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## 7.0 Human Rights – Introduction

The following sections introduce human rights, set out why human rights are relevant to explorers and describe what explorers can do to respect and promote human rights. The human rights guidance in this section should be read in conjunction with the guidance provided on governance and management processes; the two sets of guidance work together.

The guidance for the Human Rights section provides background into the issues and the specific actions that explorers should take to address those issues, in order to respect human rights. The guidance on management process provides direction on how explorers can develop the organizational capacity to address specific actions.

The table below summarizes the recommended practices that explorers should implement to respect and promote human rights. In the right hand column below, you will find links to the related management process guidance. In addition, as you read through each of the subject areas under Human Rights, you will also find links to additional information sources that explorers can use to help develop and implement these practices.

### 7.1 Summary of Recommended Practices

- Establish a policy to support human rights.
- Establish a management commitment and identify management oversight for policy implementation and compliance
- Implement the human rights policy throughout all operations worldwide
- Communicate the human rights policy to employees and contractors and train employees and contractors on the policy
- Raise internal awareness about human rights
- Train staff and contractors on human rights risks identified during project due diligence
- Require that contractors and joint venture partners follow the principles and commitments in the policy
- Take reasonable steps to review human rights practices of contractors, joint venture partners, suppliers and others with whom the company will establish key business relationships
- Conduct human rights risk assessments as part of project due diligence for new exploration activities and identify the potential – direct and indirect, intentional or otherwise – to impact on human rights
- Review risk assessments regularly and update them as you proceed through different stages of exploration
- Establish operating procedures to address human rights risks
- Monitor compliance and performance with the policy

### Related e3 Plus Guidance

[Developing and Communicating Policies](#)

[Training and Awareness](#)

[Sphere of Influence - Relationships with Contractors and Suppliers](#)

[Project Due Diligence and Risk Assessment](#)

[Contractor Due Diligence](#)

[Operational Controls](#)

[Monitoring and Measurement](#)

[Internal Review](#)

[Performance Reporting](#)

- Periodically verify that the processes, actions and decisions taken by the organization are consistent with the policy commitments to human rights
- Report performance

## 7.2 What Are Human Rights?

Human rights are basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though they were not a human being. Human rights are:

- **Inherent:** They apply to all persons by virtue of the fact that they are human beings
- **Universal:** They apply to every person, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Every person is entitled to human rights without discrimination
- **Inalienable:** A person cannot lose these rights, be deprived of them or consent to giving them up any more than they can cease to be a human being
- **Indivisible:** They are of equal importance; one right cannot be denied because it is less important than another
- **Interdependent:** They are part of a mutually supporting framework. For example, freedom of speech can directly affect your ability to associate with others and seek decent living and working conditions

## 7.3 What Are Universal Human Rights?

Universal human rights are rights recognized in international human rights law. International treaties, conventions and customary law are the core of international human rights law. Other instruments adopted at the international level (e.g., declarations, principles, guidelines, standard rules and recommendations) have no binding legal effect, but have moral force and provide practical guidance to the interpretation, understanding, implementation and development of international human rights law.

## 7.4 International Human Rights Instruments

The Universal Declaration of Human Rights (UDHR) is the foundation document for universal human rights. The UDHR was proclaimed by the United Nations (U.N.) General Assembly on 10 December 1948, and it was the first time that countries agreed on a comprehensive statement of human rights. The UDHR is an aspirational statement of principles. It is not a treaty, so it does not directly create legal obligations. However, it has become binding as a part of customary international law.

The UDHR consists of 30 different rights and freedoms, covering civil, political, economic and cultural issues that have had a profound influence on the development of international human rights law. These rights have been subsequently elaborated upon in treaties and other instruments adopted by the U.N.

A diverse set of over 80 instruments (covenants, conventions, declarations, principles and rules) developed by the U.N. General Assembly make up the framework of international human rights law.

In addition to the international instruments developed under the auspices of the U.N.

### Key Terms

**convention** (sometimes called a covenant) is a binding treaty, coming into force upon ratification by a certain number of states

**declaration** is a statement of principles and aspirations that is not legally binding but carries moral weight, because it is adopted by the international community

**customary law** is unwritten law that exists when there is evidence of widespread and consistent practice among states, and there is a genuine belief among states that such practice is legally binding

**e3 Plus: A Framework for Responsible Exploration** is the expanded version of what was originally e3, that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

General Assembly, there are a number of conventions developed by the International Labour Organization (ILO). The ILO was founded in 1919; it is a tripartite U.N. agency that brings together governments, employers and workers to promote social justice and internationally recognized human and labour rights. The ILO formulates international labour standards in the form of Conventions and Recommendations, setting minimum standards of basic labour rights: freedom of association, the right to organize, collective bargaining, the abolition of forced labour, equality of opportunity and treatment and other standards regulating conditions across the entire spectrum of work-related issues.

Human rights are also enshrined many countries' domestic laws – such as the Canadian Charter of Rights and Freedoms – and in regional international agreements – such as the European Convention on Human Rights, the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Cairo Declaration of Human Rights in Islam.

### **Main International Instruments**

#### **International Bill of Rights**

[Universal Declaration of Human Rights \(UDHR\), 1948](#)

[Covenant on Civil and Political Rights, 1966](#)

[International Covenant on Economic, Social and Cultural Rights, 1966](#)

#### **Core International Human Rights Instruments**

[International Convention on the Elimination of All Forms of Racial Discrimination, 1965](#)

[Convention on the Elimination of All Forms of Discrimination against Women, 1979](#)

[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984](#)

[Convention on the Rights of the Child, 1989](#)

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990](#)

[International Convention for the Protection of All Persons from Enforced Disappearance](#)

[Convention on the Rights of Persons with Disabilities](#)

#### **Universal Human Rights Instruments**

[Declaration on the Rights of Indigenous Peoples, 2007](#)

[Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992](#)

[Minimum Age Convention, 1973 \(No. 138\)](#)

[Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998](#)

[Indigenous and Tribal Peoples Convention, 1989 \(No. 169\)](#)

### 7.5 What Is the Scope of Responsibility for Human Rights?

While the primary responsibility for human rights lies with governments, companies are not exempt from responsibility. The preamble of the Universal Declaration of Human Rights (UDHR) calls on “every individual and every organ of society” to promote and respect human rights.

