

# Operationalising Corporate Responsibility to Respect Human Rights in Taiwan : Current State and Challenges



WORK BETTER INNOVATIONS POLICY SERIES

POLICY BRIEF NO. 1 / 2024

FEBRUARY 2024



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Wenchi Chang and Bonny Ling, "Operationalising Corporate Responsibility to Respect Human Rights in Taiwan: Current State and Challenges," *Work Better Innovations*, February 2024, <https://www.wbi.org.uk/publications/policybrief-1-2024/>.



# Acknowledgements

We are grateful to Professor Yu-Fan Chiu of the School of Law, National Yang Ming Chiao Tung University for collaboration on the Taiwan Project for Business and Human Rights. We thank Nicholas Haggerty, Michiel Hoornick and Wan-Hsiang Hsu for helpful reviews and edits; Shuhan Lin for her translation support and 66 Fu for layout.

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The **Taiwan Project on Business and Human Rights** is a special project between Work Better Innovations and the School of Law, National Yang Ming Chiao Tung University. The project's goals are to provide accurate and authoritative research on business and human rights and to educate young scholars, corporate leaders, and practitioners on responsible economic growth in Taiwan. In doing so, the Taiwan Project builds the capacity needed to support business enterprises in Taiwan on human rights and environmental due diligence.

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## Introduction

A key human rights development came with the endorsement of [the UN Guiding Principles on Business and Human Rights](#) (UNGPs) by the UN Human Rights Council on 16 June 2011. The UNGPs is a globally agreed standard to prevent and address the risk of negative human rights impacts in a business context. Importantly, it establishes what governments and businesses need to do to embed respect for human rights in a business context.

The UNGPs have three pillars. Whereas the first pillar addresses the state duty to protect human rights — the foundation of the international human rights system where states are the duty bearers of human rights — the second pillar of the UNGPs cuts new ground by addressing a human rights

issue that, prior to 2011, had not seen consensus between governments, businesses and civil society. The third pillar covers access to remedy.

Pillar II of the UNGPs sets out the foundational principle that “business enterprises should respect human rights.” This means businesses should not only avoid infringing on the human rights of others. They should also address negative human rights impacts with which they may be involved. Even where businesses are not contributing to such negative impacts, they should also “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships,” according to Principle 13 of the UNGPs (or UNGP 13).

The scope of human rights that businesses should respect is set out by Principle 12 of the UNGPs (**UNGP 12**). These human rights are understood, at a minimum, as those expressed in the following international instruments:

1. International Bill of Human Rights, referring collectively to the:
  - [Universal Declaration of Human Rights](#);
  - [International Covenant on Civil and Political Rights](#);
  - [International Covenant on Economic, Social and Cultural Rights](#); and
2. The International Labour Organization’s (ILO) [Declaration on Fundamental Principles and Rights at Work](#), referring to the five basic values vital to our social and economic lives:
  - freedom of association and right to collective bargaining;
  - elimination of all forms of forced or compulsory labour;
  - abolition of child labour;
  - elimination of discrimination in respect of employment and occupation; and
  - a safe and healthy working environment.



PHOTO BY DANIEL M. SHIH

## Introduction: Taiwan and UNGPs

The UN calls on all countries to develop national action plans on business and human rights. Taiwan's government has demonstrated its determination to implement the UNGPs by adopting the Taiwan [National Action Plan](#) on Business and Human Rights in 2020.

Taiwan's National Action Plan provides the measures that have been taken under UNGP's Pillar II and those that will be promoted by the

government. The plan features the importance the government attaches to human rights.

It articulates a vision of corporate responsibility in which respect for human rights is an integral part of doing business for Taiwanese enterprises — no matter where they may operate in the world. This is in line with the UNGPs and with Taiwan's efforts to position itself as a responsible player in the global economy.

## Methodology

This Policy Brief addresses the second pillar of the UNGPs — the corporate responsibility to respect human rights — and assesses the current state of implementation among Taiwanese businesses. The Brief is a first step to evaluate how Pillar II on corporate responsibility is applied in Taiwan.

