

# Business + Human Rights Asia

Promoting responsible  
business practices in Asia



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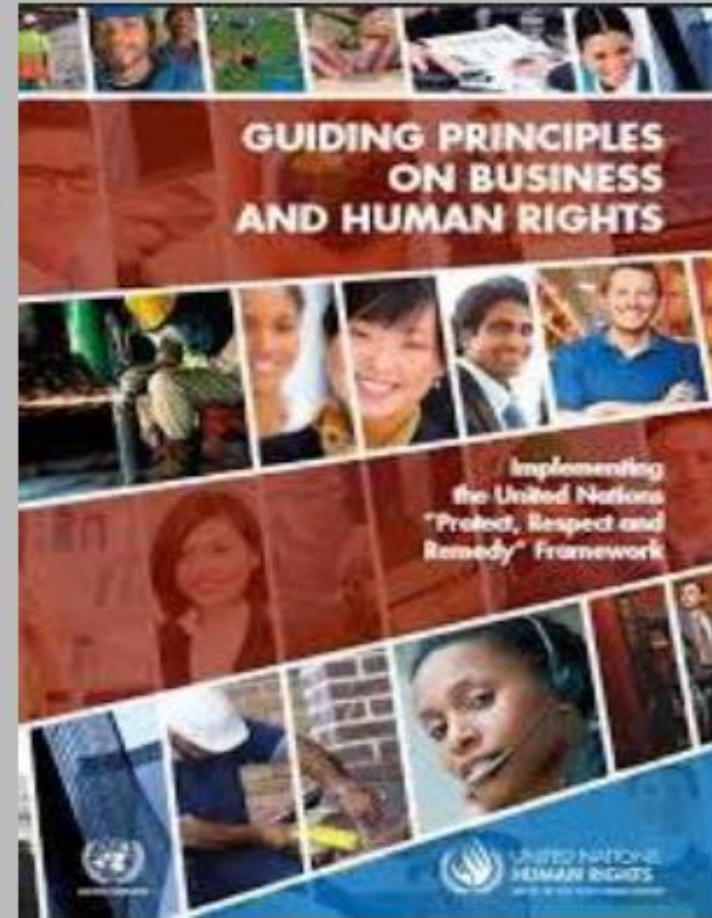
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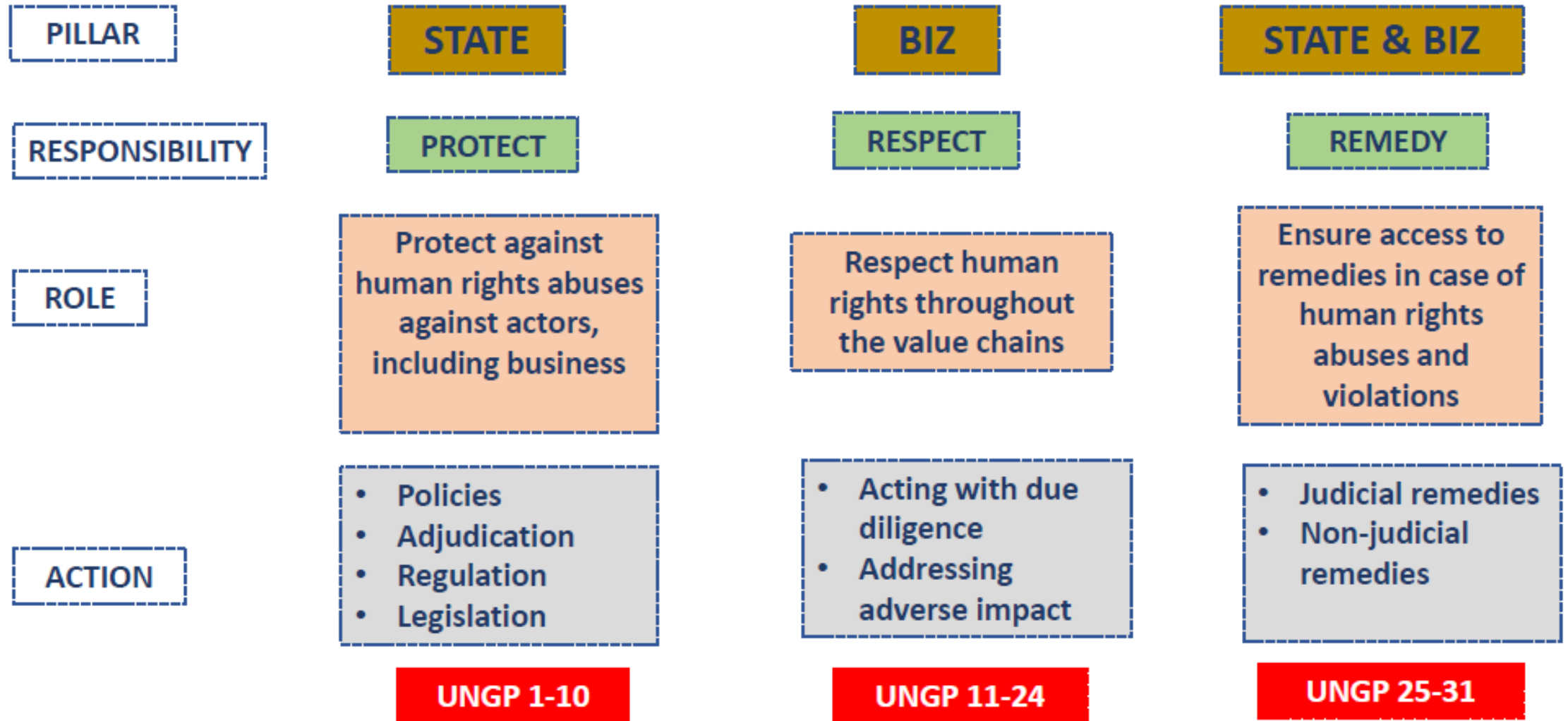
**WHY SHOULD  
BANKS/INVESTORS  
CARE ABOUT  
HUMAN RIGHTS**

# UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

- The UN Guiding Principles on Business and Human Rights: Implementing the “Protect, Respect and Remedy” Framework.
- The UNGPs are a set of 31 principles directed at States and companies that clarify their duties and responsibilities to protect and respect human rights in the context of business activities and to ensure access to an effective remedy for individuals and groups affected by such activities.
- The UNGPs apply to all businesses and covers all human rights.



# UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS



# THE CORPORATE RESPONSIBILITY TO RESPECT

- All business enterprises have a responsibility to respect all “*internationally recognized human rights*”.
- Principles 11-24 define the nature of this responsibility and prescribe ways to discharge it.

Avoid infringing on human rights



+

Address adverse human rights impacts



# THE CORPORATE RESPONSIBILITY TO RESPECT

- Corporations may create human rights impact in different ways – they may cause, contribute to or be directly linked to such risks [Principle 13].
- Businesses are expected to declare a **Policy Commitment** to respect human rights [Principle 15(a) → 16]
- Businesses are expected to conduct **Human Rights Due Diligence** [Principle 15 (b) → 17-21]
- Businesses are expected to put in place processes to **enable Remediation of any adverse human rights impacts** [Principle 15 (c ) →22]

## GUIDING PRINCIPLE 13

UNGP 13 states that the corporate responsibility to respect human rights requires all business enterprises to:

- a) avoid **causing or contributing** to adverse human rights impacts through their own activities, and address such impacts when they occur;
- b) seek to prevent or mitigate adverse human rights impacts that are **directly linked** to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”

## WHAT DOES IT MEAN FOR BANKS

**CAUSE:** A bank can cause an adverse impact where its activities on their own ‘remove or reduce’ a person’s (or group of persons’) ability to enjoy a human right, i.e. where the bank’s activities alone (without those of clients or other stakeholders) are sufficient to result in the adverse impact.

**CONTRIBUTE:** A bank can contribute to an adverse impact through its own activities either directly alongside other entities, or through some outside entity, such as a client. Contribution implies an element of ‘causality’, for example that the bank’s actions and decisions influenced the client in such a way as to make the adverse human rights impact more likely.

**DIRECT LINKAGE:** Direct linkage refers to situations where a bank has not caused or contributed to an adverse human rights impact, but there is nevertheless a direct link between the operations, products or services of the bank and an adverse human rights impact, through the bank’s business relationships. A situation of ‘direct linkage’ may occur where a bank has provided finance to a client and the client, in the context of using this finance, acts in such a way that it causes (or is at risk of causing) an adverse impact.

