



Human rights defenders and civic freedoms

Anglo American's guidance on how to identify, respect
and protect human rights defenders

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Everyone in a given society lives and operates in a 'shared space' with the same set of norms, laws, and institutional frameworks. It is in the interest of all those who share that space for the rules and standards that hold public and private powers accountable, to be upheld.

Citizens and organisations have the right to exercise their civic freedoms – such as freedoms of expression, association, information, and assembly – to hold these powers to account. **Better accountability leads to stable, sustainable, and ethical environments in which business and civil society alike can thrive.**

When human rights defenders exercise their civic freedoms to raise concerns about business practices, it gives businesses an opportunity to better understand the nature of the concerns that are raised, address impacts and prevent harm from occurring in the future.

Who are human rights defenders?

Human rights defenders (HRDs) are individuals or groups who act to promote, protect, or strive for the realisation of human rights and fundamental freedoms through peaceful means.

HRDs do not need to belong to a registered organisation, nor do they need to identify as a HRD or activist. They are not a homogenous group and may be of any gender or identification, from anywhere, from any sector, and may act in a professional or private capacity.

HRDs address human rights issues across the full range of civil, political, economic, social, and cultural rights. Thus, HRDs may be local community leaders, trade unionists, politicians, lawyers, employees, journalists, international civil society organisations, local NGOs, environmental activists, celebrities, members of ethnic or religious groups, Indigenous peoples fighting to preserve their ancestral land or whistle-blowers exposing unlawful or unethical activity.

What do human rights defenders do?

Human rights defenders

- Raise awareness by bringing public attention to human rights violations and abuses, often speaking up for vulnerable groups.

- Collect and disseminate information on human rights abuses.
- Support victims of human rights violations directly through humanitarian and other efforts.
- Promote accountability through advocacy, litigation or bearing witness to violations.
- Support better governance by encouraging governments to fulfil their obligations.
- Educate and train people on how to promote and protect human rights.

In the context of business, the work of HRDs is crucial to protecting land and environment, securing just and safe working conditions, combatting corruption, respecting Indigenous rights, and sustainable development.

What are the risks faced by human rights defenders?

The work of human rights defenders can be dangerous. While not all human rights work places HRDs at risk, research suggests that attacks against HRDs have continued to intensify over the past decade.

This includes intimidation and harassment, stigmatisation and exclusion from communities, arbitrary arrest or detainment, loss of employment, defamation, illegal surveillance, strategic lawsuits against public participation, restrictions on freedoms that prevent them from conducting their work and death. Killings and physical attacks disproportionately affect those engaged in the defence and promotion of environmental rights.

Those who violate the rights of HRDs most commonly target HRDs themselves or the organisations and mechanisms through which they work. Occasionally, violations target members of HRDs' families, as a means of applying pressure to the defender.

Some HRDs are at greater risk because of the nature of the rights they seek to protect. For example, women HRDs may confront gender-specific risks such as gendered verbal abuse, sexual harassment, rape, and sexual violence, which require particular attention.

Anglo American's commitment to respect and protect human rights defenders

Anglo American is committed to respecting all internationally recognised human rights and implementing the UN Guiding Principles on Business and Human Rights (UNGPs) – a set of voluntary principles for States and companies to prevent, address and remedy human rights abuses committed in business operations. The UNGPs state that businesses have a responsibility to respect human rights, which requires them to:



Avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur.



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.

We have also made specific commitments to supporting civic freedoms and the rule of law, including respecting the rights of human rights defenders, in our Code of Conduct and Human Rights Policy:



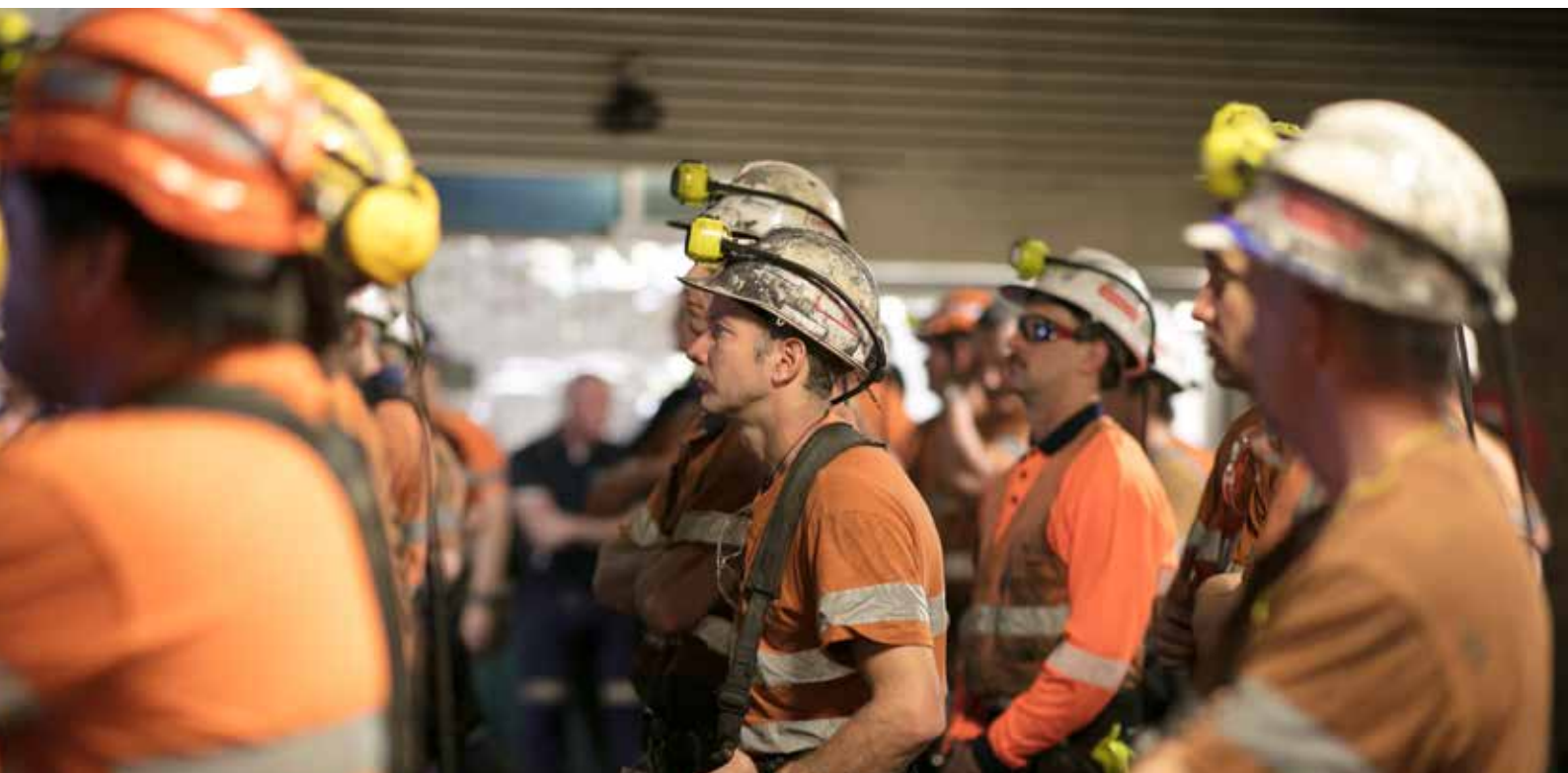
Code of Conduct:

"...We further emphasise our commitment to civic freedoms and the rule of law, including respecting the rights of human rights defenders."



Human Rights Policy:

"Civic freedoms and the rule of law are important to the functioning of our business and well-being of our stakeholders. Human rights defenders play a crucial role in protecting civic freedoms and human rights. We recognise our duty to respect human rights defenders and commit to working with partners to promote civic freedoms and the rule of law."



What do we need to do to respect and protect human rights defenders?



Stakeholder engagement

Stakeholder engagement provides an opportunity to identify key civil society actors, understand their concerns, determine measures to address impacts, and identify and prevent potential future impacts.

The Social Way guides our approach to community engagement and includes tools on how to identify and engage with vulnerable groups, including HRDs. (See Social Way: Section 3A Stakeholder Engagement.)