The Brief examines how widely Taiwanese business enterprises accept their corporate responsibility to respect human rights in company policies and processes. We make use of a subset of business enterprises in Taiwan that have been independently evaluated and recognised in 2023 for their corporate sustainability by the “[CommonWealth Sustainability Citizenship Award](#),” a prestigious recognition from the CommonWealth Magazine, a Taiwanese business publication.<sup>1</sup>

The purpose of the Sustainability Citizenship Award is to highlight Taiwan’s most promising socially responsible enterprises, promote corporate uptake of socially responsible practices and set new competitive standards for Taiwanese businesses as they integrate into the global economy.

We visited the company websites of the top 10 ranked Taiwanese enterprises in the following three award categories, which form our study group of 30 Taiwanese enterprises:<sup>2</sup>

- Large-scale enterprises, with an annual turnover over NT\$10 billion (over about US\$ 300 million);
- Medium-scale enterprises, with an annual turnover under NT\$10 billion (and over NT\$5 billion);
- Small-scale enterprises termed “Small Giants” by the Award, with an annual turnover under NT\$5 billion (under about US\$150 million).

From the enterprises’ websites, we searched for whether the awardees have any publicly disclosed information on the three essential operational components to meet their responsibility to respect human rights, as set out by UNGP 15: (1) a human rights policy; (2) human rights due diligence; and (3) remediation policy.

Within this subset of awardee enterprises, the Brief seeks to answer the following:

- **How many enterprises have a company human rights policy?**
- **How many enterprises have a human rights due diligence policy?**
- **How many enterprises have a company remediation policy or support company remediation?**

The Brief concludes with some initial recommendations on how to drive meaningful business momentum to respect human rights among recognised Taiwanese corporate leaders.

**UNGP 15** states how businesses can meet their responsibility to respect human rights:

Business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A **policy commitment** to meet their responsibility to respect **human rights**;
- (b) A **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute.

<sup>1</sup> For an interesting comparison of research methodology and results, see Gao Yifan [高宜凡], “獨家調查: 沒人權就沒生意! 9成永續百強聽過「企業人權」, 製造業「最佛心」, [Exclusive Investigation: No Business Comes with No Human Rights! 90 percent of CommonWealth Sustainability Citizenship Award winners have heard of Business and Human Rights, with the industry sector being the most ethical],” *CommonWealth Magazine*, Issue 790, 9 January 2024.

<sup>2</sup> Owing to our focus on Taiwan-domiciled enterprises, we exclude the award category of “Foreign Enterprises,” which is the fourth category used by the CommonWealth Magazine to compile its annual list of awardees on the Sustainability Citizenship Award, as seen in our [dataset](#) of the company reports we examined for the research.



# Human Rights Policy

PHOTO BY freepik

An important first step for companies to meet their corporate responsibility to respect human rights is to express their commitment to human rights in a publicly available policy statement. This human rights commitment can take various forms. It can be a stand-alone company policy document. It can also be a part of other documents (such as a code of conduct or policy on social responsibility) that clearly express the company's commitment to human rights, understood at a minimum to be all internationally recognised human rights in the International Bill of Human Rights and the ILO's [Declaration on Fundamental Principles and Rights at Work](#).

**UNGP 16** sets out the content of a **corporate human rights policy commitment** that:

- (a) Is approved at the most senior level of the business enterprise;
- (b) Is informed by relevant internal and/or external expertise;
- (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

## Human Rights Policy: Implementation and Challenges in Taiwan

All the top 10 companies in the large-scale enterprises category in the Commonwealth Sustainability Citizenship Award Top 100 have published human rights policies either on their official websites or in their sustainability annual reporting. By comparison, eight out of the top 10 medium-scale companies, and five out of the top 10 small-scale enterprises, have publicly disclosed human rights policies.

The statistics indicate a positive correlation between an enterprise's size and its likelihood of having and disclosing a human rights policy. Larger companies are more likely to adhere to UNGP 16, which requires the public disclosure of human rights policies approved by the most senior level.

23 of the 30 enterprises in our study group have published human rights policies. In these policies, at a minimum, the enterprise leadership commits to respect the principles outlined in the UNGPs, the International Bill of Human Rights and the fundamental principles and rights at work of the International Labor Organization.

