**Access to Remedy in Cases of Business-Related Human Rights Abuse:**

**An Interpretive Guide**

*Call for input*

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| In furtherance of its work on access to remedy (A2R), OHCHR will be producing an interpretive guide on the third pillar of the [UN Guiding Principles on Business and Human Rights (UNGPs)](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf). The guide will provide additional background explanation to the Guiding Principles on access to remedy to support a fuller understanding of their meaning and intent.  In 2012, OHCHR published a document unpacking the second pillar: [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide](https://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf). The A2R interpretive guide will follow a similar format as the 2012 guide: it will provide (1) definitions of key concepts relating to access to remedy, and (2) answers to a series of questions relating to each principle in the third pillar that will help unpack its meaning.  **We would greatly appreciate your input on which questions to be addressing in the A2R interpretive guide**. This form provides an opportunity to submit questions on each principle of the third pillar. Please feel free to submit a question about any aspect of UNGPs 25 - 31 that will help unpack what these principles mean and/or will clear up any misconceptions about these principles. No question is too basic!  **DEADLINE FOR SUBMISSION: Monday, 9 August 2021**  **Email submissions to:** [business-access2remedy@ohchr.org](mailto:business-access2remedy@ohchr.org)  For a sense of the types of questions addressed in our 2012 interpretive guide, a list of the questions from that guide may be found [at the bottom of this document](#R2R). |

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| **UNGP 25: As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *What are States expected to do in order to ensure access to effective remedy?* |
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| **UNGP 26 (Judicial mechanisms): States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *What are the key barriers that lead to a denial of access to remedy?* |
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| **UNGP 27 (State-based non-judicial mechanisms): States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *What kinds of non-judicial grievance mechanisms are relevant?* |
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| **UNGP 28 (Non-State-based mechanisms): States should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *What is the role of States in relation to non-State-based grievance mechanisms?* |
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| **UNGP 29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *Do whistle blower protection systems constitute operational-level grievance mechanisms?* |
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| **UNGP 30: Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.**  *Please list questions about this principle that you would like to have answered in the interpretive guide. For instance, a question could be:*   * *What are the different models of mechanisms of collaborative initiatives?* |
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| **UNGP 31 (Effectiveness criteria): In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. Operational-level mechanisms should also be based on engagement and dialogue.**  *Please list questions about the effectiveness criteria that you would like to have answered in the interpretive guide. For instance, questions could be:*   * *Does a mechanism need to meet each of these criteria to be considered effective?* * *What does a mechanism need to do in practice to be rights-compatible?* |
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| **Any other comments or questions**  *Please list any other comments / questions you may have.* |
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| **Contact information.**  *Providing contact information is completely optional.* |
| * **Name**: * **Email**: * **Organization / affiliation**: |

