



Network  
South Africa



**THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS:  
IMPLICATIONS FOR PRACTICE**

# What are Human Rights?

“The term ‘human rights’ describes the **fundamental rights and freedoms** that everyone is entitled to. They provide the basis for individuals to lead a dignified life, to freely express independent beliefs and to live free from abuse. They are **inherent to all individuals**, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. **Everyone is equally entitled to enjoy their human rights without discrimination.**”

~ UN Office of the High Commissioner for Human Rights  
([www.ohchr.org](http://www.ohchr.org)).



“Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

*Preamble of the Universal Declaration of Human Rights*

# International Human Rights Standards



# Categories of Human Rights

CIVIL AND POLITICAL RIGHTS	ECONOMIC, SOCIAL AND CULTURAL RIGHTS
Right to life, liberty and security of person	Right to an adequate standard of living – housing, food, water
Right to non-discrimination and equality	Right to non-discrimination and equality
Freedom from torture or cruel, inhuman or degrading treatment or punishment	Right to health
Right to an effective remedy	Right to social security
Freedom from arbitrary arrest, detention or exile	Right to a family life
Right to privacy	Right to education
Right to own property	Right to freely participate in the cultural life of the community
Right to freedom of thought, conscience and religion	Right to work – just and favourable conditions at work
Right to freedom of expression and assembly	

SPECIFIC STANDARDS	CORE LABOUR STANDARDS
Indigenous Peoples' Rights	Freedom from child labour
Children's Rights	Freedom from discrimination in employment / occupation
Women's Rights	Freedom of association and collective bargaining
International Humanitarian Law	Freedom from forced or compulsory labour

# Nature of Human Rights

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## Human rights are:

- ✓ Individual rights
- ✓ Rights that States have a duty to protect, respect and fulfil
- ✓ Set out in law
- ✓ Seek to ensure people are treated with fairness, dignity and respect
- ✓ Apply to everyone without discrimination (universality)
- ✓ Based on universal, commonly held values
- ✓ All human rights should be considered equal (indivisibility)
- ✓ Must not be taken away, except in specific situations and according to due process (inalienability)
- ✓ Basic, minimum standards
- ✓ Interdependent - the improvement of one right facilitates advancement of the others (and *visa versa*)



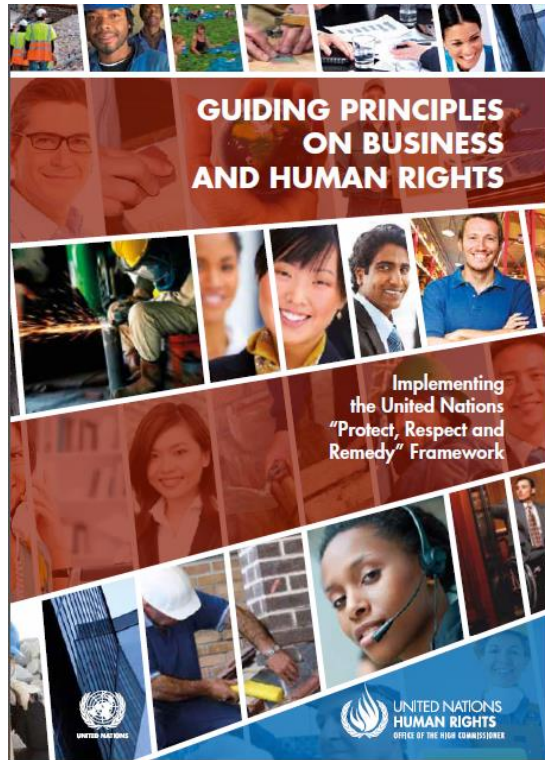
# WHAT IS THE RESPONSIBILITY OF BUSINESS?