All companies have an impact on human rights, both in their relationships with their employees, and in their relationship with the wider society in which they **operate**.

A recent survey of alleged corporate-related human rights abuses in a sample of 320 cases posted on the Business and Human Rights Resource Center website from February 2005 to December 2007 indicates that:<sup>1</sup>

- companies are alleged to directly cause the abuse in 60 per cent of the cases;
- in the 40 per cent of cases that alleged indirect company involvement, 18 per cent involved relationships with suppliers alleged to abuse human rights; 23 per cent connected firms to the abuse of various other third parties, including states and other business;
- the extractive sector had the largest number of allegations of any industry sector (28 per cent);
- nearly 50 per cent of direct cases of alleged abuse affected communities. The majority of these cases involved environmental harms that were alleged to negatively affect the livelihood and health of local populations. Impacts on water supplies were raised in 40 per cent of these cases. Additionally, numerous firms were criticized for not conducting impact assessments, while others were alleged to poorly carry out the assessment process. Extractive sector firms were also cited here for alleged impacts on the rights of indigenous communities

Companies that fail to respect human rights expose themselves to a wide range of risks, including legal action, negative media coverage, targeted NGO campaigns, protests, boycotts and shareholder actions. All of these risks have reputational and financial costs. On the other hand, companies that pay attention to human rights and integrate them into their business practices gain commercial benefits beyond mere risk avoidance. For companies in the extractive sector, the greatest commercial benefit is a more secure social license to operate. Continued access to natural resources is predicated on the support of local communities.

### 7.6 The Duty To Respect Human Rights

In addition to compliance with national laws, your baseline responsibility as an exploration company is to respect human rights. Respect for universal human rights is broader in scope than the responsibility to comply with national laws. The broader scope of responsibility to respect human rights is defined by social expectations.

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<sup>1</sup> *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including The Right To Development Report of the Special Representative of the Secretary-General on the issue of human rights and trans-national corporations and other business enterprises, Addendum 2, May 23, 2008 Human Rights Council.*

### Key Terms

**universal human rights** are rights recognized in international human rights law

**social license to operate** is the acceptance by society of company activities or operations without social opposition or protest. This is largely determined by the company's overall ability to meet stakeholder expectations for environmental and social performance

Respect for human rights requires a company to refrain from interfering – directly or indirectly – interfering with universally recognized human rights.

The human rights guidance provided in this section is intended to cover the broad landscape of possible human rights risks and circumstances that explorers may encounter. The boundaries of an explorer's responsibility in any given circumstance will depend on the risk of harm and the degree of control and influence that they can exercise. For the great majority of exploration activities, the risks to human rights will be low; commensurately so too, will be the responsibility of explorers to act. The primary tool available to explorers to help them determine the scope of their responsibilities to respect human rights in any given circumstance is to undertake appropriate project due diligence prior to commencing any new exploration activity. Explorers should follow the e3 Plus guidance provided under project due diligence and risk assessment.

### **7.7 Domestic Laws and International Human Rights Standards**

Where domestic laws exist that conform to international human rights standards, these should be the benchmark standards for explorers to follow. Rarely will explorers encounter a situation where there are no domestic laws that conform to international human rights standards. However, there may be some aspects of international human rights that are not covered by domestic laws, or more typically are not sufficiently protected by domestic law. In these cases, explorers should rely on domestic laws to the extent possible and use international standards as guideposts for behaviour.

In rare cases, national laws may actually conflict or prohibit explorers from respecting international human rights standards. In these cases, explorers should, to the best of their ability, strive to respect international standards in their operations and, if possible, try to be a positive influence of change. However, if the situation has the potential to result in the explorers complicity in gross violations of human rights or actions that have significant negative social or environmental consequences, then explorers need to reconsider their presence in that jurisdiction.

### 7.8 What is Complicity?

Complicity occurs when a company is associated with, participates in, or acquiesces to a human rights violation committed by someone else. Complicity is differentiated from a direct abuse, where the company intentionally violates human rights on their own (e.g., by engaging in discriminatory work practices).

Complicity is not used here in the strict legal sense of the criminal accomplice, but instead in the broader context of business and human rights, to capture the fact that companies can become implicated in human rights abuses of others in a manner that brings with it responsibility and blame. The boundaries of what constitutes corporate complicity in this broader context are not clearly drawn. Therefore, it is important to understand that complicity can occur in different forms.

**Direct complicity** is at one end of the spectrum. This is where the company intentionally promotes, participates in, or assists in the human rights abuse. As an example: A company promotes the forced relocation of local people by the state or relies on forced labour supplied by another party. Where there is direct complicity, the company has a clear responsibility to cease the practice immediately and ameliorate the harm.

**Indirect complicity** is further along the spectrum. This is where the company does not directly participate in, but benefits from, an abuse committed by someone else. The most common example of indirect complicity is through the supply chain, where companies contract for goods or service with other companies that violate human rights in their operations. As an example: The use of contracted private security forces that use excessive force to protect the company's facilities or personnel, or the use of sub-contractors that engage in discriminatory work practices. In these cases, the company also has a responsibility, but the action that should be taken to address the responsibility should be proportionate to the nature of the link between the company and the violations.

**Silent complicity** is at the other end of the spectrum. This is where a company has no direct or indirect involvement in the human rights violations, but is silent or fails to object to systematic or continuous human rights violations. This is the most difficult situation in which to determine the scope of a company's responsibility, since the company is not facilitating the violations in any way. Is there a moral obligation to act? Does the responsibility increase if the company indirectly benefits in some way? As an example: A company operating in a country where worker rights are repressed may indirectly receive a benefit through low wages.

How do explorers determine the scope of their responsibility to avoid complicity or take action in the face of human rights abuses?

An explorer's responsibility will vary depending on factors such as the following:

- **If the company is in a position where they enable, facilitate, or exacerbate the abuse.** The company's degree of responsibility will be commensurate to the degree to which they enable the abuse
- **The severity or character of the abuse.** Where the abuse is so severe that it violates a fundamental human right, the company has a responsibility to act;
- **The proximity of their relationship to the perpetrator and the victims.** The closer a company is geographically and in relationship to those who

### Key Terms

**complicity** is the act of participating or associating in, or acquiescing to, a human rights violation or ethical misconduct committed by someone else



carry out the human rights abuses – or to those who suffer the abuses – the greater the likelihood that the company will face allegations of complicity and the greater their responsibility to act

- **Their knowledge and awareness.** Where the risk of harm is known or foreseeable, the company has a responsibility to act
- **The extent of benefit from the human rights abuse.** The greater the benefit a company derives as a consequence of the abuse, the greater the risk of complicity and the greater the responsibility for the company to act

Below, we look at each of these factors in a little more detail.

