate with security forces, governments or host communities. [Voluntary Principles on Security and Human Right: Implementation Guidance Tools, p. 18 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Work with home governments. Home governments can serve as valuable conduits to communicate expectations and to broach challenges with host government. Contacts should be developed with home government departments and agencies that have direct knowledge of and responsibility for security sector reform and governance issues (e.g. defence, international development, foreign affairs).
- ✓ Engage with international financial institutions (e.g. the World Bank or International Finance Corporation) that provide funding to host State actors in order to jointly promote sustainable investment and good governance, including on security and human rights issues.
- ✓ Establish or support an existing community security forum to jointly address security and human rights issues. This forum should include representatives from security stakeholders, as well as traditional leaders and representatives from any groups impacted by current or future security arrangements. This forum could also provide an effective venue for raising community security issues (see [in-country working groups](#)).
- ✓ Consider forming an external stakeholder advisory panel. This panel could help monitor and engage in dialogue with the government on security and human rights issues. It can also identify good practices and innovative initiatives from other contexts. The panel should include stakeholders the host government considers legitimate (e.g. current and former officials in leadership, international statespersons), as well as people who are familiar with the plight of vulnerable groups (e.g. [women](#) and [indigenous peoples](#) who are confronted by large business operations in their region).

#### **Practical Tool:**

- 🔧 [Host Country Security Assessment Guide \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)

## Strengthen the role of other stakeholders.

- ✓ Strengthen the role and capacity of civil society. In particular, focus on strengthening skills that enhance human rights advocacy, data collection, monitoring and evaluation, and the drafting of policy proposals and reports ([see 4.3.](#) and [4.4.](#)).
- ✓ Support public dissemination campaigns, possibly through events, seminars, radio messaging, printed media dissemination and informative webpages in local languages. These campaigns can help build bridges between companies and concerned local-level stakeholders on security and human rights issues linked to company operations. It is important to understand the local context to ascertain the best means of public outreach, particularly in fragile and conflict-affected areas. Different groups in a local community—in particular the most vulnerable and the illiterate—may require different and varied outreach strategies ([see 4.2.b.](#)).
- ✓ Support efforts by other governments, civil society and international organisations to strengthen State institutions. [Voluntary Principles on Security and Human Rights, p. 5 \(Voluntary Principles Initiative\)](#)
- ✓ Identify ongoing initiatives to support capacity development for oversight mechanisms and independent bodies, including legislatures, judiciaries, ombudsperson institutions, national human rights institutions, anti-corruption commissions and independent security sector oversight bodies. Seek ways to contribute to these initiatives.

### Key Resource:

- [Private Security Governance Observatory](#)
- [Human Rights Impact Assessment Guidance and Toolbox, Phase 5: Reporting and Evaluation \(Danish Institute for Human Rights 2020\)](#)

## Marsad Security Sector Observatories

Marsad Security Sector Observatories are a series of websites that gather and present country-specific information about national security sector governance (SSG) dynamics and security sector reform (SSR) initiatives. All websites are available in a national language, as well as English or French. These platforms include relevant national and international news items, opinions, analyses and reports on security sector governance-related issues.

Setting up a website similar to the Marsad Observatories can support the coordination of national security actors. Such a site could provide a good platform to distribute relevant concepts and practices, including the Voluntary Principles on Security and Human Rights. Marsad visitors are able to comment and discuss all published reports and analyses, as well as propose their texts for publication by sending them to the Marsad editorial team.

Established Marsad Security Sector Observatories include:

- [Marsad Egypt](#)
- [Marsad Palestine](#)
- [Marsad Libya](#)
- [Marsad Tunisia](#)

## B. Engagement on human rights concerns: Using leverage to strengthen security and human rights

### Good Practices\*

#### Use existing leverage to address human rights concerns or seek ways to increase leverage (see 1.2.a.).

- ✓ If the company lacks leverage, consider ways for the company to increase it. Leverage on human rights may be increased by, for example, working through a multi-stakeholder initiative or offering capacity-building or other incentives to the relevant government entity. Leverage may change over time, and is often highest before the initial investment phase when the company is discussing a new agreement with the host government.<sup>9</sup>
- ✓ Engage with other stakeholders (e.g. home governments, other companies, civil society, [human rights defenders](#), national human rights institutions and relevant multi-stakeholder initiatives) to coordinate and raise security and human rights issues with the host government. Civil society and [human rights defenders](#) are important sources of information which can inform companies' decisions on using their leverage to strengthen human rights respect. To mitigate risks to these partners, companies should always seek the consent of the relevant human rights defenders or civil society organisations before making any statements to the host government. If appropriate and agreed upon with the relevant stakeholders, companies should also seek to protect the identity of their sources, to the greatest extent possible.

### What is leverage?

Excerpt from the [United Nations' guidance on the corporate responsibility to respect human rights](#):

'Leverage' over an entity (business, governmental or non-governmental) [...] may reflect one or more factors, such as:

1. Whether there is a degree of direct control by the enterprise over the entity;
2. The terms of contract between the enterprise and the entity;
3. The proportion of business the enterprise represents for the entity;
4. The ability of the enterprise to incentivise the entity to improve human rights performance in terms of future business, reputational advantage, capacity-building assistance, etc.;
5. The benefits of working with the enterprise to the entity's reputation and the harm to its reputation if that relationship is withdrawn;
6. The ability of the enterprise to incentivise other enterprises or organisations to improve their own human rights performance, including through business associations and multi-stakeholder initiatives;
7. The ability of the enterprise to engage local or central government in requiring improved human rights performance by the entity through the implementation of regulations, monitoring, sanctions, etc.

[Corporate Responsibility to Respect Human Rights: An Interpretive Guide \(United Nations Human Rights Office of the High Commissioner 2012\)](#)

**Key Resources:**

- 📌 [UN Guiding Principles on Business and Human Rights, commentary for no. 19](#)
- 📌 [Using Leverage in Business Relationships to Reduce Human Rights Risks \(Shift 2013\)](#)
- 📌 [Using Leverage \(Global Business Initiative on Human Rights\)](#)

**If it is not possible to effectively use the company's leverage to mitigate the risk that human rights abuses continue, consider ending the relationship with the relevant entity if feasible, taking into account the potential adverse human rights impacts (see 1.2.a.).**

[UN Guiding Principles on Business and Human Rights, no. 19](#)

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*\* These good practices are not meant to be prescriptive. It is up to the user to evaluate whether they could be feasible, useful and appropriate to the local context in a specific situation on the ground.*

1. Summary of the Colombia VPs Process Report (CME 2014). The full report is available on the [CME's website page](#).
2. The CME's recommendations are public and are meant to be used by companies in any sector. For more information on the CME's recommendations, please visit [the CME's website](#).
3. Office of the Vice-President, Ministry of Foreign Affairs, Ministry of Defence of Colombia, National Human Rights and IHL Program, High Command of the Military Forces and Colombian Army, National Police, and Office for the Supervision of Private Security
4. [Top 10 Programming Tools for Security and Justice Sector Reform \(DCAF 2017\)](#)
5. [Business and Armed Non-State Actors – Dilemmas, Challenges and a Way Forward, p. 21 \(Ben Miller, Dost Bardouille and Sarah Cechvala, CDA 2014\)](#)
6. [Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, p. 46 \(Institute for Human Rights and Business, Shift and the European Commission 2013\)](#)
7. [Creating Shared Value \(Michael Porter and Mark Kramer, Harvard Business Review 2011\)](#)
8. [Community Development Toolkit, p. 23 \(International Council on Mining and Metals 2012\)](#)
9. [Conflict Transformation and the Corporate Agenda – Opportunities for Synergy, p. 364 \(Luc Zandvliet, Berghof Handbook for Conflict Transformation 2011\)](#)





## 2. Working with Public Security Forces

## 2.1. Security arrangements

### A. Public security forces assigned to operational sites: Managing fluctuating numbers, capabilities and applicable rules and restrictions

#### Good Practices\*

##### Discuss security arrangements with the management of public security forces at the national, regional and/or local level.

- ✓ Raise international standards on the conduct of public security forces in discussions with national authorities. Especially for companies operating in the extractive sector, include the Voluntary Principles on Security and Human Rights. Emphasise that the type and number of public security forces deployed should be proportional to the threat. [Voluntary Principles on Security and Human Rights, p. 4](#) If national authorities decide, in compliance with national law, to deploy military forces to areas of extractive operations, highlight the need for adequate training and equipment.
- ✓ Identify and set out in formal terms the different roles assigned to public and private security. Determine the rules for their deployment around the company's facilities; in particular, try to determine mechanisms and procedures for scaling up or down depending on the changing environment. Agree on these arrangements with the chain of command for public security forces.
- ✓ Only request the permanent deployment of public security forces if there is a high level of lawlessness or if the site is so remote that the response time for public security forces to arrive is too long. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Consider requesting that women make up a certain percentage of public security forces deployed to the project site. The presence of women provides for a diversity of observations, facilitates interactions with women and children and may help prevent risks of gender-based violence.<sup>1</sup>
- ✓ Assess whether the security benefits of working with public security forces (e.g. for convoy protection) outweigh the risks that lethal force may be used.

##### Maintain close contact with representatives of public security forces at different levels.

- ✓ Seek home government support to access high-level public security officials. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 14 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Maintain close contact with representatives of police and military forces, with connections at different levels of the chain of command. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-14 \(World Bank Group and Anvil Mining 2008\)](#) Build positive relationships with local police forces and/or public security (as relevant) in order to stay well-informed and have a direct point of contact on site ([see 2.3.b.](#)).

- ✓ Raise concerns to authorities at the appropriate level whenever use of force by public security is excessive. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 44 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Establish formal and consistent reporting and communications mechanisms with public security forces and other stakeholders in order to ascertain ongoing threat levels. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 4, 44 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Always document decision points in meetings with public security forces and distribute them among participants.
- ✓ Ensure the company approach to security arrangements (e.g. roles and responsibilities, chain of command, use of force) is mainstreamed through all security personnel on site. Clearly communicate rules and expectations to all relevant parties.
- ✓ Sponsor visits by senior public security officials to the company's operational site in order to strengthen the relationship between the company and public security providers. As explained by the World Bank and Anvil Mining, 'The effect on [public security] chain of command is normally very positive and enhances the position of the company with local commanders. These steps strengthen the company management's access in difficult times. The company representative can pick up a phone and ask for help at a senior level to resolve problems with local commanders.' [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-12 \(World Bank Group and Anvil Mining 2008\)](#)

### **Establish an agreement or memorandum of understanding with public security forces assigned to operational sites ([see 2.3.](#))**

- ✓ With representatives of public security forces, develop a joint risk assessment process to agree on security risks and the nature and level of support required from public security forces. Consider also including local stakeholders (e.g. local authorities, representatives of local communities, local civil society organisations, local business associations) in the risk assessment process.
- ✓ Use any in-kind support the company provides as an incentive to agree on and enforce clear rules on deployment and conduct of public security forces. These rules should comply with the [UN Code of Conduct for Law Enforcement Officials](#), the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#) and the [Voluntary Principles on Security and Human Rights](#), especially for companies operating in the extractive sector.
- ✓ Encourage the host government to make records of security arrangements publicly accessible, subject to any overriding safety and security concerns. [Voluntary Principles on Security and Human Rights, p. 4](#)
- ✓ Whenever preparing an agreement or memorandum of understanding, draw inspiration from existing agreements or memoranda of understanding. Also consider drawing inspiration from examples, such as the Voluntary Principles' model clauses for agreements between government security forces and companies (including for companies that do not operate in the extractive sector).

**Key Resources:**

- 📖 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)
- 📖 [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials \(UN Office of the High Commissioner for Human Rights 1990\)](#)
- 📖 [UN Code of Conduct for Law Enforcement Officials \(UN Office of the High Commissioner for Human Rights 1979\)](#)

**Practical Tool:**

- 🔧 [Voluntary Principles on Security and Human Rights: Model Clauses for Agreements Between Government Security Forces and Companies with Respect to Security and Human Rights \(Voluntary Principles Initiative 2016\)](#)

**Support efforts to provide human rights and international humanitarian law training for public security forces (see 2.5).**

## B. Presence of public security forces assigned to areas of corporate operations: Preventing increased incidents and escalation of tensions

### Good Practices\*

**Analyse the operational context as part of the human rights risk assessment, impact assessment and enhanced due diligence (see 4.2.a. and [human rights due diligence](#)). Update risks and impacts regularly.**

- ✓ Conduct a conflict analysis to understand the root causes, the dynamics, the actors and nature of local conflicts and thus be able to operate in a conflict-sensitive manner. The conflict analysis should also assess the level of adherence to human rights and international humanitarian law standards by the different parties. [Voluntary Principles on Security and Human Rights, p. 5](#)
  - In situations of armed conflict, additional legal obligations stemming from international humanitarian law apply.
  - In situations of armed conflict or high-risk situations, a heightened form of human rights due diligence will be required (see [complex environments](#)). [Conflict Prevention Tool \(Queen's University, Anglo Gold Ashanti, International Committee of the Red Cross and Geneva Centre for Security Sector Governance 2021\)](#)
- ✓ Identify security risks for the company (e.g. risks for company personnel and families, facilities and assets), as well as risks for local communities. [Voluntary Principles on Security and Human Rights, p. 2](#)
- ✓ Engage in community consultations regarding security measures as a crucial source of security risk information. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 20 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Ensure all vulnerable groups are adequately represented in these consultations (see 4.2.a.).
- ✓ Keep in mind that security risk assessments form part of wider human rights due diligence.

#### Practical Tool:

- 🔧 [Use of Security Forces: Assessing and Managing Risks and Impacts, Chapter II \(International Finance Corporation 2017\)](#)

## Conflict-Sensitive Operations

Conflict-sensitive business practice encompasses the following principles:

- Identify the root causes of tensions and potential triggers with the aim of understanding the conflict. This should include contextual factors, such as the characteristics of a country or region that can affect conflict, as well as the real and perceived grievances that can drive conflict.
- Map the main actors in the conflict and their motives, capacities and opportunities to inflict violence. Actors include affected stakeholders, parties to the conflict and ‘mobilizers’—people or institutions using grievances and resources to mobilize others, either for violence or for peaceful conflict resolution.
- Identify and anticipate the ways in which the businesses’ own operations, products or services impact existing social tensions and relationships between the various groups and/ or create new tensions or conflicts. Integrate a conflict analysis in the company’s human rights due diligence.
- Companies that wish to act responsibly and demonstrate leadership could aim to go beyond ‘do no harm’ and make positive contributions to peace and stability. The ways in which this can be done depends on the context. However, the priority must first and foremost be to avoid harmful impacts. Examples of different contributions to peacebuilding by business and other guidance can be found in: [Local Business, Local Peace: The Peacebuilding Potential of the Domestic Private Sector \(International Alert 2006\)](#).

### Key Resources:

- [Business, Human Rights and Conflict-Affected Regions: Towards Heightened Action \(UN Working Group on Business and Human Rights 2020\)](#)
- [Human Rights Due Diligence in Conflict-Affected Settings \(International Alert 2018\)](#)

## Conflict Analysis

The conflict analysis should answer the following key questions:

- What are the root causes of tensions and potential triggers?
- Who are the main actors in the conflict? What are their motives, capacities and opportunities to inflict violence?
- Is conflict likely to re-emerge?
- Which geographical areas are and are not controlled by the State? [OECD Development Assistance Committee Handbook on Security System Reform, p. 53 \(2007\)](#)
- What roles have security sector actors played in the conflict? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 70 \(UN Department of Peacekeeping 2012\)](#)
- Have security sector actors contributed to, or been among the root causes of, the conflict? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 70 \(UN Department of Peacekeeping 2012\)](#)
- What are the most prevalent conflict dynamics among local stakeholders? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 72 \(UN Department of Peacekeeping 2012\)](#)

- ✓ Conduct human rights due diligence, mapping risks to international humanitarian law and sources of potential conflict. Where feasible, mandate reputable and experienced local actors to conduct this study. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)

## Conflict-Sensitive Human Rights Due Diligence

Conflict sensitivity should be reflected in various aspects of [human rights due diligence](#) processes:

- The design of [human rights due diligence](#) process needs to include a conflict analysis, which should be informed by data gathered from the field. Companies may not always be aware of conflict risks associated with their contractors, business partners, assets and/or infrastructure. Companies should collect data on how the business relates to conflicts in the operating environment. Accordingly, the company should collect data from affected stakeholders and carefully analyse their financial and resource flows.
- Prioritisation of which impacts to address first should be based on severity, which is judged by the scale, scope and irremediability of actual and potential impacts. [UN Guiding Principles, no. 17 and 24](#) In conflict situations, the likelihood and consequences of conflict form a crucial additional element in determining priority. How likely is the issue to create or exacerbate conflict? How severe are the human rights implications of the conflict risks identified? (For more information on prioritisation of risks, [see 1.2.a.](#))
- While volatile environments may make interactions with external stakeholders more complicated and potentially threatening, stakeholder engagement needs to be broad in conflict-affected contexts. In particular, the conflict may already cause a lack of information or may complicate engagement with communities due to their affiliations to the conflict. This can only be countered by collecting information from a wide variety of different stakeholders, including different groups and those with different stances on the conflict.

### Key Resources:

- [Human Rights Due Diligence in Conflict-Affected Settings \(International Alert 2018\)](#)
- [Conflict Prevention Tool: Developing Multistakeholder Strategies \(Queen's University, AngloGold Ashanti, International Committee of the Red Cross and Geneva Centre for Security Sector Governance 2021\)](#)
- [Human Rights Impact Assessment Guidance and Toolbox \(Danish Institute for Human Rights 2020\)](#)

## Humanitarian Law Assessment

A human rights/international humanitarian law assessment should offer answers to the following questions:

- What are the main human rights and international humanitarian law violations people have faced or are facing?
- Who are the main perpetrators of the violations?
- Which are the most vulnerable groups?
- What are the scope and dynamics of sexual and gender-based violence?
- Do State mechanisms exist to monitor, report and respond to violations of human rights or international humanitarian law perpetrated by members of the security sector? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 71 \(UN Department of Peacekeeping 2012\)](#)
- Are effective steps being taken to hold perpetrators in the security sector accountable, and by who? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 71 \(UN Department of Peacekeeping 2012\)](#)
- What measures have been taken to prevent the recurrence of such violations? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 71 \(UN Department of Peacekeeping 2012\)](#)
- What capacity does the security sector have to prevent and respond to reports of violations by its own actors or by other actors? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 71 \(UN Department of Peacekeeping 2012\)](#)

## Security and Threats Analysis

A comprehensive security and threats analysis may potentially include a survey drawing on local public perceptions. Such an analysis should offer answers to the following key questions:

- What are the main threats to be addressed?
- What is known about the nature of those threats? For example, who does what, how, when, where, and to whom? [UN Security Sector Reform Integrated Technical Guidance Notes, p. 71 \(UN Department of Peacekeeping 2012\)](#)
- What tensions exist between different social groups? What are the triggers that could exacerbate tensions? [OECD Development Assistance Committee Handbook on Security System Reform, p. 53 \(OECD 2007\)](#)
- Who are the 'champions' at community level that could help to mitigate security risks?
- How can the security sector contribute to mitigating the identified threats?
- Is the security situation improving or worsening in the country?
- [UN Security Sector Reform Integrated Technical Guidance Notes, \(UN Department of Peacekeeping 2012\)](#)



## Minimise the presence of public security forces at company sites.

[The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-1 \(World Bank Group and Anvil Mining 2008\)](#)

- ✓ In conflict environments, try to avoid public security forces becoming involved in operations at company sites if private security can legally and practically respond to needs. Although the government also remains responsible for the conduct of public security forces, once the company has a public security force detachment on its facilities, it needs to accept responsibility for its conduct at the site. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Request public forces only when there is an urgent need at a specific location and then clearly define their mandate, as well as the time limits for their expected withdrawal. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-1 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Consider safety and gender-specific concerns with regard to areas that women use or cross over, and be aware that the presence of public security forces may impact safety in a positive or negative way. Both actual and perceived impacts should be considered, with particular consideration to the opinions of the affected women.

### Key Resources:

- 📖 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)
- 📖 [VPs Implementation Toolkit for Major Project Sites \(World Bank Group 2008\)](#)

## Promote respect for international standards and good practices by public security forces deployed on site.

- ✓ In discussions with representatives of public security forces, underline that deployed forces should be competent and the type, number and means engaged should be appropriate and proportional to the threat. [Voluntary Principles on Security and Human Rights, p. 4](#) Ensure that this requirement is made explicit in a memorandum of understanding or agreement with the host State ([see 2.3.](#)).
- ✓ If national authorities decide, in compliance with national law, to deploy military forces to areas of company operations, highlight the need for adequate training and equipment. Ensure that the forces' chain of command is clearly defined and that the company correctly understands how management can interact with the chain of command (e.g. which protocols to follow).
- ✓ Ensure the respective roles and responsibilities of public and private security are clearly defined and communicated to both company management and public security forces' chain of command.

### Practical Tool:

- 🔧 [Voluntary Principles on Security and Human Rights: Model Clauses for Agreements Between Government Security Forces and Companies with Respect to Security and Human Rights \(Voluntary Principles Initiative 2016\)](#)

**Closely monitor the public security forces assigned to the protection of the company's staff, assets and operations. Ensure they do not take part in activities related to conflict or armed violence.**

**Publish a policy commitment on human rights (see human rights due diligence and 1.3.a.).**

- ✓ Companies should openly communicate the circumstances in which public security forces are likely to be associated with their operations, as well as how they address the risk of human rights violations by public security forces in these situations. This could help the public differentiate between the company and the security forces that are guarding them. It may also reduce the risk of being too closely associated with public security operations.

## C. Public security forces with insufficient human resources, low salaries, inadequate training and poor equipment: Preventing criminal activity and human rights violations

### Good Practices\*

#### Conduct and regularly update risk assessment.

- ✓ As part of the risk assessment, evaluate the resources needed by public security forces.
- ✓ Assess potential conflict risks that could arise as a result of imbalances within public security forces, particularly due to additional resources provided to units dedicated to company security.

#### Consider alternatives to the provision of financial and material support ([see 2.6.a.](#)).

#### Engage with the appropriate government agencies and emphasise the need for the host government to provide adequate resources.

- ✓ Include a provision in the agreement or memorandum of understanding with the host government that part of the taxes paid by companies be used to provide resources to public security forces. Account for risks when considering such a provision. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-17 \(World Bank Group and Anvil Mining 2008\)](#)

#### Practical Tool:

- ✚ [Voluntary Principles on Security and Human Rights: Model Clauses for Agreements Between Government Security Forces and Companies with Respect to Security and Human Rights \(Voluntary Principles Initiative 2016\)](#)

#### Support efforts by governments, civil society and multilateral organisations to strengthen State institutions.

##### [Voluntary Principles on Security and Human Rights, p. 5](#)

- ✓ Identify synergies with security sector reform programmes. Programmes to strengthen the management and oversight roles of security institutions, as well as training for public security forces, are in place in many countries. The company could engage with these programmes to extend some police reform activities to the area of the company's operations. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-18 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ The United Nations Security Sector Reform Inter-Agency Task Force explains that support for public security forces should promote 'fair, objective, transparent, non-discriminatory and merit-based policies and practices on recruitment, salaries, performance evaluation, promotion and professional development'. Place particular emphasis on programmes that focus on gender-inclusiveness and inclusion of women in security forces. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 105 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Provide resources to support programmes that strengthen accountability at the local level.

## Security Sector Reform Programmes

There are a number of resources that can assist companies in the identification of regional and national security sector reform programmes.

1. The **International Security Sector Advisory Team (ISSAT)** offers detailed country – and region-specific information on security sector reform programmes, resources, experts and news. The country profiles are part of the ISSAT Security and Justice Reform Community of Practice (CoP), an online platform that allows practitioners to access and contribute to a vast repository of policy guidance documents, case studies and e-learning courses. The platform provides opportunities to identify and engage with security sector reform practitioners and programmes. The country profiles can be accessed via the [Geneva Centre for Security Sector Governance](#) website.
2. The **African Security Sector Network (ASSN)** is an extensive network of organisations from across Africa focusing on the security sector. The network—which maintains regional hubs in Accra, Juba, Mzuzu and Nairobi—promotes cooperation between actors and organisations working in security-related domains. Learn more via the [ASSN website](#).
3. The **Security Sector Reform Resource Centre** provides country snapshots with up-to-date information on security sector reform programmes, stakeholders and donors around the world. The country snapshots do not yet cover all countries, but new information is continuously being added and expanded upon. The country snapshots can be accessed via [the centre's website](#).
4. The **UN Security Sector Reform Website** provides an overview of international organisations, training providers and UN agencies involved in security sector reform programmes around the world. The website can be accessed via [UN Peacekeeping](#).

## Engage with other concerned companies to encourage home governments or multilateral institutions to help provide the material and support needed.

- ✓ If feasible, consider contributing to a consolidated, joint programme of equipment and training that will benefit all companies in the area. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-18 \(World Bank Group and Anvil Mining 2008\)](#)

## If the company feels compelled to provide financial and material support to public security forces, assess all potential risks and establish safeguards (see 2.6.b.).

- ✓ Assess the security benefits of providing resources to public security forces against the risks of human rights violations. If the benefits outweigh the costs and risks, establish and disseminate clear criteria for providing material support.
- ✓ Analyse any past cases of material support as the basis for the provision of such material.

## Develop clear procedures for the provision of financial and material support to public security forces assigned to the project site.

- ✓ Develop a protocol for the provision of equipment, goods and services to public security forces. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-17 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Condition equipment transfers on the government's commitment to respect human rights. Raise the appropriate standards and codes for the protection of individuals and the use of force; these are relevant both in the context of law enforcement operations (where human rights law applies) and in the conduct of hostilities (where international humanitarian law applies).
- ✓ List anything provided to governments, including public forces, in a record of transfer register, which should include details on exactly what the company provided, when and for what purpose. The recipient's signature should be required for all items provided. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-19 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Ensure full transparency of payments made and/or equipment transferred via reporting and public disclosure.

## Ensure that financial and material support provided to public security reaches personnel on the ground.

- ✓ Endeavour to split the payments intended to contribute to public security forces between the relevant authorities at national and local levels.
- ✓ Where public security forces are entitled to payments in the form of a per diem or supplement to enable travel to company sites, ensure these are delivered directly to individuals.
- ✓ Ensure that any equipment to be used for the protection of the project site is secured at the site and released only according to agreed procedures. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-19 \(World Bank Group and Anvil Mining 2008\)](#)

### Practical Tools:

- 🔧 [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- 🔧 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)

### Key Resource:

- 📖 [Security Sector Reform paper 13 – Business and Security Sector Reform \(Geneva Centre for Security Sector Governance 2015\)](#)

## D. Payments (cash and/or in-kind) to public security forces: Ensuring transparency and managing suspicions of corruption

### Good Practices\*

#### Ensure transparency of contractual agreements and payments made to host governments.

- ✓ International Alert emphasises that companies should make ‘a clear and unequivocal commitment to transparency of all revenue flows to governments.’ [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, Flashpoint Issue 9:6 \(International Alert 2005\)](#)
- ✓ Make all payments to governments available in company financial reviews and/or the company website, making sure figures are presented in a clear format. Guidance on related good practices can be found on the [Publish What You Pay](#) website.

#### Work with host government authorities to increase transparency in the management of payments made by companies.

- ✓ Assist in the development of a national financial reporting framework. Reporting frameworks need to be comprehensive and consistent for companies, at the country level or operational level. They should also allow for proper analysis by civil society organisations and other observers.
- ✓ Work with other companies to promote common minimum standards for financial reporting.
- ✓ Cooperate with other companies to advocate for transparency of payments at the national level and/or with the host government.

#### Key Resource:

- [The EITI Standard 2019](#): gives guidance on full disclosure of payments to host governments

#### Support programmes by governments, civil society and multilateral institutions to increase transparency in security sector financing.

- ✓ Engage in multi-stakeholder processes such as the Extractive Industries Transparency Initiative at both the national and international levels. According to International Alert, ‘This includes working collaboratively with home and host governments, international financial institutions, investors, civil society organisations, industry representative associations and other companies, including state-owned enterprises, toward ensuring that such initiatives evolve into meaningful and accountable standards of practice.’ [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, Flashpoint Issue 1:6 \(International Alert 2005\)](#)
- ✓ Seek ways to support security sector reform programmes that promote effective and accountable management of security budgets.

## Inform communities about the company's arrangements with public security (see 4.2.b. and [human rights due diligence](#)).

- ✓ Use booklets, video and audio that explain the companies' agreements with public security, companies' operational processes and payments in simple language. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, Flashpoint Issue 1:6 \(International Alert 2005\)](#)
- ✓ Establish a public information office in an easily accessible location near the project site where anyone can make inquiries about the operations. Hire a community liaison officer. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, Flashpoint Issue 1:6 \(International Alert 2005\)](#)

## 2.2. Privatisation of public security

### A. Public security forces providing security for company personnel, operations and assets: Balancing the security of the company's operations with the security of local communities

#### Good Practices\*

**Ensure that contracts with public security forces are agreed upon with the relevant authorities rather than with individuals. This way, individuals will maintain their status as public security personnel even when providing a service for a company.**

**Develop a comprehensive company policy on security, human rights and community relations (see 4.6.).**

- ✓ Develop principles for relations between security forces protecting a project site and the neighbouring communities, clearly setting out roles and responsibilities of public and private security.

**Conduct joint meetings and trainings with public and private security to ensure that roles and responsibilities are properly understood (see 3.7.).**

- ✓ Reach an agreement with relevant authorities regarding the content and regularity of the training. Include, as a minimum, the following topics: human rights, international humanitarian law, sexual violence, rules of engagement for the use of force, conflict management, crowd control and public order (see 2.5.b.).

#### Practical Tool:

- 🔧 [Training Module 3: Roles and Responsibilities of Security Personnel \(Voluntary Principles Initiative 2018\)](#)

**Discuss security arrangements with host communities on a regular basis as a way of monitoring the conduct of public security forces (see 4.6.).**

- ✓ Clarify the purpose of security arrangements during community consultations, referring to the Voluntary Principles on Security and Human Rights. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 19 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Establish mechanisms that enable communities to voice their concerns on security arrangements (e.g. through local [in-country working groups](#) on security and human rights).
- ✓ Ensure all vulnerable groups are included in these discussions.



## Ensure that the company's operational-level grievance mechanism allows individuals and communities to anonymously report any abuse, including abuses perpetrated by security providers.

- ✓ This is a key part of human rights due diligence, according to standards such as the [UN Guiding Principles on Business and Human Rights \(no. 29–32\)](#) and the [OECD Due Diligence Guidance for Responsible Business Conduct \(see 4.2.e. and 2.8.d.\)](#).
- ✓ Build a company grievance mechanism that allows anonymous reporting of human rights abuses. Ensure it is accessible through several of the following ways: [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)
  - A 'report abuse' hotline, accessible either via phone or SMS.
  - A secure e-mail address that is solely accessible by a trusted monitor.
  - Tip boxes with clear instructions posted above them, located in areas where individuals have unobserved access to the boxes and can drop in anonymous notes, tips or other information.
  - A community office where complainants can report their claims in person. Ensure that this is easily accessible to all potential claimants. If it is clear that certain members of the potentially affected community are not able to access the office, mobile teams should be sent to engage with the community and carry out the grievance process in their location.

## 2.3. Memorandum of understanding (MoU)<sup>2</sup>

### A. Developing a memorandum of understanding: Navigating the challenges of potential reluctance from host government stakeholders

#### Good Practices\*

##### Build trust among relevant host government stakeholders and prepare the ground for a meaningful memorandum of understanding.

- ✓ Complete a stakeholder mapping exercise of the host government and identify entry points for dialogue ([see 1.1.a.](#)).
- ✓ Ensure that national law is used as a basis for the development of the memorandum of understanding, as this will foster local ownership and commitment.
- ✓ Frame the development process for a memorandum of understanding as an effort at building mutual understanding and managing expectations around the management of security issues, rather than an externally imposed constraint laid on the host government. 'Walk the talk' throughout the development process by being honest, sincere, open and understanding.
- ✓ Build support from home governments, NGOs, civil society and community members for the development of a memorandum of understanding. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 45 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Invest the necessary time and effort to agree on a memorandum of understanding, as it can be a crucial factor in the successful implementation of good security and human rights practices. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 45 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

##### Develop and agree on content to be included in the memorandum of understanding.

- ✓ Include clauses around:<sup>3</sup>
  - Adherence to the provisions contained in the [UN Code of Conduct for Law Enforcement Officials](#) and the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), as well as the Voluntary Principles on Security and Human Rights.
  - Public security forces' respect for company security policies and procedures.
  - Vetting procedures to ensure that no one allegedly implicated in past human rights and international humanitarian law abuses (i.e. groups and individuals with a conviction, pending case or very strong evidence) provide security to the company.
  - A training programme, if applicable, for public security forces assigned to the company's operations ([see 2.5.](#)).

- A protocol to manage equipment transfers in a manner that aligns with good security practices ([see 2.6.](#)).
  - Modalities for company contributions to salaries, goods or services, if applicable, based on the risk assessment.
  - An agreed system of information-sharing around security issues, with due regard for necessary confidentiality.
  - Commitment to a collaborative working relationship with the joint objective of respecting human rights and international humanitarian law (if applicable).
  - Points of contact and coordination for the memorandum of understanding on public security arrangements. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-5 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ In addition, companies should consider including the text of the Voluntary Principles on Security and Human Rights as an annex to the memorandum of understanding. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-5 \(World Bank Group and Anvil Mining 2008\)](#)

### **Develop a standard memorandum of understanding template and adapt it to the local context.**

**If it is not possible to agree on a full memorandum of understanding from the start, develop specific agreements around key areas of concern such as training, equipment transfers or the working relationship between the company and public security forces. Consider continuing to work towards the development of a comprehensive memorandum of understanding using these agreements as a basis.**

### **Keep other companies informed of the memorandum development process.**

- ✓ Discuss challenges and share good practices, both in terms of process and outcomes, with other companies. If an [in country working group on security and human rights](#) forum is in place, it would be the ideal environment for this kind of discussion. Otherwise, consider setting up ad hoc meetings with security and government relations staff from other companies, or set up such a forum.

#### **Practical Tool:**

- 🔧 [Voluntary Principles on Security and Human Rights: Model Clauses for Agreements Between Government Security Forces and Companies with Respect to Security and Human Rights \(Voluntary Principles Initiative 2016\)](#)

## B. Implementation of an agreement on public security: Ensuring local commitment to national-level agreements

### Good Practices\*

#### Seek and maintain regular and constructive relationships with the local leadership of public security forces.

- ✓ Start with introductory meetings that bring key stakeholders to the table, including the local commander of public security forces, members of the company's senior management and company representatives responsible for security and community affairs. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 41 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Organise regular meetings and identify contact points. Introductory meetings should ideally lead to regular meetings (e.g. once a month) where the company, public security and other actors can exchange security information and address concerns regarding human rights and international humanitarian law. Contact points on each side should be identified early on. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 40-41 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Formalise the relationship. This could be done, for instance, through an exchange of letters or by signing an agreement at the local level.
- ✓ Invite counterparts to participate in occasional social events with the view to promoting understanding and building mutual confidence. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-11 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Invest time. Relationship-building requires patience and commitment. There will be a trickle – down effect eventually, even though it will probably not happen immediately.

#### Demonstrate a policy commitment to responsible security practices and set out the company's expectations.

- ✓ Develop a clear statement of policy. According to the UN Guiding Principles on Business and Human Rights, the policy should be approved at the most senior level of the company. It should also stipulate the human rights expectations of company partners and other parties directly linked to the company's operations. The statement should be actively communicated and publicly available. [UN Guiding Principles on Business and Human Rights, no. 16](#)
- ✓ The human rights policy should include a commitment to the Voluntary Principles on Security and Human Rights and/or other standards relating to human rights and security ([see 1.3.a.](#)).
- ✓ Discuss responsible security practices with public security forces and introduce the Voluntary Principles on Security and Human Rights. While the Voluntary Principles were initially developed for companies in the extractive sector, companies in other sectors can use them as a springboard for the management of their security practices.

- ✓ Determine what type of intervention is appropriate at each level of engagement. At provincial and national levels, responsible security practices may be included as a talking point in wider discussions, while a separate meeting may be more appropriate at local and site levels. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-15 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Refer public security forces to the [UN Code of Conduct for Law Enforcement Officials](#) and the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), as well as to the rules governing the conduct of hostilities under international humanitarian law in the context of [armed conflict](#). Use the Voluntary Principles on Security and Human Rights as an additional reference. Ensure that obligations and expectations are explained in ways that are easily understood by different audiences.
- ✓ Use language that public security forces can relate to, rather than concepts such as ‘human rights’ or ‘international humanitarian law’, which security forces might not know about or relate to. The United Nations Security Sector Reform Inter-Agency Task Force encourages appealing to values such as ‘operational excellence’ or ‘best practice’. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 41, 47 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Translate policies, rules and explanatory documents into local languages.

### **Incorporate provisions around responsible security practices into an agreement or memorandum of understanding at the local level.**

- ✓ Develop, if required, separate agreements or memoranda of understanding at both the national and local levels. Clearly identify different responsibilities and expectations between national-level and local-level implementation.
- ✓ Negotiate and sign a site security agreement. According to the World Bank and Anvil Mining, such an agreement should establish the ‘conditions, expectations, obligations and standards of behaviour outlined for all parties’, both ‘in standard operational procedures and in extraordinary or emergency circumstances’. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-6 \(World Bank Group and Anvil Mining 2008\)](#) <https://securityhumanrightshub.org/node/90> Additionally, ‘The ideal outcome is a binding agreement that specifies the responsibilities and obligations of the company and the public security forces, signed by the senior leadership of the company and the respective agencies with detailed implementation instructions at subordinate levels’. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-3 \(World Bank Group and Anvil Mining 2008\)](#) Roles and responsibilities of public and private security should be clearly set out within this agreement.
- ✓ Make sure agreements and memoranda of understanding are realistic. This means basing requirements on an analysis of the actual challenges faced by the company and public security forces at the local level. Ensure that agreements are flexible so that arrangements can be adapted in line with evolving requirements.
- ✓ Link the agreement to existing host government laws and agreements. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-5 \(World Bank Group and Anvil Mining 2008\)](#)

- ✓ Agree on a training programme for public security forces covering, as a minimum, the following topics:
  - The legal framework, including international human rights law, domestic law and international standards for policing.
  - Ethics, responsibilities, tasks and powers for public security assigned to extractive sites, as well as how these differ from typical law enforcement assignments.
  - Principles governing the use of force, graduated responses, rules on the use and storage of small arms and light weapons, use of less lethal weapons and crowd control.
  - Company coordination with public security on topics such as maintenance and restoration of rule of law, as well as community policing.
  - Expectations towards different stakeholders, such as [artisanal and small-scale miners](#) who may be working on or next to company operations.
  - Rules governing arrest, detention, search and seizure.
  - Accountability and responses to serious abuses ([see 2.5.b.](#)). [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- ✓ Develop a clear policy to respond to requests for equipment at the local level ([see 2.6.](#)).
- ✓ Invest time in negotiations with multiple levels of the host country government and convince these stakeholders of the usefulness of an agreement or memorandum of understanding. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-7 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Establish monitoring mechanisms to identify when agreements are not respected. Act swiftly to address instances of non-compliance with host State points of contact.

### **Ensure arrangements made at the local level with senior public security authorities are agreed at the national and regional levels.**

- ✓ Identify relevant interlocutors at different levels within the chain of command of public security forces through a stakeholder mapping exercise ([see 1.1.a.](#)).
- ✓ Periodically meet with regional-level and/or local-level commanders of public security forces. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-11 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Where possible, promote information-sharing between different public security forces (e.g. through organising coordination meetings).

### **Engage with other stakeholders.**

- ✓ Develop a network of stakeholders—including national government agencies, civil society organisations and other companies—to exchange security and human rights information.

#### **Key Resource:**

- [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)

## Establish a broad-based security working group at the local level.

- ✓ Establish a security working group to promote coordinated, bottom-up approaches to addressing security and human rights challenges. These groups can help offset the impacts that national-level changes in the government have on local-level progress.
- ✓ Invite the police chief, the military commander, the local head of government, one or two local leaders and other companies operating in the area to participate in a working group.
- ✓ Invite representatives of civil society organisations, including [women's](#) networks and groups, as well as representatives of [indigenous peoples](#).
- ✓ When establishing such a working group, insist that the first objective is building trust and promoting dialogue among relevant stakeholders. Open the discussion with sharing human rights challenges. These structures may take time to become action-oriented, but the time taken to build up mutual confidence and a common understanding of the issues is invaluable.
- ✓ Ensure that the working group meets regularly and that there is a clear focal point responsible for overseeing logistics, setting the agenda and recording key issues from meetings.
- ✓ Consider co-chairing meetings (e.g. one company and one civil society representative) to highlight the legitimacy of the group.

### Key Resource:

- 📖 [From Commitment to Impact \(Geneva Centre for Security Sector Governance FFP 2020\)](#)

## Sustainability of In-Country Working Groups: How Multi-Stakeholder Input and Engagement Ensures Longevity<sup>4</sup>

The In-Country Working Group on the Voluntary Principles (ICWG) based in Lubumbashi, Democratic Republic of the Congo, has existed for close to ten years, starting as a company initiative and weathering numerous transitions to become a multi-stakeholder structure with a strong anchor in local institutions.

In 2012, Tenke Fungurume Mining and the civil society organisation Pact Congo established the working group as a platform for monthly multi-stakeholder meetings on security and human rights incidents emerging in the quickly industrialising province. The meetings provided the opportunity for participants to exchange knowledge on challenges and good practices. Participation in meetings was open to all extractive companies in the area.

During a first phase of transition in 2014, a local human rights civil society organization, Justicia ASBL, was nominated to coordinate the group. Justicia ASBL was elected due to its long-standing engagement and good reputation. Tenke Fungurume Mining provided the finances necessary for the meetings.

Participation was open to government actors, civil society and companies:

- From the governmental side, the Children's Tribunal, the National Intelligence Agency and the prosecutor's office of the high court participated in the group.
- Several local civil society organizations, as well as the UN Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO), participated in the meetings.
- Besides Tenke Fungurume Mining, private sector members included MMG Limited and Ruashi Mining. In addition, senior-level managers of private security companies often represented their companies.

In 2015, the Katanga province was split into four new districts with new units of administration. The in-country working group experienced some challenges in ensuring sustainability and managing this transition. It was revitalized after a multi-stakeholder event in 2017 initiated by International Alert concluded that closer coordination with the existing multi-stakeholder platform Investissement Durable au Katanga would ensure the working group's sustainability. IDAK addresses all types of challenges in the extractive industry, while the in-country working group provides expertise on security challenges.

After the workshop, the participants resumed their meetings with more robust participation, including a marked involvement from the cabinet director of the Haut-Katanga Ministry of Interior, who was able to anticipate and defuse many situations of tension between mining police units and communities. Today, the group in Lubumbashi continues to operate and to raise new actors' awareness of the Voluntary Principles.

### Manage human resources appropriately.

- ✓ Get the right people for the job. Ensure those responsible for relations with public security forces have credibility. Key requirements include cultural awareness, operational experience and ability to speak the local languages. (Having all of this may require hiring more than one person.)
- ✓ Political awareness is also essential. The company representative(s) must not be seen as aligned with one particular group (e.g. a conflict party, opposition political group or the ruling political elite). The representative(s) should also not hold advocacy positions with lobbying groups.

### Reassess and update the memorandum of understanding regularly.



## 2.4. Vetting

### A. Vetting public security forces in fragile States and in post-conflict contexts: Conducting background checks when lacking information

#### Good Practices\*

**Maintain close relationships with different echelons of public security forces and actively seek opportunities to discuss vetting procedures.**

**In collaboration with the relevant government authorities, identify which institutions should be consulted in order to conduct background checks.**

**Establish procedures to help ensure that individuals allegedly implicated in human rights abuses do not provide security services for companies.**

- ✓ Include a clause in the memorandum of understanding establishing that no one allegedly implicated in past human rights abuses or international humanitarian law may provide security to the company. There should be no conviction, pending case or very strong evidence against the individual for such abuses. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 45 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ When there is a credible and verified report of human rights abuses and/or international humanitarian law violations, require that the concerned individuals are withdrawn from the site until an official investigation is concluded. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-12 \(World Bank Group and Anvil Mining 2008\)](#)

**Use multiple sources to obtain relevant information.**

- ✓ When legally authorised, check police records for any criminal records or warrants. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-11 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Consult public security personnel records, if it is legal and possible to do so.
- ✓ Study history of abuses in the region as part of the company's analysis of the operational context. If information on individuals within public security forces providing security to the company is not available/accessible, investigate the historical conduct of public security forces in the region, focusing on any allegations of misconduct or abuse. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 38 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

- ✓ Obtain information on each particular risk from different sources. Strive to obtain three or more verifications or multiple opinions on various risks. Potential sources may include: the web, official media, international and local NGOs, organisations from the United Nations family, other businesses, community leaders and members, women's organisations,<sup>5</sup> independent consultancies, home country embassies, industry associations, etc. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 24 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Protect source confidentiality. As noted by the Voluntary Principles on Security and Human Rights Implementation Guidance Tools, 'Some information sources may be putting themselves at risk in disclosing information.' [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 24 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#) There are ways of using the information received without having to disclose the source. For instance, part of this information may actually be publicly available or it may help identify other actors that could know more about the issue and would be ready to act as witnesses.
- ✓ Establish an effective, accessible company grievance mechanism that accepts complaints on public security ([see 4.2.e.](#) and [2.8.d.](#)).

### **If appropriate, use the services of a security consultancy company.**

- ✓ In some countries, security companies that specialise in political risk advice, investigations and security consultancy are capable of and legally allowed to conduct thorough background investigations that are beyond the scope of those conducted by a company security department. This may especially be the case for consultancy companies that are internationally recognised and reputable. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-11 \(World Bank Group and Anvil Mining 2008\)](#)

### **Share information with other stakeholders.**

- ✓ Establish a regular system of information-sharing with other companies, civil society and appropriate organisations.

### **Support efforts by governments, civil society and multilateral institutions to strengthen State institutions ([see 2.1.c.](#)).**

#### Voluntary Principles on Security and Human Rights, p. 5

- ✓ Identify security sector reform programmes that could improve vetting of public security forces and explore ways of supporting these activities.
- ✓ The United Nations Security Sector Reform Inter-Agency Task Force explains that support for public security forces should promote 'fair, objective, transparent, non-discriminatory and merit-based policies and practices on recruitment, salaries, performance evaluation, promotion and professional development'. Place particular emphasis on programmes that focus on gender-inclusiveness and inclusion of women in security forces. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 105 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Identify ways to support training programmes for public security forces ([see 2.5.](#)).

## 2.5. Training

### A. Inadequate preparedness of public security forces: Establishing a path to progress on human rights and minimal use of force

#### Good Practices\*

**Conduct a risk analysis that includes an assessment of the capacities of public security forces. Although not always feasible, this practice should be promoted whenever possible, since it is key to designing an adequate training programme.**

- ✓ Assess knowledge, fitness and aptitudes of public security forces.
- ✓ Identify capacity gaps through an aptitude test, if permitted to do so. This test can also be used as a baseline survey that will serve as a reference to measure progress made after the training.
- ✓ Establish a monitoring mechanism to ensure professionalism and quality of services provided is maintained as public security forces are rotated in and out.

**Seek to ensure that the host government understands and covers training needs.**

- ✓ In meetings with host government stakeholders, emphasise the need to enhance the quality of training for public security forces to improve respect for human rights and international humanitarian law. Expectations related to provisions in the Voluntary Principles on Security and Human Rights should be clearly explained, especially in instances where the State is a member of the Voluntary Principles Initiative. These meetings should explicitly cover host government obligations relating to human rights, international humanitarian law and other standards, with particular emphasis on how these relate to public security.
- ✓ Engage with the host government substantively on content of training. Modules should include topics such as:
  - Relevant legal frameworks, including international human rights law, domestic law and international standards for policing.
  - Ethics, responsibilities, tasks and powers for public security assigned to extractive sites, as well as how these differ from typical law enforcement assignments.
  - Principles governing the use of force, graduated responses, crowd control and rules on the use and storage of small arms and light weapons and less lethal weapons.
  - Company coordination with public security on topics such as maintenance and restoration of rule of law, as well as community policing.
  - Expectations towards different stakeholders, such as [artisanal and small-scale miners](#) who may be working on or next to company operations.
  - Rules governing arrest, detention, search and seizure.
  - Accountability and responses to serious abuses ([see 2.5.b.](#)).
- ✓ Training should also be adapted to the specific operational context.

- ✓ [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- ✓ Seek support from influential stakeholders (e.g. national political or social leaders, home governments, civil society, international organisations) to ensure the host government assumes its responsibilities regarding the training of public security forces assigned to the company's areas of operations. In-country working groups on business, security and human rights can provide valuable forums to engage with host governments on training gaps, processes and sustainability measures.

### Support national training programmes.

- ✓ Engage with the relevant ministry (e.g. ministry of interior or ministry of defence) to identify how the company can contribute to improving training on human rights and international humanitarian law for public security forces. For instance, the company can provide budgetary or logistical support to existing national training programmes.
- ✓ Support sustainable approaches to national training programmes. Focus on train-the-trainer approaches and identify ways to embed good practices in the curricula of public security training institutions.

### Recommendation of the Colombian Mining and Energy committee – CME<sup>6</sup>

The Colombian Mining and Energy Committee (CME) is a permanent, independent platform focused on dialogue and collaborative cooperation among various stakeholders from the Colombian government, civil society and companies who are interested in the protection, promotion and respect of security – related human rights. (For more information on the CME, [see 1.1.b.](#))

To support training on human rights and international humanitarian law in the defence sector, the Colombian Mining and Energy Committee issued a set of recommendations to companies, considering the following aspects:

- Companies might consider providing logistical or budgetary support so that public security providers have the appropriate tools. This training can be accompanied by forums or meetings in which international humanitarian law-related cases are analysed and lessons learned are identified.
- In order not to jeopardise the coherence of the defence sector, as well as to reduce the risk of confusion of roles and responsibilities of public and private security providers, policy decisions should be made exclusively by the defence sector, without interference from the companies.
- Instruction should be provided only by Ministry of National Defence officials or military and police forces personnel, based on the respective policy.
- When gaps are identified in the international humanitarian law instruction received by members of the public forces, companies should make proposals to the defence sector so that these gaps can be overcome.
- Companies should disseminate their commitment to the Voluntary Principles on Security and Human Rights among the members of the security forces with whom they have an agreement.

## Map existing training programmes and partner with other stakeholders.

- ✓ Identify existing training programmes on human rights and international humanitarian law developed by the United Nations, donors, civil society and other institutions.
- ✓ Support efforts to improve human rights and international humanitarian law training programmes at the national and/or local levels.
- ✓ In situations of armed conflict, liaise with the International Committee of the Red Cross or another recognised provider with local knowledge and experience. Check whether they would be able to provide international humanitarian law training to public security forces in the company's area of operations. If feasible, engage with relevant national and local authorities to ensure that all public security forces in the company's area of operations receive training from the International Committee of the Red Cross or another recognised provider.
- ✓ Seek ways to develop linkages to security sector reform assistance programmes offering training to public security forces.

