

# OEIGWG on TNCs and Human Rights: The OHCHR Accountability and Remedy Project

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*Ms. Lene Wendland,  
Chief, a.i. Human Rights and Social and Economic Issues  
Section  
Head, Business and Human Rights Team*



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# The OHCHR Accountability and Remedy Project

- Started in May 2013
- **Aim:** To enhance the effectiveness of domestic legal systems in providing accountability and remedy in cases of business-related human rights abuse (Pillar III of the UN Guiding Principles)
- Human Rights Council mandate (Res 26/22)
- Six separate but interrelated work-streams aimed at **addressing legal, practical and financial barriers**
- **Process:** Multi-stakeholder process; several public and expert consultations; evidence from 60+ jurisdictions; detailed research on representative jurisdictions and selected topics.



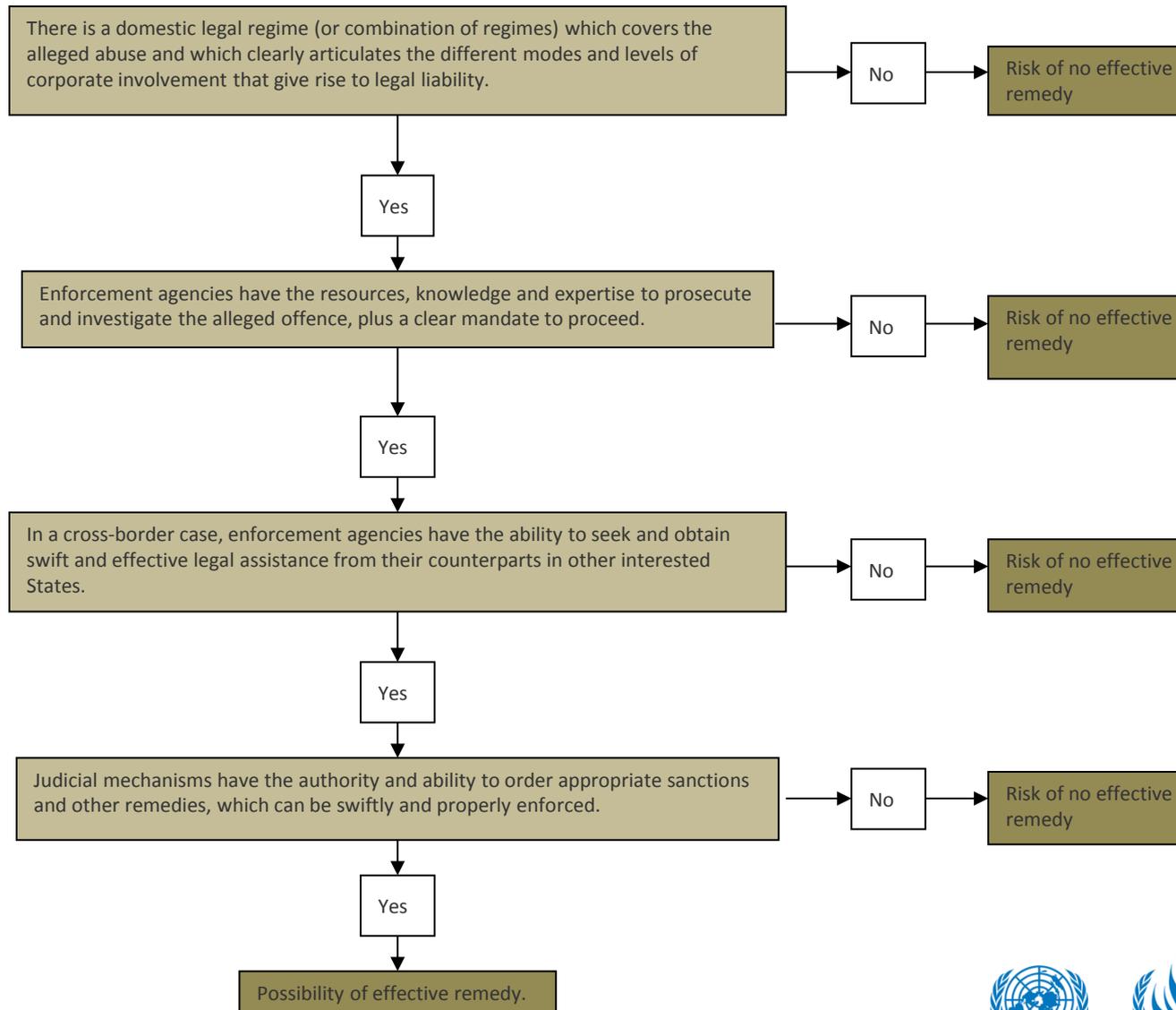
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# Guidance to States to strengthen accountability and access to remedy

