E. Human Rights

Siemens considers respect for human rights to be an integral part of our responsibility as a global business. For us, this responsibility is a core element of responsible business conduct and we are committed to ensuring respect for human rights within Siemens’ sphere of influence.

Our commitment to this principle is firmly anchored in the Siemens Business Conduct Guidelines[[1]](#footnote-1) which set out the fundamental principles and rules governing the way we act within our company and in relation to our partners and the general public.

Accordingly, involvement of the company in any infringements of human rights or other adverse human rights impacts must be avoided. Compliance with applicable laws and regulations is essential but beyond that Siemens employees are expected to be aware of these issues, and both to avoid infringing on the human rights of others and to address adverse human rights impacts in activities and circumstances with which Siemens is involved.

|  |
| --- |
| General principles of respecting human rights  Involvement of the company in any infringements of human rights or other adverse human rights impacts must be avoided.  Be in accordance with applicable laws and regulations.  Be aware of human rights issues beyond legal compliance.  Avoid infringing on the human rights of others and address adverse human rights impacts in activities and circumstances with which Siemens is involved. |

The following is intended to provide an overview of the Siemens human rights policy contained in the Siemens Business Conduct Guidelines (“BCG”). This also requires a brief outline of several important conventions and recommendations by international organizations which are endorsed by Siemens, and the principles of which are reflected in our Business Conduct Guidelines.[[2]](#footnote-2)

Other existing company regulations – namely other Siemens circulars – and related governance are not affected by the content of this chapter.

## Siemens human rights policy

The overall commitment of Siemens to respect human rights is contained in the [BCG section B](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf) – “We respect the personal dignity, privacy, and personal rights of each individual.” – is elaborated further throughout the BCG, especially in [section K.](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf)

Siemens is committed to embracing and supporting, within its sphere of influence, the set of core values in the areas of human rights, labor standards, the environment, and anti-corruption included in the [United Nations Global Compact](https://www.unglobalcompact.org/what-is-gc/mission/principles)[[3]](#footnote-3) (“UNGC”) as an integral part of its business strategy and operations. Siemens has been a participant in the Global Compact since 2003.

Siemens considers the ten principles of the UNGC[[4]](#footnote-4) as binding for Siemens AG and its Affiliated Companies worldwide.

Siemens accordingly requires its business units and employees to always act in accordance with the UNGC principles, including, without limitation:

**Principle 1:** That business should support and respect the protection of internationally proclaimed human rights.

**Principle 2:** That business should make sure that they are not complicit in human rights abuses.[[5]](#footnote-5)

**Principles 3 to 6:** Which define fundamental responsibilities for businesses regarding labor.

As set out in the BCG section K, Siemens also expects its employees, suppliers and business partners around the globe to recognize and apply the standards of certain international organizations as specified in the appendix.[[6]](#footnote-6)

Respecting human rights is a key element of the integrity with which Siemens expects all employees to act.[[7]](#footnote-7)

As stated [in Siemens Circular No. 226: chapter 3, section 5](https://regulations-admin.siemens.com/content/sc/226/en), all Siemens employees are required to avoid any involvement of Siemens in any infringements of human rights or other adverse impacts on human rights.

Moreover they are also expected:

* to avoid causing or contributing to adverse human rights impacts through their or the company’s own activities, and address such impacts when they occur, and
* to seek to prevent or mitigate adverse human rights impacts that are directly linked to Siemens operations, products or services by the company’s business relationships, even if Siemens has not contributed to those impacts.

## 2. United Nations Guiding Principles

States have the duty to protect and maintain human rights (in particular through legislation and effective enforcement of the law). For this reason our corporate responsibility to respect human rights first of all requires compliance with the law.[[8]](#footnote-8)

In addition, human rights due diligence should be undertaken – as per the [United Nations Guiding Principles on Business and Human Rights](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)[[9]](#footnote-9) (“UNGP”) understood as an ongoing process to identify, prevent and mitigate adverse human rights impacts which a company may cause or contribute to through its own activities or which may be directly linked to its products, operations or services by a business relationship and account for how they address these impacts. Thus human rights due diligence goes beyond a company’s own operations and direct contractual partners; it covers a company’s entire value chain.[[10]](#footnote-10)

Siemens supports the [UNGP](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf). They provide important guidance for the further operationalization of our company’s responsibility to respect human rights.

## 3. External developments

Human rights due diligence and related disclosure are increasingly required by legislation., affecting Siemens or parts of Siemens either directly or indirectly.[[11]](#footnote-11) Furthermore, several states have already published national action plans to disseminate and implement the UNGP, others are in the process of developing such plans or have committed to doing so.[[12]](#footnote-12)

## 4. Implementation at Siemens

Respecting human rights is integrated into the Siemens Compliance System with its pillars “Prevent, “Detect” and “Respond” – and is covered there, among others, as follows:

* Human rights due diligence as a module of the assessment of compliance risks within the LoA process[[13]](#footnote-13)
* Human rights risks as a mandatory element of the Compliance Risk Assessment (CRA)[[14]](#footnote-14)
* Human rights as an optional topic of Compliance Review Boards (CRB)[[15]](#footnote-15); if required, the Chief Compliance Officer reports on the topic of human rights to the Managing Board and the Compliance Committee of the Supervisory Board of Siemens AG within the CRB
* Reporting and further handling of human rights-related incidents as compliance cases[[16]](#footnote-16)

The Heads of CD SU and LC CO report to the Siemens Sustainability Board (SSB) on the topic of human rights if required.[[17]](#footnote-17)

Since fiscal 2017, the company’s annual Sustainability Information contains a separate chapter on human rights.

Siemens will continue to improve the integration of human rights aspects into the Siemens global compliance system, and aims to improve support for Siemens employees in their daily work in this regard.

## 5. Human Rights Project Due Diligence

Human rights due diligence constitutes a key component of the UN Guiding Principles – understood as the continuous process of identifying and addressing the human rights impact of a company across its operations and products, and throughout its supplier and business partner networks.

In case Human Rights PDD is required for your project, you will be requested in the LoA tool to initiate it (‘early warning” in key data section and request in the human rights module of the Compliance Risk Evaluation).

The following chapter contains all instructions and resources to guide project managers with the performance of the Human Rights Project Due Diligence (PDD).

IMPORTANT:

The Human Rights PDD does not substitute due diligences or similar procedures required for a project by applicable local law or other regulation or e.g. by export credit agencies or financing institutions. Related activities should be considered for the Human Rights PDD and vice versa in order to avoid redundant work and inconsistent results.

The Human Rights PDD does not substitute or modify specific due diligences or other assessments or similar procedures required by internal regulation.

The Human Rights PDD does neither constitute nor does it replace legal evaluation or advice.

### 5.1. Start of the Project Due Diligence

Please download and complete the [initial questionnaire](https://findit.compliance.siemens.com/content/10000101/Compliance/LC_CO/LC_CO_STR/findIT_LC_CO_STR_6393.docx).

* Please complete the initial questionnaire to the best of your knowledge. You are not expected to spend much time on clarifying details you do not know yet. Filling the initial questionnaire should not take more than a few minutes.
* If you have any specific concerns about possible human rights issues related to the project, please also include them in the questionnaire.
* The initial questionnaire form will be updated. Please make sure to always use the latest version by downloading it from the [intranet](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) or the Compliance Handbook.

Please send the filled initial questionnaire to the Authorized Compliance Officer (ACO) for the project via email to initiate the Human Rights PDD.

Please initiate the Human Rights PDD as early as possible as this will help avoiding or minimizing the risk of delays, especially in case of further clarification or determination of a mitigation plan.

What’s next?

Compliance will assess the project for human rights risks. You could be asked for further details in some cases. This will usually just take a few days, and you will receive follow up information on the results and on further proceeding from the ACO.

The assessment may have the following results:

1. No indications for specific human rights risks identified and no mitigation needed: See tab ‘Completion’.
2. Specific human rights risk(s) cannot be excluded, further clarification required: See tab ‘Clarification’.
3. Specific human rights risk(s) identified requiring mitigation: See tab ‘Mitigation’.
4. Specific human rights risk(s) identified which could not be mitigated (will apply in exceptional cases only!): ACO will contact you prior to issuing the related statement to discuss further proceeding – usually further clarification will be performed if the assessment so far would result in the identification of risks that could not be mitigated. See tab ‘Clarification”.

Assessment findings and results will be documented by the ACO.

### 5.2. Clarification

The ACO will inform you within a few days after receiving the initial questionnaire that further clarification is needed.

You will be contacted by the ACO for further clarification in the following situations:

* There are indications of specific human rights risk(s), but the completion of assessment requires further fact finding, usually to allow for an in depth evaluation of a specific issue.
* The assessment performed so far would result in the identification of specific human rights risks that could not be mitigated. Such assessment result – as a general rule – will be always based on the results of further clarification.
* Specific human rights risk(s) have been identified which should be mitigated, but further clarification is needed or seems the best option for preparing the mitigation plan.

The ACO will align clarification and further evaluation activities with you.

There is no exhaustive list of clarification measures. Examples include (without being limited to) extended research, involvement of colleagues (internal experts), contacting customer, supplier, consortium partner or other third parties, obtaining information from local authorities, obtaining external experts’ advice/evaluation or consultations on the ground.

Clarification measures will always be aligned between PM and ACO individually, also to minimize risks of delays while at the same time ensuring required clarification.

Sometimes clarifying facts and exploring mitigation possibilities should best go hand in hand (e.g. in case of a consultation with consortium partner about responding to risks in the area of the joint (end-)customer).

Please participate in and support further clarification activities, especially if they require contacting the customer or other third parties or involving colleagues. This will play an important role for completing further clarification as fast as possible.

Clarification or/and further evaluation activities will then be performed as agreed.

What’s next?

Clarification will have one of the following results, you will be informed by the ACO accordingly together with instructions for further proceeding:

1. DD statement ‘specific indications for human rights risks not confirmed and no mitigation needed”: See tab ‘Completion”.
2. Specific human rights risk(s) confirmed requiring mitigation: See tab ‘Mitigation”.
3. DD statement ‘specific human rights risk(s) confirmed which cannot be mitigated” (will apply in exceptional cases only!): See [chapter 5.5. “Completion”](#_5.5._Completion)

Clarification results will be documented by the ACO.

### 5.3. Recommendations

As a result of a [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx), ‘Recommendations’ may be provided in case further clarification is required or if no specific indications of key human rights risks relevant for the project have been found (see also next chapter ‘Mitigation’), but project structure and operational environment could lead to such risks especially during project execution.

As PDDs are conducted rather early during the sales phase (i.e. prior to PM040) when specific human rights related risks might not yet possibly be confirmed, ‘Recommendations’ provide the means to address potential issues where mitigating measures are not required or adequate at that point in time. However, if at a later stage in the process such risks become more tangible, ‘Recommendations’ can be a basis for mitigating measures.

‘Recommendations’ provided by LC CO RFC LF as a result of a PDD should be considered and aligned by the ACO together with the APM of the respective project.

Please see [Chapter 6 ‘Toolbox’](#_7._Toolbox) for an overview of possible ‘Recommendations’ / Mitigating Measures.

### 5.4. Mitigation

If specific human rights risks have been identified or – in case of clarification – confirmed and require mitigation, the ACO will contact you for the mitigation plan.

The ACO will propose possible mitigation measures for discussion with you. Please also think about what could be done to respond to the risk(s).

Together with the ACO you then determine the mitigation plan including responsibilities and timelines.

There is neither an exhaustive list of mitigation measures nor one ‘standard’ mitigation measure in response to a specific human rights risk, mainly due to the broad range of potential human rights issues and further project specific circumstances. Of course, there are best or proven practices which will have to be considered.

The way Siemens could become involved with human rights issues is another decisive criterion for determining mitigation actions:

* If Siemens could cause or contribute to human rights issues, mitigation means effective prevention.
* If Siemens through its participation in the project could only be linked to issues caused or contributed to by third parties, mitigation means trying to influence these third parties to take the necessary steps – in other words: ‘Do something reasonable in good faith to influence others to prevent or improve the situation.’

Mitigation Activities

Sometimes mitigation activities could also be performed jointly with other parties – such as consortium partners – which besides efficiency gains could also help to increase influence (‘leverage’) on other parties (see above).

In many situations, established company processes and operational practices may offer opportunities for mitigation of human rights risks without major additional effort or adjustments.

Some examples of mitigation measures (not exhaustive!):

* Adding related provisions to a consortium, supplier or customer contract
* Adding related provisions or at least language to a compliance/integrity pact already planned for other reasons)
* Making the topic a permanent agenda item for project meetings, workshops or other meetings on project site
* Including the topic in staff training sessions (also jointly performed with other parties) or proposing such training measures to third parties
* Agreeing with SCM to initiate sustainability audit (before or during execution phase) e. g. for third party manpower provider or sub-contractor
* Including the topic in site inspections or similar monitoring activities
* Implementing grievance mechanisms at project site jointly with other parties involved

Results of a previous consultation with consortium partner or another third party on (joint) mitigation measures should be considered here as well.

Even if the Human Rights PDD does not result in the need for risk mitigation, the ACO may make some recommendations for increasing awareness of specific issues in the further sales or for the execution phase.

Please see [Chapter 6 ‘Toolbox’](#_7._Toolbox) for an overview of possible ”Recommendations” / Mitigating Measures.

What’s next?

The agreed mitigation plan will be documented by the ACO.

The ACO will provide you the agreed mitigation plan together with the DD statement (incl. DD results) and instructions for further proceeding. See [chapter 5.5. “Completion”.](#_5.5._Completion)

### 5.5. Completion

For each DD you will receive a DD statement from the ACO – which concludes the DD if there are no updates, see below – together with instructions for next steps in the LoA tool.

