

BUSINESS AND HUMAN RIGHTS

An Oxfam perspective on the UN Guiding Principles



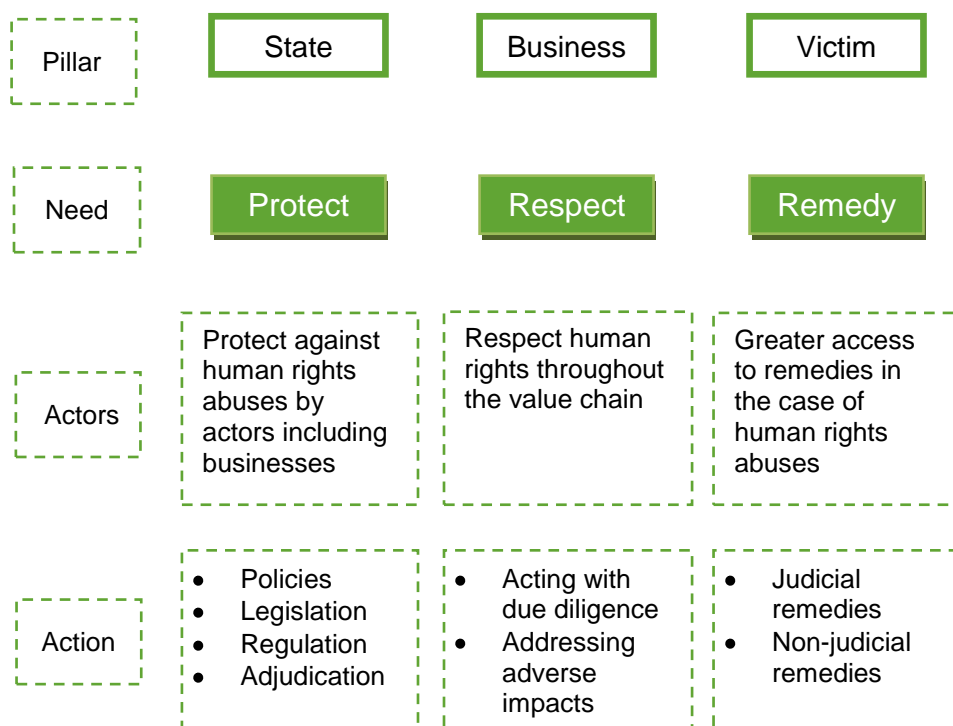
Tea pickers in Mulanje, southern Malawi. This is a form of casual labour known as *ganyu*. Many of the workers are elderly women who earn less because they work more slowly. Photo: Abbie Trayler-Smith/Oxfam.

This briefing outlines the responsibility of businesses to respect human rights under the UN Guiding Principles on Business and Human Rights (UNGPs), also known as the Ruggie Framework. It provides an overview of the UNGPs and gives an Oxfam perspective, including case studies, on key issues for businesses.

BACKGROUND: THE PROTECT, RESPECT AND REMEDY FRAMEWORK

The UN Guiding Principles on Business and Human Rights (UNGPs), sometimes referred to as ‘the Ruggie Framework’, were commissioned by the UN and developed by John Ruggie, Professor in Human Rights and International Affairs at the Kennedy School of Government at Harvard University. In 2005 Professor Ruggie was appointed by then UN Secretary-General Kofi Annan as the UN Special Representative for human rights in relation to transnational corporations and other business enterprises. He was tasked with clarifying the roles and responsibilities of states, companies, and other social actors in this contentious sphere of business activity.¹

The UNGPs are based on the Protect, Respect and Remedy Framework, which was unanimously welcomed by the UN Human Rights Council in 2008. It rests on three pillars which are mutually reinforcing and which cover preventative and remedial measures.



