

ANGLO GOLDASHANTI

GUIDELINE		
GUIDANCE ON THE HUMAN RIGHTS DUE DILIGENCE STANDARD		
CUSTODIAN	Corporate Sustainability Department	
APPROVED BY	EVP: Sustainable Development	DATE: March 2016

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1. What is the aim of this guide?

The aims of this guide are to:

- Explain what is meant by Human Rights Due Diligence (HRDD) and the central role that it plays in delivering on AngloGold Ashanti's responsibility to respect human rights
- Provide a detailed explanation of each main step in the due diligence process in order to ensure that AngloGold Ashanti is aware of, prevents and addresses adverse human rights impacts.
- Identify how AngloGold Ashanti can enhance or build upon its existing risk management processes, to ensure that its approach to human rights due diligence is adequate and consistent with the UN Guiding Principles.

2. What is human rights due diligence?

Human rights due diligence is the process of building internal awareness and understanding of where a company's activities may have the potential to intersect with human rights or infringe upon the enjoyment of human rights by others, as well as how to prevent or mitigate such potential human rights impacts and remediate actual impacts that have occurred.

It is increasingly recognised that human rights must be viewed as risk, especially from a business standpoint. HRDD involves asking basic questions which reveal human rights risk at all the appropriate decision-making moments in the business's processes, as well as conducting in-depth investigations into identified sources of risk.

3. Why human rights due diligence?

AngloGold Ashanti has publically committed to ensuring our alignment with the United Nations Guiding Principles for Business and Human Rights (UN Guiding Principles) as adopted by the United Nation's Human Rights Council in June 2011. This formally commits us to complying with applicable laws and respecting internationally recognised human rights, even when national laws or their application fall short of protecting these rights. According to the UN Guiding Principles on Business and Human Rights, the company's responsibility to respect human rights can be discharged through effective human rights due diligence process.

Principle 17 states:


In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. 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. Human rights due diligence:

- a. *Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;*
- b. *Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;*
- c. **Should be on-going, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.¹**

There are several advantages to conducting human rights due diligence:

- Conducting appropriate human rights due diligence helps AngloGold Ashanti address the risk of legal claims against it by showing that it took every reasonable step to avoid involvement with an alleged human rights abuse.
- Human rights due diligence helps the company make informed business decisions, and helps secure social license to operate which is necessary to operate without opposition or interruption
- Human rights due diligence helps ensure compliance with existing internal policies and standards, including those which do not specifically focus on human rights, but whose provisions have human rights implications, such as the Code of Ethics, Supplier Code of Conduct, Human Resources policy etc.
- **Human rights due diligence can help build sustainable relationships with key stakeholders through meaningful engagement to prevent and address human rights risks, as well as increase employees' confidence in the company.**
- **It is the right thing to do. Ensuring respect for human rights is how AngloGold Ashanti wants to do business, and live up to its values and "who we are."** 

4. When is a Human Rights Due Diligence undertaken?

- HRDD should be carried out throughout the lifecycle of a mining operation (including pre-entry, exploration, and closure).
- It should be initiated as early as possible in the development of a new activity or relationship, given that human rights risks can be increased or mitigated already at the stage of structuring contracts or other agreements.

¹ Commentary to UNGP 17. This Principle defines the parameters for human rights due diligence, while Principles 18 through 21 elaborate its essential components.



- In addition, when a project evolves from exploration, to construction, to operation and to closure, their character, personnel and risks change as well. It is important that as operations develop, their human rights risks and impacts continue to be assessed and addressed. The HRDD should adjust accordingly to take into account these changes.
- Similarly, because human rights risks and impacts may be inherited through mergers or acquisitions, it is important that HRDD is conducted prior to completion of a merger or acquisition in order to identify such risks and impacts. It is also important that post-merger or acquisition, the new entity is integrated into the HRDD process of AngloGold Ashanti.

AngloGold Ashanti has a large number of entities in its value chains, and it would be unreasonably difficult to conduct due diligence for adverse human rights impacts across all of them. In line with the UN Guiding Principles, the recommended approach is for the company to identify general areas where the risk of adverse human rights impacts is most significant through the risk management process, whether due to certain suppliers' or clients' operating context, the particular operations, products or services involved, or other relevant considerations, and prioritise these for human rights due diligence.

