THE AUSTRALIAN MINERALS INDUSTRY & HUMAN RIGHTS:
Managing Human Rights Risks and Opportunities through the UN Guiding Principles on Business and Human Rights
Contributors
The Global Compact Network Australia and Minerals Council of Australia thank the following companies for their contributions to this publication:
- BHP Billiton Limited
- MMG Limited
- Newmont Mining Corporation
- Rio Tinto Limited
- Banarra Pty Ltd

About the Global Compact Network Australia
The UN Global Compact is the world’s largest voluntary corporate responsibility initiative, with over 10,000 participants committed to respecting universal principles in human rights, labour, environment and anti-corruption and supporting UN goals. The business-led Global Compact Network Australia (GCNA) brings together Australian signatories to the UN Global Compact to advance the private sector’s contribution to inclusive sustainable development through providing a national and international platform for dialogue, learning and influence that is inclusive, practical and leading edge.

The GCNA’s Human Rights Leadership Group provides members and interested stakeholders with a forum in which they can share knowledge, challenges, solutions and best practices that will, overall, assist their organisations to know and show that they are respecting and supporting human rights and in so doing managing their human rights risks.

About the Minerals Council of Australia
The Minerals Council of Australia (MCA) is the peak industry body of Australia’s exploration, mining and minerals processing industry. It represents the minerals industry, both nationally and internationally, in advancing its contribution to sustainable development and to society.

The MCA recognises that the future of the Australian minerals industry is inseparable from the global pursuit of sustainable development. Through the integration of economic progress, responsible social development and effective environmental management, the industry is committed to contributing to the sustained growth and prosperity of current and future generations.

Designer
Jeni Kapeliotis

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A decade ago human rights were widely considered to be the domain of sovereign governments and the popular endeavour of non-government church and aid agencies. Today, industry, and especially the minerals industry, is more thoroughly and appropriately engaged in both the cause of and the means to respecting human rights. The industry has its own framework of operating principles and many companies routinely adopt specific human rights policies for their operations both domestically and internationally. This change applies not only to how the industry engages with Indigenous people and other marginalised groups, but how we address barriers to women’s participation in the industry, and undertake work in community and regional development.

Perhaps the most profound of these changes in the industry’s modus operandi is the industry’s relationship with Indigenous Australians. The industry’s recognition of Indigenous Australians’ rights, interests and special connections to lands and waters has been the fundamental tenet of profound and enduring change. The minerals industry has moved from the divisive and confrontational debates surrounding the contest over land rights of more than a decade ago, to a focus today on land use agreements with traditional owners that seek not to contest rights, rather, to build on a platform of mutual respect for mutual benefit in cultures and values and in community and economic development.

This change has been driven by the collective, indeed collaborative, endeavour of Indigenous and industry leaders. In this we are proud that the Minerals Council of Australia across its entire membership, governance structures and secretariat has been instrumental and integral to that effort over the course of the intervening decade. There can be few greater contemporary legacies of such human rights merit in Australia. This publication is further testament to both that underlying commitment and the pursuit of continuous improvement. We look forward to a continuing partnership with the Global Compact Network Australia in our mutual endeavour and to the mutual benefit of all Australians.

Mitchell H. Hooke
Chief Executive Officer
Minerals Council of Australia
Today’s resources companies are increasingly aware of the challenges and opportunities they have in operating sustainably and responsibly. In recognition of this growing awareness, many resources companies are signatories to the ten principles of the UN Global Compact, which relate to human rights, labour, environment and anti-corruption. The UN Global Compact is the world’s largest voluntary corporate sustainability initiative, providing an architecture through which business is motivated and supported to realise its potential to advance sustainable development through action and collaboration.

Fundamental to sustainable development is respect for human rights. Since their endorsement by the UN Human Rights Council in 2011 (by a resolution co-sponsored by the Australian Government), the UN Guiding Principles on Business and Human Rights have offered business an authoritative and practical framework to implement policies and processes to meet their responsibility to respect human rights. Many Australian mining companies, like other companies around the world, are working through the UN Guiding Principles to better manage their human rights risks.

The Global Compact Network Australia is pleased to have developed this publication with the MCA to highlight the UN Guiding Principles and how mining companies are applying some leading practices in their implementation. We hope that this publication helps companies understand their responsibility to respect human rights, the challenges and opportunities they face in meeting that responsibility and how integration of the UN Guiding Principles can help companies better manage them.
Mining and human rights: the challenge and opportunity

Over the past decade, as globalisation has accelerated, an increasing focus has been given to the impacts of business – both positive and negative – on human rights.

In its early years, the debate around business and human rights centred on exploring the role of business as against the role of governments. In 2008, the UN “Protect, Respect, Remedy” framework clarified this issue, affirming that while governments have the primary duty to protect human rights, companies have a responsibility to respect human rights – that is, to ensure that they do not infringe on anyone’s human rights. Communities, customers, employees, investors, governments and other stakeholders now expect companies to understand and meet this responsibility to respect human rights and demonstrate how they are doing so.

The mining sector has been the subject of particular attention in the area of business and human rights. As a significant contributor to economic growth, mining companies have a considerable opportunity to contribute to sustainable development and impact positively on communities and countries around the world – helping to support human rights. However, development without respect for human rights is not sustainable, and the significant footprint of mining activities can bring risks of adverse human rights impacts. Accordingly, understanding and respecting human rights – in both developed and developing countries – is fundamental to corporate and global sustainability.

In recognition of this, human rights are now reflected in a number of mining industry standards and frameworks, including the Minerals Council of Australia’s Enduring Value Framework, the International Council on Mining and Metals’ (ICMM) Sustainable Development Framework, the Voluntary Principles on Security and Human Rights and the Conflict-Free Gold Standard, to name a few.

Some mining companies, including in Australia, have been early global leaders in acknowledging their responsibility to respect human rights and in seeking to implement policies and processes to meet the responsibility. Many mining and other companies are also demonstrating their commitment to human rights and corporate responsibility more broadly through participation in voluntary initiatives such as the UN Global Compact.

The business case for human rights

There is a strong business case for respecting human rights. At a fundamental level, human rights are a risk management issue. Integrating human rights into corporate risk management processes makes them more rigorous and effective. On the other hand, ineffective management of human rights impacts is directly linked to higher operational, reputational, legal and financial risk.

Respecting human rights is also the minimum standard expected by companies’ stakeholders, including communities, NGOs, employees, customers, investors and funding agencies, governments and business partners. The ability to demonstrate respect for human rights is therefore critical for building relationships and maintaining a social licence to operate, as well as increasingly a legal licence. It also enhances corporate reputation as an operator of choice for communities, governments and investors, and facilitates access to land and capital. Moreover, understanding and responding to human rights issues helps companies to target their social impact mitigation strategies more efficiently and effectively, as well as identify opportunities to create shared value.

How to meet the responsibility to respect human rights

The UN Guiding Principles

In 2011, the UN Guiding Principles on Business and Human Rights (the UN Guiding Principles) were released to provide practical guidance to governments, companies and other stakeholders on business and human rights. The UN Guiding Principles are the authoritative global standard and key reference point for companies on the “how to” of meeting the growing global expectations they face when it comes to human rights.

The UN Guiding Principles build on the three pillars of the UN “Protect, Respect and Remedy” Framework, which are:

- the state duty to protect against human rights abuses, including by business;
- the corporate responsibility to respect human rights; and
- the need to ensure access to remedy for those affected by human rights abuses.
What is the corporate responsibility to respect human rights?

The UN Guiding Principles make it clear that companies have a responsibility to respect human rights. At its most basic level this means to do no harm. This responsibility to respect human rights requires companies to:

- avoid causing or contributing to adverse human rights impacts through their own activities and address any such impacts when they occur; and
- seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

Under the UN Guiding Principles, respecting human rights (doing no harm) is the minimum standard expected of companies. As reflected in the principles of the UN Global Compact, companies also have a significant opportunity to support human rights – that is, to take additional voluntary actions that promote and advance human rights (e.g., through social investment, advocacy and engagement in public policy, collective action and philanthropy) although this cannot substitute for respecting human rights.

Examples

Direct impact: Waste from Company A’s mine site pollutes a river on which locals depend for food and water. Company A should immediately stop polluting the river, and work with those affected to ensure they have access to an effective remedy (this may include financial compensation, the provision of food and water until pollution addressed and environmental rehabilitation etc.).

