



TOOLKIT ON EFFECTIVE GRIEVANCE REDRESS MECHANISMS IN MINING PROJECTS



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You cannot protect the environment unless you empower people, you inform them, and you help them understand that these resources are their own, that they must protect them. //

– Wangari Maathai Quote

ACRONYMS

ACHPR	African Charter on Human and People’s Rights.
CAT	Convention against Torture and other cruel, Inhuman or degrading treatment or Punishment
CBO	Community Based Organisation
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CRC	Convention on the Rights of Children
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
GRM	Grievance Redress Mechanism
HRBA	Human Rights Based Approach
HRDD	Human Rights Due Diligence
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on Migrant Workers and their Families.
IFC	International Finance Corporation
NGO	Non – governmental organization
OECD	Organization for Economic Co-operation and Development
SDG	Sustainable Development Goals
SME	Small Medium Enterprise
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights

ABOUT SOUTHERN AFRICA RESOURCE WATCH (SARW)



- SARW is a regional non-profit organisation that promotes the transparent and accountable use of natural resources in Southern Africa.
- SARW's mandate is to monitor corporate and state conduct in the extraction and beneficiation of natural resources in this region
- SARW also assesses the extent to which mining activities uplift the economic conditions of communities in SADC.
- SARW operates in the 12 countries in the region with active offices in the Democratic Republic of Congo (DRC), South Africa, Zimbabwe, and Zambia.

PURPOSE OF THE TOOLKIT

To contribute towards building an environment for responsible business conduct in mining projects, specifically by strengthening the capacity for effective and sustained community participation, the grievance redress mechanism and environmental justice financing. This is achieved through:

- **Fostering constructive working relationships and alliances** among communities, companies, and governments to achieve effective and sustained community participation, grievance redress mechanism and environmental justice financing in mining projects.
- **Improving opportunities for the sustainable development** of communities around mining and metals operations and regions during all phases of the mining and metals cycle.
- **Providing guidance on how members of the communities**, human rights activists and environment defenders would strongly be involved in community participation, grievance redress mechanism and advocate for environmental justice financing in mining projects.
- **Building capacity within governments, companies, and communities** to contribute towards the achievement of sustainable development. This includes Sustainable Development Goals, especially those related to environmental justice.
- **Enhance capacity of communities and individuals** to advocate for mitigation measures on the adverse impact of business operations.
- **Provide insight on how to develop and implement fundraising strategies;** strategies for effective stakeholder engagement; and to carry out assessments on the many challenges communities may be facing due to the negative effects of business operations.

TARGET AUDIENCE

The toolkit targets affected community members, human rights defenders, environmental justice defenders, individuals, government departments/agencies, companies, Civil Societies Organisations, NGOs, DFIs, etc. who work to promote responsible mining (business) conduct where human rights are highly integrated in operations.



AN OVERVIEW OF MINING COMPANIES IN THE SADC



- In the SADC region, the extractive industries play a significant role in the economic growth and development
- The extractive industry, especially mining, accounts for more than 50% of exports and is the largest foreign exchange earner.
- Almost all the SADC countries have in the recent decades attracted huge Foreign Direct Investment (FDI) in the mining sector.
- However, the extractive industries have been destructive to most surrounding communities,
- Negatives include water and air pollution, displacement of people, destruction of land, denial of freedom of expression and association, child labour, threats and killing of human rights defenders, environmental degradation, and resource depletion
- With weak laws on business and human rights, some mining companies have operated irresponsibly, impacting the environment negatively and causing harm and irreparable damages.

HUMAN RIGHTS IN CONTEXT

- The toolkit defines Human Rights as basic rights and freedoms that belong to every person in the world, from birth until death. These rights are based on dignity, fairness, equality, and respect without any form of discrimination.
- On Mining sector & business and Human rights the toolkit outlines and is guided by the following frameworks:
 - The United Guiding Principles on Business and Human Rights are grounded in recognition of
 - a. States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
 - b. The role of business enterprises as specialised organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights;
 - c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.
- These Guiding Principles apply to all States and all business enterprises, transnational and others, regardless of their size, sector, location, ownership and structure.



HUMAN RIGHTS DUE DILIGENCE

- Human rights due diligence involves the actions taken by a company to identify actual and potential human rights infringements and act upon it.

