### Learning booklet 8

# The UN Guiding Principles on Business and Human Rights

### An Overview of the UN Guiding Principles on Business and Human Rights

1. In 2011, the *UN Guiding Principles on Business and Human Rights* - a framework setting the international standard on business and human rights - was developed and endorsed by the UN unanimously.

2. While the UN Guiding Principles on Business and Human Rights, also known as UNGPs, are non - binding “soft law”, they are influential because they explicitly address the responsibility of corporate entities towards observing human rights. The UNGPs are increasingly being incorporated into international frameworks, standards, and guidelines.

**United Nations**: The UNGPs are the expressions of expected governance of any company

**The World Bank**: Part of the new sustainability policy

**OECD:** Part of the updated OECD Guidelines for MNEs

**European Union**: Expects all European enterprises to meet the corporate responsibility to respect human rights as defined by the UNGPs

**European Union**: New directive relying on the UNGP framework requiring the disclosure of non - financial and diversity information by *“public interest entities”* by financial year 2018

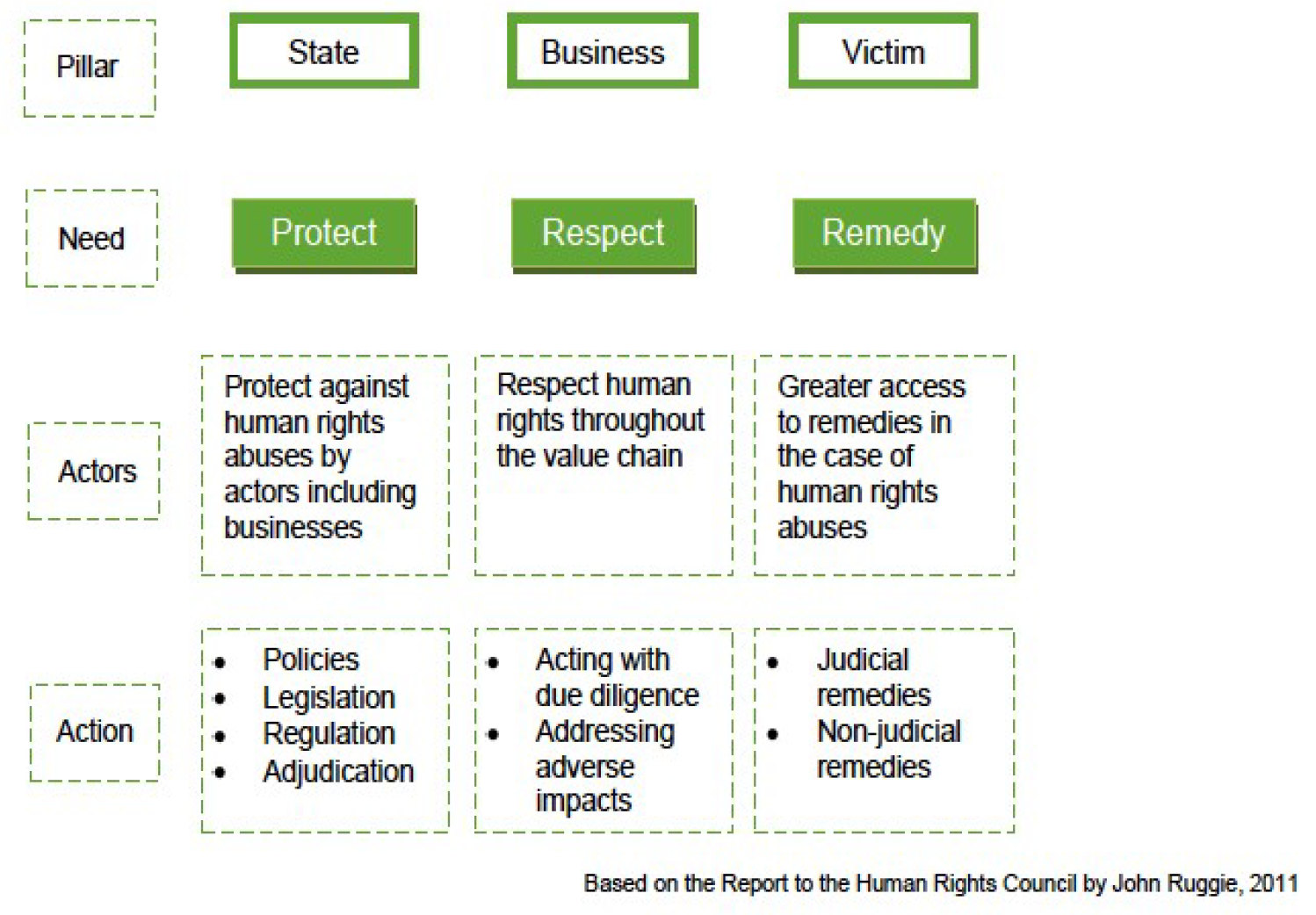
3. The UNGPs is a platform through which international law may hold corporate businesses accountable in the future

4. While the UNGPs is today a *soft law* (non-binding) instrument, it has been incorporated into hard law measures, like in Denmark in the public requirements to financial reporting, and through the establishment of a state - funded grievance mechanism.

