

The UN Guiding Principles on Business and Human Rights

Prepared by ANGOC based on the presentation of Gallianne Palayret, Human Rights Officer, Office of the UN High Commissioner on Human Rights for Cambodia

In 2011, the United Nations Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs), a set of guidelines for States and companies to prevent and address human rights abuses committed in business operations.

Background

Business enterprises can profoundly impact the human rights of employees, consumers, and communities wherever they operate. These impacts may be positive, such as increasing access to employment or improving public services, or negative, such as polluting the environment, underpaying workers, or forcibly evicting communities.

For decades, local communities, national governments and international institutions

have debated the responsibility of companies in managing these adverse impacts and the role of governments in preventing them.

In 2008, the United Nations endorsed the 'Protect, Respect and Remedy Framework' for business and human rights. This framework was developed by the then-Special Representative of the UN Secretary General, Professor John Ruggie, following three years of research and worldwide consultations with businesses, civil society, governments and victims of corporate human rights abuses.

The UN Framework unequivocally recognizes that States have the *duty* under international human rights law to *protect* everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprises. This duty means that States must have effective laws



Where can HUMAN RIGHTS BE FOUND?

UNIVERSAL DECLARATION OF HUMAN RIGHTS – 1948

INTERNATIONAL CONVENTION
ON THE ELIMINATION OF
ALL FORMS OF RACIAL
DISCRIMINATION

1955

INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS

1966

INTERNATIONAL COVENANT
ON CIVIL AND POLITICAL
RIGHTS

1966

CONVENTION ON THE
ELIMINATION OF ALL FORMS
OF DISCRIMINATION AGAINST
WOMEN

1978

CONVENTION AGAINST
TORTURE AND OTHER CRUEL,
INHUMAN AND DEGRADING
TREATMENT OR PUNISHMENT

1984

CONVENTION ON THE RIGHTS
OF THE CHILD

1989

INTERNATIONAL CONVENTION
ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT
WORKERS AND MEMBERS OF
THEIR FAMILIES

1990

INTERNATIONAL CONVENTION
FOR THE PROTECTION OF ALL
PERSONS FROM ENFORCED
DISAPPEARANCE

2006

CONVENTION ON THE RIGHTS
OF PERSONS WITH
DISABILITIES

2006

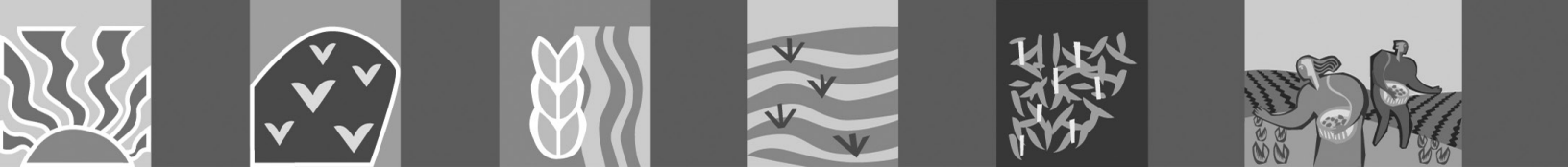
and regulations in place to prevent and address business-related human rights abuses and ensure access to effective remedy for those whose rights have been abused.

The UN Framework also addresses the human rights responsibilities of businesses. Business enterprises have the *responsibility to respect* human rights wherever they operate and whatever their size or industry. This responsibility means companies must know their actual or potential impacts, prevent and mitigate abuses, and address adverse impacts with which they are involved. In other words, companies must know—

and show—that they respect human rights in all their operations.

Importantly, the UN Framework clarifies that the corporate *responsibility to respect* human rights exists independently of States' ability or willingness to fulfill their duty to protect human rights. No matter the context, States and businesses retain these distinct but complementary responsibilities.

The UN Framework also recognizes the fundamental right of individuals and communities to *access effective remedy* when their rights



have been adversely impacted by business activities. When a business enterprise abuses human rights, States must ensure that the people affected can access an effective remedy through the court system or other legitimate non-judicial process. Companies, for their part, are expected to establish or participate in effective grievance mechanisms for any individuals or communities adversely impacted by their operations.

Protect, respect, remedy. Each of these simple terms hides a complicated reality. In 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights, a set of guidelines that operationalize the UN Framework and further define the key duties and responsibilities of States and business enterprises with regard to business-related human rights abuses.