You will receive one of the following DD statements:

1. DD statement ‘specific human rights risks not identified/not confirmed and no mitigation needed’
2. DD statement ‘specific human rights risk(s) identified/confirmed requiring mitigation’ together with DD results and agreed mitigation plan
3. DD statement ‘specific human rights risk(s) confirmed which cannot be mitigated’ together with DD results (will apply in exceptional cases only!)

What’s next?

You may then complete the LoA CRE human rights module in the LoA tool by selecting the relevant confirmation (and entering mitigation plan details if applicable).

* Please note in case of mitigation plan: If you complete the LoA CRE human rights module after starting the implementation of the mitigation plan, you may choose the ‘green’ confirmation. Otherwise you would have to select the ‘yellow’ confirmation.
* For further details about the confirmations in the LoA CRE human rights module see the related explanations in the light bulbs in the LoA tool.

Please file the DD statement provided by the ACO (if applicable incl. DD results and mitigation plan) in the project documentation.

**Update of DD needed?**

The facts assessed in the DD must still be valid (= not affected by relevant changes) when you are going to complete the LoA CRE human rights module.

Examples for relevant changes include (without being limited to) new consortium partner or new major vendor or media reports on allegations of potential human rights violations against customer or another third party involved in the project or other relevant changes in the project set up or political developments.

Relevant changes could also ‘improve’ DD results. Examples:

* Confirmation of less or even no risk(s)
* Reduction of scope of mitigation plan
* Confirmation of risk(s) allowing for mitigation instead of risk(s) without mitigation possibility

If you are aware of relevant change(s), the DD should be updated. Please contact the ACO, and provide the details of the change(s).

Update of the DD follows the same process as the initial DD (with the exception of the initial questionnaire).

In case of relevant changes, see tab ‘Update’ for details regarding handling of the LoA CRE human rights module confirmation.

### 5.6. Update

If you are aware of relevant change(s), the DD should be updated. Please contact the ACO, also providing the details of the relevant change(s).

For examples of relevant changes see [chapter 5.5. “Completion”](#_5.5._Completion).

Update of the DD follows the same process as the initial DD (with the exception of the initial questionnaire which is not required again).

**To complete the LoA CRE human rights module** in case of required update of the DD, there are the following ways to proceed:

I. Postpone completing this module until the DD has been updated.

* You may choose this way if the DD and status of mitigation (if applicable) would have justified selecting the ‘green’ or the ‘yellow’ confirmation in this module.
* You will have to proceed this way if specific risks have been confirmed by the initial DD which cannot be mitigated. Perhaps the DD update will have a different result.

II. In case of time pressure you may also select the ‘yellow’ confirmation in this module (‘Human Rights PDD has not been completed so far’) allowing you to complete the entire LoA CRE before the DD has been updated.

* You may choose this way if you have already informed the ACO about the relevant changes and if there are no indications for risks which – if they were confirmed – could not be mitigated and if the initial DD and status of mitigation (if applicable) would have led to selecting the ‘green’ or the ‘yellow’ confirmation in this module.
* Otherwise this way may not be chosen. Please then postpone the confirmation until the DD has been updated (see above).

## 6. Toolbox

The following table provides an overview of possible mitigating measures for potential Human Rights related risks in project business (as identified e.g. during a Human Rights Compliance project due diligence 'PDD').

Information on how to respond to Human Rights related incidents / observations is provided in Chapter ['Response to incidents/observations](#_7.5._Response_to)'.



Additionally, specific mitigating measures are provided for special topics as follows:

* [Disputed Territories](#_6.4.1._Disputed_territories), e.g. Palestinian territories (Gaza, West Bank or East Jerusalem), Golan Heights, Western Sahara, Crimea (Crimean Peninsula)
* An [Export Credit Agency, Multilateral Development Bank or Multilateral Finance Institution](#_7.4.2._Export_Credit) is involved in the project
* [Technical Nexus](#_7.4.3._Technical_Nexus), i.e. the project is technically related to another project / facility (such as e.g. a sub-station is related to the power plant feeding the power grid)

Purpose and target groups

* The toolbox is intended to support Project Managers and other project team members as well as Compliance Officers involved in project business with responding to human rights challenges during project sales and project execution phases.
* Response to human rights challenges covers the mitigation of identified human rights risks as well as other activities in consideration of potential human rights issues not being formally classified as human rights risk.
* The toolbox also offers guidance on dealing with human rights related incidents or allegations.

Priority for smart use of existing procedures

* Project management at Siemens and other related procedures within the governance of support functions contain broad potential for use in response to human rights challenges. Therefore and to minimize additional complexity and operational burden for colleagues, priority is given to the use of these standard procedures also in the context of response to human rights challenges.
* Measures beyond that have mostly not been included in this first version of the toolbox but will be added during the ongoing extension of the toolbox.

Understanding the toolbox

* Human rights issues are diverse, and the specific situations posing human rights risks are even more diverse by type of issue, contract structure, regional environment and many other factors. Also, for this reason the toolbox cannot provide an exhaustive enumeration of all possible measures.
* Furthermore, many measures may be suitable to respond to various human rights challenges or issues – which may also be helpful in case there are more than just one topic to address.
* Please also be aware that measures included in the toolbox are not described in a ‘plug and play’ mode; in many situations they will have to be further detailed and adapted to the specific circumstances of the respective project.
* Measures suggested in the toolbox may often be considered together with other measures. Experience shows that designing a set of orchestrated measures will usually allow for better outcomes.

Boundaries

* Please carefully observe other relevant procedures which might apply or be affected by any planned/intended measure and involve relevant function as required (e. g. EHS, GM SEC, HR, SCM and of course CO, esp. incidents of non-conformance (human rights violations) – This toolbox should always be understood and used that way.
* When it comes to collaboration with external third parties, always make sure to comply with tender terms and conditions, contractual obligations and applicable laws – e. g. re. Antitrust.

Support by LC CO RFC LF

* Project Managers may always consult with the Authorized Compliance Officer for their project – regardless whether the project has been marked for compliance in project execution – on selection and customizing of measures in response to human rights issues. Furthermore, ACOs may always involve LC CO RFC LF for specific intended/planned measures.

The [Human Rights pages on the Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrights.aspx) provide further information and external references.

Regarding Project Business and the LoA Process, guidance for the performance of the Human Rights Project Due Diligence is provided

### 6.1. General measures

This section includes suggested measures which might be chosen at any point in time during project sales as well as during project execution phases. This also applies to changes of the situation following to the performance of the human rights project due diligence or to the review of the compliance risk landscape for the project at PM 100.

#### 6.1.1. Media monitoring

Overview / References

Ongoing monitoring of public media may play an important role to **become aware of potential human rights issues or related controversies or protest** regarding a customer or end-customer project Siemens could become involved with via project business. Media monitoring may also help to become aware of actual human rights related incidents which might require specific response.

* Media monitoring may be implemented in **various ways**, ranging from creating Google alerts to requesting the communications function of your entity to commission such monitoring to an external service provider.
* Effective media monitoring requires – among other factors – that **local language** is covered and that a **broad base of media sources** is in scope, especially including local media without any exclusions.
* Terms such as ‘human rights’ or similar expressions should not be included in the search terms, as they often will not occur in media reports. Instead it is suggested to **use search terms taken from ‘daily’ language** describing what may happen – e. g. ‘protest’ – in a way media would likely report these incidents.
* For more important or specifically exposed (‘critical’) projects likely to generate broader media attention and coverage, in addition LC CO RFC LF may be asked to create such alerts within the database used for risk screening as part of human rights project due diligence (may be created for companies, governmental authorities or projects; monitoring is performed in around 16 languages covering approx. 100.000 sources globally).

Applicability

* Media monitoring aiming at identifying potential human rights issues at an early stage should **predominantly be considered in case of possible community or other public issues / potential controversies**. Potential involvement of indigenous **communities** could also occur in such scenarios.
* Expected resettlements or other material impacts on larger groups of rights holders on community levels should always raise the question whether to initiate media monitoring.
* The key question to answer considering media monitoring is: Would the local or regional public care about related incidents? Besides the potential adverse impact, this could also depend on the overall context of dealing with the respective or comparable projects or the overall protection status of indigenous communities and their human rights.
* Consider media monitoring in case of **greenfield projects** if human rights issues could possibly occur in planning stage – e. g. in the course of public license or permits proceedings.
* Media monitoring could also be suitable for **brownfield projects**, e. g. if the existing customer site or another customer site or (similar) third party project in the respective area is exposed to allegations of human rights violations.
* Beyond these potential issues, media monitoring should also be considered re. other issues such as labor related if repeatedly dealt with in the public or in media: Migrant work related issues in the Gulf States are a good example of that.
* Media monitoring should predominantly be considered in case of **potential reputational risk for Siemens**, but also to support becoming aware of upcoming or actual issues at an early stage.

#### 6.1.2. Involvement of specific project team members

Overview / References

When addressing certain human rights related issues, the project roles and team structure as defined in the [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx) can be used in order to obtain expert knowledge and support on specific topics within the existing set-up for a specific project.

Among others, the following project core team functions can be of particular value in regards to certain human rights related matters:

* **Site Manager** (see also chapter ‘Awareness of Site Manager’)
* **Project Procurement Manager** (see also chapters ‘Training for suppliers / Sustainability Toolbox’ and ‘SCM Detection Modules / incident driven inspection’)
* **EHS Manager in Projects** (‘EHSMiP’, see also chapter ‘EHS process within PM@Siemens)

In addition to involving these functions individually, it is always advisable to communicate any known potential human rights risk for a specific project during the project kick-off meeting / PACT meeting (with the support of the ACO), so that the mentioned functions are being made aware at an early stage (see also chapter ‘PACT Workshop / Kick-off Meeting’).

Example

The following was detected during the [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) for a project as part of the LoA process:

* The sub-contractor planned to be engaged as a major vendor by Siemens for civil works (in scope of Siemens as per customer contract) had a number of safety incidents in the recent past, all of which led to injured workers of the sub-contractor, and
* The country risk rating for OHS in the project execution country is high.

In this case, the EHSMiP and the Project Procurement Manager were involved to determine the most adequate measures towards this sub-contractor to avoid safety incidents in the Siemens project (e.g. in form of contractual stipulations requiring certain safety equipment to be provided to workers of the sub-contractor including proper instructions on its usage, unannounced inspections by Siemens during the project execution phase, etc.).

#### 6.1.3. Audits

Overview / References

In exceptional cases – and when other measures listed in this toolbox are already exhausted and/or deemed insufficient to deal a with potential or actual issue at hand – it may be considered to conduct a project audit focusing on human rights related issues.

This should always be discussed and aligned with LC CO RFC LF beforehand and is not considered a standard measure. The (potential) severities of the issues and their consequences to Siemens have to be considered.

If issues are related to sub-contractors, please see also [chapter ‘SCM Detection Modules / incident driven inspections’](#_7.3.7._SCM_Detection) as an alternative way to address them.

#### 6.1.4. Try to influence 3rd parties

Overview / References

Especially in case of concerns of possible human rights violations which could be caused or contributed to by others such as customers or end-customers while Siemens would be involved with such adverse impacts the question arises how Siemens could execute existing – or try to build – leverage aiming to influence the behavior of such third parties to make them act responsibly, i.e. to avoid causing or contributing to human rights violations or to terminate actual violations which may have already occurred.

* In several situations, potential human rights issues potentially relate to other than just human rights risks at the same time, such as potential protest by local communities which could **impact access to project site, project execution timelines or staff security at the same time**.
* Please therefore **consider addressing human rights issues indirectly** by stating a legitimate contractual context/motivation such as project timelines/risk of disruption of project execution, security assessment issues etc. – there is **no need to act as human rights activists/defenders** to address such issues towards third parties.
* Use of leverage may occur in a **pro-active/preventive mode, but** it could **also** be required **in response to actual issues** you may have observed or detected.
* **Use of leverage goes beyond execution of contractual or legal rights**. Use of leverage **may also be considered as an offer of support to a third party** (and not via a sanctions approach).
* Please also keep in mind that third parties will not always be against addressing such issues, they may often face similar challenges – so strive for trustful exchange and collaboration.
* In many cases it will be quite **difficult to use leverage in the project sales phase towards the customer**. Tender proceeding terms and conditions as well as applicable laws will restrict the feasibility of such efforts. But as outlined above, **to some extent such issues may be addressed implicitly**, e.g. re. project timelines or customer’s expectations re. timely completion of required license or permit proceedings as a prerequisite for the commencement of the respective project.
* If this is considered being impossible at a certain point in time, there might be better opportunities later – or you might consider different tactics or other business relationships to address.

Applicability

* The use of leverage may be required **towards contractual counterparts** – such as consortium partners or sub-contractors, **but also beyond**, e. g. vs. end-customers or other state or non-state actors involved in a project.
* Use of leverage may be considered regarding **various possible human rights issues**, ranging from community and indigenous community issues connected to relocation, resettlement or expropriation to all kinds of recruiting, employment or labor issues. As well issues potentially resulting from collaboration with state or private security forces may be addressed via leverage.

Examples / Case Studies

* **Consortium partner**: The consortium partner has civil and construction works in scope and will have to recruit a larger number of workers for the project, mainly from abroad. Potential human rights risks include migrant work, forced labor, human trafficking, child labor, also during collaboration with labor brokers themselves involving local recruiting agents in the sourcing countries. Leverage may be used by supporting the consortium partner with training of his recruiting staff, selection of labor brokers, checks during recruiting etc.
* This example is also applicable for **sub-contractors**.
* **Customer**: There are concerns re. the appropriate consultations with affected communities during an infrastructure project. There have been community protests re. similar projects in the region over the last years, partly resulting in violence and involvement of police and armed forces by the government. Let’s assume that Siemens has established solid relationships with the public authorities handling the community consultations. What about offering to the customer to support him with his negotiations or contacts with the public authorities trying to influence them to execute consultations in a timely but at the same time correct manner which would help to avoid delays or even disruption of the project execution?

