

SECURITY GUIDE



SECURITY GUIDE



Secretaría Técnica:



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This document is a self-regulating instrument of voluntary application, that serves as a guide to develop business activities in a way that is respectful to Human Rights and International Humanitarian Law. The application of these principles does not imply that *Guías Colombia* certifies the performance of business in Human Rights issues.

The organizations that adhere to *Guías Colombia* do it voluntarily and on their own behalf. The content of this guideline is public and of free access to anyone that wishes to consult and apply it. However, only businesses endorsing the initiative are bound to implement it. As to business associations, their adhesion to *Guías Colombia* does not bind or compromise any of the businesses that are part of it.

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1 SCOPE

This document seeks to provide guidance for companies operating in Colombia as to what they should do in the field of Human Rights¹ and International Humanitarian Law² when deploying their security activities.

The content of this Guide is based on the United Nations Framework³ on Business and Human Rights, which is grounded on three pillars:

- The State's duty to protect against human rights abuses by third parties, including companies, through appropriate policies, regulation, and all other appropriate measures.
- The corporate responsibility to respect human rights, which means to act with due diligence and to avoid infringing the rights of others.
- Further access by victims to effective remedy mechanisms, both judicial and non-judicial.

According to this framework, the State should protect HRs but, at the same time, businesses are obliged to respect those rights. Hence, it is expected that in the face of legal gaps, companies adopt standards that are respectful for HRs. The roles of the State and businesses are mutually reinforcing to contribute to the full enjoyment of HRs.

Following professor John Ruggie's proposal regarding businesses responsibility on HRs, this Guide identifies corporate due diligence as the process whereby companies not only ensure compliance with domestic laws, but also the process of dealing with risks and impacts that business activities – in this case, security activities – have on third parties. Thus, due dili-

gence ensures respect for the HRs of individuals and communities potentially affected by business operations.⁴

A part of the debate around corporate responsibility has focused on the scope of due diligence. According to Professor John Ruggie, due diligence conducted by businesses should not be attached to a particular physical space but, rather, should address the impact of business operations and their business relations on the HRs of different stakeholders. For this reason, Guías Colombia resorts to the concept of complicity to determine the scope of due diligence, understood as the number of indirect ways through which companies may adversely affect the HRs of interest groups.⁵

Guías Colombia and particularly this Guide, understands security as the actions that a company undertakes to ensure the protection of its assets (infrastructure and property), and employees. Hence, the impact of actions undertaken for the effective provision of protection is also a responsibility of the company and must be part of its security strategy.

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¹ Hereinafter referred to as "HRs".
² Hereinafter referred to as "IHL".
³ Today, the "United Nations Framework" is understood as the policy framework presented by John Ruggie (United Nations Special Representative on Business and Human Rights), and approved by the United Nations Human Rights Council through Resolution 8/7 of June 18, 2008. For further information on John Ruggie's work and progress made under the Framework, visit: <http://www.business-humanrights.org/SpecialRepPortal/Home>
⁴ John Ruggie (2010). Business and Human Rights: Further Steps toward the Operationalization of the "Protect, Respect and Remedy" Framework. Report of the Special Representative of the Secretary-General on the issue of Human Rights and Transnational Corporations and other Business Enterprises.
⁵ John Ruggie (2008). Clarifying the Concepts of Sphere of Influence and Complicity. Report of the Special Representative of the Secretary-General on the issue of Human Rights and Transnational Corporations and other Business Enterprises.

Regarding corporate due diligence and security strategies, this Guide sets out a number of reasonable steps to raise awareness among companies on how to prevent and address adverse impacts brought about by their activities and relations.

It is essential to:

- Comply with international human rights standards, including: The United Nations Declaration on Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the UN Convention against Torture; the UN Convention on the Elimination of all Forms of Discrimination against Women; and, the UN Convention on the Rights of the Child.
- Comply with Conventions from the International Labor Organization.
- Comply with domestic laws and regulations.

