



Business and Human Rights in Challenging Contexts

Considerations for Remaining and Exiting

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¹ As the principal United Nations office mandated to promote and protect human rights for all, UN Human Rights (OHCHR) provides substantive expertise, technical assistance and other advice to relevant stakeholders on international human rights standards and principles and the protection of human rights worldwide. Within the UN system, OHCHR is the guardian of the [UN Guiding Principles on Business and Human Rights](#) and regularly issues authoritative interpretations of them to aid in their interpretation and application. See Report of the UN Secretary-General, Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights, [A/HRC/21/21](#), paras. 32-33 and 96 (2012); see also www.ohchr.org/en/business-and-human-rights/publications-and-resources.

I. Introduction

When should business enterprises consider ending business relationships or exiting challenging country contexts on human rights grounds? If they do decide to end business relationships or exit geographical areas due to human rights-related concerns, how should they do this responsibly? If, on the other hand, they decide that human rights risks are best addressed by maintaining business relationships or remaining, what adjustments might they need to make to ensure that they can continue to meet their responsibility to respect human rights under the UN Guiding Principles on Business and Human Rights (UNGPs)?

These aspects of the corporate responsibility to respect human rights are pressing issues for many business enterprises and have lately become all the more urgent against the background of conflict and worsening human rights situations in various parts of the world. They are also the subject of active discussion in the context of regulatory initiatives relating to human rights and environmental due diligence,² and among finance institutions, including development finance institutions.³

Decisions regarding whether or not to remain in a challenging operating environment, and how best to respond to a deteriorating human rights situation, are rarely, if ever, straightforward. A business enterprise will often be concerned with identifying and evaluating the various sources of risk to the enterprise. There are likely to be a host of legal and real-world issues to consider, as well as issues arising under the enterprise's own policies or commitments. Commercial and reputational risks will also often be assessed, against the background of wider political developments and trends, operational constraints, and public or consumer pressure. **While the steps needed to guard against risks to an enterprise may sometimes be the same or similar to those needed to address the risks of adverse human rights impacts, this is not always the case.** Indeed, in the face of public pressure to exit a challenging context, a business enterprise's exit may result in reputational benefits, but this may not necessarily lead to better outcomes for people on the ground. A responsible business understands this distinction and will take the latter considerations into account in decision-making.

The UNGPs are concerned with preventing and mitigating risks to people and provide business enterprises with a blueprint for responding to such risks, including through the exercise of human rights due diligence. While human rights due diligence can also help reduce risks *to the enterprise* (e.g., reputational, financial, and legal risks), these kinds of risks are not the focus of the UNGPs.

The purpose of this note is to provide clarification of what is expected from business enterprises **under the UNGPs** to meet their responsibility to respect human rights when they find themselves in challenging contexts.⁴ Such contexts present a range of dilemmas for responsible businesses, due to both the general operating context as well as the heightened risk of business involvement in human rights harms, including through business relationships.

It is often said that the UNGPs encourage engagement over disengagement. This is certainly true and reflects the UNGPs' broader proposition that a business enterprise's responsibility for how its products and services are made, delivered and used requires that it take a role in addressing harms that occur in that context. That means staying and using its leverage to achieve change, rather than simply disengaging from problematic relationships or contexts.

² These regimes frequently stipulate what action should be taken by companies that find they are unable to prevent or mitigate human rights impacts they may be involved with through their business relationships.

³ OHCHR, [Remedy in Development Finance: Guidance and Practice](#), Chapter V (2022) (hereinafter OHCHR Remedy in Development Finance Report); IFC/MIGA Compliance Advisor Ombudsman, [Responsible Exit: Discussion and Practice in Development Finance Institutions and Beyond](#) (2023).

⁴ This note focuses on situations in which business enterprises are considering *remaining in* or *exiting* challenging contexts and business relationships. It does not explore what the UNGPs say about *entering* such contexts other than to recall that, as with any changes to a business' operations, businesses are expected to conduct human rights due diligence prior to a new activity or relationship. UNGP 18, Commentary; see OHCHR, [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide](#), p. 51 (2012) (hereinafter OHCHR Corporate Responsibility to Respect Interpretive Guide).

However, as the commentary to Guiding Principle 19 makes clear, engagement has its limits. The UNGPs clearly envision a role for responsible disengagement as part of taking “appropriate action.” While disengagement should be considered only when other credible efforts to achieve change have been exhausted, it can itself be a powerful tool for leverage.

The advice in this note is grounded in the prescriptions for robust and comprehensive human rights due diligence set out in the UNGPs. It focuses in particular on corporate responsibilities under Pillar II (the corporate responsibility to respect human rights) and Pillar III (access to remedy).⁵ It is addressed to policy-makers seeking to accurately reflect the UNGPs in relevant policies or regulatory requirements, to businesses faced with difficult choices and circumstances, and to civil society seeking to hold businesses and governments accountable, with a view to ensuring appropriate analysis and action in complex situations.

Following a brief overview of key provisions of the Guiding Principles in this context (section II), section III covers some features of operating contexts that can make them especially challenging in human rights terms. Section IV addresses what the UNGPs say about *whether* a business enterprise should exit a challenging context or business relationship and relevant factors to take into account. Section V covers considerations under the UNGPs regarding *how* businesses should (i) remain in or (ii) exit challenging operating contexts or relationships.

It is not within the scope of this note to provide *operational guidance* on implementation of the UNGPs in challenging contexts; however, reference is made to existing tools and guidance where relevant.

The note does not express an opinion on any specific case or the acts of any specific State, institution or business enterprise. It is oriented particularly to situations that arise in the context of cross-border business activity, for instance where an enterprise sources goods and services from actors operating in other countries, or where it has a commercial interest in business activities taking place in a challenging country context.

II. Key provisions of the Guiding Principles on Business and Human Rights

The UNGPs are the authoritative global framework for business and human rights.⁶ They rest on three “pillars:”

- **Pillar I: The State Duty to Protect Human Rights:** Under international human rights law, States must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. This means States must prevent, investigate, punish and redress such abuses.
- **Pillar II: The Corporate Responsibility to Respect Human Rights:** Business enterprises have a responsibility to avoid infringing on the rights of others and to address adverse human rights impacts with which they are involved.
- **Pillar III: Access to Remedy:** When adverse impacts occur, those affected must have access to effective remedy.