#### 6.1.5. Request information from 3rd parties

Overview / References

Request for information may serve to further clarify project details not known when the human rights project due diligence has been performed. Such requests may be directed to contractual counterparts – consortium partners, sub-contractors or customers – and to other third parties (e.g. end-customers or public authorities).

* Submitting a request for information **doesn’t** necessarily **require formal entitlement** e.g. by contracts or applicable laws.
* Justified expectations of the other party regarding **confidential handling of such information** should be respected to the extent possible.
* In many cases requests for information should be considered **prior to decision making about attempts to use leverage** (though in some cases such a request may be understood as a first means of such leverage as well).

Applicability

Requests for information in general may relate to all kinds of possible human rights issues.

* In case of **ECA/MDB/IFI involvement** on the part of other counterparts or third parties, requests for information may help to figure out to which extent required due diligence – e.g. as per the [OECD Common Approaches](http://www.oecd.org/tad/xcred/oecd-recommendations.htm) in case of ECA involvement or according to the [IFC Performance Standards](https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards) or [World Bank Safeguards](https://www.worldbank.org/en/projects-operations/environmental-and-social-policies) – has already been performed and to obtain information on results.
* Requesting information will be **important for understanding base line of potential issue areas** or to track performance of relevant procedures vs. defined standards/applicable regulation (= whether project specific standards are in line with international requirements/standards and defined project specific requirements have been/are duly implemented).

Examples / Case Studies

* **Consortium partner**: See example in previous section. Prior to offering support during recruiting, you could consider asking the potential sub-contractor to provide detailed information about the planned recruiting program covering training of staff, due diligence on labor brokers, but also for accommodation planning at project site. This example is also applicable for sub-contractors.
* **Customer**: Ask the customer for further details re. technical nexus [see there] or further relevant details of end-customer operation or project.
* **Customer**: There are concerns re. the appropriate consultations with affected communities during an infrastructure project. There have been community protests re. similar projects in the region over the last years, partly resulting in violence and involvement of police and armed forces by the government. Ask the customer about his evaluation of related risks and preventive measures undertaken or planned with that regard (please note: staff security and risk of disruption of project execution by blockades or strike could serve as argument why such clarification is asked for).

#### 6.1.6. Project specific Integrity Pacts etc.

Overview / References

In case project specific integrity pacts to mitigate corruption risks are going to be concluded for a project, such pacts **could also be used to address potential human rights risk** at the same time.

* This could **especially** be considered **if an integrity pact is** not just **concluded** for the project sales phase (e.g. tender procedure), but **also or mainly for project execution phase**. Beyond creating contractual liabilities for the parties concluding the pact, such agreements state **practical obligations for all parties re. handling of certain matters or for joint preventive measures** such as periodic risk workshops. Human rights issues or risks may be easily added hereto if found suitable.
* Depending on the circumstances, **human rights issues may be included or addressed in integrity pacts in a rather general way** – e.g. just stating overall obligations to ensure respect of human rights – **or they may be addressed specifically**, e.g. by referring to certain community issues already foreseen or listing relevant kinds of labor related human rights issues, e.g. dealing with migrant workers, their recruiting, employment, working and/or accommodation conditions. This will usually require that the integrity pact will also cover the project execution phase, as labor related issue will rarely occur already or only during project sales phase.
* Beyond supplementing integrity pacts to be concluded for other reasons, you may also **consider integrity pacts solely for human rights issues** in certain cases. Regarding relationships to direct contractual counterparts such as consortium partners or sub-contractors, potential safeguards or provisions should predominantly be included in the respective contractual agreements.
* Please **always involve the responsible Legal expert and LC CO RG CL** for further advice and drafting of Integrity Pacts.

Applicability

Integrity pacts may be used to address **various types of human rights issues** **if all involved parties have a stake in the issues** to be covered by the intended agreement.

Examples / Case Studies

* **Customer and end-customer**: Addition of general requirement to ensure respect of human rights in a large infrastructure project to an integrity pact mainly concluded for ant-corruption purposes

#### 6.1.7. EHS process within PM@Siemens

Overview / References

Human rights related issues in the areas of labor and OHS can arise in the course of a project, especially if civil works are being performed in countries with high / extreme country risk ratings for the indicators ‘Labor Rights and Protection’ and ‘OHS’ (see also chapter ‘Labor Issues and OHS’).

For projects requiring a [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx), such circumstances will typically be identified during the risk screening.

As the [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx) includes a well-established EHS process, this existing process can be used in certain cases to address potential labor and OHS issues. This should always be discussed with the nominated EHS Manager in Projects (EHSMiP as a project core team member) for the respective project. Further details can be found on the HR EHS Intranet site under [‘EHS in Projects / EHS in PM@Siemens’](https://intranet.for.siemens.com/wll/0034/en/ehs-regulations/Pages/ehs_projects.aspx).

The [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx) includes EHS already at PM020 (‘Identify EHS requirements’) and defines specific activities for each project milestone.

Example

In a project in a country with a high risk rating for ‘Labor Rights and Protection’ and ‘OHS’, Siemens is involved in the installation of equipment together with a local sub-contractor of Siemens, who is in addition also performing certain civil works, which are in Siemens’ scope as per customer contract.

During the [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) before PM040 it was identified that the sub-contractor has had several safety incidents in other projects (i.e. non-Siemens projects) in the past.

The matter was discussed by the PM and the ACO with the EHSMiP and the Country EHS Officer, and included in the EHS plan at PM100. Measures were e.g. the inclusion of EHS-related clauses in the contract with the sub-contractor, and site inspections by the Country EHS Officer (see also chapter ‘Site visits / inspections’).

### 6.2. Measures in sales phase

The measures in this section should mainly be considered for project sales phase, but may also be feasible already during pre-sales and/or project execution phase (in case of relevant concerns or indications mainly).

* Please note that human rights risks mostly occur during execution of (end-) customer project including related license permit proceedings, therefor usually there will be no mitigation need for Siemens during sales phase. Of course, certain measures may be suitable or recommended in sales phase already.

#### 6.2.1. Consult CC: Evaluation of reputational risk

Overview / References

Human rights due diligence firstly relates to risks for rights holders, and not to risks to Siemens. However, involvement with human rights issues and especially human rights violations will often also pose risks to our company.

* **Certain projects may specifically pose reputational risk** for Siemens. In such situations it is recommended to **consider** asking your communications function for a **dedicated evaluation of reputational risk** for Siemens which could be associated with the project.
* Please note: The human rights project due diligence does not cover evaluation which requires specific communication expertise.
* In some cases, **further functions might have to be involved** by the communications function such as e.g. GM GA (Government Affairs).

Applicability

Evaluation of reputational risk should be considered in case of planned community relocation or resettlements of larger group of rights holders, specific exposure may exist in case indigenous communities could become affected or in case similar projects in the region or country have already resulted in related controversies or even allegations against Siemens.

* Such evaluation could also result in **identifying the need to prepare for (further) public allegations** (e. g. by preparing a holding statement), sometimes also involving the communications department at Lead Country, or in the development of a **comprehensive communication strategy and tactics**.
* Please note that such communication measures will usually not mitigate risks to rights holders, but instead mainly risks for Siemens.
* Upon request **LC CO RFC LF may support such evaluation** by check of databases for similar/comparable projects/cases or for NGOs already engaged/involved in relevant campaigns for similar projects (same/neighboring country/sector/type of project).

Examples / Case Studies

* Project in sales phase: supply of equipment for greenfield hydropower plant project in country in South America
* Project in sales phase: supply and installation of equipment in copper mine of private sector customer; massive community protest resulting in involvement of state security forces, some community protesters were killed; massive NGO campaigning against customer and large multi-national companies involved in mining project a couple of years ago

#### 6.2.2. Consult with local colleagues

Overview / References

In some cases, the **knowledge, insights and perception of colleagues** close to the project site will provide valuable additional information or support with the evaluation of potential human rights issues or their likelihood.

* This may relate to **public perception of a certain project** (or similar ones) **or to the reputation of a third party** involved in the project or to experiences with the handling of license/permit proceedings by public authorities.
* Expertise and insights of local colleagues may significantly **help to evaluate desk top findings** or data base hits of PDD.
* Local colleagues are also capable of the **local language**.
* Whom to involve: Consider involving the ACO, colleagues from respective division etc., further to be identified per topic (e. g. CC, SCM or EHS), also via local/country CO.

Applicability

Consultation with local colleagues is relevant **mainly for HQ projects or cross border projects/projects** to be executed (= project site located) in other than involved ARE country.

* Such consultation should also be considered to **obtain a clearer and more detailed picture of the attitude of local public/communities** towards a planned project.

#### 6.2.3. Contractual safeguards – Standard

Overview / References

Certain risks may be already – at least partly and rather high level – mitigated by **ensuring that standard contract clauses are included** in the respective relationships, this will mainly apply to

* Suppliers, esp. sub-contractors
* Consortium partners

regarding their contractual commitment to abide by the Code of Conduct for Siemens Suppliers and Third Party Intermediaries incl. related Siemens rights re. audits, corrective measures or termination of contract.

* Usually the **contract with a consortium partner** will include the obligation to abide by the Code of Conduct for Siemens Suppliers and Third Party Intermediaries (as the consortium partner is also in scope of BP CDD). This – at least for human rights related clauses of the CoC – should be ensured anyhow regardless of the risk classification of the consortium contract regarding other compliance risk areas.
* In such situations it **sometimes may be enough to ensure that related standard provisions are duly included** in the respective contractual agreements/documents.
* Besides contract clauses, you might **consider other options in addition**. Examples: Document related discussions in MoM, agree on regular/periodic review/coverage of issue in regular on-site inspections or jour fixes (see also Chapter ‘[Site visits / inspections](#_6.3.5._Site_visits)’).
* In case of **specific issues/risk exposure** it may be considered appropriate to **include more specific contractual obligations/clauses** (see also [next chapter](#_6.2.4._Contractual_safeguards)). This will also apply re. contracts with customers following to tender procedure.

Applicability

Use of standard clauses will mainly be suitable to cover potential human rights issues if the respective contractual counterpart of Siemens has a certain proximity or direct relationship to such issues allowing him to ensure by his own actions to effectively mitigate human rights issues pro-actively.

* This will usually relate to **labor-related human rights issues** for civil and construction works in scope of the counterpart.
* This **may also include further issues re. community impact**, especially in case of turnkey projects, depending on the specific scope.

#### 6.2.4. Contractual safeguards – Non-standard

Overview / References

Supplementing or specifying standard clauses/provisions – including the introduction of additional contract topics into contracts with counterparts not based on Siemens standard contract clauses – should be **considered if Siemens standard contracts / contract clauses may be insufficient to address specific human rights issues**, also with the **aim to explicitly address such issues in a contract** (beyond its coverage in the more general contract provisions).

* Non-standard contract clauses **could also be required in case there will not be any contractual agreement between Siemens and such counterpart** by default (e. g. end-customer, project consulting/managing company commissioned by customer/end-customer -> see also sec. Integrity Pacts).
* Contract clauses should **not** be understood as **the only means to address issues in contractual relationship**; other options (to be considered in addition) include: Document related discussions in MoM or similar document, agree in contract on regular/periodic review/coverage of issue in regular on-site inspections planned or agreed on anyhow etc. [-> see also section site visits/inspections]

Applicability

* Non-standard contract clauses may be considered re. **most potential human rights issues**.
* They may especially be used to **focus attention of contracting parties** on a specific issue or to introduce contractual obligations beyond applicable local laws or to agree on certain due diligence regarding third parties involved by a counterpart, such as labor brokers, or re. dealing with certain potential incidents beyond/besides the terms and conditions of licenses and permits.

Examples / Case Studies

* Supplementing standard contract clauses with **sub-contractor or consortium partner** (civil works in scope): e. g. working with **labor brokers**
* Supplementing standard contract clauses with sub-contractor or consortium partner (civil works in scope): Agreed **standards of worker accommodation** of sub-contractor / consortium partner work force in labor camp (additional requirements beyond CoC and extension of Siemens audit rights)
* Non-standard contracts, e. g. customer**: Basic principles of selection of/collaboration with state or private security forces** (maybe also re. relocation) – of course within realistic boundaries! Especially if the customer is in a similar overall position as Siemens, the customer could possibly share our concerns and could be willing to take up matter vs. the end-customer.

#### 6.2.5. Supplement to CRSA

Overview / References

The Corporate Responsibility Self-Assessment by a supplier (CRSA) is standard process step in supplier qualification (see the [SCM intranet](https://intranet.for.siemens.com/cms/050/en/processes/jobrole/Pages/procurement-standards.aspx) for details)

* In case of specific indications of human rights risks you might consider suggesting to/agree with Project procurement function to **add further requests for confirmation/information to this regular assessment** process in order to ensure that potential suppliers/sub-contractors are made aware of such requirements (and related contractual requirements, see previous section) from the beginning. This may also help to consider such aspects in further supplier selection.

Applicability

This measure will **mainly** be used re. **labor related human rights** issues as the sub-contractor will usually not be actively involved in community related procedures.

Examples / Case Studies

* Recruiting of workers for project specific employment
* Recruiting procedures incl. verification of job applicants’ age
* Accommodation of workers
* OHS civil works incl. provision of drinking water at project site etc.

### 6.3. Measures in execution phase

The following measures should mainly be considered for/during project execution phase besides the general measures dealt with in section 1.6.1.

* In some cases, measures contained in the previous section could be considered in addition, especially in case related incidents occur during project execution.

#### 6.3.1. Awareness of PM Execution Phase

Overview / References

Making the PM Execution Phase aware of potential human rights risks which might occur in a project during execution phase constitutes a **basic measure**; **most further measures will require it as prerequisite**.

