

**InBrief**

# Human rights, social development and the mining and metals industry

Mining's contribution to sustainable development  
June 2012



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## Summary

This is one of a series of publications commissioned by ICMM to highlight the sector's role in modern society.

The nature of mining activities and the socio-economic context in which companies operate has a direct bearing on human rights. For example, mining requires access to land and water, often the basis of livelihoods for communities. Resettlement holds further potential for human rights infringements. Similarly, in areas of political instability and conflict, the manner in which the security of mining assets and employees is maintained can pose risks to the rights of local people.

The mining industry seeks to address these risks by making specific policy commitments that address human rights, by conducting robust due diligence on the risks and opportunities posed by local operating environments, and by recognizing that because concerns and grievances are inevitable, fair and credible procedures must be available to help resolve such concerns.

The sector's primary positive influence on human rights is through its economic contribution. Development is critical to the realization of human rights, both directly through poverty alleviation, and indirectly through the social changes that accompany economic growth, such as empowerment. The fulfillment of human rights in concert with sustainable social and economic progress depends on governments also ensuring responsible management of natural resources and protection of the rights of all.

## Mining's contribution to sustainable development

ICMM has commissioned this series of publications to describe mining and metals' contribution to sustainable development. It seeks to set out some of the more important benefits, costs, risks and responsibilities related to mining and metals in today's world.

The first in the series – *Mining's contribution to sustainable development* – provides an overview of the series and introduces the concept of contribution analysis. *The role of mining in national economies* examines the contribution of mining activities in all countries with an overview of the contribution to the global economy. *Trends in the mining and metals industry* provides a forward looking discussion of trends likely to govern the evolution of the industry over the next decade.

In *Uses of minerals and metals*, a treatment of the current and future contribution of minerals- and metals-based products to sustainable development is offered. Building on this theme, *The role of minerals and metals in a low carbon economy* focuses on the materials needed for the technologies to address the climate change challenge.

The next two titles in the series focus on the contribution of mining to people and the environment. *Human rights, social development and the mining and metals industry* focuses on the role of business in contributing to the realization of human rights. Whilst *Mining and the environment* looks at how mining companies are tackling the challenge of achieving a net positive contribution from their activities.

Together these discussions are intended as a starting point for the industry and others to more fully examine the contribution of mining and metals to sustainable development, a conversation that will continue for years to come. They are intended to stimulate an exchange of ideas leading to the development of innovative ways forward. The series was launched at the Rio+20 summit in June 2012 and individual titles are being released from June–November 2012.

### About ICMM

The International Council on Mining and Metals (ICMM) was formed in 2001 to catalyze improved performance and enhance the contribution of mining, minerals and metals to sustainable development. Today, it brings together 22 mining and metals companies as well as 34 national and regional mining associations and global commodity associations. ICMM's member companies employ close to one million of the 2.5 million people working in the sector worldwide. These companies have some 800 operations in over 60 countries producing 30–40% of the world's hard mineral commodities including iron ore, gold, platinum and nickel. We engage with a broad range of stakeholders – governments, international organizations, communities and indigenous peoples organizations, investors, civil society and academia – in order to build meaningful relationships. Our vision is one of leading companies working together and with others to strengthen the contribution of mining, minerals and metals to sustainable development.

### About the authors

This series has been developed by ICMM with input from members, subject matter experts and representatives of organizations we work with. ICMM would like to thank them all for their contributions. Information on the authors and reviewers for each title is provided on the back cover.

## Introduction

There is international consensus that business has a responsibility to respect human rights, distinct from a state's duty to protect and help realize the rights of its citizens. This paper argues that the mining and metals sector also has an extraordinary potential to contribute to the realization of human rights by playing an important role in social development and poverty alleviation.

The transition of human rights from a position peripheral to business to one of central concern has been marked by a number of important milestones, as has the concept of business playing a role in social development. This paper briefly explores the respective roles of the state and business with respect to human rights, with particular reference to major UN milestones. It discusses the links between social development, poverty alleviation and human rights, and the role that the mining and metals sector can play. Finally, it identifies actions required of governments and the industry to ensure that the overall sectoral contribution to human rights is positive.