Pillar II of the UNGPs – the corporate responsibility to respect human rights – sets out the global standard of expected conduct for all business enterprises, wherever they operate, regardless of “size, sector, operational context, ownership and structure.”⁷ Importantly, the corporate responsibility to respect exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations and exists over and above compliance with national laws.

⁵ Pillar I of the UNGPs (the State duty to protect human rights) is not the focus of this note, though this is not meant to discount the clear and important role of States to protect human rights in challenging contexts. See, e.g., UNGP 7 (highlighting the potential role of host States, home States and neighboring States in conflict-affected areas). However, this note is relevant to States that are seeking to incorporate the corporate responsibility to respect human rights into law and policy.

⁶ See, e.g., [A/HRC/21/21](#), para. 2.

⁷ UNGP 14.

To meet the corporate responsibility to respect human rights, business enterprises should have in place “policies and processes appropriate to their size and circumstances,” including “human rights due diligence process[es] to identify, prevent, mitigate and account for how they address their impacts on human rights.”⁸

Guiding Principle 13 sets out the different ways business enterprises can become involved in adverse human rights impacts. It 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.⁹

The typology used in Guiding Principle 13 – “causation,” “contribution” and “direct linkage” – is often referred to as the UNGPs “involvement framework.”¹⁰ This involvement framework helps business enterprises to understand the various ways in which they may become involved in adverse human rights impacts (within the meaning of the UNGPs) and the actions they are expected to take in response.

Taking action to respond to actual or potential human rights impacts is an integral part of the human rights due diligence process. Guiding Principle 19(b) covers the “appropriate action” business are expected to take to prevent and mitigate such impacts, noting that this 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.

The context within which a business is working will have a bearing on the action it can and should take in response to adverse human rights impacts.¹¹ Guiding Principle 23 provides guidance to help business enterprises navigate the difficulties that arise in different contexts, noting that, in all situations, businesses should:

- a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
- b) Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements;
- c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.

III. What makes an operating context “challenging?”

There are many features of operating contexts that can make them especially challenging in human rights terms. This section sets out certain scenarios that pose heightened risks of business involvement in human rights harms. It unpacks the various ways in which business enterprises may find themselves involved in human rights related harms in each scenario and draws attention to how the UNGPs guide the response.

⁸ UNGP 15.

⁹ OHCHR has further elaborated on the meaning of these concepts in different documents, for example in [OHCHR Corporate Responsibility to Respect Interpretive Guide](#) and [OHCHR Response to Request from BankTrack for Advice Regarding the Application of the UN Guiding Principles on Business and Human Rights in the Context of the Banking Sector](#) (2017) (hereinafter OHCHR BankTrack Advice).

¹⁰ Note that in practice it may be difficult to draw a clear distinction between these different modes of involvement. As explained in previous OHCHR commentary on this topic, there is in reality a continuum between “contributing to” and having a “direct link” to an adverse human rights impact. Moreover, the nature of a company’s involvement with an impact may shift over time, depending on its own behaviour. [OHCHR BankTrack Advice](#), pp. 6-7.

¹¹ The Guiding Principles explicitly recognize this. E.g., UNGP 14 (“the scale and complexity of the means through which enterprises meet their responsibility to respect may vary according to their ... **operational context**”); UNGP 17(b) (human rights due diligence processes will “vary in complexity with ... **the nature and context of its operations**”).

A. The human rights situation is particularly grave, for instance due to conflict, political turmoil and/or systematic violations of rights

Situations of armed conflict or authoritarian regimes, where the government plays an active role in violating human rights, will increase the risks of business enterprises becoming involved in severe human rights harms. For instance, the discovery that a business enterprise's products have been used to commit human rights violations or abuses, or the existence of relationships between a business enterprise and agencies of the State in question, may raise questions of involvement, and potentially even complicity, in human rights violations or abuses committed by other actors.¹² This kind of situation will tend to demand a very swift and decisive response, as discussed in more detail in section IV(C) below.

It is important to remember that the legal context in which a business enterprise is operating can change suddenly and arbitrarily, for instance in the context of a coup or armed conflict. Therefore, human rights due diligence in relation to operating contexts where there is a risk of conflict, or the prospect of sudden political change or turmoil, should be designed to anticipate and respond to such changes as early as possible.

In conflict-affected areas, there can be multiple ways in which business' activities inadvertently influence conflict dynamics, which could lead to an escalation of violence.¹³ These situations demand heightened human rights due diligence (see section III(C) below), in particular to fully understand the situation and how the presence, behaviour and stance of the business enterprise and its representatives might bear on human rights-related risks to people. Further information on the need for heightened due diligence in such situations, and how this should be accomplished, is supplied in guidance provided by the UN Working Group on Business and Human Rights and the United Nations Development Program.¹⁴

B. Where national laws or regulations require actions that would be inconsistent with internationally recognized human rights standards

Business enterprises operating under domestic laws that compel them to act in a way that is inconsistent with internationally recognized human rights standards will often struggle to meet their responsibility to respect human rights. This may happen, for instance, where a business enterprise is subject to employment laws that mandate discrimination on the basis of sex, gender, sexual orientation, or gender identity, or where it is obliged to comply with regulatory directions that would interfere with specific rights such as those protecting privacy, freedom of expression or freedom of assembly. It may also happen in the context of a business relationship between a business enterprise and a State actor where products or staff may be requisitioned for the purposes of repression of particular individuals or groups, or for the furtherance of armed conflict.

¹² The payment of taxes in these circumstances does not on its own make a business "involved with" the violations of a government regime, even an illegitimate one (apart from exceptional circumstances where a business is a very significant tax contributor to a government that is involved in gross violations of human rights). Guiding Principle 23 reminds businesses that they should comply with all applicable laws, including in challenging circumstances (indeed, this is often an important line of defence against arbitrary government action). Further, taxes are necessary to fund public services that fulfil human rights, such as health and education. See Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Protect, Respect and Remedy: A Framework for Business and Human Rights, [A/HRC/8/5](#), para. 77 (2008).

¹³ Report of the Working Group on Business and Human Rights, Business, human rights and conflict-affected regions: towards heightened action, [A/75/212](#), paras. 42-44 (2020) (stressing the need for a "conflict-sensitive approach" to human rights due diligence). The commentary to Guiding Principle 23 notes that in complex contexts, "business enterprises should ensure that they do not exacerbate the situation."

