



United Nations “Protect, Respect and Remedy” Framework

Summary and ideas for implementation

Jakarta – Feb 2015

Guiding Principle on Business and Human Rights

- The Guiding Principle (GP) will mark the end of the beginning: *by establishing a common global platform for action, on which cumulative progress can be built, step by step, without foreclosing any other promising longer-term developments.*
- GP normative contribution lies in:
 - Elaborating the implications of existing standards and practices for States and businesses
 - Integrating them within a single, logically coherent and comprehensive template
 - Identifying where the current regime falls short and how it should be improved
- GP recognizes 'one size does not fit all'

General Principles

1. States' existing obligation to respect, protect, and fulfill human rights and fundamental freedoms
 2. The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights
 3. The need for rights and obligations to be matched to appropriate and effective remedies when breached
- Notes:
 - Indonesia already adopts all main Human Rights covenants and established National Commission of Human Rights (Komnas HAM)
 - Decentralization lead to disharmony between national and local regulations
 - Law on social welfare and public services already legalized, implementation and institutionalization is still a big challenge
 - Principle 2 will be the focus and more elaboration will be made.

1. States' Obligation...

- Foundational principles:
 1. States must protect against human rights abuse within territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication
 2. States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operation
- Condition: there are several laws state the obligation of companies to apply CSR, there is rivalry between government offices to manage on CSR issue.
- Possible action: Develop a working group consist of related government officers and other business to jointly develop regulatory framework and agenda of action

2. The Corporate responsibility...

- Foundational principles:
 1. Business enterprise should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
 2. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights.
- Condition: Lack of awareness and capacity on human rights among business practitioners, lack of institution and mastered skills for adopting human rights into business practices.
- Possible action: Leadership on human rights mainstreaming into business process, on going capacity and institutionalization of human right principles

2. The Corporate responsibility...

- The responsibility to respect human rights requires:
 - 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 relationship**, even if they have not contributed to those impacts.
- Condition: Human rights impact assessment and mitigation is not part of annual management practices yet.
- Possible action: Institutionalize human rights impact assessment and mitigation as management practices covering supply and value chain process

2. The Corporate responsibility...

- Appropriate policies and process:
 - a. A **policy commitment** to meet their responsibility to respect human rights.
 - b. A **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights.
 - c. Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute.
- Condition: no clear and directive policy commitment, no regular human rights due diligence process, no remediation process .



2. The Corporate responsibility – Operational Principles

- **Policy commitment:**
 - 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 expectation 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.
- Required action: Appointed personal/team to prepare the policy commitment and lead the process. S/He must has adequate resources, access, authorities, and support to complete the task.

2. The Corporate responsibility – Operational Principles

- **Human rights due diligence:**
 - a. Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships..
 - b. Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations
 - c. Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.
- Required action: Integrate human rights due diligence as part of monitoring and evaluation mechanism of business operation.

2. The Corporate responsibility – Operational Principles

- **Human rights due diligence.** Gauging human rights risks, business enterprise should identify and assess any actual or potential adverse human rights impacts:
 - a. Draw on internal and/or independent external human rights expertise.
 - b. Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.
- Required action: considering the activity will be regular, appointing personal/team to responsible on the issue will be more appropriate.



2. The Corporate responsibility – Operational Principles

- **Effective integration** requires:
 - i. Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise
 - ii. Internal decision-making, budget allocation and oversight processes enable effective responses to such impacts
- **Appropriate action** will vary according to:
 - i. Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship
 - ii. The extent of its leverage in addressing the adverse impact.
- Required action: management decision and timeline to mainstream human rights into management process, strategizing the action based on the case and maximizing the leverage.

2. The Corporate responsibility – Operational Principles

- **Tracking** should:
 - a. Be based on appropriate qualitative and quantitative indicators
 - b. Draw on feedback from both internal and external sources, including affected stakeholders.
- **Communications** should:
 - a. Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences
 - b. Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved.
 - c. In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.
- Required action: Development of qualification and SOP for conducting tracking and communication activities.

2. The Corporate responsibility – Operational Principles

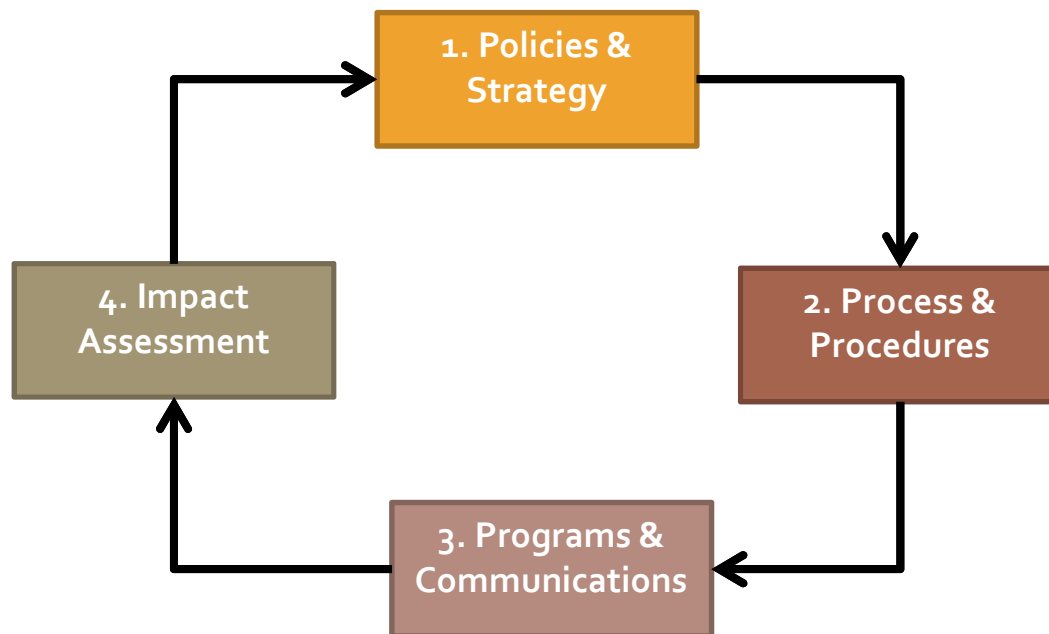
- **Remediation:**
 - Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through **legitimate processes**.
- Required action: Formulate legitimate process of remediation that involving key stakeholders, comply with all applicable laws, and respect internationally recognized human rights. Preferential must be given to those that are most severe or where delayed response would make them irremediable.



Human Rights Impact Assessment (HRIA) - Distinctiveness

- Should describe the proposed business activity
- Should catalogue the legal, regulatory, and administrative standards to which the activity is subject
- Should describe human rights conditions in the area surrounding the business activity
- Should put forth a view of what is likely to change because of the business activity
- Should prioritize the human rights risks that the proposed business activity presents and make practical recommendations to address those risks
- Those recommendations should be incorporated into management plan that includes provisions for monitoring the baseline indicators and revisiting the issues
- Should discuss applicable good practices
- Should involve experts and source persons in the industry, local context, and human rights
- Carefully share to the public.

Management for Human Rights Mainstreaming



- Human rights should be a collective effort to make it success.
- It should create a circle of improvement that acknowledge and participate by other parties
- Human right is a cross cutting issue that need to be mainstreamed into different departments. A sound leadership is a must to make it works.