## If the company feels compelled to provide training directly to public security forces, consider the good practices under [2.5.b](#).

### Practical Tools:

- 🔧 [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance International Committee of the Red Cross 2018\)](#)
- 🔧 [Voluntary Principles on Security and Human Rights Training Course \(Voluntary Principles Initiative 2018\)](#): includes modules on human rights, roles and responsibilities of security personnel, and use of force

## CASE STUDY

**Monusco and Tenke Fungurume mining training for public security forces<sup>7</sup>**

In the Democratic Republic of the Congo, the mining police (Police des Mines et Hydrocarbures) is the designated (and only) public security force allowed to operate around mine sites. Its mandate is to maintain security and order and fight against corruption and fraud. The Congolese government frequently faces capacity and expertise challenges in providing adequate training to the mining police. International organisations such as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and International Organisation for Migration (IOM) have supported in developing and delivering the curriculum, including training on respect for human rights during the performance of duties.

MONUSCO was first approached in 2012 by Freeport-McMoRan, in the framework of monthly multi-stakeholder meetings on security and human rights in Lubumbashi. The company requested a partnership in delivering human rights trainings to the security forces assigned to the Tenke Fungurume Mining concession area, the largest copper and cobalt mine in the Democratic Republic of the Congo. It proved to be an innovative and pragmatic solution to the fundamental need for responsible security in this significant concession, which stretches 160,000 km<sup>2</sup>. The strong presence of artisanal mining (from 110,000–150,000 miners) also means the concession is an important source of income for communities.

The first training was held in 2012 and focused on the rule of law, use of force, respect for human rights and prevention of sexual and gender-based violence. The training was aligned with the Voluntary Principles on Security and Human Rights. It included practical role-play exercises that trained participants on how to react in real-life situations, such as when approached by a violent protest. Participants included the mining police, territorial police, representatives of the National Intelligence Agency, the public prosecutor's office, Tenke Fungurume Mining employees and contractors, civil society organisations and actors that took part in the multi-stakeholder security and human rights meetings. MONUSCO provided specialized trainers, while the company offered meals, transportation for attendees and on-site training facilities.

The training was the basis for a partnership between MONUSCO and Tenke Fungurume Mining and helped to establish an effective working relationship between the extractive company and the public security forces assigned to its operations.

## Nigeria pocket handbook on the Voluntary Principles

In 2014, Nigerian stakeholders developed a pocket handbook to support training on the Voluntary Principles on Security and Human Rights for the Nigeria Police Force. Developed by the Nigerian civil society organisation PRAWA, with the support of the Swiss Embassy, UNICEF and UN Women, the pocket handbook supplements Nigeria's human rights-based policing training. The training emphasizes compliance with international human rights standards and practices in the conduct of police or law enforcement functions.

**Part 2** of the handbook lays out key tools available to the Nigeria Police for implementing the Voluntary Principles on Security and Human Rights, for example:

### For risk assessment:

- A human rights risk/threat register: a catalogue of potential risks that categorises and defines different threats to the safety and security of communities.
- Mission essential vulnerability assessment: a process that helps identify physical security shortcomings which might create human rights risks.

### For relations between companies and the police:

- The procedure for managing human rights allegations.

Throughout 2020 and 2021, the Geneva Centre for Security Sector Governance (DCAF) and PRAWA worked together to sensitize members of Nigeria's law enforcement community on the pocket handbook and other relevant materials on the Voluntary Principles.

## B. Low levels of awareness and understanding of security and human rights issues by public security forces: Getting involved in the training of forces assigned to the company's area of operations

### Good Practices\*

**Conduct a risk analysis that includes an assessment of the capabilities of public security forces. Although not always feasible, this practice should be promoted whenever possible, since it is key to the design of an adequate training programme.**

- ✓ Assess knowledge, fitness and aptitudes to work on public security.
- ✓ Identify capacity gaps through an aptitude test, if permitted to do so. This test can also be used as a baseline survey that will serve as a reference to measure progress made after the training.
- ✓ Establish a monitoring mechanism to ensure quality and professionalism are maintained as public security forces are rotated in and out.

**Consider alternatives to providing training directly to public security forces (see 2.5.a.).**

**If the company feels compelled to provide training directly to public security forces, reach an agreement with relevant authorities (e.g. ministries of defence and interior) regarding the content and regularity of the training.**

- ✓ Pre-deployment training should be provided to all public security personnel working on and in the proximity of the company's premises.
- ✓ Include, as a minimum, the following topics:
  - General human rights and security:
    - a. Human rights and international humanitarian law (in countries affected by armed conflict).
    - b. Self-defence.
    - c. Prevention of sexual and gender-based violence.
    - d. Community policing, including interactions with men, women, girls and boys in the local communities around company operational sites. This should also encompass topics relating to minorities and [indigenous peoples](#), including sacred indigenous sites and respect for indigenous property, if there are any such sites near the company operational site.
    - e. Rules of engagement for the use of force and firearms applicable to the protection of a project site. As a rule, public security forces should adopt a defensive approach when protecting a project site and use force only in self-defence and the defence of others from death or serious bodily harm. Refer participants to the use of force guidance developed for security providers: the [UN Code of Conduct for Law Enforcement Officials](#) and the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#). It is



of key importance that public security forces understand the different rules applicable to law enforcement operations and to the conduct of hostilities (i.e. when international humanitarian law applies).

- f. Conflict management, crowd control and public order.
- g. Incident response and first aid techniques.
- h. Response and prevention of crime in general, such as theft and trespassing.
- Context-specific topics:
  - a. All national laws, codes and regulations. These documents should be made available to training participants and should be required learning material.
  - b. Any history of company-community conflicts, how these were or were not resolved and the perceptions held by people in the communities.
- ✓ Consult civil society or community leaders to facilitate certain training modules, such as community policing and prevention of gender-based violence. Conduct practical exercises that include locally relevant scenarios and possible contingencies. One method is to use the ‘talk-through, walk-through, run-through’ formula: communicate all tasks and expectations to participants; discuss each step of the actions and responsibilities of participants; and run-through the whole scenario with role-players. As the World Bank Group and Anvil Mining explain, ‘Training events are most effective if the scenario for the simulated incident is plausible or even a repeat of a previous incident.’ [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-9 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Conduct joint incident management drills and rehearsals with public security forces, company security and local site management. In general terms, these exercises should address the phases of an incident response. The World Bank Group and Anvil Mining recommend including:
  - Preparation and review of rules of engagement.
  - Alert.
  - Deployment.
  - Designation of the on-site team leader.
  - Actions on contact.
  - Resolution of the incident.
  - Provision of medical attention (and evacuation), if required.
  - Review of post-incident lessons learned.
  - Final reporting and follow-up.

[The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-9 \(World Bank Group and Anvil Mining 2008\)](#)

- ✓ Ensure the training addresses the specificities of providing security around corporate operations.
- ✓ Demonstrate the value of training to trainees. This can be done, for example, by issuing certificates with an internationally recognised qualification or by creating incentives for participants. Express that participants who successfully complete the programme may qualify for additional skills-based training (e.g. first aid).
- ✓ Invite community members or civil society to attend and observe each course.

### Use the right language.

- ✓ Use language that resonates with public security forces. Be specific; focusing on the rules for the use of force, presenting different scenarios and sharing good practices on how to respond to challenging situations can be a much more effective way of addressing security and human rights issues than talking about general principles or international norms. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 77 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Ensure the training is adapted to the literacy level of participants.
- ✓ Ensure that the training is **gender**-sensitive in content and towards its participants.

### Complement the training with additional resources and meetings provided by the company.

- ✓ Conduct induction meetings to familiarise public security personnel with the company, in particular with its structure, policies, processes (e.g. handling of complaints and lines of reporting) and project sites.
- ✓ Host five-minute talks focused on key principles of the Voluntary Principles on Security and Human Rights. Have these delivered regularly by supervisors.
- ✓ Create and disseminate supporting materials (e.g. a pocket book with principles on the use of force).

### If necessary, cover the travel and per diem costs for trainees to attend the training.

- ✓ This is particularly important if the training takes place far from their home base.
- ✓ Where possible, travel and per diem costs should be paid directly to trainees to ensure resources reach the intended recipients and reduce the risk of misappropriation.

## CASE STUDY

## Partnerships with public institutions, experts and civil society: A case study from the public security training in Kenya

National public security units assigned to mining sites or other company operations often struggle with poor resources, capacities and equipment. At times, the training schools themselves lack staff expertise and equipment needed for effective instruction. In many operational contexts, high turnover of public security is also endemic. These issues have serious security implications for companies. Public security forces with limited knowledge of human rights principles who are assigned to company operations can present major challenges: lack of oversight on conduct, mistrust and adverse reactions from communities, use of force against civilians, work stoppage, delays in operations, grievances and judicial proceedings. High turnover of security officers also degrades the potential sustained impact of trainings and affects the professionalism of units. In the absence of a competent dedicated public security force, illegal armed actors may step in to fill the gap.

Companies have a significant opportunity to reduce these risks by consulting and working closely with the competent national authorities to support training programmes. Companies can contribute content, lessons learned, experiences and good practices and resolve problems with security provision in the long run. Companies can also contribute resources to national training programmes and engage in partnerships with security and human rights experts and civil society on the topic of training. This constitutes an investment in quality of security service provision, particularly in complex environments where public security may be weak or ineffective.

In 2012, oil companies discovered significant commercial oil reserves in Kenya's Turkana region, with an estimated 560 million barrels projected to be exported. The Turkana region has been characterised by under-development, perennial drought and inter-ethnic conflicts. Community expectations related to the economic benefits of the oil discoveries led to violent protests against companies. Civil society cited that the discontent was due to inadequate community engagement by the government and companies, as well as a lack of transparency surrounding payments, leading to social conflicts in the region. The deployment of armed national police created risks with excessive use of force in clashes with demonstrators.

Beginning in 2017, the Geneva Centre for Security Sector Governance (DCAF) worked in partnership with Safestainable (a training consultancy) and Tullow Oil in order to develop a three-day training course entitled 'Service with Dignity'. The training focused on police roles, responsibilities, ethics and professional practices, with policies and best practices drawn from National Police Service. After extensive engagement with stakeholders and a training need analysis, the project culminated in the organisation of four trainings of mixed groups of officers from Kenya's police service, including members of the Critical Infrastructure Protection Unit (CIPU). The CIPU provides security to different industries across Kenya, including extractive industries, hydro-energy, airport infrastructure, construction and other sensitive industrial sites.

In total, a pool of 16 Kenyan police instructors were fully trained to provide human rights trainings to their counterparts. During the roll-out sessions, 80 police officers were trained (58 men and 22 women). The training led to positive behaviour changes in the Turkana police and has improved relations between the police, the company and the community. The Kenyan police and Tullow Oil reported that following the training, police units located near company operations improved their practices in relation to use of force, de-escalation and management of conflict with the communities neighbouring their operations. This pilot training project showed the great potential of trainings and train the trainers programmes; the CIPU is expected to grow to 5,000 officers in the near future and may eventually expand to 10,000 officers deployed to a wide variety of critical sites throughout the country, such as hydro-electric dams and airports.

## CASE STUDY

**Engagement with public security forces in Iraq<sup>8</sup>**

BP worked with the Government of Iraq to develop a comprehensive programme on the Voluntary Principles on Security and Human Rights for the Rumaila oilfield operations in Southern Iraq. One element of this programme is a Training Assistance Programme with the public security provider, the Iraqi Oil Police Force (OPF).

**As explained by Safestainable:**

Once the agreement was signed, Safestainable (an independent consultancy specialised on sustainable security management) was requested to operationalise the training concept, develop the course schedule and prepare the curriculums for a 3-year Training Assistance Programme, under the guidance and with close support from the Rumaila Security Department. Collaboration was essential to ensure all trainings were relevant to tactical requirements and reflected the operational environment and its constraints.

The Training Assistance Programme has been based on a Train the Trainers approach to promote OPF ownership and increase its sustainability. The programme follows a systematic training cycle and relies on a training model called the Systems Approach to Training to guide the formal curriculum development, validation and evaluation process.

The programme aimed to develop a cadre of OPF trainers with the skills and knowledge to train their counterparts to effectively carry out all duties. It followed that over the 3 years the OPF trainers would deliver foundation, intermediate and advanced courses to all OPF policemen on the Rumaila field. Arabic speaking training consultants were engaged, all of which had professional backgrounds in senior positions in Middle East and North African public security forces and thereafter with human rights experience gained in the UN or International Committee of the Red Cross.

Training consultants initially delivered a pilot course to the OPF to introduce the curriculum, and then participated in the trainer selection process, before delivering a series of “Train the Trainer” courses. Thereafter they acted as mentors to the OPF trainers, providing continuous refresher training and monitoring the quality of training to ensure effective delivery. The Rumaila security training team oversaw all aspects of programme management and ensured continuity in the absence of the visiting training consultants.

Each year the Training Assistance Programme is evaluated to measure its impact on OPF policemen performance and identify further training needs. At the end of the programme a final evaluation is scheduled to measure its impact as a component of the overall Rumaila VPs programme with its objective to maintain security in Rumaila operations carried out under a frame that guarantees the respect of the human rights.

## Train the trainers.

- ✓ Support training programmes on human rights and international humanitarian law for trainers of public security forces.
  - Proactively engage with high-level police officials to introduce training of trainers (ToT) curricula.
  - Coordinate with local [in-country working groups](#) on business, security and human rights in training for trainers.
  - Coordinate with other organisations or existing trainer training programmes to identify and select potential participants with prior training experience and/or command-level officers who show the potential to be trainers.
- ✓ If possible, insist that army trainers are military and police trainers are police officers themselves, since they are better placed to communicate the content of training in a way that trainees can relate to. Furthermore, public security forces are much more likely to take the training seriously if it is a colleague or someone on their chain of command delivering the training.
- ✓ Support capacity-building programmes for representatives of civil society organisations on how to train security forces, as they can contribute. Ensure content is relevant, is sensitive to local contexts and maximises the outreach to community level. [OECD Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 230 \(OECD 2007\)](#)
- ✓ In case the country of operations is affected by armed conflict, explore opportunities for the International Committee of the Red Cross to provide international humanitarian law training to trainers.

## Evaluate the impact of training.

- ✓ Conduct a test at the end of the training and compare it with the baseline survey (or aptitude test conducted as part of the needs analysis) in order to evaluate the impact of the training and to make amendments for future trainings.
- ✓ Follow up on the impact of the training on respect for human rights. For instance, this can be done through surveys or consultations with local communities, including all vulnerable groups (e.g. [women](#)), in order to find out whether the provision of security and the human rights situation have improved as a consequence of training. [In-country working groups](#) on business, security and human rights may also monitor public security providers working on company operations and can play a significant role in monitoring and following up on the impact of trainings.

## Facilitate regular refresher trainings.

- ✓ Refresher trainings should be an integral part of the training programme. These should be agreed upon with the host government with an agreed timeframe.
- ✓ Include a few new topics in each refresher training.

**Key Resources:**

- ▀ [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- ▀ [Voluntary Principles on Security and Human Rights Training Course \(Voluntary Principles Initiative 2018\)](#): includes modules on human rights, roles and responsibilities of security personnel, and use of force
- ▀ [VPs Implementation Toolkit for Major Project Sites \(World Bank Group 2008\)](#)
- ▀ [To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces \(International Committee of the Red Cross 2020\)](#)

## C. Frequent rotations of public security forces: Retaining the benefits from briefings, induction and training supported by the company

### Good Practices\*

#### Engage with the relevant ministry (e.g. ministry of interior or ministry of defence) in order to do the following.

- ✓ Understand rotation policies (be they explicit or implicit policies).
- ✓ Request that sufficient notification is provided with regard to deployment of new personnel.
- ✓ Emphasise the need for adequate training to be provided prior to deployment (not once they have already assumed their roles).
- ✓ Request notification of any changes to deployment/rotation policies.

#### Support national training programmes to improve the capacity of public security forces. Ensure that training is renewed on a regular basis.

- ✓ Engage with the relevant ministry to identify how the company can contribute to improving training on human rights and international humanitarian law for public security forces ([see 2.5.a.](#)).

#### Support training programmes provided by other stakeholders at the national or regional levels to ensure all public security forces receive training. Ensure that training is renewed on a regular basis.

- ✓ Support human rights training programmes developed by multilateral organisations, NGOs, national human rights institutions and other stakeholders.
- ✓ In situations of armed conflict, liaise with the International Committee of the Red Cross or another recognised provider with local knowledge and experience. Check whether they would be able to provide international humanitarian law training to public security forces in the company's area of operations. If feasible, engage with relevant national and local authorities to ensure that all public security forces in the company's area of operations receive training from the International Committee of the Red Cross or another recognised provider.
- ✓ Support security sector reform programmes offering training to public security forces.

#### Brief public security forces assigned to the project site area on company policies and Voluntary Principles on Security and Human Rights standards. Do so on a regular basis to ensure that new personnel are familiar with these policies and standards.

## D. Attitudes toward human rights: Addressing differences between various stakeholders

### Good Practices\*

**Communicate the company's commitment to responsible security and respect for human rights. Include this commitment in agreements with the host government to facilitate acceptance by national security actors.**

- ✓ Develop and publish a clear human rights policy. Link this policy to international standards and good practices on security and human rights, including the Voluntary Principles on Security and Human Rights. Ensure the policy is available in local languages and various media (e.g. in audio, pictures, graphic and written formats) ([see 1.3.a.](#)). This is an important element of implementing the UN Guiding Principles on Business and Human Rights. [UN Guiding Principles on Business and Human Rights, no. 16](#)
- ✓ Communicate company policies regarding ethical conduct and human rights to public security forces. [Voluntary Principles on Security and Human Rights, p. 3](#)
- ✓ Consult national laws to identify existing norms that reinforce standards in the Voluntary Principles on Security and Human Rights. Refer to these in any contracts or agreements with host State actors.
- ✓ Include the Voluntary Principles on Security and Human Rights and/or other standards in contracts, agreements and memoranda of understanding with the host government. The UN Office of the High Commissioner for Human Rights explains that including human rights-related provisions within contracts and agreements 'can play an important role in requiring or creating incentives for those other parties to respect human rights'. Additionally, communicating and discussing these expectations is critical, both internally and externally; 'Indeed, if a new activity or project will be governed by a negotiated contract with external parties, early communication between the staff that draw up the contract, those departments that will be involved in its execution and those that have oversight of human rights issues, can help to prevent problems later on.' [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 47–48 \(UN Office of the High Commissioner for Human Rights 2012\)](#)

**Meet regularly with the management of public security forces.**

- ✓ The International Council on Mining and Metals emphasises that companies should 'establish regular, formal meetings with public security providers in order to exchange security information and address concerns regarding human rights and (international) humanitarian law'. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 40 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

**Focus on common values.**

- ✓ Focus the dialogue on concepts like 'operational excellence', 'best practice', 'respect for human life and dignity' or other shared values. Establish a relationship of trust between the public security provider and the company security manager. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 41, 47 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)



- ✓ Work with local public security commanders to establish mutually agreed upon rules of engagement for the use of force that comply with human rights and international humanitarian law. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)

### **Work with stakeholders at the national level to develop discussions around responsible security and respect for human rights (see 1.1.b.).**

- ✓ Work with other companies, home country officials, NGOs and industry associations to advance the dialogue on responsible security and human rights. In particular, build dialogue on the Voluntary Principles on Security and Human Rights; while the Voluntary Principles were initially developed for companies operating in the extractive sector, they also are applicable to companies in other industries that are willing to implement the provisions of the Voluntary Principles in their operations. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 47 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Consider recommending that the government establish a formal in-country multi-stakeholder process to address issues around responsible security and respect for human rights ([see in country working groups](#)). [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 47 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## CASE STUDY

## Impact of the South Kivu voluntary principles working group in the Democratic Republic of the Congo

Local inhabitants of an artisanal mining zone in the region of Bitale extract minerals on the mining site. They had been self-organised as a cooperative, but lacked formal status and legal authorisation from the authorities. When a neighbouring, formally recognised cooperative claimed mining rights to the site, the local inhabitants resisted. Violent clashes erupted, resulting in a serious security and human rights incident. The second cooperative had hired elements of the Congolese army to establish its presence on the site through the use of force. The local inhabitants, including former Mai-Mai militia members, fought back.

To prevent further security incidents, public authorities suspended all mining operations on this artisanal zone. As a result, the local mining communities lost their main source of livelihoods. Subsequently, the hired armed forces moved away from the closed site and established their presence in the adjacent mining town, illegitimately taking over policing functions and abusing their position of power. Local community members alleged that when faced with resistance by the local population, these forces were responsible for harassment, extortion and, in some cases, torture. The formally recognized cooperative took their claim of mining rights to the provincial court in Bukavu. The court, however, did not settle the dispute between the two cooperatives.

### The working group's solution

After the court failed to settle the dispute, a representative of the formally recognized cooperative approached the South Kivu Voluntary Principles Working Group to seek an alternative dispute resolution. The working group discussed this case in its monthly multi-stakeholder meetings— involving key actors from public authorities, companies and civil society—and agreed to attempt to facilitate a resolution. It conducted fact-finding missions to obtain an independent and neutral understanding of events to inform their interventions.

At the provincial level, the in-country working group:

- Informed the commanding general of the local armed forces of the alleged human rights violations and persisting risks stemming from the troops' presence around this artisanal mining zone.
- Advocated successfully for the immediate withdrawal of the military troops illegally present in the mining site and mining town.
- Called for the deployment of the national Congolese Mining Police to the mining site and adjacent town.

At the local artisanal mining zone, the in-country working group:

- Monitored the withdrawal of the illegal army troops from the mining town and accompanied the troops back to the provincial capital in Bukavu.
- Mediated a mutually acceptable agreement between the two disputing cooperatives. According to this agreement, the legally authorised cooperative gained the extraction rights and agreed to provide the local communities with adequate compensation for their previous investments.

[Read more here.](#)

## CASE STUDY

**Human rights training in Cameroon<sup>9</sup>**

From 2010–2014, Kosmos Energy operated in Cameroon, where public security forces were charged with the responsibility of ensuring the security of extractive operations. Kosmos Energy's oil project was the first onshore oil project in Cameroon. The human rights challenges commonly present at onshore extractive operations were therefore also new to most of the actors involved. Firstly, Kosmos Energy could not rely on public security forces to be either trained in or familiar with the human rights standards central to the company's commitment to the Voluntary Principles on Security and Human Rights. Secondly, the military and company presence created an unfamiliar, unprecedented and possibly insecure situation for the nearby local communities.

To avoid any local conflict or human rights violations, Kosmos Energy needed to reach all the different stakeholders and thus enable them to act in concert to ensure their compliance with applicable human rights standards. The challenge the company faced was to identify a shared discourse which was consistent with universal human rights standards while resonating with the reality of the local context.

In order to identify and design a suitable human rights training, Kosmos partnered with the Fund for Peace, a U.S.-based organisation that promotes sustainable security. The aim of this partnership was to assist and build the training capacity of the special unit of Cameroon's military in charge of extractive operations security, known as the Battalion d'Intervention Rapide (BIR).

At the beginning of this joint process, the Fund for Peace interviewed members of the Battalion d'Intervention Rapide from different ranks, as well as representatives of local communities affected by the extractive operations. A meeting was convened with the village chief, the leadership council and prominent members of the community. The Fund for Peace briefed the community members on the intent of the programme and sought feedback on concerns related to the deployment. This feedback was factored into the design of the programme. Based on this scoping study, a training programme was developed around five key elements.

Firstly, the training **focused on practical situations the soldiers of the Battalion d'Intervention Rapide have commonly encountered** in the past. The programme was based on everyday situations such as local protests and roadblocks rather than general principles of human rights. Secondly, the joint process **identified common values such as honour, respect and ensuring human security**, which were used in the training to 'translate' the aim of human rights standards into the local discourse. Thirdly, **the training material was adapted to the local context**. For instance, the programme approached concepts such as 'human security' from the perspective of the family, since the initial scoping study identified the deep importance of family to Cameroonians. Fourthly, the joint process **provided a platform for Battalion d'Intervention Rapide participants to present and discuss their own operational experience**. Soldiers and commanders could review their peers' challenges and share personal good practices.

Lastly, the joint process found a suitable medium **through which all affected actors could best be reached**. The medium was designed to augment and support the actual training course and provide a take-away resource for participants. It was decided that the best approach would be a series of comic books, which proved easy to disseminate. The comic series, entitled 'Captain Cameroun', reflected local and challenging situations highlighting both inappropriate and appropriate security responses focusing on the previously identified shared values: family, honour, respect and ensuring human security.

Source: [Human Rights Training for Security Forces in the Extractive Industry \(Fund for Peace 2013\); Cameroon: Human Rights Training Case Study \(Fund for Peace and Geneva Centre for Security Sector Governance 2015\)](#)

## 2.6. Equipment

### A. Managing responses to social conflicts: Preventing excessive use of force by public security forces through ensuring appropriate equipment that will allow for a differentiated use of force

#### Good Practices\*

##### Conduct and/or update needs and risk assessments.

- ✓ Assess company needs against the capacity of public security forces. The needs assessment should look at issues such as: transportation, communications, training and availability of non-lethal weapons.
- ✓ Assess whether providing any of the above-mentioned resources to public security could pose a security or reputational risk to the company. Balance the benefits against the possible negative consequences.
- ✓ Conduct research to analyse relevant past incidents involving logistical or financial support to public security forces.
- ✓ Update the risk assessment regularly by drawing on local sources to ensure that changes to the security environment are taken into account.

##### Seek to ensure that the host government provides appropriate equipment and other resources to public security forces.

- ✓ Engage with the appropriate government agencies and emphasise the need for public security forces to have the proper equipment to fulfil their duties effectively in compliance with human rights and international humanitarian law standards. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-17 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Engage with the host government and/or public security senior command to ensure that security providers are equipped with less lethal weapons that would allow for a differentiated use of force. The [1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#) call on States and law enforcement agencies to develop 'non-lethal incapacitating weapons for use in appropriate situations, to restrain the application of the means and equipment capable of causing death or injury to persons'.
- ✓ Include a provision in the agreement and/or memorandum of understanding that the host government will use part of the funds paid by extractive companies to provide equipment and other resources to public security forces. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-17 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Consider 'split' payments, with a part going to the central government and another part directly paid to the public security forces assigned to the area of operations.

- ✓ Seek support from other stakeholders—such as home governments, multilateral organisations and/or local industry associations—to encourage the host government to assume its responsibilities regarding the good performance and adequate equipment of public security forces assigned to areas of corporate operations.
- ✓ Monitor the payments chain to ensure dedicated funds reach public security forces responsible for company security.

### **Support efforts by home governments, civil society and multilateral institutions to strengthen State institutions.**

- ✓ Explore opportunities for international donors to provide necessary material and support (including training) within broader assistance programmes.
- ✓ Identify security sector reform programmes, such as police reform and training programmes, that address equipment issues. Collaborate with relevant stakeholders to extend activities to the area of the company's operations. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-18 \(World Bank Group and Anvil Mining 2008\)](#)

**Ensure security forces have been trained on the rules for the use of force and firearms under human rights and international humanitarian law (see 2.5.). Explain that less lethal weapons and related equipment may also kill or inflict serious injury or other harm, especially when the user is not properly trained or they are not used in accordance with specifications, general principles on the use of force, and fundamental human rights.**

[Guidance on Less-Lethal Weapons in Law Enforcement \(United Nations High Commissioner for Human Rights 2020\)](#)

**If the company feels compelled to directly provide logistical, financial and/or in-kind support to public security forces, consider the good practices under 2.6.b.**

**In case of excessive use of force by public security forces consider the good practices under 2.7.a.**

#### **Practical Tools:**

- 🔧 [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- 🔧 [Voluntary Principles on Security and Human Rights Training Course \(Voluntary Principles Initiative 2018\)](#): includes modules on human rights, roles and responsibilities of security personnel, and use of force

#### **Key Resources:**

- 📖 [Guidance on Less-Lethal Weapons in Law Enforcement \(UN High Commissioner for Human Rights 2020\)](#)
- 📖 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)
- 📖 [Violence and the Use of Force \(International Committee of the Red Cross 2011\)](#)

## B. Provision of logistical, financial and/or in-kind support to public security forces: Managing the associated risks

### Good Practices\*

#### Conduct and/or update needs and risk assessments.

- ✓ Assess company needs against the capacity of public security forces. The needs assessment should include issues such as: minimum salaries, food, accommodation, transportation, communications, training and availability of non-lethal weapons.
- ✓ Assess whether providing any of the above-mentioned resources to public security could pose a security or reputational risk to the company. Balance the benefits against the possible negative consequences.
- ✓ Conduct research to analyse relevant past incidents involving logistical, financial or in-kind support to public security forces.
- ✓ Update the risk assessment regularly, drawing on local sources to ensure that changes to the security environment are taken into account.

#### Consider alternatives to the provision of logistical, financial and/or in-kind support (see 2.6.a.).

#### Seek to ensure that the host government provides appropriate equipment to public security forces.

- ✓ Engage with the appropriate government agencies to discuss equipment-related challenges. Emphasise the need for public security forces to have the proper equipment to fulfil their duties effectively in compliance with human rights and international humanitarian law standards.
- ✓ Include a provision in the agreement or memorandum of understanding that the host government will use part of the funds paid by extractive companies to provide equipment and other resources to public security forces.
- ✓ Seek support from other stakeholders—such as home governments, multilateral organisations or local industry associations—to ensure the host government assumes its responsibilities regarding the good performance and adequate equipment of public security forces assigned to the areas of extractive operations.

#### In collaboration with all relevant company departments, develop a company policy and protocol for the provision of logistical, financial and/or in-kind support to public security forces.

- ✓ Address the following questions:
  - What is provided: equipment, per diem, goods and/or services?
  - Why is it needed?
  - How will it be managed and used?

- Who is the recipient and what degree of oversight is required? [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-17 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Promote transparency by working through clear, pre-established procurement processes. As an example, BP's implementation plan for the Voluntary Principles on Security and Human Rights says to 'ensure all purchases are sourced through standard procurement processes. Consider making public the reasons justifying any assistance and seek approval from the recipient to publish details of any agreement related to the assistance.'<sup>10</sup>
- ✓ Include support costs as part of the provision agreement.
- ✓ Establish safeguards for equipment transfer/provision of logistical, financial or in-kind support to public security forces.
  - Confirm the legality of the transfer.
  - Prohibit the transfer of lethal equipment (e.g. firearms).
  - Condition requests for logistical, financial and/or in-kind support based on a written agreement that the public security forces respect human rights and obey international humanitarian law. This agreement should be agreed upon with both national-level and local-level officials.
  - Specify the permitted use of the equipment or goods and obtain a formal agreement from public security forces on this.
  - Prohibit the transfer, loan or sale of equipment to a third party. Establish adequate controls to prevent misappropriation or diversion of equipment which may lead to human rights abuses.<sup>11</sup> [Voluntary Principles on Security and Human Rights, p. 3](#)
  - Include termination conditions in the event that any funding, equipment, facilities or help-in-kind is misused.
  - If possible, attach tracking technology or tracking systems to some types of equipment which could pose additional human rights risks should they fall outside the control of the security provider or company. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 43 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
  - BP's Voluntary Principles on Security and Human Rights Implementation Guideline also states that the company should 'support training to enhance management skills or individual competencies within the recipient organisation to use funds or equipment responsibly'.<sup>12</sup> Other companies may also incorporate this best practice.
  - Establish a monitoring procedure to address misappropriation or diversion of equipment.

### **Engage with the appropriate government agencies to establish the conditions of the transfer.**

- ✓ Communicate the company policy on equipment transfers. Explain that the implementation of the company policy will be monitored.
- ✓ Agree on the terms and conditions for the provision of logistical, financial and/or in-kind support. For instance, agree that any equipment provided can only be used with the company's authorisation. Although it may be a sensitive issue to address, try to agree on a procedure to address potential misuse of equipment provided by the company.

- ✓ Include clauses in the agreement or memorandum of understanding on the terms and conditions for the transfer of equipment. Attach the company policy on equipment transfers as an annex.
- ✓ Register anything provided to public forces in a record of transfer register. The World Bank Group and Anvil Mining encourage companies to state exactly what the company provided, when and for what purpose. Items should only be provided against signature by a senior officer. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-19 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Ensure full transparency of payments made and/or equipment transferred.

### Monitor the use of equipment.

- ✓ According to the Voluntary Principles on Security and Human Rights, companies should 'monitor the use of equipment provided by the company and investigate properly situations in which such equipment is used in an inappropriate manner'. [Voluntary Principles on Security and Human Rights, p. 5](#) This may be done through reports and proactive checks by the company or through a third party. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.43 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ The Voluntary Principles on Security and Human Rights Implementation Guidance Tools encourage companies to consult with home governments 'in cases where there are risks of inappropriate use of equipment transferred to public security (forces) by the company'. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.16 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ If company equipment is used without authorisation, follow the procedure established in agreement with the appropriate government agencies, where it exists, or otherwise refer to the company protocol.

### Work with other concerned companies.

- ✓ Agree on a common approach to equipment transfers.
- ✓ Share good and bad practices with other companies operating in the same area.
- ✓ If feasible, consider contributing to a consolidated, joint programme of equipment and training that will benefit all companies in the area. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-18 \(World Bank Group and Anvil Mining 2008\)](#)

### Work through a security and human rights multi-stakeholder in-country process, if any, or suggest launching one (see in-country working groups).

- ✓ Alternatively, approach the issue of equipment for public security forces through forums such as a security managers working group, industry association meetings, etc.



**Key Resources:**

- [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)
- [VPs Implementation Toolkit for Major Project Sites \(World Bank Group 2008\)](#)

**Misuse of unmonitored equipment transfers**

In one case, public security personnel requested the transfer of empty shipping containers for the purported use of storing their own equipment. Instead, they used the containers to detain prisoners. In a second case, night-vision goggles were requested to assist with perimeter patrols, but instead were used to launch night-time raids against opposition forces. In a third case, public security personnel requested the use of a company vehicle when their own vehicles were unserviceable. Seeing the military riding in identifiable company vehicles, the community not only associated them closely with the company, but also, when military personnel later engaged in abuses, community members saw them do so with the company logo prominently displayed on their vehicle.

**Source:**

[Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)

## 2.7. Use of force

### A. Insufficiently prepared public security forces: Tackling the risks related to their use of force when operating in the vicinity of company operations<sup>13</sup>

#### Good Practices\*

##### Conduct or update risk assessment.

- ✓ Check the performance history of public security forces vis-à-vis use of force and respect for human rights and international humanitarian law.
- ✓ Ensure the risk assessment examines the particular risks faced by men, women, boys and girls, which are likely to be different, as well as risks to older persons, indigenous peoples and any other vulnerable groups (see human rights due diligence).

##### Minimise the presence of public security forces at company sites.

The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-1 (World Bank Group and Anvil Mining 2008)

- ✓ Avoid involving public security forces in operations at company sites if private security can legally and practically respond to needs. The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-1 (World Bank Group and Anvil Mining 2008)
- ✓ Request public forces only when there is an urgent need at a specific location and then clearly define their mandate, as well as the time limits for their expected withdrawal. The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-1 (World Bank Group and Anvil Mining 2008)

##### Ensure public security forces are briefed on responsible security management standards and company policies.

- ✓ The Voluntary Principles on Security and Human Rights state that companies should 'clearly communicate the expectation that all operations be conducted in full respect for human rights and (international) humanitarian law'. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 39,90 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011)
- ✓ Promote the following principles with public security, as outlined in the Voluntary Principles on Security and Human Rights:
  - a. 'Force should be used only when strictly necessary and to an extent proportional to the threat. [...] In cases where physical force is used by public security, such incidents should be reported to the appropriate authorities and to the company. Where force is used, medical aid should be provided to injured persons, including to offenders.' Voluntary Principles on Security and Human Rights, p. 4

- b. The rights of individuals should not be violated while exercising the right to exercise freedom of association and peaceful assembly, the right to engage in collective bargaining, or other related rights of company employees as recognised by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.’ [Voluntary Principles on Security and Human Rights, p. 4](#)
- ✓ Distribute copies of the [UN Code of Conduct for Law Enforcement Officials](#) and the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#).
- ✓ Ensure that the local commander provides a detailed briefing instructing personnel on standards of conduct. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)

### UN Code of Conduct for Law Enforcement Officials

**Article 1** – Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

**Article 2** – In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

**Article 3** – Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

**Article 4** – Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

**Article 5** – No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

**Article 6** – Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

**Article 7** – Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

**Article 8** – Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

### Establish mutually agreed upon rules and procedures for the use of force with local public security force commanders.

[The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)

- ✓ Agree on a process for the escalation of force that allows for a proportional response to a threat, with the use of lethal force being the last resort.
- ✓ Define a clear hierarchy, identifying those in charge and those with the authority to engage public security. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-10 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ If possible, agree that any public security forces assigned to the company's facilities are held as a response force and not routinely used for guard duties. Ensure public security forces have adequate transportation to respond rapidly to an incident. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-9 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ The World Bank and Anvil Mining state that companies should ensure 'the procedures for involving public security forces in an incident (are) clear to company management, the security department and the public security forces themselves'. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Ensure that comprehensive after-action reports are developed and recommendations are implemented.

**Ensure that public security forces assigned to the area of operations have received adequate training (see 2.5.).**

**Support security sector reform programmes (see 2.1.c.).**

- ✓ The United Nations Security Sector Reform Inter-Agency Task Force encourages companies to engage with security sector reform programmes that 'support selection and recruitment policy that is based on proper recruitment mechanisms, integrity assessments, and vetting or other forms of review/screening of existing personnel. Support public announcements for vacancies/openings and transparency throughout the process.' [UN Security Sector Reform Integrated Technical Guidance Notes, p. 105 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Identify security sector reform programmes, such as police reform and training programmes, that could extend activities to the areas of the company's operations. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. II-18 \(World Bank Group and Anvil Mining 2008\)](#)

**Consider the formulation of an external stakeholder advisory panel to help monitor security and human rights issues.**

- ✓ Include stakeholders who are legitimate in the eyes of public security providers (e.g. a former minister of defence, international statesperson, etc.), as well as other stakeholders with expertise on human rights and business. In particular, include community representatives (e.g. a prominent NGO, statesperson, etc.). [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.47 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Ensure participation of individuals that represent the interests of most vulnerable groups, such as [women](#) and [indigenous people](#).

## Map out the ways in which public security forces can be held accountable for breaking the law ([see 2.8.d.](#)).

### Practical Tools:

- 🔧 [Training Curriculum on General Standards for Policing \(Geneva Centre for Security Sector Governance and International Committee of the Red Cross 2018\)](#)
- 🔧 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)
- 🔧 [Voluntary Principles on Security and Human Rights Training Course \(Voluntary Principles Initiative 2018\)](#): includes modules on human rights, roles and responsibilities of security personnel, and use of force

### Key Resources:

- 📖 [Guidance on Less-Lethal Weapons in Law Enforcement \(UN High Commissioner for Human Rights 2020\)](#)
- 📖 [Violence and the Use of Force \(International Committee of the Red Cross 2011\)](#)
- 📖 [Voluntary Principles Implementation Toolkit for Major Project Sites \(World Bank Group 2008\)](#)

## 2.8. Human rights violations

### A. Human rights violations by public security forces: Addressing incidents or complaints to the responsible authorities

#### Good Practices\*

##### **Demonstrate a policy commitment and establish the company's expectations regarding appropriate conduct by public security forces.**

- ✓ Develop a clear statement of policy that is approved at the most senior level of the company, is informed by relevant expertise and stipulates the company's human rights expectations of public security forces. The statement should also be publicly available and clearly, actively communicated to public security forces ([see 1.3.a.](#)). This is an important element of implementing the UN Guiding Principles on Business and Human Rights. [UN Guiding Principles on Business and Human Rights, no. 16](#)
- ✓ Explain the principles of responsible security and human rights to public security forces, with the possibility of illustrating these points through the Voluntary Principles on Security and Human Rights. The Voluntary Principles are particularly valid for companies operating in the extractive sector, but are also useful as an inspiration for other sectors.
- ✓ Underline that individuals with credible allegations of involvement in human rights abuses should not provide security for companies. [Voluntary Principles on Security and Human Rights, p. 4](#)
- ✓ The Voluntary Principles on Security and Human Rights prompt companies to 'promote observance of applicable international law enforcement principles, particularly those reflected in the [UN Code of Conduct for Law Enforcement Officials](#) and the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#).' Companies should also promote the rules governing the conduct of hostilities under international humanitarian law in the context of armed conflict. [Voluntary Principles on Security and Human Rights, p. 4](#)
- ✓ Within the policy, refer to expectations laid out in contracts and/or agreements with the host government. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.41 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

##### **Communicate regularly with the management of public security forces at different levels.**

- Hold regular meetings with the management of public security forces at different levels—including the appropriate ministries responsible for natural resources and security, respectively—to discuss security and human rights.
- Ensure that security staff keeps track of and regularly reports on all security incidents and developments that take place. Distribute these reports to the commander of on-site public security forces (if there is one), as well as relevant leaders of public security forces at the local and provincial levels.

- Build trust with public security actors. An effective way of doing this is by recognising good performance and professional conduct (e.g. forward special commendations and letters of recognition through the chain of command to those deserving recognition). [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-14 \(World Bank Group and Anvil Mining 2008\)](#)
- Use language carefully. For example, use terms such as ‘professionalisation’ and ‘improved effectiveness’. Emphasise the objective of helping security institutions deliver a better service. Appeal to values such as ‘operational excellence’ or ‘best practice’. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 41 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- Establish formal, consistent reporting and communications mechanisms with public security forces. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 14 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- Collect and analyse media or NGO reports on any security incident to support requests for an investigation by local authorities. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-18 \(World Bank Group and Anvil Mining 2008\)](#)

### **Incorporate requirements for appropriate conduct of public security forces into an agreement or memorandum of understanding at the local level (see 2.3.).**

- ✓ Negotiate and sign a site security agreement or memorandum of understanding. According to the World Bank and Anvil Mining, the agreement should establish the ‘conditions, expectations, obligations and standards of behaviour outlined for all parties’, both ‘in standard operations procedures and in extraordinary or emergency circumstances’. Additionally, ‘the ideal outcome is a binding agreement that specifies the responsibilities and obligations of the company and the public security forces, signed by the senior leadership of the company and the respective agencies with detailed implementation instructions at subordinate levels.’ [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-3 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Use any in-kind support the company provides as leverage to agree upon clear rules on deployment and conduct of public security forces. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-7 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Include a clause that establishes a procedure to follow in case of violations of human rights and international humanitarian law.
- ✓ Ensure the agreement is consistent with host State laws and relevant regulations.
- ✓ Invest time in negotiations to ensure the Voluntary Principles on Security and Human Rights are well-integrated into the memorandum of understanding.

### **Engage with other stakeholders.**

- ✓ Use company leverage or good relationships with government officials to ensure that public security forces respect human rights and international humanitarian law.
- ✓ Seek home government support to gain access to high-level public security officials.

- ✓ Consult regularly with other companies that have common concerns and consider collectively raising those concerns with host and home governments. [Voluntary Principles on Security and Human Rights, p. 4](#)
- ✓ Engage with NGOs. The Voluntary Principles on Security and Human Rights Implementation and Guidance tools recognise NGOs and civil society organisations as ‘valuable interlocutors or mediators in terms of communicating with security providers, governments or host communities.’ [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 18 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Seek information on human rights violations through community-level grievance mechanisms.
- ✓ If one does not already exist, consider establishing a multi-stakeholder security forum or an **in-country working group** on business, security and human rights to discuss security and human rights issues. The group should meet regularly (e.g. monthly) and work together to find appropriate solutions to security incidents or challenges. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 44 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

### **Demonstrate efforts to put an end to human rights violations by public security forces assigned to the company’s area of operations.**

- ✓ Demonstrate ongoing efforts to mitigate the impact of violations. As prescribed in the UN Guiding Principles on Business and Human Rights, companies should use leverage over entities directly linked to their business operations, with a view to effecting change in the wrongful practices of another party that is causing or contributing to negative human rights impacts. This is a key part of companies’ **human rights due diligence** responsibilities (see 1.2. and box 6 in 3.2.c.). [UN Guiding Principles on Business and Human Rights, no. 19 and 22](#) In cases of severe violations, if possible, end the relationship with public security forces. If it is not possible to put an end to the relationship, minimise the presence of public security forces at company sites.

#### **Key Resources:**

- [UN Guiding Principles on Business and Human Rights \(UN High Commissioner for Human Rights 2011\)](#)
- [Using Leverage in Business Relationships to Reduce Human Rights Risks \(Shift 2013\)](#)
- [Using Leverage \(Global Business Initiative on Human Rights\)](#)

### **Support security sector reform programmes (see 2.1.c.).**

- ✓ The United Nations Security Sector Reform Inter-Agency Task Force encourages companies to engage with security sector reform programmes that ‘support selection and recruitment policy that is based on proper recruitment mechanisms, integrity assessments, and vetting or other forms of review/screening of existing personnel. Support public announcements for vacancies/openings and transparency throughout the process.’ [UN Security Sector Reform Integrated Technical Guidance Notes, p. 105 \(UN Department of Peacekeeping 2012\)](#)
- ✓ If legally allowed, the Task Force also prompts companies to support programmes that promote ‘vetting based on human rights standards and review of human rights records for all individuals, to ensure that those personally responsible for gross human rights violations are excluded from the reformed security sector; ensure that the removal of persons as a consequence of vetting complies with due process of law and the principle of non-discrimination.’ [UN Security Sector Reform Integrated Technical Guidance Notes, p. 106 \(UN Department of Peacekeeping 2012\)](#)



## B. Engagement on human rights policies: Navigating the differences in perception between armed forces and police

### Good Practices\*

#### Communicate regularly with different levels within the armed forces.

- ✓ Establish a working relationship with representatives at different levels of the military forces and hold regular meetings to discuss security and human rights. Establish formal and consistent reporting and communications mechanisms with the armed forces. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-14 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Develop institutional relationships with the ministry of defence.
- ✓ Build trust with the armed forces. An effective way of doing this is by recognising good performance and professional conduct among personnel assigned to company operations (e.g. forward special commendations and letters of recognition through the chain of command to those deserving recognition). [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-14 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Use language carefully. For example, use terms such as ‘professionalisation’ and ‘improved effectiveness’. Emphasise the objective of helping security institutions deliver a better service. Appeal to values such as ‘operational excellence’ or ‘best practice’. [OECD Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 33 \(OECD 2007\)](#); [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 41 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Ensure that security staff keeps track of and regularly reports on all security incidents and developments that take place. Distribute these reports to the commander of on-site public security forces (if there is one), as well as relevant leaders of public security forces at the local and provincial levels. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-14 \(World Bank Group and Anvil Mining 2008\)](#)

#### Support efforts to clearly delimitate the roles of public security forces.

- ✓ Ensure that company practices support efforts to define the specific roles of the police, paramilitary forces and the military. Also support efforts to provide adequate oversight in order to avoid blurred lines of responsibility. Police should have the primary responsibility for internal security. However, if police and paramilitary forces are not competent or sufficiently equipped, the deployment of the army may be necessary. [OECD Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 124 \(OECD 2007\)](#) If that is the case, seek to ensure personnel deployed to the site are properly trained and equipped for the task.

## Support human rights and international humanitarian law training programmes for public security forces ([see 2.5.](#)).

- ✓ Include a clause in the agreement with public security requiring that all public security forces assigned to the company's site undergo training in human rights and international humanitarian law. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 45 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Support training programmes for trainers of public security forces. If possible, insist that army trainers are military and police trainers are police officers themselves, since they are better placed to communicate the content of training in a way that trainees can relate to. Furthermore, public security forces are much more likely to take the training seriously if it is a colleague or someone on their chain of command delivering the training.

## C. Human rights abuses by public security forces: Tackling the issue

### Good Practices\*

#### Assess risks around human rights violations perpetrated by public security forces.

- ✓ Consider any relevant past incidents where public security forces violated human rights.
- ✓ Consult host and home government representatives, civil society and other sources in order to gather information about the severity of human rights risks.
- ✓ Assess the different risks faced by men and women in public security forces, considering in particular the risk of **gender**-based violence.

#### Key Resource:

- [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)

#### Engage with national and local authorities.

- ✓ Engage with relevant interlocutors at each level of command for public security forces, including the relevant ministry. Meet with regional and local public security forces representatives on a regular basis (preferably not less than quarterly). [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-11 \(World Bank Group and Anvil Mining 2008\)](#) Raise risks of infringements on human rights as part of the discussion on security and human rights.
- ✓ Seek home government support to gain access to high-level public security officials in order to discuss human rights abuses by public security forces.
- ✓ Ensure that salaries/stipends are paid to public security forces assigned to areas of the company's operations.
- ✓ Work with NGOs to address human rights abuse allegations of human rights abuse and violations of international humanitarian law. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 18 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#) Identify NGOs that may be working on related topics. This may be a sensitive issue, so the company will need to carefully assess which is the best approach to ensure that no reprisals take place against the NGOs, that their identities are anonymised and that their protection is prioritized. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 17 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ In cases of credible evidence of gender-based violence directed at members of public security forces, consult a local organisation with **gender** expertise to identify potential mitigation strategies.

## Support security sector reform programmes (see 2.1.c.).

- ✓ The United Nations Security Sector Reform Inter-Agency Task Force encourages companies to engage with security sector reform programmes that 'support selection and recruitment policy that is based on proper recruitment mechanisms, integrity assessments, and vetting or other forms of review/screening of existing personnel. Support public announcement for vacancies/openings and transparency throughout the process.' [UN Security Sector Reform Integrated Technical Guidance Notes, p. 105 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Support security sector reform programmes that seek to strengthen capacities of relevant national institutions (such as ombudspersons or similar mechanisms) to address human rights abuses by public security forces.
- ✓ Establish an operational-level grievance mechanism that allows individuals to report any abuses anonymously (see 4.2.e.). [Guiding Principles on Business and Human Rights, no. 31](#) Note that establishing a grievance procedure is a crucial part of [human rights due diligence](#) responsibilities.

## D. Human rights violations by public security forces: Monitoring incidents and referring them to appropriate remediation

### Good Practices\*

Carry out **human rights due diligence** in order to identify, prevent, mitigate and account for how the company addresses its adverse human rights impacts.

