

## **GUIDANCE TO ACCOMPANY THE PRINCIPLES**

### **3. RESPECT HUMAN RIGHTS**

***Objective:** To promote the principles of the United Nations Universal Declaration of Human Rights by incorporating them into policies and operational procedures for exploration.*

#### **Introduction**

Respect for human rights is a measure of civilization which supports the legitimacy, integrity and stability of social institutions, and is essential to the rule of law, justice and fairness.

Governments have the primary responsibility to protect and promote human rights. However, society expects private enterprise to respect human rights and, in effect, ‘do no harm,’ even in situations where governments do not or will not protect human rights. Failure to respect and protect human rights has a negative impact on such aspects as social acceptance of a project, corporate reputation and, by extension, economic risk.

The Guidance on human rights focuses on three areas: labor rights, the rights of communities, and security during exploration activities. These aspects are of particular importance because they most frequently intersect with human rights during exploration projects. However, explorers should respect and uphold all universally recognized human rights through the implementation of policies and procedures based on the principles of the United Nations Universal Declaration of Human Rights.<sup>1</sup>

#### **General Aspects**

Explorers are advised to:

- a. Adopt and make public (i.) corporate policies and procedures with respect to human rights, including the rights of indigenous peoples, that conform to international standards, local laws and regulations, and (ii.) project-specific policies and procedures that are appropriate to the social and cultural context in which a project is located;
- b. Conduct an initial review and evaluation (risk assessment) of human rights, needs, and issues at the project, regional and national level and repeat this process at regular intervals (see also Principle 4);
- c. Consider drawing on the experience and resources of qualified advisors including relevant civil society groups to assist in (i.) identifying optimal strategies for the

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<sup>1</sup> A comprehensive examination of business and human rights can be found at [www.business-humanrights.org/Documents/RuggieHRC2008/](http://www.business-humanrights.org/Documents/RuggieHRC2008/) and a checklist of human rights for business applications is available at [www.humanrightsbusiness.org](http://www.humanrightsbusiness.org)

- management of human rights issues, and (ii.) applying third party assessment of human rights performance during exploration activities;
- d. Avoid obtaining, directly or indirectly, any benefit or gain from violations of human rights issues perpetrated by others;
  - e. Collaborate with local, regional or national initiatives that advance the promotion and protection of human rights;<sup>2</sup> and
  - f. Where relevant, bind contractors and sub-contractors to the same standards for human rights by making these issues a matter of performance compliance in all contracts for services and supplies.

### **Employment**

With respect to employment (see also Principle 6), explorers should:

- a. Provide a safe and healthy work place and protect the health and safety of all employees, contractors and sub-contractors and affected communities from risks and hazards arising from exploration activities;
- b. Provide compensation, benefits and working conditions that comply with national laws, are consistent with international standards and compatible with local social and economic circumstances;
- c. Provide equal opportunity for employment, training and advancement, fair compensation for work consistent with local standards, and permit the free association of workers;
- d. Implement policies and practices designed to eliminate harassment and discrimination and provide for constructive engagement with employees on matters of mutual concern;
- e. Enable, wherever possible, observance of local, national or religious traditions and customs with respect to festivals, ceremonies and days of rest; and
- f. Never use forced or child labour.<sup>3</sup>

### **Communities**

In all dealings with communities (see also Principle 5), explorers are encouraged to:

- a. Respect the rights and interests of local communities affected by exploration activities and the rights of indigenous and tribal peoples and communities consistent with international human rights standards.<sup>4</sup> Explorers should use particular care in situations in which indigenous or tribal lands and resources and associated rights have not been officially recognized or adequately demarcated or defined. In such cases, it is recommended that explorers treat the situation as if the rights of the indigenous or tribal people are recognized in law and proceed accordingly;
- b. Wherever possible and when required, obtain permission from relevant owners, occupiers or users before entering onto land and ensure that this permission is

<sup>2</sup> Explorers may find that this is most effectively accomplished through participation in local or national industry associations.

<sup>3</sup> Explorers should consult relevant national regulations to identify the minimum age for employment.

<sup>4</sup> These would include the International Labor Organization Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169), and the United Nations Declaration on the Rights of Indigenous Peoples.

- obtained in a timely manner and form that is legally, socially and culturally appropriate.<sup>5</sup> Explorers should be aware that occasionally there are situations of multiple ownership or where the owner and occupier/user of land may be different entities and that, wherever possible, such permission should be obtained from all relevant parties;
- c. Respect and protect local culture and traditions. Explorers are also encouraged to incorporate local and traditional knowledge such as environmental information, land use practices, cultural and heritage sites and ceremonial activities, into social and environmental monitoring and project management practices. Explorers should, however, recognize that such knowledge is the intellectual property of the local population and keep it confidential unless permission has been given to disclose it to a third party;
  - d. Be mindful of the obligation to protect sources of food and water;
  - e. In consultation with the community, and with reference to national or local standards where they exist, develop a process to compensate fairly for those adverse effects on the community or individuals that are unavoidable;
  - f. Consult with the affected community and appropriate levels of government to identify strategies to effectively manage the social consequences of exploration and potential development of a mine;
  - g. Avoid the displacement or resettlement of people. Should the purchase or formal acquisition of land or the physical or economic displacement of people (temporary or permanent) be contemplated, explorers are reminded that such land purchase or acquisition, displacement or resettlement should not take place without the prior permission of the persons involved. Furthermore, such activities should be conducted in a manner consistent with the provisions of International Finance Corporation Performance Standard 5 (2006): Land Acquisition and Involuntary Resettlement.<sup>6</sup>

## Security

With respect to security, it is recommended that explorers comply with the procedures set out in the Voluntary Principles on Security and Human Rights, which were developed specifically for the mining, oil and gas sectors.<sup>7</sup> More particularly, and where appropriate, Explorers should consider the need to:

- a. Adopt, and make public, policies and procedures for the hire and use of security forces and security personnel during exploration such that they are employed only in activities that are preventative or defensive in nature;
- b. Conduct an initial review and evaluation of security requirements at the project, regional and national level and repeat the process at regular intervals;

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<sup>5</sup> Explorers should be aware that procedures for gaining access to land may vary across jurisdictions. In some jurisdictions, particularly developed countries, access to land and approval to conduct work are subject to legal requirements and government regulations.

<sup>6</sup> [www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards](http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards)

<sup>7</sup> For more information consult [www.voluntaryprinciples.org](http://www.voluntaryprinciples.org) and also [www.miga.org/documents/VPSHR\\_Toolkit\\_v3.pdf](http://www.miga.org/documents/VPSHR_Toolkit_v3.pdf) for an implementation toolkit.

- c. Ensure that education and training are provided for security personnel so that they are aware of the need for and nature of positive community relations, the specific circumstances under which force may be used, and the level of force appropriate for a given threat;
- d. To the extent possible, conduct due diligence on security providers to avoid retaining the services of any group or individual that has previously been responsible for violations of human rights or humanitarian law;
- e. Facilitate co-ordination among security providers, communities and company personnel so that they all understand how security protocols will be applied and that community culture and values will be respected; and
- f. Never place or pressure employees to work in areas of high risk to personal security.