Business relationship: A company may have a minority interest in a joint venture being operated by a partner. If the partner is causing or contributing to negative human rights impacts, the company has a responsibility to use its leverage to try and prevent or mitigate them. In some instances, if the impacts are severe and the partner is not addressing them, the company may need to consider ending the relationship.
What are human rights?
 Companies should respect all internationally-recognised human rights. At a minimum, this means those rights set out in the International Bill of Human Rights\(^2\) and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

Human rights touch on a broad range of issues – from labour rights and working conditions, to health, education, culture, privacy and environment. These are relevant to a range of management and business functions, including community and government affairs, environment, health and safety, human resources, security, supply chain management/procurement and IT.

How to meet the responsibility to respect human rights

The UN Guiding Principles set out the policies and processes that a company should have in place to meet its responsibility to respect human rights. These are:

- a **policy commitment** to respect human rights;
- an ongoing **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights; and
- processes to enable the **remediation** of any adverse human rights impacts they have identified that they have caused or contributed to.

These are further elaborated by the UN Guiding Principles.

Human rights due diligence involves **assessing** actual and potential human rights impacts, **integrating** and acting on the findings, **tracking** responses and **communicating** how impacts are addressed. It is a process through which companies can understand their actual and potential human rights impacts, and what they can do to respond. A key part of the process is effective, inclusive engagement with people who are potentially affected by the company’s activities. Human rights due diligence must be an ongoing process, as human rights risks and impacts may change over time. It must also be tailored to the particular company and operating context, and the scale and complexity of human rights due diligence will vary accordingly.

Fundamental human rights include (but are not limited to):

- No forced or compulsory labour
- Effective abolition of child labour
- Non-discrimination
- Self-determination
- Life, liberty and security of person
- No torture, cruel, inhuman and/or degrading treatment or punishment
- Privacy
- Freedom of assembly
- Freedom of association and collective bargaining
- Right to form and join trade unions; right to strike
- Right to work and to enjoy just and favourable conditions of work
- Adequate standard of living
- Health
- Education
- Cultural life
- Clean drinking water and sanitation

Respecting human rights (doing no harm) is the minimum expected of companies. Companies also have a significant opportunity to support, promote and advance human rights.

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\(^2\) The International Bill of Human Rights comprises the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
Implementing the UN Guiding Principles

The UN Guiding Principles do not provide an “off the shelf” handbook and there is no simple checklist or “one size fits all” approach to responding to human rights issues. Instead, mining companies are encouraged to use the UN Guiding Principles to develop policies and processes appropriate to them or strengthen those already in place. A range of factors, including size, sector, operational context, ownership and structure, together with the severity of the company’s actual or potential human rights impacts, will determine what a company needs to do to meet its responsibility.

In many ways, mining companies are well-equipped to meet their responsibility to respect human rights given their strong understanding of and frameworks around risk management, including with respect to environmental, community, health and safety matters.

Nonetheless, mining companies operate across the world in increasingly complex social and political contexts, and face a number of challenges both in relation to particular human rights issues and in practical implementation of their responsibilities. Mining companies are often operating in countries of weak governance or conflict, where governments may not be meeting their own duties to protect, respect and fulfil human rights.

Situations may also arise where different human rights seem at odds with each other (e.g. the need to respect cultural rights while also ensuring respect for the rights of women and girls or other vulnerable groups in a community). Understanding and respecting Indigenous peoples’ rights also continues to be an ongoing issue for many mining companies. Implementation of the UN Guiding Principles will help companies understand and respond to these challenges.

This publication aims to provide a concise, high-level introduction to the UN Guiding Principles and, through case studies from Newmont, MMG, Rio Tinto and BHP Billiton, highlight how these companies are practically implementing key components of the UN Guiding Principles. Even those companies who are well advanced in understanding and implementing human rights policies and processes continue to acknowledge that understanding and managing human rights issues is a process of continuous improvement, and there is still work to do. It is hoped that this publication contributes to the Australian minerals industry’s understanding of human rights both within Australia and offshore, encourages companies at the start of their human rights journey to move forward, and those who are more advanced to continue sharing their experiences with peers.
The Australian Minerals industry & human rights

UN Guiding Principles and Case Studies

The case studies in this publication illustrate the following UN Guiding Principles:

Note: The case studies are necessarily focused on one particular project and may not relate to all aspects of the UN Guiding Principles, and this table is to guide readers to relevant case studies; it does not in any way indicate a company’s overall compliance or approach to the UN Guiding Principles which is beyond the scope of this publication.

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<thead>
<tr>
<th>Foundational principles</th>
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<td>GP 11, 12, 13 &amp; 14:</td>
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<td>Avoid causing or contributing to adverse human rights impacts through their own activities and address impacts when they occur;</td>
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<td>Seek to prevent or mitigate adverse human rights impacts directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.</td>
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<td>The responsibility applies to all business enterprises regardless of size, sector, operational context, ownership and structure (although the scale and complexity of the means through which enterprises meet the responsibility may vary according to these factors and the severity of adverse impacts).</td>
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<th>Policy commitment</th>
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<td>GP 15 &amp; 16: In order to meet their responsibility, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:</td>
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<td>A policy commitment to meet their responsibility, which should meet the requirements set out in UN Guiding Principle 16;</td>
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<td>A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;</td>
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<td>Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.</td>
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<th>Human rights due diligence</th>
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<td>GP 17: Business enterprises should carry out human rights due diligence, including assessing actual and potential human rights impacts, integrating and acting on findings, tracking responses and communicating how impacts are addressed. This should be ongoing.</td>
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<td>GP 18: Business enterprises should identify and assess any actual or potential adverse human rights impacts through a process that draws on internal and/or independent external human rights expertise, and involves meaningful consultation with potentially affected groups and other relevant stakeholders.</td>
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<td>GP 19: Business enterprises should integrate findings from impact assessments across relevant internal functions and processes and take appropriate action.</td>
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<td>GP 20: Business enterprises should track the effectiveness of their response to human rights impacts, based on appropriate indicators and drawing on feedback from internal and external sources including affected stakeholders.</td>
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<td>GP 21: Business enterprises should communicate externally how they address human rights impacts.</td>
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<td>GP 22: Where they have caused or contributed to adverse human rights impacts, business enterprises should provide for or cooperate in remediation through legitimate processes.</td>
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<td>GP 29: Business enterprises should establish or participate in effective operational-level grievance mechanisms.</td>
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<td>GP 23: Business enterprises should comply with all applicable laws and respect internationally-recognised human rights wherever they operate; seek ways to honour the principles of internationally-recognised human rights when faced with conflicting requirements; and treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.</td>
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<td>GP 24: Where it is necessary to prioritise actions, business enterprises should first seek to prevent and mitigate impacts that are most severe or where delayed response would make them irremediable.</td>
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Following a gap analysis in 2011 against the ten principles of the ICMM’s Sustainable Development Framework, human rights was identified as one of MMG’s top three priority areas for a subsequent three-year program to more closely align to the principles. The company is implementing the UN Guiding Principles through the development and roll-out of a group-wide community relations management system.
Developing a Human Rights Management System
MMG Limited (MMG) is a global resources company headquartered in Melbourne which explores, develops and mines base metal deposits around the world. MMG is one of the world’s largest producers of zinc and also produces significant amounts of copper, lead, gold and silver. MMG owns and operates the Century, Golden Grove and Rosebery mines in Australia, the Kinsevere mine in the Democratic Republic of the Congo (DRC), and the LXML Sepon mine in partnership with the Government of Laos. MMG has major development projects at Dugald River at north-west Queensland, Australia, and the Izok Corridor base metals project in north-west Canada. MMG also has significant exploration and partnerships in Australia, Africa and the Americas.

**MMG’s approach to human rights**

MMG’s motto, *We mine for progress*, features on the cover of its latest sustainability report. It refers to the company’s belief in delivering progress for its people, investors, host governments and the diverse communities in which it operates. MMG’s approach to respecting human rights is an integral part of this approach.

Since 2011 MMG has been working to align its practices with leading international best practice in business and human rights, including the UN Guiding Principles. The catalyst for this has been MMG’s membership of the International Council on Mining and Metals (ICMM), which requires its members to implement the ten principles of the ICMM’s Sustainable Development Framework, including Principle 3 on upholding fundamental human rights.

MMG’s majority shareholder, China Minmetals, is a signatory to the UN Global Compact committing it to respecting and supporting human rights throughout its operations. MMG recognises that respecting human rights is fundamentally important across all its activities, particularly now including the newly-acquired Kinsevere operation in the Democratic Republic of the Congo (DRC), where there are heightened human rights risks as a result of national conflict and political instability. As such, MMG has developed a Group-wide management system for social and human rights issues.

**Articulating MMG’s commitment to human rights**

One of MMG’s first actions under the ICMM alignment program was formalising its commitment to human rights in its Sustainability Policy. This involved internal engagement with MMG’s senior management across key departments, and a review of the company’s existing systems and processes in relevant areas including corporate governance, risk, stakeholder relations, environment, health and safety and community development.

