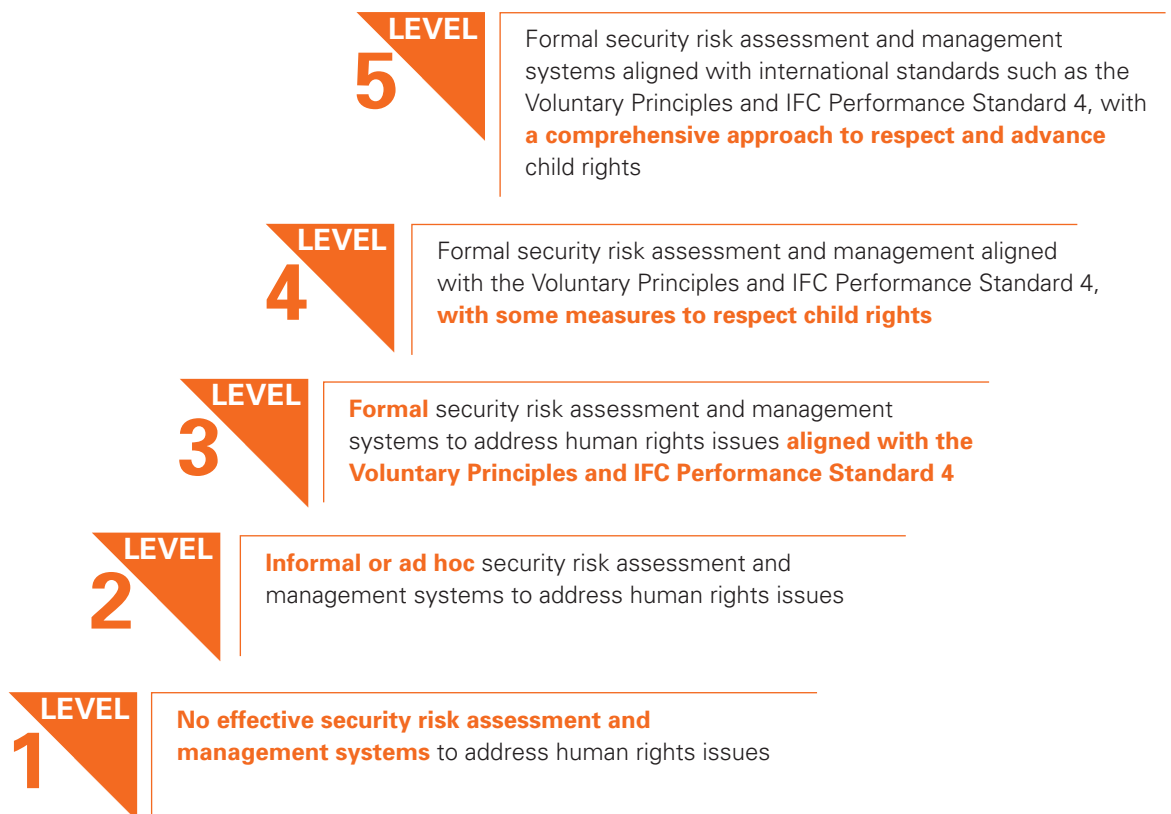


Security

Companies can be directly and indirectly responsible for or complicit in violations of children's rights through their approach to managing security on the mining site and around it. Understanding the context of operations, assessing risks and managing them appropriately will lower the likelihood of mining-related risks to children, as well as protect the company's social licence to operate, reputation and business continuity.

Tool 6 Security

Where does your company stand on respecting and advancing children's rights in security management? The figure below presents a continuum from the lack of effective systems to the fullest measures of corporate responsibility and proactive leadership.



Tool 6 is designed for those with roles in security management, government and community relations, and human rights. It complements *IFC Performance Standard 4: Community Health, Safety, and Security*, and the Voluntary Principles on Security and Human Rights, along with the Implementation Guidance Tool (IGT). Companies that have not yet integrated good international industry practices into their security management systems should address that gap as a priority.

6.1 Overview of the issues and related standards

Children's rights can be infringed or abused in a variety of ways in relation to security management in the mining industry. The main interactions between security services and children happen in cases of protesting, trespassing, theft, vandalism, artisanal mining, and sexual exploitation or violence. Based on the understanding of the risk to children and other stakeholders, companies will develop management plans and place requirements on their own, contracted or public security providers.