Key concepts are herein clarified for implementing this Guide. HRs are the set of international rules, conventional or customary, on which individuals and groups can expect and/or claim certain behavior or benefits from governments. HRs are inherent entitlements that belong to every person because of being human. Numerous non-treaty based principles and guidelines (“soft law”) belong to the body of international HRs standards.⁶

In this Guide, IHL is understood as a set of international rules, conventional or customary, specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts. IHL protects persons and assets that may be affected by armed conflicts, and limits the rights of the parties in conflict, on their choice of methods and means to wage a war.⁷

As to relationship between companies and IHL, the existing literature agrees that, in the context of armed conflict, the stan-

dards that determine whether corporate activities can be linked or not to the conflict are imprecise. Therefore, there is no need for companies to directly support hostilities to conclude that their activities are linked to the conflict and, therefore, subject to IHL.⁸

One of the fundamental principles of IHL is the distinction between those who participate directly or indirectly in hostilities, and those who have no participation whatsoever. It is crucial for companies, particularly in security matters, to apply such principle given the need to determine the rights and obligations of each party.⁹

⁶ ICRC. International Humanitarian Law and International Human Rights Law. Similarities and Differences”. Available at: [http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/\\$FILE/DIH_DIDH.pdf](http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/$FILE/DIH_DIDH.pdf)

⁷ Ibid.

⁸ ICRC. Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law.

⁹ HCHR (2003). On the importance of the Humanitarian Principle of Distinction in the Armed Conflict.



MINIMUM STANDARDS

Security management is key for corporate operations, especially in complex environments¹⁰. Therefore, to avoid any involvement in HRs and IHL abuses, interactions between companies and Public Forces present in the company’s area of operation, as with their private security providers, should be carried out in a careful way.

2.1. MINIMUM HRS AND IHL STANDARDS FOR COMPANIES¹¹

1. Identify risks associated with security, HRs and IHL that companies and communities face in the area of operations, and the way to effectively address such risks.
2. Identify improvement opportunities in corporate security management, the impact that such management may have on communities in the area of operations, and how those opportunities may translate into effective improvement.
3. Develop and diligently implement strategies to prevent risks on security, HRs and IHL, capitalizing on the opportunities identified, and mitigating and remedying negative impacts if risks materialize.
4. Implement systematic and effective monitoring and adjustment mechanisms on corporate strategies regarding security, HRs and IHL.
5. Assign personnel or define a corporate division to assume the responsibility of identifying needs and

possible actions that the company should pursue to ensure the protection, respect and promotion of HRs and IHL.

6. Act with due diligence to respect and promote HRs and IHL.
7. Promote HRs principles within the company, mainly in contexts under intense armed conflict.
8. Inform all company’s interest groups of the corporate commitment towards this Guide and Guías Colombia.
9. Have in place a grievance and complaints mechanism respectful of HRs and IHL, whereby interest groups may file grievances and/or complaints regarding corporate security strategies (See the Grievances and Complaints Guide by Guías Colombia).

¹⁰ A complex environment includes the presence of all or some of the following factors: illegal armed groups, illegal economic activities, weak institutions and/or governance. On this characterization and its implications on business operations see, among others: International Alert, Conflict-Sensitive Business Practice: Guidance for Extractive Industries (2005); Business and Human Rights: The Role of Business in Weak Governance Zones; Business Proposals for Effective ways of Addressing Dilemma Situations in Weak Governance Zones (2006).

¹¹ Minimum standards based on the Voluntary Principles on Security and Human Rights. Source: www.voluntaryprinciples.org, as well as what has been established by the ICRC on business and IHL.