As a result of the gap analysis, an internal workshop with MMG’s executive leadership team led to the development of a three-year ICMM alignment program to close the identified gaps. Further developing its policies, principles and standards to better align with ICMM Principle 3, which requires companies to “Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by their activities”, emerged as one of MMG’s top three alignment priorities.

Andrew Hocking, MMG Group Manager Community Relations said: “MMG’s membership of ICMM and the decision to focus on human rights was a way to help manage key business risks, and help ensure MMG operates in a sustainable and ethical way by aligning its practices to international standards”.

**How human rights became a focus for MMG**

In 2011, MMG commissioned consultants Banarra to conduct a gap-analysis of their corporate level policies, standards and management approach against the ICMM principles. This process was driven by MMG’s Social, Health, Safety, Environment and Community Board, with direct support from the company’s CEO and COO, who recognised the importance of this process for the company’s social license to operate, culture and future growth.

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**Articulating MMG’s commitment to human rights**

One of MMG’s first actions under the ICMM alignment program was formalising its commitment to human rights in its Sustainability Policy. This involved internal and external engagement as well as a review of the UN’s guidance for implementing the UN Guiding Principles¹, in particular UN Guiding Principle 16 which relates to companies’ policy commitment to respect human rights. MMG’s Sustainability Policy now states that the company is striving to “understand, respect and promote fundamental human rights within our sphere of influence, respecting traditional rights and cultural heritage.”

A further key response under the ICMM alignment program was to develop a Community Relations Management System (CRMS), through an inclusive consultative process.

Initial engagement with sites was carried out via a workshop run through MMG’s internal Community Relations Network to develop a shared understanding of sites’ priorities and needs with regard to community relations and human rights-related issues. The process enabled sites to articulate common challenges, helped raise awareness of the site-level implications of the company’s ICMM commitment, and enabled MMG to identify specific standards areas that needed to be revised or developed.

Internal engagement through on-site visits by staff from a range of departments including operations, exploration, human resources, environment, security, government relations, procurement and community relations enabled MMG to build a practical CRMS from the “bottom-up”, and aligned with local, site-level needs while promoting a consistent approach to managing and responding to community-related issues, risks and opportunities across all MMG sites. This process also helped MMG identify areas for capacity-building, assumptions that were made about existing issues and potential shortcomings in relation to human rights due diligence.

| UNGP 19: Integrate findings across relevant internal functions and processes |

Following the site visits, MMG developed a stand-alone Human Rights Standard to start embedding MMG’s human rights policy commitment to respect human rights into practice. It also helped to highlight across the business that human rights considerations are as important to the company as health, safety and environmental commitments, which are already well managed and understood areas. MMG also developed a Security Management Standard to manage human rights in the security context.

To ensure MMG’s approach was consistent with international best practice, key elements from the UN Guiding Principles, including human rights due diligence, were integrated into MMG’s Human Rights Standard.

Using a human rights lens to identify issues that affect our people and the communities where we operate gives us a much more powerful way to understand and assess risks. It’s an opportunity for a broader internal conversation where people within the business are able to voice issues.
MMG Limited
Developing a Human Rights Management System

MMG now has specific requirements and accompanying guidelines around:

- identifying and assessing human rights risks;
- preventing and mitigating identified risks and potential human rights impacts;
- developing a process for reporting and investigating allegations; and
- implementing a system for tracking and monitoring the responses to human rights abuse allegations.

The guidelines also take into account the International Finance Corporation Standards and ICMM guidance on human rights in the mining and metals industry.

The Human Rights Standard includes specific consideration in relation to supply chain risks. These include a requirement that security contractors conform to the UN Voluntary Principles on Security and Human Rights. MMG’s operations outside Australia, in Laos and the DRC, provide particular incentives to adopt these requirements given the mine sites’ relations with both private and public security forces.

Next steps
Since rolling out its new CRMS, MMG has started a broader human rights education and risk assessment program at priority sites including Kinsevere in the DRC. This process helps to identify and challenge assumptions about human rights issues at both the corporate and site levels, and provides an opportunity to build understanding about how human rights are relevant to employees in their local context.

Andrew Hocking said, “Using a human rights lens to identify issues that affect our people and the communities where we operate gives us a much more powerful way to understand and assess risks. It’s an opportunity for a broader internal conversation where people within the business are able to voice issues.”

A schedule has also been established for ensuring alignment to the Voluntary Principles on Security and Human Rights during 2013–2014, and an initial audit against these principles has already been carried out at Kinsevere.

Challenges and lessons learned
The development and progressive roll-out of the CRMS has provided a well-defined process and generated momentum through which to embed human rights responsibilities across the business. The implementation of the new Standards is an ongoing process, supported by guidelines, self-assessment tools, and a plan for audits in the future.

Addressing limited awareness and understanding of human rights in business
A key obstacle to embedding human rights across a company is limited awareness and understanding of what human rights are, and how they are relevant to the business. Richard Boele, Managing Director at Banarra, who worked with MMG on the ICMM alignment process and CRMS said: “People often still think only of civil and political rights when they hear ‘human rights’ – they associate it with NGOs like Amnesty International and with the responsibility of governments. The real challenge is getting people at site-level to understand the breadth of ‘human rights’, and the links between the responsibilities of mining operations, human rights and the social licence.”

MMG’s Andrew Hocking also raised this issue: “We have work to do in relation to building awareness of human rights, what it means to the business, and to educate ourselves about the fact that some human rights issues are more subtle – they go beyond torture, slavery, political persecution and such issues that many people typically think of when they hear the term ‘human rights’.”

“Building understanding and support in the business for the concept and the different layers around human rights management is key. We are still working through this and it will take time, but our policies, processes and actions are starting to see the understanding built internally.”

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Being realistic about timeframes and complexity

Another challenge is recognition that change does not happen instantly. Andrew Hocking said, “Integrating new ideas and aligning systems in companies with multiple operations around the world is difficult enough in a ‘traditional’ business function, and so achieving this with human rights and the UN Guiding Principles is a more complex, multi-disciplinary process.”

“We need to be realistic about timeframes, recognising that people in different parts of the organisation have their own priorities. We also have to use our robust public commitment to human rights to drive the implementation of the human rights due diligence process and ensure that the business case for doing so is understood internally.”

“We must be very open about bringing people on the journey – there are things we can address faster than others – the low hanging fruit. There are other issues which are more systemic and which will need ongoing attention.”

Engaging and consulting broadly

Various aspects of human rights are relevant to, if not directly part of, almost every business function, and therefore affect a significant number of people’s responsibilities both at a corporate and site level. Developing a shared understanding of what is meant by “human rights” and how it relates to different stakeholders’ roles and responsibility takes time, but is crucial to bringing people on board and embedding human rights within the business.

MMG recognises that, like risk management, embedding human rights in the business is an ongoing process whether you integrate human rights considerations into existing systems, or look at human rights independently through risk or impact assessments. This is articulated in UN Guiding Principle 17 which states that the human rights due diligence process “[s]hould be ongoing, recognising that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.”

Andrew Hocking said: “Building an internal understanding of human rights must involve multiple stakeholders. In hindsight, one of the key lessons learnt is that we need to be even more consultative and more collaborative across disciplines and functions when building capacity around human rights at site and identifying related risks to the business.”
Case Study 2: BHP Billiton
In 2010, BHP Billiton updated its Community standard in response to the UN “Protect, Respect, Remedy” framework to include a requirement for each operation to undertake a human rights impact assessment (HRIA) as the first step of the human rights due diligence process. Almost 30 HRIs have now been implemented across BHP Billiton’s global operations. It is those HRIs that go beyond mere impact identification, to include a human rights conversation and internal capacity building, that have added most value.
BHP Billiton
Maximising Value from Human Rights Impact Assessments

BHP Billiton is a leading global resources company headquartered in Melbourne, Australia. It is among the world’s top producers of major commodities including iron ore, coal, oil and gas, copper, aluminium, manganese, uranium, nickel and silver.

BHP Billiton has around 128,000 employees and contractors working at 141 locations and 26 countries around the world, including Australia, South Africa, Canada, Chile, Brazil and the United States.

BHP Billiton’s Approach to Human Rights: From Policy Commitment to Implementation

BHP Billiton understands that its success and ability to continue to operate globally is dependent upon gaining access to natural resources and maintaining its social licence to operate. Respecting and promoting human rights is a keystone to that licence.