¹⁴ [A/75/212](#); UNDP & Working Group on Business and Human Rights, [Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide](#) (2022) (hereinafter UNDP/WG Conflict Guide).

Guiding Principle 23 states that “in all contexts, business enterprises should ... comply with all applicable laws and respect internationally recognized human rights, wherever they operate.” To the extent that laws or regulations require actions contrary to the responsibility to respect human rights, businesses are “expected to respect the principles of internationally recognized human rights to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard.”¹⁵

In circumstances such as those described above, human rights due diligence is likely to require taking legal advice to establish exactly which human rights are, or are likely to be, impacted by the legal or regulatory demands in question and what the opportunities for mitigating these adverse impacts might be. This advice would need to be sought promptly upon any change in the law (or indications of likely changes in the law) or impending conflict, and the effectiveness of mitigation efforts carried out by the business enterprise should be kept under ongoing review.¹⁶

It may be that laws or regulations can be interpreted in a way that avoids a direct conflict with a business’ responsibility to respect human rights, that regulatory assurances can be provided, or some form of legal exception can be invoked. Engaging with the government might be able to clarify the scope of any conflicting requirement and how it will be enforced in practice. Whatever the options available, businesses would be well advised to consult relevant experts, as well as potentially affected stakeholders, on the best response to these kinds of challenges and to provide timely and regular updates to stakeholders, and the public at large, on their efforts to maintain respect for human rights in these situations.

In some situations, however, the legal and/or political situation may leave business enterprises with little room for mitigating their risks of involvement in adverse human rights impacts and addressing them in the manner expected under the UNGPs. In such cases, it would be appropriate for the business enterprise to consider exiting the operating context (see section IV below).

C. Where national laws or regulations offer a level of human rights protection that falls short of internationally recognized human rights standards

There are also country situations where the operating environment is challenging due to deficiencies in legal regimes, lack of clarity in legal standards or poor enforcement of laws. These problems may be compounded by structural problems relating to corruption, poverty, a lack of government resources or a lack of respect for the rule of law. Each of these problems diminishes the likelihood that people’s human rights are adequately protected under law, and, more specifically, that people are protected from business-related human rights harm and ensured remedy when harm occurs.

The UNGPs are clear that the responsibility to respect human rights exists “independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and ... it exists over and above compliance with national laws and regulations protecting human rights.”¹⁷ Thus, while businesses are expected to comply with local laws, they are also expected to respect internationally recognized human rights, which may entail operating to a higher standard in such contexts. Nevertheless, the failure of a State in fulfilling its human rights obligations, as well as the lack of respect for the rule of law in a country more generally, may raise particular challenges for a business to fully respect human rights in this operating environment.¹⁸

Contexts where there are no effective government institutions and legal protection, or where there are entrenched patterns of severe discrimination, “should automatically raise red flags within [an] enterprise and trigger human

¹⁵ UNGP 23, Commentary.

¹⁶ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), pp. 79-80.

¹⁷ UNGP 11, Commentary.

¹⁸ Such considerations should be part of a business’ human rights due diligence prior to new operations. See UNGP 18, Commentary.

rights due diligence processes that are finely tuned and sensitive to this higher level of risk.¹⁹ Indeed, heightened risks should mean shifting gears to conduct heightened human rights due diligence.²⁰ Such due diligence should be conducted to ensure that a business is not involved in government violations of human rights or other gross human rights abuses through their business relationships. It should also help provide a deeper understanding of the operating context and support the business in operating in a rights-respecting and context-sensitive approach.

In the context of conflict-affected situations, such an approach should consider not only the potential impact of the conflict on the business, but also, as noted in section III(A) above, the business' potential impact on conflict dynamics and whether its actions or those of business relationships could be exacerbating the situation.²¹

Robust stakeholder engagement is key to properly understand the situation, as well as to increase a business' "social capital with local communities."²² While there will ideally be direct engagement with (potentially) affected stakeholders or their representatives, where this is not possible, businesses should engage with credible proxies and human rights experts.

IV. Deciding whether to remain or exit

The UNGPs do not suggest that parts of the world should be out of bounds for responsible business. Rather, they provide a framework for assessing and addressing the adverse human rights impacts involved in decisions to remain in or exit challenging contexts and relationships, and counsel for responsible business decisions that result in better human rights outcomes.

A. General considerations arising from the UNGPs "involvement framework"

Situations in which conditions deteriorate – for example, due to military coups, armed conflict, systematic violations of rights, civil unrest, or increasingly repressive actions – can make it far more challenging for business enterprises to operate, but the UNGPs do not *per se* require a business enterprise to exit.²³

The UNGPs make clear that, where there are adverse human rights impacts taking place, two key considerations are (i) the nature of the business enterprise's involvement in the relevant impacts, and (ii) the ability of the enterprise to address those adverse impacts with which they are involved.

In cases in which a business **causes or may cause** adverse human rights impacts, it is expected to cease or prevent the impacts and provide for or cooperate in the remediation of them.²⁴

In cases in which a business **contributes or may contribute** to adverse human rights impacts, it is expected to cease or prevent its contribution, use whatever leverage it may have to mitigate any remaining impact to the greatest extent possible, and provide for or cooperate in the remediation of the adverse impacts.²⁵ It should be noted:

¹⁹ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), p. 80. In a 2020 report to the Human Rights Council, the Working Group on Business and Human Rights further details when heightened human rights due diligence is warranted. [A/75/212](#), paras. 14-21, 41-71. See also [UNDP/WG Conflict Guide](#), pp. 17-19.

²⁰ See UNGP 17(b) (human rights due diligence processes will "vary in complexity with ... the risk of severe human rights impacts, and the nature and context of its operations").

²¹ [A/75/212](#), paras. 41-49; [UNDP/WG Conflict Guide](#), p. 10.

²² [A/75/212](#), paras. 52-54.

²³ As outlined above, business enterprises may be subject to other pressures to leave, for example compliance with legal sanctions.

²⁴ UNGP 19, Commentary and UNGP 22.

²⁵ *Id.*; [OHCHR BankTrack Advice](#), pp. 10-14; see [OHCHR Corporate Responsibility to Respect Interpretive Guide](#) for further explanation.