## The respective roles of states and business with respect to human rights

There is widespread acceptance that the primary responsibility for social development, poverty alleviation and the protection and realization of human rights lies with sovereign states. It is states that have ratified international conventions and adopted UN resolutions relating to human rights, development and environmental protection. States are also responsible for developing legal frameworks in support of development, the management of natural resources on which development depends, as well as protecting the human rights of citizens. However, it is increasingly recognized that business has both a responsibility to respect human rights and an important role to play in contributing to social development and poverty alleviation.

The concept that business has responsibilities with respect to human rights has evolved significantly over the past two decades. The complete absence of any explicit acknowledgement of human rights as a business issue in either the Rio Declaration or Agenda 21 in 1992 has given way to a global consensus on a baseline responsibility for business to respect human rights. This global consensus found expression in the UN's *Protect, Respect and Remedy Framework*, endorsed by the Human Rights Council in 2008, which outlined the duty of states to protect and promote human rights. It also outlined the corporate responsibility to respect human rights – not to infringe on the rights of others and to remediate any negative impacts arising from business activities. The responsibility to respect human rights – and to discharge this responsibility through human rights due diligence – was further elaborated in the UN Guiding Principles on Business and Human Rights, formally endorsed by the UN Human Rights Council in 2011.

## Human rights risks and the mining and metals sector

Human rights due diligence processes identify potential human rights risks and impacts that need to be addressed. An additional benefit of the due diligence process is the building of internal awareness and understanding about where a company's activities have the potential to intersect with human rights and infringe upon the enjoyment of rights by others. Once risks and impacts have been identified, actions can be taken to prevent or mitigate potential human rights impacts and remediate actual impacts that have occurred. In identifying and assessing human rights risks and impacts, companies need to consider those that:

- are caused by a company's activities, products or services
- may be contributed to through a company's activities
- are linked to a company's operations, products or services by its business relationships.

The nature of mining sector activities (sectoral factors) and the context in which companies often operate (operational context) may cause or contribute to specific human rights impacts.

For example, mining companies require access to land and water, which is often the basis of livelihoods for communities. For this reason, land acquisition and activities that may adversely impact on water quality or availability may affect the right to an adequate standard of living of the individuals concerned. Where resettlement of communities is required, a range of other rights may be adversely impacted, and the resettlement process needs to be carefully managed to ensure that these rights are not violated. In areas of water scarcity, for example, the risks of adverse impacts on communities' rights to access clean water may be more acute than in areas of water abundance.

Some mining and metals processing activities involve the use of hazardous chemicals, which may pose risks to the health and safety of employees or contaminate water sources if not carefully managed. This in turn has the potential to impact rights to a safe working environment or to clean water.

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The importance of operational context can be demonstrated where a mining operation is located in an area that is currently, or has recently been affected by conflict or political instability, and the security situation poses a risk to the human rights of local communities or employees. Such circumstances have provided the backdrop for a range of allegations that mining and metals companies have been involved in human rights infringements.

One challenge that is particularly relevant to mining companies, and where sectoral and operational factors collide, is that activities often take place in remote and impoverished areas, where dependency on non-mineral natural resources may be high. This can increase the vulnerability of local communities to a range of human rights risks. A related challenge is the increasing coincidence between such remote operations and the presence of Indigenous Peoples, which can increase the vulnerability of local people to impacts on cultural and land-related rights.

The link to human rights impacts through business relationships is also important. For example, if mining and metals companies' contract a service provider that has a poor track record of complying with labour laws, this increases the risk that they may infringe human rights in providing a service.

Reviewing human rights records of private security providers is particularly important where companies are seeking to legitimately secure the safety of personnel and assets. State security forces may also become involved in security provision and this has been a key concern expressed in various human rights allegations relating to mining operations. The leading global initiative addressing this area is the Voluntary Principles on Security and Human Rights. ICMM is one of two industry bodies that are observers to the Voluntary Principles and all mining company participants are also ICMM members.