Continuum....contributing to direct linkage





# RISK FOR HUMAN RIGHTS FOR THE FINANCIAL SECTOR

- Discrimination in lending practices
- Customer Due Diligence
- Sector Due Diligence
- Bribery and corruption
- Large-Scale Infrastructure and Land Developments
- Commodities Investing
- Customer and Employee Privacy
- Supply Chains and Modern Slavery/Human Trafficking

Discrimination

Land Rights

Displacement

Forced Labour

Access to basic facilities : food, shelter & water

Livelihood

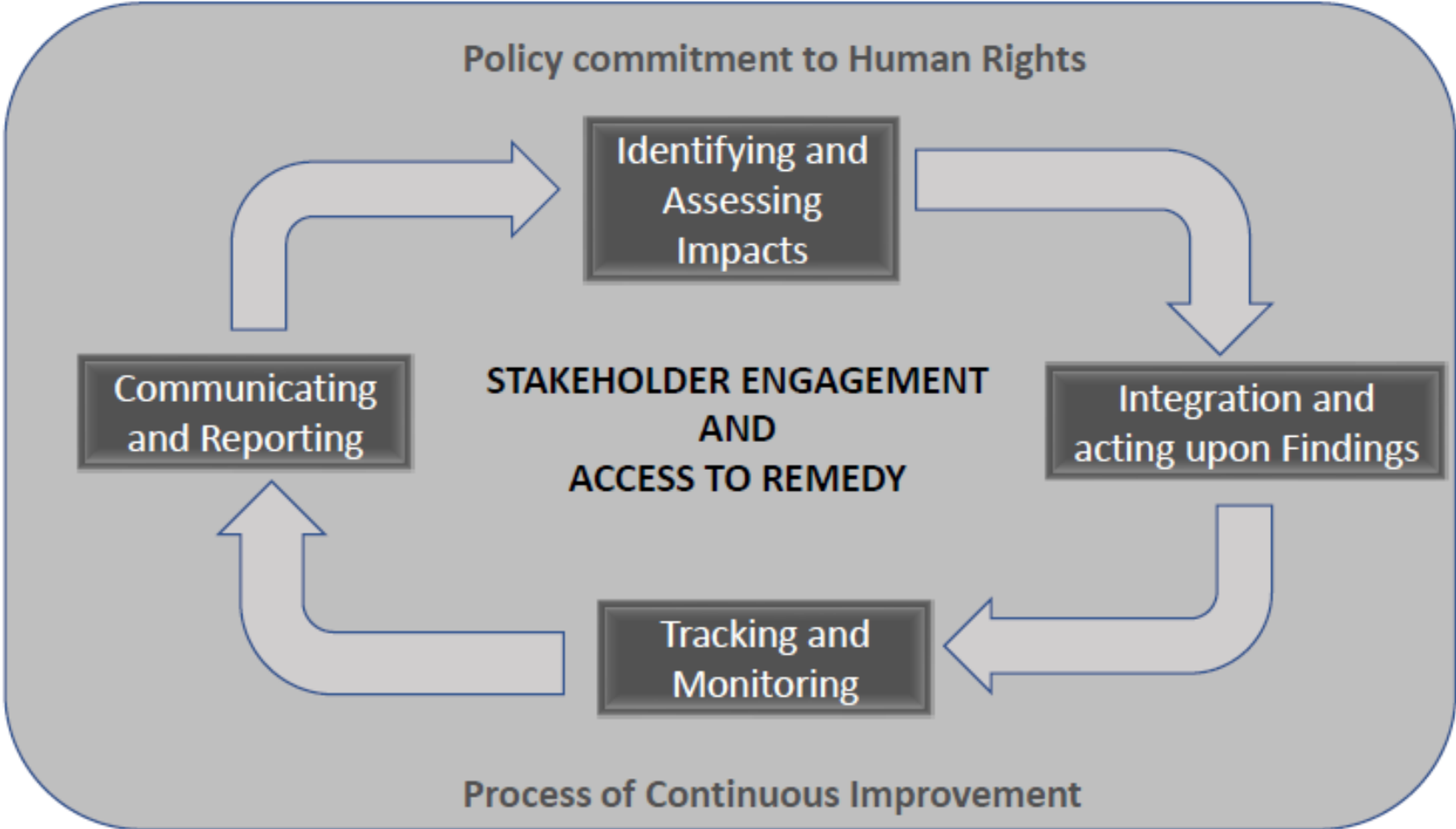
Access to vaccines

Health and safety

Climate Change

Environment

# HUMAN RIGHTS DUE DILIGENCE – THE STEPS



# POLICY COMMITMENT : WHAT NEEDS TO BE DONE

## GP: 16 Policy commitment 16:

As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that: (a) Is approved at the most senior level of the business enterprise; (b) Is informed by relevant internal and/or external expertise; (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties; (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise

A statement of policy and governance framework should be developed which aims to express the bank's public commitment to respect human rights.

**Management approval:** "Tone from the top" is important in gaining buy-in from other parts of the organisation, especially when making explicit reference to human rights in a range of policies and integrating a human rights "perspective" on decisions and processes.

**Comprehensive and inclusive implementation:** Generate awareness and understanding throughout the organisation of the importance and relevance of human rights issues to business decisions, including the focus on "doing no harm" and the impact of getting it wrong

**Consistency:** Be embedded in already established procedures and proactively communicated in dialogue with employees, clients, business partners, investors, suppliers and other external stakeholders

**Accountability and review:** Establish clear accountabilities and allocation of responsibility, monitoring and reporting requirements and an escalation procedure for evaluating risks or dilemmas as they arise. Be subject to regular review, audit and consultation, and sign-off via a high level governance process

# REMEDIATION

**UNGP 22 stipulates:**  
“[w]here business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.”  
[emphasis added]

- The application of UNGP 22 is limited to situations where a bank itself recognizes that it has caused or contributed to an adverse impact. A bank may arrive at such recognition through its own due diligence processes, in consultation with stakeholders, or through an operational-level grievance mechanism.