Category	Have disclosed human rights policies	Have not disclosed human rights policies
Large-scale Enterprises	10/10	0/10
Medium-scale Enterprises	8/10	2/10
Small-scale Enterprises	5/10	5/10

# Human Rights Due Diligence

The process of human rights due diligence refers to the process to identify, prevent, mitigate and account for how enterprises should address their negative human rights impacts. These negative human rights impacts include those that have happened and also those that have yet to take place (actual and potential impacts).

While most enterprises are likely more familiar with the process of due diligence in the financial context, human rights due diligence is equally important. It gives meaning to a company's human rights policy. In addition to commitments on human rights, enterprises must integrate and act upon the findings from human rights due diligence, track responses, and communicate how negative impacts are addressed.

Many countries are legislating for mandatory human rights due diligence. These include the French [Corporate Duty of Vigilance Law](#), the German [Supply Chain Due Diligence Act](#), and the

Norwegian [Transparency Act](#). A significant regional development is the 2022 European Commission [proposal for a directive on corporate sustainability due diligence](#), expected to soon become law. The proposal establishes mandatory requirements for environmental and human rights due diligence in all 27 member states of the European Union.

By comparison, Japan, a close political and economic supporter of Taiwan, released its "[Guidelines on Respecting Human Rights in Responsible Supply Chains](#)" for enterprises in September 2022. South Korea is considering a draft human rights due diligence bill.

Amid this momentum worldwide and regionally on mandatory human rights obligations, similar discussions are also taking place in Taiwan. These discussions centre on whether the government should legislate mandatory human rights due diligence, use a guidance approach as in the case of Japan, or implement a combination of both.

## UNGP 17 sets out that the process of human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve."



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## Human Rights Due Diligence: Approaches in Taiwan

Our study identified two broad approaches to the process of due diligence or risk management for potential or actual human rights and labour rights negative impacts in Taiwan:

- (a) The first is a thematic and focused approach on the risks of negative human rights impacts in the business context. The process includes the identification, assessment, and introduction of mitigation and prevention measures, as well as the monitoring of the effectiveness of these steps.
- (b) The second approach adopts a broad assessment and management approach based on Environmental, Social and Governance (ESG) risks. This approach integrates risks of human rights harms with ESG impact areas, such as economic, environmental, corporate governance, and social welfare into a general stakeholder and materiality assessment.

The implementation of the second ESG-focused approach, however, does not equate to a process of human rights due diligence. While human rights and labour rights violations may also arise in ESG reporting, human rights due diligence goes beyond

ESG reporting by also calling for the prevention, mitigation and accountability of negative human rights impacts.

Even though ESG risk management is not the same as human rights due diligence, it can provide a useful on-ramp for companies to begin to seriously engage with their responsibility to respect human rights. For our analysis, we categorised our findings on the current state of human rights due diligence for our group of corporate awardees based on whether the enterprise has a publicly available human rights due diligence policy.

We recognise the useful role that ESG can play for enterprises to become socialised to the wider expectations of responsible business. As such, if no dedicated human rights due diligence policy is available, we looked to see if the enterprise has an ESG policy. We only searched for an ESG risk management policy in the absence of a dedicated policy on human rights due diligence. This means that the data below do not address whether an enterprise has both human rights due diligence and ESG risk management policies.

## Human Rights Due Diligence: Implementation and Challenges in Taiwan

Seven out of the top 10 large-scale enterprises of the Corporate Social Responsibility Award Top 100 have a published human rights due diligence policy. Three have policies on ESG risk management, without having published a policy on human rights due diligence.

Within medium-scale and small-scale enterprises, the number of companies with published policies on human rights due diligence and on ESG risk management are two and eight, respectively. Our research found that 11 enterprises among our study cohort of 30 have published human rights due diligence policy, roughly at 36.7 percent.

In January 2024, the CommonWealth Magazine published the results of its first survey sent to all the 100 enterprises listed for its 2023 Sustainability Citizenship Awards on human rights in supply chains. The survey found that around 55.6 percent of the Sustainability Citizenship Awardees have started human rights due diligence. Results from this survey are higher than our findings, potentially due to differences in our respective methodologies. Nonetheless, both our findings broadly agree that human rights due diligence is a topical issue for leading Taiwanese enterprises.