Following the endorsement, the UN Working Group on Business and Human Rights, consisting of five independent experts, was appointed to guide the dissemination and implementation of the UN Guiding Principles.

Making Rights a Reality

The Guiding Principles contain three chapters, or pillars: protect, respect and remedy. Each defines concrete, actionable steps for governments and companies to meet their respective duties and responsibilities to prevent human rights abuses in company operations and provide remedies if such abuses take place.

The State Duty to Protect

The Guiding Principles affirm that under existing international human rights law, States have the duty to protect against human rights abuses by all actors in society, including businesses. This

means States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations. Furthermore, the Guiding Principles recommend that States set clear expectations that companies domiciled in their territory/jurisdiction respect human rights in every country and context in which they operate.

The Guiding Principles include operational provisions that recommend concrete actions for States to meet their duty to protect human rights in the context of business operations. This includes enacting and enforcing laws that require businesses to respect human rights; creating a regulatory environment that facilitates business respect for human rights; and providing guidance to companies on their responsibilities. The Guiding Principles also stipulate that States should ensure that policies are coherent across departments and functions, and that their participation in multilateral institutions is aligned with their human rights obligations.

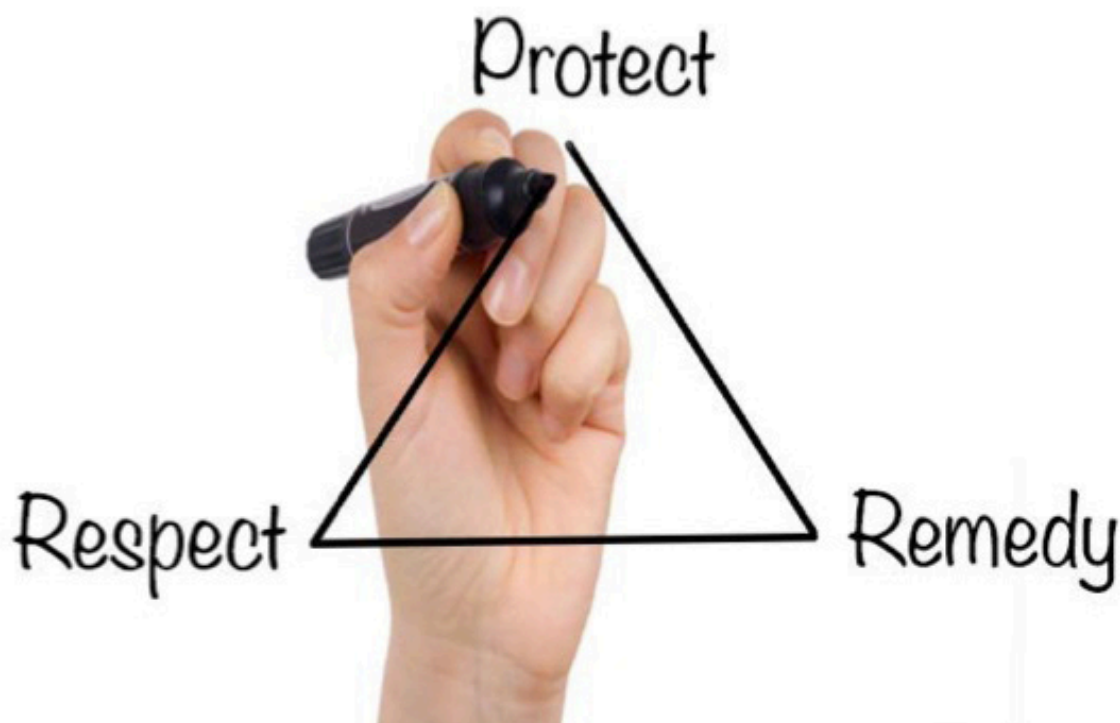
The human rights obligations of States, from providing security to delivering utilities, are not voided when such functions are carried out by state-owned or private business enterprises. As conflict-affected areas pose a heightened risk of gross human rights abuses, including by businesses, the Guiding Principles stipulate that States (home and host) should provide guidance, assistance and enforcement mechanisms to ensure that business enterprises are not involved with such abuses in conflict-affected areas.