5. Which human rights should be covered under a Human Rights Due Diligence process?

According to the UN Guiding Principles, because companies have the ability to impact on all internationally recognised human rights, HRDD should cover all internationally recognised human rights.² In line with this, our Human Rights Policy commits us to respecting all internationally recognised human rights as set out in the *International Bill of Human Rights* the *ILO Declaration on Fundamental Principles and Rights at Work* and the core conventions of the ILO.

6. Human Rights Baseline

Given that HRDD will continuously be required within AngloGold Ashanti, it is prudent to include the establishment of a human rights baseline for the company as a preliminary step. The baseline will be conducted by the Corporate Office and can be drawn on repeatedly across the company regardless of which operation is the focus in the due diligence process. The human rights baseline for the company should include information on:

- a) The company's human rights landscape, including:
 - Company policies, standards and procedures

² The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and its two optional protocols, and the International Covenant on Economic, Social and Cultural Rights (ICESR) make up the International Bill of Human Rights. These, together with the core labour standards of the International Labour Organisation form the most widely accepted codification of human rights standards as enshrined in international law.



- Commitments to external initiatives on human rights
 - Key human rights issues in the mining sector (these would indicate potential exposures for AngloGold Ashanti)
 - Investors' expectations on human rights
 - Monitoring from third party organisations such as NGOs and their reports on human rights risks associated with AngloGold Ashanti
 - Business relationships including JV partners, mergers, acquisitions, PPPs and partnerships with governments.
- b) **Human rights profiles of countries in which the company operates,** including:
- Country contexts on human rights and governance.
 - Existence and conditions of international sanctions against each country.
 - Presence of human rights risk drivers and proxy indicators such as armed conflict, poverty and levels of corruption
 - External perception of human rights in each country
 - Rule of law and government capacity to enforce relevant laws
 - Legal and regulatory framework on human rights
 - International restrictions on resource exploitation in country.
 - Presence of indigenous population groups
 - Cultural issues and social conditions
 - Relevant documents describing host Government requirements including on labour issues, reporting, use of state security providers, reporting staff information, waste disposal requirements.

This information will enable the company to become aware of the human rights footprint associated with the different geographical areas it operates in, and provides a baseline understanding for those involved in the HRDD process, to which they can refer continually, enabling them to identify significant changes which may signify increase or decrease in human rights risk levels. Information for the baseline and other aspects of the HRDD can be obtained from the following sources:

Internal company documentation including:

- Country risk assessments, environmental and social impact assessments, security reports, health and safety reports, business development plans, etc.
- Human rights risk assessment conducted on the basis of all internationally recognised human rights and core labour standards
- Annual sustainability reports
- Company policies and standards



- Public statements and responses to external reports and concerns

National Laws:

- Relevant human rights provisions contained in National Constitution, particularly those which relate to property rights and compensation.
- National laws on lands and natural resources (Including related provisions found in the National Constitution).
- Legislation on Indigenous Peoples.

Various tools including:

- UN Human Rights Council – *Universal Periodic Review* (provides human rights information on all 192 member countries of the UN). <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
- US Department of State - *Country Reports on Human Rights Practices* (Annual detailed country reports on human rights situation in about 200 countries, as well as regional overviews). <http://www.state.gov/j/drl/rls/hrrpt/>
- *Fund For Peace - Failed State Index* (an annual ranking of 177 nations based on their levels of stability and capacity). <http://global.fundforpeace.org/>
- Human Rights Watch - *Human Rights Watch World Report* (Annual report on recent human rights developments (positive or negative) in 90 countries. Also identifies the key international actors involved). <https://www.hrw.org/world-report/2015>
- World Bank – *World Development Indicators*. <http://data.worldbank.org/data-catalog/world-development-indicators>
- Central Intelligence Agency – *CIA World Factbook* (Information on the history, people, government, economy, geography, communications, transportation, military, and transnational issues for over 200 countries, including significant conflicts, human rights and governance issues). <https://www.cia.gov/library/publications/the-world-factbook/>
- Amnesty International - *Amnesty International annual report and library* (Succinct annual reviews of the human rights situation in over 150 countries and update on past year's events. Also includes summary of regional human rights developments. Online library provides access to recent and archived reports, press releases and appeals on the human rights situation in these countries). <https://www.amnesty.org/en/>
- International Alert and Fafo Institute – *Red Flags* (High-level guidance for companies particularly when operating in areas of serious human rights abuses. Includes a list of company activities which should raise a “red flag”, that is, alert the company to a potential legal liability and the need for urgent action).