These interactions can also lead to constructive community relations. Responsible security management looks at providing appropriate protection for the company, while also respecting and advancing the human rights of all stakeholders.

Tool 6 Security

The Voluntary Principles and IFC Performance Standard 4 provide a solid foundation for establishing and implementing security management. The core of this approach is conducting a risk assessment of potential human rights impacts. *Tool 1. Impact Assessment* offers companies a road map for integrating child rights.

Issues to be considered by companies that seek to respect and advance children's rights include potential abuses committed by corporate security or contracted private providers; public security providers such as police or armed forces that inappropriately detain children or respond to community protests with violence; and government authorities in areas with a legal system that does not protect child or human rights in detention and sentencing.

Children can also be affected by temporary or permanent loss (detention, injury or death) of a parent, guardian or other family member due to security activities. Mining companies will also be aware of employing children in hazardous work, which includes using a child for any aspect of security services.

These areas are more fully discussed in the sections below, which offer questions that can be asked and strategies that can be implemented at the mining site level, corresponding to the operation's risk profile and context.

Resources for security

Voluntary Principles on Security and Human Rights, available at <www.voluntaryprinciples.org/for-companies> and Implementation Guidance Tools (IGT), open PDF from <www.voluntaryprinciples.org/wp-content/uploads/2013/03/VPs_IGT_Final_13-09-11.pdf>

IFC Performance Standard 4: Community Health, Safety, and Security, available at <www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Our+Approach/Risk+Management/Performance+Standards>

Addressing Security and Human Rights Challenges in Complex Environments: Toolkit, Geneva Centre for the Democratic Control of Armed Forces and International Committee of the Red Cross, available at <www.securityhumanrightshub.org/content/toolkit>

Toolkit on Diversion and Alternatives to Detention, Online platform, UNICEF, <www.unicef.org/tdad/index_55653.html>

6.2 Security providers and the justice system

Private security providers, public security providers, and the national justice system can all, by their nature, contribute to severe abuses of human rights.²⁸ And the risks are heightened for children due to their age and other vulnerabilities (see Annex A. *Child vulnerability matrix*). Children who are detained either in segregation or with adults, for example, may be exposed to the same types of conditions, but will be especially vulnerable to abuse, intimidation and harassment.

Article 37 of the Convention on the Rights of the Child outlines the following details as the responsibilities of government:

- No child will be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Capital punishment or life imprisonment without possibility of release will not be imposed for offences committed by persons below age 18.

²⁸ See, for example: Geneva Centre for the Democratic Control of Armed Forces and International Committee of the Red Cross, *Addressing Security and Human Rights Challenges in Complex Environments: Toolkit*, 3rd edition, DCAF and ICRC, Geneva, June 2016; available at <www.securityhumanrightshub.org/content/toolkit>.

- No child will be deprived of her or his liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child will conform to the law – and be used only as a last resort, for the shortest appropriate period of time.
- Every child deprived of liberty will be treated with humanity and respect for their inherent dignity, taking into account the needs of persons of his or her age. Every child deprived of liberty will be separated from adults unless it is considered in the child's best interests not to do so. Children also have the right to maintain contact with family members through correspondence and visits, except in exceptional circumstances.
- Every child deprived of liberty has the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of her or his liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.²⁹

Companies might consider diversion, channelling children in conflict with the law away from legal proceedings; alternatives to detention, measures that may be imposed on children who are being formally processed through the criminal justice system, at both pre-trial and sentencing stages, that do not involve deprivation of liberty; and restorative justice, which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large, for example, by working to pay for damaged or stolen property.³⁰

When a company is considering the protection of children's rights within security management, these principles can be applied to assessing its risks and evaluating its performance against international guidance.

In the most severe cases, children are abused or killed by private or public security providers associated with the company. This may include situations where children detained by company security providers are subsequently subject to a national justice system that abuses their rights, for example detention without trial, lifetime imprisonment or capital punishment. Other direct impacts on children include use of security personnel with a history of child abuse, injury or death during clashes between security providers and the community.³¹

If the company is already implementing a responsible approach to security management – for instance, by fully implementing the Voluntary Principles and/or IFC Performance Standard 4 – the associated human rights risks will have been addressed. Table 13 offers examples of risks, questions, strategies and action to be implemented while taking into account the local context of mining operations and the associated risks for children.