* This will also help ensuring that the PM pays appropriate attention to any related observations or incidents and that the PM will take care of drawing the attention of other project team members to such potential issues. [see also next section on Site Manager]
* Awareness of PM Execution Phase should **usually be considered in conjunction with ongoing monitoring measures** for relevant human rights issue areas.
* If required, the PM should be provided with a **briefing on relevant human rights issue areas** (LC CO RFC LF may support with related information upon request).

Applicability

This measure **mainly** applies **in case of potential human rights risks without specific indications** e. g. due to country context or project type/background or track record of counterparts.

* In many cases the human rights project due diligence will have already identified some potential human rights issues which the PM should pay specific attention to.
* It may occur that the focused awareness of PM may be enough as measure to ensure that attention is paid to such issues without e.g. the need for the ACO to additionally mark the project for compliance in project execution (considered next escalation level, see respective section below).
* This measure may be considered a **means to support preventive efforts for most potential human rights issues** or at least help identifying specific indications of related actual human rights issues. This won’t really work if human rights concerns mainly or solely refer to issues rooted in international humanitarian law which will not occur/disappear or change in any other way during project execution (which mainly could be the case when it comes to human rights issues re. so-called disputed territories. See -> related section below).

#### 6.3.2. Awareness of Site Manager

Overview / References

Situation and background are same as before. In case measure 1.6.3.1 is selected and there is a Site Manager for the project, it is recommended as a general rule to also choose this measure in addition.

* This measure could be **applied to field team lead/similar functions/roles and to entire project team** likely being on site.

Applicability

* See section Awareness of PM Execution Phase above.
* Awareness of Site Manager should **mainly be considered in case of potential human rights issues likely becoming visible at project site during project execution**. See examples below.
* This measure should not be considered an effective measure for human rights issues where related action may have occurred early before Site Manager arrives at project site or if taking place at different location). Usually PM should then also make sure to become informed/involved in case of any relevant incident or related observation/indications.
* PM Execution Phase should also consider requesting/agreeing with Site Manager to **ensure ongoing monitoring during project execution** to the extent feasible with a special focus on the potential human rights issues identified before.

Examples / Case Studies

* Observations of possible human rights issues re. **working conditions of sub-contractor workforce** such as OHS (e.g. inappropriate provision of drinking water) or working time (continuation of work despite hot temperatures and without provision of sun protection devices; refusal to reschedule daily working time due to weather conditions which could also be required by local laws)
* Employment related issues usually cannot be observed at project site, but Site Manager may become aware of such issues rather accidentally through complaints heard or received); for example: **overtime work**, **withholding of IDs or questionable pay roll deductions** for recruiting cost/fees workers complain/discuss among each other during work on project site
* Observations or reports of **community protest connected to protest around project site** (not: inappropriate community involvement at an early stage of end-customer project); observations of questionable response by **security forces** to such protest using violence without evident justification

#### 6.3.3. Mark project for compliance in project execution

Overview / References

* As described in the chapter ['Compliance in project pre-sales, sales and execution'](https://webbooks.siemens.com/public/LC/chen/index.htm?n=Part-2-Business-Perspective,H.-Compliance-in-Business-Processes-and-Projects,1.-Compliance-in-Project-Business), projects are identified and designated for 'Compliance in Project Execution' based on the relevant Compliance risks
* The review of compliance the risk landscape at PM100 should include a comprehensive evaluation of the potential human rights issues identified (e.g. during the Human Rights Project Due Diligence (PDD) and determination of possible mitigation measures found necessary
* One of the **main benefits of applying this method is that the identified measures will be followed up as part of the PM@Siemens milestone systematic** (see [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx))
* LC CO RFC LF may assist in the preparation of the compliance risk analysis at PM 100 or its performance upon request by responsible Compliance Officer (ACO).

Applicability

This measure may be applied to address, for example, the following risks:

* In case of **civil works performed by a subcontractor / consortium partner / other 3rd party** without a contractual relationship to Siemens, to address e.g. issues related to labor & OHS
* In case **communities / indigenous people are affected**, to address issues related to resettlement, pollution, etc.
* In case **security forces are involved** - engaged by Siemens or a 3rd party - to address issues related to possible excessive violence
* In case there were **adverse findings related to involved 3rd parties** during the Human Rights project due diligence (PDD), in order to address the issues detected earlier

Examples / Case Studies

During a [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) performed as part of the LoA process, it was recommended to designate a project for 'Compliance in Project Execution' due to the fact that:

* The customer will **engage a subcontractor (company name not known at the time of the PDD, no contractual relationship to Siemens) to perform civil works**, and the human rights country risk rating for the country of project execution for **labor rights and protection is EXTREME** (information provided by LC CO RFC LF as part of the PDD). Siemens could become involved with related adverse impacts even without causing or contributing to them through its participation in the project (linkage with the company’s business operations through business relationships).
* Siemens will work with private **security forces** (company name not known at the time of the PDD) regarding security of project site and accommodation facilities for project staff. The country of project execution is **affected by armed conflict, human rights country risk ratings for arbitrary arrest and extrajudicial killings are EXTREME**. Same applies to security forces related country risk rating. Especially in case (state or non-state) security forces will be hired that are involved in such conflict, there might be a risk of excessive use of violence (especially as security forces involved with project site security). **Human rights issues could potentially result from abusive use of violence by security forces**. As above, Siemens could become involved with related adverse impacts even without causing or contributing to them through its participation in the project.

These risks were reviewed by the respective Compliance Officer together with the Project Manager at PM100 and the relevant project team members.

As a result, the following **measures were defined and were included in the PM@Siemens process** for follow-up:

* As the company names of the subcontractor of the customer and the security company were meanwhile known, a background check was performed on them.
* It turned out that the subcontractor allegedly had previously issues with forced labor and OHS in similar projects in the country. It was decided that the PM together with the CO will address this in the next meeting with the customer in order to create awareness for this matter. It was agreed that the site manager does 'visual inspections' to detect related warning signs on an ongoing basis.
* The due diligence did not turn out any adverse findings regarding the security company. However, it was decided to discuss the concerns with the contact person from the security company and - as the contract was being negotiated - to include additional contract clauses. Also here, it was agreed with the site manager to monitor the security company closely.

#### 6.3.4. PACT Workshop / Kick-off Meeting

Overview / References

The [Project Acceleration by Coaching and Teamwork (PACT) Workshop](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pact.aspx) as defined in the [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx) helps project teams in the bidding and execution phase to organize their projects efficiently and bring the participating persons together more quickly.

PACT Workshops are mandatory for A/B projects. For other projects, PACT Workshop can be conducted on a voluntary basis. If no (voluntary) PACT workshop is performed for a specific project, also the project kick-off meeting can be used as a platform / opportunity to address certain human rights related matters.

The PACT workshop / project kick-off meeting can be of particular value for projects where a [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) has been performed and recommendations / mitigation measures are defined. In such cases, the whole project team can be made aware of the potential issues / measures and details can be explained. It is recommended to invite the ACO of the project to address these matters.

Example

Siemens has won a large infrastructure project (project category B) in a country with a high country risk rating for human rights, and specifically also for the indicator regarding ‘Land, Property and Housing Rights’.

Before the start of the Siemens scope of the project (including equipment delivery, installation, commissioning and field testing, as well as a separate service contract), the governmental customer relocated two small communities which lived and worked on the area of land now being used for the project.

Even though the resettlement has been concluded, there are still protests against the project by local activists, as well as a pending court case related to allegations that the resettlement has not been done in line with the respective local laws and regulations, and that the compensation to the families previously owning the land was not adequate.

Details of the issues and potential risks were identified during the [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx) prior to PM040.

The PM invited the ACO to the PACT workshop and provided a timeslot where the ACO could explain the details of the issues to the project team, many of which will be on site on a daily basis. The ACO pointed out that Siemens could become involved with related adverse impacts even without causing or contributing to them (as Siemens was not involved in the relocations) just through its participation in the project (linkage with the company’s business operations through business relationships).

All team members were asked to notify the PM and the ACO in case they would make any related observations during their work on site, so that issues potentially affecting Siemens could be addressed as early as possible.

#### 6.3.5. Site visits / inspections

Overview / References

On site visits or inspections performed by Siemens potentially provide various benefits: As a preventive measure they will demonstrate to other parties involved that Siemens is paying substantial attention to the respective matters. Site visits/inspections at the same time may also help to detect actual human rights issues at the project site.

* The overall recommendation is to mainly **utilize inspections/site visits planned or scheduled anyhow and for other reasons also for human rights related purposes**.
* Accordingly, such activities should **usually be performed by project staff being on/visiting project site anyhow**.
* This may be done **either explicitly**, e.g. as agreed with the other parties before or by making such issues standing items for the site visit/inspection agenda. But it could also be considered to cover human rights issues **implicitly**, i.e. by just paying attention to related activities at the project site during performance of a site inspection.
* Discussion of findings could then as well **be included in review or follow up meetings** where the outcomes of previous site visits/inspections will be discussed or analyzed together with the **determination of action items**.
* In case this might not be enough to address potential human rights risks appropriately, it could be considered in addition or instead to agree on **dedicated inspection activities** either on a regular or on a case by case basis.
* For all such inspection activities it should be **clarified in advance whether and for which specific matters further experts** – either from the project team or from the Regional Company – should be **involved**. Examples include dedicated site visits e. g. by CO, Security Manager, OHS MiP, Project Procurement Manager.
* In exceptional cases, the **participation of external experts or public authorities** could be considered or even required. This should be **clarified in advance, also by involving the responsible Legal expert** especially re. involvement of public authorities.
* Involved colleagues should seek to **familiarize themselves with relevant issues and possible danger/warning signs in advance** (-> section on issues, see also section on awareness of Site Manager and on PACT).
* See also section on audits.
* Covering human rights issues implicitly in standard site visit/inspection procedures and/or by referring to other legitimate contractual context/motivation such as project timelines/risk of disruption of project execution, staff security issues etc. could be considered here as well under certain circumstances – as stated above, there is no need to act as human rights activists/defenders to address such issues.

Applicability

This measure mainly should be considered to address human rights topics suitable for obtaining clarification or observations at project site (i. e. mainly labor/working conditions incl. OHS, security and conflict/protest close to project site and related issues).

This measure may also be chosen for clarifying observations/alleged human rights issues reported by others before

#### 6.3.6. Training for suppliers / Sustainability Toolbox

The Code of Conduct for Siemens Suppliers and Business Partners defines Siemens sustainability standards and principles for Siemens Suppliers, who are obliged to comply with its provisions, several of which are related to human rights, e.g.

* Respect for the basic human rights of employees
* Prohibition of child labor
* Health and safety of employees
* Environmental protection

However, in some cases there is a lack of knowledge on the side of the suppliers, which can be addressed by the know-how transfer and capability building concept:

It is believed that the Siemens sustainability principles are most effective when they are applied voluntarily on the basis of personal conviction. The key elements here are broadening the suppliers’ capability and intensifying the transfer of knowledge about sustainability. As a standard concept, Siemens supports its suppliers e.g. through individual meetings and by providing information.

In the context of suppliers / sub-contractors engaged for projects, knowledge / awareness / training may also include specific human rights related issues affecting the project at hand – in a similar way as these topics can be addressed to the Siemens project team (see chapter ‘PACT Workshop / Kick-off Meeting’).

Please contact the Project Procurement Manager and the ACO if such activities are considered. Compliance Officers can contact LC CO RFC LF in case further support is required.

Further information:

* [Siemens Sustainability / Supply Chain Internet site](https://www.siemens.com/global/en/home/company/sustainability/sustainablesupplychain.html)
* [Siemens Sustainability Intranet site](https://intranet.for.siemens.com/cms/099/en/about/org/Pages/st-su-org.aspx)
* [Sustainability in the Supply Chain Intranet](https://intranet.for.siemens.com/cms/050/en/about/initiatives/Pages/sustainability-in-scm.aspx)

#### 6.3.7. SCM Detection Modules / incident driven inspection

The Code of Conduct for Siemens Suppliers and Business Partners defines Siemens sustainability standards and principles for Siemens Suppliers, who are obliged to comply with its provisions, several of which are related to human rights, e.g.

* Respect for the basic human rights of employees
* Prohibition of child labor
* Health and safety of employees
* Environmental protection

Siemens checks compliance with the duties and principles of the Code of Conduct with the aid of a number of detection modules. In the context of human rights related matters in regards to suppliers / sub-contractors engaged for projects, the following modules may be considered:

* **Incident-Driven Inspections:**  
  In case of identified breaches to the Code of Conduct for Siemens suppliers, Incident Driven Inspections are initiated to minimize risks in the supply chain
* **External Sustainability Audits:**  
  Such audits are conducted by one of Siemens’ external audit partners, and are used as control mechanisms for high-risk suppliers.

Further information:

* [Sustainability in the Supply Chain Internet site](https://w5.siemens.com/cms/supply-chain-management/en/sustainability/detection/Pages/detection.aspx)
* [Corporate Responsibility Detection Modules Intranet site](https://intranet.for.siemens.com/cms/050/en/about/initiatives/Pages/detection_modules.aspx)

Please note that deployment of these detection modules due to human rights related issues should always be discussed beforehand with the ACO and – in any case – with the Project Procurement Function (activities are commissioned by SCM).

Especially in case of activities based on an actual human rights / compliance related incident, the **ACO must always be involved immediately**. It may occur that such incidents could also constitute a compliance violation subject to a compliance investigation. Any activities regarding such an incident would then have to be **closely aligned with LC CO RG CH in advance**!

Depending on the urgency and severity of the matter, it should be considered to staff inspection teams with employees of the local Siemens entity if possible.

In case of site / staff security related matters, activities should be aligned with [GM SEC](https://intranet.for.siemens.com/cms/056/en/about/org/Pages/gm-sec-org.aspx) in advance (see also chapter ‘GM SEC Project Security‘). Similarly, the EHSMiP should be involved if matters are related to EHS.