### 7.8.1 To Enable, Facilitate or Exacerbate Human Rights Abuses

A company **enables** the abuse if the specific abuse would not have happened without the company's contribution. By some action or act of omission, the company has inserted itself into the chain of causation that "enables" another to commit the human rights abuses. There are always many causes that contribute to a particular outcome, but in this situation, the company's conduct is a necessary ingredient, although not necessarily the only factor in the perpetration of the abuse. As an example: Community protesters around the site of an operation might be beaten by private security personnel hired by the company to provide security services.

A company **facilitates** an abuse if the abuse would still have occurred without the presence of the company, but the company's contribution made it easier to carry out the abuse or changes the way in which the abuse is carried out.

A company **exacerbates** a situation if the company's conduct or presence increases the range of human rights abuses committed by the principal perpetrator, the number of victims, or the severity of the harm suffered by the victims. As an example: Through a runway built to support exploration activity, government forces gain access to an area and engage in human rights violations.

### 7.8.2 Proximity

How close is the company to the violation? Geographical proximity means that a company may have more knowledge and more opportunity to influence events. The closer a company's relationship to the perpetrator, the more likely the company is to have the power, influence, authority, or opportunity to have a sufficient impact on the conduct of the perpetrator. The closer a company's relationship to the person harmed, the more compelling the case that the company should have foreseen the risk that the company's conduct could harm that person, and therefore the higher the requirements on the company to avoid or limit harm.

#### Questions to consider:

##### How close is the company to the perpetrator?

- Is there a legal relationship between the company and the third party perpetrator (e.g., joint venture, partnership, subsidiary)?

##### How close is the company to the victim?

- Are the victims employees, employees of subcontractors, or members of the community around the facility?

- Is there a commercial relationship between the company and the third party perpetrator (contractor, supplier)?
- Does the company control the perpetrator in any way?
- Does the company have the greater bargaining power in the relationship?

### **7.8.3 Knowledge and Awareness**

What does the company know about the human rights practices of the persons and organizations with whom they are involved and, perhaps even more importantly, what should they know? The critical question is, how foreseeable is the risk of harm? Foreseeability is based on whether a responsible company in your situation would be aware of the potential risk of harm, given the surrounding objective circumstances. Essentially this is why “due diligence” and “risk assessment” are standard management practices that explorers should adopt.

#### **Questions to consider:**

- Did the company make reasonable investigations and inquiries? Did they conduct due diligence? Did they assess the risks?
- How long has the abuse been ongoing? How long has the relationship with the perpetrator been in place? The longer the duration, the greater the likelihood that the company knew or should have known, and hence the greater is the likelihood of the company being accused of complicity
- Did outside sources – such as NGO’s, local communities or others – bring to the attention of the company the fact that their business activities could contribute to human rights abuses, or that the organization or person with which they are involved has a record of human rights abuses?
- Was there publicly available information that the company could access about the human rights record of those in power in areas where they operate – or are planning to operate – and about the risks of doing business with certain government agencies, armed opposition groups, or other companies? Sometimes, there is so much information publicly available that it is implausible for a company not to know, or at least suspect, that there is a risk
- Finally, were there unusual circumstances that should have raised questions about the organization the company is involved with, or about the business transaction? As an example: A security company that repeatedly seeks to obtain information about the ethnicity or political affiliation of company employees may have more in mind than protecting the company’s personnel and assets

#### 7.8.4 Benefit

Any benefit the company derives as a consequence of the abuse raises the risk of complicity. As examples: A state evicting people from their agricultural land, so that the company can prospect for minerals, creates a benefit for the company. A state that passes legislation to ban unions, so that companies can operate in free trade zones at lower costs, also creates a benefit for the company. In such cases, the company is not actively assisting the state, nor are they in partnership with the state, but the company stands to benefit from the state's actions.

#### 7.9 Avoiding Complicity

Any of the warning signs described above would lead prudent explorers to take measures to ensure that they are not enabling, facilitating, or exacerbating human rights abuses. The recommended practices under the various human rights topics following this section will help explorers to avoid situations where their duty to respect human rights may be compromised.

Putting in place processes to avoid complicity in human rights abuses and prevent harm is the best way to ensure that your organization respects human rights. However, if you suspect that a human rights abuse has occurred (or may occur) and that your organization may be somehow associated with the person or organization that committed (or is likely to commit) the abuse, what do you do? Here are some options:

- **Respond immediately, but get the facts and consider your response carefully before you react.** Make sure you fully understand the situation and the relationships involved. Identify how you can best intervene to prevent harm, or mitigate the consequences of harm. As an example: If you are in a position of control or influence - such as having a contractual relationship with the organization or person suspected of committing the abuse - you will have more leverage to prevent the abuse and the harm. You also need to consider the impact your intervention may have on the victims of the abuse. Will it put them in a better or worse position? As an example: If you suspect a contractor of using child labour, your intervention may result in having the children dismissed, possibly jeopardizing their only source of livelihood. Consider as well the severity of the consequences, if you act or fail to act
- **Seek advice.** Get the advice of experts - this can include legal and consulting professionals, government agencies, United Nations agencies, or reputable NGO organizations with expertise in dealing with human rights issues. Seek out advisors that do not have entrenched positions and can help provide advice that takes into account project risks, but is motivated by how best to prevent harm to people and the environment. Advisors who are focused solely on damage control to your organization will not help you in the longer term
- **Get help.** In many cases, working in collaboration with other organizations - such as other companies, industry and non-governmental organizations - may be the most effective means to intervene. This is particularly the case when the perpetrator is a public agency or person

**7.10 Conditions of Work and Employment**

The Universal Declaration of Human Rights states every person has a right to:

- just and favourable conditions of work (Article 23[1]);
- just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity (Article 23[3]); and
- rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24[4])

These rights are broadly discussed under the title of “Conditions of Work and Employment” and are captured under the following three headings:

- 1) Wages and benefits (remuneration, holidays, sick leave, etc.)
- 2) Working time (hours of work per day and per week, overtime)
- 3) Workplace conditions (health and safety\* and workplace welfare)

*Please see e3 Plus Health and Safety information for issues and guidance related to workplace health and safety.*

In general, standards related to conditions of work – such as minimum wage, benefits, statutory holidays, hours of work – are set in national law. However, in some states these standards may not be in place or may not be adequate to meet basic rights. Therefore, explorers cannot rely solely on local legislation when determining their responsibilities in this area. Explorers should be guided by International Labour Standards. See Table 6 below for a summary of applicable ILO standards.