**“Local concerns and grievances are inevitable and it is important to establish credible and trusted operational procedures to address such concerns. Failure to do so can undermine trust between companies and communities, and lead to an escalation of concerns.”**

To effectively address actual and potential impacts on human rights, mining and metals companies need to respond in three ways.

Firstly, they should make a policy commitment to respect human rights. The expectations of how companies should approach policy commitments is set out in UN Guiding Principle 16, and elaborated on within ICMM guidance documents on human rights from May 2009 and March 2012 (see the documents guide overleaf).

Secondly, they should conduct robust human rights due diligence. In April 2012, ICMM published comprehensive guidance, illustrated by numerous case studies, on how mining and metals companies can integrate human rights due diligence into their corporate risk management processes. To address concerns related to security and human rights, ICMM along with the International Finance Corporation, the International Committee of the Red Cross, and IPIECA (the oil and gas industry association) published a set of Implementation Guidance Tools for the Voluntary Principles in 2011, with particular emphasis on operating in areas of conflict or weak governance.

Thirdly, they need to recognize that local concerns and grievances are inevitable and that it is important to establish credible and trusted operational procedures to address such concerns. Failure to do so can undermine trust between companies and communities, and lead to an escalation of concerns. In October 2009, ICMM published guidance on handling and resolving local level concerns and grievances, that builds on the principles for effective grievance mechanisms established within the 2008 UN Protect, Respect and Remedy Framework.

## **The links between human rights, social development and the mining and metals sector**

Economic development is critical to the realization of human rights, both directly through poverty alleviation and indirectly through the social changes that accompany economic growth, such as development and empowerment of civil society. Mining and metals companies have an extraordinary potential to contribute to economic development, providing the appropriate policy and governance frameworks are in place. This challenge is explored in more detail in another paper in this series – *The role of mining in national economies*.

The sector plays a significant role in producing the basic materials for developing and operating essential infrastructure that enables social and economic progress. In many post-conflict situations and fragile states, the mining sector has been essential in kick-starting economic and social progress through its willingness to invest where other investors are more wary. This was the case in countries such as Liberia and Mozambique. Mining investment helped to sustain peace-building efforts and encourage respect for the rule of law. Where governments create the enabling environment for mining, metals and other businesses to invest and flourish, progress against the Millennium Development Goals (MDGs) can be accelerated. Without a thriving private sector, significant progress against the MDGs is unlikely to be achieved and is impossible to sustain.

**“Economic development is critical to the realization of human rights, both directly through poverty alleviation and indirectly through the social changes that accompany economic growth, such as development and empowerment of civil society.”**

The mining and metals sector creates employment opportunities directly and provides broader economic development opportunities indirectly through contracting opportunities and enterprise development programs. If those living in poverty are to enjoy the benefits of mining and metals investments, they must be able to actively participate in the potential opportunities that this brings. This requires proactive efforts on the part of companies, coupled with supportive interventions by states and other development actors in areas such as wellbeing, empowerment and inclusion. Many mining and metals companies make very substantial investments to address weaknesses in social and economic infrastructure – notably health, water and sanitation, and education – also providing access to training, energy and credit, all of which increase opportunities for communities to enjoy basic human rights. But there are practical limits to how far companies can and should be responsible for such investments.

Governments need to provide the legal frameworks and institutions to support development, effectively manage natural resources on which development depends, and protect the human rights of its citizens. Of particular importance is the role of government in promoting transparency and eliminating corruption. Corruption exacerbates poverty by impairing service delivery, constraining responsible investment, reducing incomes of the poor and undermining programs designed to address their basic needs. In this respect, the role that the Extractive Industries Transparency Initiative (EITI) plays in enhancing transparency and curbing corruption in mineral rich countries is profoundly important. ICMM member companies are committed to eliminating corruption and increasing transparency. Members are required to engage in EITI as a condition of membership.