# INTRODUCING UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS

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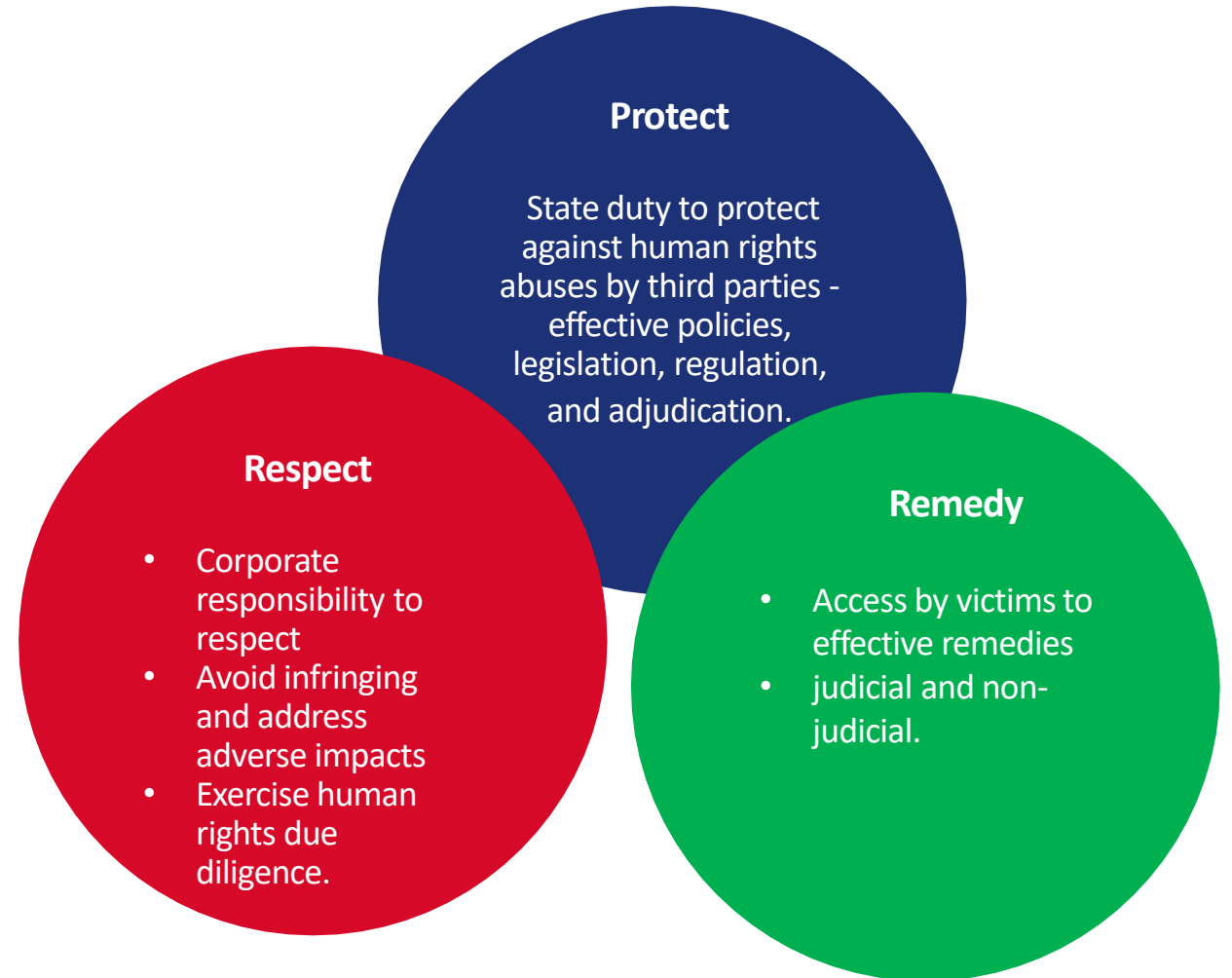
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# UN Guiding Principles On Business And Human Rights

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- The UN Guiding Principles include 31 principles, which cover all three aspects of the UN Protect, Respect and Remedy framework.
- The objective of the UN Guiding Principles is to guide states and companies with regard to the scope of their **human rights duties and responsibilities**, and to provide greater protection for individuals and communities against corporate human rights abuse.
- Apply to all States and to all business enterprises
- **Unanimously endorsed by the UN Human Rights Council in 2011**





# Respecting Human Rights

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**What it means to  
“respect” human rights:**

Do no harm

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Exercise due diligence to proactively identify and address human rights issues

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Respect all international human rights standards

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Comply with all applicable national laws

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Avoid/address human rights impacts associated with all activities – operations, products and services, and business relationships

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Responsible companies are likely to be doing much to deliver on this

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... a “human rights lens” might highlight additional aspects to consider.