**Table 9: ILO Standards**

Work Condition	Requirement	ILO Convention
Hours of Work – Day	Maximum 10/day in commercial industries and 8/day in industrial occupations	C1 (1919) Article 2 C30 (1930) Articles 3 and 4
Hours of Work – Week	Maximum 48 hours <sup>2</sup>	
Overtime	Must be voluntary; should not be a regular practice	C1 (1919) Article 3 C30 (1930) Article 4
	Paid at a premium of not less than 1.25 time	
Weekly Rest Periods	24 consecutive hours for every 7 days of work	C106 (1957) Article 6 C14 (1921)
Holidays	14 days	C132 (1970)
Maternity Leave	Minimum 3 weeks per year	C183 (2000)

Notes: a) Mineral extraction is considered an industrial occupation C1 (1919) Article 1  
 b) Work may exceed 8 hours in any one day and 48 hours in any one week, if the average number of hours over a period of 3 weeks or less does not exceed 8 per day and 48 per week.

<sup>2</sup> Consult national law for applicable exceptions.

**Risk For Explorers**

- Inadequate local legislation related to conditions of work
- Contractors or others performing work on their behalf may not comply with local legislation or minimum international standards

**Key Terms**

**hours of work** means the time during which the persons employed are at the disposal of the employer; it does not include rest periods during which the persons employed are not at the disposal of the employer

**living wage** is a wage that enables them to meet the basic needs of themselves and their dependants, as well as provide some disposable income

**Main International Instruments**

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Articles 23 and 24

[ILO Declaration on Fundamental Principles and Rights at Work, 1998](#)

[ILO Minimum Wage Fixing Convention, 1970 \(No. 131\)](#), Article 3

[ILO Social Policy \(Basic Aims and Standards\) Convention, 1962 \(No. 117\)](#), Article 5

[Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977](#), Article 34

### 7.10.1 Recommended Practices

- Establish a policy recognizing the right of workers to decent work conditions. Make sure the policy applies to suppliers and sub-contractors
- Commit to zero tolerance of breaches of any of the core labour standards
- Conduct project due diligence to understand the issues related to working conditions and their impact on how project work is managed and contracted. This should include:
  - understanding the country, politically, socially and economically;
  - becoming informed of national laws related to conditions of work and employment – in particular, hours of work, minimum wage, holidays and benefits;
  - determining whether national laws are adequate to meet basic rights and needs of workers
- If national standards do not exist or do not meet international labour standards, explorers should follow international labour standards as the minimum standard for conditions of work
- Workers should be paid a living wage. Where there is no minimum wage, or where the minimum wage is not sufficient to meet basic needs, explorers should consult with members of the local community, other companies, local trade unions, NGOs, or state agencies to determine the proper standard of pay for the area. In establishing standards of pay, explorers should take care that their rates are not so far in excess of local standards that they have a disrupting influence on the local economy. Since there are no international standards for sick leave, this also should be determined through similar consultation
- In locations where national labour standards fall below international standards, or where national laws are not followed or well enforced, take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf, to ascertain their practices related to conditions of work. This should include:
  - discussing labour practices upfront, when negotiating contracts with contractors;
  - understanding the culture of the organization and the country concerned;
  - looking into the background of the contractor through inquiry with local communities, government agencies, labour organizations and reputable NGOs
- Negotiate prices and contract terms with contractors and suppliers that enable them, to pay their employees a living wage
- Deductions from wages for disciplinary measures should not be allowed and deductions not required by national law should only be made with employee consent

### Related e3 Plus Guidance

Defining the Boundaries of Your Responsibility

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related human rights legislation maintained by the ILO

[TRAVAIL Database of conditions work by country](#)

### Key Reference Sources

[ILO Conditions of Work and Employment Programme](#)

### 7.11 Discrimination in Employment

Discrimination in employment is a violation of fundamental human rights. It entails treating people differently because of characteristics that are not related to merit or the requirements of the job. These characteristics include race, colour, sex, religion, political opinion, national extraction or social origin, physical or mental disability, sexual orientation, age or HIV/AIDS.

Discrimination in employment takes many forms and is manifested in a variety of different ways, including:

- restricting access to employment, particular occupations, or training;
- discriminatory terms and conditions of the employment – such as remuneration, hours of work and rest, paid holidays, maternity leave, security of tenure, advancement, social security, and occupational health and safety; and
- harassment and victimization in the workplace.

Different treatment based on individual merit, productivity, job demands, or special needs of the individual (for example people of disabilities) is not discrimination. Most countries have laws against discrimination in employment. Explorers need to be aware of and respect all relevant local and national laws pertaining to non-discrimination in the country of operation.

However, like many other areas of human rights, non-discrimination laws in some countries may be weak, poorly enforced, or may only cover a limited number of categories. In these cases, explorers should set their standards of behaviour based on international standards and industry best practices.

In most cases, discrimination in employment occurs not because of deliberate intent by the employer, but rather as a result of prevailing cultural, social, or economic norms. Discrimination in employment also occurs as a result of the implementation of policies that appear neutral in their intent, but have a disproportionate impact on one group as compared to another. Some examples include:

- dress policies, timing of breaks, and days of rest can have a negative effect on workers because of their religion;
- standards of physical fitness for specific jobs may prevent people with disabilities or health problems from employment;
- language used in posting job positions or stringent qualification standards may exclude members from particular groups; and
- policies related to flexibility in hours of work may exclude people (usually women) who need to care for children or elderly relatives.

Another way in which discrimination enters employment is through the prejudices of workers themselves. Where employers do not take action to address embedded cultural and social prejudices these can manifest themselves in harassment and violence in the workplace.