2.2. MINIMUM STANDARDS FOR COMPANIES IN THEIR INTERACTIONS WITH PUBLIC FORCES (ARMY AND POLICE)¹²

10. Clearly and explicitly inform Public Forces and those responsible for public security in the company's area of operations, the company's willingness to carry out operations in due respect for HRs and IHL and the promotion thereof.
11. Clearly and explicitly inform Public Forces and those responsible for public security in the company's area of operations, the company's commitment with this Guide and Guías Colombia.
12. Develop mechanisms to ensure that the interactions between the company and Public Forces in its area of operations are consistent with this Guide.
13. Ensure that in the company's area of operations all Public Forces trainings are aligned with the risks identified in the corporate risks and impacts assessment.
14. Investigate, by enquiring the Government and its relevant agencies, any HRs and IHL impacts on interest groups associated to the company's security arrangements with Public Forces, taking into account the size of the company's operation and the particularities of its environment.
15. Investigate, with the support of communities, any HRs and IHL situations in the company's area of operations, as well as the role of Public Forces in such situations. This should take into account the size of the company's operation and the particularities of its environment.
16. Facilitate the follow up of measures adopted by Public Forces for the promotion of HRs and IHL; in particular, in the units that have arrangements with

the company and that interact with civilians that are considered company stakeholders.

17. Facilitate the follow up of activities by units with which the company has made any arrangements, in particular, those that interact with company stakeholders.
18. Collaborate with State agencies to ensure that security agreements or arrangements are transparent and of easy access to the public, unless they should be restrained for security reasons.
19. Ensure that any arrangements with Public Forces comply with the policy of the Ministry of Defense on HRs and IHL.
20. Support and facilitate efforts by the State, civil society, and multilateral institutions aimed at providing adequate professional training for Public Forces in the field of HRs and IHL, through widely acknowledged institutions with experience such matters.
21. Avoid the transfer of equipment to Public Forces or any other collaboration that may be used for HRs and IHL violations. If such transfer is necessary, set out monitoring and follow-up mechanisms over the provided elements.
22. Report to before competent authorities all and any cases involving the infringement of HRs and IHL by Public Forces in the company's area of operation, without compromising the security of the sources of information.

¹² Minimum standards based on the Voluntary Principles on Security and Human Rights. Source: www.voluntaryprinciples.org.

23. Ensure that any arrangements with Public Forces and other State agencies consider, in addition to the protection of the company's infrastructure, staff and operations, the protection of rights of contractors, suppliers and the community.

2.3. MINIMUM STANDARDS FOR COMPANIES IN THEIR INTERACTIONS WITH PRIVATE SURVEILLANCE AND SECURITY PROVIDERS¹³

24. Require that all private surveillance and security providers comply with and apply international standards on HRs and IHL.
25. Clearly inform top officers of private surveillance and security providers, as well as staff assigned to the task, the company's commitment to this Guide and Guías Colombia.
26. Ensure that all contracts with private surveillance and security providers include provisions that encourage the respect for HRs and, where applicable, the respect for IHL.
27. Refrain from engaging with companies that have a record of involvement in abuses and/or violations of HRs and IHL.
28. Ensure that all contracts with private surveillance and security providers include mechanisms to verify that the contractor's employees receive training to act in compliance with HRs and, where applicable, in compliance with IHL.
29. Require and facilitate the promotion of HRs and IHL among staff of the company's private surveillance and security provider.

30. Monitor activities developed by private surveillance and security providers to ensure they comply with HRs and, where applicable, with IHL.

31. Ensure that all activities undertaken by private surveillance and security providers are limited to prevention and defense.

32. Investigate and monitor any irregularities or unjustified use of physical force by private surveillance and security providers and, if necessary, report the case to the competent authorities.

33. Register all and any complaints on HRs and IHL abuses committed by private surveillance and security providers.

34. Monitor, together with private security contractors, local communities, employees and trade unions and, particularly, with the Colombian Surveillance and Private Security Superintendence, the actions and conduct of private surveillance and security providers for the purposes of ensuring compliance with their obligations, consistent with the minimum standards provided above and other existing regulations.

35. Assess, as far as possible, records of private surveillance and security providers, their shareholders, directors and of the employees they pretend to hire. This assessment should be based on available information on their archives, other companies with which they have had commercial relations, State agencies, and other members of Guías Colombia. The analysis should include an assessment of formerly provided

¹³ These minimum standards are based on the work of the Mining and Energy Committee on Security and Human Rights in Colombia. Available at: <http://cmecolombia.co/>

services to the company, and the security provider's internal policies on HRs, IHL and transparency.