Please note that these detection modules are to be differentiated from CF A Audits (see chapter ‘CF A Audits upon special request’).

#### 6.3.8. GM SEC Project Security (Siemens Standard No. 6)

The [PM@Siemens Guide](https://intranet.for.siemens.com/wll/0103/en/Pages/pbe-pm-guide.aspx) establishes requirements which have to be met in regards to the security of projects, and the [Siemens Standard No. 6 ‘Project Security](https://intranet.for.siemens.com/cms/056/en/processes/security/Pages/project-security.aspx) details these requirements, as well as the tasks and expected collaboration between the responsible Bid / Project Managers and GM SEC.

Whenever potential or actual human rights related issues involving security forces appear in a project, GM SEC should be involved in addition to the ACO.

For a general overview regarding the relevance of security forces matters for human rights, please see chapter ‘Human Rights Issues related to Security Forces’.

GM SEC Project Security can provide support, for example, in the following areas:

* Advice on security
* Support with Bid Security Concepts (Sales Phase) and Project Security Concepts (Execution Phase)
* Advice on risk management
* Support in selection of qualified service providers
* Security Advice during all phases of project execution
* Site Security Reviews

Further information:

* [GM SEC Project Security](https://intranet.for.siemens.com/cms/056/en/processes/security/Pages/project-security.aspx)
* [Siemens Standard No. 6 ‘Project Security](https://intranet.for.siemens.com/cms/056/en/processes/security/Pages/project-security.aspx)

#### 6.3.9. Operational / site level grievance mechanism

With [“Tell Us” and the Siemens Ombudsman](https://www.siemens.com/global/en/home/company/sustainability/compliance/reporting-channels.html), **Siemens provides protected channels for reporting of possible compliance violations accessible also to external parties and rights holders**. These channels may also be used **to report alleged human rights violations involving Siemens or Siemens employees**. Plausible allegations will be handled as compliance cases if not dealt with by another expert function within the company.

* However, due to various reasons, these reporting channels will not always be known to individuals or communities affected by projects with Siemens involvement. Besides missing knowledge about these channels, also lack of technical access (internet, phone) or (perceived) lack of privacy for filing a report or insufficient confidence and trust into such ‘remote’ procedures usually play a role here.

For these and several other reasons, increasingly so-called operational or site-level grievance mechanisms have been implemented. This basically means to develop complaint mechanisms on or close to project sites/accommodation facilities in consideration of the aspects mentioned above **targeting workers at project sites**. Similarly, related mechanisms have been developed **for members of the communities** surrounding project sites – of course with different specifications.

Such operational /site-based grievance mechanisms **have proven their worth** – **for both detecting human rights violations** allowing for appropriate handling and response, but **also as a powerful contribution to the prevention** of related adverse impacts.

As the design and implementation of such mechanisms is quite complex and procedures for handling of incoming complaints need to be fully in line with contractual and legal requirements (not only based upon local laws!), **besides the ACO always the responsible Legal expert and LC CO RG as well as LC CO RFC LF should be involved** from the very beginning.

See also section below on dealing with incidents.

Applicability

Operational / site level grievance mechanisms could or even should be considered in connection with larger customer or end-customer projects and with the project execution country having high or even extreme human rights risk, also specifically re. the relevant issues and/or in case there are specific indications of heightened risk of likelihood of related adverse impacts,

* especially in case Siemens could become involved with labor-related human rights issues via a consortium partner for or sub-contracting of civil or construction works, and where our external partner will likely have to recruit and employ a larger group of workers, possible to be sourced from abroad (which could create/increase risks also re. human trafficking, child labor or other issues re. migrant work) or
* e.g. in case of a turn key project potentially involving Siemens with land acquisition/use issues such as expropriation, resettlements even if Siemens would not be directly participating in the related proceedings.

### 6.4. Measures for special topics

Specific measures are available for special human rights related topics, e.g. if the project site is located in a disputed territories (e.g. Gaza, West Bank or East Jerusalem, Golan Heights, Western Sahara, Crimea), involvement of an Export Credit Agency / Multilateral Development Bank / Multilateral Finance Institution in the project, or if there is a technical nexus to another project / facility with potential or actual human rights issues.

#### 6.4.1. Disputed territories

Overview / References

Certain territories are subject to dispute among the international community re. the legitimacy of state control executed over these territories. These disputes touch upon mostly complex questions and issues in the areas of politics and international law.

Involvement in a customer or end-customer project affecting such disputed territory as a rule will result in various issues re. international humanitarian law, significant potential reputational risk for Siemens at the same time potentially putting Siemens into a dilemma considering existing or expected future customer relationships. This situation may even occur if the project site is not or not entirely located in such disputed territory or in case the project has only a seemingly indirect nexus with such territory. In many instances, such nexus is far out of Siemens scope or Siemens control (such as e.g. the question of the use of electrical energy generated by a Siemens project).

There is no recommended standard measure in response to such a situation. It is **crucial to involve the responsible Legal expert. Please also involve LC CO RFC LF**. Most likely such projects will have to be carefully assessed legally and from the human rights perspective.

Applicability

*Relevant territories are*

* Gaza, West Bank or East Jerusalem, or to Golan Heights
* Western Sahara
* Crimea

#### 6.4.2. Export Credit Agency, Multilateral Development Bank or Multilateral Finance Institution is involved in the project

The fact that an Export Credit Agency, Multilateral Development Bank or Multilateral Finance Institution is involved in a project does by itself not alter / increase the inherent human rights related risks of that project.

However, such institutions often stipulate human rights related due diligence requirements for projects they are supporting. These requirements are sometimes passed on by the customer to its suppliers (e.g. Siemens) as part of the tender documents / contract. However, they should be known to Siemens anyhow in all cases to avoid, for example, becoming a target of potential sanctions by the respective institution.

Please be aware that this could also apply if Siemens itself is not directly involved in funding / financing transaction and related application / negotiation procedures.

For these reasons, also the PM@Siemens LoA Tool displays a warning message under the Project Key Data tab:

* ‘For all projects with involvement of the World Bank, or any other Multilateral Development Bank or Multilateral Financial Institution: Advice of the respective Legal department is to be obtained to ensure that all relevant regulations are known and adhered to (…)”
* Additionally, a contact person is named there to discuss special considerations related to MDB T&Cs during the tender process and for special support.

Any human rights related requirements of an involved institution should be considered in the review of the compliance risk landscape as part of compliance in project execution (which is a recommended measure for such projects in most of the cases) or at an earlier stage.

The following are examples for requirements by specific institutions:

* ECA Euler Hermes: [OECD Common Approaches](http://www.oecd.org/tad/xcred/oecd-recommendations.htm)
* World Bank Group: [WB Group Safeguards](https://www.worldbank.org/en/projects-operations/environmental-and-social-policies) and [IFC Performance Standards](https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards)

#### 6.4.3. Technical Nexus

A Siemens project might be technically connected to one or more other projects or facilities that have potential or actual human rights issues. When evaluating the human rights related risks of such a Siemens project, this has to be considered independent of whether or not the Siemens project itself is directly exposed to human rights issues – and it is also independent of who owns or operates the projects / facilities with issues.

For example, a Siemens transmission project (e.g. delivery and installation of sub-stations) is technically connected to one or more power plants (e.g. hydro power plants or coal fired power plants that generate electrical power which goes into the transmission project) which have significant exposure to human rights issues.

For projects requiring a [Human Rights Compliance Project Due Diligence (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx), such circumstances will typically be identified during the risk screening.

It is important to understand that such a technical nexus could involve Siemens with related adverse impacts even without causing or contributing to them, i.e. just through its participation in the project (linkage with the company’s business operations through business relationships).

Accordingly, the human rights related risks of the related or connected projects / facilities must generally be considered when evaluating the overall human rights risk of the Siemens project. Referring to the example above, these risks must also be considered in case Siemens has never had any project directly related to the power plants in question, and also if the customer / end-customers of the Siemens project is different from the owner / operator of the power plants.

Please note that a comprehensive understanding of the entire (customer / end-customer) project including all associated facilities (e.g. newly built access roads) is crucial for obtaining a reliable and complete picture and understanding of possible human rights related risks. A human rights risk assessment should never be limited to the Siemens scope of a project only or, limited by judging what could be within Siemens responsibility in respect to human rights – this is another, subsequent question. This approach for human rights risk assessments applies to all aspects of Siemens projects, e.g. the (technical) project scope, to the site location and proximity to the facility having issues, as well as to the time frame (e. g. if a service project is done for a facility that is already in operation and, for example, issues regarding construction of that customer project occurred in the past).

### 6.5. Response to incidents/observations

All observations/reported allegations/complaints should be dealt with carefully; involve CO (regardless of compliance in project execution!) unless an issue may be resolved immediately, exhaustively, easily and on site! – Example: insufficient provision of drinking water at project site – or rescheduling of certain works due to weather conditions in line with applicable local law in alignment with all parties involved etc.

For all other observations, reports on alleged human rights issues received, always the ACO should be involved immediately/in due course. ACOs will ensure that such reports will be dealt with in accordance with applicable law and company regulation.

### 6.6. Risk factors/areas

This section introduces the key human rights risk areas associated with Siemens project business. Accordingly, this section is not exhaustive. There are further human rights related risk areas which may be added to this section over time. If you have concerns regarding a human rights related risk not included in this section, please as the APM contact the ACO. ACOs may contact LC CO RFC LF for further advice and support.

#### 6.6.1. Labor Issues and OHS

This sub-section focuses on those labor related human rights issues – including Occupational Health and Safety (OHS) – specifically exposing companies to human rights related risks in connection with project business and beyond their own operations and own workforce. This sub-section contains further information about issues listed below.

The following labor issues are not covered to date: Discrimination in the Workplace, Freedom of Association and Collective Bargaining, Young Workers.

Why do we focus on civil and construction work?

Workers for civil and construction works are frequently recruited for the project on a temporary basis. Depending on the availability of workers around the project site(s) or in the project execution country, workers may be recruited far away from the project site or from abroad. These workers could be migrant workers, and many – if not most – workers recruited for civil and construction works have either low or any professional education, and the recruiting in their home countries will often be performed by recruiting agencies (labor brokers) some of which may force the workers to pay them recruitment fees in addition to the payments by their customers (future employers). Illiteracy is quite common among the workers which increases the risks of employment related human rights issues and as well e.g. for OHS.

All these factors make such workers quite vulnerable for labor related human rights violation. In addition, national legislation in some countries creates further risks or even adverse impacts, such as the sponsorship system in some states in the Gulf region (which does not permit workers to leave the country without formal permission by their employer).

##### 6.6.1.1. Child labor

The employment of children by state and non-state actors may violate international law. Violations of the prohibition of child labor impose obstacles for children to exercise their right to education, childhood, development, play and health by being economically exploited. Siemens can be directly implicated or can be deemed complicit in violations of the prohibition of child labor, particularly when operating in developing economies.

Definition of the Issue

Child labor is defined by the International Labor Organization's (ILO) Convention on the Minimum Age (No. 138) as employment that limits or damages the physical, mental, moral, social or psychological development of children. It sets the **minimum age for work at 15**.

In some countries, an exception is made on grounds of the country's economic development, poverty or lack of educational resources and the minimum age for work is lowered to 14 years.

**The ILO Convention on Worst Forms of Child Labor (No. 182) prohibits hazardous work for persons below the age of 18**. All children are also **prohibited from working the same number of hours as adults and at night**.

**Please note that as a general rule children below the age of 18 may not be employed for work at project sites, especially not for civil and construction work.** In practice it will be **difficult for recruiting staff e.g. of a consortium partner or sub-contractor to verify the correct age of job applicants**, especially those of those from abroad. IDs or other documents stating the age of a job applicant may not always be relied upon (they may be falsified or just not stating the correct age for various other reasons – or these documents simply relate to another person than the job applicant). Related **challenges are likely to increase further if many workers must be recruited by a rather small or mid-size company** within a short period of time e.g. due to tough project timelines.

**Convention No. 182 also prohibits other worst forms of child labor** such as slavery, trafficking, prostitution, etc. Despite strong protections in legal instruments, according to the ILO there are 168 million children working throughout the world, many full-time. Of these, more than half (85 million) are exposed to hazardous forms of child labor. Many children worldwide do not have access to basic primary education.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

**Business can be directly implicated or can be deemed complicit in violations of the prohibition of child labor**. Issues associated with child labor include denial of access to education, health risks and the restriction of the child’s liberty.

The types of **challenges that business is likely to face** in relation to this issue include:

* Inadequate enforcement of labor laws by authorities;
* A legal minimum age that does not meet international standards;
* Inadequate age verification mechanisms;
* High time pressure for recruiting;
* Recruiting of workers from abroad;
* Insufficient due diligence prior to engagement of labor brokers / success fee agreements with such recruiting agencies
* High levels of poverty requiring children to contribute to the household income (also in home countries of migrant workers);
* Cultural or social acceptance of child labor (‘common practices’)

##### 6.6.1.2. Decent Wages

Violations of the payment of decent wages through the practices of state and non-state actors limiting the right of a person to fair remuneration may expose Siemens to several operational, financial, legal and reputational risks. In project business **specific attention should be paid to this topic when working with sub-contractors or consortium partners having civil and construction works in their scope**.

As well, specific attention should be paid to this issue if the **customer contractually requires Siemens to ensure adherence to related international standards or applicable legislation into its supply chain**; failure to do so might lead to contractual liability or black listing for future business.

Definition of the Issue

The right to fair remuneration is enshrined in Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Specifically, **workers are entitled to fair wages and equal pay for work of equal value without discrimination**. Remuneration must also be enough to provide workers with a decent living for themselves and their families.

Numerous conventions from the ILO provide for more detailed provisions on fair remuneration laid down in the ICESCR. For example, ILO convention 131 prescribes that minimum wages should be established at a rate that is sufficient to cover, as a minimum, the cost of living and the needs of workers and their families.