Identifying and engaging with human rights defenders in other groups – e.g., employees, trade unions, media, NGOs, faith groups – is equally important and may not automatically occur as part of the Social Way. Employee engagements, townhall meetings, discussions with unions, media briefings, and interactions with NGOs are examples of platforms that can be used to fill this potential gap.



Human rights due diligence

Understanding the needs and concerns of rights holders is fundamental to robust human rights due diligence. The Social Way: Social and Human Rights Impact and Risk Analysis (SHIRA) process emphasises the importance of engaging with stakeholders, including human rights defenders, to identify, prioritise and manage adverse human rights impacts.

While approaches to human rights due diligence in other parts of the business vary, the need to engage with rights holders and HRDs is no less critical.



Remediation

The UNGPs outline eight effectiveness criteria for grievance mechanisms. Mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. (See Anglo American Social Way: Section 3B Incident and Grievance Management.)

Since HRDs are at particular risk of reprisal, special measures might need to be implemented to ensure grievance mechanisms are effective for HRDs. Confidentiality is, for example, a crucial consideration. The effectiveness of grievance mechanisms should be a regular discussion point during engagements with HRDs.

Every Anglo American operation has a site specific grievance mechanism. In addition, YourVoice is a confidential, independent way for employees and other stakeholders to raise their concerns. YourVoice is accessible at www.yourvoice.angloamerican.com 0800 0688 792.



Leverage

Build and exercise leverage, particularly with States and business partners. This may include incentives for business partners to conduct human rights due diligence focusing on HRDs and to cascade it through their own supply chains. It may also include using information gathered to engage with States and business partners to develop a safer and more enabling environment for HRDs.



Support

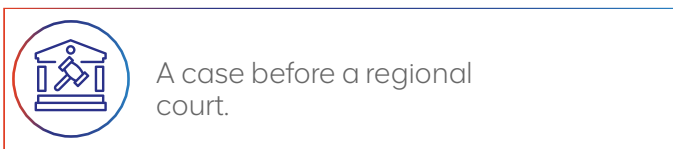
Provide support to HRDs, including through affirming their work and, where appropriate, engaging in quiet diplomacy as part of an exercise in leverage (e.g., having conversations with States in order to generate change over the long-term).

How incidents involving HRDs can be escalated through national and international mechanisms

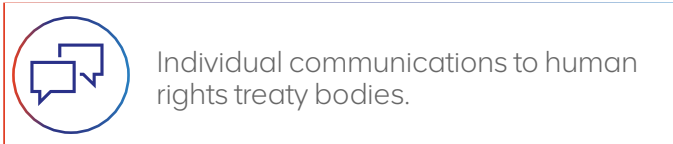


States may enact legislation, policies, or other measures to regulate the actions of businesses, including by providing for accountability mechanisms. There are also several international mechanisms concerned with State compliance.

The mechanisms for holding States to account in this context include:



A case before a regional court.



Individual communications to human rights treaty bodies.

Human rights treaties envisage periodic reviews of State compliance with their obligations, including those relating to the safety and security of Human Rights Defenders. The process may also include invitations to organisations to submit letters or reports on relevant issues relating to State compliance.

Other mechanisms for complaints of business-related human rights abuse:

In some countries there are quasi-judicial bodies, such as national human rights institutions (NHRIs), which have the authority to receive individual complaints of human rights abuses and to investigate them.

Many OECD countries have set up National Contact Points (NCPs) to which individuals or organisations may raise issues of non-observance by businesses in respect of the OECD Guidelines for Multinational Enterprises.

Extra-territorial Jurisdiction: There are increasing attempts to hold parent companies liable in home State courts for the actions of their subsidiaries in a different jurisdiction. The growing number of mandatory human rights due diligence laws with extra-territorial reach may provide the grounds for extra-territorial legal complaints, regulatory actions, or other scrutiny.

The Role of the United Nations Human Rights Council: The UN Human Rights Council is responsible for the promotion and protection of human rights around the world, addressing human rights violations and making recommendations on them.

The Working Group on Business and Human Rights: The WG receives information on alleged human rights abuses or violations and, where deemed appropriate, intervenes directly with States, business enterprises and others on such allegations.

The Special Rapporteur on the Situation of Human Rights Defenders: The Special Rapporteur may also receive information from individuals or groups, and may send letters to governments, inter-governmental organisations, businesses, military, or security companies, amongst others, presenting relevant allegations.