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| Overview of questions from 2012 Interpretive Guide on the Corporate Responsibility to Respect Human Rights This section provides a list of the questions addressed in our interpretive guide on the second pillar of the UNGPs. Please consult [the 2012 guide itself](https://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf) for a full understanding of the approach.  **UNGPs 11 and 12 (Foundational principles)**   * What are human rights? * How are human rights relevant to States? * How are human rights relevant to businesses? * What additional human right standards may be relevant? * How can all internationally recognized human rights be relevant to business? * What does “avoid infringing” human rights mean? * Is the responsibility to respect human rights optional for business enterprises? * Do enterprises have any additional human rights responsibilities?   **UNGP 13 (Foundational principles)**   * How can enterprises be involved in adverse human rights impact? * What is meant by “adverse human rights impact”? * What should enterprises do if they are at risk of involvement in adverse human rights impact?   **UNGP 14 (Foundational principles)**   * What is the relevance of the “severity” of an enterprise’s human rights impact to other factors listed here? * What is meant by a “severe” human rights impact? * How is the size of an enterprise relevant to its responsibility to respect human rights? * How is an enterprise’s sector and operational context relevant to its responsibility to respect human rights? * How is an enterprise’s ownership relevant to its responsibility to respect human rights? * How is an enterprise’s structure relevant to its responsibility to respect human rights?   **UNGP 15 (Foundational principles)**   * Why are policies and processes required if this is just a question of avoiding harm? * What makes policies and processes “appropriate to size and circumstances”? * How fast can an enterprise be expected to achieve all this?   **UNGP 16 (Policy commitment)**   * Why does this matter? * How detailed should a policy commitment be? * Which human rights issues are most salient to your business? * What relevant expertise can an enterprise draw upon? * How does the public policy commitment relate to internal policies and procedures?   **UNGP 17 (Human rights due diligence)**   * Why does this matter? * What should the scope of human rights due diligence be? * How can size and other characteristics affect an enterprise’s human rights due diligence process? * Why should human rights due diligence be “ongoing”? * What is the role of stakeholder engagement? * What capacity does an enterprise need to conduct human right due diligence? * How does human rights due diligence relate to remediation? * Can human rights due diligence or parts of it be carried out by external experts?   **UNGP 18 (HRDD: Identify and assess)**   * Why does this matter? * What is meant by “human rights risks” and whose human rights are relevant? * When should impact be assessed? * How should human rights impact be assessed? * How far afield should an enterprise look when assessing human rights impact? * What does it mean to assess the impact that occurs through an enterprise’s own activities? * What does it mean to assess the impact in which an enterprise is involved as a result of business relationships? * What is the role of internal and external expertise in the assessment of human rights impact? * What is the role of consultation with directly affected groups and other relevant stakeholders in the assessment of human rights impact?   **UNGP 19 (HRDD: Integrate and act)**   * Why does this matter? * What processes will be most appropriate for enabling integration? * How does integration relate to business relationships? * What kinds of action need to be considered in response to human rights risks that are identified? * How should an enterprise approach complex situations with no obvious or easy solutions?   **UNGP 20 (HRDD: Tracking)**   * Why does this matter? * How should the effectiveness of responses be tracked? * How far should the tracking system go? * What indicators should an enterprise use? * What is the appropriate role of feedback from internal and external sources? * How can the credibility of a tracking system be demonstrated?   **UNGP 21 (HRDD: Communicating)**   * Why does this matter? * How much is an enterprise expected to communicate? * What should an enterprise be able to communicate? * What form(s) should communications take? * When is external communication required? * What makes the external communication of information “sufficient”? * What is meant by the risks communications may pose to affected stakeholders, personnel or the legitimate requirements of commercial confidentiality? * How does communication relate to general stakeholder engagement?   **UNGP 22 (Remediation)**   * Why does this matter? * Does this apply even if the allegations are unfounded? * When should an enterprise provide directly for remediation? * What kind of remediation processes should an enterprise provide for? * What kinds of “legitimate processes” could provide remediation other than those of the enterprise itself? * What if an enterprise agrees that it has caused or contributed to an impact but does not agree with those affected on the appropriate remedy? * What if an enterprise does not accept that it has caused or contributed to a human rights impact?   **UNGP 29 (Operational-level grievance mechanisms)**   * Why does this matter? * What is an operational-level grievance mechanism? * Does it have to be called a “grievance mechanism”? * To whom should an operational-level grievance mechanism be available? * What issues should an operational-level grievance mechanism be able to address? * Who should oversee the mechanism? * How does an operational-level grievance mechanism relate to an enterprise’s wider operations? * How does the mechanism relate to wider stakeholder engagement? * When might an enterprise “participate in” a grievance mechanism rather than establish one itself?   **UNGP 31 (Effectiveness criteria for non-judicial mechanisms)**   * Why does this matter? * Why these criteria? * How should a grievance mechanism’s effectiveness be assessed?   **UNGP 23 (Issues of context)**   * Why does this matter? * How does legal compliance relate to respect for human rights? * How should an enterprise deal with conflicting requirements? * Why should the risk of being involved in gross human rights abuses be considered a matter of legal compliance? * What situations pose a particular risk of business involvement in gross human rights abuses? * Where can an enterprise seek help in assessing and addressing challenges that arise in difficult contexts?   **UNGP 24 (Prioritization)**   * Why does this matter? * What would count as “severe” impact? * What does this mean for impact that is not deemed severe? |