- The expectation that a business enterprise will cease or prevent its contribution to an adverse human rights impact **may suggest, but does not necessarily imply, a need to shut down operations or end a business relationship through which it has contributed to harm.** Indeed, remaining in a context or business relationship may enable a business to have more **leverage** that can be used to address the impact more effectively.²⁶ On the other hand, without the prospect that exit may happen, other forms of action can be less effective in delivering change as the ultimate consequences for relevant third parties are limited. More generally, a reluctance to ever exit a context or business relationship on human rights grounds would undermine a business enterprise's credibility in seeking to use leverage in other relationships or contexts. The threat of termination needs to be understood to be real if it is to be useful in practice.
- **Where a business enterprise has contributed to adverse impacts, ending a business relationship or exiting a challenging context more generally does not absolve it from its responsibility to provide for or cooperate in remediation of such adverse impacts through legitimate processes.**²⁷ Furthermore, taking on remediation responsibility does not alter such responsibilities for any other companies that may have contributed to the adverse human rights impacts in question.²⁸ This is addressed more fully by OHCHR in reports and guidance developed through its Accountability and Remedy Project.²⁹

Cases of **direct linkage** (i.e., where a business has not contributed to an adverse human rights impact, but that impact is nevertheless directly linked to its operations, products or services by a business relationship), are recognised in the UNGPs as being more complex.³⁰ The commentary to Guiding Principle 19 sets out key factors that business enterprises should consider in decision-making in these types of scenarios. These include “the enterprise's leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights consequences.” The relevance and implications of these factors to decision-making in the context of potentially ending business relationships are discussed further below. Some overarching points to keep in mind include:

- The most appropriate response will be **highly fact-specific and context-dependent.** Contextual analysis is therefore required so that business enterprises can develop responses suitable to the circumstances they find themselves in, and which take account of the totality of their actual or potential human rights impacts. Where the situation is complex, “the stronger is the case for the enterprise to draw on independent expert advice in deciding how to respond.”³¹
- While **ending a business relationship** may need to be considered as part of a strategy to address adverse human rights impacts in a situation of direct linkage, **this may not be the best way of addressing adverse human rights impacts in fact.** As noted above, an important underlying proposition of the UNGPs is that business enterprises have responsibility for how their products and services are produced and delivered, and that taking a role in addressing any human rights harms that occur in that context is integral to meeting that responsibility. As a consequence, in some circumstances, business enterprises should be encouraged to stay, engage and use whatever leverage they can obtain to achieve change, rather than disengaging from problematic relationships or contexts. As with cases of contribution, remaining in a relationship may enable a business to maintain greater leverage to address adverse human rights impacts and to bring about positive human rights outcomes. At the same time, in deciding how best to deploy and enhance that leverage, business enterprises should not overlook the importance of credible threats of termination, for instance if specified actions or improvements are not implemented within an agreed timeframe.

²⁶ The importance of leverage in this context is discussed in section IV(C)(i).

²⁷ UNGP 22.

²⁸ As OHCHR has noted previously, accepting responsibility to remediate in contribution situations does not imply a shift in responsibility from any other companies involved to the business. Each company contributing to an adverse impact should provide for remediation appropriate to its share in the responsibility for the harm. [OHCHR BankTrack Advice](#), pp. 10-12.

²⁹ www.ohchr.org/en/business/ohchr-accountability-and-remedy-project. See, e.g., Report of the United Nations High Commissioner for Human Rights, Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, [A/HRC/44/32](#), Annex, Policy Objectives 3-4, 15-16 (2020) (regarding the importance of coherence and coordination as regards remediation).

³⁰ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), pp. 51-52.

³¹ UNGP 19, Commentary.

It is worth noting that there may be legal considerations that will bear on how, and how quickly, a business enterprise can exit a challenging context or business relationship. For instance, there may be operating licence conditions, contractual delivery obligations or public service obligations – that may demand notice periods, transition and orderly handover arrangements – that would restrict the ability of a business enterprise to unilaterally terminate arrangements at a time of its own choosing without penalty, even if on human rights grounds. In such a situation, business enterprises can refer to Guiding Principle 23 for guidance.³²

In other situations, in order to comply with domestic law, a business enterprise may have no choice but to end a relationship or leave a country context. For example, where an entity with which one has a business relationship may be producing goods covered by sanctions or import bans, that enterprise may be legally obliged to swiftly sever the relationship to comply with these measures. Similarly, the imposition of economic sanctions on a country can make the carrying on of business in the targeted country illegal. The specific considerations that arise in these types of scenarios are beyond the scope of this note. However, to the extent that a business has flexibility as regards *how* to leave (as opposed to *whether* to do so), the advice below is still relevant (see section V(B) below).

B. Special considerations with respect to decision-making about whether to exit challenging contexts

As is the case with any major decisions or changes to a business' operations, businesses are expected to identify and assess the human rights impacts of exiting a country context prior to taking the decision to do so.³³ The possibility that the consequences of exit could lead to severe adverse human rights impacts should provoke further analysis from the enterprise concerned as to whether exiting is the responsible thing to do. In conflict-affected situations, a key element is to consider “whether exiting could exacerbate tensions within a conflict-affected setting and whether the adverse impacts of the decision to exit or suspend the operations outweigh the benefits.”³⁴

To the extent possible, the decision to exit responsibly should draw on internal and/or independent external human rights expertise, and involve meaningful consultation with potentially affected groups and other relevant stakeholders. Businesses considering exit should engage with all workers (not just any expatriate staff in the country) about the implications of exit for their situations and livelihoods, in particular consequences as regards their health and safety.³⁵ In challenging operating environments, where workers or local communities may have few other sources of livelihoods or access to the goods and services a business provides, such rights holders may prefer businesses to stay, even if conditions are worsening because of the changing context. While civil and political rights, and the wider political landscape, may often have higher profiles in these circumstances, economic, social and cultural rights are as important and can be even more so to people with few other opportunities to earn an adequate standard of living, especially in deteriorating situations. While their views may not be the only consideration a business will have to take into account, they should weigh heavily on the ultimate decision about whether a business should leave or stay.³⁶

C. Special considerations with respect to decision-making about whether to end specific business relationships

In practice, decision-making about whether to end a business relationship may take place because of human rights concerns arising from a specific relationship (such as concerns about the production methods of a particular supplier

³² The Commentary to Guiding Principle 23 advises business enterprises to “respect the principles of internationally recognized human rights to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard.”