BHP Billiton’s commitment to uphold fundamental human rights dates back to 2001 when the company first included human rights in its Health, Safety, Environment and Community (HSEC) policy. Today, the company’s human rights commitment is set out in its Code of Business Conduct, Working with Integrity, which explicitly includes the commitment to act with due diligence and refers to the Universal Declaration of Human Rights, the UN Global Compact and the Voluntary Principles on Security and Human Rights.

Melinda Buckland, Senior Manager Community Relations, BHP Billiton said: “Making a public commitment to uphold fundamental human rights in all our activities was an important foundation however the real challenge is to operationalise that commitment in practice. For us, this is a work in progress and we are still learning. When approached by the MCA and GCNA for this case study, we thought the most valuable contribution we could make would be to tell our story and share the lessons we learned along the way.”

International Developments as Key Trigger

International developments in the business and human rights space were a key trigger for BHP Billiton to introduce specific human rights requirements into its standards.

“At the time we were reviewing the Community GLD in 2010, civil society and industry organisations were raising awareness of human rights in business and John Ruggie’s work with the UN was prominent. We checked our policy, due diligence and remedy commitments and identified that we did not actually require our operations to identify their human rights impacts so we closed that gap.”

Embedding Human Rights: A Management Systems Perspective

Under BHP Billiton’s management approach, Group Level Documents (GLDs) set out mandatory minimum performance requirements and accountabilities for implementation by all operations globally. This approach provides a standardised, consistent framework across the business while enabling operations to choose an implementation pathway that is most appropriate for the scale, complexity and needs of their operating context.

To ensure continuous improvement, GLDs are regularly reviewed and, where necessary, updated to ensure alignment with internationally emerging trends and practice. While human rights are explicitly covered in the Community GLD, they are also referenced in other GLDs including Supply and Security.

Melinda Buckland said: “Every organisation has different opportunities and approaches to translate commitments into practice; it’s about finding the most effective insertion point for each organisation. We started with our management systems approach which works for our decentralised structure. The GLDs were a logical starting point and we have now achieved a very high level of internal compliance on the human rights aspects of the Community GLD. In FY2013, 90 per cent of the operations we audited during the year had completed their Human Rights Impact Assessments.”

1 In 2005, Professor John Ruggie was appointed by the UN Secretary-General as Special Representative on Business and Human Rights. Professor Ruggie led the development of the UN “Protect, Respect, Remedy” Framework and the UN Guiding Principles.
"We also found that an effective way to integrate HRIs into our existing processes was to incorporate the new requirement into annual senior management KPIs."

BHP Billiton’s *Code of Business Conduct* and the GLDs are the key mechanisms to bring the *BHP Billiton Charter* values of Sustainability, Integrity, Respect, Performance, Simplicity and Accountability to life.

**BHP Billiton’s Human Rights Due Diligence Process**

Even though in early 2010 the UN Guiding Principles had not yet been published, the importance John Ruggie placed on applying a due diligence approach to human rights risks directly informed BHP Billiton’s GLD requirements. Processes for prevention, mitigation and, where appropriate, remediation were formalised in and implemented through the Community GLD.

A core element of the Community GLD is to identify and document key potential human rights risks by completing a human rights impact assessment (HRIA). All operations are required to assess their performance against the articles of the Universal Declaration of Human Rights, the UN Global Compact principles and host country legislation governing human rights issues. HRIs must be validated through an engagement process with stakeholders, verified by a qualified expert, and repeated every three years.

HRIs must also be internally reviewed each year to ensure that any operational changes have not resulted in changes to human rights impacts.

Where an HRIA identifies a material risk, BHP Billiton requires that a Human Rights Management Plan be developed and implemented. In this context, risks are considered material if they meet or exceed a certain threshold as defined by BHP Billiton’s internal risk methodology.

The Human Rights Management Plan also includes a component on providing training to all relevant employees and contractors on how to comply with BHP Billiton’s human rights commitments.

**Starting the Due Diligence Process: Assessing Human Rights Impacts**

From 2010 onwards, BHP Billiton operations around the world started undertaking HRIs in direct response to the Community GLD requirement.

For the initial round of HRIs, almost all BHP Billiton operations engaged an external expert, due to the new and emerging nature of the assessments and lack of a standardised process Assessments undertaken across the company between 2010 and 2013 differed in their approach depending on the type of consultancy engaged. As a result, the design and format of the assessments, the outputs and the value-add in terms of capacity building also varied. The following section describes an HRIA methodology that was applied at four BHP Billiton operations across Australia between 2010 and 2013.

2 This methodology was initially designed by external consultancy Banarra in collaboration with the Centre for Social Responsibility in Mining (CSRM) at the University of Queensland.
Going beyond impact assessment
The HRIA methodology was designed to meet the intent of the Community GLD requirement. Continuously building on lessons learned, the methodology naturally progressed and was refined from one assessment to the next to better meet the needs of the operations and to support their ability to engage in, understand and act upon the HRIA outcomes. It now reflects a ‘hybrid’ approach comprising impact assessment, systems audit and organisational capacity-building that begins to respond to more than only addressing UNGP 18 on impact assessment.

Every organisation has different opportunities and approaches to translate commitments into practice; it’s about finding the most effective insertion point for each organisation.

Figure 1: “Hybrid” Methodology – Overview

<table>
<thead>
<tr>
<th>HRIA</th>
<th>Systems (and Practice) Audit</th>
<th>Organisational Capacity-building</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Classify major human rights risks areas for extractives to focus the assessment</td>
<td>• Assessment of the extent to which the operation’s systems (policies, procedures, etc.) address the relevant impact area</td>
<td>• Inclusion of an educational component through deliberate engagement across a operational levels, cross-functional conversations and “people-centred” dialogue</td>
</tr>
<tr>
<td>• Identification and assessment of human rights impacts</td>
<td>• Assessment of the operation’s practices and management responses including their effectiveness in addressing the relevant impact area</td>
<td></td>
</tr>
<tr>
<td>• Assessment of stakeholders’ views regarding the operation’s practices in relation to the relevant impact area</td>
<td>• Gap analysis of the operation’s grievance mechanism against GLD Community requirements and the eight UNGP effectiveness criteria</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Articulation of practical recommendations for management responses to address impacts and gaps identified</td>
<td></td>
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</tbody>
</table>
Figure 2: “Hybrid” Methodology – Key stages

Figure 2 provides a high-level overview of the key stages involved in the approach which is fundamentally based on capacity-building through cross-functional workshops, face-to-face engagement and people-centric conversations.

| Human Rights Context Research | • Comprehensive context research to understand both the current as well as historical human rights context, a critical step to inform subsequent stages |
| Potential Human Rights Impacts Prioritisation | • Determining those human rights impacts that are most likely to be material to the operation in its particular context by drawing on the AA1000APS principle of “Materiality,” thereby enabling a more targeted assessment |
| Stakeholder Engagement | • Engaging external and internal stakeholders to:  
  – Identify and validate human rights impacts  
  – Collect evidence for the assessment  
  – Build capacity through a “conversation” approach |
| Analysis and Identification of Recommendations | • Assessing the effectiveness of, and formulating practical recommendations regarding:  
  – The operation’s systems and practices in relation to the identified impacts  
  – The operation’s grievance mechanism  
  – Stakeholder views regarding the operation’s practices in relation to the identified impact |
| Reporting | • Capturing assessment findings and recommendations in a way that is accessible and user-friendly |
Key Challenges, Outcomes and Lessons Learned

To date BHP Billiton has undertaken almost 30 HRIAs across its global operations, enabling the company to identify key lessons and extract maximum value from the HRIA process.

1. Ensure human rights expertise and seek an independent view in HRIAs

Whether HRIAs are delivered in-house or by external consultants, BHP Billiton has found that human rights subject matter expertise and experience is critical to effective assessments. Further, verification by an independent expert can ensure the assessment is objective and increases the outcome’s credibility.

BHP Billiton found that the process and outcomes of an HRIA can be quite different depending on the type of organisation engaged to undertake the work. HRIAs that took a compliance-based approach were considered less valuable, and seemed to fall short of the next step which is to make practical recommendations on what to do about the identified gaps. The same was true for HRIAs undertaken by organisations that did not have deep human rights expertise.

2. Demystify human rights and make the HRIA practical and relevant

A challenge that can exist in undertaking HRIAs is where individuals have a limited understanding of human rights (for example that they are only relevant in developing countries or to issues such as child labour) and they don’t understand how human rights manifest in business contexts, particularly in developed countries such as Australia.

BHP Billiton found that the HRIA processes that were most effective used language that people related to and is used on a daily basis. For example, presenting findings in categories such as “Workplace Health and Safety” or “Diversity and Non-Discrimination” rather than terminology used in the articles of the Universal Declaration of Human Rights made the issues more accessible.