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Note: Scale and complexity of approaches required to respect human rights will depend on size, sector, context, ownership, and structure of company ... and severity of the human rights impact/s.

# Whole Business Responsibility For Human Rights

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Other key functions include health and safety, human resources, security, procurement and supply chain, legal

Cross-functional/departmental collaboration at management level essential

Community relations play a critical role in managing human rights risks – many of the operation's key human rights risks relate to communities

Existing engagement processes serve as early-warning system

Community relations key in raising awareness across other parts of the business



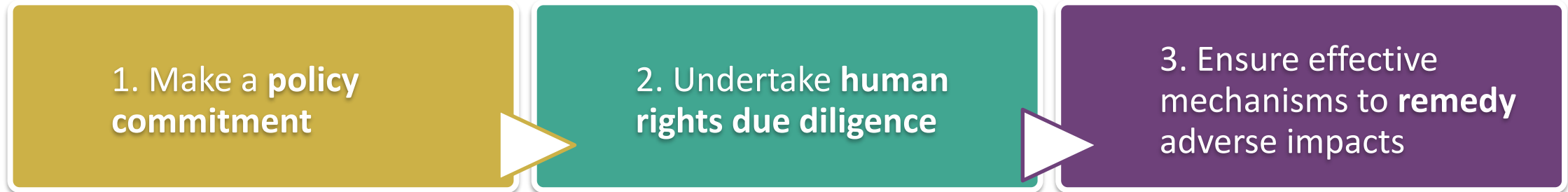
# WHAT DO WE NEED TO DO IN PRACTICE?



# Making it practical: What “respecting human rights” looks like

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In terms of management systems, which set the framework within which effective due diligence occurs, companies should:



# 1. Make a policy commitment

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Your Human Rights Policy should be:

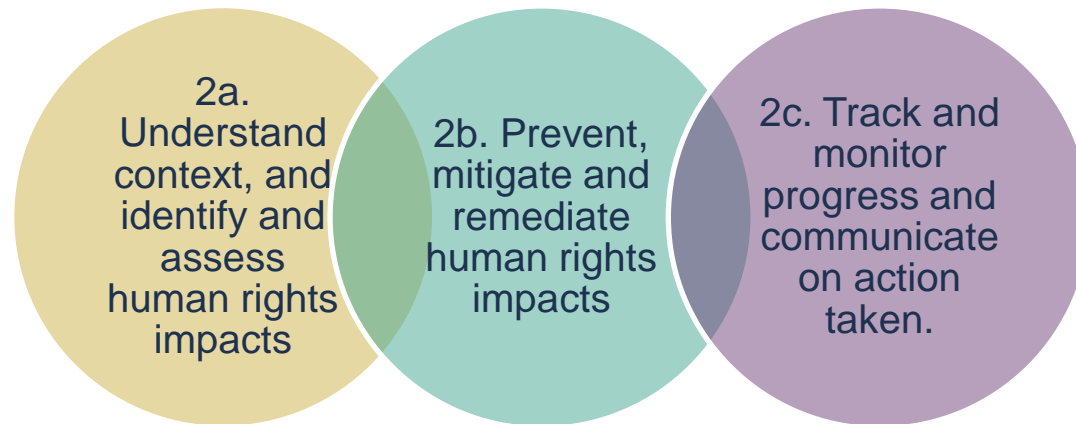
- Approved at the most senior level
- Informed by relevant expertise
- Identify the key risk areas and expectations
- Clearly spell out expectations
- Internally and externally available and communicated
- Reflected in operational policies and processes
- Ensure internal control and integration to ensure implementation.

