



RJC Human Rights Exchange - Webinar

Security and Human Rights

Adrian Powell & Mark Knight

19th March 2015



Agenda

Welcome:

- Maria Mursell, *Training and Assurance Manager, RJC*
- Training Responsible Jewellery –

Presentation (40 mins):

- Adrian Powell, *Chief of Staff at Tsamota Ltd, RJC Topic Expert*
- Mark Knight, *Director at Montreux Solutions, RJC Topic Expert*

Q&A (20 mins):

- Questions from participants to be sent to ‘**Training Responsible Jewellery**’ using the **chat function** throughout training



*Security and Human Rights
Risks and Solutions*

Adrian Powell
Tsamota Ltd

Presentation Overview



1. Tsamota
2. Adrian Powell
3. Introduction
4. Risks
5. Case Study– Anvil Mining
6. Solutions– Due Diligence
7. Solutions– Oversight
8. Solutions– Investigation
9. Conclusion
10. Contacts

1. Tsamota



- ▶ Security and justice sector reform consultancy
- ▶ Clients include: US DoS, British, Dutch and Norwegian Foreign Ministries
- ▶ Tsamota Natural Resources provides security and human rights advice, due diligence and investigation services

2. Adrian Powell

- ▶ Solicitor, England and Wales
- ▶ Previously legal advisor to major international Private Security Company
- ▶ Extensive field-based international experience in Iraq and Afghanistan
- ▶ 11 years in the Royal Military Police

3. Introduction

- ▶ Government and private security forces necessary
- ▶ All security forces expose companies to risk
- ▶ All security forces must be managed in accordance with international law and best practice

4. Risks



5. Case Study– Anvil Mining



- ▶ Canadian mining company
- ▶ Mine in Katanga, Democratic Republic of Congo
- ▶ Mine attacked by rebels, 2004
- ▶ Congolese Army uses Anvil Mining vehicles and drivers to respond to rebellion, 2004
- ▶ Army commits human rights abuses, 2004
- ▶ Anvil faces criminal investigation in DRC and Australia, 2005–2007
- ▶ Anvil faces civil litigation in Canada, 2010–2012
- ▶ Other examples include Shell in Nigeria, Monterrico Metals in Peru, Hudbay Minerals in Guatemala, Barrick Gold in Tanzania and Papua New Guinea, Talisman Energy in Sudan...

6. Solutions– Due Diligence

- ▶ Previous allegations of human rights abuses/criminality
- ▶ Human resources and recruitment procedures
- ▶ SOPs
- ▶ Licences and sourcing of weapons
- ▶ Contractual boundaries– PSC contract that specifies compliance with best practices (ICoC, PSC.1, etc.)

7. Solutions – Oversight

- ▶ Local engagement/community relations
- ▶ Constant evaluation and progress
- ▶ Pre contract due diligence
- ▶ Pre contract assistance in ensuring salient points covered
- ▶ Post incident investigations

8. Solutions – Investigation

- ▶ Investigating authority often discredited
- ▶ Important to understand why incidents occurred
- ▶ Important to communicate what actually occurred to stakeholders
- ▶ Credibility of investigators is key

9. Conclusion

- ▶ Security forces protect from threats, but also generate them
- ▶ Proactive approach to security management is key
- ▶ Where incidents occur, investigate
- ▶ International best practice is key, complying with local law alone is insufficient
- ▶ Variety of tools and advisory services available

10. Contacts



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Responsible Jewelry Council

Security and Human Rights

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Mark Knight

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Security & Human Rights

Security is Human Rights

- Right to life, liberty and security of person
- Right to own property alone as well as in association with others





The Environment

- Voluntary Principles on Security & Human Rights – 2000
- Montreux Document – 2008
- International Code of Conduct for Private Security Providers (ICoC)– 2010
- PSC.1 Management System for Quality Private Security Operations – 2012
- ICoC Association – 2012
- UN Guiding Principles on Business and Human Rights - 2011



Common Themes

- Respect human rights
 - documents specify prevalent rights specific to security
 - all focus on Rules on the Use of Force (RUF)
- Selection and vetting of sub-contractors
- Selection and vetting of security personnel
- Training of security personnel
- Grievance procedures – allegations related to human rights



Note on Terminology:

- **Assess actual and potential adverse human rights impacts**
- Potential adverse human rights impacts = **RISK**
- Actual adverse human rights impacts = Realisation of risk - **IMPACT**
- Business Risk Assessment – impact is known/ felt
- Human rights risk assessment – impact invisible
- Human rights impact assessment – make impacts visible



Comparison with UNGPs

	UN Guiding Principles on Business & Human Rights						
	Policy	Due Diligence					Grievance
		Risk	Integrate	Impact	Communicate	Remedy	
VPs							
MD							
ICoC							
PSC.1							
ICoC-A							





Comparison with UNGPs

	UN Guiding Principles on Business & Human Rights						
	Policy	Due Diligence					Grievance
		Risk	Integrate	Impact	Communicate	Remedy	
VPs		✓				✓	?
MD							
ICoC	✓		✓			✓	✓
PSC.1	✓	✓	✓		✓		✓
ICoC-A	✓	✓	✓	?		?	?