Based on the Report to the Human Rights Council by John Ruggie, 2011

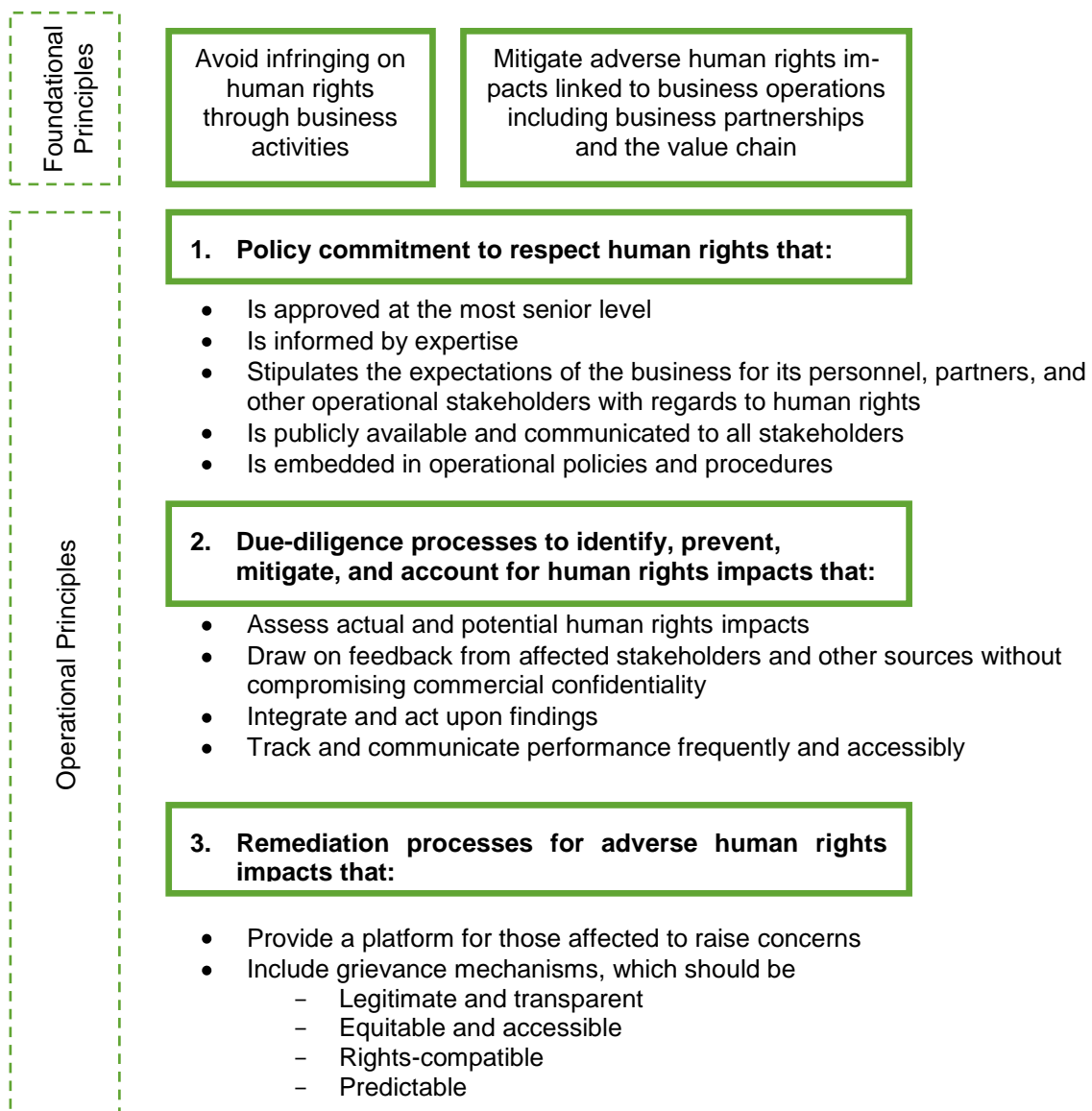
‘I am pleased to acknowledge that Oxfam played a very constructive role during the development of the UN Guiding Principles on Business and Human Rights, and that they are continuing to do so now that the challenge has turned to implementation.’