³³ UNGP 18, Commentary.

³⁴ [UNDP/WG Conflict Guide](#), p. 35.

³⁵ See [A/75/212](#), paras. 64-65.

³⁶ See [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), p. 79 (“At all times, enterprises need to be aware of any risks that a particular course of action may pose to affected stakeholders and take these into account in their decisions.”).

in a value chain, or the practices of downstream business partners such as distributors), or against the background of broader concerns about an operating context, as detailed in section III above. Regardless of the specific factual context and the type of business relationship involved, many factors will be relevant when deciding whether to end a business relationship. The UNGPs highlight four: “the enterprise’s leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights consequences.”³⁷ These are taken in turn below.

i. The enterprise’s “leverage” over the entity concerned

A business enterprise’s ability to take appropriate action will depend at least in part on the “extent of its leverage in addressing the adverse impact.”³⁸ Leverage refers to the “ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.”³⁹ If a business has leverage, it should exercise it. If it lacks leverage, it should seek to increase it.

The UNGPs are clear that before considering ending relationships, a business enterprise should seek to be part of the solution by addressing adverse impacts through exercising leverage. Generally, entities with which an enterprise has a business relationship should be given notice and opportunities to correct and remedy adverse impacts, with appropriate escalation.

However, there are special considerations in cases of possible complicity in gross human rights abuses. As Guiding Principle 23 makes clear, these kinds of cases should be treated with the utmost seriousness, and businesses should be expected to respond “as a legal compliance issue.”⁴⁰ Although the UNGPs stipulate that businesses should seek to exercise leverage where they are contributing or linked to such harms, it may be the case that business enterprises have little if any leverage with governments involved in carrying out egregious violations. Where sufficient leverage is lacking, those enterprises who are at risk of being involved in gross human rights abuses will need to rapidly come to a decision about whether and how to exit, and the necessary mitigation measures that will need to be in place.

The UNGPs recognise that leverage may take time to build and is not a static concept. Just because a business does not have leverage initially does not mean that leverage cannot be built over time.⁴¹ However, to come to a realistic view of how much leverage they might have, and how best it should be deployed, business enterprises should take careful account of the effectiveness of their human rights risk mitigation efforts to date and, if these have not been as effective as had been hoped, whether and how their leverage efforts could credibly produce different results going forward. Such assessments should be informed by insights from affected stakeholders or their legitimate representatives to be credible.⁴²

There are numerous ways that businesses can enhance their leverage to address adverse human rights impacts, some of which are covered in guidance from OHCHR⁴³ and from the UN Working Group on Business and Human Rights.⁴⁴ For example, business enterprises can:

- increase leverage by offering capacity-building or other incentives to an entity or collaborating with other actors;⁴⁵

³⁷ UNGP 19, Commentary.

³⁸ *Id.*

³⁹ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), pp. 7, 48.

⁴⁰ UNGP 23, Commentary. See also [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), pp. 79-80 (noting that businesses “should treat this risk in the same manner as the risk of involvement in a serious crime, whether or not it is clear that they would be held legally liable”).

⁴¹ UNGP 19, Commentary.

⁴² See UNGP 20.

⁴³ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), p. 51, Box G.

⁴⁴ See, e.g., Working Group on Business and Human Rights, [Corporate human rights due diligence – identifying and leveraging emerging practices](#).

⁴⁵ UNGP 19, Commentary.

- highlight impacts more generally so that they become better known across the sector and harder to ignore. For instance, efforts by the International Labour Organization and others have highlighted the links between the payment of recruitment fees and forced labour, making this an emerging issue for attention within business relationships;
- use the prospect of repeat business or, in some cases, potential public or private blacklisting to incentivise change. Publicly announced exits can have an important wider signalling power in the market;⁴⁶
- work more collaboratively with other partners (particularly in situations involving systemic challenges) to develop longer term solutions, including through multistakeholder initiatives;⁴⁷
- Maintain a credible prospect of potential disengagement (e.g., as a consequence for failure to live up to contractual obligations), potentially in coordination with other business actors in a similar situation.⁴⁸

ii. How “crucial” the relationship is to the business enterprise

In situations where a business enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase it, it should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so (see section IV(C)(iv) below). Where the relationship is not “crucial” to the enterprise, it may be relatively straightforward for the company to find a suitable, more rights-respecting replacement.

However, as noted in the UNGPs, “[w]here the relationship is ‘crucial’ to the enterprise, ending it raises further challenges.”⁴⁹ The UNGPs do not provide set criteria or an objective standard for determining when a business relationship is “crucial” or “essential” beyond the situation indicated in the commentary to Guiding Principle 19, where it notes that a relationship “**could** be deemed as crucial if it provides a product or service that is essential to the enterprise’s business, and for which no reasonable alternative source exists.”⁵⁰

Where a business enterprise has determined that a relationship is indeed “crucial” within the meaning of Guiding Principle 19, and that it will be continuing with the relationship on that basis, it should be transparent with stakeholders and the public at large about the decision-making process used to arrive at that determination and the criteria used, which should be objectively reasonable.

In any event, it is important to recall that the status of a relationship as “crucial” does not in any way relieve a business enterprise of its broader responsibilities under the UNGPs with respect to the adverse impacts it is connected to. As noted in the commentary to Guiding Principle 19, “for as long as [an] abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.”

Longer term, there may be steps that business enterprises can take at a more structural level to help reduce commercial reliance on business relationships involving human rights risks. For example, a business may potentially:

- change market dynamics by engaging with governments to prompt enforcement or regulatory change so that more businesses in an operating environment respect human rights as a matter of compliance;
- work with investors or civil society to prompt responses on particularly widespread abuses;
- interrogate and address business models that are problematic from a human rights perspective;⁵¹
- implement strategies aimed at diversifying sources of goods or services over time, which can help to foster greater competition between suppliers, enhancing buyers’ leverage with respect to addressing human rights issues in supply chains.

⁴⁶ [OHCHR Remedy in Development Finance Report](#), p. 104.

⁴⁷ See, for example, the [International Cocoa Initiative](#) or the [Fair Food Program](#).

⁴⁸ See SOMO, [Should I stay or should I go?: Exploring the role of disengagement in human rights due diligence](#), p. 4 (2016).

⁴⁹ UNGP 19, Commentary.

⁵⁰ *Id.* (emphasis added).