3. Use HRIAs to build awareness at both executive and operational levels

Meaningful internal engagement across all levels and functions of the company helps realise the significant learning and capacity-building opportunity presented by the HRIA process.

Melinda Buckland said: “In the earlier workshops, there were a few curious looks at the mention of human rights. But once you start discussing issues such as community engagement, labour practices, health and safety and cultural heritage, human rights suddenly become very familiar. Talking the same language gave people a feeling of empowerment.”

4. Manage the challenge of knowledge transfer when outsourcing HRIAs

Given the opportunity for learning inherent in the HRIA process, explicit opportunities for knowledge transfer both from any external consultant to the company, and also internally including across functions should be identified and developed. For BHP Billiton, this was a missed opportunity on some of the initial HRIAs where external consultants did not sufficiently collaborate or where key internal staff left the company without passing on their experiences.

5. Use HRIAs to mitigate risk and improve relationships: “you don’t know what you don’t know”

BHP Billiton benefited from explicitly engaging external stakeholders in direct conversations around human rights, giving them an opportunity to share their views and experiences in a way that may not occur through other company processes.

In one instance, a HRIA process in which an exploration project team was involved shared insights they gained during the HRIA engagement. Even though they had strived to create open and strong relationships and had a grievance procedure in place, the HRIA process uncovered some issues that people either did not think were relevant or had not felt confident in raising previously. In this instance, the HRIA provided an early warning and risk mitigation opportunity. It helped identify and subsequently manage issues that could have become serious and escalated over time.
6. HRIAs are possible for small projects

After completing the company’s first few HRIAs, and noting that they can be resource intensive, BHP Billiton was concerned about the feasibility of HRIAs for exploration projects given they typically comprise small teams of mostly geologists. To address this issue, BHP Billiton’s exploration team engaged consultants to design a simple HRIA process in the form of a practical self-assessment tool that met the intent of UN Guiding Principle 18 and could be delivered internally by a small team. As a result, BHP Billiton has successfully used the tool for projects in Western Australia, Zambia and Ethiopia since 2011.

Conclusion

Understanding what human rights mean to BHP Billiton, and what the corporate responsibility to respect fundamental human rights looks like in practice has been a learning curve for BHP Billiton and its operations around the world. Undertaking HRIAs has been a great starting point, and has provided a mechanism to open a new conversation, educate and build internal awareness.

Reflecting on BHP Billiton’s journey, Melinda Buckland said: “Continuing a focus on human rights management is such an important area and has to remain front of mind for companies, particularly in the extractives sector.”

“Our Community GLD is about to come up for revision again and we have already started discussing the need for another gap analysis against the UN Guiding Principles, particularly around policy commitment and tracking the effectiveness of our responses.”
Case Study 3: Newmont
In 2013, Newmont Mining Corporation formalised its Wiluna Martu land management collaboration with the Central Desert Native Title Service and the Martu people. Under this initiative, Martu rangers provide environmental services to Newmont, supporting Newmont’s environmental compliance and advancing the human rights and economic empowerment of the Martu people, including rights relating to work, self-determination, development and culture, and the right of Indigenous peoples to maintain and strengthen their distinctive spiritual relationship with, and conserve and protect, their traditionally-owned lands.
Newmont
Indigenous peoples’ rights: environment, employment, empowerment

Newmont Mining Corporation (Newmont) is primarily a gold producer, headquartered in Denver, Colorado with operations in the United States, Australia, Peru, Indonesia, Ghana, New Zealand and Mexico. The company has approximately 40,000 employees and contractors.

Newmont operates the Jundee mine site, located approximately 50km northeast of Wiluna, Western Australia in the remote Yandal goldfield. The Martu people are the traditional owners of the land on which the mine is located.

Newmont’s approach to human rights

Newmont’s approach to human rights is shaped by its approach to sustainability which is founded on the principle of shared value. Its approach is informed by the UN Guiding Principles, together with a range of other international instruments, standards and frameworks, including the UN Global Compact to which the company is a signatory, the Universal Declaration of Human Rights and the UN Declaration on the Rights of Indigenous Peoples.

Newmont has made a range of human rights-related policy commitments through its vision and values, and its social responsibility policy and standards including in relation to social impact assessment, land acquisition, stakeholder engagement, management of cultural heritage, security and human rights, and grievances, which guide how the company works.

Human rights is one of several lenses through which the company assesses its social impact, together with related factors such as culture, worldview, education, Indigenous peoples’ rights, social deprivation, corruption and political risk, depending on context.

Newmont also has a statement of commitment for Indigenous Australians, recognising that they are one of the company’s key stakeholders in relation to its Australian operations and that the disadvantage of Indigenous Australians and their own unique set of development priorities are significant human rights issues facing companies operating in Australia. Maximising opportunities for Indigenous employment is a key focus at all of Newmont’s Australian sites.

Given this local reality, and the realisation that there are numerous opportunities to advance human rights for community stakeholders around the world, Newmont has established a corporate level working group made up of representatives from different functions, which is currently undertaking a global review of the company’s Human Rights policies and standards in light of the UN Guiding Principles, and to develop a workplan to integrate and build understanding of human rights considerations more broadly through the company. This process is not merely a policy-based exercise but an effort to integrate a human rights lens throughout the company where the outcomes provide real opportunity for all stakeholders involved. This is just one example of the potential of such an approach.

The human rights opportunity and the genesis of the ranger program

The Wiluna Martu land management collaboration came about after the recognition of a number of interconnected challenges and opportunities: Newmont’s commitment to delivering best practice environmental management and specific environmental compliance obligations at and around the Jundee mine site; the company’s commitments in relation to Indigenous employment, enterprise development and a desire to leave a positive legacy post-closure, coupled
with its ongoing challenge of retaining Indigenous employees in mainstream employment at the mine; a recognition of the disadvantage of the Martu community, the Martu community’s connection with the land and its unique expertise in land management and the opportunity to advance the human rights of the Martu people.

In 2008, the Wiluna Regional Partnership Agreement was established between the Commonwealth and Western Australian governments, representatives of the Martu community, a number of mining companies including Newmont Jundee, and various community agencies including Central Desert Native Title Services (Central Desert), with the aim of enhancing the Martu community’s opportunities for socio-economic development.

Over the years, Newmont’s Indigenous engagement had focused on philanthropy (e.g. funding of sports activities), and programs aimed at supporting Martu people into mainstream employment at the mine site. However, the employment programs had not been generally successful, with the company facing significant challenges in recruiting and retaining Martu employees, as a result of the employment model not aligning with the Martu community’s culture or their priorities for development. Instead of 2 weeks on with 12 hour shifts, many Martu people wanted to engage in the mainstream economy in a flexible way that allowed them to also maintain and support their culture and community relationships, meet their cultural obligations, and look after country.

In 2010, Central Desert identified an opportunity to link its land management ranger program with Newmont Jundee’s environmental compliance obligations, and approached the company’s environmental team. At the same time, Newmont’s corporate social responsibility team had identified the need to try a new model for Indigenous employment. Bringing these together, the land management opportunity gained momentum as it developed as a way of addressing the employment challenge through a new model of employment tied to the Martu community’s culture and priorities.

A pilot ranger program was launched in 2011. Following its success, a more formal program was established in 2012 with the Wiluna Martu rangers being contracted to deliver land management services on the mine site for the first week of every month. Dr Hamish Morgan from Central Desert said: “The ranger program was identified as an opportunity for Martu people to walk in both worlds – where they have a job, but it fits with their cultural calendar allowing them time off to meet their cultural obligations when they need to.”

A key challenge has been how to make the ranger program inclusive, while meeting Newmont’s corporate requirements such as its strict fitness for work and health and safety standards which require people working on the mine site to be of a particular age and fitness and to undergo regular drug and alcohol screening. These requirements exclude a number of people in the community, which can undermine the community’s governance structures (e.g. community elders may not meet the age or fitness requirements). Women were also largely excluded, as they are primarily responsible for looking after children who cannot be brought onto the mine site because of safety issues.

In order to be more inclusive, a second ranger team was established which works on the broader pastoral lease which does not have the same strict requirements as the actual mine site. The program is now inclusive of women who can bring their children with them as they work on the pastoral lease, as well as elders and youth and others in the community who do not meet the strict fitness for work or health and safety requirements. This expansion of the program has also led to the involvement of additional partners, including pastoralists and government.

“This project is sustainable because it connects with the internal drivers of each partner: it makes business sense for Newmont, and economic, cultural and social sense for the Martu community.”
The success of the project is founded in a strong process of due diligence which allowed Newmont to understand the human rights issues and opportunities facing the Martu community, and the community’s priorities.