UN Guiding Principles on Business and Human Rights, no. 15–21

- ✓ Identify and assess actual and potential human rights risks and impacts related to company presence and activities. Human rights due diligence should:
  - Incorporate findings from any security risk assessments ([see 3.1.](#)).
  - Be informed by stakeholder mapping, consultation and engagement. Key stakeholders include communities, business relationships, government actors and other persons potentially impacted by the business activities.
  - Build on an analysis of the operating context, including its history of human rights abuses, its legal system and a conflict analysis (if there are tensions in the context).
- ✓ Act upon the findings: prevent, mitigate and address any actual or potential impacts. Prioritise which impacts to address first on the basis of severity (judged by scale, scope and irremediability).
- ✓ Map responses over time, while protecting the identify of respondents in order to prevent reprisals.
- ✓ Communicate how impacts are addressed.
- ✓ Ensure impacts on vulnerable groups (such as children, older persons, [indigenous peoples](#) and [women](#)) are assessed in particular.
- ✓ Ensure that the **human rights due diligence** process:
  - Covers adverse human rights impacts that the company may cause or contribute to through its own activities. According to the UN Guiding Principles on Business and Human Rights, this includes impacts which may be ‘directly linked to its operations, products or services by its business relationships, even if they have not contributed to those impacts’. Additionally, “activities” are understood to include both actions and omissions’. [Guiding Principles on Business and Human Rights, no.13-14](#)
  - Varies in complexity with the size of the enterprise, the risk of severe human rights impacts, and the nature and context of its operations. [Guiding Principles on Business and Human Rights, no.17](#)
  - Is revisited in an ongoing manner, recognising that the human rights risks may change over time as the business enterprise’s operations and operating context evolve. [Guiding Principles on Business and Human Rights, no.17](#)
- ✓ Assess local capacity to investigate abuses and provide for proper resolution. According to the Voluntary Principles on Security and Human Rights, risk and impact assessments should ‘consider the local prosecuting authority and judiciary’s capacity to hold accountable those responsible for human rights abuses and for those responsible for violations of international humanitarian law in a manner that respects the rights of the accused’. [Voluntary Principles on Security and Human Rights, p. 5](#)

**Key Resources:**

- 📖 [OECD Guidance on Responsible Business Conduct \(OECD 2018\)](#)
- 📖 [UN Guiding Principles on Business and Human Rights](#)
- 📖 [Human Rights Impact Assessment Guidance and Toolbox \(Danish Institute for Human Rights 2016\)](#)
- 📖 [Human Rights Due Diligence in Conflict-Affected Settings \(International Alert 2018\)](#)

**Engage with national, regional and local authorities.**

- ✓ Hold bilateral meetings with host government representatives. Keeping these discussions confidential may make company efforts more effective by providing a safe space for dialogue in a non-attributive manner. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. VI-5 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Use leverage to reduce adverse human rights impacts as a result of business relationships. As explained by the UN Guiding Principles on Business and Human Rights, 'Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors'. [Guiding Principles on Business and Human Rights, no. 22](#)

**Key Resources:**

- 📖 [Using Leverage in Business Relationships to Reduce Human Rights Risks \(Shift 2013\)](#)
- 📖 [Using Leverage \(Global Business Initiative on Human Rights\)](#)

**Consult with potentially affected groups and other relevant stakeholders.**

- ✓ Include meaningful discussions on security and human rights in community consultations. The UN Guiding Principles on Business and Human Rights emphasise that this should be done 'in a manner that takes into account language and other potential barriers to effective engagement'. [UN Guiding Principles on Business and Human Rights, no. 20](#)
- ✓ During these consultations, at a minimum, include men and [women](#) of different ethnicities and age groups, as well as [indigenous peoples](#). Stakeholder engagement is a key component of all steps of the [human rights due diligence](#) process (see [1.1.a.](#) and [4.2.b.](#)).

**Engage in pro-active monitoring rather than just responding to complaints.**

- ✓ Establish a company policy on what employees should do in case of an alleged human rights violation by public security forces.
- ✓ Include the establishment of a monitoring system in the memorandum of understanding between the company and the host government. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 45 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Record all allegations. Ensure that reporting and complaints procedures include provisions on how and where to record allegations of human rights violations in a confidential and reliable manner, as well as how to refer incidents to the company grievance mechanism. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-9 \(World Bank Group and Anvil Mining 2008\)](#)

- ✓ Ensure evidence is reliable. According to the Voluntary Principles on Security and Human Rights, 'Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence'. [Voluntary Principles on Security and Human Rights, p. 5](#)
- ✓ Consider joining or creating an external stakeholder advisory panel to help monitor security and human rights issues.
  - The Voluntary Principles on Security and Human Rights Implementation Guidance Tools say that companies should 'include stakeholders with legitimacy in the eyes of public security providers'. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 47 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
  - Ensure the local population participates in monitoring mechanisms. It is particularly important that the needs of most vulnerable groups, including [women](#) and [indigenous people](#), are adequately represented in the panel.

**Provide for or cooperate in the remediation of adverse impacts the company has caused or contributed to through legitimate processes ([see 4.2.e.](#)).**

[UN Guiding Principles on Business and Human Rights, no. 22](#)

## CASE STUDY

## In-country working groups as tools for cooperation and remediation in the Democratic Republic of the Congo

In-country working groups (ICWGs) on business, security and human rights are important structures that can monitor the impacts of training of public security and address violations. In the Democratic Republic of the Congo, the South Kivu Province Working Group on the Voluntary Principles has been monitoring public security conduct at several mining sites, including a concession owned by an international mining corporation. Extractive companies in the Democratic Republic of the Congo are obliged to work with the Police Nationale Congolaise, which has established a specialized unit – the Police des Mines et des Hydrocarbures – to enforce the national mining code.

In 2020, the following incidents took place around a specific mine in the area:

- An unarmed community member who trespassed onto the large mining concession was shot in the leg by an officer of the mining police.
- A shepherd trespassing on the concession was stopped and arrested by mining police officers and allegedly tortured under the order of a mining police commander.
- The mining police intervened in protests and marches by local communities against the international corporation's subsidiary, resulting in multiple arrests of community members, as well as disproportionate use of force against protesters.

With regard to the above incidents, the South Kivu Working Group—led by its Secretariat, l'Observatoire pour la Gouvernance et la Paix—reported the severe human rights violations committed by the mining police and analysed their conduct according to national laws and good practices. The working group's advocacy led to the removal of the mining police commander. The working group also organised several multi-stakeholder meetings at the local level, discussing the resolution of these issues with the mining company. This underscores the value and effectiveness of in-country working groups and of multi-stakeholder engagement mechanisms more broadly.



## Establish an operational-level grievance mechanism that allows individuals to anonymously report any abuse (see 4.2.e.).

### UN Guiding Principles on Business and Human Rights, no. 31

- ✓ Ensure the grievance mechanism is accessible. Note that accessibility also relates to language, literacy and social position; ensure that the procedure is available in local languages, that it is explained orally by community officers (if literacy is an issue) and that access for persons with limited mobility is considered (e.g. women who cannot leave their home alone).
- ✓ Consider establishing some or all of the following access points: [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)
  - A 'report abuse' hotline, accessible either via phone or SMS.
  - A secure e-mail address that is solely accessible by a trusted monitor.
  - Tip boxes with clear instructions posted above them, located in areas where individuals have unobserved access to the boxes and can drop in anonymous notes, tips or other information.
  - A community office where complainants can report their claims in person. Ensure that this is easily accessible to all potential claimants. If it is clear that certain members of the potentially affected community are not able to access the office, mobile teams should be sent to engage with the community and carry out the grievance process in their location.
- ✓ Ensure the grievance mechanism accepts a wide range of complaints. It is not necessary to wait until an issue amounts to an alleged human rights abuse or a breach of other standards before addressing it.
- ✓ BP's implementation guidance on the Voluntary Principles on Security and Human Rights recommend, 'Where businesses are aware of alleged violations within their area of operations, whether or not a grievance is raised, record the allegation and any actions taken'.<sup>14</sup>
- ✓ Grievance mechanisms should be culturally appropriate and handle grievances in a way that is accepted by the community.
- ✓ The UN Office of the High Commissioner for Human Rights explains companies should make the grievance mechanism 'known to, and trusted by, those stakeholders for whom it is intended'. [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 65 \(UN Office of the High Commissioner for Human Rights 2012\)](#)
- ✓ Be mindful that barriers to accessibility of grievance mechanisms can be **gender**-specific. These barriers need to be considered and addressed from a **gender**-sensitive perspective.

### Practical Tools:

- 🔧 [Handling and Resolving Local-level Concerns and Grievances \(International Council on Mining and Metals 2019\)](#)
- 🔧 [Developing and Operating Fair and Accessible Company Grievance Mechanisms \(International Code of Conduct Association 2018\)](#)
- 🔧 [Community Grievance Mechanisms in the Oil and Gas Industry \(IPIECA 2015\)](#)
- 🔧 [Site-Level Grievance Guide \(Mining Association Canada 2015\)](#)

## Verify that operating procedures include an obligation to ensure that medical attention is provided to injured parties when force is used.

[Voluntary Principles on Security and Human Rights, p. 4](#)

### Report abuses.

- ✓ Educate company staff about the obligation to report allegations so that appropriate inquiries can take place. The company has a greater ability to influence its own workforce than it has with other security stakeholders. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-6 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Report any credible and verified allegations of human rights abuses and violations of international humanitarian law within the company's areas of operations, including abuses perpetrated by public security. Ensure these incidents are reported to appropriate host government authorities. [Voluntary Principles on Security and Human Rights, p. 5](#) Request that the investigation take place at the most local-level office that has the authority to conduct an incident investigation, as long as that authority is not involved with the incident. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-19 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Ensure the public prosecutor's office, or equivalent entity, is informed of any credible allegations.
- ✓ Ensure legal and physical protection for victims and those making the allegations. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 46 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## Request that the alleged perpetrators are withdrawn from the site until an official investigation is concluded.

### Actively follow up on the status of investigations and press for proper resolution.

[Voluntary Principles on Security and Human Rights, p. 5](#)

- ✓ As explained by the World Bank Group and Anvil Mining, companies should conduct a full-scale internal investigation 'if the alleged incident occurred on company property, if it involved company equipment, or if it occurred because of company activities or operations. [...] A similar inquiry is appropriate for allegations that occur in the company's areas of operations.' [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-18 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Where appropriate, urge that investigation and action be taken to prevent any recurrence. According to the Voluntary Principles on Security and Human Rights, companies should 'do as much as possible to ensure that the host government investigates any human rights abuse allegations, protects victim(s) and resolves the situation according to the rule of law.' [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 15 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## Involve other stakeholders in the follow-up of investigations.

- ✓ Share information about security incidents with community representatives, the host government and relevant national accountability mechanisms.
- ✓ Inform the national ombudsman or human rights agency with the responsibility for investigating human rights allegations so that they can ensure a proper investigation is conducted and disciplinary legal action is taken, when justified. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-19 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Support NGOs and civil society in their efforts to actively monitor security policies and practices that affect their constituents, as well as their efforts to advocate for appropriate solutions. [UN Security Sector Reform Integrated Technical Guidance Notes, p. 98 \(UN Department of Peacekeeping 2012\)](#)
- ✓ Engage with home country governments and international organisations. According to the Voluntary Principles on Security and Human Rights Implementation and Guidance Tools, home governments and international organisations ‘can serve as important interlocutors between the company and the host government during instances of human rights (and international humanitarian law) abuse allegations.’ [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 16 \(International Council on Mining and Metals, International Finance Corporation and IPIECA 2011\)](#) This is also a good way to safeguard good relationships with authorities and avoid the perception of undue influence.
- ✓ When the incident triggers a significant amount of concern from external stakeholders such as international organisations, home governments or NGOs—consider commissioning an external investigation.<sup>15</sup>

## Track effectiveness of responses to allegations.

- ✓ According to the UN Guiding Principles on Business and Human Rights, tracking effectiveness should be done on the basis of ‘appropriate qualitative and quantitative indicators’ and drawing on ‘feedback from both internal and external sources, including affected stakeholders.’ [UN Guiding Principles on Business and Human Rights, no 20–22](#)

## Conduct lessons learned exercises, both internally and externally, with all appropriate stakeholders.

[Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 46 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

- ✓ Wherever a significant human rights impact has occurred, initiate a process to identify how and why it occurred. This is important to prevent or mitigate its continuation or recurrence. As discussed by the UN Office of the High Commissioner for Human Rights, ‘If the evidence is sufficiently clear, linking this kind of analysis to staff incentives and disincentives, whether financial compensation, promotion or other rewards, can play an important role in helping to embed respect for human rights into the practices of the enterprise.’ [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 54 \(UN Office of the High Commissioner for Human Rights 2012\)](#)
- ✓ As applicable, work with public security providers to share, discuss and apply lessons learned. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 46 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

*\*These good practices are not meant to be prescriptive. It is up to the user to evaluate whether they could be feasible, useful and appropriate to the local context in a specific situation on the ground.*

1. [Voluntary Principles on Security and Human Rights: Performance Indicators, p.15 \(International Alert 2008\)](#)
2. As explained by the World Bank and Anvil Mining, 'The title and format of this agreement depends on the requirements of the parties. It may be a Joint Protocol, Memorandum of Agreement, Memorandum of Understanding or Letter. The content is more important.' (MIGA: III-3) [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-8 \(World Bank Group and Anvil Mining 2008\)](#)
3. Except where otherwise indicated, these bullet points have been extracted from [UN Security Sector Reform Integrated Technical Guidance Notes, p. 45 \(UN Department of Peacekeeping 2012\)](#)
4. This case study has been written by Geneva Centre for Security Sector Governance in collaboration with Tenke Fungurume Mining.
5. [Gender and Security Sector Reform Toolkit, Tool 13: Implementing the Women, Peace and Security Resolutions in Security Sector Reform, p. 12 \(Geneva Centre for Security Sector Governance and UN-INSTRAW 2010\)](#)
6. [Recommendations to Support the Defence Sector in the Implementation of the Comprehensive Human Rights and International Humanitarian Law Policy of the Ministry of Defence \(Colombia's Mining and Energy Committee 2012\)](#)
7. This case study has been written by Geneva Centre for Security Sector Governance in collaboration with Tenke Fungurume Mining.
8. The full case study has been developed by BP and Safestainable. It is available on the [Security and Human Rights Knowledge Hub](#).
9. This case study has been developed jointly by the Fund for Peace, Kosmos and the Geneva Centre for Security Sector Governance. It is available on the [Security and Human Rights Knowledge Hub](#).
10. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 13 \(BP 2008\)](#)
11. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 13 \(BP 2008\)](#)
12. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 13 \(BP 2008\)](#)
13. This refers to law enforcement operations. In situations of armed conflict, international humanitarian law applies, which establishes different rules on the use of force.
14. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 15 \(BP 2008\)](#)
15. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 15 \(BP 2008\)](#)



## 3. Working with Private Security Providers

## 3.1. Private security within risk and impact assessment

### A. Adequate and appropriate private security arrangements: Properly identifying risks and impacts

#### Good Practices\*

Carry out human rights due diligence related to private security providers in order to identify, prevent and mitigate human rights risks and impacts ([see human rights due diligence, 2.8.d. and 4.2.a.](#)). This is a key component of the UN Guiding Principles on Business and Human Rights (no. 17 and 18).

- ✓ Ensure that human rights due diligence goes beyond identifying and managing material risks to the company<sup>1</sup> itself and centres around risks to rights-holders. [UN Guiding Principles on Business and Human Rights, no.18](#)
- ✓ Ensure that human rights due diligence:
  - Is continuous, since human rights risks and impacts may change over time as the company's operations and operating context evolve. [UN Guiding Principles on Business and Human Rights, no. 17\(c\)](#) Due diligence procedures should be updated based on the evaluation of their effectiveness. [Harmful Impacts of Mining: When Extraction Harms People, Environments and Economies \(Responsible Mining Foundation 2021\)](#)
  - Is included in the development of a new activity or relationship, such as before signing a contract with a private security provider prior to major changes in the operation (e.g. increase in the number of security guards protecting the site) or in response to or anticipation of changes in the operating environment (e.g. rising socio-economic tensions). [UN Guiding Principles on Business and Human Rights, no. 18](#)
- ✓ Incorporate information from the risk and impact assessment when assessing and anticipating security needs. Ensure that the human rights risk and impact assessments, as well as operational context analysis, include:
  - Information on the country's human rights profile, in particular human rights risk indicators, to gain a better understanding of the context. The UN Office of the High Commissioner for Human Rights has developed [human rights indicators](#) that may be useful in this respect.
  - National and local crime statistics as a reference to identify potential crimes and security incidents that could impact the operating site and nearby areas.
- ✓ Consult with potentially affected groups and other stakeholders that can provide relevant information and recommendations for the risk and impact assessment ([see 4.2.a.](#)).

- Consult potentially affected stakeholders (including vulnerable groups such as women, indigenous peoples, farmers, cattle breeders, fishermen, landowners and foreign nationals) using a language and terms they can understand well. Be transparent and share all information that is directly relevant to them (e.g. timeline of the project, area of operations, results of environmental impact assessment). Listen with an open mind and keep a record of any concerns they may have. Remember that concerns that have not been taken into account early on in the project may become grievances that escalate into tensions over time. Ensure these groups are not just consulted during data collection, but during all stages of the due diligence process (e.g. when scoping, creating a locally appropriate mitigation plan, monitoring impacts and reporting on findings).
- Consult externally with other companies, as well as home and host country officials.
- Consult with credible, independent experts (e.g. civil society, national human rights institutions and relevant multi-stakeholder initiatives) to gain a good understanding of the context and how the project may impact the status quo. Consult the most recent international good practices and other resources and guidance.<sup>2</sup>

### Information to Gather for the Risk Assessment

To conduct an accurate risk and impact assessment that addresses security issues, it is necessary to have a good understanding of the company's activities, relations and the context in which it operates. Some key aspects to consider include:

- Critical activities, functions, services and products.
- Number and composition of staff on site (including expat versus local staff).
- Local actors, including their agendas and interests, the relations between them and their relationship with the company.
- The operating environment, root causes of tensions and drivers of conflict that can contribute to escalating violence.
- Project site size, topography and terrain. Voluntary Principles on Security and Human Right: Implementation Guidance Tools, p. 50 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011)
- Capacity and size of public security forces, including number and composition of security personnel in the area of operations (including ethnic or religious group).
- Background and capability of private security providers operating in the area.
- Any other physical and technical security measures to be deployed on site, in addition to the guard force. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 50 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011)
- Reputational risk.

- ✓ Assess security risks to the company's personnel, local communities and other potentially impacted groups, as well as actual and potential human rights impacts of the company's security arrangements. Evaluate risks using all internationally recognized human rights as a reference point.

- Include adverse human rights risks and impacts that may be directly linked to the company through its security providers.
- Carefully evaluate human rights impacts on individuals and groups that may be at heightened risk of vulnerability or marginalisation (e.g. women, children, indigenous peoples or foreign nationals). Ensure these risks are well understood and assessed. Consult with specialised organisations working with these groups or hire an expert to help with the identification of these groups and the impact assessment.
- In situations of armed conflict, also assess all risks and impacts that may affect respect of international humanitarian law.<sup>3</sup> ([see 2.1.b.](#))

## Conflict-sensitive human rights due diligence

Conflict sensitivity should be reflected in [human rights due diligence](#):

- The design of [human rights due diligence](#) process needs to include a conflict analysis. ([see 2.1.b.](#))
- Prioritisation of which impacts to address first should be based on severity (UNGP 17 and 24), which is judged by the scale, scope and irremediability of actual and potential impacts. In conflict situations, the likelihood and consequences of conflict form a crucial additional element in determining priority. How likely is the issue to create or exacerbate conflict? How severe are the human rights implications of the conflict risks identified? (For more information on prioritisation of risks, [see 1.2.a.](#))
- While volatile environments may make interactions with external stakeholders more complicated and potentially threatening, stakeholder engagement needs to be broad in conflict-affected contexts. In particular, the conflict may already cause a lack of information or may complicate engagement with communities due to their affiliations to the conflict. This can only be countered by collecting information from a wide variety of different stakeholders.
- Update the risk and impact assessment regularly.
- Ensure the private security provider is involved in these assessments.
- Collect data on and analyse any security incidents around the company's area of operations.
- Check in with communities, rights-holders and other groups who might be affected by actual or potential human rights impacts. See whether they are facing new risks or impacts, whether impact mitigation measures have worked, how they feel about the company's response to human rights risks, etc.

### Practical Tool:

- 🔧 [Good Practice Handbook: Use of Security Forces: Assessing and Managing Risks and Impacts: Guidance for the Private Sector in Emerging Markets \(International Finance Corporation and World Bank Group 2017\)](#)
- 🔧 [Business, human rights and conflict-affected regions: towards heightened action \(UNWG 2020\)](#)
- 🔧 [Human rights due diligence in conflict-affected settings International Alert 2018](#)
- 🔧 [Conflict Prevention Tool: Developing Multistakeholder Strategies, Queens University, AngloGold Ashanti, ICRC, DCAF 2021\)](#)



### Websites to use for addressing risks of human rights abuses, as well as security risk mapping:

-  [Human Rights and Business Country Guides \(Danish Institute for Human Rights\)](#)
-  [Amnesty International Country Pages and International Report \(Amnesty International\)](#)
-  [Reports and Primers on Business and Human Rights Topics \(BSR\)](#)
-  [Universal Human Rights Index Database \(Office of the UN High Commissioner for Human Rights\)](#)
-  [Freedom in the World \(Freedom House\)](#)
-  [Human Rights Watch World Report \(Human Rights Watch\)](#)
-  [Visualize Risk \(Responsible Sourcing Tool\)](#)

### Determine the company's security needs and draft an accompanying plan on the basis of findings from the risk and impact assessment (see human rights due diligence).

- ✓ Integrate the findings from risk and impact assessments across relevant internal functions and processes, and ensure all relevant company departments work together to identify security needs and develop the security plan. This will avoid duplication of efforts and incoherence in actions. [UN Guiding Principles on Business and Human Rights, no. 20](#)
- ✓ Identify context-appropriate prevention mechanisms to avoid the identified risks and impacts. If complete prevention is not possible, consider appropriate mitigation mechanisms for each risk and impact. Examples of measures can be found in [Phase 4, Impact Mitigation and Management, of the Human Rights Impact Assessment Guidance and Toolbox, Danish Institute for Human Rights](#).
- ✓ Prioritise addressing the potential risks that are most severe (in terms of threats to human health and safety, risks to vulnerable groups etc.). The UNGPs make clear that severity is judged by the scale, scope or irremediable nature (i.e. irreversibility) of the impact (see [UN Guiding Principles on Business and Human Rights, no. 15](#)).
- ✓ Consider carefully which risks and impacts require a security-related prevention or mitigation mechanism. Although this should be assessed on a case-by-case basis, remember that there are situations in which having a too high security profile may jeopardise good relations with local communities. Consider the advantages and disadvantages of the different security options (e.g. public security forces, private security providers, in-house security, security equipment).
- ✓ Develop business resilience and emergency response strategies in case of disruptive events (e.g. public disorder) as part of the security plan.
- ✓ Consider whether there is a need to review the company's risk management policy.
- ✓ Ensure that gender-specific risks are accounted for, for example, by having a gender – sensitive approach to security practices, oversight mechanisms and access to grievance mechanisms (see gender and [4.5.a](#)).
- ✓ Establish a legitimate, accessible, predictable, equitable, transparent and rights-compatible grievance mechanism to provide remediation for actual impacts related to the project. [UN Guiding Principles on Business and Human Rights, no. 33](#). Note that such a mechanism needs to be established at the outset and be made known to all potentially affected stakeholders (see [3.10.a](#) and [4.2.a](#)).
- ✓ Track performance of actions taken and communicate the results externally. [Harmful Impacts of Mining: When Extraction Harms People, Environments and Economies \(Responsible Mining Foundation 2021\)](#)

## Where the security plan involves contracting private security services, consider the following good practices.

- ✓ Review the risk and impact assessment to ensure the following elements have been properly analysed:
  - Whether the private security provider has undertaken its own human rights risk assessment.
  - National private security regulation and any potential deficits in the system.
  - Private security industry background and history of past performance in the country, in particular cases of human rights abuses and IHL violations by private security providers.
  - Perception of private security providers by local authorities and the general population, in particular community perceptions of and cultural sensitivities surrounding security providers (e.g. the industry as a whole, weapons, religion, foreigners, other clans). [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 50 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
  - Need versus risk of having armed private security. The use of armed private security heightens tensions with local communities and creates additional risks related to the use of deadly force with weapons. The security arrangement should in all cases be preventative, and the mere presence of security personnel often acts as a deterrent. The security arrangement should be subject to a holistic reflection that relies on technologies and communication. Furthermore, in some countries, private security guards are not allowed by national law to carry certain type of weapons, firearms or ammunition. If allowed by national law, companies should consider which posts require armed private security. In some contexts, it may be better to have a small, well-equipped incident response team rather than having all private security guards armed. In other contexts, it may be appropriate to stipulate that private security guards should be unarmed and their primary role limited to tasks within the company premises, except when required by the risk assessment or to respond to an emergency or threat situation.
  - Any other potential risks and impacts that may be created or increased by the use of private security.
- ✓ Identify if certain tasks are better allocated to local private security providers or private security providers coming from outside the area of operations. Ensure national legislation permits hiring international security providers. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 50 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Identify the activities to be sub-contracted to a private security provider and develop a request for proposals ([see 3.2.a.](#)).
- ✓ Ensure that the company's security arrangements do not aggravate risk factors.

## Questions to ask in a private security industry assessment to ensure accountability and oversight

- What laws and regulations are in place to govern the private security industry and the use of firearms by civilian corporate entities?
- How effective is their enforcement and which agencies are responsible for that enforcement?
- Which government agencies or ministries are involved in the control and regulation of private security companies (e.g. ministries of trade, economy, industry, the interior)?
- What procedures and criteria exist for licensing and registering companies?
- What systems and standards exist for vetting and licensing private security personnel?
- Have private security companies or their personnel been implicated in crime, including **gender** – based violence or trafficking, and have incidents led to trials or prosecutions?
- What voluntary codes of conduct, industry bodies and standards exist?
- Do procurers of private security services have procurement criteria or report information on the companies or individuals that they employ?
- Are there regulatory restrictions on the use of force and firearms by private security providers?

### Source:

[Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 213 \(OECD 2007\)](#)

### Practical Tool:

- 🔧 [Good Practice Handbook: Use of Security Forces: Assessing and Managing Risks and Impacts: Guidance for the Private Sector in Emerging Markets \(International Finance Corporation and World Bank Group 2017\)](#)

### Key Resources:

- [National Baseline Studies on Private Security \(Private Security Governance Observatory\)](#)
- [National Private Security Regulation Mapping \(Private Security Governance Observatory\)](#)
- [Global Study on National Regulatory Framework and Legislation on Private Military and Security Companies \(UN Office of the High Commissioner for Human Rights, Working Group on Mercenaries 2017\)](#)
- [Private Security Governance Database \(DCAF\)](#)
- [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, module 4 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## **Risk mitigation: Hiring private security providers which are certified by the International Code of Conduct Association (ICoCA) or another industry standard**

The International Code of Conduct Association (ICoCA) is a multi-stakeholder initiative formed in 2013 to ensure that providers of private security services respect human rights and humanitarian law. It serves as the governance and oversight mechanism of the International Code of Conduct for Private Security Service Providers. Members are certified to the Code on the basis of ICoCA-recognised industry standards (see below bullet points). Additionally, ICoCA regularly publishes tools and guidance for its members to support their development of human rights-compliant policies and practices.

Members are monitored through remote tracking by ICoCA, mandatory reporting and, in some cases, by visits. Civil society members of ICoCA may also notify the association about irregularities in their countries of origin. Additionally, complaints can be submitted to ICoCA alleging breaches of the Code by their members. The Code also requires private security providers to have a company grievance mechanism, and ICoCA monitors the implementation of this requirement via company self-assessments and field visits.

Contracting private security providers that are ICoCA members does not absolve the company of its due diligence responsibilities towards their private security providers, but at least assures a certain level of awareness and scrutiny in regard to private security providers' human rights commitments.

### **Certification is recognised by industry standards such as:**

- ANSI-ASIS PSC.1-2012: Management standard for quality of private security company operations, developed by the American National Standards Institute and ASIS International.
- ISO 18788: Management system for private security operations, developed by the International Organization for Standardisation.
- ISO 28007: Guidelines for private maritime security companies who provide privately contracted armed security personnel on board ships, developed by the International Organisation for Standardisation.

### **Sources:**

[International Code of Conduct Association](#)

[Management System for Quality of Private Security Company Operations Standard \(ASIS International 2017\)](#)

[ISO 18788:2015 Management System for Private Security Operations \(International Organization for Standardization 2021\)](#)

## Communicate how the company addresses its human rights risks and impacts to all relevant stakeholders ([see human rights due diligence](#)).

- ✓ Develop procedures to share information about the security team activity, location, operational and logistical status, relevant threat information, and incident reporting to company management and staff, communities and relevant civil or military authorities.
- ✓ The UN Guiding Principles on Business and Human Rights emphasise that communicating on how human rights impacts are addressed is a key element of human rights due diligence ([see human rights due diligence](#)). [UN Guiding Principles on Business and Human Rights, no. 20](#)
- ✓ Ensure communications are accessible to their intended audiences. Consider different formats (e.g. billboards, posters, website) that are appropriate to the local context and available in local languages. [UN Guiding Principles on Business and Human Rights, no. 23](#)
- ✓ Provide information that allows internal and/or external stakeholders to evaluate the adequacy of the company's response. [UN Guiding Principles on Business and Human Rights, no. 23](#)
- ✓ Consider sharing 'lessons learned' with other companies working in the area.

## Regularly evaluate regularly the effectiveness of private security arrangements, including their ability to prevent and mitigate risks and impacts. This is particularly relevant after an incident.

### [UN Guiding Principles on Business and Human Rights, no. 20](#)

- ✓ These evaluations are a component of tracking responses to human rights risks and impacts ([see human rights due diligence](#)).
- ✓ In cases where security measures have failed to prevent or mitigate risks and impacts, repeat the whole process described in this section to understand what went wrong and why. Identify appropriate alternative measures.
- ✓ Incorporate lessons learned into future risk and impact assessments.

## 3.2. Bids and contracts

### A. Selecting private security providers: Assessing quality and cost considerations

#### Good Practices\*

##### Assess private security providers according to national and international law requirements.

- ✓ Comply with national and international laws and standards concerning private security providers. If faced with conflicting requirements (e.g. a national law may prevent the implementation of certain international best practices), seek innovative ways to honour the principles of internationally recognised human rights. [UN Guiding Principles on Business and Human Rights, no. 25](#)
- ✓ Seek to hire private security providers that have shown commitment to international standards. This can be demonstrated through membership in the International Code of Conduct Association (ICoCA), as well as by certification to industry standards that include human rights provisions (e.g. ANSI-ASIS PSC-1, ISO 18788 or ISO 28007). If such companies are not available, at the very least ensure that a company states commitment to human rights in its policies and within the service contract.
- ✓ Ensure that all private security staff's human rights and international humanitarian law records are screened ([see 3.5.](#)).
- ✓ Ensure that private security providers are aware of their obligations, trained in human rights and international humanitarian law, and proficient in the use of security equipment and firearms, if applicable ([see 3.6.](#)).

##### Key Resources:

- 📖 [Mapping of National Private Security Sectors Regulation and Overview \(DCAF 2021\)](#)
- 📖 [International Code of Conduct for Private Security Service Providers: Membership \(ICoCA 2021\)](#)

##### Publish a request for proposals (RfP) that stipulates exclusion criteria and award criteria related to compliance. This process communicates expected human rights standards directly to the companies at an early stage.

- ✓ The request for proposals will, in many aspects, reflect the eventual final contract; an adequate request for proposals will simplify the drafting of the contract. The request for proposals should include: a clear description of the mandate and contractor responsibilities; exclusion criteria that automatically disqualify a candidate; and award criteria that relate to the company, its personnel and weapons and equipment.

## Requests for proposals and selection of potential contractors

Key information to request in the request for proposals, as well as a checklist, can be found in [the Contract Guidance Tool for Private Military and Security Services \(DCAF 2017\)](#). While this resource is framed as a contracting tool for States seeking to contract private military and security services—or private security providers—its criteria are applicable and useful to companies who undertake contracting.

*Excerpt from Part 1: Bidding and selection of potential contractors:*

### 1.1. Definition of the mandate and contractor responsibilities

The RfP should be developed on the basis of a previously performed in-field needs assessment, taking into consideration particularly the needs and impacts of contracting the services of [private security providers] The needs assessment should also proactively evaluate the most significant risks, in order to determine the appropriate security measure while avoiding unnecessary action. Furthermore, the process should be managed by a responsible authority or office, with adequate resources and trained personnel to handle contracting effectively. It should be noted that the proposed criteria for inclusion in the RfP mentioned in this tool represent minimum criteria to consider and do not aim to be exhaustive.

The RfP should include a detailed description of the mandate and the contractor's responsibilities:

Definition of the mandate:

- The background information, including the type of services required, whether armed or unarmed, number of personnel posts to be covered and percentage of local staff required, if relevant;
- The terms of contract, including effective date and duration;
- The working environment, context, and operational tasks required of the contractor;
- Minimum age, training and experience levels required, language skills, and other required skills/expertise of its personnel; and
- Equipment requirements.

### 1.2. Exclusion Criteria

*Add any other criteria that automatically disqualifies a potential contractor regardless of other criteria.*

Exclusion criteria should at least entail:

- National criminal records or other evidence indicating violations of IHL or abuses of IHRL linked to a potential contractor or personnel; records should indicate if personnel have been convicted of any national criminal offence or found by national or international bodies to have breached international criminal law or committed abuses of international human rights law or violations of IHL in any jurisdiction;
- Evidence of grave professional misconduct by the company or one of its personnel; conviction of personnel or finding that the company is responsible for an offence concerning professional conduct;

- Failure to provide the requested documentation and information or submission of false and/or misleading information;
- Inability to fulfil a key requirement of the RfP; and
- Evidence of bribery, corruption or other conflict of interest.

### 1.3. Award Criteria

The RfP should require the potential contractor to provide sufficient evidence concerning the following criteria, which will also be included in the contract:

- Knowledge of and ability to perform the services in compliance with IHRL and, in situations of armed conflict, IHL, as well as all applicable national and international laws and standards – including the Voluntary Principles on Security and Human Rights (VPs) [in case the contract is related to extractive operations];
- Possession of all necessary business licenses, registrations, permits, authorisations, or approvals required under applicable international and national law of Home and/or Territorial States;
- Possession of all necessary licenses, registrations, permits, authorisations or approvals required under the laws of States of nationality of private security provider personnel;
- Qualified and experienced personnel, adequate equipment, facilities, resources and infrastructure for the timely and competent performance of the mandate;
- Sufficient evidence of its good reputation and irreproachable business conduct;
- Fair remuneration and working conditions for its personnel, as well as the minimum age to carry out security services, in accordance with international and national law. Proof of providing personnel with social benefits that are reasonable and in keeping with the applicable national statutory provisions (in particular in cases of accident, illness, disability or death). Social benefits and remuneration should be in line with national laws and international labour laws and standards;
- Adequate internal control system capable of ensuring that its personnel comply with established ethical conduct and that disciplinary measures are taken where misconduct occurs. In cases of criminal misconduct, an adequate internal control system should refer these cases to the relevant national criminal justice system. The internal control system should provide proof that legal provisions and regulations are implemented and that company principles and rules are complied with;
- Sufficient financial and economic stability;
- Appropriate costing and value for money;
- Governance and oversight: code of conduct, rulebooks, ethics committee, employee tribunals, membership of trade association; and
- Insurance to cover risks and associated liabilities arising from the contractors' operations and activities, including insurance for its personnel.



### The RfP should also require that bids include the following information:

- [Private security provider] risk mitigation strategy including strategies to mitigate the risk of misconduct by employees and, where relevant, sub-contractors;
- Use of force policy;
- Small arms and light weapons manual, where relevant;
- Information related to planned sub-contracting, where relevant; and
- [Private security provider] mechanism for complaints process and grievance resolution.

## The ICoC and contracts with private security providers

The International Code of Conduct for Private Security Service Providers (ICoC) explicitly states that member companies ‘...will not knowingly enter into contracts where performance would directly and materially conflict with the principles of this Code, applicable national or international law, or applicable local, regional and international human rights law, and are not excused by any contractual obligation from complying with this Code’. [International Code of Conduct for Private Security Service Providers, par. 20](#) Companies that agree to comply with the Code can join the International Code of Conduct Association (ICoCA).

Contracting companies should bear in mind that demanding very low-priced bids for the required services may exclude private security providers which are compliant with the ICoC or members of ICoCA. These security providers may refrain from participating in the bidding in the first place if the remuneration is not sufficient to comply with their standards. The selection of a potential contractor should not be based on the ‘lowest price’ criteria. Relying solely on the lowest price can also be harmful to a client’s reputation and can lead to lower standards across the industry.

### Practical Tools:

- 🔧 [A Contract Guidance Tool for Private Military and Security Services \(DCAF 2017\)](#)
- 🔧 [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)
- 🔧 [‘Security to Go’ Module 14: Contracting Private Security Providers \(Global Interagency Security Forum 2020\)](#)

### Conduct a thorough due diligence assessment of bids and potential private security providers.

- ✓ This due diligence should involve consultation with other clients of private security providers, including companies, non-governmental organisations, government officials and other stakeholders. Inquire about the reputation of and their experiences with various private security providers. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 52 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## Ensure that the company procurement personnel and/or department have the capacity to assess proposals.

- ✓ Although the burden to prove compliance with the criteria defined in the request for proposals (RfP) is usually with the potential contractor, the client must ensure that the criteria can be objectively assessed. This may require training, particularly to properly assess human rights criteria. To ensure a fair selection process, all of the criteria of the request for proposals need to be weighed and assessed through an established rating system.

## B. Human rights responsibilities and potential liabilities for the company and the private security provider: Clarifying the mandate

### Good Practices\*

#### Develop company policies and procedures that clarify and explain the roles and responsibilities of private security providers and include these in contracts.

- ✓ Ensure policies and contracts clearly stipulate that both the company and the private security provider should respect human rights in all circumstances. As explained by the UN Guiding Principles on Business and Human Rights, 'This means that [businesses] should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.' [UN Guiding Principles on Business and Human Rights, no. 13](#)
- ✓ Ensure both company staff and private security personnel are familiar with company mechanisms to prevent human rights risks and impacts, as well as with procedures to deal with and support investigations of alleged human rights abuses.
- ✓ Include company policies and procedures in the contract with the private security provider and ensure the contract complies with relevant national laws and regulations ([see 3.2.c.](#)).
- ✓ Confirm with international and national experts the validity of all contract clauses related to legal liabilities and responsibilities. Certain contract clauses with the private security provider may be helpful; for example, proof of risk indemnity insurance should be requested with the request for proposals. However, indemnification clauses will have limited application, depending on the national legal framework.

#### Carry out human rights due diligence in order to identify and address human rights risks and impacts, taking into account potential liabilities ([see human rights due diligence](#)).

- ✓ Conduct/update risk and impact assessment jointly with the private security provider ([see 3.1.a.](#) and [human rights due diligence](#)). Bear in mind that private security providers may have their own impact assessment processes; contracting companies can coordinate more closely with the private security provider to ensure efficiency.
- ✓ Consider the risk of corporate complicity in human rights abuses if the private security provider protecting the company's site is involved in such abuses. The commentary for UN Guiding Principle 23 explains: 'Treat this risk as a legal compliance issue, given the rise in national jurisdiction that allow corporate legal liability cases and extraterritorial civil (and criminal) claims. Note in this regard also the provisions of the Rome Statute of the International Criminal Court in jurisdictions that provide for corporate criminal responsibility. In addition, corporate directors, officers and employees may be subject to individual liability for acts that amount to gross human rights abuses.' [UN Guiding Principles on Business and Human Rights, no. 25-26](#)
- ✓ Note that the risk attached to human rights abuses does not merely lie in the legal domain. Even if the legal responsibility is determined to lie with the private security provider, the reputational damage will likely be shared by the contracting company.
- ✓ Demonstrate the company's ongoing efforts to mitigate any human rights impacts, for instance via community meetings or publication of efforts in local media. Provide for or cooperate in

the remediation of adverse human rights impacts the company has caused or contributed to through legitimate processes ([see 3.10.a.](#)) [UN Guiding Principles on Business and Human Rights, no. 24](#)

- ✓ Note that the company's responsibility to respect human rights and conduct human rights due diligence means that contractual clauses cannot exempt the company from that responsibility and cannot exclude potential legal liability, in particular when mandatory human rights due diligence is in place. This applies to both the contracting company and the private security provider.
- ✓ Do not assume that conducting [due diligence](#), by itself, will automatically and fully absolve the company from liability for causing or contributing to human rights abuses. [UN Guiding Principles on Business and Human Rights, no. 19](#)
- ✓ Ensure that the actions of contracted security providers do not violate international humanitarian law, nor trigger or intensify civil violence in conflict-prone regions. If this were to occur, the contracting company itself may be found liable for complicity in the commission of any violations.

### **To the best extent possible, share information on company's security arrangements and procedures with local stakeholders.**

- ✓ Appoint a company representative with a good understanding of the local context and a long – term commitment to the job to serve as an interlocutor between the community, the company and the private security provider. This could be done by the community liaison officer.
- ✓ Establish ongoing dialogue about operations, procedures and potential impacts of operations on local communities, particularly on vulnerable groups.
- ✓ Clarify roles and responsibilities of the private security provider and share the company's own code of conduct for private security providers and/or the International Code of Conduct for Private Security Service Providers (if it is used).
- ✓ Clarify the steps that will be taken in case of alleged human rights abuses, including providing information on the company's grievance mechanisms.

### **Ensure that grievances and complaints are not merely passed on to the private security provider, but are discussed and addressed together with company representatives.**

- ✓ Keep accurate records of all reported grievances and of all actions taken to address them.
- ✓ Conduct reviews on the handling of grievances together with the private security provider, identifying lessons learned and adjusting procedures accordingly.
- ✓ Ensure the private security provider has a company grievance mechanism that has integrated the International Code of Conduct Association guidance [Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies](#), which is aligned with UN Guiding Principle 31.

#### **Practical Tools:**

- 🔧 [Interpretive Guidance: Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies \(International Code of Conduct Association 2018\)](#)
- 🔧 [Manual: Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies \(International Code of Conduct Association 2018\)](#)

## C. Compliance with international standards and good practices: Developing implementation guidance

### Good Practices\*

**Develop policies, procedures and guidelines defining the roles and responsibilities of private security providers, with reference to the International Code of Conduct for Private Security Service Providers and other international standards (see 3.1.a.).**

- ✓ Develop a human rights policy and ensure it is embedded throughout the company ([see human rights due diligence](#) and 1.3.a.).
- ✓ Develop security and procurement policies that reflect the company's human rights policy. According to UN Guiding Principle 16, these policies should:
  - Be approved at the most senior level of the company.
  - Be informed by relevant internal and/or external expertise.
  - Stipulate the company's human rights expectations of personnel, business partners, private security providers and suppliers.
  - Be publicly available and communicated internally and externally to all personnel, business partners, contractors and other relevant parties.
  - Be reflected in the company's security procedures.

#### UN Guiding Principles on Business and Human Rights, no. 16

- ✓ Clarify the role of private security in all worksite safety and security policies and procedures. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 54 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Use the International Code of Conduct for Private Security Service Providers or develop a similar code of conduct for private security providers based on the Code, ensuring coherence with the company's security policy and procedures. Make this code a standard part of all contracts issued by the company.
  - Provide copies of this code of conduct and written rules for the use of force to each member of security personnel.
  - Make private security provider management and guards sign the code of conduct for private security providers adopted by the company, acknowledging understanding of the document and committing to comply with the principles therein. Ensure the company's security department keeps a copy of all signed documents.
  - Share and discuss this code of conduct with relevant stakeholders, such as other companies, public security forces and local communities. Where appropriate, amend this code to integrate feedback received during these discussions.
- ✓ In all security-related policies and guidelines, reference the company's human rights policy ([see 1.3.a.](#)). Company policies should reference and adhere to applicable international and national instruments and standards, including:

- National law and professional standards of the host country.
- The Universal Declaration of Human Rights.
- The International Covenant on Civil and Political Rights.
- The International Covenant on Economic, Social and Cultural Rights.
- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work.
- The Geneva Conventions of 1949 and the Additional Protocols of 1977.
- The United Nations Convention Against Torture.
- The UN Guiding Principles on Business and Human Rights.
- The Voluntary Principles on Security and Human Rights.
- The Montreux Document on Private Military and Security Companies.
- The International Code of Conduct for Private Security Service Providers.

Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 54 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011)

**Develop a contract with the private security provider that includes clear clauses on respect for human rights law, international humanitarian law and relevant national law. Discuss these clauses with the private security provider to make sure the provider understands its performance objectives.**

#### Key Resource:

- The Montreux Document on Private Military and Security Companies, part 2, par. 14 (International Committee of the Red Cross and Swiss Directorate of International Law 2006)

#### Practical Tool:

- 🔧 A Contract Guidance Tool for Private Military and Security Services, Section 2: Contractor's Roles and Responsibilities (DCAF 2017)
- 🔧 Recommendations for Hiring Private Security Providers (SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015)

**Discuss the roles and responsibilities of individual security personnel with the private security provider to make sure the security provider understands personnel requirements and how to integrate them into their performance.**

**Complement training provided by the private security provider to its staff through regular communication and refresher sessions.**

- ✓ Remind private security provider personnel of key points of the company's code of conduct for private security providers and/or the International Code of Conduct for Private Security Service Providers. Additionally, remind security personnel about site-specific safety controls and other relevant policies. Do this on a regular basis (e.g. at the beginning of shifts, during shifts, during refresher sessions).

- ✓ Convene regular meetings where private security personnel can discuss good practices, ask specific questions and share their experiences amongst themselves ([see Case study: Monusco and – Tenke Fungurume Mining training of for public security forces, 2.5.a.](#))
- ✓ Distribute pedagogical material on the International Code of Conduct for Private Security Service Providers, adapted to the context and audience. Print the key points of the ICoC and the company's code of conduct for private security providers, with an emphasis on the rules for the use of force. Distribute these to all private security personnel and require that they are kept on hand. The 'smart cards' should be in the appropriate local language for ready reference and inspection. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-3 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)

### **Conduct regular performance checks and meet regularly with private security provider management to discuss the findings.**

[Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)

- ✓ Develop a checklist based on the contract and the code of conduct and use it during the monthly performance checks.
- ✓ Consider using an external human rights monitor to check compliance on a regular basis (e.g. engage with a non-governmental organisation to identify human rights gaps). To this end, it is beneficial to hire International Code of Conduct Association (ICoCA) members and/or companies that are certified by industry standards, as they undergo a certain level of monitoring by the ICoCA and/or certification bodies.
- ✓ Review security incident reports to identify actual or potential human rights abuses and take appropriate measures ([see 3.10.a.](#)). Identify lessons learned and integrate them into security procedures and practices.

### **If the private security provider still fails to comply with any or several of the clauses in the contract, consider the following options.**

[Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

- ✓ Negotiate a timeline for compliance.
- ✓ Withhold payments as established in the contract until the issue is satisfactorily addressed.
- ✓ Condition maintaining the business relationship on performance.
- ✓ Provide more detailed guidance and training, together with regular performance review.
- ✓ Terminate the relationship with the private security provider.

## Termination of contracts with private security providers and transitioning security delivery<sup>4</sup>

A company may choose to terminate its contract with a private security provider for a variety of reasons, including cost, change in requirements or a failure of the security provider to fulfil its contractual obligations.

When a contracting company terminates a private security provider contract with a view to replacing it with another private security provider, both the termination of the existing contract and the transition to new security arrangements should be managed proactively. Failure to do so may expose the company and those associated with its operations (e.g. personnel, contractors, suppliers and/or other public or private security providers) to multiple risks.

Companies should consider contract termination from two angles: legal and operational. As with any contractual arrangement, a company should seek advice on its legal obligations relating to the termination of the private security provider contract. It is beyond the scope of this section to discuss legal issues (which, by nature, are jurisdiction – and contract-specific). Instead, the focus is on the operational issues relating to discontinuing a private security provider contract.

### Among the more pertinent operational issues for a company to consider are:

- **Licences:** Licences are required for a variety of items and services related to private security, including: the use, transport and on-site storage of weapons; specific firearms; and the delivery of private security services at the operating site. Such licences may be granted by both local and national authorities. The company should conduct a review to establish which licences and permits have been granted, who 'owns' them (for instance, whether weapons licensed for use on the site are licensed to specific individuals or licensed for general use by the private security provider), as well as if and how they can be transferred. It is possible that the exiting private security provider has secured licences in relation to the property unbeknownst to the company. In this instance, the company should contact the relevant authorities, as well as the exiting private security provider, to complete the inventory.
- **Equipment:** Apart from weapons, a private security provider will make use of other equipment and materials. It is important for the company to determine who owns the equipment and, where appropriate, to arrange for its transfer.
- **Employees/consultants:** In some cases, a company will be responsible for individual employees or contractors of the private security provider beyond the termination of the contract. Such responsibilities may include obligations to continue employment, pay for healthcare or provide insurance.
- **Records:** A company may have access to the private security provider's records (e.g. personnel files, incident logs). Consideration should be given to retaining or transferring copies of this information, as appropriate.
- **Systems:** In many circumstances, the exiting private security provider will have access to the company's operational systems (including information technology). Consideration should be given to closing this access and safeguarding confidential and sensitive data.
- **Complaints:** Companies should consider whether there are any outstanding complaints against the private security provider or its operatives. Priority should be given to managing these complaints.



- **Public security:** Private security providers typically play a role in managing relationships with police and military units. Companies should determine whether there is any memorandum of understanding in place with public security forces and, if so, whether it names the private security provider. Companies should also establish which individuals employed by the private security provider are responsible for these relationships with public security officials and, where necessary, how to transfer and institutionalise these relationships.
- **Sub-contractors:** Private security providers often sub-contract to other private security providers and outsource support functions such as vehicle maintenance. Companies should establish what sub-contractors exist, how they will be affected, which party is responsible for them and how any transfer of service delivery will be managed.
- **Knowledge transfer:** The outgoing private security provider is likely to have developed significant knowledge of relevant security issues surrounding company operations. Companies and their new private security providers should attempt to gain intelligence from the outgoing private security provider.

It is always prudent to consider issues of termination as part of the negotiation and drafting of the contract. The above are a sample of some of the practical issues that a company must consider prior to terminating a contract with a private security provider. Every situation is unique and each company must unwind all aspects of its existing contractual arrangements, effectively deconstructing the contract to identify what rights and responsibilities a company has to its private security provider and vice versa.

Of particular importance is the issue of coordination. It is critical that processes are coordinated in order to ensure that there is no gap in the provision of security services. The termination of a private security provider contract is not just a matter for a company's security and legal departments; it also has an impact on other departments, including operations, human resources and communications.

Private security providers are often a source of significant local employment, and their operatives are the 'face' of a company—patrolling the perimeter of operations and interacting with external parties on a regular basis. Therefore, changing a private security provider will inevitably have an impact on a wide range of stakeholders, including local communities. It is important for a company to be proactive in the management of its community relations and, to the best extent possible, engage communities in terms of the termination and transition of the private security provider contract.

Where the private security provider itself instigates the termination of the contract, the company should conduct its own assessment of the reasons for such a termination. The company must be particularly vigilant to ensure that the private security provider has not chosen to terminate its contract as a result of material threats, abuses or other issues at the operating site and, moreover, whether it has not adequately informed the company of these concerns and issues.

The immediate termination of a private security provider contract may put a company and its operators at significant risk if it is not adequately managed. For this reason, it is advisable to conduct contingency planning for such an eventuality, taking into account the issues identified above.

In sum, the effective termination of a private security provider contract and subsequent management of the transfer to a new contractor will require coordination between departments and stakeholders. To protect a company from potential risks, these processes, in conjunction with the above mentioned operational issues, must be proactively managed.