Despite strong legal protection provided in numerous instruments, the ILO's Global wage report 2014/15 suggests that there are still significant wage gaps between men and women, as well as between national and migrant workers.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses operating in countries in which oversight mechanisms and safeguards against such conditions are inadequate also face risks associated with deteriorating industrial relations. These include potential disruptions to operations caused by strikes or sit-ins, low workforce morale (with implications for productivity and staff retention), as well as lawsuits. In this way, deteriorating industrial relations may prompt workers to resort to the practice of working-to-rule.

The types of **challenge that business is likely to face** in relation to the payment of decent wages include:

* National legislation governing minimum wages that does not meet international standards;
* Poor enforcement of domestic labor laws and inadequate implementation of international labor standards;
* Excessive demands on partners to reduce costs and to meet tight deadlines;
* Inadequate pay roll deductions for recruiting cost, accommodation or safety devices, overcharging for food supply
* Indirect payment of wages (to labor brokers or other third party instead of directly to workers)
* Lack of union representation, undermining the capacity of workers to bargain collectively for higher wages;
* Relaxed labor regulation within export processing zones.

##### 6.6.1.3 Decent Working Time

Violations of working time through the practices of state and non-state actors my limit the right of a person to decent working hours. Siemens may face several operational, financial, legal and reputational risks where these standards aren’t met. **Specific risks may arise from potential violations of working hours regulations project business on the part of suppliers, subcontractors or other businesses involved in the project**.

Definition of the Issue

The right to decent working time is enshrined in Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Specifically, **workers are entitled to the right to rest, leisure, reasonable limitation of working hours and adequate holiday allowances** **with pay**. These conditions are linked to basic human rights including the right to an adequate standard of living (including adequate food, clothing and housing), the right to physical and mental health and the right to life.

Numerous ILO conventions provide for more detailed provisions on decent working hours laid down in the ICESCR. ILO convention 1 stipulates that generally **working time should not exceed 48 hours per week, or eight hours a day, with at least one day off in every seven**. ILO convention 30 states **a working day cannot exceed ten hours**. Furthermore, ILO convention 1 also states that where overtime work is allowed and required, the **maximum number of additional hours must be fixed**, and **overtime must be compensated at a rate of no less than 25% above the normal rate of pay**.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses operating in countries in which oversight mechanisms and safeguards against excessive working hours are inadequate also face **risks** associated with issues such as potential **disruptions to operations caused by strikes or sit-ins, increased likelihood of safety incidents (especially fatalities which could cause disruptions of work on project site as well, e.g. due to investigations by public authorities) as well as lawsuits**.

The types of **challenge that business is likely to face** in relation to excessive working time include:

* National legislation governing working time that does not meet international standards;
* Poor enforcement of domestic labor laws and inadequate implementation of international labor standards;
* Excessive demands on sub-contractors or suppliers to reduce costs and to meet tight deadlines;
* Lack of union representation, undermining the capacity of workers to bargain collectively for lower working hours;
* Relaxed labor regulation within export processing zones.

##### 6.6.1.4 Forced Labor

Further risk to business may occur in the course of the association with practices of the extraction of work or services from an individual under the menace of any penalty and without consent. Businesses face reputational and associated financial risks if allegations of complicity in the use of forced labor practices occur in its direct operations as well as in the supply chain. In addition, business can face legal and financial risks as a result of criminalization of forced and bonded labor practices under national legal systems.

Definition of the Issue

The prohibition of forced labor is enshrined in the International Bill of Human Rights, namely in **Article 8 of the International Covenant on Civil and Political Rights (ICCPR)** and stems from the prohibition of slavery as provided for in Article 4 of the Universal Declaration of Human Rights (UDHR) and Article 8 ICCPR. Article 5 of the 1926 Slavery Convention prohibits forced labor. It also obliges states to progressively end the practice. However, where the practice still exists, workers must receive adequate compensation for their work. Slavery under the Slavery Convention is defined as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised". Where an individual is enslaved, he or she may be subject to forced labor because of slavery.

The prohibition of forced labor forms part of the ILO Eight Core Conventions on Fundamental Human Rights, including ILO Convention No. 29 on Forced Labor (1930) and ILO Convention No. 105, on the Abolition of Forced Labor (1957). **According to Article 2 of ILO Convention No. 29, forced labor is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"**. **The "menace of any penalty" does not have to be physical punishment or constraint; it can take other forms, such as the loss of rights or privileges**.

**Forced labor can take a number of forms**. It can be direct, for example by exacting work from an individual without remunerating him or her and without his or her consent. It can also be indirect, which includes bonded labor or indentured labor. According to Article 1 of the UN Supplementary Convention on the Abolition of Slavery, bonded labor or debt bondage means "the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined". It **may also involve the use of physical force to prevent freedom of movement or the retention of identity documents, particularly where migrant or illegal workers are involved**. **The frequency of payment of wages** should also be considered here (e.g. one-time payment at the end of employment period). In general, monthly payment of wages will be a uncritical solution.

Other forms of forced labor include prison labor. Prison labor is the practice where detained individuals are forced to undertake certain labor projects or work for private enterprise for no or substandard compensation, which may include prisoners of conscience.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children defines trafficking as the act of "recruitment, transportation, transfer, harboring or receipt" of persons by force, threat, coercion, abduction, fraud or deception for the purposes of "exploitation" (Article 3). Such exploitation includes forced labor, as well as forced sexual exploitation.

In addition, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted by General Assembly resolution 45/158 of 18 December 1990) provides that no migrant be subject to forced labor. Often, **where migrant workers are employed, employers hold identity papers or wages, creating a situation where workers cannot leave**. In many instances, victims of trafficking are afraid of the consequences of approaching authorities due to their immigration status and/or threats and misinformation conveyed by the traffickers.

The ILO estimates that 21 million people are victims of forced labor worldwide.

Because forced labor is generally rooted in poverty, discrimination and cultural acceptance of the practice businesses are advised to assess socio-economic situation, such as levels of unemployment and job scarcity as motivating factors making individuals vulnerable to exploitation when operating in countries with a poor human rights record.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses face the risk of allegations of complicity in the use of forced labor. Most allegations arise in the context of companies being complicit in the use of such labor by suppliers, subcontractors and other partners. This may include complicity in practices of forced labor by recruitment agencies. For example, the **most frequent accusations involve violations relating to indebtedness as a result of the high burden of recruitment fees or wage deductions for board and lodgings, where no adequate policies and monitoring systems exist**. In addition, forced labor is criminalized under most countries’ domestic laws (e.g. UK Modern Slavery Act). As a result, businesses should be aware of the forms and causes of forced labor, as well as how it might occur in different industries.

The types of **challenges that business is likely to face** in relation to this issue include:

* Economic processing zones which are often exempt from national labor laws, and often cannot be inspected by labor officials to detect labor abuses;
* Weak supply chain management significantly increases the risk of complicity of forced labor;
* Socio-economic causes, such as high unemployment and job scarcity as motivating factors making individuals vulnerable to exploitation;
* Embedded cultural practices may create an environment where forced labor is prevalent;
* Unethical and exploitative recruitment practices may increase the risk to business of becoming complicit in forced labor;
* Inadequate national enforcement of labor laws;
* Public corruption, especially within labor inspectorates and police forces, may be conducive to forced labor;
* Poor workforce health and productivity and ineffective workplace safety standards;
* A high prevalence and reliance on migrant labor may create an environment prone to forced labor.

##### 6.6.1.5 Migrant Workers

Specific risks will occur in case of labor migrants who entered a country for the explicit purpose of employment (foreign, non-national, regular or irregular migrants) either by allegations of complicity or direct involvement in violations of the rights of migrant workers, who might be **characterized by a greater degree of vulnerability** as compared to national workers with regards to the equality and non-discrimination in the workplace, freedom from forced labor, child labor and trafficking, occupational health and safety, working and living conditions (working time, wages), freedom of association and collective bargaining, access to remedies and other labor related social and civil rights.

Definition of the Issue

**A migrant is a person who moves from one place to another to live (and usually work) either temporarily or permanently**. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families defines a migrant worker as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. Estimates from the International Labor Organization (ILO) suggest that there are **150 million migrants in the global workforce**.

**Migrant workers can be particularly susceptible to labor and human rights abuses**. They are often unaware of the labor laws in force in their new country of residence, meaning that they are less likely to know when their labor and human rights are being infringed. Often migrant workers are unfamiliar with the native languages of the country in which they are living and working, which inhibits communication and access to potentially important information about their rights.

Migrant workers are **often faced with discrimination due to their status**. Different forms of **discriminatory treatment include low pay, long working hours and dangerous working environments**. In many cases, employers are known to hold workers' identity cards, travel documents and other important personal papers in order to compel them to work for the employer involuntarily, restrict their ability to apply to other jobs, restrict their ability to move freely during non-working hours or to prevent them from leaving the country.

Migrant workers, who are likely to belong to a minority group within the country they are living and working in, are also vulnerable to exploitation and societal discrimination which translates into disadvantages in other areas based on their race, culture, religion or other characteristics. Additionally, migrant workers with an irregular immigration status are typically preferred by employers in the informal sector of economies (by definition being unregulated), exposing workers in this economic area to lower pay, less job security, and an increased level of occupational hazards. Despite the severity of these issues, weaknesses found within the national systems designed to ensure workers' rights are enforced typically result in abuses not being reported, or properly addressed.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Although migrant workers are vulnerable to exploitation in many situations, businesses are most likely to be associated with violations of their rights in their supply chains or other business relationships including consortia due to limited control over the employment practices of their partners. In countries where labor legislation and workplace cultures explicitly provide for preferential treatment and higher payment for national workers than for migrants, businesses are likely to face heightened risk and challenges.

The types of **challenges that business is likely to face** in relation to this issue include:

* Inadequate and restrictive provisions in and enforcement of domestic labor laws;
* Domestic legislation that is contrary to international standards and company policies;
* Violations of relevant internationally recognized labor rights in export processing zones and in certain sectors (e.g. domestic work);
* Discrimination against and prohibition of unionization of migrant workers.

##### 6.6.1.6 Modern Slavery

Companies could become associated with or exposed to practices of slavery, servitude, trafficking in persons and forced labor by state and non-state actors within their supply chain or other business relationships. This topic is included in the web book as a separate issue despite overlaps to other issues such as human trafficking because it is used by legislation and may also be frequently found in discourse.

Definition of the Issue

The term ‘modern slavery’ is not defined under international law. Rhetoric concerning slavery and enslavement is consistently intertwined with human trafficking and their concepts, along with many other exploitative practices, which are often collectively labelled as ‘modern slavery’ or some variation thereof.

To allow for a clear distinction, **modern slavery is** **understood as an umbrella term for slavery, servitude, trafficking in persons and forced or compulsory labor (hereinafter modern slavery)**.There are various definitions of slavery, servitude, forced or compulsory labor, and trafficking in persons, but reference is here made to the definitions made by institutions charged with addressing these issues, such as the UN and ILO.

The prohibition of slavery is enshrined in Article 4 of the Universal Declaration of Human Rights (UDHR) and Article 8 of the International Covenant on Civil and Political Rights (ICCPR). Article 2 and 5 of the 1926 Slavery Convention prohibits the slave trade and forced labor. It also obliges states to end the practice “progressively and as soon as possible.”

The prohibition of forced labor is enshrined in the International Bill of Human Rights, namely in Article 8 of the ICCPR, and stems from the prohibition of slavery.

The ILO’s Eight Core Conventions on Fundamental Human Rights, including ILO Convention No. 29 on Forced Labor (1930) and ILO Convention No.105 on the Abolition of Forced Labor (1957), also prohibit forced labor along with many other exploitative practices.

In turn, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, is the first global legally binding instrument that prohibits the trade of human beings for the purpose of exploitation, and includes “exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, [and] servitude.”

As a response to ‘modern slavery’ **some states have introduced new legislation to address the problem. Such an example is the UK Modern Slavery Act 2015** (which requires businesses with a global turnover in excess of £36m and trading in the UK to report on their actions to address slavery, servitude, forced or compulsory labor and human trafficking each financial year).

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses face the risk of allegations of complicity in the use of modern slavery. Most allegations arise in the context of companies being complicit in the use of modern slavery by suppliers, subcontractors and other partners. This may include complicity in practices of modern slavery by services sector used by many companies, recruitment agencies and processes or **labor-intensive low skilled sectors with rapid turnover rates**. For example, the most frequent accusations involve violations relating to indebtedness as a result of the **high burden of recruitment fees or wage deductions for board and lodgings, where no adequate policies and monitoring systems exist**. In other cases, poor and vulnerable individuals may fall into trafficking chains by deception and are then sold by criminal groups into forced labor or other forms of exploitation. In addition, modern slavery is criminalized under most countries’ domestic laws (e.g. UK Modern Slavery Act). As a result, businesses should be aware of the forms and causes of modern slavery, as well as how it might occur in different industries.

The types of **challenges that business is likely to face** in relation to this issue include:

* Informal economies which often cannot be inspected by labor officials to detect labor abuses;
* Weak supply chain management significantly increases the risk of complicity in modern slavery;
* Socio-economic causes, such as high unemployment, poverty and job scarcity as motivating factors making individuals vulnerable to exploitation;
* Embedded cultural practices, such as discrimination against women, children, ethnic minorities or refugees, may create an environment where modern slavery is prevalent;
* Unethical and exploitative recruitment practices may increase the risk to business of becoming complicit in modern slavery;
* Inadequate national enforcement of labor laws;
* Public corruption, especially within labor inspectorates and police forces, may be conducive to modern slavery;
* A high prevalence and reliance on migrant labor or other vulnerable groups may create an environment prone to modern slavery.