36. Facilitate, when appropriate and according to domestic legislation, the exchange of information with State agencies, other companies and civil society, regarding private security experiences; in particular, investigations on illicit activities or abuses committed during the provision of surveillance and security services.

2.4. MINIMUM STANDARDS FOR PRIVATE SURVEILLANCE AND SECURITY PROVIDERS¹⁴

37. Guarantee that the provision of private surveillance and security services are subject to the obligations set out in the Colombian Constitution, international HRs and IHL applicable standards.

38. Guarantee that the provision of private surveillance and security services are subject to the principle of exclusivity of Public Forces, which provides that some functions and powers cannot be transferred or delegated to private parties.

39. Require that private surveillance and security firm to provide its services according to the principle of distinction, as provided in IHL.

40. Instruct and train staff of the company's private surveillance and security provider on matters related to HRs.

41. Instruct and train staff of the company's private surveillance and security provider on matters related to IHL; in particular, the principles of distinction, necessity, and proportionality.

42. Avoid the displacement of civilians close to the company's facilities, unless complex security or military issues so require.

43. Require that the staff of the company's private surveillance and security provider wear uniforms facilitating their differentiation from other groups; in particular, from groups developing operations in the zone where security services are being provided.

44. Draw a risk map specifying the scope of the actions that may be undertaken by the private surveillance and security provider, to ensure that its activities are subject to limits and fall within IHL principles.

45. Keep information confidential, except in cases in which doing so may lead to risks of complicity with HRs violations or other offences established in domestic laws.

46. Refrain from employing staff who has participated in HRs and IHL violations, based on verified information.

¹⁴ Minimum standards based on the Human Rights Guidance issued by TRUST Consultores in Trust-building for private surveillance and security companies (2007).



CHECKLIST TO BE CONSIDERED IN SECURITY MATTERS

Management of security arrangements should consider the following:

- HRs and IHL risk and impacts assessments that are coherent with best practices on the matter (i.e.: two-way, participative, etc.)
- Possible negative impacts hindering the enjoyment of HRs of interest groups, and possible actions to address such negative impacts.
- Security arrangements should not violate the rules of IHL.
- Characteristics of the company's context of operations.

Management of security arrangements should rely on:

- Participation of different corporate divisions or departments.
- Participation of decision-makers.
- Mechanisms within the company, such as protocols.

Interactions with Security Agencies (Public and Private) should:

- Take place under public arrangements with Public Forces.
- Take place under contracts with private surveillance and security providers.
- Public arrangements and contracts must include specific provisions on the respect and promotion of HRs and IHL.
- Rely on follow-up and monitoring mechanisms.

In managing security arrangements, companies should:

- Include a mechanism that enables the reception of information on the impacts of its security strategy.
- Consult the impacts of its security strategy with relevant stakeholders.

4 REFERENCES

4.1. REFERENCES ON HUMAN RIGHTS

- The Universal Declaration of Human Rights.
 - > <http://www.un.org/en/documents/udhr/index.shtml>
- Human Rights Translated. A Business Reference Guide.
 - > https://www.ohchr.org/Documents/Publications/HRT_2_0_EN.pdf
- Office of the High Commissioner for Human Rights in Colombia.
 - > <http://www.hchr.org.co/>

4.2. REFERENCES ON INTERNATIONAL HUMANITARIAN LAW

- ICRC. International Humanitarian Law.
 - > http://www.icrc.org/web/spa/sitespa0.nsf/iwpList2/Humanitarian_law
- ICRC. International Humanitarian Law and International Human Rights Law. Similarities and Differences.
 - > [http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/\\$FILE/DIH_DIDH.pdf](http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/$FILE/DIH_DIDH.pdf)

4.3. REFERENCES ON BUSINESS AND HUMAN RIGHTS

- Business and Human Rights Resource Centre.
 - > <http://www.business-humanrights.org/>
- Reports of the Special Representative of the United Nations Secretary-General on the Issue of Business and Human Rights. "Protect, Respect and Remedy Framework"
 - > <http://www.business-humanrights.org/SpecialRepPortal/Home>
- United Nations Global Compact
 - > <http://www.unglobalcompact.org/>
- Global Business Initiative on Human Rights.
 - > <http://www.global-business-initiative.org/>
- Institute for Human Rights and Business (IHRB).
 - > <http://www.institutehrb.org/>
- International Standard ISO 26000. Guide on Social Responsibility.