Broadly, Newmont has recognised that its Indigenous engagement is a process of learning for the company (for example, trying traditional models of employment, recognising that these were not working, and seeking to identify alternative approaches).

More specifically, to identify community wants and needs, Newmont engages an external consultancy to undertake comprehensive participatory Social Impact Assessments (SIA) every four years, including in relation to Newmont Jundee and the Martu community. The findings and subsequent recommendations help to shape the company’s annual social responsibility strategic plans.

In relation to the land management ranger collaboration, the due diligence process involved significant participatory engagement with the Martu people and Central Desert, supported by Central Desert’s strong existing relationship with the Martu community. The findings and subsequent recommendations help to shape the company’s annual social responsibility strategic plans.

After identifying the opportunity for a land management collaboration, Newmont and Central Desert involved the Martu community early, through a series of meetings and workshops to ensure their input into the initial model for the pilot program, as well as into assessment of the pilot and development of the final model for the formal roll-out of the program.

The participatory engagement process helped Newmont understand what the Martu community wanted from the company, and to build the Martu community’s understanding of Newmont and its drivers. The engagement process around the project began in 2010, and allowed sufficient time to build understanding and trust between the parties.

There are also regular review meetings between the parties, allowing the Martu community to provide feedback to the company. Recently, two rangers have indicated a desire to move into mainstream work with Newmont, which is working with them to facilitate that.

The importance of shared value

Newmont’s approach to sustainability is founded on the principle of shared value, recognising that creating economic value for the company in a way that also creates value for the community and other stakeholders results in resilient CSR programs, and a positive, tangible legacy post-closure.

The focus on achieving shared value through the Wiluna Martu ranger program supports the business case for the project, and has been a critical success factor. The ability to demonstrate that the project supports Newmont’s environmental compliance in a cost effective manner while delivering on the company’s various social commitments has ensured internal support for the project.

Dr Morgan, Program Development Coordinator at Central Desert said, “This project is sustainable because it connects with the internal drivers of each partner: it makes business sense for Newmont, and economic, cultural and social sense for the Martu community.”

In order to develop the project in a way that achieved shared value and was sustainable, each partner had to understand and respect that the other partners have certain principles and priorities that must be upheld. Dr Morgan said, “The Martu people have had to let Newmont be Newmont, and Newmont has accepted that the Martu people will be Martu people. This is a challenge, but also provides an opportunity to see that each partner brings something different to the project.”

For example, from Newmont’s perspective, the relationship can only be sustainable if its fitness for work and health and safety requirements are met, which require everyone working on the mine site, including the Martu rangers, to undergo mandatory drug and alcohol testing. Likewise, Newmont has needed to be flexible in understanding the Martu people’s skills and where these can add value to the company, and allow the Martu rangers to work under their own cultural operating principles.

Dr Guy Singleton, Senior Advisor, Community Relations at Newmont, said: “To ensure the partnership had resilience, we wanted to make sure it touched the company’s core business, and that was achieved through its focus on the company’s environmental compliance. Australia’s Indigenous people have 40,000 years of land management expertise, so it makes sense to tap into that.”
Challenges and success factors

In addition to creating shared value, the project’s success is based on a number of factors. Fundamentally, the project was built out of a sense of partnership and trust between the parties, and was entirely voluntary. Dr Morgan said it was critical that Central Desert had “the ability to go to the Martu people and say, ‘What do you want? Everything is in scope’.”

Newmont’s ability to be flexible and take a longer term view was also important. Under traditional employment models, Newmont may have had an Indigenous employee work solidly for six months and then leave. Under the ranger program, the Martu rangers work one week per month, but will still be engaged longer term.

Understanding where the project fits within a broader socio-cultural and economic landscape has also been a critical factor in sustaining the project. The work on this project is complemented by the ability of the Martu rangers and other Martu community members to visit and to look after country in other locations within their traditional lands. Importantly, this enables the Martu rangers to stay strongly connected to their community and to their culture, which means that the buy-in and sense of ownership from the community is optimised.

These cultural foundations of the project and the ability of the Martu community to co-lead the project have also been critical to its success. Dr Morgan at Central Desert said, “The model has made the process of working with Newmont something that the community owns, rather than one that Newmont owns.” Central Desert’s role as a coordinating group was also crucial.

Looking forward

Although the project was not focused on traditional employment, its success in building Martu people’s skills and understanding of traditional work models has led to two rangers indicating a desire to move into employment at Newmont Jundee, and another company trying to poach a ranger into direct employment.

Preliminary social research undertaken through the Wiluna Regional Partnership Agreement has indicated that the Martu community consider land management as the top employment opportunity for males in the region (hospitality for females), and Newmont was identified as the community’s preferred mining employer.

As a result of the project’s success from a corporate perspective and as a vehicle to respect and support Indigenous peoples’ rights, culture and development, Newmont is looking to trial similar projects at other Australian sites, and considers that it may be a model that other companies and land councils may be able to build on across Australia. The company is also looking at how the project can continue post-closure, for example through closure and post-closure monitoring. Dr Singleton at Newmont said, “we recognise that this is bigger than Newmont; it is an opportunity to leave a positive legacy in the community.”

1 Muntjiljarra Wurrgumu Group participatory attitudinal employment survey (2013) in partnership with the Wiluna Regional Partnership Agreement.
In 2009, Rio Tinto published the leading guidance document, *Why gender matters*, to assist its communities teams in understanding and integrating gender considerations at sites. Four years on, the company continues to emphasise the importance of ensuring that gender considerations are integrated across the organisation by placing inclusive engagement at the core of its approach to communities, employees and other stakeholders. Linked with the company’s wider human rights approach, examples include processes to facilitate the involvement of women in community consultations around land-use; assessing the potential human rights impacts on women from a significant influx of workers to a community; and increasing workplace diversity including the employment of women from local communities.
Integrating gender considerations into all areas of the business

Antoinette Hoese training in a simulator at Rössing Uranium, Namibia.
Rio Tinto
Integrating gender considerations into all areas of the business

Rio Tinto is a leading international mining and metals company headquartered in London, whose major products include aluminium, copper, diamonds, coal, uranium, gold, industrial minerals and iron ore. Rio Tinto has around 70,000 people working in over 40 countries across six continents. The group is strongly represented in Australia and North America, and also has significant businesses in Asia, Europe, Africa and South America. Rio Tinto is dually listed on the London and Australian stock exchanges.

Rio Tinto’s approach to human rights

A decade ago, Rio Tinto became one of the first companies to adopt a standalone Human Rights policy, which sets out its commitments in relation to the human rights of employees, communities and others affected by its operations. Rio Tinto also has a Diversity and Inclusion Policy, and commitments to diversity and inclusion are also reflected in its Human Rights, Employment and Communities Policies.

Rio Tinto’s human rights approach reflects the UN Guiding Principles and seeks to incorporate human rights due diligence into company processes. Rio Tinto’s global code of business conduct, The way we work, underpins the company’s policy commitments and sets out additional voluntary commitments that the company has made, including the UN Global Compact, the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative. Rio Tinto has established an internal human rights working group comprising people from across the business, which helps to identify and work through human rights-related challenges and build awareness and understanding across the company.

Vanessa Zimmerman, Group Human Rights Advisor, said: “We operate in diverse and often challenging social, economic, political and cultural landscapes. The actions we take to support and respect human rights help us build enduring relationships with local communities, employees and business partners, facilitating business success. But failing to respect human rights can pose real risks, including operational delays, legal challenges, reputational harm, investor concern and employee dissatisfaction. In our highly-connected world what we do, or are perceived to do, badly in one location may adversely affect our operations elsewhere.”

The commitment to gender

As part of its human rights approach, Rio Tinto seeks to better understand and manage the gender aspects of its work, recognising that while the benefits from the company’s operations can go mostly to men, women and girls may face greater human rights risks. This in turn can pose real risks to the company itself, if, for example, agreements made with communities are not sustainable because women have not been adequately included in the process. The company also understands that a focus on diversity and inclusion brings significant benefits. Nadia Younes, Group Advisor, Diversity and Inclusion explained: “We want to make sure that we tap into diverse ideas and perspectives for the benefit of the business; diverse teams make the best business decisions.”

In 2009, Rio Tinto launched a guide, Why gender matters, to help its communities teams understand and integrate gender considerations into their work. While the document was positively received by stakeholders and remains leading in the industry, the project team did face challenges in building internal support. Jane Gronow, former Principal Advisor in the Communities and Social Performance Team who initiated the project said, “It was important that our internal discussions included the business drivers for integrating gender, so people understood that there were risks for the company if they didn’t address the issue.” The project team also needed to facilitate understanding that the project was about guiding communities teams to integrate gender into existing processes rather than creating additional, unnecessary work.