The Corporate Responsibility to Respect

The Guiding Principles clarify what is expected of business enterprises with regard to human rights and outline the process through which companies can identify their negative human



The 3 pillars of the UN Guiding Principles



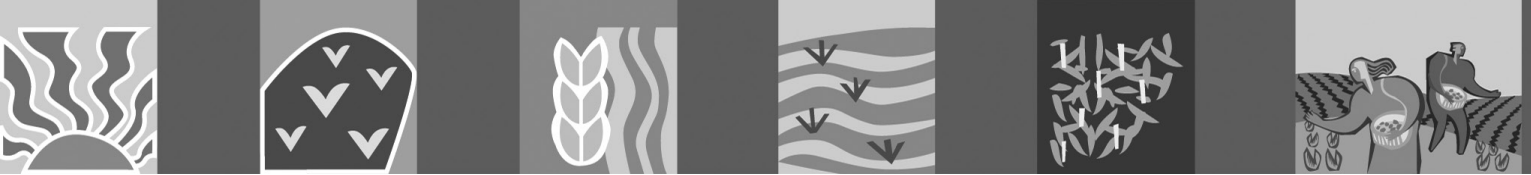
rights impacts and demonstrate that their policies and procedures are adequate to address them.

The Guiding Principles affirm that business enterprises must prevent, mitigate and, where appropriate, remedy human rights abuses that they cause or contribute to. Businesses must seek to prevent or mitigate any adverse impacts related to their operations, products or services, even if suppliers or business partners have carried out these impacts.

The responsibility to respect applies to all internationally recognized human rights expressed in the International Bill of Human Rights and the

International Labor Organization Declaration on Fundamental Principles and Rights at Work. Though the actions businesses need to take to meet the responsibility to respect will depend on their scale or complexity, the responsibility itself applies to all businesses regardless of size, sector or location.

To meet the responsibility to respect, business enterprises must have the necessary policies and processes in place. The Guiding Principles identify three components of this responsibility. First, companies must institute a policy commitment to meet the responsibility to respect human rights. Second, they must undertake ongoing human



rights due diligence to identify, prevent, mitigate and account for their human rights impacts. Third, they must have processes in place to enable remediation for any adverse human rights impacts they cause or contribute to.

Human rights due diligence refers to the process of identifying and addressing the human rights impacts of a business enterprise across its operations and products, and throughout its supplier and business partner networks. Human rights due diligence should include assessments of internal procedures and systems, as well as external engagement with groups potentially affected by its operations.

The Guiding Principles state that companies should integrate the findings of their human rights due diligence processes into policies and procedures at the appropriate level, with resources and authority assigned accordingly. Companies should verify that this objective is achieved by constantly monitoring and evaluating their efforts. Companies should be prepared to communicate how they address their human rights impacts, including to those groups most likely to be affected.

Where businesses identify that they have caused or contributed to adverse impacts, they should cooperate in remediation through legitimate processes.

Access to Remedy

One of the fundamental principles of the international human rights system is that when a right is violated, victims must have access to an effective remedy. The Guiding Principles affirm that the State duty to protect rights includes ensuring that when companies within their

territory and/or jurisdiction violate human rights, the State must ensure access to an effective remedy for those affected.

The State duty to provide access to effective remedy includes taking appropriate steps to ensure that State-based domestic judicial mechanisms are able to effectively address business-related human rights abuses, and do not erect barriers (such as administrative fees or lack of language interpreters) that prevent victims from presenting their cases. It does not simply mean that countries should fortify their court systems. States should also provide effective and appropriate non-judicial grievance mechanisms with the capacity to hear and adjudicate business-related human rights complaints as part of a comprehensive State-based system for remedy.

The access to remedy principles does not only apply to States. They also stipulate that business enterprises should provide for, or participate in, effective mechanisms for fielding and addressing grievances from individuals and communities who may be adversely impacted by the company's operations. They further maintain that multi-stakeholder and other collaborative initiatives based on human rights-related standards can also contribute to providing effective access to remedy.

The Guiding Principles set out a list of effectiveness criteria for state- or company-based non-judicial grievance mechanisms. These criteria stipulate that effective grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent and rights-compatible. Simply put, they must provide genuine remedies for victims of human rights violations by companies and must not amount to communications or political exercises. Operational-level mechanisms should



be based on engagement and dialogue with the stakeholder groups whose rights they seek to remedy.

