

**Briefing Note
on
Human Rights Responsibilities of Business Enterprises concerning Ongoing Protests in Hong Kong**

27 August 2019

Business and Human Rights Network Hong Kong (Network) is a platform of civil society organisations and individuals committed to promoting business respect for human rights in Hong Kong and mainland China in line with all relevant national, regional and international standards.

The Network is concerned that the governments as well as businesses are either not aware of their human rights obligations/responsibilities under applicable international standards, especially the [UN Guiding Principles on Business and Human Rights](#) (UNGPs), or not integrating these into their decisions in relation to the ongoing protests in Hong Kong. The media reports on the matter also make no reference to the UNGPs or other relevant standards.

This briefing note provides guidance to all relevant stakeholders, especially government agencies and businesses. The Network strongly urges all government agencies and business enterprises to consider their respective human rights obligations or responsibilities under the UNGPs before taking any decision or action on matters related to the Hong Kong protests.

Human rights obligations of states in relation to businesses

States have a legally binding obligation under international human rights law to protect individuals against human rights abuses by business enterprises within their territory or jurisdiction. To discharge this obligation, states should, for instance, set expectations for businesses through effective laws, introduce policy measures to incentivise companies to respect human rights, investigate cases of human rights abuses by businesses, and provides remedies to affected victims.

This obligation applies to both ‘host’ and ‘home’ states of businesses. In the context of the Hong Kong protests, the Central Government of China, the HKSAR Government and the governments of all other countries whose companies are operating in Hong Kong have an obligation to ensure that these enterprises do not violate human rights while doing business.

Therefore, no government department or agency should give business enterprises any direction that undermines their ability to respect the human rights of their employees, customers or other stakeholders.

Human rights responsibilities of business enterprises

Under the UNGPs, all business enterprises have a responsibility to respect all human rights. This means (i) making a policy commitment to respect human rights; (ii) conducting human rights due diligence process to identify, prevent, mitigate and account for how they address their adverse impacts on human rights; and (iii) providing remedies in cases in which they have caused or contributed to any adverse human rights impacts.

This responsibility is over and above their obligation to comply with all local laws. It is also independent of the obligations of states: even if a state is ignoring its human rights obligations, business enterprises

should still respect human rights. It is no excuse for businesses to say that local laws or regulations do not allow them to respect human rights. Principle 23(b) of the UNGPs stipulates that business enterprises should “seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements”.

A business enterprise may *cause* or *contribute* to adverse human rights impacts, or it may be *directly linked* to certain adverse impacts through its operations, products or services. In all these situations, it should take appropriate due diligence steps in consultation with its stakeholders to identify, prevent and mitigate such adverse impacts.

Businesses should respect human rights as part of risk management, for breach of human rights standards may attract legal action, social media backlash, consumers boycotts, employee dissatisfaction, project delays, and investor criticism. In any case, respecting human rights should form part of a business enterprise’s strategy to generate long-term value for investors and build a sustainable business.

Human rights due diligence, transparency and meaningful consultation with affected stakeholders are critical tools that all business enterprises operating in Hong Kong and mainland China should use to deal with protests-related challenges, rather than reacting to short-term pressures emanating from different sources.

Further information about the UNGPs

The UNGPs, which were unanimously endorsed by the Human Rights Council in June 2011, outline the obligations of states and responsibilities of business enterprises in relation to business-related human rights abuses.

The UNGPs cover all internationally-recognised human rights (including labour rights and environmental rights), and apply to all types of business enterprises: state-owned/controlled companies, private companies, multinational corporations, small enterprises, and partnership firms.

Apart from states, the UNGPs have been recognised as the authoritative global standards by international organisations, national human rights institutions, companies, business associations, investors, banks, trade unions, civil society organisations, and sports bodies.

Other international standards such as the [OECD Guidelines for Multinational Enterprises](#) and the [ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) have been aligned with UNGPs. The UNGPs also underpin the [revised draft](#) of the proposed legally binding international instrument to regulate the activities of transnational corporations and other business enterprises.

Contacts

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