5. The UNGP focuses on the human rights dimension of CSR and sets out to inform actors on how to identify, prevent, mitigate, and address human rights violations in relation to corporate entities.

6. The UN Guiding Principles contain three pillars, namely: “*Protect, Respect and Remedy*”.

7. Each pillar defines concrete, actionable steps for government 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

8. The UN 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.

### The Corporate Responsibility to Respect

9. The UN Guiding Principles affirm that companies must respect internationally agreed human rights principles and national laws, both in relation to their own operations and activities and the responsibility extends to the activities of business relationships.

### Access to Remedy

10. Remedy - addresses the necessity that companies and states alike must ensure the existence of viable grievance mechanisms if human rights are violated.

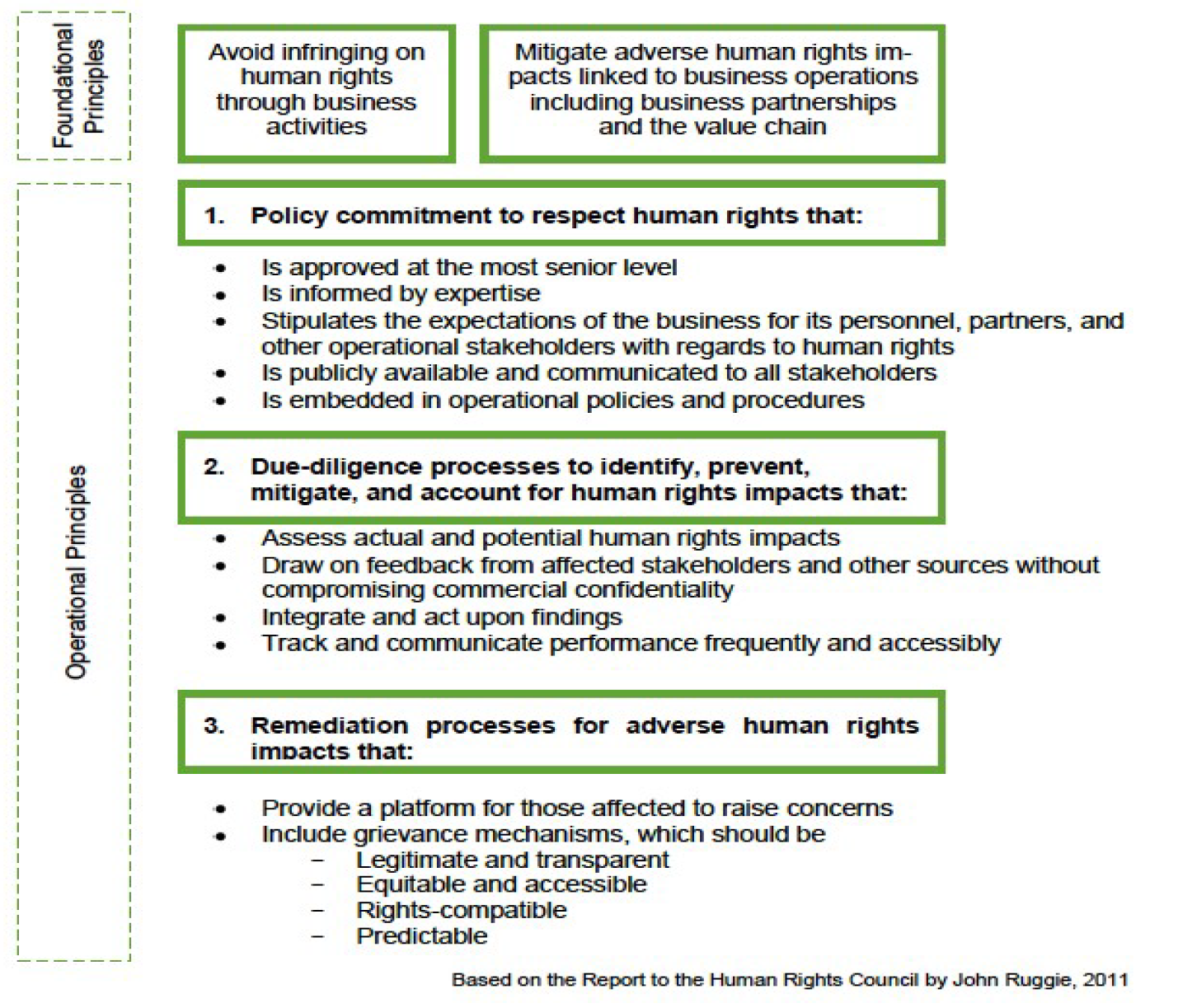
11. The 3 pillars of the UN Guiding Principles have been defined in recognition of the following fundamental principles:

* **States** have an obligation to respect, protect and fulfill human rights and fundamental freedoms
* **Businesses** are expected to comply with all applicable laws and to respect human rights
* If there are **victims** of breaches, these should have access to effective remedy.

12. The above principles apply to all states and business enterprises, both transnational and others, regardless of size, sector, location, ownership and structure.

### The UNGPs: Corporate Responsibility to Respect Human Rights

13. The nine operational principles that make up the corporate responsibility to respect human rights are divided into three components – policy commitment, due diligence, and remediation.



14. The above 3 components actually operationalize the first 2 principles of the UN Global Compact, in that they explain what is required of a company in order to show respect for human rights.

15. Policy Commitment is where you commit to working systematically with ALL human rights, as well as stipulate what implications your human rights commitment has on your employees, suppliers and other stakeholders.

16. Due Diligence refers to the process of identifying, preventing, mitigating, and addressing the human rights impacts of a business enterprise across its operations and products, and throughout its supplier and business partner networks.

17. Remediation is only relevant in cases where you identify that you have caused or contributed to adverse impacts on human rights.

18. Even with the best due diligence system in place, it is possible to cause or contribute to adverse human rights impacts. Therefore, an essential part of respecting human rights is - providing effective remedy to victims of adverse impacts.

### Policy Commitment to Respect Human Rights

19. A company’s *policy commitment to respect human rights* needs to have the support of top management in order to have it integrated into all aspects of the company’s operations.

20. The company’s policy commitment to respect human rights should be made publicly available so that the awareness and atttention to the subject is raised.

21. Lastly, the policy commitment should be embedded in existing company policies and procedures to facilitate institutionalisation.

### Human Rights Due Diligence

22. Human rights due diligence is a structured management system that companies should have in place to identify, prevent, mitigate and account for potential human rights violations.

23. Due Diligence should include assessments of internal procedures and systems, as well as external engagement with groups potentially affected by its operation.

24. Assessment of impacts should be done at every stage of the company operation – prior to a business activity, at regular intervals prior to market entry, during product development, etc.

25. Impact assessment can be incorporated with other processes – for example, with the risk assessments, or with the environmental/social impact assessments – and placing importance to country and industry specific risks.

26. Where any potential adverse human rights impact has been identified thru the human rights due diligence process, companies should act upon the findings.

27. Action to prevent or mitigate should take place in the relevant internal functions or processes, and appropriate level of the company, with resources and authority assigned accordingly.

28. This is achieved by constantly tracking, monitoring, evaluating, and reporting on the company’s prevention and mitigation efforts.

29. These status reports on the company actions on prevention and/or mitigation of human rights impacts should be integrated into the relevant internal reporting processes of the company.

30. As a way of showing that business respect human rights, companies should also be prepared to communicate and be transparent about how they address their human rights impacts.

31. Communications can be through meetings, on-line dialogue, consultation with affected and/or most likely to be affected groups and stakeholders, public reports etc.

### Remediation Processes for Adverse Human Rights Impacts

31. The UN Guiding Principles set out a list of effectiveness criteria for an effective grievance mechanisms.

* **Legitimate** – to enable trust from all parties concerned.
* **Accessible** – known to all, and does not erect administrative and financial barriers
* **Predictable** – procedures are clear and known to all
* **Equitable** – provides reasonable access to sources of information, advice, and expertise
* **Transparent** – provides information on the performance of the grievance mechanism
* **Rights** **Compatible** – consistent with international human rights principles and instruments
* **A source of continous learning** – providing for lessons to improve

33. Providing access to effective remedy is not simply a communications or political exercise.

34. Effective grievance mechanisms must provide genuine remedies for victims of human rights violations by companies.