– Professor John Ruggie, May 2013

UNGPs: IMPLEMENTING THE FRAMEWORK

In March 2011, Professor Ruggie submitted the 'Guiding Principles' for implementing the Protect, Respect and Remedy Framework, which were unanimously endorsed by the UN Human Rights Council in June 2011. Soon afterwards, a range of international frameworks were updated to bring them into alignment with the UNGPs, including the OECD Guidelines on Multinational Enterprises, the Global Reporting Initiative framework, and ISO 26000.²

The UNGPs are based on the International Bill of Human Rights and the International Labour Organization (ILO)'s Declaration on Fundamental Principles and Rights at Work. They apply to all states and businesses regardless of size, sector, location, ownership, or structure and regardless of states' ability and/or willingness to fulfil their own human rights obligations. The Guiding Principles for businesses are as follows:



Based on the Report to the Human Rights Council by John Ruggie, 2011

OXFAM'S PERSPECTIVE AND CASE STUDIES

The UNGPs have set the stage for meaningful development in business and human rights policies by clearly defining, for the first time, the roles and responsibilities of the state and businesses, and means of redress open to people who are victims of human rights violations. In doing so, they have placed rights firmly back onto the corporate social responsibility (CSR) agenda. Below is Oxfam's perspective on effective implementation of the guidelines.

Understanding business impacts on people vulnerable to human rights abuses

The UNGPs should be implemented with a special focus on the rights and needs of groups who are particularly vulnerable to human rights abuses linked to business practices. An essential starting point is for companies to map where vulnerable groups exist in the supply chain in order to understand how the business is impacting these people. The results of vulnerability mapping can then be used to establish the salient impacts on which the company needs to take action.³

Case study: Land grabs and vulnerable groups

Mapping vulnerable groups in the value chain is necessary to prevent adverse human rights impacts, including those created by land grabs. Land grabs are a violation of human rights and can involve people being forced from their land, leaving them without a home or means of employment. Certain groups are particularly vulnerable. The World Bank has reported cases of indigenous people being forced from their land by palm oil companies in Indonesia and Papua New Guinea, as a result of poor interaction with local communities which was not conducted 'in a culturally appropriate manner, form, and language' and did not comply with the Bank's standards for indigenous peoples. Women also face higher risks of eviction as they are less likely to have formal land titles or the opportunity to participate in negotiations. In one case, the Bank suspended lending to the palm oil sector to implement new preventative strategies.

The UN Committee on World Food Security has endorsed the Voluntary Guidelines on the Responsible Governance of Tenure of Land, representing the first legal instrument on land issues. These guidelines are the outcome of a long multi-stakeholder process that involved governments, major international organisations, civil society, and the private sector. They are based on human rights and include several principles and provisions applicable to the private sector, in line with the UNGP approach. They can and should be implemented by all stakeholders, including the private sector.

Sources: Geary, K. (2012) 'Our Land, Our Lives: Time out on the global land rush'; World Bank (2009) 'Papua New Guinea: Smallholder Agriculture Development', <http://www.worldbank.org/projects/P079140/png-smallholder-agriculture-development?lang=en>; FAO (2012) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

Women and girls are especially vulnerable to human rights abuses linked to business practices: in the workplace they are more likely to have unstable contracts, lower wages, and less skilled jobs. Because women undertake more domestic labour in addition to paid employment, unfavourable working conditions such as long hours have a greater negative impact on them. Girls are also more likely to be taken out of school for employment. More women than men work in temporary and informal positions that are not covered by the law.⁴ To implement the UNGPs effectively, businesses therefore need to maintain data on women in their operations and value chain and address any adverse impacts that are discovered, using accessible and legitimate remediation processes.⁵

Case study: Women and the cocoa sector

Women face inequality across supply chains in the cocoa sector. They are paid significantly less than men, have poorer access to markets, assets, and co-operatives, and due to domestic commitments are less able to participate in training. An example of how women are impacted by key issues in supply chains is provided by Arti, a worker in a cocoa factory in Indonesia. Arti has no contract and earns less than the minimum wage – around £3.50 (\$5.50) a day. She told Oxfam, 'I never complain for fear of being fired.' In another Indonesian factory that Oxfam visited, we were told that every female worker had been fired when they began to demand basic rights such as equal wages to those of men. The UNGPs advise that businesses should address the heightened risks faced by women throughout value chains when developing due diligence processes. When working conditions are improved for women, positive impacts are often seen in other key areas, such as reduced instances of child labour in the supply chain. A study in Côte d'Ivoire suggested that to achieve the same positive impact on children's health, men's wages might need to be ten times higher than those of women.