## 3.3. Labour standards

### A. Employee conditions within the private security providers: Ensuring high labour standards

#### Good Practices\*

**Ensure the risk assessment includes an analysis of the private security industry, specific companies' track record in labour rights, the labour environment, national labour laws and private security regulation (see 3.1.a. and 3.4.a.).**

**During the bidding process, pay special attention to the following aspects as part of the award criteria (see 3.2.a.).**

- ✓ Analyse employment conditions, including pay and remuneration (as well as if and how these are linked to performance), benefit packages, working conditions, hours of shifts worked, supervisory structure, etc. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ Check whether staff receive training on human rights, international humanitarian law (in situations of armed conflict), use of force and firearms, crowd management, conflict-diffusion techniques, apprehension or restraint of individuals and other skills.
- ✓ Assess private security provider policies and practices, including those relating to labour and employment policy, human rights policy, security policy, **due diligence** and risk assessment practices, disciplinary procedures, health and safety policy, equal opportunities policy, gender-sensitive policies related to equality, prevention of sexual harassment and **gender**-based violence, provision of protective gear (including those adapted for women) and policies on protection of **human rights defenders**.
- ✓ Ensure the private security provider has adequate human resource management, including performance management and vetting systems.
- ✓ Verify the existence and effectiveness of external and internal accountability mechanisms.
- ✓ Examine whether there is sufficient insurance to cover risks related to the provision of security services. This includes insurance for employees, as well as insurance to cover the costs of adequately addressing grievances, complaints and adverse impacts on community members. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, p. 15 \(ASIS International 2012\)](#)
- ✓ Check references from similar clients, in particular from those operating in the local area. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 4 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)

#### Practical Tools:

- 🔧 [A Contract Guidance Tool for Private Military and Security Services \(DCAF 2017\)](#)
- 🔧 [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)

## Consider including clauses in the contract requiring the private security provider to do the following.

- ✓ Comply with the International Code of Conduct for Private Security Service Providers, the ILO Declaration on Fundamental Principles and Rights at Work and relevant and applicable labour laws. All of these should be reflected in company policies and procedures (e.g. recruitment and training) and adopted by the private security provider as a condition of procurement eligibility. These policies should also be included explained in all relevant materials, including personnel contracts and onboarding documents. [International Code of Conduct for Private Security Service Providers, par. 52](#)
- ✓ Communicate contract terms and conditions clearly to all personnel in a format and language that is accessible to them. [International Code of Conduct for Private Security Service Providers, par. 52](#) Provide all employees with a written contract of employment setting out the terms and conditions of their employment before the start of the assignment. In situations of limited literacy, also provide this information in other formats, such as videos. Also ensure this information is available in the local language. [Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 4 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ Instruct personnel about applicable legal frameworks and guidelines on ethical conduct.<sup>5</sup>
- ✓ Inform personnel of all risks associated with their employment.
- ✓ Organise the work of private security personnel, in particular regarding overtime, night work and weekend work. This should be done in compliance with international norms that specify the maximum overtime allowed and, where national laws differ or are silent about this, the private security provider should attempt to align with the lowest overtime threshold.
- ✓ Pay fair salaries and benefits (considering international requirements/emerging norms about fair wages) to all employees in a timely fashion, ensuring that different wages and benefits to various nationalities reflect responsibilities and working conditions. Ensure pay differences are based on merit, responsibility and national economic differential, and are not discriminatory for those of different demographic backgrounds (e.g. gender, ethnicity, race, religion).<sup>6</sup>
- ✓ Keep in mind that some labour /human resource policies may seem non-discriminatory on paper but can be discriminatory in practice. Promotions based on merit and education may not take into account the way that certain persons may have been systematically excluded from pursuing higher education based on their gender/race/ethnic identity/etc. Excluding certain groups from higher management positions may exacerbate grievances and drive conflict. Companies should take these differences into account and enact mitigating measures to ensure equitable opportunities.
- ✓ Provide security guards with personal protective equipment (e.g. bulletproof vests, safety vests, torches). Ensure equipment is also appropriate or adapted for female staff.
- ✓ Make provisions for health insurance and life insurance. Ensure adequate insurance for any other risks employees can potentially face in the course of their work. [Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 4 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ Avoid retaining the personal travel documents of their personnel. When retaining these documents is unavoidable (e.g. for administrative processing or other legitimate purposes), ensure they are held for the shortest possible period of time necessary. [International Code of Conduct for Private Security Service Providers, par. 54 and 67](#)

- ✓ Explicitly prohibit private security providers and their personnel from soliciting or accepting bribes and/or anything of value in exchange for not complying with human rights law, international humanitarian law, national laws, company codes and/or any other standards. [International Code of Conduct for Private Security Service Providers, par. 26 and 67](#)
- ✓ Have a clear policy regarding the use of third-party labour brokers in order to avoid the risk of unethical recruitment and forced labour. Ensure that labour brokers do not charge recruitment fees or retain travel documents. Provide clear and consistent information about the location, terms of employment and any associated travel costs and how these are to be paid.
- ✓ Respect the right of personnel to terminate their own employment.<sup>7</sup>
- ✓ Include a certain number or percentage of women in deployed security teams after taking into account the security context, as well as the needs of and interactions with the local population.

#### Key Resource:

- [International Code of Conduct for Private Security Service Providers \(As Amended 10 December 2021\)](#)

### Consider providing performance incentives for private security guards, in consideration of staff retention.

- ✓ Bear in mind the risk that in certain situations, cash performance incentives lead to more demands and internal tensions among guards.

### Ensure that grievance mechanisms are accessible to company staff, private security personnel and local communities (see 3.10.a.). Allow individuals and communities to report any abuse anonymously.

- ✓ According to the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, grievance mechanisms are a key part of human rights due diligence, as well as the broader corporate responsibility to respect (see 2.8.d. and 4.2.e.).
- ✓ At the very least, company grievance mechanisms should be accessible in multiple formats in order to allow for anonymous reporting of human rights abuses. These may include:
  - A 'report abuse' hotline, accessible either via phone or SMS.
  - A secure email address that is solely accessible by a trusted monitor.
  - Tip boxes with clear instructions posted above them, located in areas where individuals have unobserved access to the boxes and can drop in anonymous notes, tips or other information. These should have clear instructions posted above them. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, III-16 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
  - 'Persons of trust' selected by employees that can bring concerns to the company or private security provider management on the behalf of employees. This can also be done via existing mechanisms such as unions and/or employee associations, if applicable.
  - A community office where complainants can report their claims in person. Ensure that this is easily accessible to all potential claimants. If it is clear that certain members of the potentially affected community are not able to access the office, mobile teams should be sent to engage with the community and carry out the grievance process in their location.

- ✓ Establish whistle-blower protection mechanisms that guarantee protection of sources.
- ✓ Appoint particular 'focal points' in the company hierarchy who are directly responsible for redressing problems. This should include, for example, human resources staff and at least one dedicated member of management who is responsible for handling grievances.

## 3.4. Local procurement

### A. Local private security providers: Selecting responsible service providers

#### Good Practices\*

**Ensure that national laws permit the procurement of local private security providers.**

**Ensure the risk assessment includes an analysis of the private security industry, specific companies' background, national labour laws, private security regulation and history of performance of local private security providers (see 3.1.a.).**

- ✓ Identify trends in cases of human rights abuses in which local private security providers have been involved. NGOs can be of help in assembling such data.
- ✓ Develop a list of all private security providers that are known to have been involved in human rights abuses and violations of international humanitarian law. Use this in the evaluation process for the selection of a private security provider and enact automatic exclusion for violators (see 3.2.a.).
- ✓ Evaluate risks and benefits of contracting a local private security provider or, as an alternative, of hiring local guards as in-house security versus having external providers.

**Develop policies, procedures, and guidelines defining the roles and responsibilities of private security providers (see 3.2.c.).**

- ✓ Human rights policies should be applicable to all personnel, business partners and other parties directly linked to its operations, products or services. This includes contracted private security providers (see 3.2.c. and 1.3.a.).
- ✓ Share the company's security policies and procedures with relevant stakeholders, such as other companies, public security forces and local communities. Highlight information about local hiring guidelines, rules on the use of force and procedures for requesting police back-up.
- ✓ Develop specific policies on high-risk issues such as vulnerable populations, human rights defenders and gender.
- ✓ Integrate the Guidelines for Private Security Providers on Preventing and Addressing Sexual Exploitation and Abuse (International Code of Conduct Association 2020).

## Internal company codes of conduct on sexual exploitation and abuse

Adopt a company code of conduct which makes clear that:

- Sexual exploitation and sexual abuse are serious human rights abuses, and when perpetrated in the context of armed conflicts, can, under certain circumstances, also violate rules of international humanitarian law.
- Certain forms of sexual exploitation and abuse are crimes in national law and may incur criminal liability.
- Paragraph 38 of the International Code of Conduct for Private Security Service Providers prohibits benefitting from sexual exploitation. This covers the use of prostitutes, regardless of whether prostitution is legal or illegal in the area of operations.
- Every employee has a duty to comply with the company code of conduct and contribute to an environment that prevents and addresses acts of sexual exploitation and abuse, including by reporting incidents and concerns and cooperating in internal and external investigations. Any form of sexual exploitation and abuse constitutes serious misconduct that betrays the values of the company and is likely to harm its reputation. These violations are therefore subject to severe disciplinary measures, including dismissal.
- Translate the company code of conduct into all languages/dialects that personnel understand.

**Check if the private security provider is a member (certified or affiliate) of the International Code of Conduct Association.<sup>8</sup> Also check whether the provider has made a commitment to other applicable standards developed by nationally or regionally recognised regulatory authorities, such as the Private Security Regulatory Authority of South Africa,<sup>9</sup> ANSI/ASIS PSC.1-2012<sup>10</sup> or relevant ISO standards (e.g. 18788 or 28007).**

### Key Resources:

- [International Code of Conduct Association](#)

## Consider the different functions required and define the desired profile for each security-related job.

✓ Take into account factors such as:

- Level of education, training and experience required for the job. Consider whether it would be possible to address gaps and help staff reach these desired levels through additional training provided by the company. Private security personnel with a lower level of training can assume basic guard duties, while more extensively trained personnel can be used for other positions.
- Skills in local languages.
- Knowledge of the local situation.
- Relations with the local community, including potential tensions between local communities and guards from different communities, ethnicities, religions, etc.
- Risks associated with each activity carried out by security personnel.

**Publish a request for proposals (RfP) which includes: a clear description of the mandate and contractor responsibilities; exclusion criteria that automatically disqualify candidates; and award criteria that relate to the company, its personnel and weapons and equipment (see 3.2.a).**

**Develop a contract with the private security provider that is based on the request for proposals. The contract should include clear clauses and performance requirements that ensure respect for relevant national law, international humanitarian law and human rights law by the contracted private security provider.**

- ✓ Discuss these with the private security provider to make sure the security provider understands its performance objectives (see 3.2.c).
- ✓ If the private security provider refuses to include a requirement to comply with a human rights-based code of conduct—such as the International Code of Conduct for Private Security Service Providers, the company’s code of conduct for private security providers and/or other relevant standards—do not initiate a relationship or terminate the existing relationship as applicable. If the company is not currently compliant but agrees to take steps to become compliant, consider the following options:
  - Negotiate a timeline for compliance and support a strategy to become compliant.
  - Withhold payments as established in the contract until the issue is satisfactorily addressed.
  - Condition ongoing relationship on performance and provide further, detailed guidance and training, together with regular performance review.
  - Terminate the relationship with the private security provider.
- ✓ Incentivise respect for human rights and international humanitarian law by making the price and duration of contracts attractive. Relevant incentives may include:
  - Securities or bonds for contractual performance.
  - Financial rewards or penalties and incentives.
  - Opportunities to compete for additional contracts.
  - References provided to other clients.

#### Practical Tools:

- 🔧 [A Contract Guidance Tool for Private Military and Security Services \(DCAF 2017\)](#)
- 🔧 [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)



**Conduct a training needs analysis and ensure the required training is provided to private security personnel assigned to the company's operations (see 3.6.a.).**

**Ensure training on de-escalation and graduated use of force techniques, as well as on illegal and legal use of force. Mandate training on gender and human rights, especially in relation to how private security personnel interact with community members.**

**Practical Tool:**

 [Online Training Prevention of Sexual Exploitation and Abuse \(International Code of Conduct Association 2021\)](#)

**In situations where there is no private security provider that complies with all the desired criteria, consider the following options.**

- ✓ Assess whether there is any applicant that would be suitable, provided they receive additional training or support to develop relevant policies and processes.
  - As part of the agreement with the private security provider, agree to a training programme with set timelines and milestones (see 3.6.a.) The Voluntary Principles on Security and Human Rights Implementation Guidance Tools suggest that in this case, companies should 'agree to a training programme with the provider together with milestones and timelines.' [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
  - Work with other companies to invest in training on human rights and humanitarian law (in situations of armed conflict) for local private security providers. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
  - As applicable, print the key points of the Voluntary Principles on Security and Human Rights, the company's code of conduct, the International Code of Conduct for Private Security Service Providers and the rules for the use of force on plasticised 'smart cards' issued to all private security personnel. The smart cards should be in the appropriate local language for ready reference and inspection. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-3 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
  - Provide support to identify and manage human rights risks.
- ✓ In cases where some of the identified gaps cannot be addressed through additional training or support, consider whether the balance of risks versus benefits justifies the contracting of the private security provider that submitted the strongest application. If yes, conduct enhanced [due diligence](#) to establish all feasible preventive and mitigation measures to address the identified human rights risks and potential impacts (see 3.1.a.).
- ✓ In situations where there is no eligible private security provider operating in the area, but it is still desirable to have local guards, consider hiring local in-house security that would only start work after receiving all required training.
- ✓ Whenever there are doubts on local providers' delivery capacity, consider the feasibility of hiring both international and local private security providers for different security functions.
- ✓ Consider other non-security jobs that could be offered to local community members.

## Meet regularly with the contracted private security provider to address the following issues:

- ✓ Implementation of required functions consistent with company policies, contractual requirements, the Voluntary Principles on Security and Human Rights, the company code of conduct, the International Code of Conduct for Private Security Service Providers, and international and national humanitarian and human rights requirements.
- ✓ Vetting of personnel to the best of the private security provider's ability. This should include ongoing efforts to ensure knowledge of capacity and risks associated with hiring personnel from a particular location, service background, community, ethnic background, etc. When feasible, personnel records should be kept on file by the contractor and made available for inspection. Personnel records should be kept safely stored and confidential. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Training of all employees on all standards specified in the contract (e.g. on the use of equipment) on an ongoing and as-needed basis, as indicated by [due diligence](#) and risk assessment activities.
- ✓ Provision of relevant equipment (e.g. defensive equipment, personal protective equipment, personal security equipment, appropriate weapons, firearms and ammunition) by the private security provider to its guards, as required by the contract.
- ✓ Investigation of all allegations of human rights abuses, as well as of all occasions when private security personnel apprehend or use force against any groups or individuals, in order to ensure this was done in accordance with all relevant standards. All such incidents should be reported to the company security manager and, where appropriate, to the local authorities. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Review of community and other stakeholders' complaints in order to identify prevention or mitigation measures. These complaints should be duly handled by the company's grievance mechanisms.
- ✓ Confidentiality of information gathered by the contractor in the course of duties. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)

**Supervise the performance of private security providers through regular monitoring conducted either by the company security department or senior operations management. Complement these with an independent third party such as the International Code of Conduct Association and/or certification bodies ([see 3.1.a.](#)).**

## Include monitoring and inspection in the contract.

- ✓ For examples of provisions, check the [Guidance Tool for Contracting Private Military and Security Services](#), section 2.4.
- ✓ Use checklists and performance indicators and share these with the private security provider, both at the start of the relationship and on an ongoing basis. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-1 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#) Tie these indicators to specific outcomes, such as financial rewards, penalties and/or termination of the contract. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 8 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ Identify gaps in service delivery and examine options to fill gaps, including additional training and other support. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p.55 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Check all complaints against the private security provider reported through grievance mechanisms and other sources. Record all allegations of human rights abuses by private security.
- ✓ Ensure that such monitoring encompasses not only investigations, but also follow-up actions. This includes disciplinary measures that are sufficient to prevent and deter violations, as well as procedures for disclosing allegations to relevant law enforcement authorities. [Voluntary Principles on Security and Human Rights, p. 6](#)

## Performance indicators for private security personnel

Potential performance indicators could include:

- No-show rate.
- Missed guard tours.
- Missed supervisory visits.
- Missed training, incomplete training or failure to pass training tests.
- Internal and third-party complaints.
- Misuse of force/firearms, including accidental discharge of weapons.
- Inappropriate interactions with community, public security or other stakeholders.
- Violations of agreed procedure.
- Violations of international humanitarian law and human rights abuses.
- Violations of international or national laws governing the private security industry.
- Violations of company or industry codes of conduct or ethics.
- Failure to cooperate with client investigations, requests for information or incident reporting requirements.
- Violations of the terms of the contract.

### Source:

[The Sarajevo Client Guidelines for the Procurement of Private Security Companies \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)

## 3.5. Vetting

### A. Vetting requirements: Managing risks around private security providers in the absence of public documentation and available background information

#### Good Practices\*

**As part of the risk assessment exercise, gather as much information as possible on the private security industry in the country, in particular with regard to regulation and performance history of local private security providers (see 3.1.a.).**

- ✓ Consult with host and home government authorities, other companies, civil society organisations and local communities.
- ✓ Conduct research using local media, web resources and reports developed by international organisations, multi-stakeholder initiatives, civil society organisations and experts.
- ✓ Examine applicable private security laws and other national legal requirements, in particular with regard to the issuance of business and equipment licenses and training certificates. This will provide the company with some notions of the kind of documentation that private security providers will be able to submit with their applications to bid for a contract.
- ✓ Identify trends in cases of human rights abuses in which local private security providers have been involved.
- ✓ Elaborate a list of all private security providers that are known to have been involved in human rights abuses and/or violations of international humanitarian law and use it as part of the criteria for automatic exclusion in the evaluation process for the selection of a private security provider (see 3.2.a.).
- ✓ Identify if private security providers have military backgrounds, especially in contexts where the public security sector is alleged to have committed human rights abuses and/or violations of international humanitarian law.

#### Practical Tool:

- 🔧 [Use of Security Forces: Assessing and Managing Risks and Impacts: Guidance for the Private Sector in Emerging Markets \(International Finance Corporation 2017\)](#)

#### Key Resources:

- 📖 [National Baseline Studies on Private Security \(Private Security Governance Observatory\)](#)
- 📖 [National Private Security Regulation Mapping \(Private Security Governance Observatory\)](#)
- 📖 [Private Security Governance Database \(DCAF\)](#)
- 📖 [Global Study on National Regulatory Framework and Legislation on Private Military and Security Companies \(UN Office of the High Commissioner for Human Rights, Working Group on Mercenaries 2017\)](#)
- 📖 [Business and Human Rights Resource Centre Company Dashboards](#)

**Develop a request for proposals that requires each applicant to provide background information (see 3.2.a.). This information will help the company conduct due diligence, hire providers with a degree of professionalism and draft an appropriate contract.**

A Contract Guidance Tool for Private Military and Security Services (DCAF 2017)

- ✓ Key information required for vetting private security providers should include:
  - Possession of all necessary business licenses, registrations, permits, authorisations or approvals required under applicable international and national law of the home and host States.
  - Possession of all necessary licenses, registrations, permits, authorisations or approvals required under the laws of States of nationality of private security provider personnel.
  - Sufficient evidence the security provider has implemented processes to employ qualified and experienced personnel.
  - Sufficient evidence of adequate equipment, facilities, resources and infrastructure for the timely and competent performance of the mandate.
  - Sufficient evidence of its good reputation and irreproachable business conduct.
  - Company membership and good standing in the International Code of Conduct Association (ICoCA), national industry regulatory bodies, other trade associations and/or stakeholder initiatives.
  - Company profile, including a brief history of the potential contractors, with personnel and property records, a list of previous clients and information on affiliated companies, as applicable.
  - Name changes or ownership changes.
  - Internal policies implementing international and national standards and company codes of conduct.
  - Proof of training on human rights and humanitarian law, the use of force, weapons and firearms and first aid.

**Evaluate bids according to the requirements laid out in the request for proposals (see 3.2.a.). Lay out clear terms on exclusion criteria, award criteria, needed personnel and required weapons and equipment.**

A Contract Guidance Tool for Private Military and Security Services, part 1.2 (DCAF 2017)

- ✓ The exclusion criteria related to vetting should consider:
  - National criminal records or other evidence indicating violations of international humanitarian law or human rights abuses linked to a potential contractor or its personnel. Records should indicate if personnel have faced credible allegations of any national criminal offence, breaches of international criminal, abuses of international human rights law or violations of international humanitarian law in any jurisdiction.
  - Evidence of grave professional misconduct by the company or its personnel.
  - Failure to provide the requested documentation and information or submission of false and/or misleading information.
  - Inability to fulfil a key requirement of the request for proposals.
  - Evidence of bribery, corruption or other conflict of interest.

- Proven involvement in political activities. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ The award criteria related to personnel standards should take into account procedures and management systems that the company has in place to screen, train and monitor personnel, as well as criteria directly applying to its personnel. Most importantly, they include:
  - Recruitment and selection methodology (including criminal screening, human rights and international humanitarian law abuse screening, drug screening, discharge from public or private security services and psychological screening). [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
  - Average officer experience (including employee backgrounds, experience in industry and contract-specific experience). [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
  - Training on human rights, international humanitarian law (in situations of armed conflict), use of force and firearms, crowd management, conflict-diffusion techniques, and other skills (e.g. restraining or apprehending individuals).
  - Policies relating to international humanitarian law and human rights law, especially on the use of force and firearms, as well as policies against bribery, corruption and other crimes. Evaluate systems for implementing these policies, training personnel and reporting compliance. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Internal monitoring, supervisory and accountability mechanisms. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Systems to control the management, use and handling of weapons, firearms and ammunition (e.g. registers, licenses, hand-over, transportation). [A Contract Guidance Tool for Private Military and Security Services, section 1.3 and 1.4 \(DCAF 2017\)](#)

## Ensure the selected private security provider has an effective vetting programme.

### International Code of Conduct for Private Security Service Providers: Selection and vetting of personnel

*Excerpt from The International Code of Conduct for Private Security Service Providers:*

**45.** Member and Affiliate Companies will exercise due diligence in the selection of Personnel, including verifiable vetting and ongoing performance review of their Personnel. Member and Affiliate Companies will only hire individuals with the requisite qualifications as defined by the applicable contract, applicable national law and industry standards, and the principles contained in this Code.

**46.** Member and Affiliate Companies will not hire individuals under the age of 18 years to carry out Security Services.

**47.** Member and Affiliate Companies will assess and ensure the continued ability of Personnel to perform their duties in accordance with the principles of this Code and will regularly evaluate

Personnel to ensure that they meet appropriate physical and mental fitness standards to perform their contracted duties.

**48.** Member and Affiliate Companies will establish and maintain internal policies and procedures to determine the suitability of applicants, or Personnel, to carry weapons as part of their duties. At a minimum, this will include checks that they have not:

- a. been convicted of a crime that would indicate that the individual lacks the character and fitness to perform security services pursuant to the principles of this Code;
- b. been dishonourably discharged;
- c. had other employment or engagement contracts terminated for documented violations of one or more of the principles contained in this Code; or
- d. had a history of other conduct that, according to an objectively reasonable standard, brings into question their fitness to carry a weapon.

For the purposes of this paragraph, disqualifying crimes may include, but are not limited to, battery, murder, arson, fraud, rape, sexual abuse, organized crime, bribery, corruption, perjury, torture, kidnapping, drug trafficking or trafficking in persons. This provision shall not override any law restricting whether a crime may be considered in evaluating an applicant. Nothing in this section would prohibit a Company from utilizing more stringent criteria.

**49.** Member and Affiliate Companies will require all applicants to authorize access to prior employment records and available Government records as a condition for employment or engagement. This includes records relating to posts held with the military, police or public or Private Security Providers. Moreover, Member and Affiliate Companies will, consistent with applicable national law, require all Personnel to agree to participate in internal investigations and disciplinary procedures as well as in any public investigations conducted by competent authorities, except where prohibited by law.

**Develop a contract with the private security provider; according to the Montreux Document, the contract should include clear ‘clauses and performance requirements that ensure respect for relevant national law, international humanitarian law and human rights law’ by the contracted private security provider and by sub-contractors. Discuss these with the private security provider to make sure the security provider understands its performance objectives (see 3.2.c.).**

[The Montreux Document on Private Military and Security Companies, part 2, par. 14 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

**Encourage the private security provider to sign a formal declaration that none of its employees have been implicated in abuses of human rights and/or violations of international humanitarian law.**

[Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

- ✓ Request an attestation by personnel that nothing in their present or past conduct would contradict the company’s policies and code of conduct for private security. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, p. 19 \(ASIS International 2012\)](#)

## 3.6. Training

### A. Private security personnel lacking adequate training: Ensuring application of international norms and standards on human rights and international humanitarian law to day-to-day security duties

#### Good Practices\*

**Conduct a training needs analysis at the time of contract negotiations with the private security provider.**

**Agree on a training programme with the private security provider based on the results of the needs analysis, including assigning clear designation of who is responsible for the delivery of each part of the training (i.e. the company, the private security provider or a third party).**

- ✓ Ensure pre-deployment training is provided to all private security personnel working on the company's premises.
- ✓ Include, as a minimum, the following topics:
  - Human rights, international humanitarian law (in countries affected or threatened by armed conflict) and national criminal law.
  - Gender-related topics, including prevention of sexual exploitation, abuse and harassment.
  - Respect for the local population, in particular indigenous peoples. This should explore topics such as religion, ethnicity and other cultural considerations.
  - Rules for the use of force and firearms, including self-defence and de-escalation techniques. Refer participants to the International Code of Conduct for Private Security Service Providers and the Guidance Tool: Regulating the Use of Force by Private Security Providers (DCAF 2019). Review national laws and regulations in effect in the area where duties will be performed. Use of force training should include weapon-specific training for all personnel who are to carry a weapon. It should include a clarification of the differences in use of force between public security forces and private security providers.
  - Procedures for apprehending persons. The International Code of Conduct for Private Security Service Providers states, 'Member and Affiliate Companies will, and will require their Personnel to, not take or hold any persons except when apprehending persons to defend themselves or others against an imminent threat of violence, or following an attack or crime committed by such persons against Company Personnel, or against clients or property under their protection'. International Code of Conduct for Private Security Service Providers, par. 33 All apprehended persons should be treated 'humanely and consistent with their status and protections under applicable human rights law or international humanitarian law'. International Code of Conduct for Private Security Service Providers, par. 34
  - Site safety training.
  - Incident response and first aid, to ensure that assistance and medical aid are provided to any injured persons at the earliest possible moment.<sup>11</sup>



- Private security providers' duties and responsibilities with regard to conflict management and dealing with incidents and disturbances (e.g. public disorder, lawful and unlawful protests, strikes, labour disputes and evictions), ensuring these duties and responsibilities do not conflict with the mandate of public security forces.
  - Anti-bribery and anti-corruption measures.
  - Grievance procedures and policies for transmitting complaints to the appropriate authority. [The Montreux Document on Private Military and Security Companies, part 2, par. 10 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
- ✓ After training, require that all deployed private security personnel pass an oral or written exam, as well as a physical test, to prove they are capable of performing the required security services.
  - ✓ Periodically (e.g. quarterly or bi-annually) conduct refresher courses all private security personnel, including a few new topics in each refresher training.
  - ✓ Ensure the training is updated regularly to reflect changed circumstances on the ground and the findings of ongoing risk assessment and due diligence activities.
  - ✓ Include details and conditions regarding the training programme in the contract with the private security provider.

#### Practical Tools:

- 🔧 [Training Requirements According to the Federal Act on Private Security Services Abroad \(Swiss Confederation, Federal Department of Foreign Affairs 2017\)](#). Developed by the Swiss government in alignment with their law. This also aligns with the International Code of Conduct for Private Security Service Providers and key international standards.
- 🔧 [Preventing And Addressing Sexual Exploitation and Abuse \(International Code of Conduct Association 2019\)](#)
- 🔧 [Guidance Tool: Regulating the Use of Force by Private Security Providers \(DCAF 2019\)](#)

### Ensure that participants can relate to the training programme.

- ✓ Ensure the training is adapted to the background, literacy level and languages of participants.
- ✓ Conduct practical exercises that include locally-relevant scenarios and possible contingencies. One method is to use the 'talk-through, walk-through, run-through' formula: communicate all tasks and expectations to participants; discuss each step; and run-through the whole scenario with role-players. The World Bank Group and Anvil Mining emphasise, 'Training events are most effective if the scenario for the simulated incident is plausible or even a repeat of a previous incident'. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, III-9 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Encourage the organisation of joint drills and rehearsals for incident management (having previously assessed all potential risks). Involve public security forces, private security providers and in-house security. In general terms, these exercises should address the phases of an incident response, including:
  - Preparation and review of rules (e.g. for the use of force).
  - Alert.

- Deployment.
  - Designation of the on-site team leader.
  - Actions on contact.
  - Resolution of the incident.
  - Provision of medical attention (and evacuation), if required.
  - Review of post-incident lessons learned.
  - Final reporting and follow-up. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, III-9 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Lessons identified from these drills and rehearsals should be iteratively inserted to the relevant procedures, processes and standing orders.

### **Complement initial training with additional training topics and measures, such as the following:**

- ✓ Induction training to familiarise private security personnel with the company, in particular with its structure, policies and processes (e.g. handling of complaints and lines of reporting). Participants can also become acquainted with the project site at this time. Induction training should cover national and international law regarding provision of private security services, as well as community and local government relations.
- ✓ Job-specific training focused on threats, risks and potential impacts associated with the specific assignment. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, 1:21 \(ASIS International 2012\)](#)
- ✓ Short talks focused on key aspects of both the company's expectations and the International Code of Conduct for Private Security Providers, delivered regularly by supervisors.
- ✓ Supporting materials (e.g. a pocket book or laminated card with principles on the use of force).

### **Monitor performance and, if necessary, provide additional training based on the findings.**

- ✓ Conduct regular monitoring to verify whether the learnings from the training are put into practice. As part of this exercise, consult with local communities to find out whether the situation has improved as a consequence of training.
- ✓ Identify any remaining gaps and ensure these are addressed in refresher trainings.
- ✓ If necessary, conduct additional training to address any further needs.

### **Work with other companies to invest in training for local private security providers on human rights and humanitarian law (in countries affected by armed conflict).**

[Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## B. Culturally appropriate and respectful security practices: Preventing increased risk of conflict

### Good Practices\*

**Analyse the operational context (see human rights due diligence), paying particular attention to the factors below:**

- ✓ Different cultures and ways of life within the national population (e.g. livelihoods, language, customs) and related sub-groups within a community, including the potential for conflict between such groups.
- ✓ As noted in Anglo American's socio-economic assessment toolbox, 'traditional lifestyles and a close attachment to ancestral territories and the natural resources found in them', with a focus on [indigenous peoples](#).<sup>12</sup>
- ✓ Environmental and natural resource management strategies.<sup>13</sup>
- ✓ Intangible cultural heritage, such as language, ceremonies and spirituality.<sup>14</sup>
- ✓ Structure and operation of the local economy.<sup>15</sup>
- ✓ Governance and decision-making structures, as well as their implications for vulnerable and marginalised groups (e.g. [women](#) and [indigenous peoples](#)).
- ✓ Power structures and the politics within communities and society as a whole.
- ✓ Social structures, in particular the different [gender](#) roles within the social and cultural context. This includes the division of labour and the different rights and obligations within the household and the broader community.<sup>16</sup>
- ✓ 'Different value systems, which may include approaches to negotiation and reaching agreement that are quite different to those in mainstream society', as outlined in Anglo American's socio-economic assessment toolbox.<sup>17</sup>
- ✓ 'Cultural protocols and procedures, including traditional ways of dealing with grievances and conflict', as explained in the International Council on Mining and Metals' guide on indigenous peoples and mining.<sup>18</sup>

#### Practical Tools:

- ✚ [Host Country Security Assessment Guide – Social Responsibility \(IPIECA, International Committee of the Red Cross and DCAF 2017\)](#)
- ✚ [Company-Community Relations: Training Materials \(International Council on Mining and Metals\)](#)
- ✚ [Good Practice Guide: Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)
- ✚ [Human Rights and Business Country Guides \(Danish Institute for Human Rights\)](#)
- ✚ [Amnesty International Country Reports \(Amnesty International\)](#)
- ✚ [Reports and Primers on Business and Human Rights Topics \(BSR\)](#)
- ✚ [UN Universal Human Rights Index Database \(Office of the UN High Commissioner for Human Rights\)](#)

- 🔧 [Freedom in the World \(Freedom House\)](#)
- 🔧 [Human Rights Watch World Report \(Human Rights Watch\)](#)
- 🔧 [Visualize Risk \(Responsible Sourcing Tool\)](#)
- 🔧 [Indigenous Navigator \(Danish Institute for Human Rights\)](#)

### Ensure the company's human rights policy addresses relations with local communities (see [1.3.a.](#) and [4.2.b.](#)).

- ✓ Consult with communities, including any inter-communal sub-groups and particularly vulnerable groups (e.g. [women](#), youth, [indigenous peoples](#), [human rights defenders](#)).
- ✓ Account for differing perceptions, impacts and sensitivities among various groups within the community. This includes perceptions surrounding the business project, industry, weapons, drivers of conflict, other groups, security forces, etc. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 50 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Establish, implement and maintain procedures to ensure all persons performing tasks on behalf of the company are aware of the local and national culture of the environment they are operating in, including aspects such as customs and religion. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, 1:21 \(ASIS International 2012\)](#)
- ✓ Require that employees and private security providers take a non-discriminatory approach and work without prejudice or bias, in regard to race, gender, religion, culture, nationality etc. Require training on [gender](#) sensitivity, the rights of [indigenous peoples](#) and engagement with local [human rights defenders](#). Emphasise that employees are expected to not express personal, nationalistic or political views while working. In both public and private, employees are expected to demonstrate respect when expressing views, especially as they relate to other groups. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 2-3 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)

### Develop guidelines for effective engagement between the company's security personnel, the private security provider and local communities.

- ✓ Ensure the company's security and community relations departments collaborate in developing these guidelines.
- ✓ Clarify roles of the company's security department, in-house security and private security providers in engaging with local communities.
- ✓ The International Council on Mining and Metals explains that companies should 'strive for consistency of approach and employment longevity of representatives of the company so that relationships can be built and trust maintained'.<sup>19</sup>
- ✓ Consider the help of local experts (including women and members of vulnerable groups) for the development of culturally appropriate guidelines and procedures.
- ✓ Seek solutions developed with local communities.

**Consider local experience and references from other clients working in the area as part of the award criteria in the selection of a private security provider (see 3.2.a.).**

**Ensure the selected private security provider has locally appropriate policies and procedures.**

**Establish security arrangements taking into account findings from the context analysis and the risk and impact assessments (see 3.1.a. and due diligence).**

- ✓ Ensure the presence of both female and male employees to accommodate any sensitivities around men preferring to engage with male representatives of a company and/or women with female representatives.<sup>20</sup>
- ✓ Ensure security arrangements (e.g. selection of personnel) do not inadvertently foster tensions through favouring one religion/race/ethnic group over others.

**Agree on a training programme with the private security provider (see 3.6.a.).**

- ✓ Ensure that private security personnel are aware of and trained in aspects regarding the culture, traditions and values of the local community.
- ✓ According to the International Council on Mining and Metals, companies should ‘provide practical advice that can enhance cross-cultural communication and understanding (e.g. advice on body language, initiating and ending conversations, culturally disrespectful actions, etc.)’.<sup>21</sup>
- ✓ Involve local community representatives in delivering the programme, teaching and sharing their experiences.

**Set regular meetings with local communities (see human rights due diligence).**

- ✓ Consider political, cultural and legal sensitivities when choosing a method of communication and the venue for meetings with local stakeholders.
- ✓ Clearly communicate the company’s values and commitments to local stakeholders.
- ✓ Be as open as possible when sharing information on security arrangements and insist on transparency from the private security provider.
- ✓ Begin early. Ideally, start dialogue before any security personnel are deployed on site.
- ✓ Listen with an open mind to communities’ security concerns and be willing to reconsider security arrangements accordingly.
- ✓ Work together with local communities to address concerns, risks and impacts.
- ✓ Consider establishing a multi-stakeholder security forum or draw on existing community security platforms (see in-country working groups).
- ✓ If appropriate, invite other relevant stakeholders, such as local authorities or public security.

## Establish grievance mechanisms that are respectful of customary approaches to dispute resolution (see company grievance mechanisms, 4.2.e. and 3.8.).<sup>22</sup>

- ✓ If a community has an existing dispute resolution mechanism, consider how/if the company's programme can align with and/or complement that process.
- ✓ Consider whether it is necessary to conduct outreach and/or capacity-building to empower communities to access and effectively use the grievance mechanism.
- ✓ Ensure that the private security provider has an accessible grievance mechanism.

### Key Resources:

- 📖 [Training Requirements According to the Federal Act on Private Security Services Abroad \(Swiss Confederation, Federal Department of Foreign Affairs 2017\)](#). Developed by the Swiss government in alignment with their law. This also aligns with the International Code of Conduct for Private Security Service Providers and key international standards.

### Practical Tools:

- 🔧 [Human Rights Impact Assessment Guidance and Toolbox, Phase 5: Reporting and Evaluation \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Good Practice Guide Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)
- 🔧 [Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies \(International Code of Conduct Association 2018\)](#)

## 3.7. Relationship between public and private security

### A. Off-duty public security personnel working for private security providers: Addressing possible confusion and mitigating human rights risks, in particular with regard to the use of force, apprehension and detention

#### Good Practices\*

**Consider carefully whether appropriate alternatives exist to the use of off-duty public security personnel as private security providers.**

**As part of the risk and impact assessment, consider risks and potential impacts of using public security personnel as private security providers.**

- ✓ Assess the capabilities, practices and human rights track record of public security forces.
- ✓ Analyse the legal framework that regulates the private security industry and find out if it is legally allowed for public security personnel to work for a private security provider when off-duty. If legal, ensure the assessment provides a clear picture of any restrictions and conditions.
- ✓ Consider focused stakeholder engagement with affected communities to identify any additional concerns and/or risks associated with the use of public security as private providers.

**Request a letter of consent from the relevant public security institution stating that the concerned individuals are allowed to work for a private security provider.**

**Conduct a training needs analysis during contract negotiations with the private security provider and agree on a training programme with the provider based on the results, including assigning clear responsibilities for the delivery of each part of the training.**

- ✓ Ensure the training programme follows the recommendations listed in [3.6.a.](#), with a special focus on the following elements:
  - Differences in the mandate and responsibilities between public and private security roles.
  - Differences in the rules for public security and private security, especially on the use of force and firearms. Once in a private security capacity, the rules are different. It is essential that public security officers working as private security understand the different rules applicable to the provision of private security services, to law enforcement operations and to the conduct of hostilities in situations of armed conflict (i.e. when international humanitarian law applies). For instance, while the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms are crucial documents for public security, private security providers do not have the same mandate and should follow

national laws and recognized good practices such as the International Code of Conduct for Private Security Service Providers. More information can be found in [Regulating the Use of Force by Private Security Providers: A Guidance Tool for States \(DCAF 2019\)](#).

- ✓ Provide use of force training that addresses:
  - Reasonable steps to avoid the use of force.
  - The use of force continuum, including force de-escalation techniques to resolve threats with minimum necessary force.
  - Compliance with all national and international obligations.
  - Proportionality to the threat and appropriateness to the situation.
  - The key differences between mandates, rules and responsibilities of public security forces and private security.
  - Use of force in self-defence or in defence of others, under imminent threat of serious injury, death and/or perpetration of a serious crime involving grave peril to life. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, p. 24 \(ASIS International 2012\)](#)
  - Weapon-specific training for all personnel who are to carry a weapon.
  - Restraining or apprehending individuals.
- ✓ Integrate practical exercises that include locally relevant scenarios and possible contingencies to put all of the above points into practice. Start by providing a background briefing to private security providers on local conditions, the operating environment, risk assessment findings and stakeholder engagement observations. Communicate all tasks and expectations to participants; discuss each step of the actions and responsibilities of participants; and run through the whole scenario with role-players. When feasible and relevant, public security should also participate in these exercises. This will help participants understand their different roles and responsibilities in the event of an incident.
- ✓ Include the details and conditions regarding the training programme in the contract.

### **Complement the training with additional measures.**

- ✓ Ask supervisors to regularly deliver short talks focused on key principles of the Voluntary Principles on Security and Human Rights and the International Code of Conduct for Private Security Providers.
- ✓ Provide supporting materials (e.g. a pocket book with key aspects of the company's code of conduct for private security providers and/or other relevant standards).
- ✓ Identify and engage with 'champions' within the public security sector that, due to rank or status, can effectively promote good practices with colleagues.



**Facilitate cooperation between public and private security providers in the form of information-sharing, regular coordination and engagement, and any specific legal requirements of cooperation.**

**Ensure that all private security personnel working on the company's site wear the uniform of the private security provider or company.**

- ✓ The uniform should be clearly distinguishable from the public security uniform and should be easily identifiable. Having a distinct uniform for each job may help off-duty public security personnel differentiate between their two roles. [International Code of Conduct for Private Security Providers, par. 43](#)

**Ensure that off-duty officers do not bring their weapons, firearms or ammunition to the company premises.**

**Key Resources:**

- 📖 [Guidance on the Use of Force by Private Security Providers \(DCAF 2019\)](#)

## B. Operations with both public and private security (including in-house security): Addressing multiple lines of command, poor communication, inadequate coordination and difficulties in investigating human rights abuses

### Good Practices\*

#### Conduct/update risk and impact assessment ([see 3.1.a.](#)).

- ✓ Analyse the structure, functioning and performance of public security forces.
- ✓ Identify specific challenges in the interaction between public and private security.

#### Meet with the chain of command of public security forces and other government stakeholders at the regional and/or local level before finalising private security arrangements ([see 2.1.](#)).

- ✓ Clearly communicate private security arrangements, as well as findings from the risk assessment, with public security and other relevant government stakeholders. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 54 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Raise the International Code of Conduct for Private Security Service Providers and other international standards on the conduct for both public and private security providers (e.g. the Voluntary Principles on Security and Human Rights).
- ✓ Seek agreement on the different roles assigned to public and private security. On this basis, agree with the chain of command of public security forces on the rules for their deployment around the company's facilities. In particular, determine mechanisms and procedures for scaling up or down depending on the changing environment.
- ✓ Establish formal and consistent reporting and communications mechanisms between public security forces, the company and its private security providers.
- ✓ Agree on a process to investigate human rights abuses.
- ✓ Establish a written agreement or memorandum of understanding with the local management of public security reflecting all of the above, or consider substitute measures in the absence of a memorandum of understanding ([see 2.3.](#)).

#### Finalise negotiations with the selected private security provider and establish a contract that outlines specific requirements regarding the private security provider's engagement with public security ([3.2.c.](#)).

- ✓ Define clearly the different roles and responsibilities of public and private security, including the company's in-house security.

- ✓ Share information on public security arrangements around the company's site, as well as any agreements reached with the public security forces' chain of command.
- ✓ Require the private security provider to designate a focal point for liaising with the company's security department and with public security points of contact.
- ✓ Establish reporting and communications mechanisms based on the agreement with public security.
- ✓ Clarify what equipment is available and who can use it.
- ✓ Following prior agreement with the public security forces' chain of command, encourage the organisation of joint drills involving public security working in the company's area of operations, the private security provider and the company's in-house security.
- ✓ Clarify roles, responsibilities and reporting lines. Promote information-sharing between different actors.
- ✓ Ensure joint drills address the phases of incident response, including:
  - Preparation and review of rules (including for the use of force).
  - Alert.
  - Deployment.
  - Designation of the on-site team leader.
  - Actions on contact.
  - Resolution of the incident.
  - Provision of medical attention and evacuation, if required.
  - Review of post-incident lessons learned.
  - Final reporting and follow-up. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, III-9 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Consider inviting relevant local stakeholders to these exercises. This will promote understanding of the different roles and responsibilities of public and private security.

**Set regular meetings (e.g. once a month) to discuss security arrangements with the appointed points of contact for both public security forces and the private security provider, as well as ad hoc meetings immediately after an incident. These meetings should address any relevant security-related updates in the area ([see in-country working groups](#)).**

### **Coordinate with other companies operating in the area.**

- ✓ Share experiences on working with both public and private security. Identify key challenges and lessons learned.
- ✓ Seek coherence in security practices in order to prevent confusion on the roles of different security actors.
- ✓ Consider developing a contingency plan in case public security previously assigned to the company's area of operations become unavailable or do not respond to calls for action.

## C. Gaps in public security response: Managing situations when private security providers act as first responders in high-risk situations or situations that are normally the responsibility of public security forces

### Good Practices\*

#### Conduct needs assessment for high-risk situations, including an analysis of public security forces' ability to respond (see 3.1. and 2.1.).

- ✓ Assess company needs against the capacity of public security forces. The needs assessment should focus on issues such as training, equipment, transportation and communications.
- ✓ Measure average response times for public security forces to get to the project site in an emergency.
- ✓ Identify additional training and equipment needs of private security personnel.
- ✓ Assess alternative available solutions, including community-led or third-party assistance (e.g. from an international organisation or home government).

#### Update the risk assessment.

- ✓ Analyse relevant past security incidents where public security response was required and identify trends, if any.
- ✓ Assess whether providing logistical, financial or in-kind support (e.g. training or communications equipment) to local public security can improve public security's ability to respond. Consider whether other actors (e.g. home governments, human rights institutions, international organisations, multi-stakeholder initiatives) can address gaps through capacity-building, training and other assistance activities. If this is not feasible, balance benefits against possible negative consequences of providing such support (see 2.6.).

#### Practical Tool:

- 🔧 [Use of Security Forces: Assessing and Managing Risks and Impacts \(International Finance Corporation 2017\)](#)

#### Engage with a wide variety of stakeholders to address plans for dealing with high-risk situations and emergency response.

- ✓ Engage with host government actors and public security forces' chain of command at the national, regional and local levels to identify appropriate means of addressing this challenge.
- ✓ Meet with other companies operating in the area, if any, to share experiences and concerns and to pool efforts for improving the situation.
- ✓ Consult with international NGOs, civil society organisations and local communities to discuss risks and impacts associated with the current situation, as well as to jointly identify possible solutions.

### **Establish early warning mechanisms that allow the company to request public security support with sufficient time for them to arrive before situations become violent (see 3.9).**

- ✓ Develop an information-sharing system with other companies and local stakeholders. This can help identify local tensions before they develop into high-risk situations. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 42 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Consider establishing a multi-stakeholder security forum to discuss security and human rights issues. The forum should include representatives from local communities, ensuring the most vulnerable groups are adequately represented. (See 4.2. and [Case study: In-country working group supports mediating challenges in South Kivu, Democratic Republic of the Congo in 4.2.e.](#))
- ✓ Identify early warning signs based on research on past security incidents, conducted as part of the risk assessment.

### **Consider information-sharing and close coordination to help improve the response time of public security, taking into account the findings of the needs and risk assessments.**

- ✓ Seek ways to improve communication and coordination between public and private security ([see 3.7.b.](#)).
- ✓ Establish formal and consistent reporting and communication mechanisms with public security forces, including the designation of points of contact at each relevant level.
- ✓ Consider the possibility of providing logistical, financial or in-kind support to improve the response time of public security forces ([see 2.6.b.](#)).

### **Establish a security response team that can act as first responders as necessary.**

- ✓ Develop response guidelines and procedures (including rules for use of force, weapons and firearms, as well as procedures for restraining and apprehending persons) and ensure response team members are trained accordingly.
- ✓ Ensure the response team coordinates with public security and withdraws as soon as public security is deployed on site.
- ✓ Ensure the security response team has training in first aid.

### **Include a clause outlining the approach to apprehending persons in the company's code of conduct for private security providers, as well as in the contract with the private security provider.**

- ✓ In line with the International Code of Conduct for Private Security Service Providers (ICoC), stipulate that private security providers may not 'take or hold any persons except when apprehending persons to defend themselves or others against an imminent threat of violence, or following an attack or crime committed by such persons against Company Personnel, or against clients or property under their protection, pending the handover of such detained persons to the Competent Authority at the earliest opportunity'. [International Code of Conduct for Private Security Service Providers, par. 34](#)

- ✓ In accordance with the ICoC, also require that all apprehended persons should be treated ‘humanely and consistent with their status and protections under applicable human rights law or international humanitarian law, including in particular prohibitions on torture or other cruel, inhuman or degrading treatment or punishment’. [International Code of Conduct for Private Security Service Providers, par. 33](#)
- ✓ Stipulate that there should be no firearms in the room where anyone is temporarily detained and that force shall not be used to try to prevent people from escaping.
- ✓ Require the presence of a female guard to aid in apprehending women, should this situation occur.
- ✓ Make this provision part of the information communicated to local communities and public security authorities.

### **Adjust the training programme for private security personnel on a regular basis to address findings from the needs and risk assessments (see 3.6.a.).**

- ✓ Ensure training covers all relevant aspects regarding appropriate and proportionate use of force. Use of force training shall address:
  - Proportionality to the threat and appropriateness to the situation. Basic principles should cover reasonable steps to avoid the use of force. As explained by ASIS International, security personnel should use force only ‘in self-defence, the defence of others against the imminent threat of death or serious injury, or to prevent a particularly serious crime involving grave threat to life’. [Management System for Quality of Private Security Company Operations – Requirements with Guidance, p. 24 \(ASIS International 2012\)](#)
  - The use of force continuum, including force de-escalation techniques to resolve threats with minimum necessary force.
  - Compliance with all national laws, human rights law, international humanitarian law and other obligations.
  - Competence-based training, such as: human rights risk management; hostile environment; local culture; gender, age and religious considerations; de-escalation of situations; incident reporting; communications; and appropriate response to citizen complaints.
  - Weapons – and firearms-specific training for all personnel who may carry a weapon.
  - Medical and psychological health.
- ✓ Include a session on conflict management, crowd control, public order and apprehending persons, based on the company’s code of conduct for private security providers. Explain that these tasks should primarily be performed by public security forces.
- ✓ Explain the differences between the roles of public security forces and private security providers (see 3.7.a.). In particular, emphasise that private security providers have narrower discretion to use force (only in self-defence or defence of others against the imminent threat of death or serious injury, or to prevent the perpetration of a particularly serious crime involving grave threat to life), and generally cannot apprehend or detain persons.

- ✓ Conduct practical exercises using real-life scenarios so that private security personnel learn good practices for responding to high risk-situations in an effective way. Ensure these are in compliance with the International Code of Conduct for Private Security Service Providers and/or other standards like the Voluntary Principles on Security and Human Rights. The Geneva Centre for Security Sector Governance (DCAF) has developed a [Use of Force Guidance Tool](#) that specifically applies to private security providers, drawing on the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The UN Basic Principles can also be read for inspiration; however, they are written only for public security forces. The differences in mandate and rules should be made clear.

**If the above recommendations are not sufficient to properly manage security risks, consider requesting the permanent deployment of public security forces closer to the project site.**

- ✓ Engage with all relevant stakeholders (e.g. host government authorities, public security representatives, other companies, local communities) to ensure their different needs and concerns are taken into account in the deployment of public security forces.
- ✓ If the host government lacks the necessary resources, consider providing financial or in-kind support for the permanent deployment of public security forces. If the company takes this course of action, address potential risks through the risk assessment and communicate to local stakeholders.

