

ESSENTIAL STEPS FOR BUSINESS TO RESPECT HUMAN RIGHTS

GUIDANCE NOTE

Why the Essential Steps?

As the United Nations Human Rights Council has confirmed, businesses have a responsibility to respect internationally recognised human rights. As a result, it is critically important for businesses to understand the concrete actions they must take in order to apply these broadly recognised principles in their day-to-day business operations. To help in this process, the companies participating in the Business Leaders Initiative on Human Rights (BLIHR) have identified a set of “essential steps” that companies must take, as a minimum, to meet this responsibility. This is just a starting point - a level playing field across all business sectors and geographies. There will be other more specific responsibilities for any company depending on their business sector and geographic locality. These steps are designed to set out basic expectations for companies with respect to human rights. They are the product of an exercise carried out by the BLIHR members and have not been subject to extensive consultation procedures. As such, we welcome comments from a wide range of stakeholders.

Terminology

Complicity

Complicity is both an ethical and legal concept. In broad terms, corporate complicity in human rights violations refers to indirect involvement by a company in abuses carried out by a government or other actors. Charges of complicity can be raised when a company knew, or should have known, of its contribution to the abuse. Companies face risks of allegations that they have been complicit in the abuse of a wide range of human rights, including civil and political rights, and economic, social and cultural rights. As a matter of prudence, companies seeking to avoid accusations of complicity in human rights abuses should conduct due diligence to determine whether planned or ongoing activities may contribute to an abuse by another party. In conducting due diligence, companies should consider both the ethical and legal dimensions of their actions.

Employees or Workers

The Essential Steps use the terms “worker” and “employees” throughout. The term “employee” is used to refer to individuals in a mutually acknowledged employee-employer relationship, regardless of whether the duties the individual performs are hourly-compensated labourer, trades workers or professional or managerial duties. The term “worker” is used more broadly to refer to individuals performing staff functions on the employer’s premises and includes employees, independent contractors, leased workers and on-site vendor staffing. “Worker” is not confined to those performing labourer or trades work.

There may be instances where a particular human right seems applicable only or mainly to “employees”. In such cases, the Essential Steps refer to “employee”. On the other hand, the same right might apply to both “employees” and “workers”, such as the right to liberty of movement. In such cases, the broader term “worker” is used. Of course, the scope of the human rights addressed in the Business and Human Rights Matrix should reasonably be interpreted to include the broader term “worker” wherever the context does not suggest the narrower term “employee”.

Conflict resolution mechanisms

The mechanism employed by the company in accordance with ES 9 should be easily accessible, legitimate, transparent, predictable, equitable, and human rights-compatible.

INTRODUCTION

Businesses have an important role to play in the realisation of human rights around the world, including those of stakeholders such as shareholders, employees, customers, suppliers, members of communities, and many others.

The BLIHR companies believe that business must operate in a manner that respects internationally recognised human rights, including those rights set forth in the Universal Declaration of Human Rights, its associated covenants (collectively, the International Bill of Human Rights) and the international agreements inspired by them. We believe these rights are inherent rights of all humans that stem simply from the fact that they are human.

Set forth below are the essential steps that we believe businesses should take to respect human rights. This is not an exhaustive list of steps. They are dynamic in nature. Companies may choose to take additional steps to enable the realisation of the human rights of their stakeholders; the essential steps listed here are the starting point, not the end point, for that discussion. We recognise that not all companies are taking all of these steps at this time, but we believe it is necessary that they establish a plan of action to do so, and take steps towards realising that goal as soon as reasonably practicable within the context of their operations. We also recognise that as a result of unique facts, some steps may not apply to a particular company, but that conclusion should not be made until an internal assessment processes confirms that this is the case.

In addition, we believe that businesses must not be complicit in the violation of any of the rights, even rights not typically considered applicable in a business context. Companies can potentially affect all human rights and be complicit in their violation.

We note that environmental impact, corruption and bribery also directly impact human rights, and we consider it critical for companies to take these impacts into account.

We acknowledge that business can violate or be complicit in violations of international criminal laws and humanitarian laws that are not covered here, and business should also take steps to avoid violations or complicity in these areas.