1. Does your company contract directly with a Private Security Company?

- Understand the human rights context
- Due diligence on sub-contracted PSCs
- Require membership of ICoC Association
- Require PSC.1 (ISO) standard
- Become an Observer of the ICoC Association

Additionally, dependant on size/ resources

- Undertake **HR risk assessment** to inform the PSC contract
- Establish requirements and maintain oversight of PSCs:
 - Selection and vetting of personnel
 - RUF – relevant to legal context and HR context
 - Initial and recurrent training of personnel
 - Grievance mechanism – internal and external – effective and appropriate
 - Effective remedy – joint process for remedy
- Undertake a **HR impact assessment** during the life of the contract



2. Does your company directly employ personnel to provide security at your sites or installations?

Organic security – external standards and mechanisms are often not an option

INTEGRATE security and human rights within existing Corporate

- Business Ethics,
- Sustainability
- Community relations
- Human Rights policies
- **AND processes**

CHALLENGES

- Cultural differences between sustainability, community relations and the security functions
- End state: ‘Security is human rights’



HR RISK ASSESSMENT

- Understand the human rights context
- Understand how the security provision will interact with that context
- Identify rights holders – internal and external

HR RISK MANAGEMENT

- Communicate with rights holders
- Establish measures to **mitigate the risks** to human rights
- Establish reporting to monitor the **application** of the mitigation
- Establish grievance mechanisms to access data on **effectiveness** of mitigation measures

HR IMPACT ASSESSMENT

- Impacts on rights holders – full rights spectrum
- Continual improvement
- Fluid never fixed – start the process again



3. Is your company required to coordinate with, or provide support to, public security providers, e.g. police or military, in order to ensure security at your company's sites or installations?

Experience and lessons of VP companies – extractive companies

Complicity: non-legal

- Leverage – ability to prevent or mitigate the adverse impact
- How crucial the relationship – imposed relationship
- Severity of the adverse human rights impact



UNDERSTAND THE HUMAN RIGHTS CONTEXT - MONITOR

- Rights impacted
- Rights holder/ communities impacted/ targeted
- Severity of impact

INCREASE LEVERAGE

National Level

- Agreement on role of public security at operational sites
- National level coordination & command of public security
- Group with other companies – engage Embassies
- Support to CSOs focused on SSR

Operational level

- Relationships – structured, recorded & professional
- Training – human rights training of public security
- Support – must be contingent upon human rights impacts
- Monitoring – structured, recorded & joint
- Grievance mechanisms - joint
- Joint remediation processes



Specific Questions

- Effectiveness of VPs as key control mechanism?
- Every country has its own laws and legal regulations on Security and Human Rights, how could we quickly gather them for reference?
- Challenges in frisking/physical searching of employees.
- Keen to understand the guidance being provided?
- Security contractors often known for working 12-hour shifts in many countries, how to approach?



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THANK YOU

SECURITY IS HUMAN RIGHTS

Mark Knight

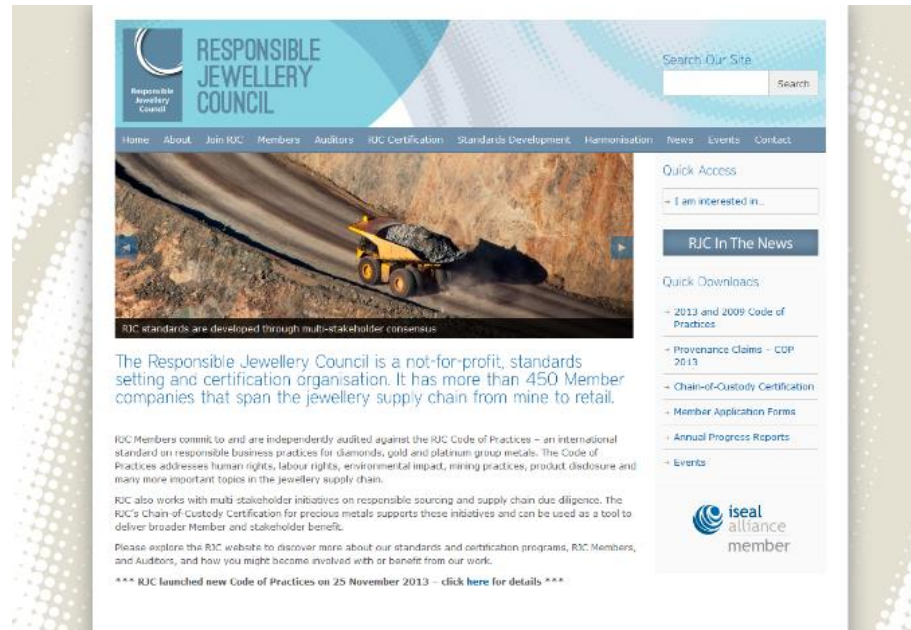
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Thank you for your attention!