<http://www.international-alert.org/partner/norwegian-institute-applied-international-studies-fafo>

- Organisation for Economic Cooperation and Development (OECD) - *OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (High-level guidance note (~35 pages) for companies operating in weak governance zones).
<http://www.oecd.org/corporate/mne/weakgovernancezones-riskawarenesstoolformultinationalenterprises-oecd.htm>

7. How is Human Rights Due Diligence conducted?

The method for conducting human rights due diligence is similar to due diligence as conducted in other fields, namely:


- a. Identifying relevant facts; and
- b. Evaluating those facts in light of an identified standard of care. In this instance, the standard of care is respect for *all internationally recognised human rights*.

These two steps when taken would produce the following results for AngloGold Ashanti:

- The company is enabled to identify clearly, how its activities and relationships affect (positively or negatively) the enjoyment of human rights by affected stakeholders.
- The company is able to identify clearly the human rights risks that could affect its business operations.
- The company is enabled to identify the tools (processes, policies, procedures, risk management systems, etc) that it has in place to address the potential and/or actual human rights risks and impacts. In other words, how equipped it is to respond, if faced with a range of challenging human rights risks and impacts in its business activities.
- The company is able to improve where necessary the way it manages its human rights risks.

7.1 Steps in the Human Rights Due Diligence process

The Guiding Principles outline **four main steps** in the human rights due diligence process, namely:

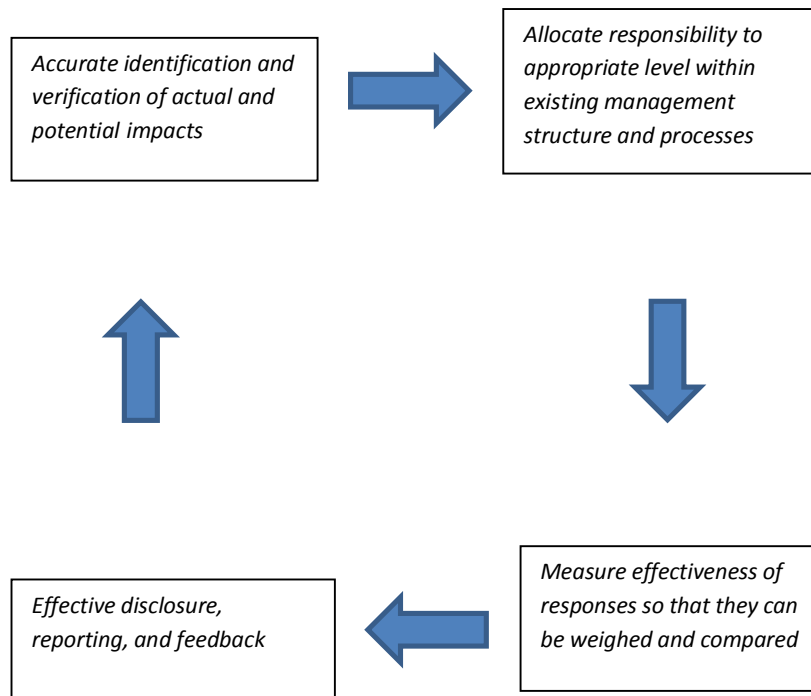
1. Assessing actual and potential human rights impacts;
2. Integrating the findings of such assessments into relevant functions and processes and taking appropriate action;
3. Tracking the effectiveness of the response; and
4. Communicating externally on actions to address impacts. 

The subsequent sections of this guidance will expand on each of these steps.



8. The Human Rights Due Diligence Process

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8.1 Step 1: Assessing actual and potential human rights impacts.