Source: B. Hoffman, (2013) 'Behind the Brands: Food justice and the "Big 10" food and beverage companies', Oxfam; Principle 3 of the UNGPs, <http://policy-practice.oxfam.org.uk/publications/behind-the-brands-food-justice-and-the-big-10-food-and-beverage-companies-270393> (<http://www.behindthebrands.org/>)

Transparency, due diligence and grievance mechanisms

Robust due diligence processes and transparency about risks are important elements of implementing the UNGPs effectively. Companies need proactively to track human rights risks throughout their business operations. Consultation with potentially affected groups is an important tool to use in tracking. It can also be useful to consult local non-government organisations (NGOs) and community and worker organisations, and/or to involve independent researchers with a background in human rights in the relevant sectors, or at least to review relevant independent research. Transparency in communicating the results of these processes is important, as the UNGPs emphasise the need for companies to understand and disclose risks early and often.⁶

Grievance mechanisms are 'bottom up' tools which complement these 'top down' forms of accountability. To be effective they need to be accessible (e.g. in local languages, and stakeholders need to know they exist and where to find them); timely; fair; optionally confidential; and based on relevant human rights norms.

Case study: Human rights in the US tobacco sector

Many private investment projects – including extractive industries, infrastructure projects, and agriculture – fail to take adequate measures to respect the human rights of the local communities where work is based. In 2010 Oxfam supported two partners in piloting a community-based human rights impact assessment (HRIA) tool; one of these assessed the tobacco industry's impact on the human rights of farm workers in the fields of North Carolina. The HRIA methodology is designed to allow communities and the local organisations working to support them to identify the impacts of human rights abuses in contexts where companies and government agencies have failed to respond to repeated human rights concerns. Face-to-face interviews were conducted with farm workers and other key stakeholders including growers, local NGOs working with farm workers, government agencies, and ten of the largest tobacco companies. The research had three main successes, primarily an increased knowledge of human rights and improved remediation channels for community members and support organisations. It also enabled communities and companies to engage better with each other, and resulted in companies taking positive steps to address the concerns of communities. The increasing use of HRIAs among people affected by private investments is needed in order to improve outcomes for communities such as these.

Source: Oxfam America (2011) 'A State of Fear', <http://www.oxfamamerica.org/publications/a-state-of-fear-human-rights-abuses-in-north-carolinas-tobacco-industry>

Interaction between business partners and governments

Companies have a heightened responsibility to respect human rights throughout their operations in global supply chains. Where national legislation prescribes minimum standards or benefits relating to human rights which may set a low bar for compliance, international companies need to exceed those minimum standards or benefits. National legislation remains relevant, but the UNGPs have a separate authority; for example, a company operating in a country with poor human rights policies is still expected to respect the internationally recognised human rights of its employees.⁷

The UNGPs promote the responsibility of companies to use their leverage with business partners along the value chain, including government bodies, to ensure that human rights are respected and upheld throughout their operations.⁸ A company is expected to take action not only when it is causing a human rights abuse, but also when it is contributing to negative impacts or is linked to risks through a business relationship.⁹

The interaction between governments and businesses can also be mutually reinforcing. Under the UNGPs framework, host governments have a duty to protect individuals within their country from human rights abuses by businesses, by putting in place structures that prevent as well as remedy issues, including in relation to businesses which they own or control.¹⁰ Governments also need to ensure that private companies under their jurisdiction do not commit human rights violations abroad, as part of their duty to protect.¹¹ The European Commission is proactively influencing member states to embed the UNGPs within legislation, as part of its 2011–14 strategy on CSR.¹² This is a positive step towards governments reinforcing and strengthening business commitments to the UNGPs.