Finally, the BLIHR companies acknowledge that companies must comply with applicable local, national and international law, whether or not it is enforced, and respect the principles of relevant international law where local or national law is below or silent on this standard. Where local or national law conflicts with the essential steps set out below, the BLIHR companies believe that businesses should strive to uphold the spirit of internationally recognised human rights while still complying with law.

ESSENTIAL STEPS

NUMBER	ESSENTIAL STEPS
RESPONSIBILITIES IN RELATION TO THE RIGHT TO NON-DISCRIMINATION	
1.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Not discriminating on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as ethnic origin, disability, age, health status, parental or marital status or sexual orientation, except when justified by reasons intrinsic to specific work requirements, and in particular: b. Providing a work environment free from any form of harassment, particularly sexual harassment, intimidation or bullying; c. Ensuring that promotion and termination are based on legitimate non-discriminatory business reasons, such as experience and competence; d. Ensuring equal pay for equal work is paid without distinction based on grounds mentioned above, taking into account differences in wages by country and region; e. Not viewing affirmative action policies as discriminatory.
RESPONSIBILITIES IN RELATION TO THE RIGHT TO LIFE	
2.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Ensuring that company workplaces, assets and operations do not pose a risk to the lives of workers or other potentially impacted persons; b. Endeavouring to minimise risks of fatality or injury that may occur from using its products; c. If the product is intended to cause injury (e.g. firearms), demonstrating due diligence as to how the product is sold; d. Ensuring business security arrangements are used only when necessary for preventive or defensive services; e. Ensuring persons providing security services are trained in responsible use of firearms, including using force only when strictly necessary and only to the extent proportional to the threat.
RESPONSIBILITIES IN RELATION TO THE PROHIBITION AGAINST TORTURE, AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND THE RIGHT TO CONSENT TO SCIENTIFIC AND MEDICAL EXPERIMENTATION	
3.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Not committing torture or cruel, inhuman or degrading treatment or providing equipment intended for these purposes; b. Abstaining from using verbal or physical abuse or harassment in disciplining workers; c. Ensuring the free, prior and informed consent in writing of any persons who participate as subjects in scientific and medical testing or product testing that poses a risk to the participant.

RESPONSIBILITIES IN RELATION TO THE PROHIBITION AGAINST SLAVE, FORCED OR COMPULSORY LABOUR

4. In respecting this right, the BLIHR companies see the following as essential steps:
- a. Not making use of slave, forced or compulsory labour in any form;
 - b. Ensuring that employees are free to resign;
 - c. Ensuring that all feasible measures are taken to prevent workers from falling into debt bondage through company loans or otherwise.

RESPONSIBILITIES IN RELATION TO THE RIGHT TO LIBERTY AND SECURITY OF PERSON

5. In respecting this right, the BLIHR companies see the following as essential steps:
- a. Not physically restraining any person except when necessary to protect that person's or others' health, safety and property, and only until such time as the threat has been neutralised and the person has been released or, if appropriate, handed over to the relevant national or local authority;
 - b. Ensuring that any detention as described above is as short as possible and that the situation is resolved expeditiously.

RESPONSIBILITIES IN RELATION TO THE RIGHT TO LIBERTY OF MOVEMENT AND FREEDOM TO CHOOSE RESIDENCE

6. In respecting this right, the BLIHR companies see the following as essential steps:
- a. Not withholding workers' or other individuals' original travel documents or identity cards;
 - b. Not acquiring a person's home, land or land rights without due process of law.

RESPONSIBILITIES IN RELATION TO THE RIGHT TO PRIVACY

7. In respecting this right, the BLIHR companies see the following as essential steps:
- a. Ensuring that, upon request, individuals will be made aware of personal information that the business maintains on them, where it is held and how it can be corrected;
 - b. Not asking workers about their health or pregnancy status except when the status is directly relevant to the performance of job duties, and seeking to keep such information confidential;
 - c. Ensuring adequate protection of personal information held by the company;
 - d. Only providing an individual's personal or other information to government authorities to the extent required by law and upon request, or with the individual's permission;
 - e. Seeking to minimise the use of monitoring, surveillance and security measures that may invade the privacy of individuals to the extent practicable, and using such measures solely for the legitimate business purpose of protecting its assets and the safety of its workers or others.