While more than half of the large enterprises provide clear policies on human rights due diligence, the ratio decreases significantly among medium- and small-scale enterprises. Only one in three enterprises in these categories have published their policy on human rights due diligence. We note that almost all of them do have ESG management policies, suggesting that ESG is more localised in the Taiwanese context than the issue of human rights due diligence,<sup>3</sup> at least among the study group of medium- and small-scale enterprises.

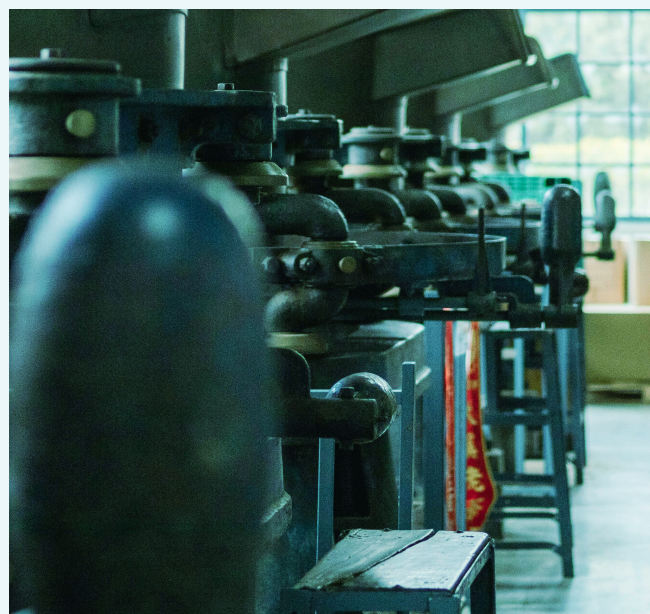


PHOTO BY KEVIN WANG ON UNSPLASH

Category	Have published policies on human rights due diligence	Have not published policies on human rights due diligence but have policies on ESG risk management	Have not published policies on human rights due diligence or ESG risk management
Large-scale Enterprises	7/10	3/10	0/10
Medium-scale Enterprises	2/10	8/10	0/10
Small-scale Enterprises	2/10	8/10	0/10

<sup>3</sup> Gao Yifan [高宜凡], “獨家調查 [Exclusive Investigation],” *CommonWealth*, 9 January 2024.



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According to the information available from the reporting disclosed on their official website, methods that enterprises used for the identification of negative human rights impacts are diverse and include:

- Online survey and supplier self-assessments;
- Data monitoring;
- Current affairs and news;
- Dialogues across different internal departments;
- Review of new business activities, such as joint venture, mergers and acquisitions, as well as corporate social responsibility (CSR) initiatives;
- Internal and external audits;
- Employee complaints and other grievance mechanisms;
- On-site inspection of suppliers;
- Fines and penalties of suppliers; and
- Internal human rights working groups.

## Identification of Negative Human Rights Impacts

Among the 11 enterprises that provided policies on human rights due diligence, 10 further indicated how they identified negative human rights impacts in their operations and activities.

Online surveys and self-assessments distributed to various stakeholders, such as employees, suppliers, clients and not-for-profits, were the most frequently cited method for the identification of risks of negative human rights harms.

While surveys and self-assessments is one popular approach, it is insufficient as the only method for the identification of human rights risks. Issues of survey scope, respondent biases and potential self-censorship can influence the collection and analysis of answers. Enterprises therefore must rely on various approaches for the identification of human rights risks as part of the due diligence process.

## Scope of Human Rights Due Diligence

Our research identified 19 enterprises that have not published policies on human rights due diligence but have policies on ESG risk management. In this group, 17 have published supplier management policies.

While these enterprises may focus on supply chain management, usually under their environmental sustainability or corporate governance policies and not specifically billed as human rights due diligence, there can be some overlap between supply chain risk management and the broader responsibility of corporate human rights responsibilities.

According to the information on supplier management disclosed by the enterprises we studied, in terms of environmental governance, enterprises generally have well-established supply chain management mechanisms. This can include requiring suppliers to sign a commitment letter on human rights and environmental sustainability or undertaking regular evaluations of supplier and supply risk management.

Using a supply chain risk management lens as a substitute for human rights due diligence, however, is insufficient. It can exclude the whole range of stakeholders in the enterprise's global value chain as coming under the scope of a human rights due diligence process.