##### 6.6.1.7 Occupational Health and Safety

Companies like Siemens could become associated with violations of health and safety standards by state and non-state actors. In accordance with the OHS Convention No.155 of the International Labor Organization (ILO), "health", for the purpose of this index, encompasses "the physical and mental elements affecting health" in the workplace. This includes risk associated from the potential existence of poor health and safety standards in global value chains. Specific risk exists re**. sub-contractors or consortium partners having civil and construction works in scope which might even increase in case of recruiting of low or unskilled workers** (often migrant workers not familiar with the local language at project site or the English language, illiteracy could pose risk in addition, if not duly considered in the design and implementation of preventive OHS programs).

Violations of the right to safe and healthy working conditions include the **failure to provide effective protective equipment where necessary as well as adequate OHS training** to raise employees' awareness and to prevent injuries.

**Definition of the Issue**

The **right to safe and healthy working conditions is enshrined in Article 7 of the Covenant on Economic, Social and Cultural Rights (ICESCR)**. Numerous conventions of ILO provide for more detailed provisions on the occupational health and safety conditions laid down in the ICESCR.

Despite strong legal protection provided in numerous instruments, ILO estimates that 2.3 million people die annually from occupational accidents and diseases, while work-related accidents occur at a rate of 153 workers every 15 seconds. Indeed, in August 2004, ILO Director-General Guy Ryder stated that “**work claims more victims around the globe than war does**”.

The cost of occupational accidents and diseases amounts to approximately 4% of the world's GDP. This reflects expenditure on sick pay, early retirement, accident compensation, elevated insurance premiums and replacing skilled workers. The associated reputational damage caused by a major accident can also be extremely costly for affected companies.

In addition to compliance with adequate regulations, **health and safety risks are affected by violations of other working conditions**. For example, excessive working hours or unpaid sick leave can increase the risk of accidents through the presence of fatigued employees in the workplace. Such factors also increase the risk of health complaints leading to losses in productivity.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Although the state is responsible for the protection of the right to work in a safe and healthy environment by ensuring that the right is observed in practice, it is incumbent on companies to discharge their duties to respect this right by promoting a safe and healthy working environment in all their operations. Decent working conditions can also increase productivity, decrease absenteeism and turnover of labor.

Businesses face operational and associated financial, legal and reputational risks where they fail to meet these standards, either in their own operations, or in those of their suppliers, subcontractors or partners. For example, businesses may be confronted with interruptions to production or government-mandated workplace closures, as well as costs associated with compensation claims and sick pay where excessive working hours and poor OHS standards result in occupational accidents, injuries and disease.

Moreover, businesses operating in, or sourcing from, countries in which oversight mechanisms and safeguards against such conditions are inadequate or weak face heightened risks associated with deteriorating industrial relations. These include potential disruptions to operations caused by strikes or sit-ins, low workforce morale (with implications for productivity and staff retention), as well as lawsuits.

The types of **challenge that business is likely to face** in relation to occupational health and safety include:

* National legislation governing occupational health and safety that does not meet international standards;
* Poor enforcement of domestic labor laws and inadequate implementation of international labor standards;
* Excessive demands on suppliers to reduce costs and to meet tight deadlines;
* Sectors with high levels of latent health and safety risk (e.g. mining, heavy machinery, construction);
* The extension of value chains into informal sectors, where occupational health and safety is not regulated by government institutions;
* Lack of union representation, undermining the capacity of workers to bargain collectively for improved working conditions;
* Relaxed regulation of working conditions, including health and safety standards within export processing zones.

##### 6.6.1.8 Trafficking in Persons

Companies may also be exposed to risk through the possible association with practices of state and non-state actors engaged in the illegal trade of human beings for the purpose of exploitation. **This is a risk a company may face in any region of the world and at all stages of operation, supply and distribution**. In view of the global extent of the phenomenon, no individual company can conclude that it is safe from the risk of complicity in human trafficking, whether by the nature of the sector in which it operates or the context in which it is established.

Aside from the financial risks associated with any legal action taken against companies prosecuted for trafficking offences, **alleged involvement in the crime may deter potential clients or prompt existing clients to cancel contracts**. The long-term profitability and growth prospects of businesses may also be jeopardized by a diminished capacity to attract new business opportunities and partners. Companies may also be stripped of export licenses and denied access to international markets in response to allegations or convictions.

Definition of the Issue

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, the first global legally binding instrument, provides an internationally agreed definition of human trafficking. Under Article 3, **trafficking in persons is defined as:**

**"the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs"**.

**Trafficking is commonly associated with sexual exploitation, especially of women and children**, and according to a 2014 report by the UN Office on Drugs and Crime (UNODC) accounts for 53% of all recorded human trafficking cases. However, the trafficking for forced labor is also a serious issue. It accounts for 40% of cases, constituting the second most common form of trafficking, especially of illegal economic migrants. These estimates may not provide an accurate representation, however, given that instances of trafficking for forced labor go undetected and unreported more often than cases of trafficking for commercial sexual exploitation.

Human trafficking gives rise to violations of a number of human rights, such as the right to liberty guaranteeing against arbitrary detention, the right to security of person, freedom of movement and freedom from torture and other cruel, inhuman or degrading treatment. Attendant violations include those related to labor rights. Additional rights may be affected subject to a person being trafficked.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist to or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses face substantial legal risk when they fail to implement human rights due diligence to ensure that business operations and activities at all levels of the value chain do not contribute to human trafficking. Human trafficking is criminalized under most countries’ domestic laws (e.g. UK Modern Slavery Act). Accordingly, risks posed to business by trafficking – whether they are directly involved or implicated through their chains of production or supply – include the violation of national legal requirements resulting in potential criminal or civil liability.

It goes without saying that companies may be found complicit in trafficking for forced labor if they employ victims of trafficking. The risk of complicity is highly likely in case of complex value chains involving numerous suppliers, subcontractors and partners.

**Where individuals in companies provide hospitality to business partners that involve the provision of the services of trafficked sex workers, companies may be also seen assisting trafficking**.

The risk of involvement in human trafficking in connection with sexual exploitation will significantly increase of **project sites being located in remote areas and requiring the temporary employment of larger numbers of workers**. Likely prostitution will establish around the project site or the accommodation facilities which often goes together with human trafficking, forced labor or child labor in its worst forms (see related sub-sections).

Brand and company reputation are also likely to suffer as a result of allegations of complicity in human trafficking. Aside from the financial risks associated with any legal action taken against companies prosecuted for trafficking offences, alleged involvement in the crime may deter potential clients or prompt existing clients to cancel contracts. The long-term profitability and growth prospects of businesses may also be jeopardized by a diminished capacity to attract new business opportunities and partners. Companies may also be stripped of export licenses and denied access to international markets in response to allegations or convictions.

The types of **challenges that business is likely to face** in relation to this issue include:

* Allegations of complicity in human trafficking;
* Complicity of state authorities in human trafficking;
* An absence of laws that prevent trafficking in persons or their poor enforcement;
* Low conviction rates for perpetrators of trafficking;
* Weak monitoring of recruitment practices (e.g. of migrant workers) in the supply chain;
* Poor enforcement of labor standards and local labor laws.

#### 6.6.2. Community Impacts

Communities and/or its members may be adversely impacted by projects in manifold ways – ranging from relocation or other land use related activities to toxic emissions into the air or water or endangering their access to drinking water.

Among the key issues repeatedly connected with projects especially around public infrastructure or larger scale projects in the private sector are land, property and housing.

In connection with projects, state and non-state actors may adversely impact rights holders in the enjoyment of the right to immovable property, including land and housing. There are different ways in which state and non-state actors can contribute to violation of property, land and housing rights of individuals. For instance, businesses depending on natural resources such as land have the potential to destabilize the environment because they can increase demand for the resource that may already be in short supply and which is crucial for local communities’ livelihoods or the survival of indigenous peoples. In a post-conflict environment the lack of an effective property and land restitution process for displaced persons and ethnic community members, as well as outstanding claims on damaged and illegally occupied properties, mean that businesses securing plots of land or other immovable property for their operations are at risk of contributing to existing property disputes. In addition, the allocation of land and other immovable property by the state for different business projects may disproportionately affect the land, housing and property rights of certain groups and can cause tension or fuel conflict.

Definition of the Issue

Land, property and housing are one of the most complex and sensitive human rights areas because it serves as a foundation for a wide range of cultural and social identities; it is a cornerstone of economic activity and regularly serves as the basis for institutional development; it is the underpinning for markets and businesses (e.g. credit, real estate, labor, rental contracts, agriculture production), and it is almost impossible to separate it from natural resource management. **The following elements of property, land and housing rights are covered**:

* **Land rights** (whether defined under statutory or under customary law) are the rights that individuals and groups hold with respect to land and related resources (e.g. minerals, pasture, water). Land tenure rules define the ways in which property rights to land are allocated, transferred, used, or managed in a particular society.
* **Property rights** in the context of the index are associated with the ‘immoveable’ property. Property rights are a bundle of rights to use, control, and transfer assets, including land and houses. Property rights include the rights to own occupy, enjoy, and use; to realize financial benefits; and to access services in association with it. There is an intrinsic link between the right to property, the right to adequate housing and land rights.
* **Adequate housing** is interpreted in a broad sense and is seen as the right to an adequate standard of living, to live somewhere in security, peace and dignity. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, it is possible to determine a consistent set of factors for the purposes of constructing this index. Housing is not adequate if its occupants do not have the following as a minimum:
* **Security of tenure**: a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
* **Availability of services, materials, facilities and infrastructure**: sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.
* **Affordability**: a level of living when basic needs are not threatened or compromised due to unreasonable rent levels or rent increases.
* **Habitability**: adequate space to protect from cold, damp, heat, rain wind or other threats to health, structural hazards, and disease vectors.
* **Accessibility**: full and sustainable access to adequate housing resources by disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, and victims of conflicts.
* **Location**: access to employment opportunities, health-care services, schools, childcare centers and other social facilities, or a location in a clean environment far from polluted or dangerous areas.
* **Cultural adequacy**: respecting and taking into account the expression of cultural identity.

**The right to property, land and housing has been enshrined as a human right in international law – both conventional and customary – through universal and regional treaties and national constitutions**. The right to property recognizes everyone’s right to peacefully enjoy their property, be it composed of existing possessions or assets acquired by law or claims which raise a legitimate expectation of obtaining effective enjoyment. The right protects individual property, as well as communal property as in the case with some systems. Limitations of the right are permissible, provided that they respect the principle of legality and proportionality and that they are directed towards assuring or advancing the public or general interest. States have positive and negative obligations related to the right to property, land and housing.

**Property, land and housing is essential for the protection of human life and dignity of the right holder** as it contributes to the realization of economic and social rights, including the right to food and to social security. For instance, the protection of security of tenure, in particular from forced evictions, is part of the right to property and this link requires little explanation.

The **link between land and food** is also obvious as land is a means to realize the right to food. For instance, large-scale land acquisitions and leases may jeopardize the right to food.

**Property rights and its link with land and housing rights have been extensively defined in the international instruments and case-law**. The right to property is enshrined in Article 17 of the Universal Declaration of Human Rights (UDHR) and Articles 13, 18, 19, 29 and 30 of the International Convention relating to the Status of Refugees. Article 5 (v) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination guarantees “the right to own property alone or in association with others”.

Several other core human rights treaties, such as the International Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the ILO Convention No.169 concerning Indigenous and Tribal peoples recognize the rights of ownership and possession of the vulnerable groups over the land and property and guarantee effective protection of their rights of ownership and possession of land, housing and property.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

Businesses face the risk of allegations of complicity in the violation of property, land and housing rights. Allegations of direct responsibility can occur if the company itself arbitrarily interferes with the enjoyment of the right – e.g. forcibly evicts individuals from their property, land and houses for securing plots for their operations. However (and this is the more likely scenario for Siemens), allegations also arise in the **context of companies being complicit in violations by suppliers, subcontractors and other partners such as customers or end-customers**. For instance, businesses may be associated with violations of right to property, land and adequate housing if they knowingly assist or benefit from state expropriation done without legal basis or not in the public interest – e.g. serious human rights violations associated with forced evictions, including arrests, detentions and killings of people who resist government relocation efforts that are linked to the leasing of large plots of land for commercial agriculture businesses.

On the other hand, businesses are also expected to respect property and adequate housing rights of individuals by **protecting them from pollution and dangerous areas**, **scarcity of water resources** caused by their operations, against expulsion from or destruction of their property, or delimitation and demarcation of the communal land of indigenous people during implementation of business projects, which, if not observed could amount to a violation of the right to property, land and adequate housing.

Together with the states, businesses are expected to undertake positive measures to create an enabling environment to enjoy property rights. For example, in a country characterized by extreme inequalities in access to property, failure of the state to take corrective actions could represent a violation of the obligation to fulfil the right to property and consequently may increase the risk to businesses in association with those violations.

Businesses should be aware of the types and causes of violations of right to land, property and adequate housing, as well as how it might occur in different industries and link with other social, economic and cultural rights.

The types of **challenges that business is likely to face** in relation to this issue include:

* Public corruption, especially within land management institutions and law enforcement personnel, may be conducive to violations of the right to land, property and adequate housing;
* Lost records of land titles as a result of conflicts leading to unclear status of lands;
* Unclear tenure rights because of a conflict between customary and statutory laws;
* Discriminatory property, land and housing laws, especially targeting women, indigenous peoples and migrants;
* Large scale leasing of land for various business projects associated with human rights violations.

#### 6.6.3. Indigenous People Specific

Obstacles indigenous communities within a country may face in exercising their traditional rights may pose significant risk to companies. These rights are the rights to land, territories and natural resources, the right to decide their own distinct identities and procedures of belonging, as well as to have their identities recognized, the rights to self-government and self-determination, including to be asked for their free, prior and informed consent in decisions that may affect them.