Implementation

The UN Working Group on Business and Human Rights consists of five independent experts, appointed for a three-year term. The Working Group is mandated by the UN Human Rights Council to ensure that the Guiding Principles described above are widely disseminated, robustly implemented and firmly embedded in international governance.

The Working Group is mandated to consult with all relevant stakeholders, identify best practices in ongoing implementation efforts, promote capacity-building, issue recommendations on legislation and policies related to businesses, and conduct country visits. The Working Group is also mandated to integrate a gender perspective and pay special attention to vulnerable groups such as indigenous people and children.

The Working Group holds an Annual Forum on Business and Human Rights every December. The purpose of the Forum is to allow representatives of States, businesses and civil society to discuss trends and challenges in the implementation of the Guiding Principles and to promote dialogue, cooperation and sharing of good practices. The Working Group reports its activities to the UN Human Rights Council and the General Assembly every year. ■

References:

The UN Working Group on Business and Human Rights. *The UN Guiding Principles on Business and Human Rights: An Introduction*.

Powerpoint presentation by Ms. Galliane Palayret, OHRHC-Cambodia.



SUSTAINABLE DEVELOPMENT GOALS

1 NO POVERTY 	2 ZERO HUNGER 	3 GOOD HEALTH AND WELL-BEING 	4 QUALITY EDUCATION 	5 GENDER EQUALITY 	6 CLEAN WATER AND SANITATION
7 AFFORDABLE AND CLEAN ENERGY 	8 DECENT WORK AND ECONOMIC GROWTH 	9 INDUSTRY, INNOVATION AND INFRASTRUCTURE 	10 REDUCED INEQUALITIES 	11 SUSTAINABLE CITIES AND COMMUNITIES 	12 RESPONSIBLE CONSUMPTION AND PRODUCTION
13 CLIMATE ACTION 	14 LIFE BELOW WATER 	15 LIFE ON LAND 	16 PEACE, JUSTICE AND STRONG INSTITUTIONS 	17 PARTNERSHIPS FOR THE GOALS 	SUSTAINABLE DEVELOPMENT GOALS



This publication contains papers presented or used as reference materials during the regional workshop “Land as Human Rights: An Imperative towards the Realization of the Sustainable Development Goals (Khmer Surin, Phnom Penh, Cambodia)” jointly organized by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), International Land Coalition (ILC-Asia), Land Watch Asia (LWA) and STAR Kampuchea (SK) in partnership with Forum Syd, HEKS/EPER-Cambodia and United Nations Cambodia Office of the High Commissioner for Human Rights (UNCOHCHR).



Founded in 1979, ANGOC is a regional association of national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC network

members and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

ANGOC is the convenor of the Land Watch Asia (LWA) campaign and the Asian Alliance Against Hunger and Malnutrition (AAHM-Asia). ANGOC is also a member of the International Land Coalition (ILC), the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), and the Indigenous Peoples’ and Community Conserved Territories (ICCA) Consortium.

Asian NGO Coalition for Agrarian Reform and Rural Development

33 Mapagsanguni Street, Sikatuna Village, Diliman, 1101 Quezon City, Philippines
 P.O. Box 3107, QCCPO 1101, Quezon City, Philippines
 Tel.: +63-2 3510581 | Fax: +63-2 3510011
 E-mail: angoc@angoc.org | URL: www.angoc.org



The International Land Coalition (ILC) is a global alliance of civil society organizations and intergovernmental organizations working together with the rural poor to increase their secure access to natural resources, especially land.



Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. The campaign involves civil society organizations in seven (7) countries—Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and encourage the sharing of experiences on coalition-building and actions on land rights issues.



STAR Kampuchea is a Cambodian non-profit and non-partisan organization. It was established in

August 1997 and is dedicated to building democracy by strengthening civil society. The organization’s mission is to promote and strengthen Cambodian civil society actors by initiating action, by cooperating with and supporting them, and by providing means for a common voice for those groups so that they may advocate for democracy.



ANGOC

33 Mapagsangguni Street
Sikatuna Village, Diliman
1101 Quezon City, Philippines
P.O. Box 3107, QCCPO 1101, Quezon City, Philippines
Tel: +63-2 3510581 Fax: +63-2 3510011
Email: angoc@angoc.org
Website: www.angoc.org