### **Recommendations for government and industry**

The realization of human rights in concert with sustainable social and economic progress critically depends on government:

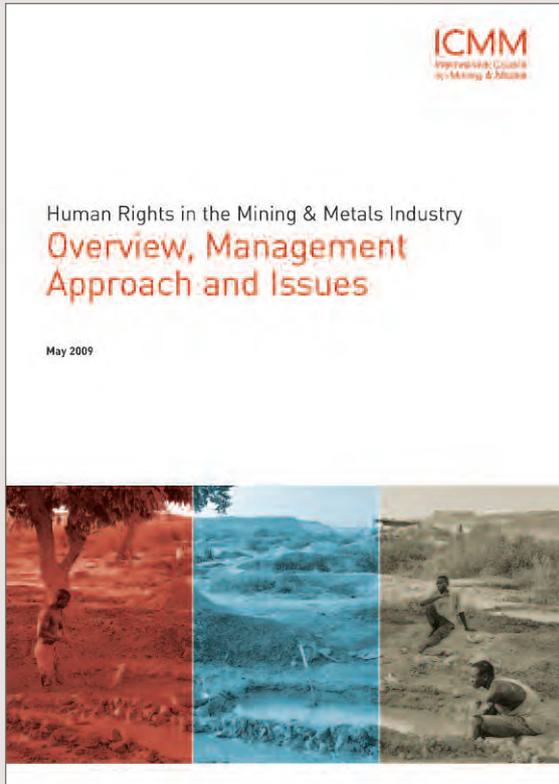
- ensuring the effective management of natural resources and protection of the rights of all, especially the vulnerable
- empowering poor and vulnerable people to participate in economic opportunities, through investments in health, education, and gender equality, while addressing governance issues which disproportionately impact the poor
- effectively using revenues from mineral resources in support of locally enhanced social and economic infrastructure
- engaging with international institutions, the private sector and civil society on all of the above through partnership approaches where appropriate.

It also critically depends on the mining and metals sector:

- respecting human rights through effective due diligence processes, implementing effective grievance mechanisms, and ensuring that their activities expand rather than constrain social and economic development progress
- applying ethical principles, practices and sound systems of corporate governance, to address challenges such as corruption
- integrating sustainable development considerations within corporate decision-making processes, and seeking continuous improvement in sustainable development performance, while working to expand economic opportunity along the value chain
- contributing to the social, economic and institutional development of local communities, in a manner that goes beyond mitigating any adverse effects that business might have
- engaging openly with stakeholders in pursuit of the above, such as the UN Working Group on Business and Human Rights, and reporting progress in a systematic and credible manner that underscores public trust.

**“Governments need to provide the legal frameworks and institutions to support development, the effective management of natural resources on which development depends, and protect the human rights of its citizens.”**

## ICMM guidance documents on human rights and the mining and metals industry



### Overview, Management Approach and Issues

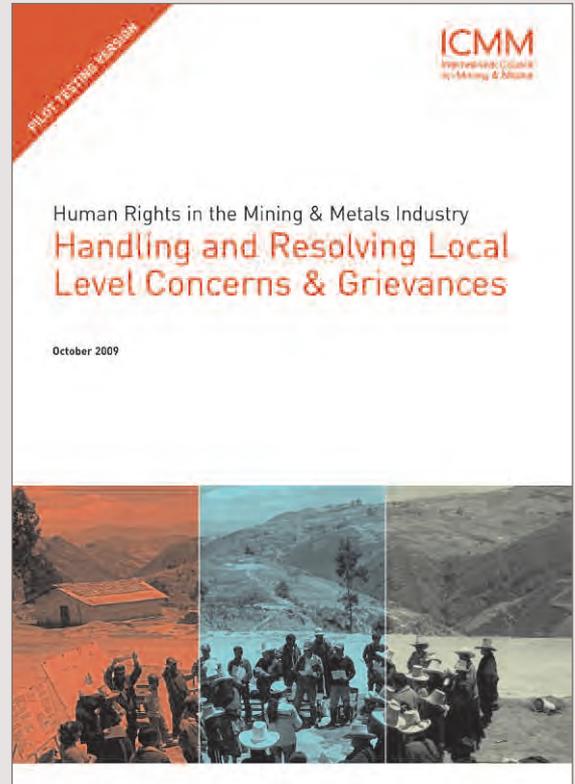
Available in English, Chinese, French, Japanese, Portuguese and Spanish