## 3.8. Security equipment and use of force

### A. Use of force: Ensuring private security personnel have appropriate equipment for a graduated response

#### Good Practices\*

##### Conduct/update risk and impact assessment (see 3.1.a.).

- ✓ Examine applicable private security laws and other national legal requirements and identify authorised weapons, firearms and ammunition for private security providers, as well as any required equipment licenses.
- ✓ Analyse recent cases of human rights abuses by private security providers in the context. Assess to which extent the lack of appropriate equipment may be one of the causes of the abuses.
- ✓ Weigh the risks versus the needs for private security forces. Only authorise weapons and firearms if their use reduces risk of violence. As an example, in contexts where use of armed guards is very common, only using unarmed guards may cause the company to be targeted, thus increasing risks. [Engaging Private Security Providers: A Guideline for Non-Governmental Organizations, p. 15 \(European Interagency Security Reform 2011\)](#)
- ✓ Evaluate the private security provider's equipment, as well as the company's own equipment on site.
- ✓ Assess the extent to which private security provider personnel are also affiliated with public security and/or have other ways of accessing weapons and firearms not provided by the private security provider. Prohibit private security personnel from bringing weapons and firearms not explicitly authorised by the company.

##### Match the authorised security equipment on site to the security risks and threats identified.

- ✓ Develop guidelines for the use of force (e.g. the use of force continuum) by private security providers and in-house security personnel. These guidelines should clearly explain the security equipment authorised by the company.
- ✓ Establish site controls to ensure safe handling and maintenance of equipment.
- ✓ Re-evaluate security equipment required on site as security risks and threats evolve.



**Adopt the text of the International Code of Conduct for Private Security Service Providers (ICoC) and/or develop a code of conduct for private security providers based on the ICoC. Make this code a standard part of all contracts issued by the company.**

**Request that the private security provider provides background information on equipment and training capabilities as part of the request for proposals (see 3.2.a.).**

**Publish a request for proposals (RfP) which includes: a clear description of the mandate and contractor responsibilities; exclusion criteria that automatically disqualify a candidate; and award criteria that relate to the company, its personnel and weapons and equipment (see 3.2.a. and 3.5.a.).**

✓ The exclusion criteria should consider:

- National criminal records or other evidence indicating violations of international humanitarian law or human rights abuses linked to a potential contractor or its personnel. Records should indicate if personnel have faced credible allegations of any national criminal offence, breaches of international criminal, abuses of international human rights law or violations of international humanitarian law in any jurisdiction.
- Evidence of grave professional misconduct by the company or its personnel.
- Failure to provide the requested documentation and information or submission of false and/or misleading information.
- Inability to fulfil a key requirement of the request for proposals.
- Evidence of bribery, corruption or other conflict of interest.
- Proven involvement in political activities.

[The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)

✓ The award criteria related to personnel standards should take into account procedures and management systems that the company has in place to screen, train and monitor personnel, as well as criteria directly applying to its personnel. Most importantly, they include:

- Recruitment and selection methodology (including criminal screening, human rights and international humanitarian law abuse screening, drug screening, discharge from public or private security services and psychological screening). [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- Average officer experience (including employee backgrounds, experience in industry and contract-specific experience). [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 6 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- Training on human rights, international humanitarian law (in situations of armed conflict), use of force and firearms, crowd management, conflict-diffusion techniques, and other skills (e.g. restraining or apprehending individuals).
- Policies relating to international humanitarian law and human rights law, especially on the use of force and firearms, as well as policies against bribery, corruption and other crimes. Evaluate systems for implementing these policies, training personnel and reporting

compliance. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

- Internal monitoring, supervisory and accountability mechanisms. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Systems to control the management, use and handling of weapons, firearms and ammunition (e.g. registers, licenses, hand-over, transportation). [A Contract Guidance Tool for Private Military and Security Services, section 1.3 and 1.4 \(DCAF 2017\)](#)
  - Proof of legal acquisition and authorisations for the possession and use of weapons and ammunition required by applicable law. [International Code of Conduct for Private Security Service Providers, par. 56](#)
  - Other equipment, such as communication tools and systems, IT hardware and software, uniforms, vehicles and/or defensive equipment.
  - Technical support, such as surveillance/CCTV, guard control system, access control system, alarm installation and/or a central monitoring system.
- ✓ When selecting a private security provider and drafting a contract, companies should consider the existence of monitoring, supervisory oversight and internal accountability mechanisms, such as:
- Internal investigation and disciplinary arrangements in case of allegations of wrong – doing by personnel.
  - Mechanisms enabling persons affected by the conduct of the personnel of the private security provider to lodge a complaint, including both third-party complaint mechanisms and whistle-blower protection arrangements. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Regular performance reporting and specific incident reporting to the company and, if appropriate, to the relevant authorities. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Requirements for private security provider personnel and sub-contracted personnel to report any misconduct to the private security provider's management and/or a competent authority. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
- ✓ If permitted by national law, consider the following provisions relating to small arms, light weapons, less lethal weapons and other equipment:
- Under applicable international law and national law of the host State, the private security provider must possess or obtain all necessary permits, authorisations and approvals to obtain and/or carry relevant small arms, light weapons, less lethal weapons and other equipment.
  - Personnel must have sufficient training regarding the use of small arms, light weapons, less lethal weapons and other equipment.
  - Documentation of the lawful acquisition, use and storage of small arms, light weapons, less lethal weapons and other equipment must be provided. The private security provider must provide evidence of compliance with the weapons laws applicable in the place of performance of the contract, as well as evidence that personnel are in possession of all authorisations needed.

- The contractor must provide evidence of adequate maintenance and regular inspection of small arms, light weapons, less lethal weapons and other equipment used by its personnel.
  - Clearly communicate that small arms, light weapons, less lethal weapons and other equipment may only be employed in situations of self-defence or when otherwise strictly necessary. Use must also be in accordance with the use of force policy.
- ✓ Annex standards, laws and equipment management procedures (particularly those relating to small arms and light weapons) to the contract.

#### Key Resources:

- [A Contract Guidance Tool for Private Military and Security Providers \(DCAF 2017\)](#)
- [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)
- [International Code of Conduct for Private Security Service Providers \(As Amended 10 December 2021\)](#)
- [The Montreux Document on Private Military and Security Companies \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

**During contract negotiations, agree with the private security provider on the procedures for the use of force, the authorised security equipment and the required training.**

**Develop a contract with the private security provider that includes clear clauses and performance requirements on equipment and training standards, as set out in [3.2.c](#). Discuss these with the private security provider to make sure the security provider understands its performance objectives.**

#### Example contract clause on equipment use

*Excerpt from [A Contract Guidance Tool for Private Military and Security Providers \(DCAF 2017\)](#), section 2.4:*

Parties should choose from the following options regarding [small arms and light weapons], less lethal weapons and other equipment:

- The personnel deployed by the contractor are not authorised to carry or use [small arms and light weapons] for the performance of the agreed services under this contract. Personnel may be authorised to carry and use less lethal weapons and other equipment, as set out by applicable national and international law.
- OR The personnel deployed by the contractor are armed for the performance of the agreed services under this contract. The authorised [small arms and light weapons] and ammunitions permitted under this clause should be specified here, in accordance to what has been defined in the terms of contract as well as in accordance with applicable international and national law. Any additional less lethal weapons and other equipment such as for example the use of security dogs, and their relevant considerations should be detailed here.
- The contractor is responsible for the adequate maintenance and regular inspection of the [small arms and light weapons], less lethal weapons, other equipment, and of its personnel, where relevant.

- The contractor must ensure compliance with laws relevant to [small arms and light weapons], less lethal weapons and other equipment applicable in the Territorial State, and is responsible to ensure its personnel are in possession of all authorisations needed. It implements [small arms and light weapons], less lethal weapons and other equipment management procedures, which are to be annexed to the contract.
- The [small arms and light weapons], less lethal weapons and other equipment may only be employed in accordance with the use of force policy. The contractor must ensure any armed personnel have received adequate training regarding the use of [small arms and light weapons], less lethal weapons and other equipment.
- The contractor must demonstrate that personnel have a sufficient understanding of the principles of necessity and proportionality with respect to the use of force and the use of [small arms and light weapons], less lethal weapons and other equipment. This understanding must be commensurate to the level of force the personnel is authorised to use. In particular, the contractor must demonstrate that personnel are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions, receive continuous and thorough professional training and are tested in accordance with appropriate proficiency standards in the use of force. Their continued fitness to perform these functions should be subject to periodic review.

### Example contract clause on incident reporting

*Excerpt from [A Contract Guidance Tool for Private Military and Security Providers \(DCAF 2017\)](#), section 4.1.3:*

At a minimum, the contractor shall report the following incidents:

- The use of any weapon, which includes the use of [small arms and light weapons], equipment, and less lethal weapons under any circumstance (except authorised training), any breach of the use of force policy or escalation of the use of force, damage to equipment or injury to persons, traffic accidents, and incidents involving other military and/or security forces.

Additionally, the following shall be reported:

- Child labour: If the contractor, its personnel or any subsidiaries/sub-contractors are engaged in any practice inconsistent with national and international law, including the rights set forth in the Convention on the Rights of the Child, in particular Article 32 which requires that a child shall be protected from performing any work that is likely to be hazardous, or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
- Sexual exploitation: if the contractor, its personnel or any subsidiaries/sub-contractors are engaged in sexual exploitation or abuse of any of its employees or any other persons engaged and controlled by the contractor to perform services under this contract.
- Torture or other cruel, inhuman or degrading treatment or punishment: If the contractor, its personnel or any subsidiaries/sub-contractors are engaged in torture or other cruel, inhuman or degrading treatment or punishment, or other violations or abuses of international or national law.

- **Trafficking in persons:** If the contractor, its personnel, or any subsidiaries/sub-contractors are involved in trafficking in persons. For the purposes of the contract, trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of a person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, 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.
- **Slavery and forced labour:** If the contractor, its personnel, or any subsidiaries are engaged in slavery, forced or compulsory labour or are complicit in another entity's use of such labour.
- **Prohibited weapons:** If the contractor, its personnel, or any subsidiaries are engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines or other prohibited weapons under international and national law.

**If the private security provider is unable to provide the necessary equipment to its personnel, consider whether the company should provide any of this equipment to the private security provider ([see 3.8.b.](#)).**

**If the private security provider fails to comply with any or several of the clauses in the contract, consider the following options:**

- ✓ Negotiate a timeline for compliance.
- ✓ Withhold payments as established in the contract until the issue is satisfactorily addressed.
- ✓ Condition an ongoing relationship on performance and provide further, detailed guidance and training, together with regular performance review.
- ✓ Terminate the relationship with the private security provider.

**In cases of breaches of national and/or international law by private security providers, report the incident to the relevant authorities and stakeholders. Take the necessary steps to address remedy and prevent future similar incidents ([see 3.10.a.](#)).**

## Guidance on the use of force by private security providers

*Excerpt from [Regulating the Use of Force by Private Security Providers: A Guidance Tool for States \(DCAF 2019\)](#):*

In [complex environments](#), legislation, oversight and accountability structures around the use of force can be very rudimentary or non-existent. Due to a lack of specific rules, security providers and companies have a tendency to apply (by analogy) the rules on use of force applicable to law enforcement officials. However, the extent to which force can be exercised by private security providers and the limitations that should be taken into account may be fundamentally different from those of law enforcement officers for a number of reasons:

1. Law enforcement officers are authorised to use force for the achievement of legitimate law enforcement objectives in order to be able to fulfil their responsibilities within the limits of the domestic legal framework. In contrast, for private security providers, the legal basis to use force is the same as for any citizen, meaning that the use of force by private security providers must be guided by the personal right to self-defence unless explicitly authorised by law to perform wider tasks. The right to self-defence is a general principle of law, and is recognized in all the world's major legal systems. For instance, when providing security to large events, private security providers do not have a broader mandate to use force than any private individual would have. Instead, their duty is to fulfil their contract to provide security for the contracting party. Importantly, private security provider personnel can only use defensive force. In other words, the use of force in a manner that is offensive, pre-emptive or anticipatory is strictly forbidden for private security providers.
2. When performing private security services, the mandate of private security providers is linked to a contract and limited by the relevant contractual clauses. No general mandate to ensure public security beyond the objectives of the contract can be inferred. Additionally, tasks mandated by a private security contract lack the legitimacy, oversight and accountability mechanisms that apply to tasks exercised by public security structures within a State. For example, monitoring and reporting processes, the responsibilities of hierarchies of superior personnel, and judicial structures and mechanisms are not as clearly identified for private security as they are for law enforcement officials.
3. Too often, the use of force is confused with the use of firearms. However, different prerequisites apply. First, the possibility to carry and use firearms at all, as well as the type of firearms that can be used, depends on national laws. Second, under international law, the thresholds for allowing the use of force and for allowing the use of firearms are very different. Hence, when considering the possibility that force may be needed, the private security provider may need to address the situation with measures other than firearms. Recourse to firearms will only be lawful where the national law criteria on carrying arms, registration and licensing are met; when they are used as a means of last resort in the specific situation of self-defence; and when the strict criteria of necessity and proportionality are met. The right of self-defence does not in itself imply or confer a right or a duty to use a weapon for self-defence purposes.

**Source:**

[Regulating the Use of Force by Private Security Providers: A Guidance Tool for States \(DCAF 2019\)](#)

## B. Inadequate equipment: Providing the private security provider with the necessary equipment to effectively perform their functions

### Good Practices\*

**Take all appropriate measures to ensure the private security provider provides the necessary equipment to its personnel (see 3.8.a.).**

**If the company decides to provide equipment to the private security provider, develop relevant policies and procedures and add these to the contract.**

- ✓ Develop a company policy for the provision of equipment to private security providers.
  - Specify the types of equipment the company may provide and its intended use.
  - Prohibit the provision of weapons, firearms or ammunition to private security providers.
  - Prohibit the transfer, loan or sale of equipment provided by the company to a third party. Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 13 (BP 2008)
  - Establish clear procedures for handing over any equipment, ensuring it is all kept on record.
  - Require written commitment by the private security provider to respect human rights and international humanitarian law.
  - Require equipment to be stored in the company's facilities.
- ✓ Establish monitoring procedures to supervise the use of equipment.
- ✓ Refer to the incident reporting mechanism included in the contract (or develop one if none is in place).
- ✓ Add the company's policy for the provision of equipment to private security providers in the contract. Also include the related monitoring and incident reporting procedures. Termination conditions should be included in the event that security equipment is misused. Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 13 (BP 2008)

**Agree on a training programme with the private security provider for guards assigned to the company's operations, with a special focus on the rules for the use of force (see 3.6.a.).**

- ✓ Address the following topics:
  - Proportionality to the threat and appropriateness to the situation. Basic principles should cover reasonable steps to avoid the use of force. Security personnel should use force only in self-defence, the defence of others against the imminent threat of death or serious injury, or to prevent a particularly serious crime involving grave threat to life. Management System for Quality of Private Security Company Operations – Requirements with Guidance, p. 24 (ASIS International 2012)

- The use of force continuum, including force de-escalation techniques to resolve threats with minimum necessary force.
- Compliance with all national laws, human rights law, international humanitarian law and other obligations.
- Competence-based training, such as human rights risk management; hostile environment; local culture; gender, age and religious considerations; de-escalation of situations; incident reporting; communications; and appropriate response to citizen complaints.
- Weapons – and firearms-specific training for all personnel who may carry a weapon.
- Medical and psychological health.

#### Key Resources:

- [Regulating the Use of Force by Private Security Providers: A Guidance Tool for States \(DCAF 2019\)](#)
- [Training Requirements According to the Federal Act on Private Security Services Abroad \(Swiss Confederation, Federal Department of Foreign Affairs 2017\). Developed by the Swiss government in alignment with their law. This also aligns with the International Code of Conduct for Private Security Service Providers and key international standards.](#)

### Supervise the performance of private security providers and the use of equipment provided by the company through regular monitoring.

- ✓ Monitor private security providers through a variety of means (as allowed by national legislation): radio networks, CCTV visual monitoring (including installing cameras in security response vehicles), unannounced physical site inspections, regular personal equipment inspections, etc.
- ✓ Support the oversight of private security providers by local authorities and community groups. Develop or join a network with relevant stakeholders, ensuring the different groups in local communities are adequately represented (in particular the most vulnerable groups), and provide them with some guidance on what to do whenever there are risks of human rights abuse ([see in-country working groups](#)). [Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 215 \(OECD 2007\)](#)
- ✓ Check all complaints against the private security provider reported through grievance mechanisms (or any other mechanisms) and record all allegations of human rights abuses by private security ([see 3.10.a.](#)).

### Engage with relevant stakeholders to develop performance monitoring mechanisms for private security providers.

- ✓ Identify and engage with stakeholders who have close knowledge of private security provider activities and impacts (e.g. home governments, other companies, civil society organisations).
- ✓ Explore how existing mechanisms (e.g. the International Code of Conduct Association, local mechanisms) can support monitoring.
- ✓ Exchange information about unlawful activity and abuses committed by private security providers. [Voluntary Principles on Security and Human Rights, p. 7](#)



**Conduct investigations into credible allegations and any incident involving the inappropriate use of equipment or force. Where appropriate, report abuses to the relevant authorities (see 3.10.a.).**

- ✓ Establish whistle-blower protection mechanisms that guarantee protection of sources.
- ✓ Integrate any lessons learned into future training provided to private security providers.

## 3.9. Oversight and accountability

### A. Accountability for private security provider actions: Addressing a lack of effective oversight by national authorities

#### Good Practices\*

**As part of the risk assessment, analyse the national framework for the provision of private security services, focusing on the enforcement of laws and regulations.**

**Develop a procurement policy in alignment with the company's human rights and anti-bribery policies.**

- ✓ Stipulate the company's human rights expectations for contractors and suppliers and incorporate these expectations in both the contract and the code of conduct for private security providers.
- ✓ Make the policy publicly available and communicate it internally and externally to all personnel, business partners, contractors and other relevant parties.
- ✓ Encourage national professionalism by employing only reputable private security providers. [Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice \(OECD 2007\)](#) Where feasible, consider hiring private security providers who are certified members of the International Code of Conduct Association (ICoCA) or a recognized industry standard such as ANSI-PSC:1, ISO 18788 and/or ISO 28700. These require some level of certification, monitoring, a complaints procedure, reporting and performance assessments. If the above conditions cannot be met, consider hiring an affiliate member of the International Code of Conduct Association.

**When selecting a private security provider, review carefully the applicants' standards and procedures ([see 3.2.a.](#)).**

- ✓ Examine private security provider policy and practice. This includes financial and contractual policy, human rights and security policy, health and safety policy, equal opportunities policy, disclosure of information and confidentiality policy.
- ✓ Review private security provider operational procedures, in particular with regard to the command and control structure and communication procedures.
- ✓ Assess the private security provider's associations, including relationships with public security forces, senior officials, political parties, organisations, etc.
- ✓ Consider the private security provider's governance and oversight. This may be reflected in a code of conduct/ethics, rulebooks, responsibilities regarding policy and enforcement, ethics committee, employee tribunals, membership of trade association, etc. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p.4 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#) Pay particular attention to monitoring and internal accountability mechanisms, such as:

- Mechanisms for internal investigation and disciplinary action in case of allegations of wrong-doing by personnel.
  - Complaints mechanisms that allow individuals to safely raise grievances. This includes third-party mechanisms and whistle-blower protection arrangements. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Regular performance reporting, specific incident reporting and on-demand reporting to the company and, if appropriate, to the relevant authorities. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
  - Requirement for private security provider personnel and its sub-contracted personnel to report any misconduct to the private security provider's management and/or a competent authority. [The Montreux Document on Private Military and Security Companies, part 2, par. 12 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
- ✓ Review selection and recruitment methodology, including criminal screening, screening for human rights abuses and violations of international humanitarian law, drug screening, psychological screening and review in case of discharge from public security services.
  - ✓ Evaluate human resource management, including philosophy and practice, training policy, number of employees, staff turnover and absenteeism.
  - ✓ Examine the force and firearms policy and procedure. Check the private security provider's weapons in use, storage and maintenance procedures, inspection procedures, oversight mechanisms and procedures for reporting use.
  - ✓ Pay attention to references and certification, such as sector-related certifications, contract-related certifications for specific tasks, references based on past experiences of tendered contract and non-statutory certification.

**Include clear clauses and performance requirements in the contract with the private security provider that ensure respect for relevant national law, international humanitarian law, human rights law and company policies.**

[The Montreux Document on Private Military and Security Companies, part 2, par.15 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

- ✓ Discuss these with the private security provider to make sure the security provider understands its performance objectives ([see 3.2.c.](#)).
- ✓ Require the private security provider to establish its own internal grievance mechanism, in alignment with the company's own mechanism and consistent with company codes and policies. The private security should then report all reported grievances back to the company. The private security provider should also cooperate with official investigations into allegations of contractual violations and breaches of international humanitarian and human rights laws ([see 3.10.a.](#)).
- ✓ Consider including contractual sanctions commensurate to the conduct, including:
  - Financial penalties or withholding of progress payments, pending compliance with contract requirements.
  - Removal of individual private security providers from carrying out the contract. [The Montreux Document on Private Military and Security Companies, part 2: par.20 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

- Scaling back contract tasks, with commensurate decrease in payment.
- Exclusion from consideration for future contracts, either perpetually or for a set period of time. [The Montreux Document on Private Military and Security Companies, part 2: par. 20 \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)
- Termination of the contract.

#### Key Resources:

- [A Contract Guidance Tool for Private Military and Security Providers \(DCAF 2017\)](#)
- [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)
- [The Montreux Document on Private Military and Security Companies \(International Committee of the Red Cross and Swiss Directorate of International Law 2006\)](#)

**Reduce the range of scenarios where private security provider personnel operate individually. When guards operate alone, this may both increase the risk of incidents and decrease the effectiveness of accountability mechanisms.**

**Meet regularly with the contracted private security provider to address the following issues:**

- ✓ Implementation of required tasks consistent with company policies and contractual requirements regarding the Voluntary Principles on Security and Human Rights, the code of conduct for private security providers and international and national humanitarian and human rights requirements.
- ✓ Vetting of personnel, to the best of the private security provider's ability, including ongoing efforts to ensure knowledge of capacity and risks associated with hiring personnel from a particular location, service background, community, ethnic background, etc. Where feasible, personnel records should be kept on file by the contractor and made available for inspection. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Training of all employees on all standards specified in the contract—including on the use of equipment—on an ongoing and as needed basis as indicated by [due diligence](#) and risk assessment activities.
- ✓ Provision of all relevant equipment (e.g. defensive equipment, personal protective equipment, personal security equipment, appropriate weapons and firearms and ammunition) by the private security provider to its guards, as required by the contract.
- ✓ Investigation of all allegations of human rights abuses. As explained by the World Bank Group and Anvil Mining, this includes 'all occasions when use of force and/or apprehension of a suspect has occurred to ensure this was done in accordance with company and contractor standards. [...] All such incidents should be reported to the company security manager and, where appropriate, to the local authorities.' [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Review of community and stakeholders' complaints to identify problems, as well as evaluate prevention and/or mitigation measures.

- ✓ Confidentiality of information, when appropriate, with particular attention to the privacy of communities and vulnerable groups. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-5 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
- ✓ Any other findings from ongoing community engagement, due diligence and risk assessment activities.

### **Establish a monitoring mechanism to improve company oversight of the private security provider.**

- ✓ Establish a focal point at the company who will be responsible for oversight of the private security provider.
- ✓ Require the private security provider to establish a focal point to oversee the conduct of its personnel and to meet with the company's focal point on a regular basis (e.g. daily or weekly).
- ✓ Monitor private security providers through a variety of means. As appropriate, this may include radio networks, CCTV visual monitoring (including installing cameras in vehicles), daily inspections and/or unannounced physical site inspections.
- ✓ Use checklists and performance indicators shared with the contractor and assess these on a regular basis. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, IV-1 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#). Tie these indicators to specific outcomes, such as financial rewards, penalties and/or termination of the contract. [The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 8 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)
- ✓ Potential performance indicators could include:
  - No-show rate.
  - Missed guard tours.
  - Missed supervisory visits.
  - Missed training, incomplete training or failure to pass training tests.
  - Internal and third-party complaints.
  - Misuse of force/firearms, including accidental discharges of weapons.
  - Inappropriate interactions with community, public security, or other stakeholders.
  - Violations of agreed procedure.
  - Violations of international humanitarian law and human rights abuses.
  - Violations of international or national laws governing the private security industry.
  - Violations of company or industry code of conduct or ethics.
  - Failure to cooperate with client investigation, request for information or incident reporting requirements.
  - Violations of the terms of the contract.

[The Sarajevo Client Guidelines for the Procurement of Private Security Companies, p. 8 \(South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2006\)](#)

- ✓ Deploy an independent third party to monitor the performance of the private security provider. As BP explains in its guidance document on the Voluntary Principles on Security and Human Rights, 'Monitoring by credible external professionals can provide an additional layer of assurance for stakeholders. It can generate practical advice and guidance to improve performance. It can increase transparency regarding the security arrangements for the business. By hiring ICoCA members or companies certified by certification bodies, a certain degree of oversight and monitoring by the ICoCA or certification bodies can be expected.' [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 18 \(BP 2008\)](#)
- ✓ Identify gaps in service delivery and examine options to fill these gaps, including additional training and other support. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 55 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

### **Establish an operational-level grievance mechanism that allows individuals to report unethical and unlawful conduct anonymously (see 3.10.a.).**

[UN Guiding Principles on Business and Human Rights, no. 31](#)

### **Conduct investigations into credible allegations and, where appropriate, report abuses to the relevant authorities (see 3.10.a.).**

### **Engage with the host government to improve national oversight of the private security sector.**

- ✓ In countries where domestic laws and regulations conflict with internationally recognised human rights, seek ways to honour internationally recognised human rights to the fullest extent which does not place the company in violation of domestic law.<sup>23</sup>
- ✓ Advocate for reforms that bring domestic legislation in line with international standards.<sup>24</sup>
- ✓ In agreements with host governments and associates, address risks of human rights abuse, violations of international humanitarian law and complicity. (see 1.3.a.).

### **Work with other stakeholders to improve oversight of private security providers.**

- ✓ Support security sector reform programmes to enhance governance and oversight while respecting the core principle of local ownership.
  - Promote coordination within host government structures, as there is often no single regulatory agency or oversight mechanism for the private security industry.
  - Support efforts to strengthen the capacity of national human rights institutions, ombudsman institutions, anti-corruption commissions and independent security sector oversight bodies to effectively oversee the private security industry.
- ✓ Work with other stakeholders (e.g. home governments, other contracting companies, relevant trade associations, other industry bodies, private security providers, civil society organisations) to develop frameworks for monitoring the performance of private security providers and to promote the adoption of effective remedy mechanisms.

- Support multi-stakeholder initiatives—such as the Voluntary Principles on Security and Human Rights or the International Code of Conduct Association—and harness their potential to lobby host governments on relevant human rights matters.<sup>25</sup> (see 4.2.).
  - Exchange experiences and lessons learned with other companies operating in the area and consider aligning companies' codes of conduct for private security providers.
  - Encourage private security providers to become advocates for human rights issues.
- ✓ Encourage oversight of private security providers by local stakeholders.
- Clarify roles and responsibilities of the private security provider and share the company's own code of conduct for private security providers.
  - Develop a network with relevant stakeholders, ensuring different groups in local communities are adequately represented (in particular the most vulnerable groups), and provide guidance on what to do whenever there are risks of human rights abuse. Consider providing them with capacity support, directly or indirectly.
  - Suggest steps to take in case of alleged human rights abuses, providing information on the company's grievance mechanism and guidance on how to use it. Ensure protection of whistle-blowers and [human rights defenders](#).

## 3.10. Human rights abuses

### A. Human rights abuses by private security providers: Setting up procedures and policies to ensure adequate responses

#### Good Practices\*

**Review the risk and impact assessment to ensure all risks and impacts have been properly analysed and all feasible preventive measures are in place (see 3.1.a.).**

- ✓ The Voluntary Principles on Security and Human Rights explain, 'As part of the exercise, assess local capacity to investigate abuses and provide for proper resolution. Risk assessments should consider the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses or violations of international humanitarian law in a manner that respects the rights of the accused.' [Voluntary Principles on Security and Human Rights, p. 3](#)

**When contracting with a new private security provider, require applicants to be officially registered, per national regulations, and verify evidence of the business license. Include this requirement in the request for proposals (see 3.2.a.).**

**Ensure the contract with the private security provider includes the following requirements and conditions (see 3.2.c.):**

- ✓ Refresher trainings on use of force, human rights and international humanitarian law (where relevant), including practical exercises on how to manage security incidents.
- ✓ A monitoring system ([see 3.9.a.](#)).
- ✓ An incident reporting mechanism. Explicitly require the private security provider to report any incident where personnel participate in, encourage or seek to benefit from any national or international crimes, including, but not limited to: war crimes; crimes against humanity; genocide; torture and other cruel, inhuman or degrading treatment; enforced disappearance; forced or compulsory labour; hostage-taking; sexual or gender-based violence; human trafficking; the trafficking of weapons or drugs; child labour; or extrajudicial, summary or arbitrary executions. [International Code of Conduct for Private Security Service Providers, par. 22](#) Contractual obligations towards the company may not be invoked as justifications for such acts.
- ✓ A process for investigating reported incidents.
- ✓ The right to cancel the contract in case of proven human rights abuses or of humanitarian law violations. Also include provisions to remove personnel involved in credible allegations of human rights abuses or humanitarian law violations.



**Key Resources:**

- 📖 [A Contract Guidance Tool for Private Military and Security Providers \(DCAF 2017\)](#)
- 📖 [Recommendations for Hiring Private Security Providers \(SociosPeru, PeaceNexus Foundation, International Committee of the Red Cross and DCAF 2015\)](#)
- 📖 [International Code of Conduct for Private Security Service Providers \(As Amended 10 December 2021\)](#)

**Establish an early alert system and engage in pro-active monitoring.**

- ✓ Develop a company policy and internal process to deal with both potential and actual human rights abuses and ensure all company staff are familiar with these.
  - Provide human rights training to employees, including on how to identify signs of potential human rights abuses.
  - Designate focal points within the company (e.g. a security manager, a community relations officer) that will receive oral or written reports of potential and actual human rights abuses. Ensure their contact details are distributed to all relevant stakeholders.
  - Require systematic reporting of all alleged and confirmed human rights abuses.
- ✓ Monitor causes and triggers of conflict on a regular basis, especially in [complex environments](#), and establish a concrete action plan to prevent and mitigate risks of escalation.
- ✓ As allowed by national legislation, monitor private security providers through a variety of means, such as radio networks, CCTV visual monitoring (including installing cameras in vehicles) and/or unannounced physical site inspections.
- ✓ Support the oversight of the private security industry by local authorities and community groups. [Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 215 \(OECD 2007\)](#)
- ✓ Develop a network with relevant stakeholders, ensuring different groups in local communities are adequately represented (in particular the most vulnerable groups), and provide them with guidance and capacity support on what to do whenever there are risks of human rights abuse. Consider providing them with capacity support, directly or indirectly.
- ✓ Encourage dialogue and cooperative agreements between the company, security providers and communities. Clearly outline the roles, responsibilities and practices for different actors in maintaining law, security and public order. [Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 215 \(OECD 2007\)](#)
- ✓ Ensure a certain degree of oversight and monitoring by hiring certified or affiliate International Code of Conduct Association (ICoCA) members or companies certified by other certification bodies.

**Establish an operational-level grievance mechanism that allows individuals to report abuses anonymously (see 4.2.e.).**

## Contract a private security provider that has an effective and accessible grievance mechanism. Alternatively, require the establishment of a grievance mechanism if the private security provider does not have one.

- ✓ Establish or ensure the existence of at least one of the following mechanisms:
  - A 'report abuse' hotline, accessible either via phone or SMS.
  - A secure email address that is solely accessible by a trusted monitor.
  - Tip boxes with clear instructions posted above them, located in areas where individuals have unobserved access to the boxes and can drop in anonymous notes, tips or other information. These should have clear instructions posted above them. [Multilateral Investment Guarantee Agency Voluntary Principles Implementation Toolkit for Major Project Sites, III-16 \(World Bank Group Multilateral Investment Guarantee Agency and Anvil Mining 2008\)](#)
  - 'Persons of trust' selected by employees that can bring concerns to the company or private security provider management on the behalf of employees. This can also be done via existing mechanisms such as unions and/or employee associations, if applicable.
  - A community office where complainants can report their claims in person. Ensure that this is easily accessible to all potential claimants. If it is clear that certain members of the potentially affected community are not able to access the office, mobile teams should be sent to engage with the community and carry out the grievance process in their location.
- ✓ Consult with local communities during the design of the grievance mechanism to ensure it is culturally appropriate and that they are able to access it effectively.
- ✓ Ensure procedures are accessible, fair and effective. The mechanism must produce effective remedies, including recommendations for preventing future occurrences. [International Code of Conduct for Private Security Service Providers, par. 67](#)
- ✓ Establish a grievance mechanism and ensure it is effective from the onset, instead of waiting until issues arise.
- ✓ Make sure the grievance mechanism addresses issues early, before they escalate into human rights abuses and/or breaches of other standards. [Corporate Responsibility to Respect Human Rights: An Interpretive Guide, p. 68 \(United Nations Human Rights Office of the High Commissioner 2012\)](#)
- ✓ Ensure that the grievance mechanism is known to, and trusted by, all relevant stakeholders, including community members, **women**, vulnerable groups and workers. This may be done by organising meetings with local communities or by publishing details of the grievance mechanism in prominent places, as well as on a publicly accessible website. [Corporate Responsibility to Respect Human Rights: An Interpretive Guide, p. 65 \(United Nations Human Rights Office of the High Commissioner, 2012\)](#)
- ✓ Safeguard those who report wrongdoings in good faith and implement measures to shield them from retaliation (e.g. via disciplinary measures). [International Code of Conduct for Private Security Service Providers, par. 67](#)
- ✓ Keep records of all known alleged human rights abuses by private security, whether or not a grievance is raised.

### Practical Tool:

- 🔧 [Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies \(International Code of Conduct Association 2018\)](#)

## Conduct investigation into credible allegations and, when appropriate, report abuses to the relevant authorities.

- ✓ According to the International Code of Conduct for Private Security Service Providers, companies should ‘investigate allegations promptly, impartially and with due consideration to confidentiality’. [International Code of Conduct for Private Security Service Providers, par. 67](#)
- ✓ Ensure that investigation teams are trained on how to engage in a manner respectful of cultural practices, traditions and **gender** roles. Build teams that are gender differentiated, competent in the local languages and familiar with local customs and/or ethnic or tribal dynamics.
- ✓ Collect necessary information from internal and external sources to determine if allegations are credible and warrant official investigation. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Request an incident report from the private security provider, as established in the contract. Reports by the private security provider should cover any incident involving: the use of force; escalation of force; use of a weapon (including the firing of any weapon, except for training); damage to equipment; injury to persons; attacks; traffic incidents; criminal acts; and/or incidents involving other security forces. These reports should provide information on:
  - Time and location of the incident.
  - Identity and contact details of any persons involved in the incident, including nationality and whether they are employed by the company or private security provider.
  - Injuries and/or damage sustained and how these were established.
  - Circumstances leading up to and immediately subsequent to the incident.
  - Any measures taken by the private security provider in response to the incident, including any interaction with victims or witnesses.

### [International Code of Conduct for Private Security Service Providers, par. 63](#)

- ✓ Quickly establish the basic facts: [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 15 \(BP 2008\)](#)
  - What happened?
  - Who was involved?
  - Did the business cause or contribute to the event, either directly or through its contractors and security providers?
  - What is the actual or potential severity of the event?
- ✓ Keep records of all findings from the investigation.
- ✓ If an incident appears credible and serious, notify senior management and the relevant regional security advisor. [Voluntary Principles on Security and Human Rights Implementation Guideline: An Extended Summary, p. 15 \(BP 2008\)](#)
- ✓ Based on the available information, decide whether the investigation should be conducted internally or by a trusted third party. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

- ✓ Criteria for such decisions should be clearly outlined in the company's policy (e.g. complaints policy, human rights policy, security policy) and should explicitly state when third parties (such as national authorities) need to be involved. In doing so, consider risks from external stakeholders and integrate their input into this policy.
- ✓ When appropriate, report the abuse to competent authorities in the operating location, victim's home country and/or the perpetrator's home country. [International Code of Conduct for Private Security Service Providers, par. 37](#)
- ✓ If the host government is to lead the investigation, formally express the company's willingness to assist and cooperate.
- ✓ Pursue appropriate disciplinary or remedial actions in response to the incident. Determine which actions to take immediately to de-escalate the situation and which to take based on the outcomes of the investigation. [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Prevent further escalation of the incident.
- ✓ When force was used, ensure that medical attention is provided to injured parties. [Voluntary Principles on Security and Human Rights, p. 6](#)
- ✓ When private security providers are found to have violated international humanitarian law and/or committed human rights abuses, take measures to terminate the business relationship. [Voluntary Principles on Security and Human Right: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ If the investigation is led by law enforcement authorities, monitor progress of the investigations and press for proper resolution. [Voluntary Principles on Security and Human Rights, p. 6](#)
- ✓ Cooperate as much as possible with investigations conducted by other legitimate actors (e.g. by ombudsman institutions, national human rights institutions, regional human rights commissions or multi-stakeholder initiatives).

#### Key Resources:

- 📖 [Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies \(International Code of Conduct Association 2018\)](#)
- 📖 [International Code of Conduct for Private Security Service Providers \(As Amended 10 December 2021\)](#)

**Track the effectiveness of responses on the basis of appropriate qualitative and quantitative indicators. According to the UN Guiding Principles on Business and Human Rights, these should 'draw on feedback from both internal and external sources, including affected stakeholders'.**

[UN Guiding Principles on Business and Human Rights no.22](#)

## Conduct lessons learned exercises.

- ✓ According to the UN's interpretive guide on the corporate responsibility to respect human rights, 'Wherever a significant human rights impact has occurred, initiate a process to identify how and why it occurred. This is important to prevent or mitigate its continuation or recurrence. Linking preventing or mitigating actions to staff incentives and disincentives, whether financial compensation, promotion or other rewards, can play an important role in helping embed respect for human rights into the practice of the (company)'. [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 54 \(Office of the UN High Commissioner for Human Rights 2012\)](#)
- ✓ Make appropriate changes to contracts and/or deployment in order to prevent recurrence of incidents. Consider carefully whether repeatedly hiring the same security provider with a history of misconduct and/or problems may be a cause for complacency, leading to potential incidents. [Voluntary Principles on Security and Human Right: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ Provide supplementary training to private security providers, especially on topics relating to appropriate response and the root causes of the incident. [Voluntary Principles on Security and Human Right: Implementation Guidance Tools, p. 56 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- ✓ If appropriate, consider using the incident for practical exercises in future trainings.
- ✓ Consider whether and how to engage external stakeholders (e.g. affected communities, civil society organisations) in the after-incident assessment and remediation activities.

## Communicate how the company addresses its human rights impacts to all relevant stakeholders, particularly in the event of an incident that generates significant external stakeholder concern and publicity.

- ✓ The UN Guiding Principles on Business and Human Rights emphasise that communicating on how human rights impacts are addressed is a key element of human rights due diligence ([see human rights due diligence](#)). [UN Guiding Principles on Business and Human Rights, no. 20](#)
- ✓ Ensure communications are accessible to their intended audiences. Consider different formats (e.g. billboards, posters, website) that are appropriate to the local context and available in local languages. [UN Guiding Principles on Business and Human Rights, no. 23](#)
- ✓ Provide information that allows internal and/or external stakeholders to evaluate the adequacy of the company's response. [UN Guiding Principles on Business and Human Rights, no. 23](#)
- ✓ Consider sharing lessons learned with other companies working in the area.

\* These good practices are not meant to be prescriptive. It is up to the user to evaluate whether they could be feasible, useful and appropriate to the local context in a specific situation on the ground.

1. In this chapter the term ‘companies’ refers to corporate clients who engage the services of a private security provider. Private security providers (PSPs) are sometimes referred to as private security companies (PSCs).
2. [Security and Human Rights Knowledge Hub Resources Section](#)
3. [Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises Under international Humanitarian Law \(International Committee of the Red Cross 2006\)](#)
4. Oliver Cushing, Head of Business Development, Tsamota Natural Resources, and Mark Camilleri, General Counsel, Tsamota Ltd.
5. [International Stability Operations Association Code of Conduct \(International Stability Operations 2020\)](#)
6. [International Stability Operations Association Code of Conduct \(International Stability Operations 2020\)](#)
7. [International Stability Operations Association Code of Conduct \(International Stability Operations 2020\)](#)
8. A full list of member companies can be found on the [International Code of Conduct Association website](#).
9. South Africa’s Private Security Industry Regulatory Authority
10. ASIS International’s Management System for Quality of Private Security Company Operations includes PSC 1 – 4 standards. PSC 1 will soon be an ISO standard.
11. [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, par. 5](#)
12. [Socio-Economic Assessment Toolbox, version 3, p. 134 \(AngloAmerican 2012\)](#)
13. [Good Practice Guide: Indigenous Peoples and Mining, p. 47 \(International Council on Mining and Metals 2010\)](#)
14. [Good Practice Guide: Indigenous Peoples and Mining \(International Council on Mining and Metals 2010\)](#)
15. [Good Practice Guide: Indigenous Peoples and Mining \(International Council on Mining and Metals 2010\)](#)
16. [Good Practice Guide: Indigenous Peoples and Mining, p. 51 \(International Council on Mining and Metals 2010\)](#)
17. [Socio-Economic Assessment Toolbox, version 3, p. 133 \(AngloAmerican 2012\)](#)
18. [Good Practice Guide: Indigenous Peoples and Mining, p. 47 \(International Council on Mining and Metals 2010\)](#)
19. [Good Practice Guide: Indigenous Peoples and Mining, p. 18 \(International Council on Mining and Metals 2010\)](#)
20. [Good Practice Guide: Indigenous Peoples and Mining, p. 30 \(International Council on Mining and Metals 2010\)](#)
21. [Good Practice Guide: Indigenous Peoples and Mining, p. 32 \(International Council on Mining and Metals 2010\)](#)
22. [Socio-Economic Assessment Toolbox, version 3, p. 138 \(AngloAmerican 2012\)](#)
23. [OECD Guidelines for Multinational Enterprises, p.32 \(OECD 2011\)](#)
24. [From Red to Green Flags: The Corporate Responsibility to Respect Human Rights in High-Risk Countries, p. 4 \(Institute for Human Rights and Business 2011\)](#)
25. [From Red to Green Flags: The Corporate Responsibility to Respect Human Rights in High-Risk Countries \(Institute for Human Rights and Business 2011\)](#)



## 4. Working with Communities

## 4.1. Introduction

Under the UN Guiding Principles and other international frameworks, companies are required to implement a ‘do no harm’ approach in how their policies and operational processes affect communities. Companies are also expected to actively contribute to the sustainable development of communities. Further, to retain the support of communities for projects, the company, its suppliers and contractors should respect the rules and norms of the local community, be they legal, social or cultural. This is a key part of the social license to operate. Good relations with local communities also make sound business sense, contributing to the prevention and mitigation of risks that can lead to operational shut-downs or delays, thus reducing costs<sup>1</sup> and enhancing the company’s image.

Because of the high risks that ineffective security management can have on the rights and development of communities, as well as the consequent risk to the company’s social license to operate, human rights-compliant security practices are not merely a good practice, but an absolute necessity. Communities should be systematically engaged on security issues relating to company operations.

### Company-Community Relations and the Social License to Operate

The term ‘social licence to operate’ can broadly be described as the ability of a business to carry out operations in a given community because stakeholders have given the project a certain level of acceptance. Companies that have a social license to operate may experience lower operational risks, more future opportunities, greater support from the community and higher operational certainty. By contrast, companies that do not gain acceptance from the local community may face work stoppages, protests, blockades, heightened risk of conflict, political opposition, loss of operating license or other challenges. In extreme cases, loss of social license to operate may cause a company to close operations entirely or fall into bankruptcy.

A company gains the social license to operate when communities have confidence that it will behave in a legitimate, accountable, and socially and environmentally acceptable way. This trust is built not only by complying with laws and regulations, but by behaving in a transparent and accountable way, including consulting communities and responding to their concerns.

Social license to operate can be difficult to earn and can be easily revoked if stakeholders believe that the company is not meeting expectations or well-established norms around business and human rights. Companies need to continuously reassess their actions to accommodate changes in the operating environment and social expectations.

Effective corporate-community relations (including in security-related matters) allow the company to:

- a. Obtain and maintain a ‘social license to operate.’
- b. Reduce the risk of local opposition, tensions and conflict that can cause delays, material damage, lost productivity, loss of property and even the shutdown of operations.
- c. Reduce incidents relating to the use of force, thus lowering the costs of insurance, legal support and compensation.
- d. Attract and retain local expertise, which can provide an understanding of the local context that the company might lack otherwise.
- e. Strengthen the company’s reputation and establish a competitive advantage.
- f. Maintain a favourable corporate risk profile, increase investor confidence and reduce the cost of project capital.



**Source:**

[Social License to Operate Paper \(Sustainable Business Council 2013\)](#)

While effective stakeholder engagement requires considerable investment of time and resources, developing good relationships with local communities is essential to the long-term sustainability and success of a project. However, understanding why companies, at times, face opposition from local communities or experience acts of crime and violence—as well as how to change the situation—is not always straightforward.

Community-related security risks are frequently the result of unaddressed concerns, negative company impacts, unmet expectations, or misunderstandings about non-security-related issues such as employment, land, environment, compensation, resettlement and negative legacies from previous company projects. When concerns and grievances go unaddressed or unmitigated, these issues can escalate into tensions and may eventually result in situations of violence. Security-related concerns can further contribute to or exacerbate these grievances.

Developing and sustaining positive relationships with local communities continues to be challenging for many companies. This chapter adopts both a prevention and a conflict management approach to addressing some of the most common security and human rights challenges related to corporate – community relations. While many good practices will be specific to the situation or context, some key recommendations recur because they are essential to good stakeholder engagement. These include:

- Understanding the context and thoroughly assessing actual and potential risks and impacts.
- Engaging with communities from the moment the first company representative, contractor or security guard sets foot on the ground. Communities should be considered as hosts and the company as a temporary visitor.
- Mapping, analysing and engaging with all relevant stakeholders, ensuring vulnerable groups are included and feel comfortable enough to participate.
- Sharing information in an ongoing and transparent way, including timely response to enquiries.
- Showing respect for local culture and treating communities as partners rather than as threats or risks.
- Listening carefully to concerns and grievances, as well as involving communities in the development of solutions to address them.
- Investing time in developing strong relationships with local communities and allowing ample time for community consultations and decision-making.
- Ensuring that minorities, [women](#), [indigenous peoples](#), persons with disabilities, families, different ethnic groups, youth, the elderly and other groups in vulnerable situations are able to participate in stakeholder engagement and key decisions. This may require special arrangements such as confidential or separate meetings to ensure safety and or/comfortability, or supporting childcare arrangements to ensure women can participate.

Given the nature of the issues addressed in this chapter, implementation will often fall under the responsibility of company security and community relations departments. However, as highlighted in [section 4.4.](#), stakeholder relations should be a company-wide responsibility with firm commitment from company leadership and management. All company staff should apply the company's human rights policies and stakeholder engagement strategy in their activities. This involves aligning all corporate policies, processes, objectives, production targets, performance standards and staff incentives with both business viability and respect for human rights.

Companies should also involve their local staff as much as possible in the development and implementation of their stakeholder engagement strategy and other corporate policies, processes and practices, to ensure they are appropriate to the local context and culture. [Conflict Prevention Tool \(Queens University, Anglo Gold Ashanti, International Committee of the Red Cross and DCAF 2021\)](#)

Corporate-community relations do not happen in a vacuum. This chapter therefore addresses operational issues that must be analysed within the context of [complex operating environments](#). Community concerns and grievances relating to the company often result from weak governance, poor public services and lack of genuine engagement on the part of the host government. Companies must assess how all aspects of their operations, beyond security measures, interact with the operational context as it exists. Critical analysis must be applied to understand whether the company's actions are reinforcing inequalities, increasing competition for resources and/or reducing the extent to which community members have a voice in decision-making; or whether, conversely, company actions are reinforcing good governance, respecting human rights and safeguarding human security. In this respect, while companies cannot and should not replace the government, efforts can be made to support a more effective government role.

Furthermore, where national governance is weakened, compliance with national legal requirements may not be enough to fulfil the corporate responsibility to respect human rights. In some situations, domestic laws may even conflict with international human rights law and standards. Companies therefore need to conduct heightened [human rights due diligence](#) and go beyond national legal requirements to ensure respect for human rights in their operations.<sup>2</sup>

## 4.2. Stakeholder engagement strategy

### A. Unidentified root causes, unaddressed impacts of the operation or unfulfilled commitments: Addressing persistent tensions

#### Good Practices\*

**Develop a map of all company facilities and identify the areas where company operations are likely to have an impact (i.e. ‘impact areas’).**

- ✓ Consider not only the primary project sites, but also all related facilities and transport routes. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 14 \(International Finance Corporation 2007\)](#)
- ✓ Use existing maps to understand which areas are important for communities, where people live, what their access routes are and which natural resources they use (such as wells, water sources and pastures). Consider using geographic information system mapping.
- ✓ Conduct a stakeholder mapping and analysis exercise in the impact areas ([see 4.2.b.](#), [human rights due diligence](#)).

#### Key Resource:

- 📖 [Human Rights Impact Assessment Guidance and Toolbox, Phase 1: Planning and Scoping \(Danish Institute for Human Rights 2020\)](#)

**Before commencing new projects, conduct a baseline assessment or any other type of assessment that provides an understanding of the existing conditions in the impact areas ([see human rights due diligence](#)).**

- ✓ Identify pre-existing issues, such as historical inequality, legacy issues from previous operations, the existing human rights situation, social tensions (e.g. previous protests over land or resources), existing infrastructure and the extent of public service provision.
- ✓ When entering into a joint venture with, or taking over operations from, another company, identify and assess the prior interactions between local communities and the industry, in particular the other company.
- ✓ Start stakeholder engagement as soon as company staff or contractors set foot on the ground. Engage with the host community to identify pre-existing issues ([see 4.2.b.](#)). [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 8 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Consult with local authorities, embassies, other companies, international organisations, NGOs, local staff and local communities (including traditional leaders, [women](#), youth, ethnic minorities, [indigenous peoples](#), [human rights defenders](#) and other under-represented groups) to gain insights into the local political context and power structures, the existing social order, relationships between social groups and other relevant issues.