⁵¹ See Shift, [Business Model Red Flags: 24 Ways in Which Businesses could be Wired to Put People at Risk](#) (2021).

Regardless of whether a business relationship is deemed to be “crucial” to the business enterprise in question, it is important that the enterprise’s approach is active and characterised by ongoing vigilance. Maintaining a potentially problematic business relationship should not happen by default, but on the basis of careful analysis which business enterprises should be prepared to explain and justify to stakeholders on an ongoing basis.

iii. The “severity” of the abuse

The severity of potential or actual impacts (judged by their scale, scope, and irremediable character)⁵² is a key consideration in whether and when to terminate a business relationship.

It may not always be possible for businesses to address all adverse impacts simultaneously, in which case they should first seek to prevent and mitigate “those that are most severe or where delayed response would make them irremediable.”⁵³ This principle – that business enterprises should prioritise addressing those impacts that are the most severe – is also relevant to decision-making about which business-relationships may need reconsideration and why.

As well as being relevant to the prioritisation of responses, the severity of risks and impacts is also relevant to the speed with which decisions and action should be taken. As noted in the UNGPs, “the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship.”⁵⁴ While those with which one has a business relationship should be given notice and opportunities to correct problems, faster action should be expected for more serious harms. It is not possible to give a definitive rule about how soon is soon enough; this will be context specific. For instance, in situations involving systemic issues across a sector or region that may require sustained efforts by States and industries to resolve, it may be unrealistic for a business enterprise to expect potentially severe risks to be quickly resolved by a single entity. To the extent that a credible and realistic corrective action plan is developed, the more specific the plan, the more straightforward it will be for a business to measure and communicate progress and justify delaying terminating the relationship.⁵⁵

On the other hand, the more severe the harms involved, the more justifiable it would be for a business to consider terminating the business relationships involved. Indeed, if there are risks of “being involved in gross abuses of human rights such as international crimes, [a business] should carefully consider whether and how it can continue to operate with integrity in such circumstances.”⁵⁶

iv. Whether terminating the relationship would have “adverse human rights consequences”

A key factor in deciding whether to terminate a relationship is “whether terminating the relationship with the entity itself would have adverse human rights consequences.” This will require a contextualised consideration, drawing on meaningful stakeholder engagement, as well as external expertise where necessary, particularly in more complex situations.

If a business is considering ending a relationship, the decision to end the relationship should be the focus of a **separate and distinct risk assessment** exercise:

- to assess and address any adverse impacts that may result from
 - the termination of the relationship and

⁵² UNGP 14, Commentary.

⁵³ UNGP 24.

⁵⁴ UNGP 19, Commentary.

⁵⁵ See SOMO, [Should I stay or should I go?: Exploring the role of disengagement in human rights due diligence](#), p. 5 (2016).

⁵⁶ [OHCHR Corporate Responsibility to Respect Interpretive Guide](#), p. 80.

- the manner in which it is done,⁵⁷ and
- to help inform a responsible exit action plan as necessary.⁵⁸

It would not be sufficient to consider just a small handful of human rights impacts, especially where they may be used to justify “cutting and running” when circumstances become more challenging or for political or commercial expediency. Businesses should consider the full scope of human rights – economic, social and cultural rights as well as civil and political rights – relating to all those who may be affected, while paying special attention to particular impacts on those who may be at heightened risk of vulnerability or marginalization.⁵⁹

The analysis will often be quite dependent on the circumstances – the impacts of withdrawing from a small factory in areas where there are plenty of other employment opportunities would be different from those resulting from a withdrawal from a large agricultural enterprise on which hundreds of smallholder farmers rely for their livelihoods. A key consideration should be the extent to which the livelihoods of workers or communities depend on the business relationship remaining operational. This may be particularly the case in countries with low economic development and/or poor human rights records. The analysis and response also need to be proportional to the potential impacts of the termination – for example if there are major employment effects, this will take a well-organised plan, in consultation with workers as part of a retrenchment process, as compared to an exit from a small supplier.

v. Summary

All of the above factors will be relevant to decisions regarding whether to end a business relationship. As the UNGPs make clear, where a business enterprise is unable to obtain and exercise sufficient leverage to prevent or mitigate adverse impacts through a business relationship, it “**should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.**” This implies a need to proactively consider disengagement, though it does not dictate the results of that reflection. In other words, **the UNGPs should not be interpreted to mean that businesses must leave business relationships in all circumstances where a business cannot prevent or mitigate adverse impacts through a business relationship; nor should they be interpreted to mean that businesses must remain in business relationships where there are any potential adverse human rights impacts from termination.** However, if a decision is made to remain in the relationship, certain consequences may follow (see section V(A)(ii) below).

V. Remaining and exiting responsibly

The previous section discussed the considerations that should feed into decision-making about *whether* a business enterprise should exit a context or business relationship involving human rights-related concerns.

This section moves the focus on to *how* a business enterprise should remain in or exit challenging contexts or business relationships – in other words, the issues that responsible business enterprises will need to monitor and address in the wake of that critical decision. The first part of this section considers the issues that arise where the decision has been to remain, whereas the second part of this section explores the issues that arise where a decision has been made to end operations or business relationships.

As can be seen, whether the decision is one to remain or to exit, a host of human rights-related issues come into play which will need to be carefully worked through and responded to if a business enterprise is to meet its responsibility to respect human rights under the UNGPs. Regardless of the many factors that might have fed into the critical “remain

⁵⁷ For example, if a business states that it is leaving because of protests by environmental and human rights defenders, there could be clear retaliation risks for those defenders and related communities.

⁵⁸ See, e.g., [OHCHR Remedy in Development Finance Report](#), p. 102.

⁵⁹ See, e.g., *id.*, at p. 103.

or leave” decision (whether those covered by the UNGPs or other factors) (see section I above), the UNGPs provide a vital framework for deciding how to proceed with the implementation of that decision and the management of human rights-related risks thereafter.