### Risk for Explorers

- Institutionalized discrimination in the local area of operation that spills over into tensions and discrimination in the workplace
- Social and cultural norms that make it difficult to implement policies related to anti-discrimination
- Work performed on your behalf by contractors or others who engage in discriminatory work practices

### Key Terms

**discrimination in employment** is any distinction, exclusion, or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation", and is made on the basis of "race, colour, sex, religion, political opinion, national extraction, or social origin";<sup>3</sup> discrimination may also occur on the basis of physical or mental disability, sexual orientation, age or HIV/AIDS

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948, Article 20](#)

[ILO Declaration on Fundamental Principles and Rights at Work, 1998](#)

[Convention on the Elimination of All Forms of Discrimination against Women, 1979](#)

[Equal Remuneration Convention, 1951 \(No. 100\)](#)

[Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#)

[Workers with Family Responsibilities Convention, 1981 \(No.156\)](#)

<sup>3</sup> ILO Convention C111 Discrimination (Employment and Occupation) Convention, 1958

### 7.11.1 Recommended Practices

- Establish a policy prohibiting discrimination, harassment and violence in the workplace. Make sure the policy applies to suppliers and sub-contractors.
- Review recruitment practices to ensure that they do not directly or indirectly discriminate against particular groups. Establish recruitment practices that are competence based and train managers in non-discriminatory recruitment. Let marginalized groups know about your recruitment programs.
- Reflect the diversity of the local area in the composition of the workforce, to the extent possible.
- Communicate policies to employees and contractors and ensure that your managers and workforce know the standards of behaviour expected of them.
- Communicate the benefits of non-discrimination throughout the organization and to contractors and suppliers.
- Establish a grievance mechanism to receive, investigate and respond to complaints of discrimination, workplace harassment, threats and violence.
- Immediately address tensions (e.g., racial tensions) in the workplace which can later lead to abusive, harassing, or violent conduct.
- Where possible and appropriate:
  - Encourage flexible working hours;
  - Adjust workplace practices to facilitate religious and cultural practices;
  - Examine ways in which jobs can be readjusted to accommodate persons with disabilities or members of marginalized communities;
  - Provide training to potential employees to improve their chances of employment; and
  - Work with government, trade unions and other stakeholders to develop the potential of underrepresented groups.
- Conduct project due diligence to understand the issues related to discrimination and their impact on how project work is managed and contracted. This should include:
  - understanding the country, politically, socially and economically;
  - becoming informed of national laws related to discrimination in employment;
  - determining whether national laws cover all forms of discrimination;
  - understanding the diversity of the local community and the composition of local labor market.
- If national standards do not exist, or do not cover all forms of discrimination, explorers should follow international labour standards or good industry practice.
- Take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf, to ascertain their practices related to discrimination. This should include:
  - discussing labour practices upfront, when negotiating contracts with

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Grievance Mechanisms

#### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related rights legislation maintained by human the ILO

[ILOLEX database of international labour standards](#)

#### Key Reference Sources

[IFC Good Practice Note Non-Discrimination and Equal Opportunity](#)

contractors;

- understanding the culture of the organization and the country concerned;
- looking into the background of the contractor, through inquiry with local communities, government agencies, labour organizations and reputable NGOs.



## 7.12 Freedom of Association

**“Everyone has the right to freedom of peaceful assembly and association.”**

Article 20 of the Universal Declaration of Human Rights

The right to freedom of association is the right of groups to organize to address issues of common concern. Freedom of association is closely related to freedom of expression and it is a fundamental political right and critical to an open society. Without freedom of association, collective civic action to influence leaders and governments is not possible and workers cannot organize to secure their economic and social welfare.

In this section, we discuss freedom of association as it relates to the rights of workers under international labour standards to organize and collectively bargain. Freedom of association and the right to organize can be summarized as the right of workers to establish and to join organizations of their own choosing, without any prior authorization or interference. The inter-related right to bargain collectively means that worker organizations and their members are free from discrimination and allowed to function independently, without interference for the purpose of advancing and protecting their employment interests.

What do these rights mean in terms of the responsibility of explorers as employers? Respect for freedom of association requires that employers:

- allow employees to exercise their rights to organize without fear of discrimination or retaliation;
- not discriminate against or penalize worker representatives because of their status or activities;
- bargain collectively and in good faith with authorized worker’s representatives on the terms and conditions of employment;
- respect the rights of workers’ organizations and provide them access to information and resources to carry out their activities;
- not interfere in, or try to control, the formation, constitution, administration, elections, or other activities of workers’ organizations;
- allow worker representatives reasonable access to the company documentation needed to fulfill their duties, to negotiate with the company, and to ascertain the performance of the company regarding relevant matters;
- allow worker representatives sufficient access to the workforce to be able to properly communicate and consult with them on matters concerning their conditions of employment;
- allow workers’ organizations access to the workplace to apprise workers of the benefits of membership and to recruit; and
- refrain from trying to establish non-independent rival bodies such as “workers’ committees” in order to prevent or hinder free trade union organization.

## Risk for Explorers

- Explorers who respect the rights of workers to freedom of association in their workplace may find that their workers are subject to internal and external discrimination because of their activities and trade union membership and
- Work performed on your behalf by contractors or others who do not respect the rights of workers to organize.

## Key Terms

**freedom of association** is the right to convene with others, form associations and to organize actions

**trade union, labour union, workers’ organization** are organizations of employees, usually associated beyond the confines of one enterprise, established for protecting or improving, through collective action, the economic and social status of its members

**collective bargaining** is all negotiations which take place between one or more employers or employers’ organizations, on the one hand, and one or more workers’ organizations, on the other, for determining working conditions and terms of employment, or for regulating relations between employers and workers

## Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 20

[Freedom of Association and Protection of the Right to Organise Convention, 1948](#) (No. 87)

[Right to Organise and Collective Bargaining Convention, 1949](#) (No. 98)

[ILO Declaration on Fundamental Principles and Rights at Work, 1988](#)

### 7.12.1 Recommended Practices

- Establish a policy recognizing the rights of workers to freedom of association. Make sure the policy applies to suppliers and sub-contractors.
- Commit to zero tolerance of breaches of any of the core labour standards;
- Conduct project due diligence to understand the issues related to organized labour and their impact on how project work is managed and contracted. This should include:
  - understanding the country – politically, socially and economically; and
  - becoming informed of national laws related to worker rights to organize and collective bargaining.
- Take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf to ascertain their practices related to labour rights. This should include:
  - discussing labour practices upfront, when negotiating contracts with contractors;
  - understanding the culture of the organization and the country concerned;
  - looking into the background of the contractor, through inquiry with local communities, government agencies, labour organizations and reputable NGOs.
- Train project management personnel regarding the rights of workers and the risks and opportunities identified during project due diligence.
- Take steps to protect the security of workers and workers' organizations, where there is a risk of reprisal or discrimination.