RESPONSIBILITIES IN RELATION TO THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

8. In respecting this right, the BLIHR companies see the following as essential steps:

	<ul style="list-style-type: none"> a. Making reasonable accommodation for the practice of faith by workers in the workplace and with respect to time off provided; b. Not preventing workers from wearing clothing or other symbols that are an expression of their faith, provided that such clothing or symbols do not increase the risk of accidents in the workplace and do not interfere with their ability to perform their job responsibilities.
RESPONSIBILITIES IN RELATION TO THE RIGHT TO HOLD OPINIONS AND THE RIGHT TO FREEDOM OF EXPRESSION AND INFORMATION	
9.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Providing access to a mechanism that seeks to find solutions through dialogue for those who believe their human rights have been affected by the company, seeking to make the public and workers aware of such mechanisms, how to submit complaints to them, and facilitating access, including enabling anonymous submissions where they are legally permissible, while ensuring that the complainants are not discriminated or retaliated against for making a complaint in good faith; b. Not interfering with the rights of workers to express themselves freely, nor their right to access information, which enables them to perform their work properly; c. Not interfering with the rights of workers to access information from external sources or internal sources unless in cases of confidential business information; d. Endeavouring to provide workers and local communities with information on business activities that directly impact them, while maintaining necessary business confidentiality; e. Ensuring that operations, products or services do not impede the public's access to information, unless specifically required by law.
RESPONSIBILITIES IN RELATION TO THE PROHIBITION AGAINST INCITEMENT OF NATIONAL, RACIAL OR RELIGIOUS HATRED	
10.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Ensuring that hate speech is not endorsed by the business and not used by employees in the scope of their employment.
RESPONSIBILITIES IN RELATION TO THE RIGHT OF PEACEFUL ASSEMBLY	
11.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Not interfering with announced and peaceful employee or union meetings on their premises at agreed locations and times in compliance with local laws or collective agreements, including not allowing police or other outside forces to interfere with such meetings unless such meetings unduly disrupt business operations or pose security risks; b. Not using force to interfere with demonstrations against the business or near its premises unless such demonstrations pose a safety or security risk to the business or its workers.

RESPONSIBILITIES IN RELATION TO FREEDOM OF ASSOCIATION, INCLUDING THE RIGHT TO FORM AND JOIN TRADE UNIONS AND THE RIGHT TO STRIKE

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| 12. | <p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Recognising the right of workers to join, form or not to join trade unions of their choice without fear of intimidation, reprisal or harassment; b. Engaging in collective bargaining with legally recognised employee representative organisations to conduct negotiations on terms and conditions of employment; c. Respecting workers’ rights to organise peaceful and properly authorised strikes. |
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RESPONSIBILITIES IN RELATION TO THE RIGHT TO TAKE PART IN THE CONDUCT OF PUBLIC AFFAIRS

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| 13. | <p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Ensuring company policies and practices do not prevent workers from participating in political processes outside the workplace; b. Not pressuring workers to vote for or support particular parties or candidates. |
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RESPONSIBILITIES IN RELATION TO THE RIGHTS OF PERSONS TO THEIR CULTURE, RELIGIOUS PRACTICE AND LANGUAGE