Published in May 2009. Our overall objective was to provide an overview of the main challenges and dilemmas that companies in the mining and metals sector are often faced with. More specifically we reviewed management approaches that member companies have applied to dealing with human rights challenges.

The publication aims to:

- outline the various elements of ICMM's Sustainable Development Framework relating to human rights. In addition to a core set of 10 Principles, the framework also comprises a number of ICMM Position Statements and detailed reporting and assurance requirements
- highlight key pressure points of relevance to business and human rights, as well as some relevant external tools and initiatives
- briefly document approaches to dealing with human rights issues adopted by a number of ICMM members in order to facilitate the spread of good practice.

This document is available to download at: [www.icmm.com/page/14809/human-rights-in-the-mining-and-metals-industry-overview-management-approach-and-issues](http://www.icmm.com/page/14809/human-rights-in-the-mining-and-metals-industry-overview-management-approach-and-issues)



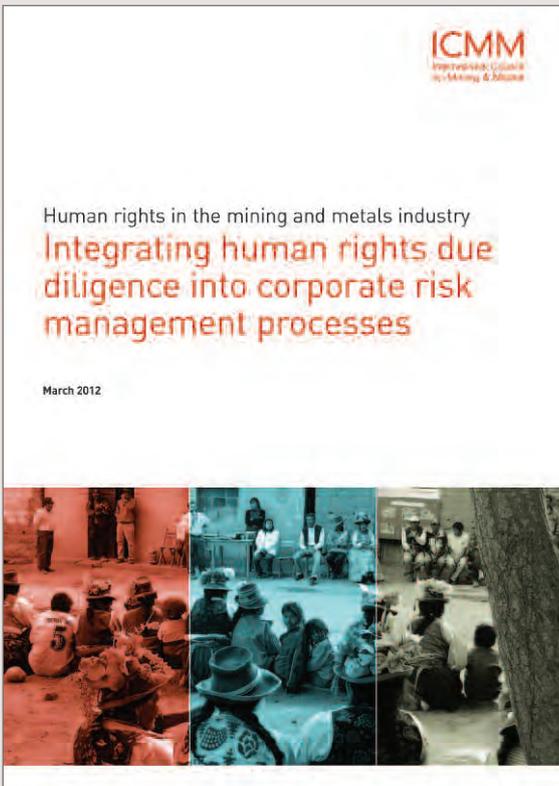
### Handling and Resolving Local Level Concerns & Grievances

Available in English, Chinese, French, Japanese, Portuguese and Spanish

Published in October 2009. This sets out how mining and metals companies can develop robust, credible and trusted procedures that provide local communities with a means of raising concerns relating to the company's operations, and dealing with these in ways that are considered to be fair, by both the community and the company.

The guidance acknowledges that for any large-scale project with potentially significant impacts, some local concerns are inevitable. These concerns can be expressed in the form of a complaint, either formally or informally, and can encompass relatively minor concerns as well as more entrenched or serious issues (that may be described as grievances). In all such cases, the guidance advocates the importance of having a credible local mechanism in place for systematically handling and resolving any complaints that might arise. The guidance also acknowledges that well designed mechanisms to address complaints are likely to bring significant benefits to communities and companies.