Integrating gender throughout the company

Why gender matters provides significant practical guidance to Rio Tinto’s communities teams on integrating gender into their work, including around the due diligence and remedy components of the corporate responsibility to respect human rights under the UN Guiding Principles.
Inclusive engagement

Inclusive engagement sits at the core of embedding gender considerations into Rio Tinto’s activities, which seeks to ensure the meaningful participation of both women and men from different social groups. How this is done, though, is highly context dependent and varies between sites and communities.

A key challenge Rio Tinto faces in its gender work is reconciling the company’s commitment to respecting and supporting human rights when engaging with a community where women’s rights are not being fulfilled (for example, ensuring women’s voices are heard in circumstances where they are excluded from decision-making within their communities). In relation to this challenge, Jane Gronow said, “It’s not easy, but culture isn’t static. It is important for companies to go in slowly but surely, and where issues are identified, look at opportunities to stand up for human rights principles and gently support change.

In many situations, while the women in a community may be happy for men to take the lead publicly, they are not happy being excluded from consultation and negotiation.” One way Rio Tinto’s communities teams try to approach this is to be clear about the international standards Rio Tinto is committed to, and identify the “change agents” in the community with whom they can work to facilitate positive change, such as NGOs.

In determining the best way to engage women, Rio Tinto recognises that a strong knowledge base, including about the local social and economic context, is critical. Lisa Dean, Principal Advisor in the Communities and Social Performance Team, explained: “We need to dig deep to understand the dynamic of the community and, from an anthropological and sociological perspective, who is at risk of being excluded. This will not just be women, but layers of other groups, including children, sex workers, those living with HIV/AIDS, the poor, the semi-poor, the elderly. Digging deeper also helps to identify how to tap into the non-dominant groups; they often have existing organisational structures and may already meet in relevant groups, so it’s then a question of gaining permission into that channel.”

Two things are critical to making a step change – having aligned leadership that genuinely believes in the business benefits, and surfacing and systematically eliminating the hidden biases that are a very real part of most organisations.
Managing impacts on women

UNGPs 18 and 19: Assessing impacts and acting on findings

Rio Tinto’s approach to social impact assessment seeks to develop gender insights through consultation with both men and women in a community. One area that may be relevant is “influx impacts.” Implications from the influx of large male populations on local communities (on young local women in particular) may include an increased likelihood of early sexual activity, HIV and STIs, exploitation, prostitution and exchange of sex for economic or social benefit. The company is mindful of avoiding exacerbating existing challenges already faced by women in the community or creating new problems. An influx can also bring benefits for women and girls such as increased opportunities for women to join the company workforce but these may need to be managed carefully to avoid putting women at risk from potential opposition by others.

In order to mitigate these risks, Rio Tinto is working to increase employee and contractor awareness of local contexts and accompanying risks. Training is designed to help ensure these workers not only understand the issues, but also the company’s group-wide human rights commitments and associated expectations of all employees and contractors wherever the company operates.

Workforce diversity and local employment

Rio Tinto’s approach of integrating gender perspectives also applies in relation to workforce diversity and local employment. At the corporate level, Rio Tinto is committed to fostering a diverse workforce, recognising the strong business case for securing the best talent from a range of skills, experiences and perspectives. David Peever, Managing Director of Rio Tinto Australia, member of the Commonwealth Department of Defence Gender Equity Advisory Board and former member of the Male Champions of Change has said: “Two things are critical to making a step change—having aligned leadership that genuinely believes in the business benefits, and surfacing and systematically eliminating the hidden biases that are a very real part of most organisations.”

Rio Tinto has established a Diversity and Inclusion Council, which is chaired by a member of the company’s executive committee and includes senior representatives from across Rio Tinto’s function, product groups and business units. The Council provides “top down” strategic direction for the company’s diversity and inclusion programs.

Rio Tinto also has a group of around 100 volunteer diversity champions working from the “bottom up” through a focus on developing localised diversity and inclusion plans, and who meet regularly to collaborate and share best practices from across the company.

When diversity and inclusion became a cornerstone in Rio Tinto’s People strategy, the company quickly made the connection between workforce diversity and human rights. Nadia Younes, Group Advisor, Diversity and Inclusion said: “When I joined the company, I became part of the internal human rights working group. We wanted to ensure we were doing the right thing in our communities, but also needed to take the same approach to employees. We understood that to get the most out of our employees we need to respect their fundamental human rights. We also wanted to ensure that our workforce was inclusive of local cultures and communities.”
Rio Tinto’s approach to the inclusion of women in local employment at its site in the Indian state of Madhya Pradesh is an example of where human rights, communities, gender and workforce diversity come together. The company began exploring for diamonds in the area in 2003, with the project now in the pre-feasibility phase. Since Rio Tinto first began its exploration activities, it has undertaken significant work in relation to social baseline studies and impact assessment with local communities in the area. This due diligence process identified human rights risks for women as well as opportunities to support women’s empowerment. Rio Tinto established a partnership with UNICEF in the local area, to support children’s rights through education, nutrition and health. After building trust and relationships through this program, Rio Tinto was then able to establish a women’s empowerment program with the ultimate aim of increased female employment. In developing the program, Rio Tinto consulted with women, men and government authorities. Through the consultations, a number of the women raised concerns that the men in the community may be resistant to the program, and an approach that was inclusive of men and women ultimately helped to ensure that the program did not inadvertently cause negative impacts on the women in the community.

Based on its consultations, Rio Tinto initiated a small scale “trial” initiative, providing women with driver education, after which Rio Tinto employed five of these women as drivers. Engaging women in non-traditional work can carry its own risks of creating adverse impacts on the women. Lisa Dean said: “It is important that companies understand that women on the leading edge of change can often be significantly challenged in relation to their place in their own community. When they become change agents, this can come at tremendous individual cost, and we have to be prepared to give them the support they need in these situations.”

To help mitigate these risks, Rio Tinto facilitated family consultations led by local Indian staff and supported by a women’s NGO, and through this process involved the women’s families in the discussion before the women’s participation in the program was finalised. Following the success of the women driver initiative, Rio Tinto has now trained and hired a number of women security guards. Anecdotally, this has led to improved treatment of women in the community by the male security guards.

**Challenges, lessons learned and next steps**

A key challenge identified is building internal understanding of the importance and complexities of human rights and gender considerations right across the business. Lisa Dean said: “We are a subset within a larger culture of miners and engineers and people who think in a linear way and want a metric for these things. They’re prepared to accept how complicated metallurgy is, but it takes time to get internal acceptance that working with communities may be as complicated as other work. We need to continue working to get everyone within the company embracing the challenge it represents, and the discipline behind getting it right.”

Part of addressing this challenge is focusing on demystifying gender, diversity and inclusion, and establishing its business case. A further factor has been the company taking a top down, bottom up and middle over approach by engaging people as drivers of diversity at all levels and across all groups and functions of the company. Vanessa Zimmerman said: “It is important not to act in silos in this area and to make sure we’re involving all relevant functions and product groups. Human rights and gender may be just as relevant to a person in business development or safety as in communities and human resources. Respecting rights-holders’ human rights and managing the company’s risks in this regard requires buy-in from all levels and all job descriptions.” Nadia Younes added: “Change only happens when the company’s head (business case and leadership), heart (stories and personal impact) and hand (behaviours and actions) come together.”

Rio Tinto acknowledges that human rights, gender, diversity and inclusion involve a long term commitment to continuous improvement and learning. Lisa Dean said: “We need to recognise what we don’t know, and that we don’t always have all the answers. However, we have made commitments to respect human rights and to further gender equality, and we monitor our progress to ensure we keep improving.”
Conclusion

Implementation of the UN Guiding Principles will vary significantly between companies and different operating contexts. Nonetheless, the case studies in this publication have highlighted some common success factors and challenges faced by companies in translating human rights responsibilities and commitments into practical actions.

Success factors

The following factors were identified through the case studies as being valuable in developing, implementing and embedding effective human rights policies and processes.

- **Develop the business case for human rights.**

  Those seeking to implement or strengthen human rights policies and processes must clearly understand and articulate the business case to mobilise internal support across the company.

  - Identify the company’s human rights-related risks, responsibilities and opportunities.
  - Make human rights practical and relevant to other business units and functions, through examples of how human rights can manifest in business contexts (including in developed countries such as Australia).

- **Actively engage internal stakeholders.**

  An effective human rights management framework cannot be siloed in the communities or CSR team, but must engage people across the business and at all levels.