Any questions please contact: training@responsiblejewellery.com
or visit our website at <http://www.responsiblejewellery.com/>



The screenshot shows the homepage of the Responsible Jewellery Council website. The header features the RJC logo and a search bar. The main navigation menu includes links for Home, About, Join RJC, Members, Auditors, RJC Certification, Standards Development, Harmonisation, News, Events, and Contact. A large banner image depicts a yellow mining truck on a dirt road in a mine, with the text "RJC standards are developed through multi-stakeholder consensus" overlaid. Below the banner, a paragraph describes the RJC as a not-for-profit, standards setting and certification organisation with over 450 member companies. Further down, it states that RJC members commit to and are independently audited against the RJC Code of Practices, an international standard for responsible business practices. The website also features a "Quick Access" section with a dropdown menu, a "RJC In The News" button, and a "Quick Downloads" section listing various documents like the 2013 and 2009 Code of Practices, Provenance Claims - COP 2013, Chain-of-Custody Certification, Member Application Forms, Annual Progress Reports, and Events. At the bottom, there is a logo for "iseal alliance member" and a note that RJC launched its new Code of Practices on 25 November 2013.



RESPONSIBLE SUPPLY CHAINS AND HUMAN RIGHTS (PROVISIONS 5-12)

6 *Human Rights*

- 6.1 Members shall respect Human Rights and observe the UN Guiding Principles on Business and Human Rights in ways appropriate to their size and circumstances, including as a minimum:
- A policy commitment to respect Human Rights;
 - A Human Rights due diligence process that seeks to identify, prevent, mitigate and account for how they address their impacts on Human Rights;
 - Where Members identify that they have caused or contributed to adverse Human Rights impacts, they shall provide for or cooperate in legitimate processes to enable the remediation of those impacts.
- 6.2 Members, if operating in, or sourcing Diamonds, Gold or Platinum Group Metals directly from, a Conflict-Affected Area, shall use the Human Rights due diligence process to assess the heightened Risks of adverse Human Rights impacts.

11 *Security*

- 11.1 Members shall assess security Risks and establish measures that protect against product theft, damage or substitution of products within the premises and during shipments. Product security measures shall prioritise the protection of Employees, Contractors, Visitors and personnel employed by relevant Business Partners.
- 11.2 Members shall ensure that all security personnel respect the Human Rights and dignity of all people and use force only when strictly necessary and the minimum proportionate to the threat.
- 11.3 Members with Mining Facilities shall ensure that security personnel receive training on and operate in accordance with the Voluntary Principles on Security and Human Rights (2000). The human rights of any Artisanal and Small-Scale Mining (ASM) should be explicitly addressed in training of private security personnel.
- 11.4 Members whose business is to provide private security services to the Jewellery supply chain shall be a signatory to the International Code of Conduct for Private Security Service Providers (ICoC).



(COP 6) HUMAN RIGHTS

A Definitions and applicability

Human rights are universal rights and freedoms regarded as belonging to all people without discrimination based on internationally recognised standards. At a minimum, the RJC understands human rights to mean those rights articulated in the International Bill of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work and Applicable Law.

Source:

- *United Nations Human Rights – What are Human Rights?*
www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

The **Human Rights** section of the COP is applicable to all Members.

B Issue background

Human rights are relevant to all businesses, regardless of size, sector or country of operation. The kinds of rights which are regarded as human rights include:

- Social, cultural and economic rights – such as the right to participate in cultural activities, the right to food, the right to clean drinking water and sanitation, and the right to education;
- Labour rights – such as the right to freedom of association and effective recognition of the right to collective bargaining, and freedom from forced labor, child labour and discrimination;
- Civil and political rights – such as the right to life and liberty, freedom of expression, and equality before the law.

While some of these human rights might sound abstract from a business perspective, they are often the underlying rationale for a company's policies and procedures. For example, a company's health and safety procedures may not use 'human rights' language, but in effect respects employees' right to life, the right to just and favourable conditions of work and the right to health. A company policy on child labour in effect respects the right to protection of the child and the right to education.

SMALL BUSINESS

Even small businesses have a responsibility to respect human rights. However the way small businesses approach this responsibility will vary according to their size, sector, operational context and structure, as well as the risks of creating adverse human rights impacts. Smaller enterprises often have more informal processes and management structures than larger companies, so their policies and processes for respecting human rights can usually be more informal. But where smaller enterprises have severe human rights impacts, this will require corresponding measures irrespective of the size of the business.

Source: *UN Guiding Principles on Business and Human Rights - Principle 14*