This document is available to download at: [www.icmm.com/page/15816/human-rights-in-the-mining-metals-sector-handling-and-resolving-local-level-concerns-grievances](http://www.icmm.com/page/15816/human-rights-in-the-mining-metals-sector-handling-and-resolving-local-level-concerns-grievances)



**Integrating human rights due diligence into corporate risk management processes**

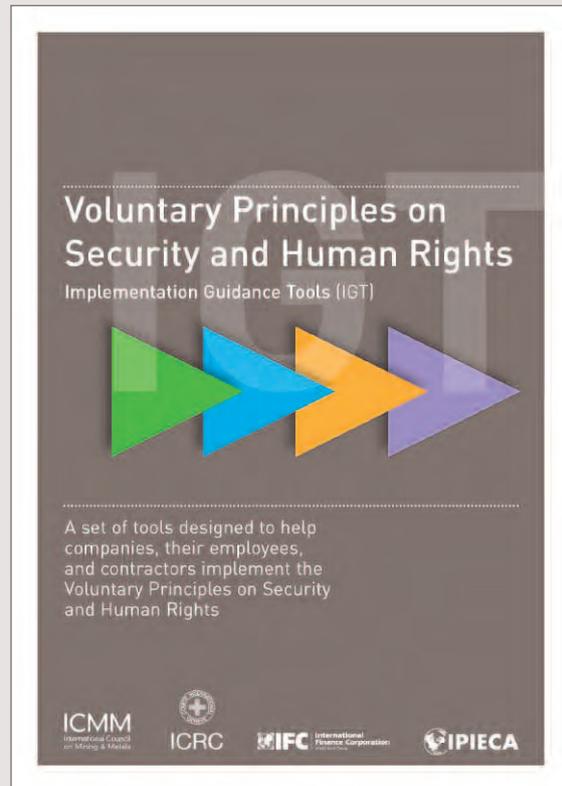
Available in English

Published in March 2012. It introduces and explains what is meant by human rights due diligence and the central role it plays in delivering on the corporate responsibility to respect human rights.

The guide aims to assist mining companies in reviewing their existing risk management processes, identifying how they can build on them to ensure they are adequately addressing human rights and whether their existing processes are consistent with the UN Guiding Principles.

A range of the available tools on risk management and aspects of human rights due diligence are introduced in the guide and are supported by a number of industry-related case studies. The studies focus on practices such as the use of global employee surveys, conflict assessment and effective stakeholder engagement.

This document is available to download at: [www.icmm.com/page/75956/guidance-launched-on-integrating-human-rights-due-diligence-into-corporate-risk-management](http://www.icmm.com/page/75956/guidance-launched-on-integrating-human-rights-due-diligence-into-corporate-risk-management)



**Implementation Guidance Tools**

Available in English and Spanish

Published in September 2011. ICMM – in collaboration with ICRC, IFC and IPIECA – released this publication to help companies implement the Voluntary Principles on Security and Human Rights. The Implementation Guidance Tools are particularly aimed at those companies operating in areas of conflict and weak governance. The document has been informed by the rich experiences of companies, governments and NGOs who have been applying the Voluntary Principles in-country since their launch in 2000.

Aimed at project level staff responsible for corporate security and human rights commitments, the Implementation Guidance Tools contains four interactive modules and real-world scenarios to help companies engage stakeholders and assess the risks and impacts of their security operations. It is designed to be readily integrated into existing due diligence and project management procedures.

This document is available to download at: [www.icmm.com/library/voluntary-principles-on-security-and-human-rights](http://www.icmm.com/library/voluntary-principles-on-security-and-human-rights)

The International Council on Mining and Metals (ICMM) was established in 2001 to improve sustainable development performance in the mining and metals industry. Today, it brings together many of the world's largest mining and metals companies as well as national and regional mining associations and global commodity associations. Our vision is one of leading companies working together and with others to strengthen the contribution of mining, minerals and metals to sustainable development.

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The original draft of this publication was prepared by ICMM Director Aidan Davy. Rory Sullivan served as an expert external reviewer. Reviewers from ICMM members included Vicky Bowman, Melinda Buckland, Alan Fine, Christopher Chambers and Ian Wood. ICMM is indebted to all reviewers for their constructive input. It was edited by Hugh Leggatt and ICMM staff.

For questions, please contact [info@icmm.com](mailto:info@icmm.com).

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