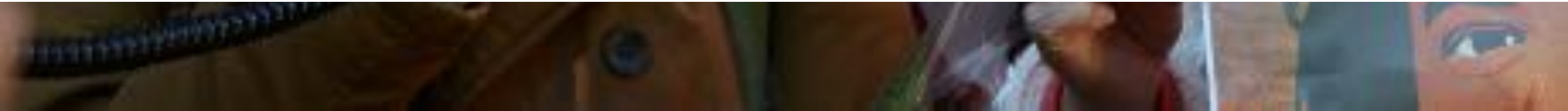




VPI Guidance on Human Rights Defenders

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Protecting Human Rights Defenders Has Been Implicit in the Voluntary Principles Since Their Founding

- Attacks against human rights defenders such as the execution of Ken Saro-Wiwa and the other “Ogoni Nine” in 1995 focused attention on extractives and human rights and in turn contributed to the creation of the VPs.
- The VPs text explicitly recognize “the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society – including non- governmental organizations, labour/trade unions, and local communities – can play in advancing these goals.”

- ❖ **The development of this guidance demonstrates the new priority and urgency of respecting and protecting human rights defenders for the VPI.**
- ❖ **Leadership on defenders by the USG Chair is timely and welcome.**

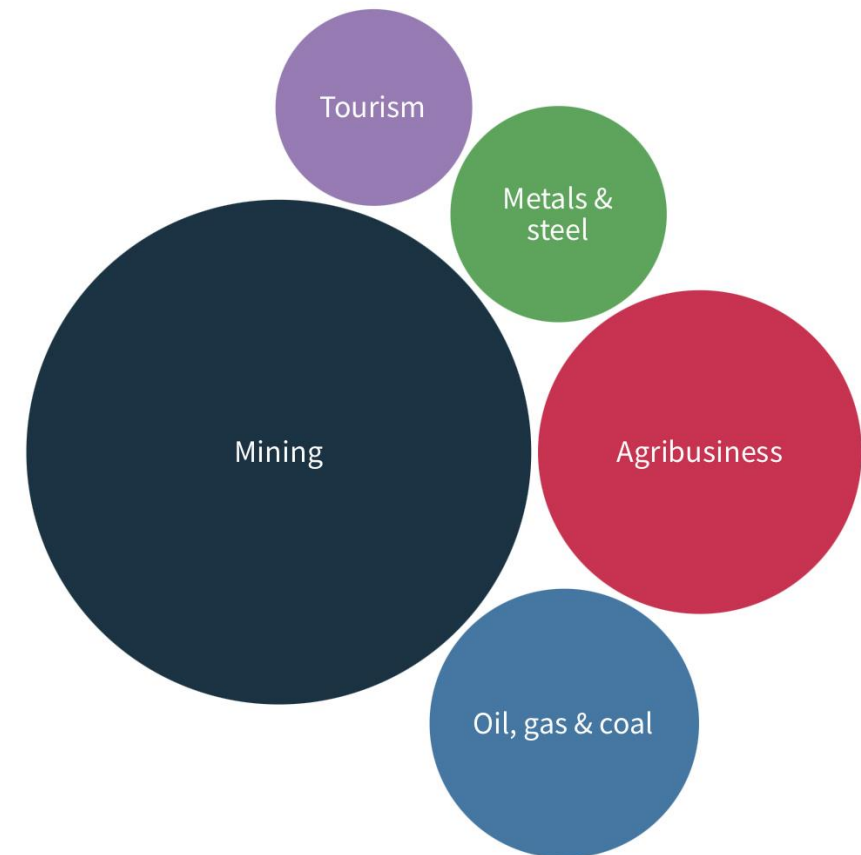


Attacks Against Human Rights Defenders are Increasing as Civic Space is Shrinking

- Between January 2015 and March 2023, the BHRRC tracked around 4,700 attacks against defenders who raised concerns about business activity.
- In 2022, 555 attacks were recorded – three quarters against land and environmental defenders.
- “Judicial harassment” is the most common form of attack - but whether attacks are physical or non-physical, they have the same chilling effect on defenders’ work and broader civic space.
- Extractives and agribusiness have consistently remained the most dangerous sectors for defenders.
- Attacks against defenders are taking place against a backdrop of shrinking civic space and the global slide towards authoritarianism and impunity.