²⁹ United Nations, 'Convention on the Rights of the Child', New York, 20 November 1989, article 37(a–d), <www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

³⁰ United Nations Children's Fund, 'Toolkit on Diversion and Alternatives to Detention', UNICEF, New York, 19 August 2010, <www.unicef.org/tdad/index_55653.html>.

³¹ United Nations Children's Fund, *Children's Rights and the Mining Sector: UNICEF Extractive Pilot*, UNICEF, Geneva, March 2015, p. 15.

Tool 6 Security

Table 13. Managing child rights risks in relation to security providers and the justice system

Company policy for grievances	
<p>Risks: If the company does not anticipate the possible abuses that children could be victim of and as a result does not implement adequate measures to mitigate them, its reputation will be threatened and tensions among communities will be likely to increase.</p>	
Questions	Strategies and action
<p><i>Does the company implement security and human rights grievance management systems that are accessible to children?</i></p>	<ul style="list-style-type: none"> • Implement a mechanism to report information related to potential human rights violations employees might witness or hear about. • Ensure the inclusiveness of the mechanism by enabling anonymous and oral reporting • Investigate the allegations through external, corporate or joint investigations (<i>see Box 9</i>).
Private security management	
<p>Risks: Employing private security providers who have a history of child abuse and/or are not aware of children's rights can lead to abuses that could endanger children, increase tension in the community, and place the company's reputation at risk.</p>	
Questions	Strategies and action
<p><i>Does the company ensure that private security providers are not implicated in previous abuses of children?</i></p>	<ul style="list-style-type: none"> • Review the due diligence applied to security providers to ensure they are properly screened for charges related to violence against children, including sexual abuse, rape or excessive use of force.
<p><i>Does the company ensure that private security providers understand children's rights?</i></p>	<ul style="list-style-type: none"> • Review the private security training material to ensure it covers relevant aspects, particularly the treatment and detention of children.
<p><i>Will private security staff be expected to detain mining employees, members of the public, trespassers, etc., on site?</i></p>	<ul style="list-style-type: none"> • Ensure that standard operating procedures for private security regarding detention align with good practices and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,³² e.g., children are not detained with adults. • Include procedures for establishing the age of detainees. When there is any doubt over the age or status of an individual, the security provider must act in the best interests of the detainee, assuming they are under age 18 until proved otherwise.

³² United Nations Children's Fund, *Children's Rights and the Mining Sector: UNICEF Extractive Pilot*, UNICEF, Geneva, March 2015, p. 15.

Tool 6 Security

Table 13. Managing child rights risks in relation to security providers and the justice system (continued)

Government security apparatus	
Risks: The company may be considered as being complicit in human rights abuses if children are treated inappropriately by the government security apparatus in the context of security services provided by public security forces, or when children or youth accused of breaking the law are handed over to the government security apparatus.	
Questions	Strategies and action
<p><i>Is the company aware of the risks that children might face in detention and thus looking for alternatives?</i></p>	<ul style="list-style-type: none"> • Seek assistance from local NGOs, community organizations and experts with experience in juvenile justice (see Tool 2. Stakeholder Engagement, Section 2.3). • Consider engaging with local police and judicial services to look for appropriate alternatives to detention through a restorative justice approach, such as replacing a stolen item or performing community service.³³
<p><i>How will the site hand over children who have been detained?</i></p>	<ul style="list-style-type: none"> • Understand the risks posed to children by the police or other government security providers in their handling of detainees and prisoners. • Integrate the risks into risk management plans related to the Voluntary Principles. • Agree handover procedures between the company and government security
<p><i>Does the police/host country make a distinction between juveniles and adults in its treatment of suspects, detainees or convicts?</i></p>	<ul style="list-style-type: none"> • Understand the police and judicial approaches to detention, punishment and sentencing and the conditions of detention facilities, in order to understand whether children are likely to have their rights infringed by the government. • Assess the risks to children from the government security apparatus and integrate this information into the Voluntary Principles risk management process. • Consider what policy and approach the company will have regarding handing over children to public security/governments when there is a likelihood of abuse of the child's rights. • Explore alternatives to detention, e.g., diversion programmes, civil society providers.
<p><i>Do public security providers have a history of abusing or targeting children?</i></p>	<ul style="list-style-type: none"> • Understand the risks to children from public security providers. • Integrate the risks into the Voluntary Principles risk management plans, including the company's approach to public security due diligence, training, dependency on public security providers and any memorandum of understanding.

³³ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (A/RES/45/113), 14 December 2014, <www.un.org/documents/ga/res/45/a45r113.htm>.