### 7.13 Child Labour

According to the statistics given by the International Labor Organization (ILO) there are about 218 million children between the age of 5 and 17 working all over the world<sup>4</sup>. Children are entitled to the basic right of an education and must not be hired to work before completing their compulsory education. The ILO standards set the minimum age for entry into employment at 15.

Not all work done by children is child labour. The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity and that is harmful to physical and mental development. Whether “work” can be called child labour depends on the child’s age, the type of work, the hours of work and the working conditions.

School attendance and the age at which children can enter employment are defined by national law. This will vary depending on social norms and economic conditions. If an organization operates in a country where the age of entry into employment is higher than 15, the organization must follow national legislation. If the national standards fall below the minimum 15 years of age, the organization should follow ILO standards.

<sup>4</sup> Source: ILO. 2006. *World Report on Violence against Children*. Available online: <http://www.violencestudy.org/r229>

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Grievance Mechanisms

### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related human rights legislation maintained by the ILO

[ILOLEX database of international labour standards](#)

### Key Reference Sources

[Freedom of association and the effective recognition of the right to collective bargaining](#) – ILO website

[Global Compact Tools and Guidance Materials](#)

### Risk for Explorers

- Unknowingly hiring underage workers in locations where child labour is common
- Work performed on your behalf by contractors or others who use underage workers

### Key Terms

**child labour** is work that is mentally, physically, socially or morally dangerous and harmful to children and interferes with their schooling by:

- depriving them of the opportunity to attend school;
- obliging them to leave school prematurely; or
- requiring them to attempt to combine school attendance with

Governments in developing countries may, in rare circumstances, set the age for entry into employment at 14, but only when done in accordance with ILO Convention 138, and only after consultation with employers and workers' organizations. When relying on national legislation in such circumstances, the organization should check that national legislation is in compliance with ILO Convention 138.

These age restrictions do not apply to young workers enrolled in legitimate vocational training or technical education programs. Apprenticeship programs should:

- provide real educational benefit to the child;
- not interfere with the child's compulsory education;
- be of limited in duration; and
- be organized through a school programs or supervised by a government agency.

*Vocational training should not be used as a guise to exploit children by paying them less as trainees and providing little educational benefit.*

### 7.13.1 Recommended Practices

- Develop a policy prohibiting the use of child labour, in any form, across all of your operations and activities. Make sure the policy applies to suppliers and sub-contractors.
- Establish standards on the minimum age for employment, which complies with national laws, but are no less than ILO standards.
- Consider risks related to child labour when conducting project due diligence. This should include:
  - assessing the likelihood that the company (or its contractors) may be employing under age workers;
  - becoming informed of national laws related to child labour and education; and
  - understanding the local social and economic conditions and issues related to child labour.
- Raise awareness of staff to the child labour issues identified during the due diligence review.
- Take reasonable steps to confirm the age of candidates for employment. This may require ways of estimating age where documented identification is not available or reliable (e.g., judging age by height, asking questions that could help pinpoint the child's age). Staff should be made aware of typical ways in which identification documents may be falsified in the country of operation.
- Take into account how work may interfere with the education of children when hiring children under the age of 18.

excessively long and heavy work. (ILO)

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Articles 24 and 26

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Article 7

[Convention on the Rights of the Child, 1989](#)

[ILO Minimum Age Convention, 1973 \(C138\)](#)

[ILO Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 \(C190\)](#)

### Related e3 Plus Guidance

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### Due Diligence Information Sources

[The Country Risk Assessment \(CRA\) reports](#) (Human Rights and Business Project) – provide analysis of sensitive human rights issues in the country of operation, along with practical guidance on how to avoid engaging in human rights violations

[The State of the World's Human Rights](#) (Amnesty International) – human rights issues by country

[US State Department Country](#) – reports on human rights, published annually

### Key Reference Sources

- Find means to remedy situations if you become aware that you are employing children of school age. This might include offering to hire adult members of the family in their place or identifying ways to enable the child to achieve a basic education (e.g., an apprenticeship program or financial support).
- Conduct medical examinations of young workers to ensure their fitness for the form of employment they are to undertake.
- Define the work that your organization performs that should only be undertaken by a person 18 and older and train managers to be aware of the limitations of workers under the age of 18. This is intended to prevent exposure of workers under the age of 18 to tasks and working conditions that could be hazardous or harmful to their health, safety, or morals. Some of the working conditions that should be avoided by workers under the age of 18 are defined in ILO Recommendation 190. These include work that:
  - exposes them to psychological, emotional, or sexual abuse;
  - is underground, underwater, at dangerous heights, or in confined spaces;
  - involves dangerous machinery, equipment and tools, or requires lifting or transporting heavy loads;
  - exposes them to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and/or
  - involves long hours, night shifts, or places them in situations that require them to be unreasonably confined to the premises.

[ILO Website](#) – dedicated to child labour

[Eliminating Child Labour ILO Guides For Employers](#) (for purchase)

[IFC Good Practice Note In the Workplace and Supply Chain Addressing Child Labour](#)

[Global Compact Tools and Guidance Materials](#)

## 7.14 Forced Labour

**“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”**

Article 4 of the Universal Declaration of Human Rights

Forced or compulsory labour is a form of servitude. Essentially, forced labour is any situation where a person enters work or service against their freedom of choice, and cannot leave it without penalty or the threat of penalty.<sup>5</sup>

Forced labour is a criminal practice prohibited in both international law and most national legislation. According to ILO data, at least 12.3 million people are victims of forced labour worldwide, in industrialized as well as in developing countries.<sup>6</sup> Forced labour is typically regarded as an issue associated with the actions of repressive states; however, 9.8 million people in forced labour are exploited by private actors.<sup>7</sup> Through force, coercion and deception, forced labour victimizes the most vulnerable members of society: women, children, and migrant workers.<sup>8</sup> The ILO has identified the following forms of forced labour:

**Debt-induced forced labour, also widely known as “bonded labour or debt bondage”:** Workers take a loan or wage advance from an employer or labour recruiter, in exchange for labour by the worker or by family members. The terms of the loan are such that they trap workers into years of servitude.