Strategies for consideration on HRDD include the need to:

- Develop a checklist to assess whether a mining company has put in place a HRDD
- Build capacity of affected communities/individuals and stakeholders
- Engage mining companies for the initial Environmental and Social Impact Assessment (ESIA) report
- Review measures that the mining company was applying
- Assess whether the risks observed are being communicated
- Advocacy for human rights enforcement
- Monitor and audit the process to track human rights impact and the effectiveness of measures



INITIATING EFFECTIVE GRIEVANCE REDRESS MECHANISM IN MINING OPERATION

The toolkit outlines how Grievance mechanisms provide an opportunity to remedy the situation and how it offers a formalised means through which individuals or communities (e.g. including workers in supply chains, consumers and local communities) can raise concerns about the adverse impact of the mining company and seek remedy.

CRITERIA OF AN EFFECTIVE GRIEVANCE REDRESS MECHANISM



Accessible: This requires that GRMs are community centred. It must not be unnecessarily difficult, it should be simple, clear, understandable and known by all segments of affected communities or stakeholder groups for whose use they are intended. There should be adequate assistance for those who face particular barriers to access like cost, culture, literacy, distance etc.



Legitimate: GRMs should inspire confidence and trust from the affected communities or stakeholder groups for whose use they are intendeds.

Predictable: Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcomes available and means of monitoring implementation.



Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms. All complaints should be treated without any form of discrimination regardless of race, status, political affiliation, tribe or education of the reporter. All aggrieved parties should be given equal opportunity to be heard by the responsible person without prejudice.



Transparency: Members of the community or the aggrieved party should have the right to information on the GRM and the responsible officer handling the case, should be informed about its progress, and provided with sufficient information about the mechanism's performance. This will build confidence in its effectiveness.

Rights-compatible: Ensuring that outcomes and remedies accord with internationally recognised human rights.



Cultural Appropriateness: GRM must be designed on specific cultural attributes as well as traditional mechanisms for raising and resolving issues. It is believed that concerns of significantly different groups and subgroups could be effectively received and appropriately addressed e.g. grievances on burial sites that could be mining project sites.



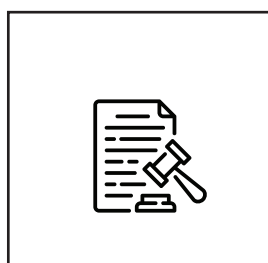
Social Licence to Operate: Companies' Social License to operate obliges them to engage with communities before and during the mining activities. A good Best GRM is one that engages a community at the license negotiation. Prior and planned engagement creates an informed community, and it consolidates and build trust between community, the company and government. Any well-structured engagement strengthens and creates communication channels for sustained future grievances resolution. Any sustainable and feasible mechanism require financial support to even allow for the aggrieved party to seek and access expert advice.

DEVELOPMENT OF GRIEVANCE REDRESS MECHANISM

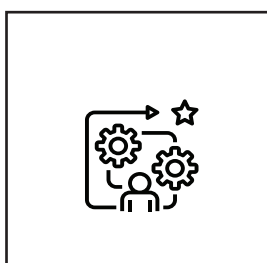
The toolkit the process for developing a GRM and it includes:

- Assessing the kind of grievances, key actors, causes, and costs.
- Review existing systems for handling grievances.
- Review on the existing community systems that are used for handling grievances and assessing the capacity of local dispute resolution systems

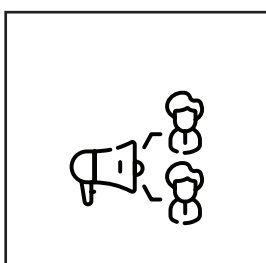
Strategies to effectively pursue remedies include:



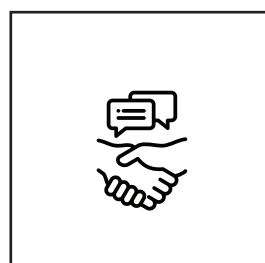
(i) Legal and Policy Framework



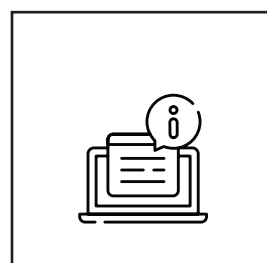
(ii) Enhancing Capacity



(iii) Raising Awareness



(iv) Negotiation



(v) Clearly stating the remedy that one seek



Actions that can contribute to the development of GRMs outlined in the toolkit:

- Developing specific approaches acceptable to communities for raising and resolving grievances,
- Determining the level of detail for grievance mechanism procedures
- Deciding on financial resources to invest in the procedures for grievance receipt and tracking
- Determining the number and requirements of personnel dedicated to collecting grievances and managing or overseeing the entire process
- Deciding whether external resources are required, and how and to what extent to involve independent third parties

HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE

- The toolkit outlines the strong relationship between human rights and the environment.
- It further demonstrates how mining operations cause severe, long-term environmental damage, which are injurious to health and livelihoods.
- Its negative externalities include air pollution, water pollution, and contribute to global warming causing climate change.