Development Assistance Committee Handbook on Security System Reform: Supporting Security and Justice, p. 21 (OECD 2007)

- ✓ Use a variety of sources to conduct the assessment, such as: independent third-party risk assessments and conflict analyses (if they exist); existing stakeholder databases; consultation and grievance logs; environmental and social impact assessment studies and consultation processes completed for an earlier phase of the project; annual environmental monitoring reports; and community investment plans created by the company, local government and/or other businesses in the same locality. Use public sources, including media outlets and NGO reports. Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 113 (International Finance Corporation 2007)
- ✓ Collect baseline data that is disaggregated by sex, age, ethnicity, religion, socio-economic status and other categories. Disaggregating data allows assessors to systematically analyse how different groups might be differently impacted by business operations (e.g. whether some groups will disproportionately benefit while others will disproportionately bear negative impacts).
- ✓ Consider hiring experienced consultants who are familiar with international social assessment standards and/or anthropologists with knowledge of local indigenous groups to help with the assessment.<sup>3</sup>

**Conduct a comprehensive human rights risk assessment and update it regularly (see human rights due diligence).**

- ✓ Assess not only risks to the business, but also risks to local communities resulting from the company's presence and operations. At minimum, analyse the following potential sources of heightened risk:
  - The broader operational context, including factors such as conflict, potential for violence, corruption and weak governance. Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 5 (Shift 2015) According to the Voluntary Principles on Security and Human Rights, assessments should also evaluate the State's law enforcement capacity and the justice system's 'capacity to hold accountable those responsible for human rights abuses and [...] violations of international humanitarian law'. Voluntary Principles on Security and Human Rights, p. 3
  - Business relationships, including the ability of suppliers, joint venture partners, customers and others to manage human rights risks, based on their experience, track record and management capacities. Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 5 (Shift 2015)
  - Business activities, including activities commonly associated with human rights impacts, such as land acquisition and use, resettlement and extensive water usage. Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 5 (Shift 2015)
  - The presence of vulnerable groups. Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 5 (Shift 2015)
- ✓ In situations of armed conflict, conduct a conflict analysis as part of the risk assessment (see 2.1.b.).
  - Analyse the implications of business operations on the dynamics of conflict, since this is key for identifying potentially significant risks of criminal and civil liability for the company, as well as risks of complicity in violations of international humanitarian law.<sup>4</sup>
  - Conduct an analysis of all parties to the conflict to understand their positions and interests, their human rights record, and their relationship to other actors and local communities.

- Take into account that not all cultures are open to talking about conflict issues with outsiders. In situations of elevated political tensions, it can be very risky to talk openly about conflict. It can be very useful to draw on the help of a conflict expert or someone practiced in community consultation in order to manage these risks. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 11 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Assess and evaluate the likelihood and potential consequences of risk scenarios that pose the greatest harm to the operation and the local community. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 5 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Note that risks and grievances are likely to vary depending on the stage of the project cycle and the magnitude of the activities of the project.<sup>5</sup>

### **Conduct an impact assessment and update it regularly (see [human rights due diligence](#)).**

- ✓ Assess all actual and potential environmental and social impacts, considering all internationally recognised human rights norms, standards and expert bodies' recommendations.
- ✓ Assess cumulative impacts. Cumulative impacts are the incremental, combined impacts from multiple projects or activities that are located in the same region or that affect the same resources. Assessment should not only focus on the impact of the business' operations alone, but take into account the accumulation of projects from other companies in the context. [Human Rights Impact Assessment Guidance and Toolbox, p. 86 \(Danish Institute for Human Rights 2020\)](#)
- ✓ Seek to understand the concerns of stakeholders by consulting them directly, both within and outside of the formally defined area of the project's impacts. In situations where consultation is not possible, consider other alternatives, such as engaging with credible, independent experts, including civil society groups and human rights defenders.
- ✓ Ensure all relevant company departments (e.g. security, community relations, operations, human resources, contracts) assist in identifying the scope of their activities and in understanding how they interact with and impact the community ([see 4.4.b.](#)).
- ✓ In some cases, the human rights risk assessment and the impact assessment could be undertaken simultaneously by the company, but it is important to distinguish between the potential risks and the more definite impacts.

#### **Practical Tools:**

- 🔧 [Introduction to Human Rights Impact Assessment \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Assessing Human Rights Risks and Impacts \(Global Compact Network Germany 2016\)](#)
- 🔧 [Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, module 2 and annex E \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)
- 🔧 [Human Rights Due Diligence in High Risk Circumstances \(Shift 2015\)](#)
- 🔧 [Preventing Conflict in Exploration Toolkit \(CDA 2016\)](#)
- 🔧 [Conflict Prevention Tool \(Queens University, Anglo Gold Ashanti, International Committee of the Red Cross and DCAF 2021\)](#)

- 🔧 [Human Rights Impact Assessment Guidance and Toolbox: Stakeholder Engagement Toolbox \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- 🔧 [Five-Step Approach to Stakeholder Engagement \(BSR 2019\)](#)
- 🔧 [Human Rights Due Diligence in Conflict Affected Settings: Guidance for Extractives Industries](#)
- 🔧 [Community-based human rights impact assessments: Practical lessons](#)
- 🔧 [A Guide to Gender Impact Assessment for the Extractive Industries](#)
- 🔧 [NomoGaia HRDD tools](#)
- 🔧 [Getting it Right](#)
- 🔧 [Participation and Social Impact Assessment: Tools and Techniques](#)
- 🔧 [Respecting the rights of indigenous peoples: a due diligence checklist for companies](#)

#### Key Resources to Assess the Operational Context:

- 📖 [Human Rights and Business Country Guides \(Danish Institute for Human Rights\)](#)
- 📖 [Country Database \(Amnesty International\)](#)
- 📖 [Reports and Primers on Business and Human Rights Topics \(BSR\)](#)
- 📖 [Universal Human Rights Index \(UN Office of the High Commissioner for Human Rights\)](#)
- 📖 [Freedom in the World \(Freedom House\)](#)
- 📖 [Human Rights Watch World Report \(Human Rights Watch\)](#)
- 📖 [Understand Risk \(Responsible Sourcing Tool\)](#)

### Impact assessments should consider the following aspects:

#### Inclusiveness:

- Collect information about the potential impact of a project on communities. Consult with a variety of stakeholders, including: **women**; men; **indigenous peoples**; migrants and refugees; individuals from different socio-economic backgrounds and castes; members of different racial and ethnic groups; individuals from different religions; and community organisations. [Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment, p. 9 \(Oxfam Australia 2009\)](#)
- Consult with specialised organisations working with vulnerable groups.
- Adopt a **gendered** perspective, as women and men may be affected differently by company operations. [Women at Work and War: Integrating Gender and Conflict into Impact Assessment \(Ashley Nancy Reynolds, Impact Assessment and Project Appraisal 2021\)](#)
- Obtain information about actual and potential impacts on children from adults who have close contact with children or expertise in children's rights.<sup>6</sup>
- Arrange separate meetings for the women of the community, conducted by female members of the assessment team.

#### Methodology:

- Use participatory research methods that actively engage community members in the assessment (e.g. focus groups, public perception studies, multi-stakeholder meetings).

- Explain the purpose of the assessment and how the information gathered will be used.
- Ensure that participants can express their views in their local language. Interpreters should be independent of the company (and, if possible, of local communities) to avoid bias.
- Publicly report results of the impact assessment, if this has been mutually agreed upon with the community. [EO100TM Standard: For Responsible Energy Development \(Equitable Origin 2012\)](#)

#### Content:

- Consider all direct and indirect impacts of the company's operations on local communities, including: in-migration; displacement; loss of land; loss of livelihood; loss of biodiversity; all forms of pollution; prices of goods, services and accommodation; rise in violence and crime; effects on community health; damage to religious, spiritual or cultural sites of significance; and/or increased socio-political tensions, strife or conflict. Evaluate impacts on all internationally recognised human rights.
- Record and follow up on all concerns voiced by community members.

#### Legitimacy:

- Ensure that the assessment team is familiar with the local setting and make sure that the team generates trust and confidence among affected communities.
- Work in partnership with reputable third parties that know the history and relations of local communities. As explained by the UN Global Compact and Principles for Responsible Investment, 'Relevant partners can be local and international civil society organizations, development agencies, or think tanks and universities'. [Guidance on Responsible Business in Conflict-Affected and High Risk Areas: A Resource for Companies and Investors, p. 11 \(UN Global Compact and Principles for Responsible Investment 2010\)](#)

#### Extent and scope:

- Consider impacts throughout the various stages in the life cycle of the project.
- Update the impact assessment regularly and before any new stage of the project.

**Develop a risk and impact mitigation strategy that is adapted to the local context. (see 4.5.a.). Preventing and mitigating risks and impacts is an important component of the human rights due diligence process.**

[UN Guiding Principles on Business and Human Rights, no.19](#) and [OECD Due Diligence Guidance on Responsible Business Conduct \(OECD 2018\)](#)

**Develop effective policies and mechanisms for identifying and settling disagreements and grievances (see 4.2.e.).**

**Follow up on commitments made by the company and update stakeholders regularly on the status of implementation. Clearly communicate how impacts are addressed.**

[UN Guiding Principles on Business and Human Rights, no. 21](#) and [OECD Due Diligence Guidance for Responsible Business Conduct \(OECD 2018\)](#)

- ✓ Make sure that the community understands who in the company is empowered to make commitments to the community on behalf of the company.
- ✓ Keep a registry of commitments made by the company and update it regularly. Share this registry with concerned stakeholders in a manner that is accessible and understandable to all. Ensure that the registry includes:
  - Records of final agreements reached with the communities, ensuring these are verified and validated with those present during the negotiations.
  - Timelines for implementation, the responsible team or person and some detail on the agreed methods of implementation.
  - Current implementation status.
  - Record of ongoing negotiations and issues for which agreement has not been reached yet, as well as implications for the project planning. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 50 \(OECD 2017\)](#)
- ✓ Provide an opportunity for stakeholders to express their satisfaction or dissatisfaction with the implementation of commitments. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 61 \(OECD 2017\)](#)
- ✓ When implementation differs from what was previously agreed, provide an explanation to stakeholders and give them a chance to react before final decisions are made. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 62 \(OECD 2017\)](#)

#### Practical Tool:

- 🔧 [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector \(OECD 2017\)](#)

### Establish a programme to measure stakeholders' perceptions of the company's performance (see human rights due diligence).

[UN Guiding Principles on Business and Human Rights, no. 20](#) and [OECD Due Diligence Guidance for Responsible Business Conduct \(OECD 2018\)](#)

- ✓ Track changes in stakeholder relationships and monitor stakeholder perceptions regarding the company, as well as the project. [Research on Company-Community Conflict \(International Council on Mining and Metals 2014\)](#) Use an annual or semi-annual, independently administered 'perception' survey which repeats the same set of questions to monitor changes over time. By gauging changes in satisfaction levels and identifying the underlying causes, the survey information can be used by staff and managers to take actions to improve communications and get relationships back on track, where necessary. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 108 \(International Finance Corporation 2007\)](#)
- ✓ Develop indicators that are measurable and **gender**-sensitive, including both positive and negative indicators, as well as quantitative and qualitative indicators. Empirical data should be collected to monitor key impacts or control measures. A reduction or lack of complaints should not be used as an indicator of the actual situation (e.g. a lack of complaints may mean that the grievance mechanism is not used or not trusted).



- ✓ Consider establishing a participatory or third-party tracking mechanism. According to the International Finance Corporation, 'Involving project-affected stakeholders or outside third parties in monitoring [the] company's performance can lend a great deal of credibility and accountability to a monitoring programme and the overall project. Affected parties can participate in scientific sampling, observations, group discussions, and assessments.' This includes participation in monitoring environmental and social performance. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 147 \(International Finance Corporation 2007\)](#)
- ✓ Where perceptions have become more negative, open a dialogue with stakeholders as to why and how this can be addressed, involving third parties in the discussion if necessary.

**Practical Tool:**

- 🔧 [UN Guiding Principles Reporting Framework \(Shift and Mazars 2015\)](#)

## B. Navigating different stakeholders: Avoiding inadvertently favouring or excluding sub-groups within communities

### Good Practices\*

**Before commencing new projects, conduct a baseline assessment and an impact assessment (see 4.2.a., [human rights due diligence](#)).**

**Conduct a stakeholder mapping exercise in the areas where the project will have impacts.**

- ✓ Determine the stakeholders both directly and indirectly affected by the project, as well as those with the power to affect operations.
  - Ensure that all groups in vulnerable situations (e.g. [women](#), youth, elders, migrants, [indigenous peoples](#)), have been properly identified and understood.
  - Remember that membership in certain stakeholder groups, such as [indigenous peoples](#), may be defined legally or through regulatory requirements (see 4.2.d.).
  - Define stakeholders broadly. Communities that lie outside of the designated project area may still experience impacts arising from the project. (As an example, communities a significant distance downstream from a project may face impacts related to water, environment, livelihood, etc.) These communities should be included in stakeholder engagement and in the impact assessment. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 14 \(International Finance Corporation 2007\)](#)
- ✓ Consider pre-existing relationships within and between stakeholder groups and identify possible sources of conflicts between the stakeholders.
- ✓ Ensure confidentiality of stakeholders and anonymity, especially in conflict-affected regions where risks of reprisals are higher. Develop and maintain a confidential stakeholder database. Ideally, it should contain:
  - Identification of the most vulnerable groups, differentiated by age, sex and other distinguishing characteristics.
  - Details of their key needs, positions, representatives and interests.
  - Details of any consultations held, including location, participants and topics discussed. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 103 \(International Finance Corporation 2007\)](#)
  - Any commitments made by the company, including both those outstanding and those already delivered. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 103 \(International Finance Corporation 2007\)](#)
  - A record of specific grievances lodged by each stakeholder group and the status of their resolution. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 103 \(International Finance Corporation 2007\)](#)
- ✓ Review and update the stakeholder map regularly, and keep track of changes in relevant stakeholders and their interests. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 16 \(International Finance Corporation 2007\)](#)

## Mainstreaming a Gender-Sensitive Approach in Risk and Impact Assessments

Companies should mainstream a gender-sensitive approach to:

- Understand the many causes of vulnerability and marginalisation in communities, including gender.
- Inform the design of gender-responsive company-community consultations and decision-making processes, including identifying barriers to women's participation.
- Inform decision-making on community development projects or compensation packages so that these address women's practical needs and strategic interests (e.g. achieving greater equality in private and public spheres). Also consider men's needs and interests, as well as how they differ from or align with women's.
- Involve women and men in project assessment, decision-making and planning.

### Source:

[A Guide to Gender Impact Assessment for the Extractive Industries \(Oxfam 2017\)](#)

## Develop a stakeholder engagement strategy.

- ✓ Develop internal guidance and 'talking points' for community engagement so that messages are consistent and personnel are prepared to answer stakeholder questions regarding relevant issues such as land, compensation and project phases. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 7 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Hire people with good social and communication skills who speak the local languages, including as many local staff as possible. Ensure that different stakeholder groups are included, such as different ethnic or religious groups, those from different sides of the conflict (if applicable) and different demographic groups (e.g. women).
- ✓ Make stakeholder engagement a collective responsibility ([see 4.4.b.](#)).
  - Review the project activities and timelines with relevant company departments to ensure that early and meaningful consultation with communities is well-integrated into project planning ([see 4.3.a.](#)).
  - Ensure all staff and contractors are familiar with the local culture and are adequately trained to engage constructively (e.g. by avoiding practices that might be considered offensive behaviour and ensuring communities are not treated as a threat, but as partners). Consider developing cross-cultural training programmes with the help of locals in the operations area to enable company personnel to understand the culture, values and practices of local communities. Such training could also help company personnel explain the company's culture and operations to communities and indigenous peoples. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 4:7 \(International Alert 2005\)](#)
  - Encourage informal interactions between company staff and local communities (e.g. when in transit, stop in the village to buy local products or have tea).

### Practical Tool:

 [Five-Step Approach to Stakeholder Engagement \(BSR 2019\)](#)

## Ensure the stakeholder engagement strategy is inclusive.

- ✓ Prioritise stakeholders and reflect on the appropriate level of engagement for each stakeholder group.
  - Prioritise impacted stakeholder groups, especially individuals who are vulnerable and at risk of marginalisation. The more a stakeholder group is materially affected by a component of the project, the more important it is for them to be properly informed and encouraged to participate in matters that have direct bearing on them, including proposed mitigation measures, the sharing of development benefits and opportunities, and implementation and monitoring.
  - Consider that children are among the most vulnerable population groups and usually are not able to advocate for their own interests.

### Practical Tools:

- 🔧 [Children's Rights in Impact Assessments \(UNICEF and Danish Institute for Human Rights 2013\)](#)
- 🔧 [Engaging Stakeholders on Children's Rights: A Tool for Companies \(UNICEF 2014\)](#)

- When appropriate, include indigenous groups that have been displaced from their lands, either historically or by the project, in decision-making and consultation processes. This is especially important if they still maintain a connection to, and interest in, the area of operations (see 4.2.d. and [indigenous peoples and free, prior and informed consent](#)). [Indigenous Peoples and Mining Good Practice Guide p. 44 \(International Council on Mining and Metals 2011\)](#)
  - Engage with those who oppose the project. Often, their opposition is rooted in legitimate concerns that should be taken into consideration and responded to. Engage with [human rights defenders \(see 4.6.a.\)](#). [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 25 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
  - Be cautious in engaging with non-State armed groups. According to the UN Global Compact, such engagement 'may expose the company to allegations of bribery, corruption and illegality'. [Guidance on Responsible Business in Conflict Affected and High Risk Areas: A Resource for Companies and Investors, p. 22 \(UN Global Compact and Principles for Responsible Investment 2010\)](#)
  - Take into account that the local community and the armed group may be inextricably linked through predatory or positive relationships of their own.
- ✓ Identify barriers to engagement—such as social and cultural norms, socio-economic constraints, logistical constraints, legacy issues, violence and opposition—and consider ways to address or reduce these barriers. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 24-27 and 42 \(OECD 2017\)](#)
    - Arrange community meetings at times and locations where the people who need to be there can participate, and ensure that everyone in the community is informed about meeting times and agendas. [Getting It Right: Making Corporate-Community Relations Work, p. 126 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#) To the greatest extent possible, use multiple venues for engagement and make sure that some venues are public.
    - Make special arrangements to enable the participation of vulnerable and marginalised groups, as well as persons with disabilities and people living in remote or isolated areas. Make special arrangements to ensure meetings can be confidential and non-attributive or organize separate meetings for certain groups who may need protection from reprisals.

Consider having separate meetings with different vulnerable groups or providing transportation to the meeting venue. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 71 \(OECD 2017\)](#)

- Take into account that in some cultures, [women](#) may require a specific venue or interlocutor in order to be able to participate in meetings (e.g. a women-only venue with meetings facilitated, organised or attended by a trusted third party). Women may also require support with childcare arrangements so that they can participate in meetings.
- As explained by Shift, take into account that ‘in some instances, affected stakeholders may be unwilling or unable to engage directly with businesses [...] due to the presence of active conflict, intimidation or lack of trust’. Where direct engagement with stakeholders is not possible or might be dangerous for them, consult credible third parties who do have access to these stakeholders to gain insights into stakeholders’ views and concerns and to ask for advice on how to proceed. [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 16 \(Shift 2015\)](#)
- Communicate in plain, non-technical and jargon-free language; provide explanatory materials, such as brochures, theatre representations, videos, pictures and maps.
- Invest in community capacity-building and engage local facilitators to enable communities to engage effectively in decision-making processes.

### **Start stakeholder engagement as soon as company staff or contractors set foot on the ground.**

[Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 8 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)

- ✓ When entering a new region or community, prepare an official letter from the company to present to host community members stating the company’s name, names of the employees, a contact person and number, and some basic details of the work the company will be conducting over the coming period. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 11 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Prior to starting any activities, hold an on-site meeting with representatives of host communities to discuss the proposed location of activities and to discuss what is going to happen (for example, the possibility that exploration activities do not lead to production). [Indigenous Peoples and Mining Good Practice Guide, p. 48 \(International Council on Mining and Metals 2011\)](#)
- ✓ Agree with the community on the frequency, location, objectives and forms of engagement.
  - Agree on who represents the company, who represents communities, and when and where the various forms of engagement will take place. Be mindful that the representatives who are nominated should not be the only persons the company engages with. Certain groups may not feel represented by the leading voices ([see 4.2c.](#)).
  - Define the goals and desired outcomes in partnership with the stakeholders in advance of the consultation process itself. [Guidance on Responsible Business in Conflict Affected and High Risk Areas: A Resource for Companies and Investors, p. 23 \(UN Global Compact and Principles for Responsible Investment 2010\)](#)
  - Ask stakeholders what level of consultation they desire (e.g. information, involvement in meetings, active contribution to planning and/or participation in monitoring activities).
- ✓ To support engagement, use reputable advisors with a good knowledge of the communities’ culture and who are respected by the communities.

## Core Principles that Should Govern Stakeholder Engagement

**Focused:** Engagement goals should be focused and relevant in order to ensure alignment. Expectations should be clear and realistic.

**Timely:** Engagement should be conducted in a timely manner to ensure that the perspectives of stakeholders can inform the outcome of business decisions that might affect them.

**Representative:** The engagement should be structured in a way that enables the perspectives of diverse stakeholders to be considered. For example, engagement could include contact with representatives of broader social identity groups or the use of social media platforms.

**Inclusive:** Companies should ensure that engagement reaches particularly at-risk stakeholders such as [human rights defenders](#) and political dissidents, [women](#), young people, minorities and [indigenous communities](#).

**Respectful:** In the context of stakeholder engagement, respecting means both listening and sharing, as well as using engagement approaches that are culturally sensitive and accessible to all participants. This means considering context, location, format and language.

**Candid:** The process of selecting participants should be transparent, and engagement notes, actions and outcomes should be shared with participants. If full disclosure to the wider public is impossible—given potential risks to participants and to the confidentiality of business decisions—summary outcomes should be disclosed.

### Source:

[Five-Step Approach to Stakeholder Engagement \(BSR 2019\)](#)

## Invest time in consultations to enable community consensus-building.

- ✓ Listen carefully to concerns, including from those stakeholders that oppose a project ([see 4.6.a.](#)).
  - Visit the local community regularly and ask questions to learn what they expect from the company and to demonstrate interest in the community. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 12 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#) Arrange for senior staff to visit local communities to demonstrate that the company is genuinely interested in building a relationship and that engagement is a senior-level priority. Building relationships with stakeholders early on can be instrumental in resolving crises if/when they arise. [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 15 \(Shift 2015\)](#)
  - Be aware of what people are not talking about. Difficult questions or discussions could be most vital, but it is important to ensure they are dealt with in a culturally acceptable manner. Take measures to protect confidentiality, to the greatest extent possible. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 11 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Address concerns before they escalate, as well as any misalignments in expectations or differing perceptions on rights. Do not dismiss any concerns by communities, but rather try to understand things from their perspective, and open dialogue to discuss why the concerns may be unfounded or to find a solution based on mutual agreement and trust. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 9 \(International Council on Mining and Metals 2009\)](#)

- ✓ Note that communities and companies may have very different concepts of time. Seek to understand and accommodate the community's perspective on time.
- ✓ Where there are disagreements between or within groups, consider facilitating resolution by, for example, identifying a mutually acceptable mediator. Consider any existing and/or culturally appropriate dispute resolution mechanisms. [Indigenous Peoples and Mining Good Practice Guide, p. 44 \(International Council on Mining and Metals 2011\)](#)

### **Take an inclusive and equitable approach to compensation and distribution of benefits. Compensation issues often drive site-level conflict and thus security risks.**

- ✓ Develop a corporate policy on compensation and distribution of benefits before starting any activities.
- ✓ Discuss compensation measures for project impacts jointly with communities and authorities.
  - Identify the individuals that should be compensated for a loss caused by the project.
  - Agree on collective compensation that benefits the community as a whole.
- ✓ Where possible, take a community-wide approach to the distribution of benefits such as jobs, contracts and social investments. [Getting It Right: Making Corporate-Community Relations Work, p. 95 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
  - Ensure policies generate equality in opportunities and processes, as well as in outcomes. For example, if a process is open to both women and men, it may seem to be equal, but if **women** are restricted in their participation because of barriers to access, in practice, equality has not been achieved.<sup>10</sup> Take into account that women and men may have different views on what 'fair compensation' means and ensure that the policies address the population equally.
  - Ensure that contractors use the same definition as the company for 'local' and comply with their obligations regarding local hiring and the use of local suppliers. However, be aware of biases in defining which communities are considered 'local'. Avoid excluding groups or communities and exacerbating or creating social tensions. Seek to identify any communities that may have been overlooked (e.g. camps of refugees or internally displaced persons).
  - Ensure financial oversight of local development funds and provide capacity-building to help local people prepare proposals and manage projects. [Manual: Conflict Sensitivity Due Diligence for Timber Companies in the Congo Basin, p. 45 \(Swisspeace 2013\)](#)
- ✓ Ensure that individual and collective compensation and benefits from the company to communities are distributed in ways that are fair and seen to be fair. Be transparent about why certain groups (e.g. [indigenous people](#)) receive more benefits than others and what criteria are applied. [Getting It Right: Making Corporate-Community Relations Work, p. 31-33 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#) To the extent that there are differences, carefully ensure that the recipients of benefits do not themselves become targets for rights violations by other groups. Consider security measures in this regard if disparate payments create security risks.

## Using the Right Methods to Gauge Community Support

Evidence of broad community support can be considered credible if the process or method used to demonstrate support:

Occurred after the operating company carried out consultations with relevant stakeholders regarding potential impacts and benefits of the proposed project.

Was transparent and fully truthful about actual and potential impacts.

Was free from coercion or manipulation.

Included the opportunity for meaningful input by all potentially affected community members—including [women](#), [indigenous people](#), [human rights defenders](#) and other vulnerable and marginalised groups—prior to any decision or resolution.

### Source:

[IRMA Standard for Responsible Mining \(Initiative for Responsible Mining Assurance 2018\)](#)

### Key Resources:

- 📖 [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- 📖 [Getting It Right: Making Corporate-Community Relations Work, p. 126 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

### Practical Tools:

- 🔧 [Community Development Toolkit \(International Council on Mining and Metals 2012\)](#)
- 🔧 [Human Rights Due Diligence in Conflict Affected Settings: Guidance for Extractives Industries \(International Alert 2018\)](#)
- 🔧 [Preventing Conflict in Exploration Toolkit \(CDA 2016\)](#)
- 🔧 [Human Rights Impact Assessment Guidance and Toolbox: Stakeholder Engagement \(Danish Institute for Human Rights 2020\)](#)
- 🔧 [Community-Based Human Rights Impact Assessments: Practical Lessons \(Oxfam 2010\)](#)
- 🔧 [A Guide to Gender Impact Assessment for the Extractive Industries \(Oxfam Australia and Australian Aid 2017\)](#)
- 🔧 [NomoGaia Human Rights Due Diligence Tools \(NomoGaia\)](#)
- 🔧 [Participation and Social Impact Assessment: Tools and Techniques \(Jennifer Rietbergen-McCracken and Deepa Naraya, International Bank for Reconstruction and Development 1998\)](#)
- 🔧 [Respecting the Rights of Indigenous Peoples: A Due Diligence Checklist for Companies \(Danish Institute for Human Rights 2019\)](#)



## C. Community representatives: Ensuring they engage in support of communities as a whole rather than narrow interests

### Good Practices\*

#### Identify legitimate representatives of different community sub-groups.

- ✓ Allow stakeholders to choose their own representatives, but consider intervening in cases where the selection of representatives is clearly biased towards a specific segment of the community (e.g. men, a particular ethnic group or clan, a specific political party, etc.).
- ✓ Ensure representatives reflect the population: gender, minorities, diversity of interests, etc. Keep in mind that not all stakeholders in a particular group or sub-group necessarily share the same concerns, opinions or priorities. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 13 \(International Finance Corporation 2007\)](#)
- ✓ Be aware that the very act of establishing certain people as the 'liaison' between the local population and the project confers upon them a certain degree of power and influence.

#### Types of community representatives

Legitimate representatives could be, but are not limited to:

- Local government officials.
- Elected representatives of regional, local and village councils.
- Traditional representatives, such as elders, village headmen or tribal leaders.
- Chairmen/directors of local cooperatives.
- Leaders of community-based organisations or local NGOs.
- Representatives of local women's, youth, and minority groups.
- School teachers.
- Religious leaders.

#### Ensure transparency in processes for engagement with community representatives.

- ✓ Monitor how representatives are selected to ensure they are chosen fairly and transparently. [Getting It Right: Making Corporate-Community Relations Work, p. 94 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Gain a clear understanding of who in the community must grant consent to ensure company operations have legitimacy. This will also be the point of contact for approving various decisions during the course of project operations. Note that, even if the company is not legally required by law to obtain consent directly from local communities, seeking consent from community leaders throughout a project's lifecycle can nonetheless enhance the company's social license to operate and reduce risks to the investment. Be aware also of the conditions under which

consent can be given and those under which it can be withdrawn. Ensure that any consent that is accepted by the company is given on a voluntary and informed basis and sought in a timely manner. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 50 \(OECD 2017\)](#)

- ✓ Ensure that the information reaches all levels of the community.
  - Establish mechanisms for ensuring chosen representatives remain accessible and accountable to the broad community. [Getting It Right: Making Corporate-Community Relations Work, p. 124 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#) This might include, for instance, instituting mechanisms against bribery and corruption with the community representatives.
  - Agree with community representatives on a system for disseminating objectives and outcomes. [Getting It Right: Making Corporate-Community Relations Work, p. 125 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
  - Broaden channels of communication and avoid over-reliance on a single source for mediation. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 22 \(International Finance Corporation 2007\)](#)
  - Publicise the minutes of meetings and make any agreements transparent. [Getting It Right: Making Corporate-Community Relations Work, p. 94 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Avoid perceptions of alliance or political alignment with a particular stakeholder—whether it is a community leader, a political party or a government agency—as this can lead stakeholders to question the company’s objectivity or fairness. [Research on Company-Community Conflict \(International Council on Mining and Metals 2015\)](#)

### Regularly assess the legitimacy of community representatives.

- ✓ Talk to company local staff that work directly on the site to help identify community concerns regarding their representatives.
- ✓ Use surveys and engage informally with communities to assess whether they feel their views are being adequately represented. When they do not, engage them directly to discuss how to proceed. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 36 \(OECD 2017\)](#)
- ✓ Consider including the grievance mechanism as a place where community members can raise concerns about the representatives that dialogue with the company.

### Combine engagement with representatives with direct engagement with community members.

- ✓ Follow local decision-making procedures, but, at the same time, make community involvement a condition for any agreements. [Research on Company-Community Conflict \(International Council on Mining and Metals 2015\)](#)
- ✓ Engage with both formal and informal leaders. [Getting It Right: Making Corporate-Community Relations Work, p. 124 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#) Reach out to: men and **women**; youth and elders; people of all socio-economic backgrounds, castes, ethnicities and religious groups; and [human rights defenders](#).
- ✓ Engage with civil society organisations and other actors that may represent the needs of different stakeholder groups.

## D. Development of an inclusive engagement strategy: Identifying an appropriate division of responsibility with the government to ensure that indigenous peoples' rights are respected

### Good Practices\*

#### Ensure that indigenous peoples are properly identified and prioritised for engagement on security arrangements.

- ✓ Conduct due diligence, in collaboration with local experts (e.g. indigenous peoples and anthropologists), to determine the presence of indigenous communities. Also assess their relationship to the land and its ownership, important cultural and religious locations and traditions, and any current or recent interactions with security providers (public or private). [Indigenous Peoples and Mining Good Practice Guide, p. 43 \(International Council on Mining and Metals 2011\)](#)
- ✓ If a group self – identifies as indigenous, adopt a practice to proceed as if the group has been formally recognised as indigenous. [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 19 \(UN Global Compact 2013\)](#)
- ✓ Institute a policy (either as a stand-alone policy or as part of a human rights policy) that commits the company and its security providers to respect indigenous peoples' rights, in particular the right to participate in decision-making. Ensure that employees have a strong understanding of the policy.<sup>11</sup> Make this commitment public and communicate it to all relevant stakeholders. [EO100 Standard for Responsible Energy Development, p. 48 \(Equitable Origin 2017\)](#)

#### Key Resources:

- 📖 [Extractive Industries and Indigenous Peoples \(UN Special Rapporteur on the Rights of Indigenous Peoples 2013\)](#)
- 📖 [Attacks and Criminalisation of Indigenous Human Rights Defenders \(UN Special Rapporteur on the Rights of Indigenous Peoples 2018\)](#)
- 📖 [UN Declaration on the Rights of Indigenous Peoples \(UN 2007\)](#)
- 📖 [Indigenous and Tribal Peoples Convention \(International Labour Organization 1989\)](#)

#### Practical Tools:

- 🔧 [Indigenous Peoples Mapping Tool \(IPIECA 2015\)](#)
- 🔧 [Respecting the Rights of Indigenous Peoples: A Due Diligence Checklist for Companies \(Danish Institute for Human Rights 2019\)](#)
- 🔧 [Indigenous Navigator Tools Database \(Danish Institute for Human Rights 2020\)](#)

#### Examples:

- 🌐 [Charter of Principles and Guidelines Regarding Indigenous and Tribal Peoples \(TotalEnergies 2013\)](#)

## Human Rights Due Diligence and Indigenous Peoples

Land, consent and compensation issues are often at the heart of grievances and conflicts between companies and **indigenous peoples**. These do not necessarily begin as security-related conflicts, but any dispute or grievance has a risk of turning into a security and human rights issue. The drastic increase in attacks and acts of violence against, intimidation of and threats aimed at indigenous peoples at the hands of security providers working on company operations is indicative of how conflicts can escalate.

Effective human rights due diligence policies that carefully include indigenous peoples in dialogues can prevent such conflicts. To mitigate risks effectively, companies should ensure appropriate expertise and procedures on indigenous peoples and consider the need for supplementary external expert advice, including from indigenous experts. Companies should ensure that compensation for losses based on damage to or loss of land for indigenous people accounts for intangible value associated with sacred sites or areas of cultural significance.

In addition to mitigating risks, companies should take positive steps in communities, for example, by investing in programmes that will mitigate impacts related to a loss of social networks, cultural erosion and/or loss of language. If disruption to indigenous peoples is unavoidable, companies should seriously consider not carrying out the project. The Danish Institute for Human Rights' indigenous Peoples Due Diligence Checklist offers guidance and support for companies on how to ensure indigenous peoples are included in due diligence processes.

### Source:

[Respecting the Rights of Indigenous Peoples: A Due Diligence Checklist for Companies \(Danish Institute for Human Rights 2019\)](#)

## Clarify legal obligations regarding engagement with **indigenous peoples**.

- ✓ Consult technical staff, local sources and legal expertise to clarify legal obligations of the company and the government, both under national and international law.
- ✓ Clarify whether consent from the local community is legally required. Where consent is required, do not proceed with activities until it has been granted. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 79 \(OECD 2017\)](#) Note that even if the company is not legally required by law to obtain consent directly from indigenous communities, seeking consent throughout a project lifecycle can nonetheless enhance the company's social license to operate and reduce risks to the investment.
- ✓ Be aware that the customary land rights of indigenous people may not always be recognised by national laws. Also, there may be difficulties in identifying original landowners because of legacies of conflict and displacement, so enhanced due diligence may be required to understand these complexities and whether the company is permitted to operate and to contract security providers on the land.<sup>12</sup>

### Key Resource:

- 📖 [International Instruments on Free, Prior and Informed Consent \(IPIECA 2015\)](#)

## Seek to ensure that the government fulfils its responsibility regarding consultations and free, prior and informed consent ([see 4.3.a.](#)).

- ✓ Inform the government about the company's policy in relation to respecting [indigenous peoples'](#) rights and lands.
- ✓ Clarify the division of roles and responsibilities between the company and government and set out a plan for implementation of free, prior and informed consent.
- ✓ Ensure that any contracts with the government clearly include requirements to recognize, respect and comply with the rights of [indigenous peoples](#). [EO100 Standard for Responsible Energy Development, p. 48 \(Equitable Origin 2017\)](#). (Also see leverage.)

### Military Activities and Indigenous Lands

Article 30 of the [UN Declaration on the Rights of Indigenous Peoples](#) prohibits military activities taking place on indigenous lands without consent from the indigenous peoples. If the State has violated Article 30, companies must ensure that they do not contract with the State in such a way that would mean that the company would be supporting military activities on indigenous lands. A business should not benefit from military activities that discriminate against indigenous peoples. [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 72 \(UN Global Compact 2013\)](#)

## Ensure that the correct process of obtaining free, prior and informed consent is adhered to.

- ✓ Ensure indigenous peoples are informed of their land rights under national law.<sup>14</sup>
- ✓ Agree with affected [indigenous people](#) on a process for free, prior and informed consent that is based on good faith negotiation free of coercion, manipulation and intimidation. Commit to such a process through a formal or legal agreement.<sup>15</sup>
- ✓ Consult on what constitutes appropriate consent for affected [indigenous peoples](#) in accordance with their governance institutions, customary laws and practices (for example, whether this is a majority vote from the community or approval of the council of elders). Whatever measure of consent is decided, it should reflect that the project has the broad consent of the community.
- ✓ Be completely transparent about the risks and benefits of the operational activities, as well as the standards that the company has in place to prevent further damage ([see 4.3.b.](#)). [Indigenous Peoples and Mining Good Practice Guide, p. 57 \(International Council on Mining and Metals 2011\)](#)
- ✓ As noted by the OECD's due diligence guidance, 'Recognise that consent is not a static, one-off activity'.<sup>16</sup> [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 78 \(OECD 2017\)](#) Instead, it is an ongoing process that needs to be responsive to community needs. Different conditions and requirements should be negotiated at each stage of the project cycle.<sup>17</sup>
- ✓ Where [indigenous peoples](#) refuse to engage or to give consent, try to consult directly with them or with reliable third parties to understand the reasons and whether concerns can be accommodated or addressed. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 79 \(OECD 2017\)](#)

- ✓ Take into account that many indigenous communities live in isolation from broader communities and may require additional support to be able to engage fully in company processes. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 76 \(OECD 2017\)](#) In some cases, communities in isolation may not wish to be involved at all. In such a case, develop buffer zones to protect these indigenous groups from business operations, considering any impacts that may affect this buffer zone (e.g. downstream impacts on water resources). [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 23 \(UN Global Compact 2013\)](#) Ensure that security providers do not violate these arrangements.

### Ensure that engagement with indigenous peoples is effective and appropriate (see 4.2.b.).

- ✓ Respect the local entry protocols for accessing community lands and ensure all contractors and security providers do so as well. [Indigenous Peoples and Mining Good Practice Guide, p. 18 \(International Council on Mining and Metals 2011\)](#)
- ✓ Train staff to understand and demonstrate respect for indigenous culture by learning local customs and language. The ability to speak the local language, even at only a 'courtesy' level, is helpful. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 76 \(OECD 2017\)](#)
- ✓ When indigenous groups have been displaced from the lands where an operation is taking place, ensure they are still engaged in the decision-making and consultation processes of the company. [Indigenous Peoples and Mining Good Practice Guide, p. 44 \(International Council on Mining and Metals 2011\)](#)
- ✓ Whether or not indigenous governance structures are legally recognised, take them into account in the management of security operations.
- ✓ Develop agreements with indigenous communities that increase goodwill and improve relationships. Provide a structured mechanism to facilitate dialogue and engagement.
  - Ensure agreements contain specific grievance mechanisms for redress of any violations or complaints.
  - Include a requirement for a regular review of the agreement.

#### Practical Tools:

- 🔧 [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- 🔧 [Good Practice Guide Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)

## Develop a risk and impact mitigation strategy that is adapted to the indigenous culture (see 4.5.a.).

- ✓ Be aware that indigenous groups may be less resilient to adverse impacts and more vulnerable to serious economic and social consequences from a project and/or security arrangements. For example, indigenous peoples may be marginalised through discrimination, broad cultural ignorance of indigenous issues and viewpoints, over representation in criminal justice systems, brutality from security providers and/or high levels of poverty and social disadvantage. Consider these vulnerabilities and ways to address them in assessments and mitigation plans. Help to mitigate such vulnerability, for example, by partnering with or funding civil society organisations, advocating against discrimination and/or facilitating access to independent legal counsel for indigenous people. [Indigenous Peoples and Mining Good Practice Guide, p. 93 \(International Council on Mining and Metals 2011\)](#)
- ✓ Consider supporting indigenous communities in their efforts to clarify surface rights, as well as demarcate and title territories. However, take into account that some groups may be reluctant to rigidify territorial maps or to reveal certain sites and boundaries. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 4:7 \(International Alert 2005\)](#)
- ✓ Take into account that impacts related to land (such as a lack of access or degradation of land) may affect indigenous peoples more severely than other stakeholder groups. This is especially true if they have a special cultural connection with and rights to land, or if their livelihoods or important cultural practices are linked to the land.
  - Build a safe pathway across company sites to allow indigenous peoples to travel to their communities, if their usual pathway has been closed due to operations. Ensure that security providers are aware of and trained on the location of this area. [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 41 \(UN Global Compact 2013\)](#)
  - Ensure that compensation for losses accounts for intangible value associated with sacred sites or areas of cultural significance.
- ✓ Invest in programmes that mitigate impacts related to a loss of social networks, cultural erosion and loss of language. If the disruption is unavoidable, consider not carrying out the project.
- ✓ Be aware of the particular social dynamics between indigenous groups and non-indigenous community groups, and work to mitigate any negative impacts on these dynamics caused by company operations.
- ✓ Be aware of and address the particular needs and vulnerabilities of indigenous **women** who may experience increased negative impacts and barriers for engaging on their interests.

### Key Resources:

- [IRMA Standard for Responsible Mining, chapter 2.2 \(Initiative for Responsible Mining Assurance 2018\)](#)
- [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- [International Instruments on Free, Prior and Informed Consent \(IPIECA 2017\)](#)
- [Indigenous Peoples Mapping Tool \(IPIECA 2015\)](#)
- [Good Practice Guide: Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)
- [Chinese Due Diligence Guidelines for Responsible Minerals Supply Chains \(OECD and the China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters 2015\)](#)

## E. Community mistrust: Ensuring an effective company grievance mechanism

### Good Practices\*

**Ensure that communities understand the company's grievance mechanisms, how to access these mechanisms and their rights and potential remedies.**

**Assess the effectiveness of any existing grievance mechanisms regularly and seek to understand what aspects can be improved.**

- ✓ Internally review the type and trends of grievances on a regular basis.
  - Track whether there are recurring complaints about the same issues; this could be a sign that grievance mechanisms are not working effectively and that the company has not altered practices to address the concern.
  - Be aware that a lack of complaints might mean that the mechanisms are either inaccessible or not trusted by communities. It does not necessarily indicate that the community has no grievances.<sup>18</sup>
- ✓ Involve the local workforce and community representatives in the procedures for evaluating the effectiveness of grievance mechanisms and ensuring they are culturally appropriate.
  - Consider how each mechanism addresses different kinds of grievances, ranging from easy – to-address project impacts to serious and complex human rights abuses. Note that serious human rights abuses may be more suitably referred to a judicial system, if available.
  - Assess the level of satisfaction with the process for resolving complaints (including whether the complainant felt like they were treated respectfully), as well as how adverse impacts were addressed. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 51 \(OECD 2017\)](#)
  - Identify lessons for improving each mechanism and preventing future negative impacts.<sup>19</sup>

### **(Re)design grievance mechanisms on the basis of findings from the assessment.**

- ✓ Ensure grievance mechanisms reinforce and complement existing State and non-State judicial and non-judicial grievance mechanisms, as well as indigenous or other local institutions and processes. It should not replace or supplant those mechanisms. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 13 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada and World Vision Canada 2012\)](#)
- ✓ Engage with local communities and/or respected third parties to ensure grievance mechanisms are adapted to the local context and meets the needs of those communities. If working with a third party, ensure that the party is trusted locally.
- ✓ Appoint community relations personnel who can engage effectively with complainants; qualities of empathy, maturity and fair-mindedness are important. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 9 \(International Council on Mining and Metals 2009\)](#) Ensure the team includes at least one expert on [gender](#) and cultural issues who speaks the local languages.



- ✓ Ensure the grievance mechanisms are accessible by consulting with communities on the best access points for them. Consider establishing several of the following access points:
  - A 'report abuse' hotline, accessible via phone, SMS or social networks. Above all, ensure confidentiality and data protection and use encrypted platforms. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)
  - A secure e-mail address that is solely accessible by a trusted monitor. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)
  - Tip boxes located in areas where individuals have unobserved access and can drop in anonymous notes, tips or other information. These should have clear instructions posted above them. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. III-16 \(World Bank Group and Anvil Mining 2008\)](#)
  - 'Persons of trust' selected by employees that can bring concerns to the company or private security provider management on the behalf of employees. This can also be done via existing mechanisms, such as unions and/or employee associations, if applicable.
  - A community office where complainants can report their claims in person. Ensure that this is easily accessible to all potential claimants. If it is clear that certain members of the potentially affected community are not able to access the office, mobile teams should be sent to engage with the community and carry out the grievance process in their location.
- ✓ Consider that accessibility also relates to language, literacy and social position. Ensure that the procedure is available in local languages, is explained orally by community officers if literacy is an issue, and that access for persons with limited mobility is considered (e.g. women who cannot leave their home alone).
- ✓ Based on information from the initial assessment, clarify how complaints will be categorized as serious or less serious, as well as who will deal with each category of complaint. In some cases, the seriousness will dictate that a complaint needs to be escalated to higher management or referred to another judicial or non-judicial institution. Note that the UN Guiding Principles on Business and Human Rights classify severity based on the scale, scope and irremediability of impacts. [UN Guiding Principles on Business and Human Rights, no. 14](#)
- ✓ Develop a matrix that helps the company assess what sorts of complaints might have human rights implications, and ensure that the assessments of these complaints and their severity do not happen arbitrarily.<sup>20</sup>
- ✓ For situations involving risks of serious human rights abuses, establish an escalation and referencing process and ensure that the proper national authorities and processes are respected.
- ✓ Define a clear process for resolving complaints on a pre-determined timeline, with regular updates for complainants. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 13 \(International Council on Mining and Metals 2009\)](#)
  - Ensure grievance mechanisms allow for an immediate response to time-sensitive complaints (e.g. a fence being knocked down by a contractor, allowing livestock to escape). One way of doing this is by giving company personnel receiving grievances the authority to resolve basic complaints themselves. The International Finance Corporation also suggests establishing 'a direct reporting line to senior managers if the issue is more serious or costly to address'. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 75 \(International Finance Corporation 2007\)](#)

- Ensure that the complaints process, including its decision-making criteria, are transparent. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 60 \(OECD 2017\)](#)
- ✓ Ensure the complaints system allows for anonymity and confidentiality of complainants and protects them from the risk of retaliation. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 13 \(International Council on Mining and Metals 2009\)](#) Avoid requiring detailed personal data to register a grievance. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 76 \(International Finance Corporation 2007\)](#)
- ✓ Ensure the parties to a grievance process cannot interfere with its fair resolution. [Guiding Principles on Business and Human Rights, no. 34](#)
- ✓ Offer complainants the possibility to appeal, and specify where appeals can be brought (e.g. a national body or court, an independent panel of experts or another respected, independent body). [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 19 \(International Council on Mining and Metals 2009\)](#)

### Publicise the grievance mechanism and promote its use.

- ✓ The UN's interpretive guide to the Guiding Principles on Business and Human Rights emphasise that the company should make the grievance mechanism 'known to, and trusted by, those stakeholders for whom it is intended'. [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 65 \(UN Office of the High Commissioner for Human Rights 2012\)](#) This may be done by organising meetings with local communities, publishing details of the grievance mechanism in prominent places and/or posting information on a publicly accessible website.
- ✓ Provide clear information on the procedure, timeframe for each stage and types of outcome possible.
- ✓ Publicly commit to a certain time frame in which all recorded complaints will be responded to (e.g. 48 hours, one week or 30 days) and ensure this response time is enforced. When it is not possible to respect agreed timelines, inform complainants and explain why.
- ✓ As recommended by the International Council on Mining and Metals, explicitly state that 'all sorts of concerns can be raised through the mechanism, rather than restricting complaints to certain categories of issues'. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 8 \(International Council on Mining and Metals 2009\)](#) Whilst grievance mechanisms should be capable of responding to all types of complaints, ensure an escalation and referencing procedure, as mentioned above, for particularly serious issues.<sup>21</sup>
- ✓ The International Finance Corporation emphasises that companies should 'assure people that there will be neither costs nor retribution associated with lodging a grievance'. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 70 \(International Finance Corporation 2007\)](#) Explain that the use of the grievance mechanism does not impede people to access to legal or judicial remedy processes and ensure that no company processes impede this either. [Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 8 \(International Council on Mining and Metals 2009\)](#)

## Make sure grievance mechanisms address and resolve grievances through engagement and dialogue at as early a stage as possible.

- ✓ Keep a written record of and investigate all complaints.
- ✓ Assess any complaint in relation to its actual or potential human rights impact and ensure each grievance mechanism addresses issues before they amount to alleged human rights abuses or breaches of other standards. [Corporate Responsibility to Protect Human Rights: An interpretive Guide, p. 68 \(UN Office of the High Commissioner for Human Rights 2012\)](#)
  - Have information readily available on systems to refer victims to, including hospitals, clinics and women's shelters.
  - Ensure that any security-related issues that come through the grievance mechanism are immediately flagged and escalated to senior management.
- ✓ Consult with reputable third parties that have relevant local expertise and skills (mediation, arbitration and remediation processes). Relevant partners may include local and international civil society organizations, development agencies, think tanks and universities. [Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors, p. 11 \(UN Global Compact and Principles for Responsible Investment 2010\)](#)
- ✓ Allow complainants to choose how their grievances are addressed. [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 33 \(UN Global Compact 2013\)](#) Remediation can come in different forms, including restitution, rehabilitation, compensation, community development programmes and guarantees of non-repetition. [UN Guiding Principles on Business and Human Rights, no. 27](#)
- ✓ Cooperate with investigations conducted by other legitimate actors (e.g. by ombudsman institutions, national human rights institutions, regional human rights commissions or multi – stakeholder initiatives).

## CASE STUDY

**In-Country Working Group Support for Mediating Challenges in South Kivu, Democratic Republic of the Congo**

Twangiza is the only industrial mining site in South Kivu. In this area, artisanal gold mining communities filled a vacuum created by a history of economic crisis and violent conflict. In 2009, one company established contacts with the local communities and offered them compensation to relocate to a delimited area. However, tensions arose over the relocation between the company, the mining police and miners. The local communities were frustrated with the lack of compensation and unmet expectations regarding employment. The mining police were accused of excessive use of force against the community and protesting crowd. There was also an alleged case of torture on a trespassing shepherd. Tensions mounted and eventually, confrontations between security providers and community members led the mining operations to come to a halt.

The South Kivu Voluntary Principles Working Group became aware of these incidents through its monitoring missions. To address the tensions, the working group cooperated with the local mining police to: raise awareness on human rights obligations, investigate and report misconduct by its officers and request follow-up at the provincial level. As a result, a commander was removed and two officers were arrested. In addition, the working group organised multi-stakeholder meetings at the local level, inviting representatives of the extractive company, local community and local security forces to discuss the measures taken to address the incidents. The multi-stakeholder dialogue led to a new security agreement that strengthened community engagement and made space for the community to express its grievances.

The intervention of the working group is a strong example of how multi-stakeholder dialogue can help mediate community-based challenges and address a legacy of security and human rights challenges around company sites.

[Read more.](#)

## Report back periodically to communities and other stakeholder groups to discuss how the company has responded to the grievances it has received.

Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets (International Finance Corporation 2007)

- ✓ In cases of unfounded concerns by communities, do not dismiss them, but engage in an open dialogue to explain why the concerns are truly unfounded or to find a solution based on mutual agreement and trust. Having objective third parties, outside experts and/or community leaders involved may help build trust in these responses. These sources should be trusted and credible for the community. Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 9 (International Council on Mining and Metals 2009)
- ✓ If the mechanism is unable to resolve a complaint, facilitate access to external experts (e.g. public defenders, legal advisors, legal NGOs, or university staff) or establish a process for resolving issues which is in the hands of a respected, independent body, such as a multi – stakeholder commission, ombudsperson or an independent panel of experts. Handling and Resolving Local-Level Concerns and Grievances: Human Rights in the Mining and Metals Sector, p. 18-19 (International Council on Mining and Metals 2009)

**Ensure cases are only closed after the resolution has been implemented and following formal, pre-determined procedures. Provide for the possibility of appeal.<sup>22</sup>**

**Evaluate if grievance procedures generate an effective remedy, according to international criteria.**

### Effectiveness Criteria for Non-Judicial Grievance Mechanisms

Excerpt from UN Guiding Principles on Business and Human Rights, no. 31:

In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- Legitimate
- Accessible
- Predictable
- Equitable
- Transparent
- Rights-compatible
- A source of continuous learning
- Based on engagement and dialogue

#### Key Resources:

- Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse through Non-State-Based Grievance Mechanisms (UN Office of the High Commissioner for Human Rights 2020)
- Access to Effective Remedies Under the Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy Framework (UN Office of the High Commissioner for Human Rights 2017)

#### Practical Tools:

- 🔧 Handling and Resolving Local-level Concerns and Grievances (International Council on Mining and Metals 2019)
- 🔧 Developing and Operating Fair and Accessible Company Grievance Mechanisms that Offer Effective Remedies (International Code of Conduct Association 2018)
- 🔧 Community Grievance Mechanisms in the Oil and Gas Industry (IPIECA 2015)
- 🔧 Site-Level Grievance Guide (Mining Association Canada 2015)

## 4.3. Information-sharing, consultation and consent

### A. Consultations conducted too late or not according to international standards: Facing a lack of social licence to operate

#### Good Practices\*

##### Verify whether there are any legal or regulatory requirements regarding consultation and consent.

- ✓ In particular, identify which methods of engagement with indigenous peoples are required (see 4.2.). Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 76 (OECD 2017)
- ✓ Clarify whether consent is legally required. Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 76 (OECD 2017) Where consent is required, do not proceed with activities until it has been granted. Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 79 (OECD 2017) Note that even if companies are not required by law to obtain consent, seeking consent throughout a project's lifecycle can nonetheless enhance a company's social license to operate (see 4.2.d.).

##### Practical Tools:

- 🔧 International Instruments on Free, Prior and Informed Consent (IPIECA 2015)
- 🔧 IRMA Standard for Responsible Mining, chapter 2.2 (Initiative for Responsible Mining Assurance 2018)

##### Seek to ensure the government fulfils its responsibilities regarding consultations.

- ✓ Keep track of government-led consultations on issues related to the project, as they might have implications for future stakeholder relations.
  - Determine at what stages such engagement took place, what commitments and agreements were made, and what unresolved issues still exist that could impact the relationship with local communities. Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 52 (International Finance Corporation 2007)
  - Seek to participate in, or at least observe, government-led consultations with stakeholders, being careful not to create the perception of being on the government's side.
- ✓ Consider providing logistical support (such as travel expenses) to government entities to ensure they are present and able to lead the consultations. Research on Company-Community Conflicts (International Council on Mining and Metals 2015) To reduce any risk of being perceived as supporting a government that is not operating in the community's interest, be transparent and clear in indicating to communities that the company is striving to improve the government's capacity to lead the process in good faith.

## Revisit prior consultation processes and seek to understand what mistakes were made and why.

- ✓ Review the project activities and timelines with relevant company departments to ensure ongoing and meaningful consultation with communities is well integrated into planning ([see 4.4.b.](#)).
- ✓ Note that stakeholders may have been consulted by third parties prior to, or without the involvement of the company, as often transpires in consultations over compensation for land acquisition carried out by government authorities, or previous consultation carried out by the owners of project-associated facilities. If there is evidence of lingering grievances, it may be necessary to address outstanding concerns. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 124 \(International Finance Corporation 2007\)](#)
- ✓ Engage with other companies in the area to understand their past/current approach and avoid misunderstandings or legacy issues.

## When consultation did not start early enough, undertake an active consultation that can support joint analysis and inclusive decision-making from that moment forward.

- ✓ Support capacity development so that stakeholders with limited exposure to international corporate processes and structures are comfortable being actively involved in consultation processes and monitoring of the agreements made. [Research on Company-Community Conflicts \(International Council on Mining and Metals 2015\)](#)
- ✓ If open consultations are difficult, adopt other strategies to maintain communication with the communities. [Getting It Right: Making Corporate-Community Relations Work, p. 121 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
  - Discuss with the local government whether it would be useful to create elected village committees responsible for discussing company-community affairs.
  - Work with independent third parties (e.g. ombudsman institutions, NGOs, external experts, academia) that have the acceptance of all parties. These parties can accompany and support consultation or free, prior and informed consent processes. [Research on Company-Community Conflicts \(International Council on Mining and Metals 2015\)](#)

### Key Resources:

- [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- [Understanding Company-Community Relations Toolkit \(International Council on Mining and Metals 2015\)](#)

## B. Local communities' consent: Ensuring it is based on realistic expectations and a realistic understanding of impacts

### Good Practices\*

#### Be transparent and upfront about decisions, policies and plans for the project.

- ✓ Provide relevant information to targeted stakeholders in advance of decision-making.
  - Communicate details of the stakeholder engagement and consultation process, as well as results of the baseline assessment and impact assessment, to relevant stakeholders in order to get feedback on findings. During public consultation, disclose any actual and potential risks and impacts identified thus far (e.g. cumulative impacts, operational impacts, social impacts, environmental impacts). Openly communicating these with community members can help the company avoid misperceptions that escalate into security incidents ([see 4.2.a.](#)).
  - Make technical and environmental information about the project available to communities through channels such as community representatives, town hall meetings and communications materials.
  - Disclose objective information. Avoid overselling the benefits of a project and minimising the negative impacts. Unrealistic expectations can lead to tensions and social conflicts that become security incidents. Be very clear about what the company can and cannot provide. As explained by the International Council on Mining and Metals, this approach can help address potential tensions (for example, resulting from the inability of companies to provide enough jobs for everyone) 'by managing expectations through a better understanding of project requirements as well as the opportunities and constraints companies may face throughout the project cycle.' [Research on Company-Community Conflicts \(International Council on Mining and Metals 2015\)](#)
  - Explain next steps and how the community will be involved and consulted going forward.
  - Clarify which project elements are fixed and which can be changed or improved. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 28 \(International Finance Corporation 2007\)](#)
- ✓ Share information in a timely manner, in languages that communities are able to understand and in a format that makes sense to the local population. Not sharing information may fuel misinformation that can damage a company's reputation and undermine efforts to engage in an informed dialogue with stakeholders ([see 4.3.c.](#)). [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 28 \(International Finance Corporation 2007\)](#)
- ✓ Communicate important information multiple times and in a variety of media to ensure that the message is received and absorbed. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 54 \(OECD 2017\)](#)
- ✓ Communicate the company's expectations and encourage stakeholders to share their expectations during consultation processes in order to ensure that all sides understand each other's positions. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 57 \(OECD 2017\)](#)



## Clarify company and government responsibilities.

- ✓ Agree on the respective responsibilities regarding social investment and compensation with host government authorities at the national and local level ([see 1.2.d.](#)). Communicate this agreement to local communities, explaining what the company can and cannot provide. This will help to ensure that expectations do not become grievances, potentially leading to social conflicts.

## During consultations, build understanding with the community on the issues at stake.

- ✓ Improve communities' understanding of the project so that they have realistic expectations of the benefits that are available to them. In particular, explain the different phases of the project, what are the consequences and opportunities related to each stage of operations, the security and safety implications, and the timelines involved. Also explain the problems that may arise and how the company will work to mitigate them.
- ✓ Ensure communities fully understand their rights in relation to the company's operations, security arrangements and impacts under both local and international law (including, for example, rights related to land, environment, labour, etc.). Also explain the respective responsibilities of the company, government and other stakeholders.
- ✓ Use a variety of channels to deliver information (e.g. booklets, videos, radio, theatre shows, bulletin boards, a public information office established in a nearby village and/or visits to each community) to show how operations will look at each stage and what areas community members cannot access, for safety or property reasons. Indicate where and how many security providers will be stationed, what uniforms they will wear and what equipment they will use. It is also useful to create a to-scale model to show how the site will look after closure, if relevant. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 1:6 \(International Alert 2005\)](#)
- ✓ Consider taking landowners to other sites of operations to gain insights on company operations and better understand their implications.
- ✓ Support [indigenous communities'](#) capacity to engage in decision-making, for example, by providing access to independent expert advice where appropriate, capacity-building, facilitation and mediation, or involving external observers. Capacity-building efforts can be included as an element of an indigenous peoples' development plan, which aims to enhance benefits and minimize the adverse effects of a project on significantly impacted indigenous peoples.

### Key Resource:

- 📖 [Good Practice Guide: Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)

**Establish a company-community committee that would help in managing the relationship throughout the project cycle and resolving conflict before it is exacerbated, as well as being a hub for information about the project.**

Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 4:7 (International Alert 2005)

**From the outset of community consultations, provide detailed information on existing or proposed grievance mechanisms and other mechanisms for accessing remedy (i.e. judicial and non-judicial mechanisms).**

- ✓ Discuss these grievance mechanisms with community members to ensure they are accessible, appropriate and culturally relevant. Also discuss whether any additional mechanisms (e.g. trusted focal points, accessible complaints boxes) are needed, with special consideration to the needs of vulnerable and marginalised groups.
- ✓ Include any grievance mechanisms and remedy mechanisms relevant to the company's security arrangements.

**Use consultations as an opportunity to identify any actual and potential impacts that the company has not previously anticipated (see human rights due diligence). Update risk and impact assessments accordingly.**

**Actively involve communities in drafting impact mitigation and management plans, on the basis of identified risks and impacts.**

Human Rights Impact Assessment Guidance and Toolbox, Phase 4: Impact Mitigation and Management (Danish Institute for Human Rights 2020)

- ✓ Before and during consultations, provide clear, detailed information on any mitigation measures the company has already proposed, designed or considered. Explain these in detail to ensure the community understands both the impacts and the management plan.
- ✓ Discuss proposed mitigation measures with different stakeholder groups to ensure they are appropriate, effective and culturally relevant. Ask whether any measures should be changed or whether new measures are needed. Negotiate appropriate solutions.
- ✓ As necessary, revise the impact mitigation and management plan to ensure community feedback and priorities are placed at the centre.
- ✓ Place particular emphasis on the feedback of groups most affected by the project, as well as vulnerable and marginalised groups (see 4.2.b. and 4.2.d.).
- ✓ Incorporate impacts and mitigation plans related to security arrangements.

**Negotiate in good faith when engaging with communities.**

- ✓ Ensure the terms of negotiations are mutually agreed in advance and conform to legal obligations, including the requirement of renegotiation when circumstances change. Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 49 (OECD 2017)

- ✓ Make it very clear to the community who has the authority to make commitments on behalf of the company to ensure coherence in communications and avoid misunderstandings. [The Voluntary Principles on Security and Human Rights: An Implementation Toolkit for Major Project Sites, p. V-11 \(World Bank Group and Anvil Mining 2008\)](#)
- ✓ Verify, validate and record all final agreements with those present during the negotiations. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 50 \(OECD 2017\)](#)
  - When relevant and possible, support agreements with the use of pictures.
  - Make sure that agreements reached are then translated into local languages and made available to the relevant communities.
  - Publish minutes of meetings.
  - At all times, remain sensitive to literacy challenges and find other accessible ways of making information available to community members.
- ✓ Clarify next steps after the negotiations or dialogue, and agree on who is responsible for implementation and follow-up. [Conflict-Sensitive Business Practice: Guidance for Extractive Industries, flashpoint issue 1:5 \(International Alert 2005\)](#)

#### Key Resources:

- [Five-Step Approach to Stakeholder Engagement \(BSR 2019\)](#)
- [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- [Human Rights Impact Assessment Guidance and Toolbox, phases 2 and 4 \(Danish Institute for Human Rights 2020\)](#)

## C. Information management: Determining what to share in relation to security arrangements

### Good Practices\*

**Determine the types of information that will be shared with communities as early as possible.**

- ✓ Pre-define clear criteria for deciding what, when and with whom to communicate. Ensure these criteria are decided jointly among company departments.
- ✓ Provide relevant information to stakeholders early on, regularly and in a timely manner, ensuring consistency in messaging ([see 4.2.b.](#) and [4.3.b.](#)).

### Important issues for community communication and consultation

Companies should clearly engage with communities to share:

- The company's policies, protocols and plans on safety, security and human rights.
- Relevant findings of risk and/or impact assessments and how they relate to security arrangements.
- Composition of security provision.
- Changes to security arrangements.
- Applicable rules for public security forces and private security providers (e.g. codes of conduct and rules of engagement).
- Rights and responsibilities of security personnel.
- Rights and responsibilities of communities under international law, human rights law and other standards.
- Security concerns that have arisen in the past and how the company is dealing with them.
- Mechanisms available to stakeholders for the resolution of security-related issues and complaints.

### Build communities' capacity to address security and human rights issues ([see 4.3.b.](#)).

- ✓ Use the appropriate language and methods to facilitate communities' understanding (e.g. illustrations, real-life examples). It is important that local communities understand their rights and responsibilities, as well as the rights and responsibilities of security personnel, which include the right of self-defence.
- ✓ Engage with independent third parties (e.g. NGOs, national human rights institutions or academia) that can educate communities on security and human rights issues and act as intermediaries to facilitate communication.

## Establish regular meetings to discuss security-related issues with communities.

- ✓ Organise different kinds of meetings for different purposes, including:
  - Large open meetings for information-sharing purposes ([see 4.2.b.](#)).
  - Smaller meetings with community representatives to discuss security arrangements and find joint solutions to address related concerns and impacts ([see 4.2.c.](#))
  - Joint sports or leisure events, such as sports tournaments between company security and community teams or occasional open houses where community members are invited to come into company compounds. Such events can develop trust and provide an informal setting for communities to learn about company operations, meet staff or bring forward grievances. [Getting It Right: Making Corporate-Community Relations Work, p. 45 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
  - A multi-stakeholder forum to develop a standardised approach to discussing security and human rights issues with the community ([see in-country working groups](#)).
- ✓ Prior to embarking upon substantial consultations, determine the process to be followed and who is to be involved in the dialogue. [A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples, p. 23 \(UN Global Compact 2013\)](#) Jointly agree on a set of principles to guide the discussions and ensure a constructive and effective exchange, such as the need to focus on security-related issues or a rule to speak one at a time.
- ✓ Keep in mind that any human rights or social challenge may become a security issue if left unaddressed. Guide stakeholders to other forums that might exist that address other issues at greater depth (such as environmental challenges).
- ✓ Encourage the participation of representatives of public and private security in community consultations, provided the community feels comfortable discussing security issues in their presence.
- ✓ In situations where community consultation is not possible, consider relevant alternatives, such as consulting credible, independent experts, including [human rights defenders](#) and others from civil society. [UN Guiding Principles on Business and Human Rights, no. 20](#)

## Listen carefully and provide feedback on inquiries ([see 4.2.b.](#)).

- ✓ Ask stakeholders what type of information they want and need, and in what type of format. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 30 \(International Finance Corporation 2007\)](#)
- ✓ Allow communities to voice their concerns on security arrangements. However, remember that in certain circumstances, being involved in these kinds of discussions may present risks for local community members, and they may be not willing to talk. If that is the case, consult with credible third parties that may provide some insights into communities' concerns. Make available confidential/anonymous avenues for participation. Inform stakeholders about the limits to the confidentiality that the company is able to provide.

## Disclosure vs. Non-disclosure of information

When deciding whether or not to disclose certain information, companies should consider the following:

Adopt a 'presumption in favour of disclosure'. According to the International Finance Corporation, this means 'being forthcoming with information whenever possible, especially if there is no compelling reason not to share it'. However, beware of providing so many details that it becomes difficult for communities to discern critical information. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 28 \(International Finance Corporation 2007\)](#)

Ensure that the provision of information does not violate privacy or put stakeholders at risk. Discuss with communities whether there is information that they want to remain confidential. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 49 \(OECD 2017\)](#)

Weigh considerations for non-disclosure against the need for communities and other stakeholder groups to have adequate information in order to protect their interests. As explained by the International Finance Corporation, 'lack of information can lead to the spread of misinformation about a project that can be damaging to a company's reputation [...] and undermine efforts to engage in an informed dialogue with stakeholders'. This could consequently lead to security risks. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 28 \(International Finance Corporation 2007\)](#).

When full transparency is deemed imprudent, the OECD recommends that companies 'provide a valid explanation or justification for why the information has not been shared'. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 40 \(OECD 2017\)](#)

### Key Resource:

📖 [Human Rights Due Diligence in High Risk Circumstances \(Shift 2015\)](#)

## 4.4. Internal alignment and coordination on stakeholder engagement

### A. Senior management buy-in: Securing recognition and resources required for engaging constructively with communities

#### Good Practices\*

##### Internally develop a shared understanding of the value of stakeholder engagement.

- ✓ Ensure senior management understand the risks of not putting in place a long-term sustainable stakeholder engagement strategy (e.g. commercial risks, investor-related risks, reputational risks and legal risks). [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 10–11 \(Shift 2015\)](#) Translate human rights language into other concepts familiar to the company: the languages of business risk, of operational benefits, costs or of technical business processes.<sup>23</sup> In particular, link human rights responsibilities to ESG (environmental, social and governance) criteria.
  - Present data about the costs of community conflicts (e.g. percentage of staff time invested in managing conflict, lost productivity due to delays).
  - Provide case studies on the consequences of poor stakeholder engagement. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 42 \(OECD 2017\)](#)
  - Outline potential legal consequences, especially in light of global trends towards enhanced regulation and mandatory human rights due diligence legislation.

##### Promote greater involvement of senior management in social issues.

- ✓ Express a commitment to meaningful stakeholder engagement in corporate policy and make sure this is endorsed by senior leadership within the company (see 1.3.a.). [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 16 \(OECD 2017\)](#)
- ✓ Create senior, cross-departmental decision-making platforms when operating in high-risk environments (see [centralized data sharing to identify security and human rights risks](#)). [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 12 \(Shift 2015\)](#)
- ✓ Establish a system that promotes the integration of stakeholder views into decision-making at the managerial level. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 18 \(OECD 2017\)](#)
- ✓ Create opportunities for senior management to interact directly with communities, ensuring that company leaders are educated on how to engage in a culturally appropriate way. This is the best way for senior management to understand community concerns and security issues, as well as to make decisions that are mutually beneficial to the company and communities.
- ✓ Ensure potentially serious risks are escalated to senior-level management. [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 12 \(Shift 2015\)](#)

## Integrate human rights compliance and social performance into the bonus structure and career progression for all staff, in particular for senior management.

[Getting It Right: Making Corporate-Community Relations Work, p. 203 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

- ✓ Develop key performance indicators related to community engagement and include these in the performance reviews of all managers.
- ✓ Ensure that work to establish good community relationships is rewarded through the payment and bonus systems of the company.
- ✓ Attach a code of conduct or similar policy for community engagement as an annex to employees' contracts. [Getting It Right: Making Corporate-Community Relations Work, p. 204 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Integrate community issues in company staff career paths by ensuring that all up-and-coming company leaders are assigned a job in the community relations department sometime in their career. [Getting It Right: Making Corporate-Community Relations Work, p. 203 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

### Key Resources:

- [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)
- [Human Rights Due Diligence in High Risk Circumstances \(Shift 2015\)](#)
- [UN Guiding Principles Reporting Framework \(Shift and Mazars 2015\)](#)



## B. Coherent stakeholder engagement: Avoiding conflicting policies and processes

### Good Practices\*

#### Make stakeholder relations a collective responsibility.

Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 103 (International Finance Corporation 2007)

- ✓ Develop a shared understanding of the value of stakeholder engagement ([see 4.4.a.](#)).
- ✓ Communicate the stakeholder engagement strategy internally. Every business unit needs to be aware of the strategy and understand why the company is committing time and resources to it.
- ✓ Provide training to all staff on human rights responsibilities, community relations issues, and related corporate policies and processes.
  - Train new staff members on community issues. Include 'dos and don'ts' for staff and company behaviour and explain the types of services external relations staff can provide to support other departments. [Getting It Right: Making Corporate-Community Relations Work, p. 202 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
  - Train security officers to ensure that the company's approach to security is based on inclusive decision-making and partnership, rather than seeing the communities as a source of risks. [Getting It Right: Making Corporate-Community Relations Work, p. 202 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Involve technical teams and security personnel in dialogue with communities as a way to ensure that community concerns are properly addressed and incorporated into programme design and decision-making, as well as in security arrangements. [Research on Company-Community Conflicts \(International Council on Mining and Metals 2015\)](#)
- ✓ Ensure that good community relationships are rewarded through the company's payment and bonus systems ([see 4.4.a.](#)).

#### Promote alignment and coordination across the company in all decisions and activities that concern or impact stakeholders ([see 4.4.a.](#) and [4.4.c.](#)).

- ✓ Review policies and processes throughout the company and integrate emerging stakeholder engagement good practice. Emphasise that effective stakeholder engagement can play a significant role in supporting effective respect for human rights and international humanitarian law.
  - Ensure corporate policies meet the needs of specific operational context and respect national laws.
  - Review potential legal, regulatory and contractual requirements for stakeholder engagement in close consultation with relevant departments (e.g. legal, public affairs, government affairs).
- ✓ Manage stakeholder engagement as a business function. According to the International Finance Corporation, companies should develop a single well-defined strategy for stakeholder engagement with 'a clear set of objectives, timetable, budget, and allocation of responsibilities' ([see 4.2.b.](#)). [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 8 \(International Finance Corporation 2007\).](#)

- Identify critical points in the project lifecycle where stakeholder engagement will be needed. Determine who will carry out stakeholder consultations and how they can be integrated into core business functions. [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 99 \(International Finance Corporation 2007\)](#)
  - Ensure consistency in company communications to external stakeholders.
  - Establish a system for recording and tracking information relevant to stakeholder engagement.
  - Develop and maintain a register of company commitments. It should contain timeframes for action and assign responsibility to the appropriate individuals, business units and/or implementing third parties (which, in some cases, may be the contractor, an NGO or local government agency).
- ✓ Ensure that internal decision-making, budget allocations and oversight processes enable effective responses to current, emerging and future impacts. [UN Guiding Principles on Business and Human Rights, no. 21](#) This should include the establishment of direct reporting lines to senior management ([see 4.4.a.](#)).
  - ✓ Institute a human rights working group that oversees the day-to-day implementation of the human rights policy, including grievance mechanisms and a remedy system ([see 4.2.e.](#)).
  - ✓ Develop indicators in consultation with human rights experts. Shift explains that such consultation can 'enable ongoing monitoring of human rights risks and of the effectiveness of business processes for identifying and managing those risks'. [Human Rights Due Diligence in High Risk Circumstances: Practical Strategies for Business, p. 9 \(Shift 2015\)](#)
  - ✓ Hold routine 'risk and opportunities' analysis meetings between project managers, relevant experts (e.g. geologists and environmental engineers), community relations personnel and security personnel. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 7 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada, and World Vision Canada 2012\)](#) On the basis of this process:
    - Produce a crisis management plan and an emergency response plan.
    - Build a systematic approach to integrate the findings of impact assessments and act upon them to prevent and mitigate negative impacts ([see human rights due diligence](#)).<sup>24</sup>
  - ✓ Ensure that those company departments that impact human rights are held accountable for their actions.

### Give prominence to the community relations function.

- ✓ Transform the community relations function 'from firefighter to internal service provider'. This means that the community relations function should not be reactive to issues and challenges, but should adopt a more proactive role and resolve issues before they arise. Organise meetings where community relations managers explain their work and the types of assistance they can provide to each department. [Getting It Right: Making Corporate-Community Relations Work, p. 201 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Develop a policy to ensure that all new projects are subject to [human rights due diligence](#) and reviewed by the community relations department before they can be implemented. [Getting It Right: Making Corporate-Community Relations Work, p. 202 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Develop coordination procedures between the company's community relations department and the security department, with the community relations department as the focal point for any interactions with local communities.

- Ensure that the community relations team is constantly kept apprised of any company security assessments and is involved in the design of new security measures, particularly if the latter are likely to have an impact on communities.
  - Ensure the community relations team engages with communities to explain security arrangements and the company's human rights policies, as well as how to report any cases of security-related concerns or grievances ([see 4.3.c.](#)).
- ✓ Establish community liaison offices and ensure liaison officers are known and available to the community. The community relations team should include a mix of locals and non-locals, since sometimes community members may prefer to talk to an 'outsider'.
- Involve communities in the selection of local liaison officers.
  - Sponsor training on cultural understanding, dialogue and mediation skills for community liaison officers. [Research on Company-Community Conflicts \(International Council on Mining and Metals 2015\)](#)
  - The International Finance Corporation recommends that companies ensure community liaison officers 'have the authority to negotiate on behalf of the company. This requires a clear reporting structure and clarification as to which decisions they can take unilaterally, and which are to be passed on to higher levels within the company.' [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 102 \(International Finance Corporation 2007\)](#)
  - Require liaison officers to report all relevant information back to the company.
- ✓ Ensure the community relations budget is realistic. Establish a budget that covers at least the basic systems and protocols. As explained in [Getting It Right: Making Corporate-Community Relations Work](#), this may include 'a local content policy, a community-monitoring mechanism, regular (quarterly) public meetings in communities, an effective grievance procedure, etc.' [Getting It Right: Making Corporate-Community Relations Work, p. 203 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

#### Key Resources:

- [Human Rights Due Diligence in High Risk Circumstances \(Shift 2015\)](#)
- [Getting It Right: Making Corporate-Community Relations Work \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

### Centralized data sharing to identify security and human rights risks

Data that is relevant to security and human rights issues can come from many different parts of the company. Different company departments or operational areas may identify various red flags or contribute to spotting incidents and subsequent negative human rights impacts. These different functions may also play key roles in addressing human rights impacts and community concerns.

It is therefore important to ensure that information is stored centrally so it is accessible by and shared between departments and consistently collected over time. This will also enable headquarters to proactively provide for extra support when needed.

In order to achieve this, companies have developed different approaches. Internal reporting systems help ensure information is collected in a harmonized way and stored centrally. Another approach is to use an external software tool to support streamlined collection of data.

## CASE STUDY

**TotalEnergies security book platform**

Every year in November, TotalEnergies launches their Auto-diagnostic + Risk Assessment (ADRA) campaign. During this process, TotalEnergies identifies countries where operations are exposed to heightened risks relating to security and human rights. The country security officers of these countries receive diagnostic and assessment tools, to be used and returned to the Corporate Security Division, where the data is analysed.

This process allows the company to better understand high-risk operating contexts in order to provide support in case of difficulties or obstacles. Recently, the collection of data within the tools has been moved to an online platform, where they are completed and stored in one central place. This also ensures that the Corporate Security Division and country security officers can access the tools completed in previous years and understand trends and developments in context. The online platform allows users to gather, consolidate, and secure the data received during the ADRA campaigns.

## C. Security contractors: Ensuring compliance with company policies

### Good Practices\*

Consider security contractors' roles and activities as part of the company's risk and impact assessments (see 4.2.a.).

In the request for proposals (RfP), include award criteria related to the private security provider and their security officers, as set out in [section 3.2.a.](#)

- ✓ Award criteria related to the security provider may include:
  - Internal policies (codes of conduct).
  - Knowledge of national and international laws, in particular human rights law and international humanitarian law.
  - Possession of all necessary business licenses.
  - Fair remuneration, working conditions and social benefits.
  - Adequate internal control systems capable of ensuring ethical conduct (e.g. grievance mechanisms).
- ✓ Award criteria related to security personnel may include:
  - Records of past conduct.
  - Training.
  - Records of possession of all necessary permits related to equipment and small arms and light weapons, if relevant and permitted by relevant national laws.

#### Practical Tools:

- 🔧 [A Guidance Tool for Contracting Private Military and Security Services, sections 1.3 and 1.4 \(Geneva Centre for Security Sector Governance 2017\)](#)
- 🔧 [Recommendations for Hiring Private Security Providers \(SociosPerú, PeaceNexus, International Committee of the Red Cross and Geneva Centre for Security Sector Governance 2015\)](#)

Consider the set of criteria laid out in [section 3.2.a](#) for the evaluation of proposals and ensure the community relations team participates in this process.

- ✓ Ensure that contractors' financial proposals include a sufficient budget for community engagement, impact management and other activities that are part of the contractors' responsibilities. This will help to ensure that contractors do not cut corners in social performance as way to reduce expenses once tenders have been awarded.<sup>25</sup>

## Develop a binding contract with each contractor that includes clear clauses on human rights and international humanitarian law ([see 3.2.c.](#)).

- ✓ These clauses should cover:
  - Respect for national laws, international humanitarian law and human rights law.
  - Company human rights standards and policies, including the Voluntary Principles on Security and Human Rights and the International Code of Conduct for Private Security Providers.
  - Performance requirements on stakeholder engagement.
  - Clarity on the company and contractor's respective roles and responsibilities, including the contractor's shared responsibility for dispute resolution with local communities when they have contributed to tensions.

## Develop a coherent stakeholder engagement strategy that considers the role of contractors ([see 4.2.b.](#)).

- ✓ Speak with one voice to the local communities, ensuring consistency in messages.
- ✓ Agree on a procedure for managing community grievances that avoids confusion between the role of the project proponent and the main contractors.<sup>26</sup> Where appropriate, integrate the contractor's grievance mechanism into existing mechanisms. However, there may be instances in which the contractor should have its own functioning grievance mechanism, especially when it prominently interacts with the local community ([see 4.2.e.](#)).
- ✓ Inform local communities about the details of contracts with local contractors, explaining their roles and responsibilities, as well as how to report any security-related grievances. [Getting It Right: Making Corporate-Community Relations Work, p. 102 \(Luc Zandvliet and Mary B. Anderson, Greenleaf Publishing 2009\)](#)

## Offer support to contractors to enhance their capacity to deliver services in compliance with company standards.

- ✓ Train contractors so that they have the adequate knowledge and skills to operate in accordance with effective security and community engagement practices.
- ✓ Share best practices and guidelines, as well as information identified in risk and impact assessments. Explain their relevance and how contractors can use this knowledge in practical, actionable terms.

## Monitor contractors' implementation of social commitments in accordance with the contract.

- ✓ Designate a company representative who is responsible for monitoring and ensuring contractors' compliance with agreed requirements, including social commitments.
- ✓ Hold regular meetings with the contractor to discuss community relations and consider inviting community representatives to participate in these meetings. Be aware that community members may not always feel comfortable publicly sharing their concerns, particularly with security providers present. Discuss community concerns raised through any grievance mechanisms, with care to avoid disclosing any information that might reveal the identity of complainants.

- ✓ Agree on systematic and regular reporting requirements.
- ✓ Ensure clarity on procedures for managing community grievances in order to avoid confusion between the role of the company and that of the contractor. The company can either integrate the contractor's grievance mechanism into existing mechanisms or, if more appropriate, indicate that the contractor has its own functioning grievance mechanism (especially when it prominently interacts with the community) ([see 4.2.e.](#)).
- ✓ Inform local communities about the details of contracts with local contractors, explaining their roles and responsibilities, as well as how to report any security-related grievances.

**If contractors fail to comply with clauses in the contract, consider the following options:**

- ✓ Negotiate a timeline for compliance.
- ✓ Withhold payments as established in the contract until the issue is satisfactorily addressed.
- ✓ Condition an ongoing relationship on performance and provide further, detailed guidance and training, together with regular performance review.
- ✓ Terminate the relationship with noncompliant contractors.

[Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 57 \(International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011\)](#)

## 4.5. Impacts of company operations on the security of communities

### A. Impact on the broader community's security: Ensuring that persons in vulnerable situations have adequate protection

#### Good Practices\*

**Analyse the context and assess risks and impacts regularly (see 2.1.b. and 4.2.a.).**

**Develop a risk and impact mitigation strategy in consultation with local communities and other relevant stakeholders.**

- ✓ This could be part of wider [human rights due diligence](#). Based on the information collected, determine a strategy to prevent, mitigate and address any risks and impacts, with input from community members on the most appropriate and effective approaches. [UN Guiding Principles on Business and Human Rights, no. 18 and 19](#)
- ✓ Prioritise the most serious risks and impacts. Note that the UN Guiding Principles on Business and Human Rights classify severity based on the scale, scope and irremediability of impacts. [UN Guiding Principles on Business and Human Rights, no. 14](#) Where risks or potential impacts are high or extreme, do not start the project or activity until the risks have been reduced or mitigated to an appropriate level. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 18 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada, and World Vision Canada 2012\)](#) CDA explains, 'A company's inability to operate in ways that do not, at a minimum, "avoid harm" should prompt serious consideration of withdrawal from the context.'<sup>27</sup> (For more information, [see 1.2.](#))
- ✓ Conduct a mapping of different security needs in the host communities, adopting a [gendered](#) perspective and taking into account the needs of groups that are particularly at high risk.
- ✓ Ensure the mitigation and management strategy is proportionate to the identified risks and impacts, as well as tailored to the company's involvement in particular risks or impacts. The company generally has a greater responsibility to address issues that it causes or contributes to than issues it is linked to through its business relationships ([see 2.8.d.](#)). [UN Guiding Principles on Business and Human Rights, no. 13](#)
- ✓ Exercise [due diligence](#) to identify and deal with negative legacies. Acknowledge poor practices in the past, apologise publicly for them on behalf of the industry and seek, as far as possible, to remedy past damage (e.g. by rebuilding trust in security providers through clear accountability processes). [Indigenous Peoples and Mining Good Practice Guide, p. 34 \(International Council on Mining and Metals 2011\)](#)
- ✓ Be aware that there are no quick fixes for pre-existing and/or complex conflicts, and a company neither can, nor should, try to address them on its own. [Preventing Conflict in Exploration: A Toolkit for Explorers and Developers, p. 4 \(CDA Collaborative Learning Projects, Prospectors and Developers Association of Canada, and World Vision Canada 2012\)](#)



- ✓ Coordinate with competent authorities to strengthen their ability to respond to heightened risks, ensuring that security measures adopted are appropriate to the risks.
- ✓ Develop joint approaches with other companies in the region to address increases in crime, violence or the presence of armed groups. This could be undertaken via multistakeholder working groups on business, security and human rights ([see in-country working groups](#)).
- ✓ Support non-governmental actors in conducting programmes that prevent and address sexual exploitation and violence against women and children by security actors.
- ✓ Work with key stakeholders through existing multi-stakeholder platforms or develop a multi-stakeholder security forum if none exists ([see In-Country Working Groups as a Tool for Cooperation and Remediation: A Case Study in the Democratic Republic of the Congo](#)).

### Promoting gender-sensitive approaches

Corporate operations may cause **gender-specific** impacts related to the company's activities, its security arrangements or the surrounding socio-economic realities. In order to identify and address these diverse security needs appropriately, companies must develop and integrate gender-inclusive policies and procedures. [Women at Work and War: Integrating Gender and Conflict into Impact Assessment \(Ashley Nancy Reynolds, Impact Assessment and Project Appraisal 2021\)](#)

#### Key steps to achieve this are:

- Undertake gender impact assessments, either as a separate exercise or integrated in wider [human rights due diligence](#).
- Include gender concerns in policy commitments, either via dedicated gender policies or within existing policies (in particular, those related to human rights, human resources, procurement and training).
- Increase gender diversity in all staff departments and levels of leadership.
- Promote women-owned businesses in the supply chain.
- Ensure women are included in community engagement, with special consideration to addressing any barriers to their participation.
- Address gender-based violence, both in the workforce and externally.
- Ensure gender accessibility in grievance mechanisms, noting that women may have different or additional barriers to access than men.

### Carefully monitor the company's business relations, transactions and financial flows.

- ✓ As emphasised by the Human Rights Translated Business Reference Guide, 'Do not enter into or condone protection arrangements with any illegitimate armed actors, particularly in conflict areas or regions with poor human rights records'. [Human Rights Translated 2.0: A Business Reference Guide, p. 12 \(UN Office of the High Commissioner for Human Rights, UN Global Compact and Monash University Castan Centre for Human Rights Law 2017\)](#)

- ✓ Carefully analyse whether the company's operations, supply chain, social investments, local community engagement, etc. might benefit, facilitate or contribute financially (e.g. through extortion) to the activities of armed groups.
- ✓ Regularly discuss the company's expectations and contractual standards with suppliers and contractors. Include clauses in contracts prohibiting human rights violations and illicit payments (see 4.4.c.). Include audit clauses in contracts and, if appropriate, specify in contracts that illicit payments to illegal armed groups may be grounds to terminate the contract. Guidance on Responsible Business in Conflict Affected and High Risk Areas: A Resource for Companies and Investors, p. 15 (UN Global Compact and Principles for Responsible Investment 2010)
- ✓ The UN Global Compact and Principles for Responsible Investment recommend that companies 'develop a rigorous supply chain management system to assess and monitor if and how [...] suppliers obtain resources and raw materials in conflict-affected and high-risk areas.' Guidance on Responsible Business in Conflict Affected and High Risk Areas: A Resource for Companies and Investors p. 14 (UN Global Compact and Principles for Responsible Investment 2010)

#### Practical Tools:

- 🔧 Human Rights Impact Assessment Guidance and Toolbox, phase 4 (Danish Institute for Human Rights 2020)
- 🔧 Preventing Conflict in Exploration Toolkit (CDA 2016)
- 🔧 Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD 2016)
- 🔧 Chinese Due Diligence Guidelines for Responsible Minerals Supply Chains (OECD and the China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters 2015)
- 🔧 Identifying and Prioritizing Human Rights Risks (Shift 2014)

**Establish, maintain and update effective grievance mechanisms (see 4.2.e.).**

## B. In-migration as a result of new employment and business opportunities created by the presence of a company: Avoiding tensions with and within local communities

### Good Practices\*

**Conduct human rights due diligence and update it regularly in consultation with local communities (see 4.2.a.).**

**Develop a risk and impact mitigation strategy that is adapted to the local context. This should be part of the wider human rights due diligence procedures in place to prevent, mitigate and address any negative human rights impacts (see 4.5.a.).**

**Develop a local content strategy.**

- ✓ Define 'local'. Agree with local communities on the definition of who should be considered local for the purpose of employment and stakeholder engagement. However, be aware of biases in defining which communities are considered 'local'. Avoid excluding groups or communities and exacerbating or creating social tensions. Seek to identify any communities that may have been overlooked (e.g. camps of refugees or internally displaced persons). Getting It Right: Making Corporate-Community Relations Work, p. 79 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009)
- ✓ Maximise employment opportunities for local people.
  - Establish a minimum quota of local staff for the company, as well as for its contractors and security providers.
  - Be clear about the number and type of jobs available in the company.
  - Be transparent about hiring criteria and publicly commit to hiring local community members to the greatest extent possible. Getting It Right: Making Corporate-Community Relations Work, p. 79 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009) Consider why local community members might not be qualified for certain jobs and consider implementing training, educational initiatives and/or other measures to address these gaps.
  - Ensure that hiring practices are inclusive for women, ethnic minorities, indigenous peoples and any other vulnerable or marginalised groups.
- ✓ Support training to increase local communities' long-term job opportunities.
  - At early stages of operations, perform a survey of trades, industries and opportunities within the region to determine where gaps exist in vocational skills. Also identify potential partner organisations to collaborate with on skills training.
  - Begin vocational skills training at an early stage of investment.
  - Where possible, aim to provide official diplomas or certifications attesting to participants' skills and training. Getting It Right: Making Corporate-Community Relations Work, p. 80 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009)
  - Provide youths with scholarships and apprenticeships in relevant fields. Getting It Right: Making Corporate-Community Relations Work, p. 80 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009)

- ✓ Develop or support programmes to help local people identify and take advantage of business opportunities. This could include establishing business development centres, setting up microcredit programmes and/or serving as guarantors with local banks to help local entrepreneurs obtain access to credit. [Getting It Right: Making Corporate-Community Relations Work, p. 81 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Consider establishing programmes where company representatives teach specific skills (e.g. business administration, accounting, business development planning, human resources management) to emerging local businesses.
- ✓ Keep in mind that company operations may not be permanent and adapt vocational training accordingly.

### **Institute an in-migration management plan at an early stage of investment.**

[Getting It Right: Making Corporate-Community Relations Work, p. 54 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

- ✓ Involve representatives of all stakeholder groups (e.g. local communities, civil society organisations and representatives of national, regional and local authorities) in the development of the in-migration management plan.
- ✓ Develop programmes and support discussions that help communities anticipate and prepare mentally for the changes they will experience from the influx of migrants, especially where existing ethnic, religious, social or gender dynamics may be upset by an influx of male workers. [Getting It Right: Making Corporate-Community Relations Work, p. 54 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ For crowd control, avoid practices that may attract excessive numbers of people to the area of operations (e.g. avoid hiring people at the company gate). [Getting It Right: Making Corporate-Community Relations Work, p. 54 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Mitigate the impact of non-local jobseekers on the host community, by, for example, ensuring local infrastructure is strengthened as part of the in-migration management plan. [Getting It Right: Making Corporate-Community Relations Work, p. 54 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)
- ✓ Support non-governmental actors in programmes that aim to prevent and address sexual exploitation and violence against **women** and children.
- ✓ On the basis of risk assessments and human rights due diligence findings, look for appropriate ways to strengthen and support community security mechanisms, in collaboration with the police and/or other community-based entities.

#### **Key Resources:**

- [Community Development Toolkit, management tool no. 17 \(International Council on Mining and Metals 2012\)](#)
- [Getting It Right: Making Corporate-Community Relations Work \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

## C. Company safety and security measures: Avoiding the perception that the company sees and treats communities as a security threat

### Good Practices\*

#### Ensure that security arrangements convey openness and accessibility.

Getting It Right: Making Corporate-Community Relations Work, p. 45 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009)

- ✓ Keep conspicuous and heavy-handed displays of protection to a minimum (e.g. avoid overt militarisation, displaying weapons, cars with blackened windows or convoys that drive fast through populated areas without stopping). Getting It Right: Making Corporate Community Relations Work, p. 45 (Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009)
- ✓ Explore all possible ways to lessen the impact of security measures (e.g. build a safe pathway across the company site if the usual pathway has been closed due to operations).
- ✓ Before contracting with private security providers, determine whether there are cultural or ethnic sensitivities associated with their deployment in the area of operations. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 50 (International Council on Mining and Metals, ICRC, International Finance Corporation and IPIECA 2011)
- ✓ Where possible, employ women as security guards or interlocutors to facilitate women's access to the company.
- ✓ Employ people from local communities that speak local languages.
- ✓ Consider inviting community members to observe select training sessions for public and/or private security.
- ✓ Encourage security personnel to attend select community meetings so they can gain a better understanding of community issues (provided this does not deter community members from attending). Ensure there are ample opportunities for engagement without company security in attendance.

#### Ensure alignment between the company's stakeholder engagement strategy and security policies and practices.

- ✓ Educate personnel across all company departments on the stakeholder engagement strategy (see 4.2.b.).
  - Ensure communities are not treated as a threat, but as partners.
  - Emphasise to all company staff understand that the company is hosted by the communities and that they should be treated respectfully at all times.
- ✓ Develop coordination procedures between the company's community relations department and the security department, with the community relations department as the focal point for any interactions with local communities (see 4.4.b.).

## Discuss security measures regularly with local communities and work together to address any security-related impacts ([see 4.3.c.](#) and [4.5.a.](#)).

- ✓ Share information in a timely manner, in languages that communities are able to understand and in formats that makes sense to the local population.
- ✓ Assure people that to the best of the company's ability, the information they provide about security issues will be treated confidentially to protect their privacy, unless they want it to be shared publicly. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 53 \(OECD 2017\)](#)

### Key Resource:

- 📖 [Due Diligence Guidance for Meaningful Stakeholder Engagement \(OECD 2017\)](#)

## D. Public security assigned to company operations: Managing the perception that it benefits the company and not the community

### Good Practices\*

**Ensure public security forces understand their mandate (see 2.2.a.).**

**In areas of the community where there is insufficient public security presence, work with public security management to strengthen law enforcement.**

- ✓ Agree with public security on security measures that are appropriate to respond to local risks. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 38 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011) Take into account that security measures which are conspicuous and heavy-handed could damage the trust of the community, thereby heightening security risks rather than reducing them. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 20 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011)
- ✓ Encourage public security forces to appoint their own community liaison.

**Publicly condemn violence against civilians in the region where the company operates.**

Manual: Conflict Sensitivity Due Diligence for Timber Companies in the Congo Basin, p. 33 (Swisspeace 2013)

**Discuss security arrangements with communities (see 4.3.c. and 4.5.c.).**

- ✓ Explain the purpose of security arrangements to communities and engage communities in discussions about how to improve security practices.
- ✓ Encourage the participation of a representative of public security forces in select community consultations. Voluntary Principles on Security and Human Rights: Implementation Guidance Tools, p. 41 (International Council on Mining and Metals, International Committee of the Red Cross, International Finance Corporation and IPIECA 2011) Ensure there are ample opportunities for engagement without public security in attendance.
- ✓ Encourage social interaction between public security, company staff and local communities, such as regular fairs, sports tournaments, development of joint exercises, etc.
- ✓ Work with key stakeholders through existing multi-stakeholder platforms or develop a multi – stakeholder security forum if none exists (see in-country working groups).

## Monitor stakeholder perceptions regarding the project.

- ✓ Conduct regular surveys or assessments on community perceptions of the project, security arrangements and company relationship with public security, possibly independently administered. Use the same set of questions over time to maintain continuity and measure any changes (see 4.2.a). [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 108 \(International Finance Corporation 2007\)](#)
- ✓ Use the grievance mechanism to address concerns before they escalate (see 4.2.e.).
- ✓ Consult with credible and knowledgeable third parties to gain insights into communities' concerns.
- ✓ Where perceptions have become more negative, open a dialogue with stakeholders as to why and how this can be addressed.

## Key factors that can feed perceptions about company relationships with public security

The physical location of public security barracks/stations (e.g. whether these are close to a project site).

Close cooperation, memoranda of understanding, security agreements and/or regular interaction with public security forces. Agreements or close relationships between the company and public security may create misunderstandings regarding the mandate of public security.

Logistical, financial and/or in-kind support provided by the company to public security forces.

### Practical Tool:

- 🔧 [Understanding Company–Community Relations Toolkit \(International Council on Mining and Metals 2015\)](#); offers a template for a community support assessment

### Example:

- 📖 [Case Study: Impact Of The South Kivu Voluntary Principles Working Group – Bitale](#)



## E. Threats to the livelihood of local communities: Preventing tensions and conflict resulting from company operations

### Good Practices\*

**Before commencing new projects, carry out human rights due diligence that assesses company impacts on local livelihoods (see 4.2.a.). Update this assessment regularly.**

- ✓ Ensure the assessment reflects seasonal activities that may vary throughout the year.

**Conduct a stakeholder mapping exercise in the area of operations (see 4.2.b.).**

**To address impacts on livelihoods, consider developing the following measures in collaboration with affected stakeholders.**

- ✓ Engage with the host government to ensure community interests and needs are taken into account when developing a resettlement action plan for affected stakeholders. This should include finding alternative hunting, fishing and/or farming areas nearby to minimise the impact on livelihoods.
- ✓ Establish an alternative livelihoods programme, including scholarships and/or training, that facilitates access to other employment opportunities. Initiate the process of developing the programme at early stages of investment, in consultation with development agencies, government agencies, communities, marginalised groups, NGOs and civil society organisations.
- ✓ Employ affected stakeholders that qualify for jobs at the company (e.g. artisanal miners).
- ✓ Procure goods and services locally and help local businesses qualify for tenders.
- ✓ Cooperate with efforts to formalise the artisanal and small-scale mining (ASM) sector.
  - Support efforts by the host government to professionalise and formalise the artisanal mining sector, such as through the establishment of cooperatives, associations or other membership structures.
  - Engage with ASM associations and explore the possibility of reserving an area of the company's concession for artisanal mining, whereby portions of the concession are subleased to small-scale miners who operate as sub-contractors to the company.
  - Support certification efforts that raise artisanal miners' compliance with human rights and labour standards and enable their access to the global market.
- ✓ Engage with other companies operating in the area to develop an impact mitigation plan that addresses the loss of livelihoods, especially in cases of cumulative impacts.

**Ensure that public and private security are trained on how to deal with the unauthorised presence of community members in the company's concession. Training should address the exposure to bribes (see 2.5. and 3.6.).**

- ✓ In mining contexts, ensure security is trained on how to address artisanal and small-scale miners seeking access to the concession in exchange for mining products or other benefits.

## CASE STUDY

**Artisanal mining at the Mutoshi mine in Kolwezi, Democratic Republic of the Congo**

The pilot artisanal and small-scale mining (ASM) formalization project at the Mutoshi mine in Kolwezi, Democratic Republic of the Congo, is an example of how well-managed community relations reduce the need for complex security arrangements. Prior to the Mutoshi ASM Formalization project, the mining operating company, Chemaf, experienced some extremely violent interactions with the local mining community, including a situation in which senior Chemaf managers were held hostage by artisanal miners.

With the provision of land dedicated for artisanal mining on the Chemaf concession, as well as the development of the Mutoshi ASM production standards that were implemented with the help of the local mining cooperative (COMIAKOL), community relations started to improve. 5,000 miners had access to the Mutoshi pilot, which ensured safe working conditions through a semi-automatic extraction method and open pit mining. Chemaf's mechanical preparation of the mining sites with earth-moving equipment has made the use of dangerous tunnels or deep pits unnecessary. Workers have worked in shifts limited to 8 hours, and have been provided with personal protective equipment. Further unsafe situations are addressed by rules on alcohol, entry of children and re-assignment of pregnant workers.

The pilot formalization project was a close collaboration between the site's buyer, Trafigura, who initiated it; the mining operating company Chemaf; the local cooperative on the site; and an external NGO and a sustainability specialist that acted as third-party assessors. The close cooperation was key to successful implementation of the ASM production standards: through involvement of these various parties' close collaboration, communication and trust-building was possible.

Mutoshi closed with the onset of the Covid pandemic, but its lessons will be scaled at several new pilot sites. These new sites are supported by the Entreprise Générale du Cobalt, a new State entity that has the monopoly over buying and selling ASM cobalt from the Democratic Republic of the Congo.

The Entreprise Générale du Cobalt published responsible sourcing standards for ASM cobalt in March 2021, which were informed by the lessons at Mutoshi.