Definition of the Issue

**The protection of the rights of indigenous peoples stems from the right to self-determination as enshrined in the International Bill of Human Rights, namely in Article 2 of the ICCPR, and the principle of non-discrimination**. The rights of indigenous peoples are **specifically protected in the UN Declaration on the Rights of Indigenous Peoples, the ILO Convention No. 169 on the Rights of Indigenous and Tribal Peoples in Independent Countries**.

There has been **no singular definition of indigenous peoples** adopted at the international level. Rather, self-identification has been deemed to be the key criterion. The prevailing view among various stakeholders working on indigenous issues is that a specific definition is not necessary to safeguard the recognition and protection of their rights.

**ILO Convention 169** on Indigenous and Tribal Persons **uses the following language** in describing the peoples it aims to protect: "**Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the** **time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions"**.

According to international human rights law, **this assortment of rights is considered the minimum standard for the cultural survival of indigenous groups**. Article 33 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) refers to the right to decide their own identities and procedures of belonging. However, **indigenous peoples are often not afforded the same rights as other groups**, including property rights, cultural rights and the right to dispose of their land’s wealth and resources. This can be largely due to discrimination by the authorities. Other obstacles faced by indigenous groups include a lack of access to basic services, as well as to legal assistance and remedies for human rights violations**. Indigenous peoples and activists are also vulnerable to attack by groups with competing interests**.

Implications for business

Governments have the primary duty to protect human rights, while companies have the responsibility to respect human rights. Effective access to remedies should be available to those whose human rights have been violated. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances.

**Extractive, construction and utility companies operating in areas with indigenous populations are at particular risk** due to the magnitude of land use. Issues associated with appropriation of indigenous land include infringements on cultural and religious freedoms, such as denial of access to or destruction of religious sites, as well as restrictions on their ability to worship through ceremonial and traditional means that may be directly linked to their land. Business activities may also impose restrictions on the movement of indigenous peoples on or around their land, thus hindering their ability to ensure their livelihood through traditional activities such as hunting and fishing. Pollution and environmental destruction of indigenous habitats are other risks posed by company operations.

The types of **challenges that business is likely to face** in relation to this issue include:

* Absence of laws that protect indigenous groups or an implementation deficit of relevant laws;
* Discrimination by the authorities;
* Impact assessments that do not include consultation with indigenous groups and determination of their free, prior and informed consent to all decisions that might directly and indirectly affect them;
* Pollution and environmental destruction affecting the livelihoods of indigenous communities;
* Harassment and violence against indigenous activists based on their distinct identity;

State organized forced displacement of indigenous communities and expropriation of their lands.

#### 6.6.4. Security Forces

Complicity in human rights violations committed by public and/or private security forces poses another risk to companies. **Violations of the human rights by security forces include arbitrary arrests and detentions, extrajudicial killings, enforced disappearances, and torture or other ill-treatment of individuals**.

Definition of the Issue

The definition of ‘security forces’ includes, besides public security services and private security contractors, all officers of the law, whether appointed or elected, who exercise police functions, especially the powers of arrest or detention; and armed forces (military), whether public or private.

**Public security providers** include international armed forces (e.g. UN forces); national armed forces; national security services (e.g. internal intelligence agencies); national and local paramilitary forces; and local, citizen-based security groups (e.g. town guards, militias, self-defense groups). The role of public security forces is to provide effective protection to the civilian population against human rights violations, while acting within the law and under the control of the civil authority.

**Private security contractors** are also used by companies at times for the protection of their assets and employees in high risk countries and regions. However, their duties are limited as compared to those of state security providers as they cannot exercise the power of administration of justice. For instance, where private security guards are allowed to apprehend those invading a company’s property, they need to hand them over to police which is responsible for the enforcement of law applicable to such cases.

**In certain circumstances, security forces are allowed to use force in the course of their duties**. However, in accordance with Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, they may do so only “when strictly necessary and to the extent required for the performance of their duty”.

Implications for business

Governments have the primary duty to protect human rights, which entails ensuring that security forces do not commit human rights violations. Governments must ensure that in the training of their forces, a special attention is given to alternatives to the use of forces, including methods of mediation and negotiation, as well as alternatives to the use of firearms. Under the UN framework, it is incumbent on companies to respect human rights and to therefore ensure that contracted security forces comply with international human rights law.

In addition, effective access to remedies should be available to those whose human rights have been violated by security forces. Such remedies should be provided for at both the state and the corporate levels. Companies can be found or deemed to be complicit in human rights violations committed by others where they knowingly assist in or benefit from such violations. The standard for knowledge could be either an actual cognizance of the violation or what a company ‘should have known’ in the circumstances. **Businesses are at risk of complicity if they employ state or private security forces that perpetrate violations, especially where prior training and monitoring of such forces is lacking**.

Companies operating in emerging economies are often faced with **significant security challenges**, particularly in countries rich in natural resources. Such challenges regularly arise in countries where security forces, paramilitaries and private security companies have a history of committing human rights violations. For example, **challenges in relation to security forces could arise as a result of ongoing or past armed conflict, corruption, a lack of discipline among security personnel, or significant governance gaps**.

Companies have a clear interest in protecting their employees and assets while maintaining respect for human rights. However, there is a risk that **companies employing, co-operating with, or benefiting from the protection of state or private security forces may become (knowingly or unknowingly) complicit in human rights violations**. **Accusations of complicity may intensify if violations appear to facilitate certain business activities**. For example, such violations may include violent crackdowns on trade union activists or anti-business protesters.

Private security contractors are sometimes hired to supplement or fulfil security needs in environments where state resources are lacking or weak, but their actions are often unregulated. In cases where security is supplemented in this way, companies may contribute to or reimburse the cost of such provisions. While this security is expected to be consistent with national laws, international human rights law and international humanitarian law, human rights violations may occur during the protection of company property and personnel. There are numerous **examples of companies who have been held legally accountable for the actions of state or private security forces**, whether employed directly by the company or otherwise.

**Even where allegations of complicity do not result in legal action, companies can still face a range of non-legal risks**. These can be of a short-term nature (e.g. operational disruptions as a result of community unrest aimed at public security forces and/or the company) or of a long-term nature (e.g. sustained consumer campaigns that ultimately require a change in company strategy or policy with respect to the country in question).

The types of **challenges that business is likely to face** in relation to this issue include:

* Unstable investment climates in countries with histories of widespread human rights violations by security forces that often go unpunished;
* Inadequate training of security forces in protecting and respecting human rights;
* Low and unfair wages among security personnel;
* Corrupt practices among security personnel;
* Weak regulation of private security forces;
* Inadequate risk assessments, human rights impact assessments and broader human rights due diligence;
* Inadequate communication of company policy on security forces and human rights;
* Inadequate monitoring of or consultation with security forces.

#### 6.6.5. Adverse Due Diligence Findings

The human rights project due diligence may result in the confirmation of human rights risks requiring mitigation measures – already in project sales or in execution phase – or in indications of potential human rights risks usually together with recommendations for response.

* Please note that human rights risks for a project will not be confirmed just based upon the country risk rated high or extreme for the respective issue in the project execution country. In general there must be further specific indications either concerning a third party involved in the project or the customer or end-customer project or for this project as such. In some cases such additional indications may also relate to similar projects in the country.
  + There is one **exception to this general rule** being **projects connected to so-called disputed territories** (see related section in this web book).
* Adverse due diligence findings usually are based upon media reports and other publicly available sources covered by the external risk screening database and tool used for the PDD. Reports generated in this database and tool may include confirmed human rights violations – e.g. indictment of a company or its managers by court decision or cancellation of a permit by a state authority due to such issues. Many reports contain allegations of human rights violations raised e.g. by affected rights holders or NGOs. The **due diligence cannot make a judgement about the correctness or justification** of such allegations.
* However, such adverse findings together with the other criteria may result in the confirmation of a human rights risk requiring mitigation or at least will trigger some recommendations for preventive response.
* The more specific the adverse diligence findings, the more specific mitigation or response measures will have to look like. As APM, please always involve the ACO for further discussion and determination of measures. ACOs may also contact LC CO RFC LF for advice and support. Depending on the type of issue, please also involve relevant other project team members, support or expert functions (see related section).
* Usually a mix of measures should also be considered, re. possible issues on the part of a sub-contractor e. g. including additional contractual provisions, training of sub-contractor staff on site, monitoring et al.

## 7. Training and supporting material

The [Human Rights pages on the Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrights.aspx) provide further information and external references.

Regarding **Project Business and the LoA Process**, guidance for the performance of the Human Rights Project Due Diligence is provided on the [Human Rights Project Due Diligence pages of the Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx). It is also addressed in the [Guidance “Compliance in project pre-sales, sales and execution”](https://findit.compliance.siemens.com/content/10000101/Compliance/LC_CO/LC_CO_STR_RM/findIT_LC_CO_STR_RM_7093.pdf).  
Supporting information for Compliance Officers is available on the [Compliance in Projects pages of the Compliance Intranet under Supporting Material](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_project-management.aspx).

The Siemens commitment to human rights is also addressed on the [Siemens Internet](https://www.siemens.com/global/en/home/company/sustainability/humanrights.html).

## 8. History of changes

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| --- | --- | --- |
| **Date** | **Author** | **Major changes of binding content** |
| January 1, 2019 | Daniel Kronen  (LC CO GR HRC) | First release through Compliance Handbook based on Siemens Circular SC No. 226 “Global Compliance” Appendix 16. |
| January 1, 2020 | Koen Miezenbeek (LF CO RFC LF) | Update due to organizational changes. |

## 9. Contacts

Authorized Compliance Officer

For matters related to [Human Rights Compliance Project Due Diligences (PDD)](https://intranet.for.siemens.com/cms/059/en/processes/publications/Pages/compliance_humanrightspdd.aspx): the Authorized Compliance Officer (ACO) as listed under the ‘Authorization’ tab in the PM@Siemens LoA Tool of the respective project.

Compliance Officer

The Compliance responsible for your unit can be found through the following [link](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance_organization.aspx).

Corporate Governance Owner

[Daniel Kronen (LC CO RFC LF)](https://scd.siemens.com/luz/IdentitySearch?cn=KRONEN+DANIEL+Z001WTVF&tcgid=Z001WTVF&c=DE&o=SIEMENS&ou=LC&l=MCH+P&department=LC+CO+RFC+LF&&utI=I&utX=X&utT=T&rtH=H&rtS=S&rtZ=Z&rtO=O&rtAktiv=A)[[18]](#footnote-18)

1. Business Conduct Guidelines, section K. [↑](#footnote-ref-1)
2. Further information is available on the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx). See also http://siemens.com/global/en/company/sustainability/humanrights [↑](#footnote-ref-2)
3. As well as the rules laid down in the framework agreement of the International Metalworkers´ Federation (IMF) [↑](#footnote-ref-3)
4. As well as the rules laid down in the framework agreement of the International Metalworkers´ Federation (IMF) [↑](#footnote-ref-4)
5. See the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further information. [↑](#footnote-ref-5)
6. Most of these international conventions and recommendations refer to human rights; see the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further information. Related links are also provided at <https://new.siemens.com/global/en/company/sustainability/humanrights.html> . Binding requirements towards Siemens suppliers and third party intermediaries are contained in the [Code of Conduct for Siemens Suppliers and Third Party Intermediaries](https://intranet.for.siemens.com/cms/050/en/processes/jobrole/Documents/Procurement_Standards/Download-Center/CoC/CoC_Brochure_en.pdf) (see also [section J of the BCG](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf)). [↑](#footnote-ref-6)
7. See [section B of the BCG](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf), see also [section E of the BCG](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf) for related management responsibilities [↑](#footnote-ref-7)
8. See [section A of the BCG](https://findit.compliance.siemens.com/content/10000101/Compliance/CL_CO/CL_CO_AT/findIT_CL_CO_AT_55.pdf), see also [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx). [↑](#footnote-ref-8)
9. See the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further details on the UNGP, the elements of human rights due diligence and related resources. The 2011 update of the OECD Guidelines for Multinational Enterprises also draws on and is aligned with the UNGP. [↑](#footnote-ref-9)
10. The comprehensive coverage of the value chain is also increasingly required by legislation and regulation. See the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further information and resources (also containing practical examples of impacts and action taken). [↑](#footnote-ref-10)
11. See the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further information and examples, including international developments such as in the European Union. [↑](#footnote-ref-11)
12. See the [Compliance Intranet](https://intranet.for.siemens.com/cms/059/en/about/org/Pages/compliance.aspx) for further information, including national action plans already published. [↑](#footnote-ref-12)
13. See [Circular No. 226](https://regulations-admin.siemens.com/content/sc/226/en): annex, chapter 3.1.7 [↑](#footnote-ref-13)
14. See [Circular No. 226](https://regulations-admin.siemens.com/content/sc/226/en): annex, chapter 3.10 [↑](#footnote-ref-14)
15. See [Circular No. 226: annex, chapter 4.6](https://regulations-admin.siemens.com/content/sc/226/en) and [Compliance Review Board](https://webbooks.siemens.com/public/LC/chen/index.htm?n=Part-3-Compliance-Internal-Tasks,K.-Compliance-Risk-Management-and-Reviews,2.-Compliance-Review-Board) (Part 3, K. 2.) [↑](#footnote-ref-15)
16. See [Circular No. 226: annex, chapters 4.1, 4.3, 5](https://regulations-admin.siemens.com/content/sc/226/en) and [Case Handling, Discipline and Remediation](https://webbooks.siemens.com/public/LC/chde/index.htm?n=Teil-3-Compliance-Interne-Aufgaben,L.-Fallbearbeitung,-Disziplinar--und-Abhilfema%C3%9Fnahmen) (Part 3 L.) [↑](#footnote-ref-16)
17. The SSB has tasked CD SU and LC CO to work together on developing human rights management further at Siemens. [↑](#footnote-ref-17)
18. shared responsibility with CD SU [↑](#footnote-ref-18)