Box 9. Barrick's reporting procedure for human rights

Barrick has developed internal global procedures through which employees can notify management of potential human rights violations, and which outline how alleged human rights violations will be investigated. Barrick emphasizes and requires that all rumours of possible human rights violations be reported. Employees are encouraged to use Barrick's 'Compliance Hotline' to report any potential human rights abuses they might have witnessed or heard about. As a result, a variety of security related issues have been reported, including allegations of police and private security using excessive force and being involved in harassment. Barrick requires all allegations to be investigated by external, corporate or joint investigators.

Source: Barrick Gold Corporation, 'Annual Report on Barrick's Voluntary Principles on Security and Human Rights Program 2014', February 2015; open PDF from <www.voluntaryprinciples.org/wp-content/uploads/2015/04/Barrick-Public-Report-April-2015.pdf>.

6.3 Temporary or permanent loss of a family member Scenario

Indirect impacts on children that are related to security management include the arrest or detention of parents or caregivers, for example, as a result of trespassing. The loss of a family member could occur through such scenarios as the following:

- A single parent, working for a mine, was caught in a violent strike and arrested by police called in to break up the strike. He was sentenced to two years' imprisonment. His two children are deprived of their family environment, and it will be the government's duty to support and protect them.
- An employee caught stealing at an operation was restrained by the company's private security provider. Due to poor training, the hold used by the security guard resulted in the employee suffocating, leaving four children and their mother without any income.

Although the government is ultimately responsible for providing protection and assistance to children deprived of their family environment, companies should be aware of the impacts that they may have on the children who are made vulnerable following security incidents that the company is directly involved in.

In cases of failure of the State to protect, the company could monitor how the situation of children affected by abuses evolves, especially when it results in child and/or female-headed households. Some potential tasks could include engaging with informal networks, traditional authorities, social services or local NGOs.

6.4 Employment of children

Because children should be protected from economic exploitation and from performing any work that is likely to be hazardous (Convention on the Rights of the Child, article 32), companies should prohibit the recruitment or use of children in any aspect of security services.

International Labour Organization (ILO) Conventions 138 and 182 state that the basic minimum age for work should not be below the age for finishing compulsory schooling, and in any case not less than 15 years old. Moreover, children under age 18, or age 16 under strict conditions, should not do any hazardous work. This means that children should not be engaged for security or military purposes, but also that they should not be used by the security provider for any other tasks, including food procurement, logistics and administration.

Tool 6 Security

Scenario Reliance on the security provider’s compliance with national legislation is not always sufficient to mitigate the risks of employing children, as illustrated in the following scenario:

Following a security incident where a guard was left medically unfit to work it is revealed that the security guard was only 16 years old, despite national laws stating only those over age 18 may be employed as security guards. Insurances will not compensate the child since the company is responsible for not being compliant with national laws. Moreover, the amount of the compensation might be high because it is often calculated on the basis of the age of the person injured.

For companies working with public and private security providers, staff should address the questions and consider the strategies and action listed in Table 14.

Table 14. Avoiding the use and employment of children in security

Risks: If children working in security services are abused or injured and the company did not ensure that national laws were respected, the company will face heavy financial constraints and its reputation will be tarnished.	
Questions	Strategies and action
<i>Is there appropriate national legislation regarding the minimum age of security staff?</i>	<ul style="list-style-type: none"> • Review the national regulations and law concerning private security provision. • Integrate the legislation into the Voluntary Principles risk considerations. • Integrate international standards into internal processes if national legislation in host countries is not adequate.
<i>Is there a clause in security contracts that prevents children from working in security, an exceptionally hazardous role?</i>	<ul style="list-style-type: none"> • Review contracts with private security providers to ensure there is an appropriate clause regarding the minimum age of security staff. • Revise the Voluntary Principles risk assessment, using contract amendments and oversight as mitigation where necessary.
<i>Is there sufficient oversight of the private security providers regarding the ages of their staff?</i>	<ul style="list-style-type: none"> • Review contract management of private security providers to ensure periodic demonstration of compliance with the requirements to not employ children. • Employ a rigorous age verification process.
<i>Do public security providers have a history of recruiting children?</i>	<ul style="list-style-type: none"> • Understand the police and army/defence forces recruitment policy. • Assess the risk of complicity if children are employed as part of public security, and integrate this factor into Voluntary Principles risk assessment.