The same is true for ESG risk management. ESG materiality is not the same as international human rights. Many enterprises do not understand how international human rights standards relate to ESG criteria and hold a misconception that the S (for social) in ESG encompasses the whole range of the corporate responsibility to respect human rights.

In recent years, the expectation of human rights due diligence has become more embedded in the activities of internationally oriented and large-scale Taiwanese enterprises. Our research found the challenge of human rights due diligence to be especially prominent among Taiwan's medium-scale and small-scale enterprises, who must actively learn to identify, prevent, mitigate and account for adverse human rights impacts beyond supply chain management and ESG materiality assessments.

## Human Rights Due Diligence in the Recruitment of Migrant Workers

When an enterprise in Taiwan recruits migrant workers, it needs to identify and prevent human rights harms in this cross-border recruitment process.

Various factors can increase the workers' risk of labour exploitation in Taiwan. These can include the 11 [ILO forced labour indicators](#) of abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.

The enterprise should also collaborate with civil society, labour unions and workers representatives in the countries of origin and in Taiwan. This collaborative, multi-stakeholders' approach is important for the enterprise to better understand, identify and prevent negative human rights impacts. It also helps to mitigate and account for

the harms caused by a flawed recruitment process for migrant workers.

An example of human rights due diligence is related to migrant workers in debt bondage situations in which workers pay recruitment fees and related costs, as well as other illegitimate and undisclosed costs. To meet their responsibility to respect human rights, enterprises should begin by identifying whether:

- Workers are charged [recruitment fees and related costs](#) by labour brokers in their countries of origin and in Taiwan;
- Workers continue to pay monthly service fees to their labour brokers in Taiwan;
- Workers are paying off an informal or formal debt for their employment in Taiwan;
- Workers' families have taken out a loan on their behalf, and the workers are remitting wages home to pay off this debt held by their families.

## Remediation

Remediation is, at its heart, a process of righting wrongs. It is about making victims of human rights abuses whole again after the harms they have suffered. It is a central pillar of international human rights law. Without remediation, our fundamental right to access to justice would be meaningless. The foundational importance of remediation and remedy in human rights is seen in the third pillar of the UNGPs, which focuses exclusively on the access to remedy.

**UNGP 22** sets out the corporate responsibility on remediation:

Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

Commentary: Where adverse impacts have occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so.

### Remediation: Implementation and Challenges in Taiwan

All of the top 10 companies in the large-scale enterprises category provided general complaint communication channels for all topics on their company websites. All stakeholders can publicly search for the contact information for different responsible company contacts from the website. Among the large-scale enterprises examined, three established a specific grievance mechanism for the topic of human rights.

Nine out of the top 10 medium-scale enterprises and seven out of the top 10 small-scale enterprises have provided general complaint communication channels, but the number decreases significantly when we look for a specific grievance mechanism for human rights complaints. Only two medium-scale enterprises and one small-scale enterprise had dedicated human rights grievance mechanisms.

Among the study cohort of 30, three small-scale enterprises and one medium-scale enterprise did not provide any publicly disclosed communication channel for stakeholders raising complaints, representing about 13 percent of enterprises in the awardee list of socially responsible Taiwanese enterprises.

Among the six enterprises that have set up grievances channels specifically for human rights topics, these channels are accessible only for the enterprise's "employees" and not open to all stakeholders or the public. Therefore, supplier employees or affected local residents may not be able to use these grievance mechanisms to seek remediation.

Category	Have provided general complaint communication channels	Have provided human rights grievance mechanisms	Have not provided any communication channels
Large-scale Enterprises	10/10	3/10	0/10
Medium-scale Enterprises	9/10	2/10	1/10
Small-scale Enterprises	7/10	1/10	3/10



## Conclusions: Taiwanese Businesses for “Taiwan Can Help” for International Human Rights

PHOTO BY VERNON RAINEIL CENZON ON UNSPLASH

UNGP’s Pillar II consists of three components: a human rights policy commitment, human rights due diligence, and a remediation process. Each part is indispensable to the totality of what is considered to be the scope of the corporate responsibility to respect human rights.

Our research presented in this Policy Brief found that the current state-of-play of adherence to Pillar II under the UNGP framework in Taiwan provides early encouraging results.

