

3. RESPECT HUMAN RIGHTS

Objective: To respect and promote the human rights of employees, contractors, host communities and other affected and interested parties.

Introduction

The human rights discourse has become a central component of legal, political, social and economic policy in the global forum. Individuals and groups are increasingly using the language of human rights to articulate their concerns and interests. For this reason, it is important that explorers view their own operations through a human rights lens. This will often be critical to securing a social license to operate and engaging effectively with stakeholders and other affected and interested parties.

The Guiding Principles on Business and Human Rights, also known as the Protect, Respect, Remedy Framework or Ruggie Framework (as it was developed by UN Special Rapporteur John Ruggie) has emerged as the standard guidance on corporate

responsibilities regarding human rights. The Ruggie Framework was unanimously endorsed by the UN Human Rights Council and has been endorsed and applied by governments, businesses, associations, civil society, workers' organizations, national human rights institutions and investors around the world, making it the authoritative global reference point for business and human rights.⁶ Human rights, as defined in the Ruggie Framework, are those rights expressed in the following documents:

- The International Bill of Human Rights, which includes:
 - The Universal Declaration of Human Rights⁷
 - The International Covenant on Civil and Political Rights⁸
 - The International Covenant on Economic, Social and Cultural Rights⁹

⁶ www.business-humanrights.org/

⁷ www.un.org/en/documents/udhr/

⁸ www2.ohchr.org/english/law/ccpr.htm

⁹ www2.ohchr.org/english/law/cescr.htm

- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work¹⁰

The Ruggie Framework is based on three principles:

1. The state's duty to protect human rights against abuses by third parties, including companies;
2. The corporate responsibility to respect human rights; and
3. The need for greater access by victims of human rights abuses to effective remedy, both judicial and non-judicial.

Simply stated, this means companies must not directly or indirectly infringe on human rights and should seek to prevent or mitigate adverse human rights impacts that are linked to their operations.¹¹

¹⁰ www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm

¹¹ www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf

The Ruggie Framework offers extensive guidance to companies on fulfilling their responsibility to respect human rights. It can be summarized into three requirements:

- A policy commitment to meet their responsibility to respect human rights;
- A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; and
- A process to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

The following guidance on how to fulfil these three requirements is adapted from Principles 15 to 31 of the Ruggie Framework. Explorers are encouraged to review the full Framework, available on the website of the United Nations High Commissioner for Human Rights.¹² Further information on human rights issues commonly encountered

¹² www.ohchr.org

by explorers, such as those relating to employment and security, can be found in the *e3 Plus* Excellence in Social Responsibility Toolkit.

Policy Commitment

Explorers should adopt a policy stating the company's commitment to meet the responsibility to respect human rights. The policy should stipulate the company's expectations of all employees and contractors with regards to human rights. The policy should be:

- Developed with the input of area experts and relevant civil society actors;
- Approved and endorsed by the most senior level of corporate management;
- Publicly available;
- Communicated internally with clear explanations of lines and systems of accountability;
- Supported where necessary by training for employees and contractors;
- In line with local, regional and national

initiatives that advance the promotion and protection of human rights, where possible;

- Embedded throughout the company's operational policies and procedures, for example in procurement practices, lobbying activities, and procedures that set financial and other performance incentives for personnel; and
- Actively communicated to all parties with which the company has contractual relationships, along with others linked to its operations, for example, state **security forces** and private security forces¹³, investors, and potentially affected stakeholders and communities. Explorers should include compliance with the company's human rights policy in all agreements with contractors and subcontractors and establish a mechanism to review performance.

¹³ Explorers are encouraged to review the Voluntary Principles on Security and Human Rights, available at: www.voluntaryprinciples.org.

Human Rights Due Diligence Process

Explorers should undertake due diligence in order to assess and understand the social, political and cultural environment in which they will be operating as part of their decision to initiate exploration activities (see Principle 4). Due diligence should then be undertaken to identify, prevent, mitigate and account for how the company's activities may impact human rights. Due diligence should:

- Include an assessment of the human rights context at the project, regional and the national levels before activity begins and repeat the assessment at regular intervals to account for changing human rights situations;
- Draw on area experts, including relevant civil society actors, to assist in identifying potential issues and **affected parties**; and
- Include **engagement** with local stakeholders and potentially affected groups and communities to identify any particular areas of concern.

Remediation Processes

Explorers should create a process to enable remediation of any adverse human rights impacts with which the company may be involved. This requires a procedure to monitor human rights impacts by the company, its employees and contractors. The procedure should:

- Capture qualitative and quantitative information, using gender-disaggregated data where relevant;
- Draw feedback from internal and external stakeholders, and other affected and interested parties;
- Employ a variety of methods, such as contracts, performance reviews, surveys, audits, engagement with stakeholders and other affected and interested parties; and
- Draw on data from operational-level **grievance mechanisms**.

The monitoring procedure for potential human rights impacts should be incorporated into internal reporting processes. The results of human rights monitoring should be communicated regularly to stakeholders and other affected and interested parties in a form and language that is appropriate for the intended audience. This may be done through a combination of in-person meetings, online dialogues, formal public reports such as annual reports, financial reports, or corporate social responsibility or sustainability reports, among other options. Reports should not put stakeholders, affected communities, employees, contractors, or legitimate requirements of commercial confidentiality at risk. Explorers are encouraged to have reports independently verified as a means to strengthen content and credibility.

The second part of the remediation process includes a remedy for any adverse human rights impacts. The Ruggie Framework lists potential remedies a company may

offer, such as an apology, restitution, rehabilitation, financial or non-financial compensation, punitive sanctions, and injunctions or guarantees of non-repetition. Effective remediation requires that internal decision-making, budgeting, and oversight processes within the company are set up so as to enable effective responses to adverse impacts should they occur.