To ensure environmental justice the following are suggested for consideration in the toolkit:

- Understanding the legal and policy framework on environmental
- Collecting information on the potential and actual adverse impact of mining operations.
- Developing an advocacy strategy on identified risks
- Organise engagement meetings with mine management
- Advocating for mining companies to comply with and integrate environmental management standards/principles
- Reviewing processes on community involvement
- Enhancing community and individual rights to access
- Building capacity of key stakeholders
- Holding mining companies accountable for their adverse impact
- Seeking out Justice & remedy



ADVOCACY STRATEGY

- To ensure that there is needed practice and policy reform, the toolkit outlines how **Advocacy is a set of targeted actions directed at decision/opinion-makers supporting a specific policy issue.** Advocacy represents the strategies devised, actions taken, and solutions proposed to influence local/state/regional decision-making to create positive change for people and their environment. Advocacy involves getting those with power to correct a situation (e.g mining company management). **Advocacy is directed at influencing policy, laws, regulations, programmes, or funding—decisions made at the uppermost levels of the public or private sector or community to change the ways in which grievances are managed.** Successful Advocacy depends on understanding our goals, available strategies and resources, and potential allies and opponents. In approaching advocacy, the following are proposed.
 - Identifying an Advocacy Issue(s)
 - Prioritising Advocacy Issues
 - Identification of Advocacy Goal
 - Identification of Potential Partners
 - Evaluating the Advocacy decision



Tips

For successful advocacy Review formal participation opportunities provided under law.

- Identify the problem
- Define your goal and choose strategies
- Determine who can be of influence
- Determine who can undermine your efforts
- Find and create a space for advocacy
- Create a space for action plans
- Develop messages
- Create materials and data visualisation

EFFECTIVE AND SUSTAINED COMMUNITY PARTICIPATION



What is Community Participation?

Community participation is the involvement of people in a community in projects to solve their problems. It's concerned with the engagement of individuals and communities in decisions about things that affect their lives. Community participation is not the same as a consultation, where input obtained may not influence decisions. Community participation is a democratic process where everyone in the community is allowed to be part of the decision-making process.

Why is community participation essential?

- Improves democratic and service accountability.
- Enhances social cohesion
- Enhances effectiveness
- Enables policy to be relevant to local communities.
- Adds economic value through the mobilisation of voluntary contributions to deliver regeneration and skill development
- Allows residents the opportunity to develop skills and networks
- Promotes sustainability because community members have ownership

What to Consider to Improve Community Participation

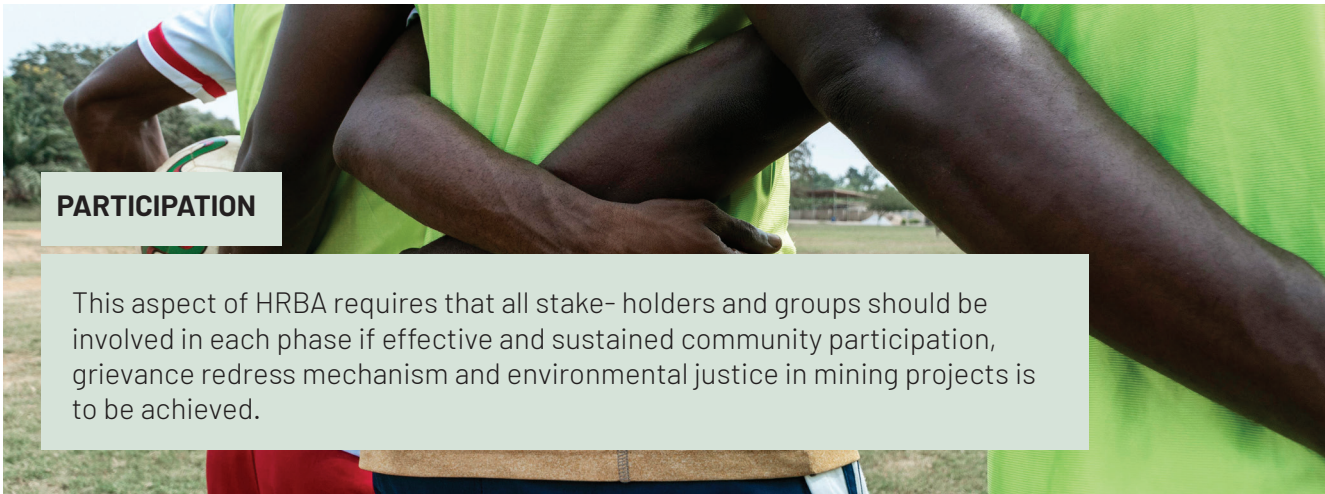
- Develop a shared understanding
- Establish the current position
- Identify issues and needs
- Agree on Action Plan
- Develop capacity within institutions
- Establish a multi-sectoral working group
- Conduct stakeholder mapping