- School for Peace Culture, Universidad Autónoma de Barcelona.
 - > <http://escolapau.uab.cat/index.php?lang=en>
- International Business Leaders Forum (IBLF).
 - > <http://www.iblf.org/>

4.4. REFERENCES ON BUSINESS AND IHL

- Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law.
 - > <http://www.icrc.org/eng/resources/documents/publication/p0882.htm>
- Voluntary Principles on Security and Human Rights.
 - > www.voluntaryprinciples.org
- Mining and Energy Committee on Security and Human Rights. Available at:
 - > <http://cmecolombia.co/>
- Colombian Ministry of National Defense. HRS and IHL Policy
- Nyon Initiative. International Code of Conduct for Private Security Service Providers.
 - > <http://www.reports-and-materials.org/PMSC-Code-of-Conduct-27-Aug-2010.pdf>

- ICRC. Montreux Document.
 - > [http://www.icrc.org/web/spa/sitespa0.nsf/htmlall/montreux-document-170908/\\$FILE/Montreux-Documentspa.pdf](http://www.icrc.org/web/spa/sitespa0.nsf/htmlall/montreux-document-170908/$FILE/Montreux-Documentspa.pdf)

4.5. REFERENCES ON BUSINESS, SECURITY, HRS AND IHL

- Voluntary Principles on Security and HRs.
 - > www.voluntaryprinciples.org
- Mining and Energy Committee on Security and Human Rights.
 - > <http://cmecolombia.co/>
- Ministry of National Defense. Integral policy on HRs and IHL.
- Nyon Initiative. International Code of Conduct for Private Security Service Providers.
 - > <http://www.reports-and-materials.org/PMSC-Code-of-Conduct-27-Aug-2010.pdf>
- ICRC. Montreux Document.
 - > https://www.icrc.org/eng/assets/files/other/icrc_002_0996.pdf



HOW TO REPORT THE COMPANY'S PROGRESS?

Baseline: If it is the first time you report to Guías Colombia, please answer the following baseline information; otherwise, refer to the indicators.

A. Is there a training program or disclosure of information on HRs and IHL issues for:	YES	NO
A1. Employees?	<input type="radio"/>	<input type="radio"/>
A2. Public Forces operating in the area of business operations?	<input type="radio"/>	<input type="radio"/>
A3. Employees of private surveillance and security providers?	<input type="radio"/>	<input type="radio"/>
A4. Communities?	<input type="radio"/>	<input type="radio"/>
B. Is there an assessment mechanism to determine the level of knowledge on HRs and IHL issues by:	YES	NO
B1. Employees?	<input type="radio"/>	<input type="radio"/>
B2. Public Forces operating in the area of business operations?	<input type="radio"/>	<input type="radio"/>
B3. Employees of private surveillance and security providers?	<input type="radio"/>	<input type="radio"/>
C. Has the company adopted a report mechanism and/or a grievances and complaints mechanism to identify possible HRs and IHL abuses against its interest groups?	YES	NO
C1. Employees	<input type="radio"/>	<input type="radio"/>
C2. Communities	<input type="radio"/>	<input type="radio"/>
C3. Contractors and suppliers	<input type="radio"/>	<input type="radio"/>
D. Has the company adopted a mechanism to verify the records of abuses by:	YES	NO
D1. Public Forces?	<input type="radio"/>	<input type="radio"/>
D2. Private surveillance and security providers?	<input type="radio"/>	<input type="radio"/>
D3. Communities?	<input type="radio"/>	<input type="radio"/>
E. Do the company's improvement plan include risks identified in terms of:	YES	NO
E1. Security?	<input type="radio"/>	<input type="radio"/>
E2. HRs and IHL?	<input type="radio"/>	<input type="radio"/>

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