- The commentary to UNGP 22 makes clear that remediation requires ‘active engagement’ by the bank, meaning that it should actively seek to ensure that timely and effective remedy is provided.
- UNGP 22 does not prescribe that the bank must provide the remedy directly through its own mechanisms; in many cases, both the affected stakeholders and the bank may prefer a legitimate external grievance mechanism to hear the case and decide on remedy. ‘

## REMEDIATION....contd

**Leverage:** If a bank has identified adverse human right impacts directly linked to its financial products or services through a client it is not responsible for providing remedy. However, there are still actions expected of the bank other than remediation – i.e. to seek to prevent or mitigate the impact.

**Operational Level Grievance Mechanisms:** UNGP 29 stipulates that companies establish or cooperate in grievance mechanisms in order to make it possible for business enterprises to address grievances early and directly. In other words, banks are expected to have mechanisms in place (their own or one they participate in) to respond effectively if or when grievances arise.

- UNGPs do not require that every bank have its own OLG—it can participate in mechanisms that may be established in collaboration with or by other entities, for example through industry-networks, multi-stakeholder initiatives, or sector-based human rights initiatives. In addition, the UNGPs make clear that OLGs should form one part of a broader system of effective remedy mechanisms. While OLGs are one means through which remediation can be provided, some impacts may be best remediated through other legitimate mechanisms, including State-based judicial and non-judicial mechanisms.
- Banks should respect stakeholder preferences with respect to use of OLGs or other legitimate processes, and engage with the latter in good faith

### **UNEP FI's Tools on Human Rights for Financial institutions**

<https://www.unepfi.org/social-issues/human-rights-tool/>

### **OHCHR's guidance**

<https://www.ohchr.org/Documents/Issues/Business/InterpretationGuidingPrinciples.pdf>

### **the website tracks companies on their human rights record and provide tools ad resources**

[www.business-humanrights.org](http://www.business-humanrights.org)

#### **Other Resources**

1. [https://media.business-humanrights.org/media/documents/files/documents/2017\\_12\\_Thun\\_Group\\_of\\_Banks\\_Paper\\_U\\_NGPs\\_13b\\_and\\_17.pdf](https://media.business-humanrights.org/media/documents/files/documents/2017_12_Thun_Group_of_Banks_Paper_U_NGPs_13b_and_17.pdf)
2. <https://www.banktrack.org/>

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