**Prison labour:** Involuntary work performed by prisoners who have not been convicted in a court of law and whose work is not supervised by a public authority.

**Human trafficking:** Individuals are forced or tricked into going somewhere by someone who then sells them or forces them to work against their will. Human trafficking is often linked to organized crime.

**State or military compulsory work:** Civilians are forced or required by law to do work for government authorities or the military.

**Coercion in employment:** Work compelled under deception or coercion. Some examples of coercion include withholding or non-payment of wages, the retention of identity documents, and induced indebtedness.

**Exploitative labour contracts:** Migrant workers find themselves “bonded” to a labour contractor, because excessive fees have been charged. All their wages go to paying for transportation, food and shelter, because they've been “locked into debt” and they can't leave or change employers because of force, threats or the remote location of the worksite.

## Risks for Explorers

- Relying on workers supplied by recruiters or government agencies, in locations where forced labour is a high risk.

- Work performed on your behalf by contractors or others who use forced labour

## Key Terms

**Forced or compulsory labour** is all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (ILO Convention No. 29, 1930)

**Slavery** is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised (Slavery Convention, 1926)

## Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 4

[Covenant on Civil and Political Rights, 1966](#), Article 8

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Article 7

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990](#), Article 11 (2)

[ILO Forced Labour Convention, 1930 \(C29\)](#)

[ILO Abolition of Forced Labour Convention, 1957 \(C105\)](#)

<sup>5</sup> *Combating Forced Labour: a handbook for employers and business / International Labour Office - Geneva: ILO, 2008, p.8*

<sup>6</sup> Belsler, P, de Cock, M, and Mehran, F. 2005. *ILO Minimum Estimate of Forced Labour in the World*. Available online: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081913.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf)

<sup>7</sup> [http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/Key\\_statistics\\_FL\\_FS.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/Key_statistics_FL_FS.pdf)

<sup>8</sup> [http://www.ilo.org/global/Themes/Forced\\_Labour/lang--en/index.htm](http://www.ilo.org/global/Themes/Forced_Labour/lang--en/index.htm)

### 7.14.1 Recommended Practices

- Develop a policy prohibiting the use of forced labour, in any form, across all of your operations and activities. Make sure the policy applies to suppliers and sub-contractors.
- Commit to zero tolerance of breaches of any of the core labour standards.
- Consider risks related to forced labour when conducting project due diligence. This should include:
  - assessing the likelihood that you or your contractors may be employing forced labour;
  - becoming informed of national laws related to working conditions and terms of employment;
  - understanding the local social and economic conditions and issues related to forced labour.
- Through the due diligence process, where you identify a potential risk of forced labour, take reasonable steps to investigate further. Consider the following additional steps:
  - speak with the employer and recruiter about their employment and recruitment policies and practices;
  - if possible, speak with workers directly and ask them about their work situation to determine whether they have entered into and can leave employment freely; protect the confidentiality of these interviews to safeguard against possible reprisals;
  - review wage records to verify that workers are paid wages comparable to free workers, allowing for legal deductions;
  - assess occupational safety and health standards and working conditions.
- Train staff to identify and prevent forced labour. Training on forced labour and human trafficking can be integrated into other training programs. Staff should be trained to be alert to practices by contractors, recruiters, or organizations supplying workers to your organization, or conducting work on your behalf or for your benefit. Some practices that may be indicative of forced labour include:
  - charging workers recruiting or hiring fees;
  - requiring employees to leave money deposits with the employer or recruiter;
  - coercing or compelling workers to work, or to work extraordinary hours. Some examples of coercion and compulsion include physical force, threats and withholding wages;
  - evidence of the use or threat of harassment, intimidation, or physical violence against workers, their families or close associates;
  - withholding identity documents or means of transportation that would prevent workers from leaving employment;

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#### Due Diligence Information Sources

[The Country Risk Assessment \(CRA\) reports](#) (Human Rights and Business Project) – provide analysis of sensitive human rights issues in the country of operation, along with practical guidance on how to avoid engaging in human rights violations

[The State of the World's Human Rights](#) (Amnesty International) - human rights issues by country

[US State Department Country reports](#) on human rights – published annually

#### Key Reference Sources

[ILO Website](#) – dedicated to forced labour

[Combating forced labour: A handbook for employers and business](#) – provides guidance material and tools for business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains

[Global Compact Tools and Guidance Materials](#)

- withholding or delaying wages;
- imposing financial penalties on workers;
- working conditions that fall below local standards;
- not allowing workers to leave the worksite at the end of shifts;
- use of prison labour, except in situations where the prisoner has been convicted by a court of law and freely consents to work;
- absence of employment contracts, or situations where employees do not understand the terms of their employment; and
- payment by employees for food and lodging.

### 7.15 Security and Human Rights

Explorers operate in many parts of the world where the safety of their personnel and operations are at risk. Often, these are areas of conflict, where there are oppressive regimes, ethnic conflict and the rule of law is fragile. Explorers are at risk of sabotage, disrupted operations, extortion, kidnapping and reputational damage.