8.1.1 Context and Risk

8.1.1.1 Understand the context and human rights risks

The first step in a human rights due diligence process is to understand the country contexts in which the operations are located and the human rights landscape. This entails determining the associated **human rights risks and where necessary, prioritising** those that are most severe. In order to achieve this, review and evaluate country and local context on human rights. A high level overview should already exist from the baseline, and this step should provide more in-depth information. Answering the following questions should provide a clear understanding of the human rights situation into which we are entering, or already existing:

- Has the area suffered from ethnic conflicts in the past?
- Are there disadvantaged or vulnerable groups resident in the area, or surrounding areas?
- Are there international sanctions against country? If these exist, what are the conditions? Do they include international restrictions on resource exploitation in country?



- Have there been allegations of human rights abuses in the project area and if so by whom?
- What is the state of rule of law and government capacity to enforce relevant laws?
- What is the record of human rights in the country and what do these say about existing violations/abuses in general?
- The condition of rule of law and governance. Are laws effectively enforced?
- Who are the most likely perpetrators of human rights abuses?
- What is local region-specific human rights conditions and stability?
- Is there a gap between local law and international law standards? Note that where national laws may conflict with internationally recognised human rights, companies are expected to respect the latter to the extent possible, and be able to demonstrate their efforts to do so.

8.1.1.2 Understand the company's activities and relationships

Each business activity and each partner in a business relationship have the capacity to impact, both positively and negatively, the human rights of stakeholders. In order to get a good understanding of where risks may lie for AngloGold Ashanti, map the project activities and relationships with which the company is involved in the country. Focus on core business activities in the country first and work out from there to more peripheral partners or activities. The mapping should answer questions like:

- What is the company actually doing in the country?
- What are its business relationships?
- What projects are in place or in development?

8.1.1.3 Understand the human rights risks

Identify the acts or relationships that pose a risk to human rights i.e those which might result in AngloGold Ashanti's involvement in a human rights violations or abuse. Be particularly mindful of any associations with actors that have a bad human rights record, as such associations could expose AngloGold Ashanti to charges of complicity in human rights violations. Also include those relationships in which *perception* of human rights violation may arise, as such perceptions will affect stakeholder behaviour towards the company or its interests and, thus, potentially pose a risk to the company. This identification exercise should answer questions such as:

- In light of the country and local context, which of our activities and relationships are likely to have human rights impacts, such as creating community conflict or exacerbating human rights violations?
- What set of abuses might we be associated with, even though we may not in fact be involved with those abuses or series of events?
- What are the perceived impacts of our operations on people?
- Which of our business partners have engaged in or are complicit in human rights abuses?



- What are the likely consequences of such human rights risks to the company?

8.1.2 Assess actual and potential human rights impacts resulting from the company's activities

The next step is to identify and assess the human rights risks³ and impacts of the company's activities on the rights of individuals and groups of rights holders affected by its operations. This requires a human rights impact assessment (HRIA). The HRIA will inform subsequent steps in the company's human rights due diligence process, and should systematically identify, predict and respond to the potential human rights impacts of the operations or project. The process should involve persons with human rights expertise and should center on the following key activities:

Data collection and analysis

- Rights-holder engagement
- Identification of human rights impacts and rating
- Potential risks to the rights holder and to the company
- Recommendations on mitigation and incorporation of HRIA result into risk management
- Follow up on challenges


There are different approaches to take to conducting a HRIA, including the option to integrate human rights assessment into other assessment process such as ESIA's, early due diligence risk assessments or undertake standalone human rights impact assessments (HRIAs). However, it should be borne in mind that while ESIA's are well suited to identifying environmental and social impacts, they do not necessarily explicitly address how these have the potential to infringe on the enjoyment of human rights by others and they usually do not address human rights issues in a systematic and comprehensive way. Therefore, where human rights assessments are to be incorporated into ESIA's, it is important to ensure that the team undertaking the ESIA includes sufficient human rights expertise. Furthermore, to ensure that human rights are properly covered in other assessments, a mapping against all internationally recognised human rights should be undertaken to duly demonstrate that all human rights risks have been addressed. Whatever form is adopted, the HRIA should cover actual and potential impacts the company has caused or contributed to or is linked to, and include all relevant international human rights as a reference point.