Case study: Oxfam's Behind the Brands campaign

Oxfam investigated the social and environmental policies of the ten largest food and beverage companies to encourage improvements in businesses' human rights policies and supply chain management. Oxfam developed a scorecard which uses 276 indicator questions to rate the policies and commitments of these companies related to how they source commodities from developing countries. The scorecard covers seven areas linked to agricultural supply chains: women; small-scale farmers; farm workers; water; land; climate change; and transparency. The top three companies on the scorecard were the only ones to have committed to upholding the UNGPs; however, all ten companies were shown to fall short on their policies and commitments. The study found that greater transparency and more robust processes to track human rights impacts are needed. Some key weaknesses were that companies had no policies to examine or address the exploitation of women on farms; to ensure that farmers receive a fair price; to manage impacts on local water sources; or to prevent land grabs. While some companies have taken initial steps, none are adequately measuring or reporting against relevant social indicators. As a result, much more needs to be done for human rights policies to be fully implemented within the supply chains of these and other companies.

Source: B. Hoffman, (2013) 'Behind the Brands: Food justice and the "Big 10" food and beverage companies', Oxfam, <http://policy-practice.oxfam.org.uk/publications/behind-the-brands-food-justice-and-the-big-10-food-and-beverage-companies-270393> (<http://www.behindthebrands.org/>)

Case study: Labour rights in Unilever's supply chain

The UNGPs were used by Oxfam as a tool to assess the extent to which workers could enjoy their rights in Unilever's operations and supply chain in Viet Nam, and to develop measures to guide Unilever and other companies to fulfil their social responsibilities. The study focused on freedom of association and collective bargaining, living wages, working hours, and contract labour. It found that, despite Unilever's policy commitment to human rights, due diligence processes and remediation mechanisms needed to be more robust. Unilever had not been aware that some of its practices were associated with adverse impacts for workers, including wages that were legal but low, excessive working hours, and high levels of contract labour. Oxfam made recommendations on policy changes and implementing tools, and Unilever responded positively with a range of commitments. The study demonstrated that the UNGPs can be used in a practical way to close the gap between human rights policy and practice in a company's supply chain.

Source: R. Wilshaw, et al. (2013) 'Labour Rights in Unilever's Supply Chain: From compliance towards good practice', <http://policy-practice.oxfam.org.uk/publications/labour-rights-in-unilevers-supply-chain-from-compliance-to-good-practice-an-oxf-267532>

RECOMMENDED RESOURCES

Oxfam materials on business and human rights

- Geary, K. (2012) 'Our Land, Our Lives: Time Out on the global land rush'. <http://policy-practice.oxfam.org.uk/publications/our-land-our-lives-time-out-on-the-global-land-rush-246731>
- Hoffman, B. (2013) 'Behind the Brands: Food justice and the "Big 10" food and beverage companies'. <http://policy-practice.oxfam.org.uk/publications/behind-the-brands-food-justice-and-the-big-10-food-and-beverage-companies-270393>
- Jochnick, C. (2011) 'Making headway on business and human rights', Oxfam America blog, <http://politicsofpoverty.oxfamamerica.org/2011/02/11/making-headway-on-business-and-human-rights/>
- McCarthy, L. et al. (2012) 'Gender Equality: It's Your Business'. <http://policy-practice.oxfam.org.uk/publications/gender-equality-its-your-business-213389>
- Oxfam (2011) 'Oxfam International's Perspective on the Draft Guiding Principles for the Implementation of the United Nations "Protect, Respect and Remedy" Framework'. <http://www.oxfamamerica.org/files/oxfam-ruggie-guiding-principles.pdf>
- Oxfam America (2011) 'A State of Fear: Human rights abuses in North Carolina's tobacco industry'. <http://www.oxfamamerica.org/publications/a-state-of-fear-human-rights-abuses-in-north-carolinas-tobacco-industry>
- Watson, G. et al (2013) Human rights impact assessment in practice: Oxfam's application of a community-based approach, *Impact Assessment and Project Appraisal*, 31:2, 118-127.
- Wilshaw, R. et al (2013) 'Labour Rights in Unilever's Supply Chain, from compliance towards good practice; an Oxfam study of labour issues in Unilever's Viet Nam operations and supply chain'. <http://policy-practice.oxfam.org.uk/publications/labour-rights-in-unilevers-supply-chain-from-compliance-to-good-practice-an-oxf-267532>