At 23 enterprises of our research set of 30, the majority of enterprises we studied have publicly disclosed their commitments to human rights. Nearly half have issued human rights due diligence policies. All the enterprises without a dedicated and publicly disclosed policy on human rights due diligence (19 out of 30) nonetheless had a form of ESG risk management and reporting on issues related to human and labour rights.

Beyond a human rights policy commitment and process of human rights due diligence, we found the process of remediation seeing the largest gap in uptake by business enterprises in Taiwan. This finding mirrors developments abroad, where awareness of remediation and the Access to Remedy (UNGP Pillar III) have lagged behind developments on corporate human rights policies and due diligence.

Our research also found that corporate responsibility to respect human rights among the study group of Taiwanese enterprises tended to scale down with the size of the enterprise operation. We observed more alignment with

international expectations under the UNGP framework among the large-scale enterprises than the medium- and smaller-scaled operations.

While all businesses, regardless of their size, have a responsibility to respect human rights (UNGP 14), there are particular challenges related to business and human rights faced by small or medium-sized enterprises (SMEs). These can include: a lack of resources, uncertainty about their legal responsibilities, poor enforcement of national law, and the difficulty of translating policy commitments into relevant operational procedures.<sup>4</sup>

SMEs need specialised assistance related to business and human rights. This is especially the scenario for Taiwan, where SMEs dominate the private economy landscape. Almost 99 percent of private enterprises in Taiwan are SMEs, [defined](#) by the government as enterprises whose paid-in capital is no more than NT\$100 million (about US\$3.1 million), or which hires fewer than 200 regular employees. The government and large-scale enterprises can support SMEs through specialised training and financial support to establish a human rights policy, implement human rights due diligence and a process of remediation.

Our study captures socially-leading Taiwanese enterprises at a juncture when they have a unique and important role to provide the domestic corporate leadership to support the implementation of the UNGPs. These corporate leaders should support revisions of the National Action Plan for Business and Human Rights, due for 2024, and civil society advocacy for human rights due diligence legislation and guidance in Taiwan.

<sup>4</sup> United Nations General Assembly, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises ([A/HRC/35/32](#)), *Human Rights Council* (Thirty-fifth session), 24 April 2017.



# Policy Recommendations for Taiwanese Enterprises

PHOTO BY VERNON RAINEIL CENZON ON UNSPLASH

Taiwanese enterprises, no matter their size, sector, operational context, ownership and structure, should take the following actions to meet their responsibility to respect human rights:

## 1. Institute a human rights policy

This is an important first step to demonstrate the commitment of the enterprise, from the top level of senior management, to embed the respect for human rights throughout its operating policies and procedures. Taiwanese enterprises should communicate this central commitment internally and externally to all stakeholders.

## 2. Implement a human rights due diligence process

Human rights due diligence cannot be regarded only as a formal document. It is a dynamic process to identify and prevent potential negative human rights impacts and to prevent or mitigate adverse impacts throughout the enterprise's value chain.

When a Taiwanese enterprise begins to institute this process of human rights due diligence, priority should be placed on preventing and mitigating the negative human rights impacts that are the most severe or where a delayed response would make them irremediable, such as resulting in the loss of life (UNGP 24).

## 3. Remediate negative human rights impacts

When Taiwanese enterprises identify that they have caused or contributed to negative human rights impacts, they should provide for or cooperate in their remediation through legitimate processes (UNGP 22). Grievance mechanisms can be both state-based (such as litigation, mediation or employment tribunals) or non-state-based, as in the case of a company's independent complaint mechanism or one established in partnership with others.

There is no universal, one-size-fits-all remedy. Taiwanese enterprises need to recognise that the remedies provided by the grievance mechanisms will look different depending on the nature and scope of the negative human rights impacts, as well as what the rights-holders seek to right the wrongs that they have suffered.

The international business landscape is fast evolving, with higher expectations placed now on the social impact of business enterprises. The transnational and globalised context of business activities includes the dynamic and ground-swelling advocacy on issues of human and labour rights. It is an area where corporate leadership can and should go beyond the minimum standards required by domestic law and reach the higher international standards.




At its essence, it is a challenge of the business and human rights journey — of learning and improving — so that Taiwanese businesses can also be a visible and meaningful part of the island's call of "Taiwan Can Help" internationally.



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