To the extent possible, business enterprises should plan in advance and have contingency plans in place to provide time to make informed, responsible decisions. While challenging contexts and business relationships may arise suddenly, the risks that a situation may become challenging may be known well in advance.⁶⁰ Businesses are too often insufficiently focused on broader operating environments, particularly in planning for operational changes, including potential exit, especially where there has been a “headlong rush into ... new markets.”⁶¹

Early planning – at the start of operations or a business relationship, and certainly at the first indications of possible conflict – should make business enterprises better placed to react quickly should the worst happen, for instance through activation of action plans that have been pre-agreed with service-providers, or pre-arranged compensation packages (e.g., for employees) and transition arrangements designed to minimise human rights-related risks (see further V(B)(i) below). This should help to avoid unaddressed adverse impacts when a relationship is ended, as well as any adverse impacts as a result of terminating the relationship.⁶²

It is worth reiterating that in addition to all that is needed to prevent and mitigate human rights harms, **there may also be a need to remedy harms that have already occurred**. If a business has caused or contributed to any adverse human rights impacts (including as a result of exiting a situation), it is expected to actively engage in remediation of those impacts.⁶³ A business should not be leaving behind unaddressed adverse impacts to which it contributed, for instance as regards environmental contamination, uncompensated or unaddressed displacement, or uncompensated or unaddressed data breaches. Further, and particularly in situations where crimes are alleged, the business is expected to cooperate with any investigations or proceedings seeking to establish responsibility and remedy.⁶⁴

A. When the decision is made to remain

The decision to maintain a business presence and/or business relationships presents an important opportunity to demonstrate values. It is important that it is understood as such, both internally and externally. In such contexts, business enterprises which respect human rights will (i) demonstrate their ongoing efforts to avoid infringing on the human rights of others and address any impacts with which they are involved, and (ii) be prepared to accept any consequences of remaining in relationships that pose ongoing risks of involvement in human rights abuses.⁶⁵

⁶⁰ See, e.g., [A/75/212](#), paras. 14-21.

⁶¹ Norwegian Helsinki Committee, [Doing Business in Authoritarian States: Tackling Dilemmas While Preserving Integrity](#), p. 31 (2022).

⁶² As attention to these challenges continue to grow, good practices are evolving and becoming expected practice. For example, lenders (and other types of financial institutions) that know they will have a defined period of relationships with their borrowers can begin to plan for the end of a relationship from its beginning. Development finance institutions have been particularly under the spotlight and have begun to develop approaches, principles and examples on responsible exit. See, e.g., IFC/MIGA Compliance Advisor Ombudsman, [Responsible Exit: Discussion and Practice in Development Finance Institutions and Beyond](#) (2023); Juan Dumas, [A responsible exit from the Agua Zarca Project: Summary of recommendations](#), para. 1.4 (2017); MICI, [Generadora San Mateo and Generadora San Andres Projects](#), GU3794A-01 & GU3798A-01. OHCHR has called on such institutions to develop approaches that start with early planning and address routine and unplanned exits across lending and equity transactions. See, [OHCHR Remedy in Development Finance Report](#), Chapter V. Business enterprises from other sectors could draw on these lessons learned in developing similar approaches.

⁶³ UNGP 22.

⁶⁴ See [A/75/212](#), paras. 81-95. See also Report of the Working Group on Business and Human Rights, Implementing the third pillar: lessons from transitional justice guidance by the Working Group, [A/HRC/50/40/Add.4](#) (2022) (on the relationship between transitional justice and Pillar III of the UNGPs more generally).

⁶⁵ See UNGPs 11, 17, 19 and Commentary.

i. Ongoing human rights due diligence

Business enterprises should continue to conduct human rights due diligence, assessing whether a situation has changed or could be changed, recognising that few situations are static. As noted above (see section III(C)), heightened risks should mean shifting gears to conduct heightened human rights due diligence.

To be sure that harms are properly identified and that efforts at addressing them are effective, a business should engage with affected and potentially affected stakeholders to understand their views, including on the effectiveness of leverage to date, on the potential consequences of remaining and exiting, and on additional steps that could be taken in the situation. In some challenging contexts, it may be particularly difficult to reach stakeholders directly or safely. In such cases, businesses should engage with credible proxies, as well as human rights experts. The more complex the situation, the stronger the case for a business enterprise to seek independent expert advice.

Where business enterprises are connected to human rights impacts through a business relationship, they should continue to use any leverage they may have (or be able to obtain) to prevent or mitigate the impacts wherever possible. Some contexts may involve ingrained or systemic human rights challenges that will take deeper and longer efforts, potentially involving a wider range of parties, to address the root causes of the risks a business is involved with. Exercising leverage, particularly collective leverage, can likely produce improvements over time. Businesses could consider using their collective “voice,” privately and/or publicly to express to government authorities or other actors who may pose serious risks to human rights about the importance of respecting human rights, as well as the costs of not doing so (for instance, through lost investment). Additionally, multistakeholder initiatives that bring together a relevant cross-section of actors to address broader challenges in a sector or a region can potentially help with a longer-term and multifaceted approach.

Further, business enterprises should be as transparent as possible about their ongoing efforts to mitigate adverse impacts, so that affected stakeholders, civil society organisations and others can know about their motivations and the sincerity of their efforts. Explaining the situation and efforts at mitigation highlights to stakeholders that issues are not being ignored. Absent communication about how businesses are dealing with abuses, stakeholders (including rights holders, investors, and government regulators) may fairly presume and articulate their view that no action is being taken. Some businesses are increasingly willing to acknowledge challenges in particular relationships and highlight strategies for improving transparency over time, for example, in order to provide relevant explanations to stakeholders about steps being taken to address challenges. Such transparency can also contribute to peer learning. The importance of being able to point to good examples when trying to convince boards of directors, investors or others that it is not only possible to take action but that others are doing it, should not be underestimated.

ii. “Accepting the consequences”

As the commentary to Guiding Principle 19 makes clear, where a business enterprise is connected to human rights abuses through a business relationship and maintains that relationship, the business enterprise should be prepared to accept the consequences of the continuing connection, which could be reputational, legal, and/or financial.⁶⁶ Conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse. However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from legal liability for contributing to human rights abuses. For instance, legal regimes may lay out requirements for enhanced due diligence in certain circumstances, and/or place evidentiary burdens on a business to establish full legal compliance with regulatory stipulations.⁶⁷

⁶⁶ Where a business enterprise is directly linked to an adverse impact yet fails to take reasonable steps to seek to prevent or mitigate the impact, a further consequence of maintaining the relationship could be that the business is eventually seen to be facilitating the continuance of the situation and thus be in a situation of contribution. See [OHCHR BankTrack Advice](#), pp. 6-7.