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| 14. | <p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Seeking to make work schedules and business practices respectful of minority groups’ cultures or religions; b. Allowing workers to speak their own language in the workplace when this does not interfere with their ability to fulfil their job responsibilities or adversely impact workplace health, safety or security; <p>In particular, in relation to Indigenous and traditional peoples, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> c. Where the operation or facility may impact territory or resources occupied or used by Indigenous or traditional peoples, undertaking full disclosure regarding project impact, and facilitating free, prior and informed consultation and informed participation of the community on matters that affect them directly; d. Avoiding or minimising the use of Indigenous lands, documenting the use of the land and the participation and consultation of the Indigenous or traditional peoples without prejudice to the claims of the Indigenous or traditional people; e. Offering appropriate compensation and due process to those with customary use of the land for the use of land; f. Entering into good faith negotiations with the community; g. Only relocating Indigenous or traditional peoples when no other feasible alternative exists; h. When land is no longer required for commercial use, restoring it and facilitating the return of Indigenous or traditional peoples to their land; i. Seeking to ensure that the appropriate party obtains consent in situations concerning |
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	relocation from lands and territories; the use of lands for commercial activities; and for plans to store or dispose of hazardous materials on the lands or territories of Indigenous or traditional peoples.
RESPONSIBILITIES IN RELATION TO THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK	
15.	<p>In respecting this right the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Providing in writing an outline of job duties, payment and regular hours of work; b. Endeavouring to provide reasonable advance notice of termination of employment and reasons for the termination, while allowing employers to terminate without notification under extreme circumstances; c. Providing workers with basic technical training as needed to enable the fulfilment of work duties.
RESPONSIBILITIES IN RELATION TO THE RIGHT TO A FAIR WAGE AND DECENT LIVING	
16.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Paying employees wages in accordance with the local and national applicable wage statutes, whether or not they are enforced; b. Seeking to understand the minimum wage requirement for basic needs to be met in the area of operation and seeking to ensure workers are provided with remuneration at or above such amount; c. Paying full-time employees regularly and at intervals not exceeding one month; d. Providing employees with a wage statement including information on the pay period concerned, the gross amount of wages earned, any deduction which may have been made and the reasons therefore, and the net amount of wages due; e. Not making deductions from wages as a disciplinary measure if those wages have already been earned; f. For non-salaried employees, keep accurate written records on each employee's hours of work, overtime work and wages paid; g. Not charging workers exploitative prices for company-provided, necessary goods and services when they have limited access to other providers.
RESPONSIBILITIES IN RELATION TO THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS	
17.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ol style="list-style-type: none"> a. Minimising the risk of accidents, injury, death and exposure to health risks in the workplace; b. Identifying hazards and unsafe behaviours and delivering necessary improvements through an effective health and safety management system; c. Providing adequate sanitary facilities in the workplace; d. Ensuring workers have the skills, knowledge and resources necessary to maintain a safe and healthy working environment, enabling them to raise safety concerns; e. Providing details on the effects of potentially harmful substances and the measures to be taken to protect workers' health and safety in their use; f. Providing necessary personal protective equipment at no cost and ensuring workers

	<p>are trained in its use;</p> <p>g. Investigating work-related accidents, keeping records of incidents, stating their cause and taking remedial measures to prevent similar accidents;</p> <p>h. Providing measures to deal with emergencies and accidents, including first-aid arrangements;</p> <p>i. Allowing workers to remove themselves from potentially unsafe or unhealthy work situations, not subjecting them to adverse consequences as a result and not requiring them to return to work as long as the condition(s) continues.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO REST, LEISURE AND HOLIDAYS	
18.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Maintaining a maximum of 6 days of work every 7 days, not to regularly exceed 48 hours of work per week with overtime not exceeding 12 hours per week. In situations where the business is under extraordinary pressure and only for short periods of time, strive to limit work hours to 80 hours every 6 days if agreed to by the worker;</p> <p>b. Allowing workers in certain work environments (such as construction, utilities and exploration), to voluntarily work additional hours beyond those referenced above;</p> <p>c. Compensating for overtime at a rate higher than the normal hourly wage rate or providing time off in lieu thereof where permitted;</p> <p>d. Striving to provide employees with at least three weeks of paid leave per year, subject to requisite seniority, collective bargaining and other relevant considerations.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO SOCIAL SECURITY, INCLUDING SOCIAL INSURANCE	
19.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Consider, in the provision of employee benefits, gaps in state-provided welfare schemes that normally provide for such items as medical care, sickness benefit, maternity leave or benefits, disability coverage or retirement;</p> <p>b. Make required payments to state social security schemes and other such mechanisms for employees.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO A FAMILY LIFE	
20.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Providing women with maternity leave for a minimum of 14 weeks without risk of losing their employment or responsibilities;</p> <p>b. Not subjecting pregnant or breastfeeding women to conditions that would be harmful for them;</p> <p>c. Granting breastfeeding women reasonable breaks and a designated area where feasible for breastfeeding during work hours;</p> <p>d. Granting women temporary leave in case of illness or complication related to pregnancy or birth, without risk of losing their employment.</p>
RESPONSIBILITIES IN RELATION TO THE PROHIBITION AGAINST EXPLOITATIVE CHILD LABOUR	
21.	<p>In respecting this right the BLIHR companies see the following as essential steps:</p>

