

> HUMAN RIGHTS FACTSHEET

JUNE 2005

Enduring Value and Fundamental Human Rights

Through their commitment to *Enduring Value: The Australian Minerals Industry Framework for Sustainable Development*, members of the Minerals Council of Australia (MCA) and other leading companies commit to upholding fundamental human rights and respecting cultures, customs and values in their dealings with employees and others affected by their activities.

Under *Enduring Value*, signatory companies commit to conform with a set of operational behaviours that seek to protect the fundamental human rights of their workforce and of the communities in which they operate.

When operating in Australia and offshore, these companies comply with, or exceed the requirements of, the sovereign country's laws and regulations in which they operate.

The MCA does not support the extra-territorial application of Australian laws, potentially compromising the sovereignty of the nation state, in determining its own laws and regulations. This does not reduce scope for international instruments to give effect to international protocols and covenants.

MCA member companies and other signatories to *Enduring Value* apply operational standards globally that are consistent with Australian operational standards, whilst accommodating variations as a result of cultural, geographical or environmental circumstances.

Through *Enduring Value*, signatory companies commit to:

Principle 3: Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities

Element 3.1: Ensure fair remuneration and work conditions for all employees and do not use forced, compulsory or child labour

Implementation Guidance

- > Implement policies and practices that attract and retain high quality staff many of the elements can contribute to recruiting, retention and development.
- > Provide equal opportunity and remuneration for work of equal value relative to local economic conditions.
- > Understand, respect and actively support human rights within the company.
- > Develop and communicate clear retrenchment and re-skilling guidelines.
- > Promote a safe work culture that recognises that no job needs to be done if it cannot be done safely.

Element 3.2: Provide for the constructive engagement of employees on matters of mutual concern

Implementation Guidance

- > Engage employees proactively about their work-related concerns
 - listen actively and document the issues employees raise fairly and accurately
 - discuss the issues in timely, open and culturally appropriate ways
 - recognise employee freedom of association
- > Seek agreed resolutions, including
 - flexible working arrangements where this benefits both company and employee
 - protection of entitlements in divestment and closure situations.

Element 3.3: Implement policies and practices designed to eliminate harassment and unfair discrimination in all aspects of our activities

Implementation Guidance

- > Educate and train employees in anti-harassment and anti-discrimination policies and practices
- > Establish and monitor mechanisms to register, resolve and report on incidents and complaints
- > Encourage open discussion of workplace issues and address root causes of discrimination
- > Where appropriate, establish special measures intended to reduce harassment and achieve fairness

Element 3.4: Ensure that all relevant staff, including security personnel, are provided with appropriate cultural and human rights training and guidance

Implementation Guidance

- > Provide employees and contractors with cultural awareness and human rights training that:
 - is relevant to their areas of work
 - includes conflict and dispute resolution skills
 - provides examples of the difficult choices that individuals may need to make, and
 - reinforces the importance of viewing the project within its local cultural context\
- > Where security personnel are involved, maintain the safety and security of company operations within a framework that ensures respect for human rights

Element 3.5: Minimise involuntary resettlement, and compensate fairly for adverse effects on the community where this cannot be avoided

Implementation Guidance

- > Minimise resettlement and compensate fairly for unavoidable impacts
- > Provide compensation in a form that helps to build sustainable capacity within affected communities and delivers benefits to both current and future generations
- > As far as practicable, ensure that the communities that experience the most adverse impacts receive the most benefit from compensation arrangements
- > Seek a consensus about relocation through a transparent process that includes the communities that will receive relocated people

Element 3.6: Respect the culture and heritage of local communities, including Indigenous peoples

Implementation Guidance

- > Recognise and respect the culture and heritage of local communities including
 - the culture and traditions of Indigenous peoples and their relationships with lands and waters; and
 - sites and objects of local, regional and national significance
- > Engage with local and Indigenous communities in culturally appropriate ways, respecting their customs and beliefs.
 - Work with communities to develop appropriate, cooperative strategies to protect and manage sites of special significance to those communities on lands within and adjacent to our operations
 - Where appropriate, incorporate local and traditional environmental knowledge and land management practices into company operations
 - Work with communities to develop employment, education, training and business development and other opportunities

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Reference Documents

A range of guidance documents on leading economic, social and environmental practice and technical guidelines support *Enduring Value*.

For example, in the area of Human Rights and Security Forces, the MCA supports the *US Voluntary Principles on Security and Human Rights*.

These US Principles acknowledge that "security is a fundamental need, shared by individuals, communities, businesses and governments alike and acknowledging the difficult security issues faced by companies operating globally, recognises that security and respect for human rights can and should be consistent".

The US Principles provide specific 'guidance' of the interactions between companies and public security forces, noting that: "where there is a need to supplement security provided by host governments, companies may be required or expected to contribute to, or otherwise reimburse, the costs of protecting company facilities and personnel borne by public security".

The US Principles go to issues including:

- > ensuring that the type and number of public security forces deployed is competent, appropriate, and proportional to the threat
- > ensuring that companies that provide equipment to public security take all appropriate and lawful measures to mitigate any foreseeable negative consequences, including human rights abuses
- > companies should support efforts by governments, civil society and multilateral institutions to provide human rights training and education for public security, as well as efforts to strengthen State institutions to ensure accountability and respect for human rights
- > that companies should use their influence to ensure that individuals, credibly implicated in human rights abuses, do not provide security services for companies, and that security does not breach the rights of individuals, as outlined in the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work
- > ensuring that companies undertake all reasonable measures to prevent human rights abuses, including through the application of a comprehensive risk assessment, which considers, among other things, the human rights record of the Sovereign State.

For more information:

<http://www.minerals.org.au/enduringvalue>