## 2. Undertake human rights due diligence

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“Human rights due diligence is a **process of building internal awareness and understanding** of where a company’s activities may have the potential **to intersect with human rights or infringe upon** the enjoyment of human rights by others. It then looks at how to prevent or mitigate potential human rights impacts and remediate actual impacts that have occurred.”

Requires companies to:



## 2A. Use existing risk assessment processes

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You don't have to reinvent the wheel. The following processes already exist:

ESIAs

Political risk assessments

Conflict assessments

Legal due diligence

Pre-investment or divestment due diligence

Employee surveys, audits and whistle-blowing systems

Internal control & assurance systems

Stakeholder engagement.



In some instances, a stand-alone Human Rights Impact assessment might be required.

# Introducing the concept of leverage and taking responsibility

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The question is no longer **“Whose fault is it?”**

But:

**“What responsibility can I take in this situation?”**





# Concept of leverage

Leverage is a company's ability to influence the behaviour of others

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## Guiding Principle 19:

“If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors.

There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.”

## 2C. Track and monitor effectiveness of response

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### Questions to consider:

- Are we achieving the objectives we intended to?
- What worked and why? What did not work and why?
- What could have been done differently?
- What adjustments and changes are required now?

# ... and communicate what you are doing

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## **Communicating provides transparency and accountability.**

Be prepared to communicate internally and externally – done at corporate level

Communications should:

- Be of a form/frequency appropriate to level of risk/ actual impacts
- Be accessible
- Provide adequate information to evaluate performance
- Not pose risks to affected stakeholders/ infringe commercial confidentiality

Trend is towards more formal reporting of human rights impacts.

# 3. Ensure access to effective remedy

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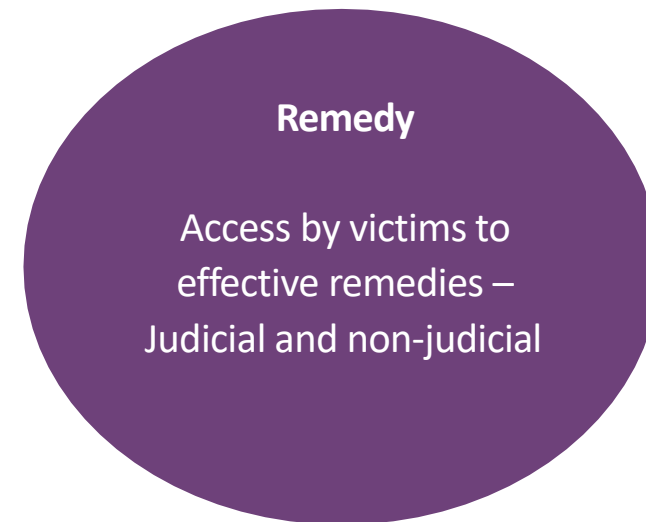
## Key points:

- Pillar I (protect) and II (respect) are only meaningful if combined with access to remedy
- Site level grievance mechanisms are an essential component of the corporate responsibility to respect
- Applies to communities and employees
- Provides valuable insight into company performance and key risks.

## UN GUIDING PRINCIPLE 31

Grievance mechanisms should be:

1. Legitimate
2. Accessible
3. Predictable
4. Equitable
5. Transparent
6. Rights-compatible
7. A source of continuous learning
8. Based on engagement and dialogue



# In Conclusion: What Benefits Does Respecting Human Rights Deliver?

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- A silhouette of a large crane against a golden sunset sky. The crane is positioned diagonally across the frame, with its long jib extending from the top left towards the center right. The sky is a mix of warm yellow and orange tones, with some light clouds. The crane's structure is dark and detailed, showing various cables and supports. The overall mood is industrial yet serene.
- Improved risk management process, across all departments and activities, and across the supply chain
  - Improved trust building with external stakeholders and strengthened social licence to operate
  - Robust and fit-for-purpose complaints procedure and associated early identification of issues of concern and risks to business
  - Opportunity for improved collaboration with other companies, business partners, suppliers, and NGOs to improve human rights outcomes
  - A platform for conversation with government about human rights uptake
  - Alignment with international standards/ best practice.