	<ul style="list-style-type: none"> a. Not engaging children under the age of 15 in work (or 14 if the state in question has received an exemption); b. Not engaging children under the age of 18 for work which is likely to harm their health, safety or morals; c. Not engaging children between the ages of 15 and 18 for work that may hinder their education or compromise their health (with the exception that in some countries the age limit may be reduced to 14, provided that the state in question has received an exemption); d. Consider the best interests of the child as they transition out of work, in cases in which unauthorised child labour is discovered.
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RESPONSIBILITIES IN RELATION TO THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, INCLUDING ADEQUATE FOOD, CLOTHING AND HOUSING

22.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Ensuring reasonable access to adequate food for workers where the location or hours of work of the business make it difficult for workers to access food; b. Ensuring that when the company is the only readily available source of food for workers, such food is sufficient to satisfy dietary and nutritional needs; c. Taking reasonable steps to ensure that company operations do not adversely impact local or regional access to food; d. Providing adequate work clothing to workers at no cost if required for work responsibilities when ordinary clothes are not permitted in the workplace; e. When providing residential or overnight facilities, ensure they are located within a reasonable distance from the workplace and that they meet or exceed minimum local legal or regulatory standards of habitability including adequate sanitation, safety, space, size, lighting and insulation or ventilation; f. Not causing the forcible eviction of individuals from their residences without their having had access to representation and full enjoyment of legal due process.
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RESPONSIBILITIES IN RELATION TO THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

23.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <ul style="list-style-type: none"> a. Making available clean, potable water in the workplace; b. Not producing, distributing, marketing or advertising products that are potentially harmful when used as intended, without clear warning of such hazards; c. Conducting appropriate testing of products with potential health or safety implications; d. Promptly recalling malfunctioning products; e. Not targeting children below 18 when advertising products presenting known or unreasonable risks of harm; f. When operating in areas where contagious diseases are endemic, providing appropriate information and training to mitigate risk and, in particular, seeking to identify and mitigate cases in which company operations exacerbate the prevalence of
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	<p>contagious diseases in the local community;</p> <p>g. Taking reasonable steps to ensure that company operations do not adversely impact individuals' level of health, including adverse impacts related to water and air;</p> <p>h. Providing medical assistance and emergency care for workers in the workplace if they are unavailable elsewhere.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO EDUCATION	
24.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Ensuring that company operations do not interfere with individuals' physical access to educational facilities.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO TAKE PART IN CULTURAL LIFE	
25.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Making reasonable accommodations for workers to participate in cultural life when such access is otherwise unavailable in the business location;</p> <p>b. When planning and conducting business operations, seek to avoid adverse impacts on existing cultural landmarks.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO ENJOY SCIENTIFIC PROGRESS	
26.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Considering how the business's intellectual property and technology could benefit as many people as possible without compromising legitimate business interests.</p>
RESPONSIBILITIES IN RELATION TO THE RIGHT TO PROTECTION OF THE BENEFITS RESULTING FROM SCIENTIFIC, LITERARY OR ARTISTIC PRODUCTIONS	
27.	<p>In respecting this right, the BLIHR companies see the following as essential steps:</p> <p>a. Ensuring that employees are adequately compensated for their contributions to inventions made for and used by the business;</p> <p>b. Respecting the right of indigenous peoples to maintain, control, protect and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions.</p>
RESPONSIBILITIES IN RELATION TO THE ACTIONS OF OTHERS (AVOIDING COMPLICITY)	
28.	<p>In relation to avoiding complicity, the BLIHR companies see the following as essential steps:</p> <p>a. Ensuring non-complicity in any of the internationally recognised human rights . While companies can be involved in violations of any human rights, the rights listed below predominantly relate (at the time of writing) to direct violations of rights by states, where the company needs to ascertain whether it is complicit (refer to the Guidance Note for further details).</p> <p>The list below is subject to change over time:</p> <ul style="list-style-type: none"> ○ the rights of detainees,

	<ul style="list-style-type: none">○ the right to a fair trial,○ the right to a remedy,○ prohibition against imprisonment for non-fulfilment of contracts,○ the right to own property,○ the right to seek asylum,○ the prohibition against retroactive punishment,○ the right to recognition as a person before the law and equality before the law,○ the right to form a family,○ the right to a nationality.
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