Useful resources on the UNGPs

- Business and Human Rights Initiative (2010) 'How to Do Business with Respect for Human Rights: A Guidance Tool for Companies,' The Hague: Global Compact Network Netherlands, http://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/how_to_business_with_respect_for_human_rights_gcn_netherlands_june2010.pdf
- Business and Human Rights Resource Centre, UN Guiding Principles Portal, <http://business-humanrights.org/UNGuidingPrinciplesPortal/Home>
- Ethical Trade Initiative (2011) 'Tesco's Pilot of the Ruggie Framework in South Africa', <http://www.ethicaltrade.org/in-action/member-performance/tescos-pilot-of-ruggies-principles-in-south-africa>
- Jochnick, C. and Rabaeus, N. (2010) Business and Human Rights Revitalized: A New UN Framework Meets Texaco in the Amazon.
- Social Accountability International (SAI) (2012) 'United Nations Guiding Principles on Business and Human rights: A Six-Step Approach to Supply chain Implementation', <http://sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1315#.UbBhhtKmiJY>

- The Shift Project, www.shiftproject.org
- UN Human Rights Council (2011) 'Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie', http://ec.europa.eu/enterprise/policies/sustainable-business/files/business-human-rights/guiding_principles_business_and_hrrr_en.pdf
- van Huijstee, M. et al. (2012) How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy, A guide for civil society organisations, SOMO, CEDHA, Cividep India, <http://somo.nl/news-en/somo-news/new-guide-for-civil-society-organisations>

NOTES

- ¹ J. Ruggie (2011) 'The UN "Protect, Respect and Remedy" Framework for Business and Human Rights'. <http://198.170.85.29/Ruggie-protect-respect-remedy-framework.pdf>
- 2 Human Rights at Work (2013) 'UN Guiding Principles for Business and Human Rights'. <http://www.humanrightsatwork.nl/en/un-guiding-principles-for-business-and-human-rights/>
- 3 Social Accountability International (SAI) and Interchurch Organisation for Development Cooperation (ICCO) (2012) 'UNGP: A Six-Step Approach to Supply Chain Implementation', SAI training material.
- 4 L. McCarthy, L. Kirk and K. Grosser, (2012) 'Gender Equality: It's Your Business', Oxfam Briefing for Business. <http://policy-practice.oxfam.org.uk/publications/gender-equality-its-your-business-213389>
- 5 SAI and ICCO (2012) op. cit.
- 6 Ruggie, J. (2011) op. cit., Principle 21.
- 7 Ibid., Principle 12.
- 8 Ibid., Principle 13.
- 9 M. Huijstee, V. Ricco and L. Ceresna-Chaturvedi, (2012) 'How to Use the UN Guiding Principles on Business and Human Rights in Company Research and Advocacy', SOMO. somo.nl/publications-en/Publication_3899/at_download/fullfile
- 10 J. Ruggie, (2011) op. cit., Principles 1 and 4.
- 11 J. Hobbs, (2011) 'Oxfam International's Perspective on the Draft Guiding Principles for the Implementation of the United Nations "Protect, Respect and Remedy" Framework', Oxfam America. <http://www.oxfamamerica.org/files/oxfam-ruggie-guiding-principles.pdf>
- 12 European Commission (2011) 'Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions: A renewed EU strategy 2011–14 for Corporate Social Responsibility'. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>

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For further information on the issues raised in this paper please e-mail advocacy@oxfaminternational.org

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