

MINING, PEOPLE AND THE ENVIRONMENT

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Grievance Mechanisms as part of the Corporate Responsibility to Respect Human Rights

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THE RUGGIE MANDATE

UN 'Protect, Respect and Remedy' Framework:

- **State duty to protect** against human rights abuse by 3rd parties, including business
- **Corporate responsibility to respect** human rights
- Need for improved **access to remedy** for human rights harms.

THE RUGGIE MANDATE

2008 - tasked by UN to 'operationalise' the framework

Continuing approach of 'principled pragmatism'

Consultation, research, practical projects

Moving towards 'guiding principles' in final 2011 report

Why grievance mechanisms?

State duty: “State regulation proscribing certain corporate conduct will have little impact without accompanying mechanisms to investigate, punish, and redress abuses.”

Corporate responsibility: “the corporate responsibility to respect requires a means for those who believe they have been harmed to bring this to the attention of the company and seek remediation, without prejudice to legal channels available.”

What is a grievance mechanism?

- A communication channel
- For those impacted (and sometimes others)
- To raise concerns about impacts/entitlements
- Providing a credible process (adjudicative or dialogue-based)
- Enabling remedy for genuine impacts

Who provides grievance mechanisms?

- The state:
 - Court system
 - Non-judicial mechanisms (ombuds, labour DR, complaints offices, NHRIs, NCPs etc)
- Companies
- Industry bodies and MSIs (ICTI, FLA, ETI)
- International organisations (RDBs, ILO, IACHR)

Why should a company have a GM?

“Effective grievance mechanisms are an important part of the corporate responsibility to respect”

1) **Feedback loop**

- Monitoring
- Early warning
- Risk identification

2) **Remediation capacity**

- Seek solutions
- Avoid escalated disputes/litigation
- Ensure rights are respected

What makes a mechanism effective?

- Numerous codes and financiers require GMs
- Practice is highly variable
- 2007 CSRI process => guidance tool
- 2008 Ruggie UN report sets out the 6+1 Principles

The 6+1 Principles

- 1) Legitimate
- 2) Accessible
- 3) Predictable
- 4) Equitable
- 5) Rights-compatible
- 6) Transparent

Plus, for company-level mechanisms

- 7) Based on engagement and dialogue

What does this really mean in practice?

- No one size fits all
- Different pathways to the Principles
- Scalable to size and likely impacts of company
- Can be provided through collaborations and with third parties
- Key is to treat the Principles as integral whole
- Too few companies are getting it right - to detriment of communities and own potential operations.

Pilot project with 5 companies:

- **Sakhalin II - Oil & Gas, Russia**
- **Tesco - Food sector, South Africa suppliers**
- **Cerrejon Coal - Mining - Colombia**
- **Esquel Group - Apparel - Vietnam supplier**
- **HP - Electronics - Chinese suppliers**

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This online community and resource is built by and for its users. It provides a place to find information, share learning, and engage with others about non-judicial grievance mechanisms around the world.

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[Tintaya 'Mesa de Diálogo' – Dialogue Table, Peru](#)

In 2004 an Agreement was signed by all stakeholders to maintain the Dialogue Table as a permanent mechanism through which solutions to any conflict or problems will be sought. Xstrata, the current owner of the

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Featured Contributor

John Sherman
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[John Sherman](#) demonstrates that effective and credible grievance mechanisms can resolve community conflicts before they generate real costs for businesses. [Read the full article](#) to learn about the climate for rights-compatible solutions.

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