A HUMAN RIGHTS BASED APPROACH (HRBA) TO EFFECTIVE REALIZATION OF COMMUNITY JUSTICE

For communities to achieve their intended goal(s) the toolkit suggests that there is a need to apply a human-rights based approach (HRBA) in programming.

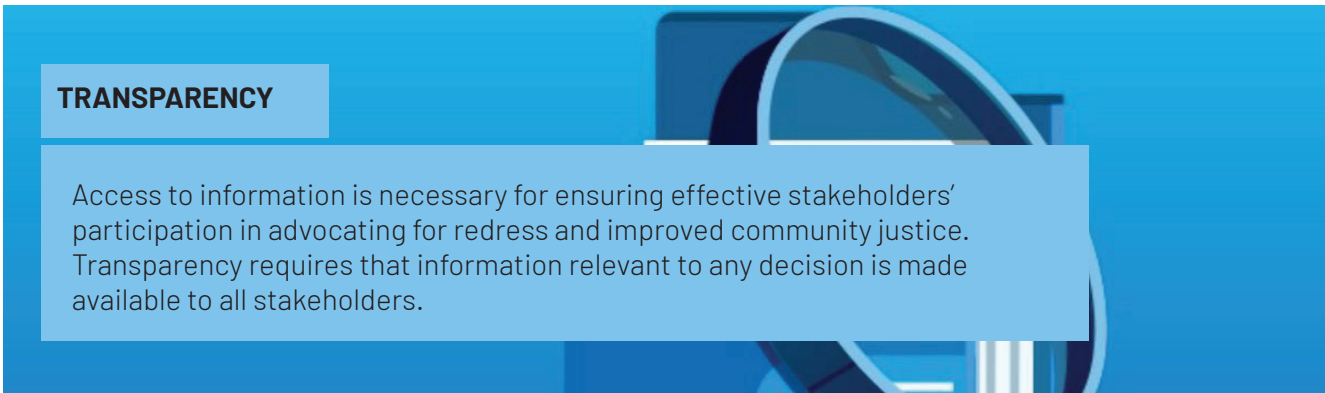
- HRBA programming is based on international human rights standards and principles.

An HRBA approach seeks to promote the following:



PARTICIPATION

This aspect of HRBA requires that all stake- holders and groups should be involved in each phase if effective and sustained community participation, grievance redress mechanism and environmental justice in mining projects is to be achieved.



TRANSPARENCY

Access to information is necessary for ensuring effective stakeholders' participation in advocating for redress and improved community justice. Transparency requires that information relevant to any decision is made available to all stakeholders.



ACCOUNTABILITY

This entails recognising the entitlements of rights holders and the obligations of duty -bearers so that duty bearers in government and mining projects can be held accountable for their actions

COMMUNITY RESOURCE MOBILISATION

- The toolkit defines community mobilisation as the bringing together of as many stakeholders as possible to raise people’s awareness of and demand for a particular programme, to assist in the delivery of resources and services, and to strengthen community participation for sustainability and self-reliance.
- The purpose of the fund raising is to support and strengthen community efforts to protect the environment and advance environmental justice rights

The toolkit outlines how communities need to think of:

Reasons for fundraising



Community resource mobilisation strategy



Resources are available in every community, no matter how small or poor. Each community has assets upon which to build its future. While you prepare to raise funds, first identify and list the range of financial and non-financial resources of community members and local institutions.