Most dangerous sectors

Although attacks are linked to every business sector, over half (58%) of attacks occurred in just five sectors.



Protecting Human Rights Defenders Has Moved to the Front of the Business and Human Rights Agenda

- Two complementary, mutually reinforcing analytical and operational frameworks now guide companies on how to respect and protect the rights of defenders:
 - Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders (September 2018)
 - UN Working Group guidance on ensuring respect for human rights defenders (June 2021)
- Companies are increasingly recognizing the importance of defenders in standalone human rights defender policies or by integrating defenders into human rights policies and statements
 - VPI companies including Anglo American, BP, Chevron, Freeport, Newmont, Rio Tinto, Shell, Vale, others
 - VPI member Anglo American is among the 15 companies in the Business Network for Civic Freedoms and Human Rights Defenders
- NGO campaigns such as the Zero Tolerance Initiative and the Coalition Against SLAPP Suits in Europe – plus Oxfam’s April 2023 recommended steps for companies to respect defenders’ rights – contribute to increasing stakeholder expectations of action and accountability



The UN Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders



VPI Guidance: Respecting the Rights of Human Rights Defenders

- Based on a fusion of the Shared Space framework and the UNWG guidance
- Informed by interviews with VPI companies, VPI and non-VPI NGOs and defender organizations plus individual experts
- Enriched by LITE-Africa's research/interviews with human rights defenders in Africa
- Presents an analytical and operational framework to consider risks to human rights defenders in the context of VPs implementation
- Reflects and reinforces the VPI strategy to address underlying drivers of conflict, including repression of human rights defenders
 - **Outlines steps for individual company actions to diminish risks to defenders and respond to attacks**
 - **Encourages the VPI as a multi-stakeholder initiative to play a proactive role in supporting a safe and enabling space for defenders**



Section 1: Human Rights Defenders and the VPI: Responsibility and Opportunity

Companies should understand:

- The operational and reputational risks, together with the increased risks to defenders, from a closing of “civic space” around the world
- The applicable frameworks for action, especially the relevant aspects of the UNGPs and the Shared Space and UNWG guidance
- Stakeholder expectations for company engagement and action

“The VPs have had a positive impact, but they now need to speak to fundamentally changed expectations. The rules-based international order is under attack. The costs of not defending the rule of law are no longer only reputational.”

VPI NGO Pillar member

Section 2: Identifying and Reducing Risks to Human Rights Defenders

- Express zero-tolerance for threats and attacks against defenders
- Ensure that HQ and local staff understand who defenders are and why they are important
- Integrate risks to HRDs into existing risk assessment processes/due diligence through consultation and dialogue



Section 3: Integrate findings of risk assessments and non-tolerance for threats and attacks into security arrangements

- Integrate respect for defenders into public security provider arrangements/memoranda of understanding
- Integrate respect for human rights defenders and non-tolerance for threats and attacks into security contracts with private security providers
- Integrate risks to defenders into training for public and private security providers
- Reduce risks to defenders by engaging stakeholders, including home and host governments/security forces, and defenders/local communities and NGOs

“You have to be extremely clear about the expectations ahead of deployment, because once public security forces are deployed, your personnel on the ground have limited control...”