## 4.6. Communities' impacts on company security

### A. Frustration and obstruction from communities: Managing tensions and addressing actors fuelling social conflicts

#### Good Practices\*

**Conduct human rights due diligence and update it regularly (see 4.2.a.).**

**Undertake a stakeholder mapping and analysis (see 4.2.b.).**

- ✓ Clearly identify stakeholders' interests and perspectives regarding the project to identify potential ways of reducing tensions. Pay particular attention to vulnerable and marginalised groups.
- ✓ Identify possible conflicts of interests between stakeholders. [Getting It Right: Making Corporate-Community Relations Work, p. 26 \(Luc Zandvliet and Mary B Anderson, Greenleaf Publishing 2009\)](#)

**Develop a stakeholder engagement strategy and build community support for the project without raising unrealistic expectations (see 4.2.b.).**

- ✓ Develop a long-term social investment plan together with local communities.
- ✓ Consider offering incentives to company staff that demonstrate a consistent track record of promoting respect for the community.

**Engage constructively with people opposing the project.**

- ✓ Reach out to those opposing the project and renew invitations to engage in good faith. The OECD says that companies should 'avoid making public statements questioning the work of such groups or blaming them for any supposed delays or other disruptions to the project'. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 56 \(OECD 2017\)](#)
- ✓ Identify constructive leaders who advocate for non-violent approaches and engage them early on. Cooperate with these leaders to identify community needs and the proper way to address the impacts of operations. Ensure leaders from all marginalised and groups in vulnerable situations, as well as demographic segments of the population (e.g. different ethnic and religious groups), are consulted.
- ✓ Do not treat communities as a threat, or they will become a threat. Legal actions against community members could result in further exacerbating the situation and contribute to the criminalisation of non-violent **human rights defenders**. [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 56 \(OECD 2017\)](#)

- ✓ Ask the community whether they would be interested in developing a community consultative committee that the company can meet on a regular basis in each community.
- ✓ Where necessary, identify reliable independent third parties who are trusted by the community to act as mediators.

### **Engage with national and local authorities to address communities' needs (see 1.2.d.).**

- ✓ Swisspeace recommends that companies 'discuss the different roles of the state and the company in building, providing and maintaining basic services'. Clarify these roles and responsibilities to the local community. [Manual: Conflict Sensitivity Due Diligence for Timber Companies in the Congo Basin, p. 36 \(Swisspeace 2013\)](#)
- ✓ Encourage and support programmes led by the government and/or development agencies to support economic development in the country and the region where the operations are taking place. In doing so, consider whether any groups have been excluded from development processes.
- ✓ Coordinate with the authorities to ensure that social investment programmes led by the company are aligned with the objectives of broader national or regional development programmes.

#### **Key Resource:**

- [Community Development Agreements \(IPIECA 2019\)](#)

### **Monitor changes in the quality of stakeholder relationships.**

#### **[Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 107 \(International Finance Corporation 2007\)](#)**

- ✓ Conduct regular surveys or assessments on community perceptions of the project, security arrangements and company relationship with public security, possibly independently administered. Use the same set of questions over time to maintain continuity and measure any changes (see 4.2.a.). [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 108 \(International Finance Corporation 2007\)](#)
- ✓ Use grievance mechanisms to identify concerns early on (see 4.2.e.).
- ✓ Consult with credible and knowledgeable third parties to gain insights into communities' concerns.
- ✓ Where perceptions have become more negative, open a dialogue with stakeholders as to why this is the case and how issues can be addressed.

#### **Practical Tool:**

- 🔧 [Understanding Company–Community Relations Toolkit \(International Council on Mining and Metals 2015\)](#)

## B. Illegal access to a company's property or grounds: Managing security threats

### Good Practices\*

#### Conduct a baseline study and a risk assessment and update them regularly (see 4.2.a.).

- ✓ Consult local staff on trends regarding illegal activities.
- ✓ Understand why trespassers may want to gain access to the company's property or grounds, since this may help in finding ways to mitigate this risk. For example, in the case of artisanal and small scale miners, it is important to understand whether they are local artisanal miners who, after the company's acquisition of the land, no longer have an area to operate (see 4.5.e.), or whether they are individuals who came to the project site from elsewhere for the purpose of carrying out illegal activities. Understand why this criminality exists and whether there are community engagement or artisanal mining formalisation support measures that could reduce criminality.
- ✓ Assess the different risks faced by men and women working as company security, considering in particular the risk of **gender**-based violence.

#### Adjust security arrangements to prevent and mitigate security risks, as well as minimise the need for the use of force.

- ✓ Discuss security arrangements with public security management (e.g. agree on appropriate rotation of public security forces) and support government efforts to strengthen law enforcement in alignment with the Voluntary Principles on Security and Human Rights (see 2.1.)
- ✓ Employ well-trained and equipped private security providers who are prepared to respond to threats effectively with the minimal possible use of force (see 3.6., 3.7. and 3.8.).
- ✓ Reduce the range of scenarios where security personnel operate individually and equip guards with 'emergency buttons'.
- ✓ Consider prohibiting security providers from carrying small arms, light weapons or other lethal weapons. Ensure that security providers understand how less-lethal weapons can be lethal in certain circumstances or if used improperly.
- ✓ Ensure that security providers understand that they are only permitted to use deadly force in the event of a threat of death or grave bodily injury to themselves or others.
- ✓ Ensure security arrangements are proportionate to risks/threats.
- ✓ Monitor security personnel through a variety of means to avoid collusion between security personnel and trespassers. Consider using radio networks, CCTV visual monitoring, daily inspections and unannounced physical site inspections (see 3.9.a.).
- ✓ Address the risk of bribery and pressure on security personnel by outsiders wanting access to the mine, in particular if security personnel comes from the surrounding communities.
- ✓ Conduct a lessons learned exercise after an incident has taken place and, if appropriate, use the incident for practical exercises in future trainings.

### Discuss security issues with communities on a regular basis (see 4.3.c.).

- ✓ Reach out to groups opposing the project and renew invitations to engage in good faith. (see 4.5.a.). [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 92 \(OECD 2017\)](#)
- ✓ Work with key local stakeholders to develop a multi-stakeholder security forum (see [in-country working groups](#) and [Case Study: Impact of the South Kivu Voluntary Principles Working Group in the Democratic Republic of the Congo](#)).
- ✓ Consider whether and how to engage local communities in the after-incident assessment and in developing a risk mitigation plan (see 4.5.a.).
- ✓ Work with civil society organisations to help raise awareness among communities of their own responsibilities with respect to the presence of company operations.

### Review the company's social investment strategy.

- ✓ Optimise benefits for the local population so that they view a successful operation as more lucrative than illegal activities directed against the company.
- ✓ Work with the national, regional and/or local authorities to address the social and economic incentives of illegal activities in or around the company's grounds.

#### Key Resource:

- [IRMA Standard for Responsible Mining, chapter 2.3 \(Initiative for Responsible Mining Assurance 2018\)](#)

*\*These good practices are not meant to be prescriptive. It is up to the user to evaluate whether they could be feasible, useful and appropriate to the local context in a specific situation on the ground.*

1. [Costs of Company-Community Conflict in the Extractive Sector \(Rachel Davis and Daniel M Franks, Harvard Kennedy School, Shift and the University of Queensland 2014\)](#)
2. Challenges related to the role of the host government are addressed in Chapter 1 of this Toolkit.
3. [Community Development Toolkit, p. 129–130 \(International Council on Mining and Metals 2012\)](#)
4. [Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law, p. 20 \(International Committee of the Red Cross 2006\)](#)
5. [Community Grievance Mechanisms in the Oil and Gas Industry, p. 23 \(IPIECA 2015\)](#)
6. [Engaging Stakeholders on Children’s Rights: A Tool for Companies, p. 13 \(UNICEF 2014\)](#)
7. [Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, p. 36 \(Shift and the Institute for Human Rights and Business 2013\)](#)
8. [Engaging Stakeholders on Children’s Rights – A Tool for Companies, p. 6 \(UNICEF 2014\)](#)
9. [Gender Dimensions of Artisanal and Small-Scale Mining: A Rapid Assessment Toolkit, p. 14 \(World Bank 2012\)](#)
10. [Advice No. 4 – Thematic Advice of the Expert Mechanism on the Rights of Indigenous Peoples, p. 39 \(UN Office of the High Commissioner for Human Rights 2013\)](#)
11. [Indigenous Peoples’ Rights and Business in Myanmar, p. 25 \(Institute for Human Rights and Business, Myanmar Centre for Responsible Business and the Danish Institute for Human Rights 2016\)](#)
12. [FPIC and the Extractive Industries: A Guide to Applying the Spirit of Free, Prior and Informed Consent in Industrial Projects, p. 22 \(International Institute for Environment and Development 2013\)](#)
13. [Performance Standard 7 – Indigenous Peoples, p. 4 \(International Finance Corporation 2012\)](#)
14. [Making Free, Prior & Informed Consent a Reality: Indigenous Peoples and the Extractive Industry, p. 17 \(Cathal Doyle and Jill Cariño, PIPLinks 2013\)](#)
15. [Indigenous Peoples’ Rights and Business in Myanmar, p. 29 \(Institute for Human Rights and Business, Myanmar Centre for Responsible Business and the Danish Institute for Human Rights 2016\)](#)
16. [Making Free, Prior & Informed Consent a Reality: Indigenous Peoples and the Extractive Industry, p. 20 \(Cathal Doyle and Jill Cariño, PIPLinks 2013\)](#)
17. [Community Development Toolkit, p. 77 \(International Council on Mining and Metals 2012\)](#)
18. [Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned, p. 27 \(Caroline Rees, Harvard Kennedy School 2011\)](#)
19. [Assessing the Effectiveness of Company Grievance Mechanisms: CSR Europe’s Management of Complaints Assessment \(MOC-A\) Results, p. 19 \(CSR Europe 2013\)](#)
20. [Pillar III on the Ground: An Independent Assessment of the Porgera Remedy Framework, p. 8 \(Enodo Rights 2016\)](#)
21. [Community Grievance Mechanisms in the Oil and Gas Industry, p. 58 \(IPIECA 2015\)](#)
22. [Bringing a Human Rights Lens to Stakeholder Engagement, p. 14 \(Shift 2013\)](#)
23. [Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, p. 42 \(Shift and the Institute for Human Rights and Business 2013\)](#)
24. [Socio-Economic Assessment Toolbox \(SEAT\), version 3, p. 123 \(AngloAmerican 2012\)](#)
25. [Briefing Note 2: Involving Large Contractors in Enhancing Social Performance During Construction, p. 2 \(ODI 2004\)](#)
26. [Briefing Note 2: Involving Large Contractors in Enhancing Social Performance During Construction, p. 2 \(ODI 2004\)](#)
27. [Business and Armed Non-State Actors – Dilemmas, Challenges and a Way Forward, p. 21 \(Ben Miller, Dost Bardouille and Sarah Cechvala, CDA Collaborative Learning Projects 2014\)](#)

# ANNEX: Factsheets





## Complex environments

### Why is this issue important in relation to effective security and human rights risk mitigation?

As a starting point for any risk assessment and mitigation strategy, companies should analyse the operational context when opening or deciding to maintain operations in a particular environment. This analysis helps companies understand the risks to their operations and personnel, as well as the risks of exacerbating conflict and contributing to human rights abuses.

The term ‘complex environments’ captures a range of operational contexts where social tensions or armed conflicts occur and where governance and the rule of law are weak or serving narrow interests. The term incorporates the following concepts:

- **Conflict-affected and high-risk areas (CAHRAs):** ‘CAHRAs are identified by the presence of armed conflict, widespread violence or other risks of 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, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and wide-spread violence. Such areas are often characterized by widespread human rights abuses and violations of national or international law.’<sup>1</sup> Recently, the European Union’s Conflict Minerals Regulation has been requiring EU companies importing tin, tantalum, tungsten and gold from CAHRAs to conduct heightened due diligence. A list of CAHRAs has been developed for the European Union and is available [here](#).
- **Armed conflict situations:** Regions or countries experiencing international armed conflicts, (opposing two or more States), and/or non-international armed conflicts, (between governmental forces and non-governmental armed groups, or between such groups only).

<sup>1</sup> This concept was originally defined in the [OECD Due Diligence Guidance for Responsible Mineral Supply Chains in 2016](#).

- **Fragile and conflict-affected States/settings:** States/settings in which the political environment is extremely polarised and divided due to a lack of trust among political actors. This lack of trust often has its origins in violent conflict.
- **Fragile/weak/failed states:** Political and social scientists use a range of terms to describe countries with weak rule of law and governance.

## Complex environments: What should companies do?

**Keep in mind that categorizing an operational environment may at times be challenging.** The operational environment can change quickly, it may include different levels of complexity and spillovers of conflict or violence can occur from one region to another.

**Implement increased duty of care and heightened human rights due diligence according to the security context.** Security incidents, violations of international law, human rights abuses, and company-community conflicts are far more likely in complex environments. If unprepared, companies and their security providers will potentially aggravate the situation.

In particular:

- Ensure open and transparent communication, early and meaningful engagement with community members.
- Implement a conflict risk analysis and mitigations strategies to monitor complex environments for signs or warnings of [armed conflict](#).
- Comply with international humanitarian law (IHL) when a situation develops into an armed conflict.
- Participate actively in in-country working groups on business, security and human rights (such as Voluntary Principles Working Groups) which may also have regional chapters.
- Implement and promote a company grievance mechanism and ensure its availability to all community members.
- Consider stopping the investment in existing projects, expansion, or new projects, in a certain region/area according to the complexity of the security environment.
- In the exit strategy of the company, take into account sudden changes in security risks, especially if there is a situation of armed conflict or the presence/actions of the company or its security personnel contributes to human rights abuses. Companies could develop contingency plans for responsibly pausing operations, evacuating staff, ensuring the safety of community members.

### Examples of good practices

Despite operating in an area without any ongoing armed conflicts, an infrastructure company in southern Europe considered the broad and changing conflict context of the region in its risk identification. As a result, it developed a set of scenarios, each more serious than the last, and measures that would correspond to the level and type of risk identified, based on the Voluntary Principles on Security and Human Rights.

A mining company operating in a country experiencing significant levels of social unrest used practical guidance from International Alert's conflict-sensitive business practices to gain insight into the pre-existing conflict and to understand how the company might exacerbate existing tensions. This presents a more accurate view that while company actions have a bearing on the conflict, there are also pre-existing factors at play beyond their control.

Source: *Human Rights Due Diligence in Conflict Affected Settings: Guidance for Extractive Industries (International Alert, 2018)*

#### Resources:

- [Business, Human Rights, and Conflict-Affected Regions: Toward Heightened Action \(UN Working Group 2020\)](#)
- [Regulation \(EU\) 2017/821 of the European Parliament and Council of 17 May 2017 laying down supply chain due diligence obligations for Union Importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk area \(EU 2017\)](#)
- [Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas, Third Edition \(OECD 2016\)](#)

#### On determining risk factors:

- [UN Framework of Analysis for Atrocity Crimes : A Tool for Prevention \(UN 2014\)](#)
- [Commission Recommendation 2018/1149 on non-binding guidelines for identification of conflict-affected and high-risk areas and other supply chain risks under Regulation \(EU\) 2017/821report on supply chain due diligence \(EU 2018\)](#)
- [Research on Company-Community conflict \(International Council on Mining and Metals 2015\)](#)

#### On investing in fragile states:

- [Responsible Investment in Fragile Contexts \(World Economic Forum 2016\)](#)
- [Fragile States: Briefing Paper \(Amnesty International\)](#)
- [International Peace Information Service Conflict Mapping Tools and Database \(IPIS\)](#)

#### On human rights considerations when deciding to exit:

- [Should I Stay or Should I go ? Exploring the Role of Disengagement in Human Rights Due Diligence \(Centre for Research on Multinational Corporations 2016\)](#)



## Gender and security

### Why is gender important in relation to effective security and human rights risk mitigation?

Compared to men and boys, women and girls experience disproportionately the potential negative effects of business operations in complex environments. Both industrial and artisanal business operations can trigger specific gendered impacts and underlying gender inequalities are often compounded and made more acute with the growth of business activities in a wide range of sectors.

There are two main gender-related dimensions to company operations – the impacts on women and girls in the community and the impacts on the workforce. Where a company’s workforce is drawn from the local community, these two elements are often linked.

In many operational contexts, security providers have negatively impacted women’s day-to-day lives: from blocking access to means of livelihood, farming or other work areas and water sources, to cases of sexual and gender-based violence. Furthermore large footprint businesses can cause a change in the characteristics of the local population, as for example in the case of new mining sites when they result in the in-migration of a transient male workforce, thereby changing gender dynamics in the community and potentially leading to social problems such as domestic violence or increase in sex work.

### Gender and security: What should companies do?

**Conduct gender-sensitive human rights due diligence and integrate a gender-sensitive approach in the business practices.** In particular:

- Conduct a gender risk and impact assessment that can either be part of a wider human rights impact assessment or a separate exercise. The gender and security risks and impacts identified should inform the security assessment and subsequent plan.

- Explicitly include women in the stakeholder engagement strategy. Efforts should be made to accommodate specific needs women may have in order to participate (e.g. appropriate communication channels; female interlocutors).
- Formalize the company's commitment to equality and non-discrimination in its policy documents. This can be done by developing a standalone gender or anti-discrimination policy and/or integrating gender considerations within existing policies in all sectors.
- Consider if the actions of company security providers – be they public security or private security – have a disproportionately negative impact on women.
- Ensure that training of security providers includes specific modules as well as cross-cutting references to gender-sensitivity, prevention of sexual exploitation and gender-based violence, and reporting on incidents.
- Ensure gender accessibility in grievance mechanisms, noting that women may have different or additional barriers to access to remedy than men (e.g. women enjoying less independent financial means; women being more prone to retaliation within their families; women suffering higher percentages of illiteracy; women benefiting from less time or capacities to access the grievance mechanism procedures).

**Implement policies for non-discrimination and gender equality** with respect to access to employment and working conditions, including gender-sensitive labour conditions for women employees. Ensuring equitable and nondiscriminatory hiring practices prevents grievances and labour disputes which may intensify and evolve into security incidents. Additionally, there is mounting evidence of the vast benefits in business performance thanks to having more women in the workforce.<sup>2</sup> Furthermore, women should be included as part of the security forces deployed around company operations. Experience from the public security sector is evidence that a more diverse workforce is more effective, and that women can bring particular skills to security work.<sup>3</sup>

## Examples of good practices

With respect to gender impact assessments, a main street fashion brand undertakes an annual process to identify the most salient human rights impacts in its supply chain. The brand has identified gender, security and human rights issues as one of its top challenges, noting particular countries and regional hot spots where it seeks to take action. This risk identification and mitigation exercise has led the brand to undertake various actions to increase women's financial independence and raise awareness on health and safety, reproductive health, malnutrition, and gender-based violence.

In the extractives sector, the Responsible Mining Foundation conducted a study of the results of the Responsible Mining Index and noted isolated cases of progress on business, gender and human rights. For example, it found that BHP, Newmont, Goldcorp, AngloGold Ashanti, and Anglo American all had set gender parity targets, either across their companies or at the management level; it also found that three companies (CODELCO, AngloGold Ashanti, and Exxaro) followed through on their commitment to provide gender-appropriate personal protective equipment (PPEs) to women miners; it additionally found that Barrick Gold Corporation developed systems to prevent sexual violence. Further efforts should be pursued to monitor and encourage companies to improve their gender and human rights approaches and to share their experiences as a means of encouraging other companies to do the same.

Source: [\*Gender Research Insight RMF 2019\*](#)

<sup>2</sup> [Private Military and Security Companies and Gender Geneva Centre for Security Sector Governance 2008](#) p. 3 and 4.

<sup>3</sup> Evidence and examples are presented throughout the [Geneva Centre for Security Sector Governance, OSCE/ODIHR, UN Women Gender and Security Toolkit](#); see, in particular, [Tool 2: Policing and Gender](#).

**Practical Tools:**

- [!\[\]\(5ba1bc70d78f05c00988641e5e513c62\_img.jpg\) Toolkit of Actions and Strategies for Oil, Gas, and Mining Companies IFC 2018](#)
- [!\[\]\(0d3dd579ab24f8020cd6c2659f3acb8c\_img.jpg\) A Guide to Gender Impact Assessment for the Extractive Industries Oxfam 2017](#)
- [!\[\]\(77aacc67724f470ed5556217e9f1530a\_img.jpg\) Gender Equality in Codes of Conduct BSR 2017](#)
- [!\[\]\(2f0a16d48331670e3ba1ef62cc117e02\_img.jpg\) OECD Due Diligence Guidance for Meaningful Stakeholder Engagement 2017 Annex C](#)
- [!\[\]\(f54e37e084c1f0536e5af6fd7937c2e4\_img.jpg\) UN Global Compact The Women's Empowerment Principles Gender Gap Analysis Tool \(only members\)](#)
- [!\[\]\(c79dc11ec47786281cf0341daa788e56\_img.jpg\) Corporate Guide to Gender-Responsive Procurement](#)

**Key Resources:**

- [!\[\]\(065aacad479feea1b3f501fa02b79a7a\_img.jpg\) Gender and Security Toolkit Geneva Centre for Security Sector Governance 2020](#)
- [!\[\]\(f90d8b6badff022f4fa9e71b17a20969\_img.jpg\) Guidelines for Private Security Providers on Preventing and Addressing Sexual Exploitation and Abuse ICoCA 2020](#)
- [!\[\]\(aedc732acbf023768f1c9cdaebdbc316\_img.jpg\) Policy Brief Guidance: Gender and Private Security Regulation \(Geneva Centre for Security Sector Governance, OECD/ODIHR, UN Women 2020\)](#)
- [!\[\]\(76d395b5ba40c2fcb8efc1d8802b90f2\_img.jpg\) Making Women Workers Count: A Framework for Conducting Gender-Responsive Due Diligence in Supply Chains BSR 2019](#)
- [!\[\]\(958302261281a004a5c61bd3a0252d0b\_img.jpg\) Gender Research Insight RMF 2019](#)
- [!\[\]\(1feb34783a458dc8a9947808fbe07d90\_img.jpg\) Gender Dimensions of the Guiding Principles on Business and Human Rights, OHCHR 2019](#)
- [!\[\]\(110653b75fcec8d107e4c0c489903595\_img.jpg\) International Labour Organisation \(ILO\) Convention 190 on Eliminating Violence and Harassment in the World of Work 2018](#)
- [!\[\]\(72b14bd552cd234e38796f2a9a16d9cf\_img.jpg\) 1979 Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](#)

**Further Reference:**

- [!\[\]\(444b1eae2189e5cd8d096594c07a0a6e\_img.jpg\) Sexual and Gender-Based Violence in the Mining Sector in Africa. Evidence and reflections from the DRC, South Africa, Tanzania & Uganda, GiZ, 2020](#)
- [!\[\]\(b81fe50bc966474a9bf510149094d8e3\_img.jpg\) Stakeholder Statement on Implementing Gender-Responsive Due Diligence and ensuring the human rights of women in Mineral Supply Chains, OECD WRM 2019](#)



## Armed conflict

### Why is it important in relation to effective security and human rights risk mitigation?

Companies face heightened challenges managing their security arrangements and respecting human rights when operating in countries or regions experiencing armed conflict. State security providers or armed groups protecting companies' staff, assets and operations may engage in violations of international humanitarian law (IHL) or in serious human rights abuses. Furthermore, factors such as weakened state governance structures, enhanced securitisation, societal polarization, emergency measures, and a history of grievances or injustices, increase the potential that a company's actions may exacerbate the conflict.

*“Businesses are not neutral actors; their presence is not without impact. Even if business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics.”*

– UN Working Group on Transnational Corporations, Business, human rights and conflict-affected regions: towards heightened action

In situations of armed conflict, additional legal obligations may apply to companies and their personnel stemming from IHL. Failure to comply may translate into civil and criminal liabilities, or in the most serious cases into prosecution for war crimes, crimes against humanity and genocide.

## Armed conflict: What should companies do?

### Undertake “heightened due diligence” when operating in conflict-affected countries or regions.

In particular:

- Take a conflict-sensitive approach to all aspects of business operations when operating in a situation of armed conflict or when there is a risk of armed conflict occurring. This requires a conflict analysis to assess the root causes of conflicts, as well as regular monitoring for signals which suggest the security environment is changing, such as new military operations, imposition of emergency laws or a rhetoric of hate towards specific groups.
- Provide training and consider collaborating with experts in this regard to ensure company security personnel and staff understand and respect IHL when operating in an area where there is a (risk of) armed conflict. Even when operating in a region that is not directly impacted by an armed conflict, the company and its staff must still respect applicable rules of IHL especially if its operations are connected to the conflict.
- Include references to IHL in company policies, even if not (yet) operating in an area of armed conflict.
- Commit to community engagement strategies, including an approach that is sensitive to groups in vulnerable situations such as indigenous peoples, minorities, women and children.

**Understand when and where the rules and principles of IHL apply**, not only when conducting operations in a conflict zone, but also to sufficiently prepare in case the situation changes.

**Be aware of the potential for liability with respect to IHL.** Recent years have seen an increase in scrutiny by communities and civil society organizations regarding the roles, responsibilities, and leverage of companies with respect to IHL violations that occur in business operations in countries or regions of armed conflict.

### Keep in mind in particular the following issues:

- **Occupation:** IHL applies to situations of occupation as defined under international law. Any corporate involvement, participating or assisting in settling civilians in occupied territory; maintaining, developing or expanding settlements; appropriating resources; and damaging or enabling the destruction of land and property may amount to (complicity in) war crimes.
- **Pillage:** Acquiring resources or property without the freely given consent of the owner may constitute the crime of pillage in armed conflict.
- **Forced displacement:** Forced displacement of civilians is prohibited under IHL, unless the security of the civilians involved or imperative military reasons so demand. Business operations in conflict zones may affect a civilian population’s residential or agricultural land, sometimes to obtain access to resources or establish transport routes. In the past, examples of securing such access have involved an intervention of armed groups and government armed forces to evict residents by force. If this takes place for reasons related to an armed conflict, the forced displacement of residents and landholders may amount to a war crime. The expulsion of civilians by armed groups acting on behalf of a business could give rise to significant criminal and civil liability.
- **Effects of hostilities:** While civilian employees remain protected from direct attack by law, they are at risk of being incidentally harmed during attacks against any fighters that may be present on a company’s property. Also, as there is no fixed list of what can become a military objective, company premises may, under certain circumstances – such as the presence of warring parties – become a legitimate military objective and be subject to direct attack.



**Ensure that actions of public and/or private security providers contracted by the company neither violate IHL nor trigger or intensify violence** in conflict prone regions. Companies, as legal entities, and more particularly individuals associated with companies, have increasingly been brought before international war crimes tribunals or other national civil or criminal jurisdictions for war crimes.

## Examples of good practices

In anticipation of the security risks associated with the presence of armed groups in the area of operations, one oil and gas company proactively carried out a conflict analysis before undertaking seismic operations. The company implemented efforts to preempt or at least minimize negative impacts of business operations in the future.

Recognizing the inherent fluidity of conflict contexts and the consequent impacts on the risk assessment, one infrastructure company in Southern Europe committed to implementing the Voluntary Principles on Security and Human Rights and included a conflict risk assessment and management tool in their general impact assessment process. Conflicts may not be immediately obvious and can be triggered by large-scale socio-economic events. Similarly, the metrics in the toolbox accurately reflected that human rights issues may arise explicitly or implicitly.

*Source: Human Rights Due Diligence in Conflict Affected Settings: Guidance for Extractive Industries (International Alert, 2018)*

### Key Resources:

- 📖 [Business, Human Rights and Conflict-affected Regions: Towards Heightened Action \(UNWG 2020\)](#)
- 📖 [Business and Armed Non-State Actors: Dilemmas, Challenges, and a Way Forward \(CDA 2014\)](#)

### Practical Tools:

- 🔧 [Conflict Prevention Tool: Developing Multi-Stakeholder Strategies \(Queens University, Anglo Gold Ashanti, ICRC, DCAF 2021\)](#)
- 🔧 The Australian Red Cross has a wealth of [resources on business and armed conflict](#):
  - 🔧 [Doing Responsible Business in Armed Conflict](#)
  - 🔧 [7 indicators of corporate best practice in IHL](#)
  - 🔧 [Training portal to adopt best practices on IHL in company](#)



## Artisanal and small-scale mining

### Why is it important in relation to security and human rights risk mitigation?

Artisanal and small-scale mining (ASM) activities are frequently intertwined with large-scale mining (LSM) operations in numerous contexts around the world. ASM is often cited as a major cause for security and human rights incidents that seriously threaten the rights and dignity of individual miners and their communities. Tensions between ASM and LSM also lead to company-community conflict. Security and human rights challenges relating to large-scale and small-scale mining include:

- In some countries, national or local laws and regulations lack clarity regarding where, how and how much artisanal mining can legally be undertaken. This ambiguity may result in local miners trespassing or accessing mining concessions illegally. Companies, through their public or private security providers, sometimes respond with the use of force and this creates company-community conflicts;
- Limited socio-economic development and unemployment can narrow alternative economic options for local communities. Under these circumstances, local populations tend to continue to engage in ASM, even if it is illegal, and companies in reaction occasionally seek to take restrictive measures;
- The discovery of minerals that can be extracted through ASM can create a 'gold-rush scenario' where there is a large in-migration of people into existing communities in search of economic opportunity. This causes strain on community resources and conflicts with residents.

ASM is a reality in many mining contexts. The approach a company takes to manage community relationships, and in particular the role played by its security set-up vis-à-vis artisanal miners, can exacerbate or mitigate the escalation of conflicts.

## ASM-LSM : What should companies do?

In situations where the company manages an ASM site on its concession, **engage with ASM actors and representatives before organizing security arrangements** to ensure that community concerns are addressed, and human rights of artisanal miners are respected.

When companies do not manage an ASM site on their concession, but ASM nevertheless takes place around the company premises, wider security dynamics can be complex. Some minerals that are mined through ASM outside of the concession might nevertheless make their way into a company's supply chain. In such cases, companies have a responsibility to ensure human rights are respected even outside of their direct control.

**Implement gender differentiated policies.** Develop all policies keeping in mind that a large percentage of ASM workers are women, who suffer specific human rights impacts.

**Train private security providers, and/or ensure that public security providers are trained on how to interact with ASM miners and communities** Security personnel are in a complicated position, at times under threat when ASM workers insist on entry or might be offered bribes and asked for favours by ASM workers, which may be hard to resist especially when coming from their own communities ([see 4.5.e.](#)).

**Engage with and participate actively in multistakeholder working groups on business and human rights.** These working groups can support monitoring security and human rights issues in ASM-LSM contexts and mediating conflicts.

**Support ASM formalization efforts** that establish and monitor extraction standards and promote peaceful coexistence of industrial and artisanal mining and economic and social development for communities.

**Engage with and implement initiatives that seek certification of minerals, or with other standards/benchmarking measures.**

### Example of good practice

To limit risks to the security and human rights of ASM actors and surrounding communities, companies that take constructive steps as early as the exploration phase of project development are more likely to build and maintain a trusting relationship with the ASM community.

In Ghana, ASM activity takes place in close proximity to the Tarkwa Gold Fields mine. When the mine transitioned from underground to open pit format in the mid-1990s, reports indicated tensions between ASM actors and the company, including:

- Security providers reportedly permitted the trespassing of ASM workers into mines leading to thefts of product and equipment;
- Hundreds of illegal miners occupied a portion of the concession;
- There were disagreements between the company and ASM on village relocations.

The company worked to resolve these tensions and implemented open dialogue and clear and predictable arrangements by signing an MoU in 2012 with ASM actors, village chiefs, and district assemblymen regarding the land concessions. That same year, the Gold Fields Sustainable Development team also commissioned a baseline social study of ASM activities near the mine. This included further direct engagement with local communities and small-scale miners.

The study informed the development of an ASM strategy for Gold Fields Ghanaian operations. The strategy included a focus on security and stakeholders and aimed at ensuring the company and its employees engage with ASM communities with respect and transparency. As a result of these strategies, the company's Community Relations and Sustainable Development team has described the relationship between ASM actors and the Tarkwa Mine as characterized by greater trust and non-violent interactions.

#### Sources:

- ☰ [Gold Fields' Group-wide approach to artisanal and small-scale mining](#)
- ☰ [Artisanal and Small Scale Gold Mining in Ghana: Evidence to Inform an 'Action Dialogue,' International Institute for Environment and Development 2016.](#)
- ☰ [How You Start Matters :A Comparison of Gold Fields Tarkwa and Damang Mines and their Divergent Relationships with Local Small-scale Miners in Ghana 2013](#)

#### Key Resources:

- 📖 [Practical Guidance on Human Rights and Security in the Colombian ASM Industry, DCAF, ARM 2021](#)
- 📖 [GCBHR Cobalt Knowledge Hub](#)
- 📖 For reflection on the application of VPs on ASM see: [Promoting Coherence in OECD and VPs, DCAF, ICRC, OECD 2020.](#)
- 📖 [Making Mining Safe and Fair WEF 2020](#)
- 📖 [Global Trends in ASM IGF 2018](#)
- 📖 [Code of Risk-mitigation for artisanal and small-scale mining engaging in Formal Trade \(CRAFT\) version 2.0](#)
- 📖 [Women and Artisanal and Small Scale Mining, World Bank Group and Harvard Humanitarian Initiative, 2014](#)
- 📖 Example of a Formalization standard: [The Enterprise Générale du Cobalt](#)
- 📖 [Lessons Learned on Managing the Interface between Large-scale and Artisanal and Small scale Gold Mining, World Gold Council, 2022](#)



## Human rights defenders

### Why is this issue important in relation to effective security and human rights risk mitigation?

The term 'human rights defenders' refers to a range of people, who peacefully stand up in defence of human rights whether individually or collectively. The United Nations Declaration on Human Rights Defenders recognises the important role they play in promoting human rights and sets out the special protections human rights defenders deserve as a result of increased risks they face.<sup>4</sup>

Companies often have a tense relationship with human rights defenders. Many cases have been documented of companies and their security providers implicated in targeting human rights defenders with harassment, intimidation and violence. This targeting includes illegal surveillance, intimidation, threats, kidnapping, and killing, and is particularly common in relation to the extractive sector and agribusiness.

The social licence of companies to operate depends on good relations with civil society and constructive engagement with human rights defenders. Human rights defenders can also support a company's human rights due diligence. Lack of dialogue with civil society and human rights defenders and failure to genuinely address their concerns will generate tensions and may escalate to social conflicts. Furthermore, companies that are complicit or tacit regarding violence against human rights defenders by their security providers or contractors can face criminal sanctions. Furthermore, companies associated with attacks on human rights defenders experience reputational impacts that reinforce long-term negative relationships with and responses from communities, investors and financiers.

<sup>4</sup> <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx> point B "Who can be a human rights defender?" shows that this category is not limited to people who work on human rights in a professional capacity but may include a wide variety of individuals such as community leaders, union leaders, lawyers, journalists or doctors, or volunteers.

## Human rights defenders: What should companies do?

**Treat human rights defenders as valued partners** by engaging with them early, consulting them regularly to understand a company's impacts on the ground.

**Address the specific protection of particular groups of human rights defenders (such as: indigenous peoples and women) in policies, impact assessments and reporting.** These groups indeed face higher threat levels (including sexual violence or familial violence) and additional barriers to protecting themselves (e.g. lack of resources to find safety or reach out for help). For example, grievance mechanisms are not always available for women human rights defenders.

**Formalise a policy commitment to respect the rights of human rights defenders** in areas of operations and expect the same of business partners, including contracted security. Make sure this policy is developed with input from human rights defenders and that this commitment is shared with security providers. The policy should include zero tolerance for attacks on human rights defenders and should include the following provisions:

- Publicly condemn attacks against human rights defenders.
- Support independent fact-finding missions to assess the situation of human rights defenders where they are operating.
- Withdraw, where appropriate, from business relationships with subsidiaries, suppliers or subcontractors involved in attacks on human rights defenders.
- Ensure senior-management buy-in for the policy commitment. Publicize and communicate the policy externally, including to host-state contacts, public and private security providers assigned to operational sites.
- Use leverage to convey an expectation that mitigation of risks and impacts will be required wherever relevant across business relationships. This may include requiring or setting incentives for private security providers to carry out human rights due diligence focusing on human rights defenders.

Within **human rights impact assessments**, include an analysis of potential direct and indirect impacts on human rights defenders, in particular by security providers, and set out a policy and plan for preventing and addressing these impacts.

**Encourage the participation of human rights defenders in local working groups** on business, security and human rights and contribute to an inclusive and constructive dialogue ([see in-country working groups](#)). More sensitive engagements (with women human rights defenders or in severely conflictual situations) may need to take place in a protected and confidential space.

**Pursue genuine attempts to remediate harm** where efforts to prevent abuse against human rights defenders have failed. Publicly report all abuses and violations of the rights of human rights defenders that happen on operational sites and within the supply chain, including by public security forces.

### Example of good practices

In its 2019 "Guide to Respecting Human Rights", Newmont publicly and formally acknowledged that "human rights defenders are a potentially vulnerable group and the company's core value and responsibility supports its commitment to respect human rights defenders." The company states that "it does not condone any form of attack against human rights defenders or anyone who opposes its activities, and it expects its business partners to do the same." (source: [Research Insight Human Rights Defenders RMF 2020](#))

**Practical Tools:**

- 🔧 [Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders, Guidance for Companies, BHRRC 2018](#)
- 🔧 [Hearing the Human Ensuring Due Diligence Legislation Effectively Amplifies The Voices Of Those Affected By Irresponsible Business, BHRRC 2021](#)

**Key Resources:**

- 📖 [Research Insight Human Rights Defenders RMF 2020](#)
- 📖 [Report of the Working Group on the Issue of Human Rights and transnational Corporations and Other Business Enterprises 2021](#)
- 📖 [Human Rights Defenders Snapshot BHRRC 2020](#)
- 📖 [UN Declaration on Human Rights Defenders](#)
- 📖 [Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, 2021](#)

## Indigenous peoples (see: 4.2.d)

### Why is this issue important in relation to effective security and human rights risk mitigation?

Indigenous peoples have distinct rights protecting their survival, dignity and well-being and companies have a responsibility to respect these rights. There is also a strong expectation from clients, investors, market actors and other stakeholders that companies fulfil this responsibility. Given the extreme vulnerability of many indigenous peoples, companies should adopt a heightened level of due diligence when consulting and engaging with them. Furthermore, companies that engage positively with indigenous peoples and work constructively in a framework of respect are more likely to avoid grievances or misunderstandings, gain community support and build a positive reputation. Escalation of conflicts can be prevented and potential security incidents can be managed responsibly.

Indigenous peoples rights include:

- Free, Prior and Informed Consent (FPIC) is a well-established right that is enshrined in international instruments and national laws. It is incorporated in most instruments relating to the rights of indigenous peoples. FPIC empowers indigenous peoples to give or withhold consent to a project that may affect them or their territories. Once indigenous peoples have given their consent, they can withdraw it at any stage. Furthermore, FPIC enables indigenous peoples to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated. FPIC is embedded in the right to self-determination, by virtue of which indigenous peoples freely determine their political status and pursue their economic, social and cultural development. Rights to property, culture, religion, and nondiscrimination in relation to lands, territories and natural resources, including sacred places and objects.
- Rights to property, culture, religion, and nondiscrimination in relation to lands, territories and natural resources, including sacred places and objects.
- Rights to health and physical well-being in relation to a clean and healthy environment.
- Rights to set and pursue their own priorities for development.
- The right to make authoritative decisions about external projects or investments.



## Indigenous peoples: What should companies do?

- **Ensure that indigenous peoples are appropriately identified and prioritized;** when engaging with indigenous peoples, the company and its security providers should consider their specific cultural characteristics, governance structures, and traditional ways of interacting.
- **Ensure inclusive decision-making** that takes into account and responds to the concerns of indigenous peoples. This is crucial to maintain good community relations. The absence of consent and eviction of lands to which indigenous peoples have special connection for cultural, religious, traditional or livelihood reasons, have been a common cause for public demonstrations, social tensions, conflict and litigation.
- **Understand the context of rights of indigenous peoples** and include a relevant analysis tailored to each context as integral to [human rights due diligence](#).
- **Include the recognition of indigenous people's rights and free, prior and informed consent in company policy commitments** and ensure that company operations and security providers in complex environments are made aware of, and practice and seek FPIC on a continuous basis.
- **Create and maintain appropriate grievance mechanisms** that can respond to concerns and complaints of indigenous persons and trigger renewed analysis and engagement on FPIC.

### Examples of good practices

The Merian Gold/Surgold Project in Suriname is located on the traditional lands of the Pamaka tribal group, recognized as an indigenous people/tribal people by Surgold's owner company Newmont Suriname LLC and the international community. In 2013, Newmont and the Pamaka signed a letter of intent acknowledging that the Merian mine is operating on the ancestral lands of the Pamaka tribe of the Maroon peoples. Surgold states that its engagement and agreement making processes are 'based on the principles of FPIC' but the company did not officially obtain FPIC.

Between 2013 and 2016, Surgold and members of the Pamaka tribe negotiating committee (appointed by traditional authorities of the Pamaka tribe) negotiated and reached a cooperation agreement that stipulates the roles and responsibilities delineated in the letter of intent produced in 2013. The letter of intent included provisions for environmental monitoring, community health and safety, informal community mining, grievance mechanisms and community information-sharing.

In 2016, Newmont commissioned an NGO (RESOLVE) to gather an expert panel to consider issues of FPIC and make recommendations on Newmont's engagement with the indigenous groups in Suriname. The panel's assessment highlighted both strengths and weaknesses in the implementation of FPIC principles and included recommendations for the company on how to better align its community engagement practices with the principles of FPIC within a human rights framework in the future. The process contributed to improving the company's understanding of FPIC and strengthening community engagement.

#### Sources:

- [Good Practice Guide : Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\), p. 115](#)
- [Free, Prior and Informed Consent \(FPIC\) within a human rights framework: Lessons from a Suriname Case Study \(RESOLVE FPIC Solutions Dialogue 2017\)](#)
- [Newmont Partnerships and Learning Network](#)

**Practical Tools:**

- 🔧 [Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, Annex B \(OECD 2017\)](#)
- 🔧 [IRMA Standard for Responsible Mining, chapter 2.2 \(Initiative for Responsible Mining Assurance 2018\)](#)
- 🔧 [Good Practice Guide : Indigenous Peoples and Mining \(International Council on Mining and Metals 2015\)](#)
- 🔧 [Indigenous Peoples Mapping Tool \(IPIECA 2017\)](#)

**Key Resources:**

- 📖 [UN Declaration on the Rights of Indigenous Peoples \(UN General Assembly 2007\)](#)
- 📖 [ILO Indigenous and Tribal Peoples Convention \(International Labour Organisation 1989\)](#)
- 📖 [IRMA Standard for Responsible Mining. \(Initiative for Responsible Mining Assurance 2018\)](#)
- 📖 [Engaging With Free, Prior, and Informed Consent \(BSR 2012\)](#)
- 📖 [International instruments on FPIC \(IPIECA 2017\)](#)
- 📖 [Performance Standard 7 – Indigenous Peoples \(International Finance Corporation 2012\)](#)
- 📖 [FPIC and the Extractive Industry: a Guide to Applying the Spirit of Free, Prior, and Informed Consent in Industrial Projects \(International Institute for Environment and Development 2013\)](#)



## Human rights due diligence

### What is human rights due diligence and why is it important in relation to effective security and human rights risk mitigation?

Human rights due diligence is a process for identifying, preventing, mitigating and addressing human rights impacts, including both actual impacts occurring in the present and potential impacts that could occur in the future. Human rights due diligence not only identifies impacts the company directly causes, but also impacts it contributes to or is directly linked to through its business relationships, operations, products and services. Engaging with stakeholders — especially affected groups such as workers and communities — is a key component of human rights due diligence.

In complex environments, due diligence should take a conflict-sensitive approach; this means the process emphasises effectively preventing, managing and addressing conflict, including by seeking to understand wider conflict dynamics and related risks in the operating environment.

Companies can carry out due diligence in a number of ways, including through conducting a standalone human rights impact assessment or by integrating a thorough human rights evaluation into existing environmental and social impact assessment processes. Additionally, human rights due diligence can both inform and be informed by the company's other assessments and analyses (e.g. risk assessments, situation analyses, needs assessments).

The UNGPs establish four key elements of a due diligence process, namely the need for companies to: (1) assess actual and potential human rights impacts; (2) cease, prevent, and mitigate adverse impacts; (3) track responses to these efforts; and (4) communicate on how the impacts are addressed.

The OECD provides similar step-by-step guidance. The Voluntary Principles on Security and Human Rights place security risk assessments and the impacts of companies' security providers at the heart of good human rights due diligence efforts.

Responsible management of all security-related dimensions of a company's operations is a central building block of an effective human rights due diligence process. This is increasingly being recognized as not merely good practice, but a requirement. Effective human rights due diligence requires early identification of potential security challenges and their proactive management, in order to prevent impacts such as use of force against community members.

In the decade since their adoption in 2011, the UN Guiding Principles on Business and Human Rights (UNGPs) have set out the expectation that companies implement human rights due diligence to proactively manage potential adverse human rights impacts created by their operations. The endorsement by the OECD of this concept (first in its 2011 Due Diligence Guidance for Responsible Mineral Supply Chains, then in the 2018 Due Diligence Guidance for Responsible Business Conduct) has further contributed to the prominence of human rights due diligence.

Although adopted over 10 years before the UNGPs, the Voluntary Principles on Security and Human Rights remain the leading international standard that provides guidance to companies on how to identify and mitigate security and human rights risks. Ensuring that a company's security policies respect the Voluntary Principles is a foundational exercise for human rights due diligence efforts. Whereas human rights due diligence requires a company to assess its impacts on people, the Voluntary Principles require companies to ask who is responsible for those impacts. Whether the responsibility lies with their contracted private security providers or the public security assigned to their operations, the companies are equally responsible for identifying, mitigating, and redressing those risks.

The UNGPs, VPs and OECD Guidance are "soft law" standards that provide recommendations to companies, but in most jurisdictions are not backed by legislation to drive compliance. Recent years have seen a steady increase in laws that require companies to undertake human rights due diligence. These laws encompass a range of issues – from general human rights concerns to environmental matters, child labour and modern slavery.

Mandatory human rights due diligence laws often apply to companies' supply chains and contractors, including security providers, and may have extra-territorial application. Such laws have been adopted so far in several European countries. In May 2021, the European Union proposed a directive that would make human rights due diligence mandatory for all companies domiciled in the EU, as well as companies that sell or provide services in the internal market.<sup>5</sup> Support for human rights due diligence legislation is also growing in the private sector. As of December 2021, some 114 large businesses, associations and investors have made public statements and endorsements in support of mandatory due diligence.<sup>6</sup>

## Security and human rights and human rights due diligence: What should companies do?

**Put human rights compliant security arrangements at the core of efforts to undertake human rights due diligence.** This means that security is a key consideration in impact assessments, conflict analysis, mapping of stakeholders, grievance procedures and processes. Ensure a wide consultation process both internally (across the different functions within the company) and externally (with stakeholders, including affected communities). Only wide consultation processes are likely to build an accurate picture and ensure that remedial or preventative actions taken by the company meet their objectives.

<sup>5</sup> The EU's legislative proposal was issued in February 2022, and debates around mandatory due diligence in the European Union are ongoing.

<sup>6</sup> [List of large businesses, associations & investors with public statements & endorsements in support of mandatory due diligence regulation](#), Business and Human Rights Resource Centre

**Include security and human rights due diligence in corporate divisions that address corporate compliance and enterprise risk management.** Many companies see risk management as the evaluation of risks to the viability and profitability of the company's operations. By linking the security and human rights of host communities more closely in all relevant departments, this will ensure that all relevant company staff are aware of human rights due diligence obligations and that security and human rights risks are identified with relevant mitigation and redress plans.

**Ensure that human rights due diligence processes include a specific analysis of the impacts of both public and private security providers.** Specify in contracts with private security providers that they must undertake human rights impact assessment themselves. Specific guidance for private security providers on how to develop this assessment can be found [here](#).

**In [conflict-affected regions](#), ensure that human rights due diligence efforts are informed by a conflict analysis and clear mapping of all actors involved in and affected by the conflict.** Identify how the company's security arrangements impact the existing social tensions and/or create new tensions or conflicts. Ensure that human rights due diligence, conflict analysis and stakeholder mapping are managed as ongoing exercises given rapidly changing circumstances in [complex security environments](#).

**Ensure that human rights impact assessments are acted upon, with impacts either mitigated and remedied or proactively prevented.** Track and communicate the company's efforts to ensure effectiveness.


## Examples of good practices

In 2014, Finnish lumber company Stora Enso carried out a human rights impact assessment covering its production units and forestry operations as a first step in undertaking human rights due diligence. The assessment included a transversal examination of security issues across its operations. Amongst its 43 recommendations, the report urged Stora Enso to:

- Ensure security providers are trained in the implementation of relevant human rights standards;
- Require all security actors to conduct background checks on their personnel and prohibit anyone who has been credibly linked to past human rights abuses from working on Stora Enso operations;
- Actively monitor security arrangements and ensure security-related incidents (in particular those involving use of force) are reported, investigated and appropriately acted upon, including taking necessary disciplinary or remedial measures;
- Develop and communicate its policy regarding the treatment of suspects apprehended in security incidents involving Stora Enso operations.

Stora Enso's 2020 sustainability report expands on its efforts to provide ongoing human rights training to its security providers in Veracel, a joint venture entity in Brazil with heightened human rights risks as part of its comprehensive human rights due diligence and mitigation efforts there.







**Sources:**

-  [Stora Enso Human Rights Assessment Review and Consolidation Report \(Danish Institute for Human Rights and Stora Enso 2015\)](#)
-  [Case Study: Stora Enso Human Rights Commitment through Prioritization \(BSR 2018\)](#)
-  [2020 Sustainability Report \(Stora Enso\)](#)

**Key Resources:**

-  [Mandatory Due Diligence Portal \(Business & Human Rights Resource Centre\)](#)
-  [European Coalition for Corporate Justice](#)
-  [Legislating for Human Rights: How Outcomes for People Connect to the Standard of Conduct \(Shift 2021\)](#)
-  [Legislation Around Due Diligence \(CSR Risk Check\)](#)
-  [The Investor Case for Mandatory Human Rights Due Diligence \(Investor Alliance for Human Rights 2021\)](#)
-  [Towards EU Mandatory Due Diligence Legislation: Perspectives from Business, Public Sector, Academia and Civil Society \(German Federal Ministry for Economic Cooperation and Development 2021\)](#)
-  [Business Practice Portal \(Global Business Initiative on Business and Human Rights\)](#)
-  [Seeking a 'Smart Mix': Multi-Stakeholder Initiatives and Mandatory Human Rights Due Diligence \(Dorothee Baumann-Pauly and Isabelle W. Glimcher, Geneva Center for Business and Human Rights 2021\)](#)

**Practical Tools:**

-  [Human Rights Impact Assessment Guidance and Toolbox \(Danish Institute for Human Rights 2020\)](#)
-  [Human Rights Due Diligence in Conflict-Affected Settings: Guidance for Extractives Industries \(International Alert 2018\)](#)
-  [Database: Guidance on Human Rights Due Diligence and Impact Assessment \(Business and Human Rights Resource Centre\)](#)
-  [Community Voice in Human Rights Impact Assessments \(Oxfam 2015\)](#)
-  [OECD Due Diligence Guidance for Responsible Business Conduct \(OECD 2018\)](#)
-  [Guidance on Human Rights Impact Assessment for Private Security Providers \(International Code of Conduct Association 2021\)](#)



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