In carrying out the HRIA, ensure that there is adequate, competent, in-house personnel, and sufficient capacity to project manage the impact assessment. Where this does not exist, there would be need to contract a third party supplier, either to carry out the HRIA on behalf of the company or

³ Human rights risks are understood to be the company's potential adverse human rights impacts, as opposed to risks to the business itself, although both are inter-linked. For instance when the company's activities pose a risk to a community's right to access to water, it may also pose a reputational, legal or financial risk to the company itself.




to be part of a hybrid arrangement whereby in-house personnel is used to coordinate the process, but the third party supplier project manages and provides the required human rights expertise.

Where the HRIA is to be conducted in-house or using a hybrid arrangements, ensure that the following is done before commencing with the HRIA: 

- Appoint a coordinator for the HRIA process. This could be an individual, a team, or a cross-functional team
- Get buy-in from senior management
- Allocate adequate resources to the HRIA
- Develop realistic time-plan which considers the existing working commitments of staff
- Integrate the responsibility for the HRIA into the job descriptions of the relevant designated staff

8.1.3 What should the HRIA cover?

The HRIA should include the following elements:

- Assessment of the human rights context in country.
- Catalogue of the relevant human rights standards and issues, using internationally recognised human rights as a reference point.
- Describe human rights in the context of the company's overarching strategy and value system and refer to relevant company policies, codes, and management systems, and identify any gaps in these.
- Identify who may be affected by the operations, paying special attention to any particular human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalisation.
- Project how the site's operations and associated business relationships could impact (positively or negatively) on the human rights of those identified.
- Involve meaningful consultation with potentially affected groups and other relevant stakeholders. 
- Identify actual human rights impacts, i.e those impacts which are already ongoing or have occurred.
- Identify potential human rights impacts, i.e violations that may or could occur, but have not yet done so.
- Include impacts directly caused by AngloGold Ashanti's activities or arise as a result of direct infringement by AngloGold Ashanti in relation to the project.



- **Include impacts to which AngloGold Ashanti contributes.** These are indirect infringements by AGA, resulting from the action of a third party, but in which AGA played a part, for example, by supplying equipment to the local police which is used to suppress the community or to violate human rights in other ways.
- **Include impacts to which AGA is linked.** These are human rights impacts resulting from the action of a third party with whom AGA is linked through product, operations or services, but in which AGA played no part, for example a contractor who uses forced labour or torture to fulfil contracts.
- **Identify potential risks facing the company from failure to meet its responsibility to respect human rights.**
- **Identify any action(s) the company should take to mitigate those risks.**
- **Take into consideration, AGA's internal risk management strategies and make recommendations for embedding the HRIA into the broader corporate risk management systems.**

8.1.4 Prioritise the Key Human Rights Impacts

Having accounted for all impacts through the HRIA it is possible that due to limited capacity, resources or time, not all of the impacts can be addressed at the same time. In this instance, there will be need for **prioritisation**. Principle 24 of the UN Guiding Principles addresses situations where companies need to prioritise actions to address actual and potential adverse human rights impacts. In such instances, it states, **companies should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable**. Therefore when prioritising the potential and actual adverse impacts revealed through the HRIA, AngloGold Ashanti should pay attention first to those impacts that are most severe from a human rights perspective. **Severity should be measured in terms of:**

- **Scope: the extent of the impact**
- **Scale: Number of people affected and**
- **Remediability: whether or not the impact is permanent or can be remediated. Impacts where delayed response would make them irremediable should be prioritised.**

Severity should be measured from the perspective of the impacted stakeholders and not from the point of view of business risk or consequences. In order to fully understand the impacts, **potentially and actually affected stakeholders should be involved in prioritising human rights impacts**. Similarly, in order to understand the impacts on the most vulnerable, vulnerable persons such as children and elderly should be included in the considerations.



AngloGold Ashanti should be able to account for how prioritization was done, including the fact that considerations was given to those impacts that it may be causing, or contributing to through its business relationships or merely linked to, through operations, services or products of its business partners. In prioritising, the company should seek legal or other guidance where necessary.

To ensure proper integration into the broader risk management system, prioritisation of human rights impacts should be aligned to the AuRisk classification of risks.