  - Take a top down and bottom up approach. Make a policy commitment to human rights at the Board level which sets the tone for the company, and identify ways for people at all levels to engage with human rights, including through general company-wide as well as more targeted training.
  - Make the connection between human rights and concepts that are already understood and part of the company’s language, and identify where the company already has relevant policies and procedures (e.g. community engagement, health and safety, diversity, non-discrimination, risk management).
  - Include all parts of the business, for example through internal human rights working groups or human rights champions, to help build a shared understanding of human rights for the company.
  - Use human rights due diligence processes, such as impact assessment, whether stand-alone or integrated, as a learning and capacity-building opportunity across different levels and functions of the company.
  - Introduce human rights-related KPIs.

- **Use existing systems and processes to address human rights considerations.**

  Most mining companies will have existing systems and processes (e.g. risk management, social impact assessment, grievance mechanisms), into which human rights considerations can be built. Internal engagement will help identify how this can be done. This is often a more efficient way of implementing the UN Guiding Principles. Where it makes more sense to build a new human rights management framework, look to integrate it with existing systems and processes. Refer to ICMM guidance, *Human Rights in the Mining and Metals Industry – Overview, Management Approach and Issues.*

- **Actively engage with external stakeholders.**

  Engagement with stakeholders at all stages of UN Guiding Principles implementation, including governments, NGOs (local and international) and other community-based organisations, can help the company better understand the human rights risks it faces, add significant depth of understanding and perspective, support the development of more effective policies and processes and manage the expectations of all parties, bearing in mind legitimate commercial confidentiality and the need to avoid putting any stakeholders’ rights at risk.

- **Ensure appropriate human rights expertise.**

  Human rights expertise (internal or external), both at a general level but also specifically in the relevant country or cultural context, is critical to understanding and managing human rights. Human rights experts must be adept at translating human rights into business language. Where external experts are engaged, identify ways to build internal capacity.

- **Make human rights processes appropriate to the context.**

  Different aspects of human rights due diligence and other elements of the UN Guiding Principles may be more or less relevant when it comes to different operating contexts including different sized operations and different stages of a mining cycle. For example, different questions may need to be asked at the exploration phase as opposed to the construction or operating phase. Closure again may involve varied considerations, but human rights processes can be adapted and add value to all stages and sizes of operation.
Challenges

Key common challenges identified include the following.

- **Human rights and their relevance to business are still not broadly understood across all business functions.**
  
  This can make it more difficult to get high-level corporate support for a human rights policy commitment, and to embed human rights management processes throughout a company.
  
  - Develop the business case for human rights helps to address this challenge (see the first success factor above).

- **Managing human rights takes time and an ongoing commitment.**
  
  Implementing and embedding human rights policies and processes within a company’s management framework takes time, as does assessing and responding to human rights risks and impacts. Further, human rights due diligence is an on-going process not a “one off” step.
  
  - Ensure that project timelines allow sufficient time for effective human rights due diligence to be carried out. There is a strong business case for this: human rights is a matter of risk management, and taking enough time allows for a comprehensive identification and understanding of any human rights risks facing the company. The processes itself can also strengthen relationships with key stakeholders thereby reducing operational risks throughout the life of the project.

- **Respecting conflicting human rights is challenging.**
  
  For example, a company may need to consider how it respects cultural rights and the norms and hierarchies of a community, while also respecting the rights of women, children, elders and those in poverty to participate in its community engagement process.
  
  - Establish a strong knowledge base. Dig deep to fully understand community dynamics and who is at risk of being excluded. Involve appropriate experts (e.g. anthropologists, sociologists, civil society organisations) with expertise in the relevant community.
  
  - Be upfront about the company’s responsibilities and commitments to human rights.
  
  - Refer to relevant tools and guidance, including those developed for governments on balancing conflicting human rights and the online Business Dilemmas Forum (see Further Resources).

- **Challenges of context.**
  
  Mining companies often operate in complex social and political contexts, including situations of weak governance or conflict, or where governments may not be meeting their own duties to respect, protect and fulfil human rights.
  
  - Understand the context, including the relevant government’s attitude to human rights and potentially at risk or vulnerable groups. Engage with multi-stakeholder initiatives or other companies operating in the area to build understanding and identify how others operating in the area are managing human rights risks. It could also assist in encouraging and supporting governments to build their own capacity in relation to human rights.
  
  - Actively seek to implement the UN Guiding Principles. The process of implementing the practical framework will help the company to better understand the context and its nuances, identify actual and potential adverse human rights impacts and opportunities to address them.
  
  - In certain situations, a company may need to consider walking away from an opportunity if the human rights risks are severe.

A number of tools and resources are available to assist companies in implementing human rights management frameworks and responding to human rights challenges and dilemmas (see the Further resources section).
Moving mining and human rights forward

There is much that individual mining companies and the wider industry can do to demonstrate commitment to human rights, and advance the business and human rights agenda.

- **Put human rights on the agenda**
  - If your company has not made a policy commitment to human rights, start with the business case. If your company has made a policy commitment to human rights, drive or support efforts to translate the commitment into practical actions and integrate human rights considerations throughout the business. An individual champion or a small group of champions within a company can drive significant change.
  - Include human rights considerations in broader industry dialogue and discourse.

- **Communicate publicly about what your company is doing**
  - There is value in transparently communicating the human rights challenges a company is facing, and what the company is doing to address them. This can highlight management awareness and commitment, and can be used to demonstrate that the company has effective controls in place to manage human rights risks. (Companies should bear in mind legitimate commercial confidentiality and the need to avoid putting any stakeholders’ rights at risk through public communication.)

- **Participate in and contribute to industry and multi-stakeholder initiatives on human rights**
  - There are a number of multi-stakeholder initiatives with human rights components that are relevant to the mining industry, including the Extractive Industries Transparency Initiative, the Voluntary Principles on Security and Human Rights, and the UN Global Compact and its local networks including the Global Compact Network Australia. Peak industry bodies including the Minerals Council of Australia and the ICMM also work across the human rights space.
  - These initiatives can provide assistance to companies in understanding and respecting human rights, through access to experts, case studies, best practice, networks and peer groups. Working together with industry and multi-stakeholder initiatives and partnerships can also drive wider understanding and action on mining and human rights and best practice approaches.

- **Contribute to solutions**
  - As has been noted, mining companies often operate in challenging contexts, including situations of weak governance or conflict, or where governments may not be meeting their own duties to respect, protect and fulfil human rights. The mining sector has a significant opportunity to contribute to building solutions to some of the underlying issues, for example through supporting government capacity-building efforts, participating in transparency initiatives, and contributing to conflict reduction and peace building including through creating jobs. Multi-stakeholder initiatives and collective action provide an opportunity to contribute to such solutions collaboratively.

The future of the mining sector is likely to be in increasingly complex social and political contexts. The ability to demonstrate implementation of the UN Guiding Principles will provide greater confidence to all stakeholders that companies are identifying and managing their human rights and business risks, and meeting their human rights responsibilities. Mining companies that continue to defer the development and integration of human rights policies and processes will face increasing challenges from stakeholder groups, including investors and funding agencies, and NGOs many of which now have specific workstreams focused on monitoring and engaging with the extractives industry.

Some mining companies are well advanced in developing processes to understand and meet their human rights responsibilities; others are just starting their journey. Companies just turning to the issue are encouraged to act quickly: the responsibility is clear, the framework is established, the benchmark is rising, and mining companies need to be implementing policies and processes to identify and respond to human rights risks and impacts now.
There are numerous resources available to support mining companies in their efforts to respect and support human rights and implement the UN Guiding Principles. The following resources are a selection.

**UN Guiding Principles**


**Websites/Resource Hubs**

Global Compact Network Australia, www.unglobalcompact.org.au

Human Rights and Business Dilemmas Forum, human-rights.unglobalcompact.org

The Danish Institute for Human Rights, Focus Areas: Human Rights and Business,
http://www.humanrights.dk/focus+areas/human+rights+and+business/tools+and+methods

UN Global Compact, Tools and Guidance Materials on Business and Human Rights,

**Publications**


The Danish Institute for Human Rights, *Human Rights Compliance Assessment (HRCA) Quick Check* (2006),


The Ten Principles
of the United Nations Global Compact

Human Rights

Principle 1  Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2  make sure that they are not complicit in human rights abuses.

Labour

Principle 3  Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
Principle 4  the elimination of all forms of forced and compulsory labour;
Principle 5  the effective abolition of child labour; and
Principle 6  the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7  Businesses should support a precautionary approach to environmental challenges;
Principle 8  undertake initiatives to promote greater environmental responsibility; and
Principle 9  encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10  Businesses should work against corruption in all its forms, including extortion and bribery.

www.unglobalcompact.org