**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 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 RightsThis 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?
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