*VPI Company Pillar
member (mining)*

Section 4: Respond When Threats and Attacks Occur

- Investigate allegations/incident to evaluate the company's relationship to the potential or actual risk/harm: determine whether there is causation, contribution or linkage
 - If risks or harms are identified, consider the company's relationship to the harm/risk and determine whether there is a responsibility to respond per the UNGPs
 - If there is cause/contribution/linkage, a response is always necessary and should include remediation as relevant
- Consider costs and risks of action versus inaction in specific situations
 - If the company is not linked to the risk/harm, consider whether there is a business case or moral choice to act

Section 5: Identify Appropriate Forms of Action

- Determine appropriate forms of action if a decision is made to respond
 - Consider pros and cons of possible forms of action including individual and/or collective action, private and/or public engagement
 - Identify sources of leverage and ways to deploy in various situations
 - ❖ **Pragmatic flexibility will enable effective responses**

LEVERAGE

Leverage is both tangible and intangible, but powerful when deployed carefully. Sources of a company's leverage include:

- Size and weight of economic and commercial presence operations and/or sourcing relationships
- Level of access and degree of potential influence with the host country government
- The level of access to relevant audiences through traditional media and social media outlets
- Support of the home country government and that government's influence
- Quality of global and local stakeholder relationships

Section 6: Ensure that grievance mechanisms are safe and accessible for defenders

- Establish absolute non-tolerance for all forms of retaliation
- Consult with defenders, if possible, on their needs from grievance mechanisms and in the design of new mechanisms
- Train grievance mechanism staff on defenders' rights and the risks they face
- Consider channels of "escalation" of grievances, including whether situations may be referred to law enforcement without placing defenders at further risk
- Use grievance mechanisms as a learning source for the company's ability to identify and address risks to defenders

Section 7: Measuring Impact and Defining Success

Impact and success are primarily defined by an absence of incidents and attacks – the failure of risks to materialize.

- Metrics that may help measure implementation include:
 - Risks to human rights defenders are explicitly considered as part of VPs risk assessments
 - Public security provider MoUs/rules of engagement take into account risks to defenders
 - Private security provider contracts address risks to defenders
 - Discussions of risks to defenders are included in regular dialogues with public/private security
 - Engagement with human rights defenders is a focus of training with security providers
- Outputs may be difficult to attribute specifically to human rights defender policies or to implementation of this guidance but it is possible to track:
 - Allegations that the company or its security providers are associated with attacks against defenders
 - Responses to alleged attacks against defenders, including accountability and remedy
 - Actions taken collectively – facilitated by the VPI/in-country working groups and other multi-stakeholder or industry dialogues – to support a safe and enabling environment for defenders



Section 8: VPI Advocacy in Support of Human Rights Defenders and Civic Freedoms

- Build on the VPI's responsibility support of civic freedoms and defenders at the national and global level
- Act through the VPI in some situations
- Two main arenas for building the VPI's capacity to support defenders:
 - Sharpen focus of in-country working groups on defenders and use as platforms for engagement and action when necessary
 - Coordinate engagement and action when useful with overlapping MSIs (particularly EITI and ICoCA)
- ❖ **Advocating for defenders and civic space/freedoms requires sensitive engagement with host country governments/security forces, drawing from VPI member experience with careful private and public diplomacy**

Example: The Joint Statement on Policing and Respect for Human Rights by NGO and Corporate Pillar members in the wake of the murder of George Floyd in the U.S.:

“The Voluntary Principles require public security providers, such as police, to act in a manner consistent with the protection and promotion of human rights in accordance with the rule of law. According to the Principles, force is to be used only when strictly necessary and to an extent proportional to the threat.”

How Should VPI Companies Apply this Guidance to their Operations?

- Use the guidance as a basis to review, revise and strengthen policy commitments related to HRDs and civic freedoms
 - Refer to the guidance for policy statement examples
- Develop internal guidance on incorporating the elements of the VPI guidance across operations and projects
 - Identify how to integrate guidance into existing human rights due diligence/impact assessments, remediation and grievance processes
- Identify cross-functional contacts for decision and action
 - Assign responsibility internally and ensure clear pathways of communication to respond to any incidents involving defenders
- Adopt security provider MoUs/contract clauses on defenders
 - Refer to model clauses for security providers in Annex I