In 2014, the United Nations Human Rights Council adopted a resolution establishing an open-ended inter-governmental working group, with the mandate to develop an international legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to human rights.



UN guidance on ensuring respect for human rights defenders

- Recognise that meeting the responsibility to respect human rights in relation to risks to human rights defenders implies – at a very minimum – that their activities, actions, and omissions do not lead to retaliation, violence, or stigmatisation against human rights defenders.
- Know and show a commitment to the rights of human rights defenders through policies and procedures relating to human rights due diligence and impact assessments.
- Do not expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings, including strategic lawsuits against public participation (SLAPPs), or reporting them to authorities as a means of intimidating them. Recognise that SLAPPs are not only misguided as far as operating on a principled basis is concerned, as they are incompatible with responsible business, but also that engaging in them reflects poor strategic sense, as they destroy any credibility of corporate commitment to respect human rights at large.
- Use leverage in business relationships to ensure respect for human rights defenders is developed and maintained.
- Acknowledge that human rights due diligence provides a tool for achieving greater coherence. Conduct human rights due diligence in which community leaders and human rights defenders are an important expert resource as part of human rights due diligence processes, enabling business enterprises to understand the concerns of affected individuals and communities on the ground.
- Continuously enhance human rights due diligence policies and processes by engaging regularly and openly with affected stakeholders, civil society organisations, human rights defenders, and trade unions, and be transparent about the management of potential and actual impacts.
- Adopt a preventive approach by actively monitoring risks against human rights defenders, taking an open and inclusive approach to stakeholder and worker engagement, especially with those who are at higher risk.
- Be as transparent as possible in responding to concerns raised by defenders, as well as about

defenders and how they were addressed by the business. Such reporting should occur in a way that respects the wishes of human rights defenders and also protects them from retaliation.

- Design and implement an operational-level grievance mechanism that addresses the heightened risks to defenders, which can protect confidentiality, provide for anonymity, and that is accessible through multiple channels.
- Have clear protocols in place to address attacks against human rights defenders. This includes appointing individuals with responsibility for receiving, investigating, and responding to allegations concerning threats against human rights defenders, and learning the lessons to prevent reoccurrence of the same behaviour.



Glossary

Term	Definition
Human rights defender	Individuals or groups who act to promote, protect, or strive for the realisation of human rights and fundamental freedoms through peaceful means.
Actual human rights impact	An adverse human rights impact that has already occurred or is occurring.
Adverse human rights impact	Occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.
Human rights	Rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more.
Human rights due diligence	An ongoing system of risk management to identify, prevent, mitigate and account for how you address your human rights impacts. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses and communicating how impacts are addressed.
Leverage	The ability of a business to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.
Mitigation	Actions taken to reduce the extent of an impact, with any residual impact then requiring remediation. The mitigation of human rights risks refers to actions taken to reduce the likelihood of a certain adverse impact occurring.
Operational-level grievance mechanism	A formalised means through which individuals or groups can raise concerns about the impact an enterprise has on them (including, but not exclusively, on their human rights) and can seek remedy.
Potential human rights impact	An adverse human rights impact that may occur but has not yet done so.
Prevention	Actions taken to ensure a human rights impact does not occur.
Remediation	The processes of providing remedy for an adverse human rights impact and the substantive outcomes that can counteract, or make good, the adverse impact.
Stakeholder engagement	An ongoing process of interaction and dialogue between a business and its potentially affected stakeholders that enables the business to hear, understand and respond to their interests and concerns, including through collaborative approaches.
Strategic lawsuits against public participation	Civil or criminal lawsuits brought, or initiated, by businesses that divert time, energy, and resources away from human rights defenders' work and infringe upon a range of human rights including the freedom of expression and freedom of assembly and association.

Resources

- Business and Human Rights Resource Centre & International Services for Human Rights – Shared Space Under Pressure: Business support for civil freedoms and human rights defenders guidance for companies (2018)
- Business and Human Rights Resource Centre: Human rights defenders and civic freedoms webpage
- Business Network on Civic Freedoms & Human Rights Defenders: Resources webpage
- UN Working Group on Business and Human Rights – The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders (2021)