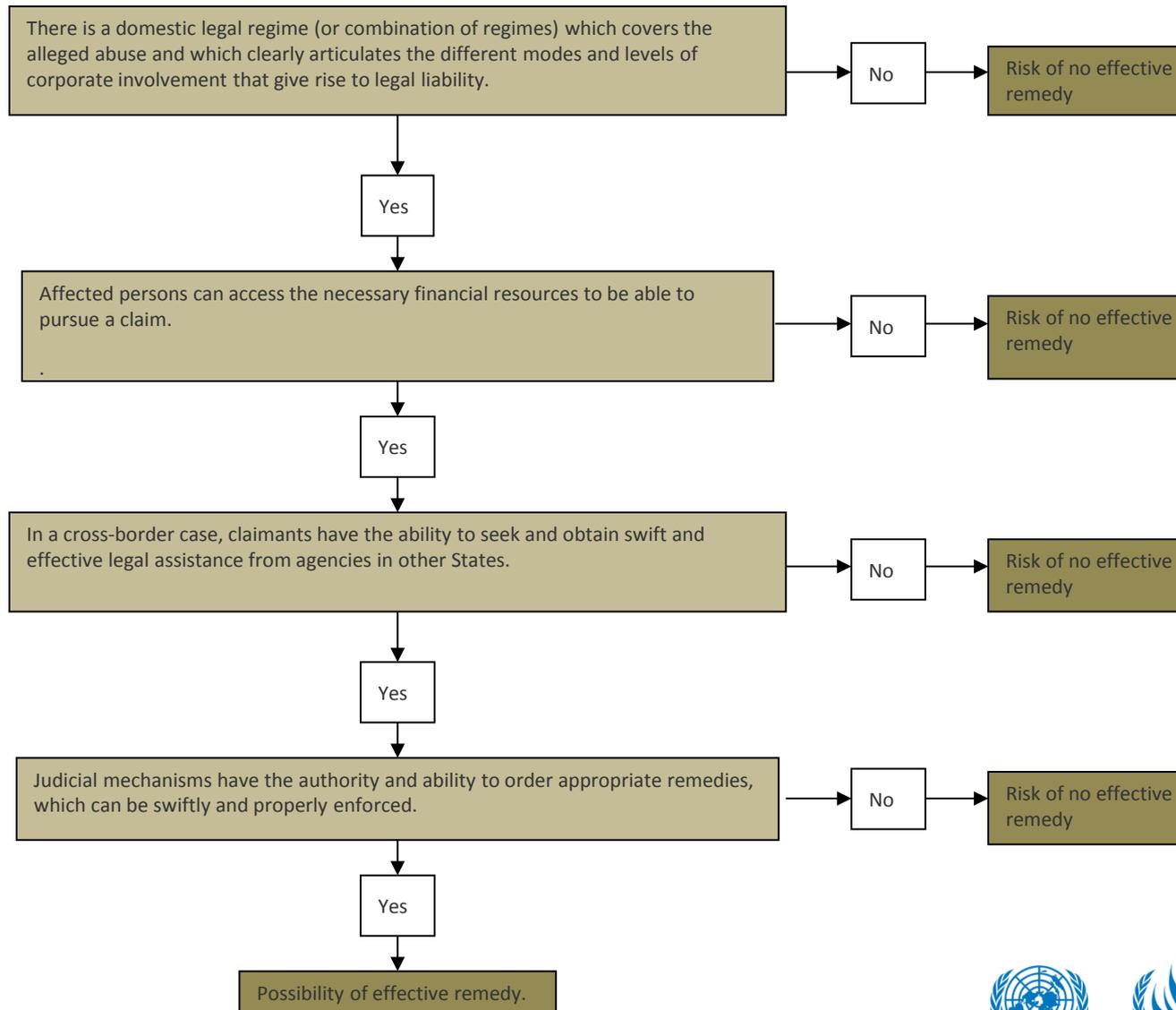
- **Guidance to States** in the form of a series of policy objectives plus “elements” showing ways that the objectives can be met.
- Separately and together, the guidance aims to provide purpose-built legal and practical solutions **rooted in reality**.
- Designed to be **flexible and adaptable** to different legal traditions, structures and needs.
- Covers both **public and private law**
- Addresses specific challenges in **cross-border cases**.
- Final report **A/HRC/32/19 and Add. 1**. Complemented by **additional online resource with illustrative examples** to aid implementation.
- **HRC resolution 32/10**.



**Fig 1: Enforcement of public law offences: implications of key features of domestic law regimes for accountability and access to remedy (Part I)**



## Fig 2: Private law claims by affected individuals and communities: implications of key features of domestic law regimes for accountability and access to remedy (Part II)



# Guidance format

## Example: Policy Objective 2:

*Domestic public law regimes are sufficiently robust to ensure that there is both effective deterrence from, and remedy in the event of, corporate contributions to business-related human rights abuses perpetrated by third parties.*

## Example of 'Elements' to achieve policy objectives

*Domestic public law regimes (a) communicate clearly the different modes and degrees of contribution to harms perpetrated by a third party that will give rise to secondary legal liability and (b) are clear about the extent to which the principles for assessing secondary liability are applicable to companies.*

## Illustrative examples and further explanations

*Guidance supplemented by illustrative examples taken from existing state practice (generalized) where relevant and possible.*

# How could states and other stakeholders use and implement the guidance?

- Guidance is ***"Instrument Neutral"***.
- Can be implemented through **national processes** – e.g. national action plans, other legal review processes (contains proposed Terms of References for law review)
- Can be taken up and acted on in **sub-regional, regional or international contexts, such as the OEIGWG on TNCs**
- **Civil society and NHRIs** can use the guidance in advocacy and advice to states

Enables states – individually or collectively- to **review and identify ways to improve** the effectiveness of their legal systems in holding companies to account for abuses and providing remedy for victims, including in cross-border cases.



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# Thank you!

## **For more information:**

[business-humanrights.org/en/ohchr-accountability-and-remedy-project](https://business-humanrights.org/en/ohchr-accountability-and-remedy-project) or

[www.ohchr.org](http://www.ohchr.org) > Business > Initiative on Access to Remedy

## **Contact us at:**

[business-access2remedy@ohchr.org](mailto:business-access2remedy@ohchr.org)



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