**From**

**OECD Guidelines**

**for Multinational Enterprises**

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**IV. Human Rights**

States have the duty to protect human rights. Enterprises should, within

the framework of internationally recognised human rights, the international

human rights obligations of the countries in which they operate as well as

relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the

human rights of others and should address adverse human rights impacts

with which they are involved.

2. Within the context of their own activities, avoid causing or contributing

to adverse human rights impacts and address such impacts when they

occur.

3. Seek ways to prevent or mitigate adverse human rights impacts that are

directly linked to their business operations, products or services by a

business relationship, even if they do not contribute to those impacts.

4. Have a policy commitment to respect human rights.

5. Carry out human rights due diligence as appropriate to their size, the

nature and context of operations and the severity of the risks of adverse

human rights impacts.

6. Provide for or co-operate through legitimate processes in the

remediation of adverse human rights impacts where they identify that

they have caused or contributed to these impacts.

**Commentary on Human Rights**

36. This chapter opens with a chapeau that sets out the framework for the

specific recommendations concerning enterprises’ respect for human

rights. It draws upon the United Nations Framework for Business and

Human Rights ‘Protect, Respect and Remedy’ and is in line with the

Guiding Principles for its Implementation.

37. The chapeau and the first paragraph recognise that States have the duty

to protect human rights, and that enterprises, regardless of their size,

sector, operational context, ownership and structure, should respect

human rights wherever they operate. Respect for human rights is the

global standard of expected conduct for enterprises independently of

States’ abilities and/or willingness to fulfil their human rights

obligations, and does not diminish those obligations.

38. A State’s failure either to enforce relevant domestic laws, or to

implement international human rights obligations or the fact that it may

act contrary to such laws or international obligations does not diminish

the expectation that enterprises respect human rights. In countries where

domestic laws and regulations conflict with internationally recognised

human rights, enterprises should seek ways to honour them to the fullest

extent which does not place them in violation of domestic law,

consistent with paragraph 2 of the Chapter on Concepts and Principles.

39. In all cases and irrespective of the country or specific context of

enterprises’ operations, reference should be made at a minimum to the

internationally recognised human rights expressed in the International

Bill of Human Rights, consisting of the Universal Declaration of Human

Rights and the main instruments through which it has been codified: the

International Covenant on Civil and Political Rights and the

International Covenant on Economic, Social and Cultural Rights, and to

the principles concerning fundamental rights set out in the 1998

International Labour Organisation Declaration on Fundamental

Principles and Rights at Work.

40. Enterprises can have an impact on virtually the entire spectrum of

internationally recognised human rights. In practice, some human rights

may be at greater risk than others in particular industries or contexts,

and therefore will be the focus of heightened attention. However,

situations may change, so all rights should be the subject of periodic

review. Depending on circumstances, enterprises may need to consider

additional standards. For instance, enterprises should respect the human

rights of individuals belonging to specific groups or populations that

require particular attention, where they may have adverse human rights

impacts on them. In this connection, United Nations instruments have

elaborated further on the rights of indigenous peoples; persons

belonging to national or ethnic, religious and linguistic

minorities; women; children; persons with disabilities; and migrant

workers and their families. Moreover, in situations of armed conflict

enterprises should respect the standards of international humanitarian

law, which can help enterprises avoid the risks of causing or

contributing to adverse impacts when operating in such difficult

environments.

41. In paragraph 1, addressing actual and potential adverse human rights

impacts consists of taking adequate measures for their identification,

prevention, where possible, and mitigation of potential human rights

impacts, remediation of actual impacts, and accounting for how the

adverse human rights impacts are addressed. The term ‘infringing’ refers

to adverse impacts that an enterprise may have on the human rights of

individuals.

42. Paragraph 2 recommends that enterprises avoid causing or contributing

to adverse human rights impacts through their own activities and address

such impacts when they occur. ‘Activities’ can include both actions and

omissions. Where an enterprise causes or may cause an adverse human

rights impact, it should take the necessary steps to cease or prevent the

impact. Where an enterprise contributes or may contribute to such an

impact, it should take the necessary steps to cease or prevent its

contribution and use its leverage to mitigate any remaining impact to the

greatest extent possible. Leverage is considered to exist where the

enterprise has the ability to effect change in the practices of an entity

that cause adverse human rights impacts.

43. Paragraph 3 addresses more complex situations where an enterprise has

not contributed to an adverse human rights impact, but that impact is

nevertheless directly linked to its operations, products or services by its

business relationship with another entity. Paragraph 3 is not intended to

shift responsibility from the entity causing an adverse human rights

impact to the enterprise with which it has a business relationship.

Meeting the expectation in paragraph 3 would entail an enterprise,

acting alone or in co-operation with other entities, as appropriate, to use

its leverage to influence the entity causing the adverse human rights

impact to prevent or mitigate that impact. ‘Business relationships’

include relationships with business partners, entities in its supply chain,

and any other non-State or State entity directly linked to its business

operations, products or services. Among the factors that will enter into

the determination of the appropriate action in such situations are the

enterprise’s leverage over the entity concerned, how crucial the

relationship is to the enterprise, the severity of the impact, and whether

terminating the relationship with the entity itself would have adverse

human rights impacts.

44. Paragraph 4 recommends that enterprises express their commitment to

respect human rights through a statement of policy that: *(i)* is approved

at the most senior level of the enterprise; *(ii)* is informed by relevant

internal and/or external expertise; *(iii)* stipulates the enterprise’s human

rights expectations of personnel, business partners and other parties

directly linked to its operations, products or services; *(iv)* is publicly

available and communicated internally and externally to all personnel,

business partners and other relevant parties; *(v)* is reflected in

operational policies and procedures necessary to embed it throughout

the enterprise.

45. Paragraph 5 recommends that enterprises carry out human rights due

diligence. The process entails assessing actual and potential human

rights impacts, integrating and acting upon the findings, tracking

responses as well as communicating how impacts are addressed. Human

rights due diligence can be included within broader enterprise risk

management systems provided that it goes beyond simply identifying

and managing material risks to the enterprise itself to include the risks to

rights-holders. It is an on-going exercise, recognising that human rights

risks may change over time as the enterprise’s operations and operating

context evolve. Complementary guidance on due diligence, including in

relation to supply chains, and appropriate responses to risks arising in

supply chains are provided under paragraphs A.10 to A.12 of the

Chapter on General Policies and their Commentaries.

46. When enterprises identify through their human rights due diligence

process or other means that they have caused or contributed to an

adverse impact, the *Guidelines* recommend that enterprises have

processes in place to enable remediation. Some situations require cooperation

with judicial or State-based non-judicial mechanisms. In

others, operational-level grievance mechanisms for those potentially

impacted by enterprises’ activities can be an effective means of

providing for such processes when they meet the core criteria of:

legitimacy, accessibility, predictability, equitability, compatibility with

the *Guidelines* and transparency, and are based on dialogue and

engagement with a view to seeking agreed solutions. Such mechanisms

can be administered by an enterprise alone or in collaboration with other

stakeholders and can be a source of continuous learning. Operationallevel

grievance mechanisms should not be used to undermine the role of

trade unions in addressing labour-related disputes, nor should such

mechanisms preclude access to judicial or non-judicial grievance

mechanisms, including the National Contact Points under the

*Guidelines*.