Explorers have a responsibility to protect the security of their personnel and operations. However, this must be done in a way that does not infringe on the human rights of others. In protecting the security of their personnel and operations, explorers may need to engage private security personnel, or rely upon government security forces. While private and government security personnel are expected to act within national laws and international human rights standards and laws, abuses of human rights sometimes occur. A few examples of how security activities can result in abuses of human rights include:

- the use of excessive force – this violates the liberty and security of the victims (Article 3 – UDHR);
- interfering with peaceful protests against the company or project – this violates freedom of expression and freedom of assembly (Articles 19 and 20 – UDHR);
- unlawful arrest by public security forces or detention by private security forces – this violates freedom from arbitrary arrest or detention (Article 9 – UDHR); and
- the use of information gained through security activities to discriminate against members of the workforce or the community – this violates the privacy of the person and freedom from discrimination (Articles 12 and 2 – UDHR);

To minimize the potential of these types of human rights abuses, explorers need to ensure that they understand the security risks in the area in which they propose to operate and be diligent about how they engage and relate with public security forces. Accurately assessing and preparing for risks prior to initiating exploration activities is critical to respecting human rights and protecting the security of workers, local communities and company assets. In some cases, assessing and mitigating risk will be reasonably straightforward and simple. However, in current or historic conflict areas or situations of fragile political, economic, military and social relations, understanding and responding to security risks will require intensive upfront analysis of on ongoing monitoring and adaptation. One of the factors that should be considered is the presence of racial, ethnic, or religious conflict between security forces and local populations. In these situations, explorers are advised to seek the assistance of qualified specialists to help them plan and prepare for security risks.

The Voluntary Principles for Security and Human Rights were released in December 2000 by the U.S. State Department and the Foreign and Commonwealth Office of the United Kingdom. They were developed through a yearlong consultation process involving government officials, oil and mining companies, and NGOs. The Voluntary Principles provide guidance to companies operating in areas of conflict or fragile states, so that they can ensure that security forces – public or private – protecting the companies' facilities and premises operate in a way that protects the companies' assets, while respecting human

### Risk for Explorers

- Private security personnel working for explorers who act unlawfully or fail to respect human rights
- Public security that act unlawfully or fail to respect human rights in the conduct of security operations that apply to the explorers' personnel and operations
- The need to protect and defend facilities and operations in areas of conflict can lead to interactions with security forces and armed groups that are party to the conflict or repression
- Explorers may be required (by law or coercion) to pay public security forces for security provided to their operations

### Key Terms

**rule of law** is a legal system in which rules are clear, well-understood and fairly enforced, and no one, including the government and its officers, are above the law

**private security** involves security guards or security personnel hired by a private organization to protect their property, assets, and/or people

**public security** involves government agencies responsible for ensuring the protection of citizens, organizations and institutions against threats to their well-being and to their prosperity – these include the military and paramilitary forces and law enforcement agencies

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 20

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Articles 6 (1) and 9 (1)

[U.N. Code of Conduct for Law Enforcement Officials](#)



rights and fundamental freedoms. They were developed due to mounting international concern over the way that security forces operated in protecting oil and mining installations in many parts of the world. The recommended practices outlined in this section are a summary of the practices in the Voluntary Principles. Explorers operating in areas of potential security risk are advised to consult the full text of the Voluntary Principles.

[Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990](#)

The roles are different for private versus public security personnel. So too is the degree of control and influence that explorers will have over private versus public security forces. The role of public security should be to maintain the rule of law, safeguard human rights and prevent threats to company personnel and facilities. The role of private security personnel is strictly defensive. Private security can act to defend company personnel and property and, within the scope of their authority, to identify and prevent threats to company property. They should not undertake any roles that are properly the responsibility of state law enforcement or military authorities, where these are in place.

The recommended practices apply to both public and private security. However, the control and influence that explorers have with private security personnel will be far greater than with public security.

### 7.15.1 Recommended Practices

- Communicate policies regarding human rights to security providers. Public security providers should be encouraged to provide security in a manner consistent with those policies. Private security providers should be required to comply with these policies as a condition of contract.
- Conduct project due diligence to understand the security risks and how those risks can be mitigated. This should include understanding the country – politically, socially and economically – and considering the:
  - potential for violence in the area of operation;
  - human rights records of public security forces, paramilitaries, local and national law enforcement, and private security forces (when used);
  - nature of local conflicts, as well as the level of adherence to human rights and international humanitarian law standards by key actors;
  - capacity of local authorities (law enforcement, prosecutors, judges) to enforce and hold accountable anyone responsible for human rights abuses;
  - potential for misappropriation or diversion of equipment supplied by the company for security purposes to activities that may lead to human rights abuses and any relevant past incidents involving previous equipment transfers.
- Take reasonable steps to conduct due diligence of private security providers. This should include:
  - discussing rules of engagement, human rights policies and grievance mechanisms up front, when negotiating services with security providers;
  - determining the training and professional proficiency of security personnel, including training in human rights; and
  - looking into the reputation of the provider through inquiry with local communities, government agencies, labour organizations and reputable NGOs.
- Security problems are often manifestations of underlying unresolved grievances with local communities. Therefore, security should be linked to community relations and security programs should emphasize conflict prevention rather than management.
- Consult regularly with host governments and local communities about the impact of security arrangements on those communities.
- Establish a grievance mechanism to receive, investigate and respond to allegations of abusive or unlawful actions by security personnel, including harassment, threats, excessive use of force, misuse of equipment, and breaches of privacy.
- To the extent that it does not jeopardize safety or overriding security concerns, security arrangements should be transparent and accessible to the public.
- Take all reasonable and appropriate measures to prevent misappropriation of

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### Due Diligence Information Sources

[Country Risk Assessment \(CRA\)](#) – Human Rights and Business Project are designed to provide in-depth analysis of sensitive human rights issues

[U.S. State Department Country](#) reports on human rights – published annually.

[U.S. Law Library of Congress](#) for the Global Legal Information Network (GLIN), this metasite indexes online resources for legal information worldwide: the Nations section offers links to the constitution, executive, legislative, and judicial branches; legal guides; and general resources for over 200 countries

### Key Reference Sources

[Voluntary Principles on Security and Human Rights](#)

[Voluntary Principles and Human Rights: Performance Indicators](#)

equipment for purposes other than legitimate use for company security – this includes designating how and in what circumstances equipment should be used and monitoring the use of equipment.

- Establish controls to maintain the confidentiality of information obtained by private security.
- Take reasonable steps to monitor performance of security activities conducted on your behalf, or in relation to your operations.
- Security forces should not employ individuals to provide security services who credibly implicated in human rights abuses. ;
- Security forces should only use force when strictly necessary and to an extent proportional to the threat. If force is used, it should be reported to the appropriate authorities and to the explorer. Medical assistance should be provided to anyone injured through the use of force.
- Where appropriate and lawful, facilitate the exchange of information about unlawful activity and abuses committed by security providers.
- Establish a grievance process where local communities may report real or perceived abuses.