⁶⁷ See, e.g., Report of the United Nations High Commissioner for Human Rights, Improving accountability and access to remedy for victims of business-related human rights abuse, [A/HRC/32/19](#), Annex, para. 12.5 (2016) (noting that to improve alignment of

B. When the decision is made to exit

As noted in section IV above, exiting a challenging context or relationship should be subject to human rights due diligence processes, involving stakeholder consultation, to identify and address any adverse impacts resulting from that decision. If, after proper consideration of the potential adverse human rights impacts of exiting, a business enterprise decides that the appropriate response is exit, this should be done responsibly. In order to minimize the adverse impacts resulting from this decision, it is often useful (i) to treat exit as a process rather than an event, and (ii) to manage post-exit consequences.

i. Treating exit as a process, not an event

If possible under the circumstances, a graduated, managed transition or exit would give workers, communities, and entities with which one has a business relationship the possibility to adjust.⁶⁸ Where a business enterprise is connected to harms through a business relationship, treating exit as a process – involving preparing to disengage, deciding when and how to do so, and executing the decision – provides the business with a greater opportunity to use and build leverage, for instance by:

- Adopting a staged pathway towards disengagement with specific milestones that can serve as checks on whether it remains the right approach;
- Implementing a temporary disengagement or suspension of the relationship to allow for improvement before a final decision is made;
- Clarifying the potential conditions under which reengagement would be possible to create incentives for positive change;
- Using public communication about the decision and reasons for it as a means of increasing leverage.

Treating exit as a process also provides more time to dedicate to stakeholder engagement and to prevent and mitigate the harmful consequences of disengagement. In this regard, businesses should seek to provide reasonable notice to stakeholders affected by the exit.

ii. Managing the consequences

As it becomes time to terminate specific business relationships or execute a broader exit plan (or both):

- business enterprises should comply with applicable laws in line with Guiding Principle 23. As part of this legal compliance work, responsible business enterprises will pay particular attention, for instance, to legal standards relating to compensation or entitlements (which may require putting in place functional arrangements for payment, even if the business has to leave suddenly);
- business enterprises seeking to withdraw from an operating context entirely may consider additional retrenchment, retraining, and other support through civil society organisations;
- where business enterprises have provided ongoing support to communities, they should consider short-term and long-term plans to address any gaps that arise from leaving (for example, short-term aid and long-term handover plans).⁶⁹ Support should be prioritized for workers and communities who may be the most affected by the situation with the least opportunities to find alternative sources of livelihood on exit.

legal regimes with expectations of human rights due diligence in the UNGPs, "[i]n the distribution of evidential burdens of proof between the claimant and the defendant company, domestic private law regimes [could] strike an appropriate balance between considerations of access to remedy and fairness to all parties"; Report of the United Nations High Commissioner for Human Rights, Improving accountability and access to remedy for victims of business-related human rights abuse: The relevance of human rights due diligence to determinations of corporate liability, [A/HRC/38/20/Add.2](#) (2018).

⁶⁸ Clean Clothes Campaign, [Solidarity with workers in Myanmar on the second anniversary of attempted coup](#) (2023).

⁶⁹ See BHRRC, [Operating in conflict-affected contexts: An introduction to good practice](#) (2022). Some businesses, alone or in combination with other businesses or governments, provided support to workers affected by shutdowns during Covid-19. Businesses considering exiting situations due to rapidly deteriorating situations and/or where they have operated for a long period

Where operations are being sold or transferred, a business can and should consider the human rights commitments of potential replacements and guide the sale to more responsible entrants.⁷⁰ Where relevant, it might also be able to include contractual terms that “specify that [a] buyer put specific human rights-related policies and procedures in place to enable them to operate responsibly in a conflict-affected context.”⁷¹ In situations in which the local government may have an active role in violating human rights, businesses should be careful to avoid turning over shares or assets to the government upon departure if at all possible. A business might consider facilitating a management or employee buy-out or similar innovative approach that avoids transferring the business to anyone with poor human rights track records that are likely to exacerbate the situation.

When exiting a context or business relationship, business enterprises will often have a difficult balance to strike as regards how they communicate their decision and reasons. Businesses should take careful account of how such messages may be received by different interest groups, especially State agencies, potentially affected stakeholders, and people who may have expressed opposition to business activities on human rights grounds. Any potential risks of retaliation against workers or human rights defenders should be assessed and addressed. Further, messaging regarding the human rights justifications for exiting, relative to other considerations, should be accurate and proportionate, and should be fair to other business enterprises that may have good reasons, based on conclusions they have legitimately drawn from their own human right due diligence processes, to remain. Human rights concerns, and specifically interpretations of the UNGPs, should not be used as convenient cover for other practical, commercial and reputational issues that may have had a bearing on corporate decision making. While companies should strive for openness and transparency as a general rule, the framing and level of detail should be carefully calibrated to the situation, in light of the considerations above.

VI. Conclusion

The UNGPs do not encourage, much less require, binary approaches to decisions to remain in or exit from challenging operating contexts or business relationships. Rather, they set out considerations that businesses (and others) should consider when deciding on “appropriate action” to respond to the risk of adverse impacts, with a focus on ensuring better outcomes for people.

Businesses should not terminate business relationships or exit challenging country contexts at the first sight of human rights risks or harms that may be challenging to prevent or mitigate. At the same time, where business enterprises are unable to obtain and exercise sufficient leverage to prevent or mitigate adverse impacts they are connected to through a business relationship, they should proactively consider disengagement, taking into account credible assessments of the potential adverse human rights impacts of doing so. The responsibility to respect human rights requires a careful, contextual analysis of what would be appropriate in a specific situation, including an analysis of whether ending the operations or relationships would itself result in human rights harms and what could feasibly be done to prevent and mitigate those harms.

Regardless of how a business enterprise arrives at a decision to remain in or exit a challenging situation, it should look to the UNGPs for guidance on how it could remain or exit in a responsible fashion and manage human rights-related risks.

of time could consider similar arrangements or funds to provide short-term support for workers or communities to ease the impact of their departure. See Clean Clothes Campaign, [Solidarity with workers in Myanmar on the second anniversary of attempted coup](#) (2023).

⁷⁰ See more generally, [OHCHR Remedy in Development Finance Report](#), Chapter V on responsible exit.

⁷¹ [UNDP/WG Conflict Guide](#), p. 36.