Strategies for community resource mobilisation that the toolkit proposes include:

Formalising legal institutions



There’s a need for communities to organise themselves and form committees that are legally recognised, and therefore accountable.

Effective oversight



Without the necessary oversight, well-meaning community leaders may waste investment revenue on unsustainable activities that don’t contribute to community justice.

Situation analysis for community resource mobilisation



To prepare for appropriate fundraising strategies for environmental justice financing, there’s a need to carry out a comprehensive situation analysis which helps to know what resources are needed, what are available and understand stakeholders willing to provide the resources.

Reason for fundraising (Why do you need the money?)



- Communities must develop strategic plans
- Identify target stakeholder(s) and specify eligibility criteria for their involvement.
- Link the strategy to the local context
- Establish an interactive process of engagement with local stakeholders and partners
- Draw on core competencies and resources
- Promote cross-functional coordination and accountability
- Integrate strategies with other mining company programmes
- Set out criteria and guiding principles
- Identify the key programme areas in which the company or financial institution seem to prioritise.
- Identify the implementation model and decision-making/ governance structures
- Consider putting up sustainability strategies.
- Develop a monitoring and evaluation framework.

MONITORING AND EVALUATION

The toolkit closes with a look at M&E which include definition of Impact, Effectiveness, Efficiency, relevance and sustainability as key measures that needs to be measured

In sharing best practices of M&E the toolkit outlines the following:



Importance of community involvement



Participatory monitoring



Inclusive evaluations



Feedback and dissemination



Documenting stories of change



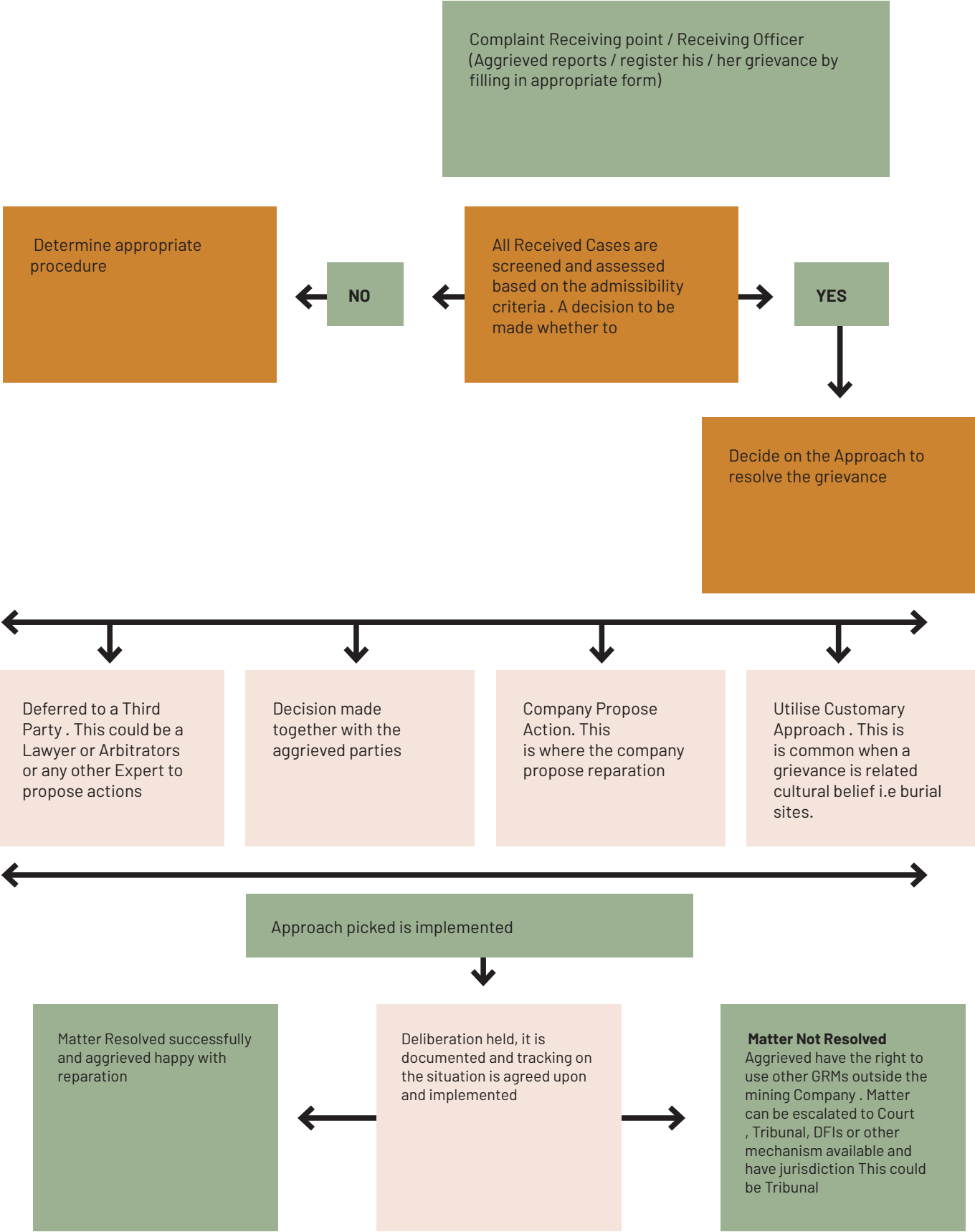
Human rights-based monitoring



ANNEX 1: SELECTED INTERNATIONALLY RECOGNISED HUMAN RIGHTS AND EXAMPLES OF HOW BUSINESS MIGHT IMPACT THEM

Relevant human rights	Brief explanation	How business might have an impact on the right
Right to self determination	A right of groups of peoples, rather than individuals. Groups are entitled to determine their political status and place in the international community. It includes the rights to pursue economic, social and cultural development, to dispose of a land's natural resources and not to be deprived of the means of subsistence. A particular right of indigenous people to self-determination has been specifically recognised by the international community	Engaging in business activities on land that has traditional significance to the peoples that inhabit an area when that land was acquired by the government without due consultation with the local population. Any activity that might have impacts on indigenous people's lands, whether through acquisition, construction, or operation, may give rise to impacts on their right to self-determination.
Right to life	Right not to be deprived of life arbitrarily or unlawfully. Right to have one's life protected, for example, from physical attacks or health and safety risks	The lethal use of force by security forces (state or private) to protect company resources, facilities or personnel. Operations that pose life-threatening safety risks to workers or neighbouring communities through, for example, exposure to toxic chemicals. The manufacture and sale of products with lethal flaws.
Right to participate in public life	Citizens have the right to take part in the conduct of public affairs, including the rights to vote and be elected in free and fair elections, and the right of equal access to positions within the public service.	Failing to give time off to workers for the purpose of voting. Bribery of political figures or other improper uses of company influence may distort the electoral process or otherwise impede free and fair elections.
Right to an adequate standard of living	This right includes access to adequate housing, food, clothing, and water and sanitation. Individuals have a right to live somewhere in security, dignity and peace and that fulfils certain criteria (such as availability of utilities and accessibility). Food should be available and accessible to individuals, in sufficient quality and quantity, to meet their nutritional needs, free from harmful substances and acceptable to their culture. The right to water and sanitation was recognised as a distinct right in 2010. Individuals are entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use and to sanitation services that fulfil certain criteria (such as being safe, physically accessible, and providing privacy and dignity).	Poor-quality housing or dormitories provided to workers. Failing to provide adequate sanitation facilities for workers in a company-owned factory. The expansion of a company's operations significantly reduces the amount of arable land in an area, affecting local community members' access to food. Business activities pollute or threaten existing water resources in a way that significantly interferes with local communities' ability to access clean drinking water. In such situations, there may be particular negative impacts on women and girls, who are responsible for water collection in many communities

ANNEX 2: GRIEVANCE PROCEDURE FLOW CHART



ANNEX 3: SAMPLE OF AN ACTION PLAN

Goal : (Identify a goal you are addressing with the strategy)
Objective: (Use the SMART to develop the over objective of the Action/Plan)
Strategy: (Create an action plan for each strategy in your Positive School Discipline Plan)

Activities / Action	Responsible Person(s) or Partners	Resources Needed (Internal/External)	Progress Indicated at Benchmark	Time line	Means of Verification
What needs to be done to implement the strategy	Who is responsible for carrying out each action step	What resources are required (internally and externally) to complete each action step?	How will you know that you are making progress? What are your benchmarks?	When action will be implemented and expected to be completed	The result of completing each action step



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