

# GUIDE ON GRIEVANCE AND COMPLAINTS MECHANISMS

RESPECTFUL OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW



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RESPECTFUL OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW



Technical Secretariat:



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This document is a self-regulating instrument of voluntary application, that serves as a guide to develop business activities in a way that is respectful to Human Rights and International Humanitarian Law. The application of these principles does not imply that Guías Colombia certifies the performance of business in Human Rights issues.

The organizations that adhere to Guías Colombia do it voluntarily and on their own behalf. The content of this guideline is public and of free access to anyone that wishes to consult and apply it. However, only businesses endorsing the initiative are bound to implement it. As to business associations, their adhesion to *Guías Colombia* does not bind or compromise any of the businesses that are part of it.

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# INTRODUCTION

This document seeks to provide clear guidelines for companies that operate in Colombia and that seek to have a mechanism for addressing grievances and complaints raised by stakeholders that is respectful of Human Rights<sup>1</sup> and International Humanitarian Law<sup>2</sup>.

All companies should be respectful of HRs, and this includes having a mechanism in place to address grievances and complaints on human rights issues. This Guide and the indicators herein, measure and assess due diligence in implementing such mechanism.

The Guías Colombia Initiative has identified rights issues regarding security, environment, labor, communities, transparency, and institutional strengthening. Therefore, it is expected that grievances and complaints mechanisms implemented by businesses address any abuses associated to those situations that compromise the full enjoyment of rights.

Any other topics to be included in the mechanism will depend on the specific characteristics and experiences of the company. In addition, in the framework of Guías Colombia, the adoption and implementation of grievances and complaints mechanisms may provide inputs for self-reporting on the other guidelines developed under this Initiative.

The content of this Guide is based on the United Nations Framework<sup>3</sup> on business and HRs that is grounded on three-pillars:

- The State’s duty to protect HRs against third parties’ abuses – including companies – by implementing policies, and enacting regulations and appropriate measures.

- The corporate responsibility to respect HRs, which implies acting with due diligence, without affecting the rights of others.
- A greater access of victims to effective remedial means, both judicial and non-judicial.

It is expected that in the face of possible gaps in legislation, companies adopt standards regarding the respect of HRs. The work of both State and companies should be mutually reinforcing to foster the enjoyment of HRs, and to promote mechanisms for addressing grievances and complaints raised by stakeholders to redress HRs infringements. The United Nations Framework establishes that non-judicial remedy mechanisms are just as important as judicial mechanisms. These are not excluding mechanisms but, rather, complementary.<sup>4</sup> The importance of non-judicial remedy mechanisms lies in offering an immediate resource to address human rights impacts; they are accessible and can be easily adjustable to different conditions.<sup>5</sup>

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<sup>1</sup> Hereinafter referred to as “HRs”.

<sup>2</sup> Hereinafter referred to as “IHL”.

<sup>3</sup> To date, the “United Nations Framework” is the policy framework presented by John Ruggie (Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises) approved by the UN Human Rights Council through Resolution 8/7 of 18 June 2008. For further information on John Ruggie’s work and progress made under the Framework, see: <http://www.business-humanrights.org/SpecialRepPortal/Hom>

<sup>4</sup> John Ruggie (2009). Business and Human Rights: Implementing the “Protect, Respect and Remedy” Framework. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

<sup>5</sup> John Ruggie (2008). “Protect, Respect and Remedy: a Framework for Business and Human Rights”. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

Grievances and complaints mechanisms are particularly relevant for companies operating in high-risk areas and conflict-affected zones, where communities often experience the negative effects of insecurity, presence of illegal armed groups, violence and displacement, among others. Therefore, companies should pay particular attention to monitoring and adapting their operations to the volatility of the context in which they operate. In that sense, grievances and complaints mechanisms are useful tools that may serve as an early warning system for the company regarding its impacts on HRs. Additionally, they may also shed light on the best way to adapt corporate practices, prevent the escalation of discomfort, and contribute to its resolution.<sup>7</sup>

This Guide and, generally, the Guías Colombia Initiative, understands the concept of grievances and complaints on HRs and IHL, as follows<sup>8</sup>:

In HRs and/or IHL, a **grievance** is an expression of dissatisfaction raised before a company and originated from the stakeholders' perception of violation/abuse/disrespect/breach to HRs or IHL, in connection to the company's' products and/or services, performance or procedures, on which a tacit or explicit response is sought. Grievances may result from non-compliance of commitments, or the failure to satisfy an expectation.

In HRs and/or IHL, a **complaint** is an expression of nonconformity expressed by any stakeholder and originated from the stakeholders' perception of violation/abuse/disrespect/breach to HRs or IHL, due to full or partial non-compliance of commitments, or to the existence of undesired impacts not fully addressed to the complainant's satisfaction. Complaints seek to redress damage through tangible or intangible compensation. The definition of complaint is also conditioned to the fact that legitimate actors should raise complaints, by the directly affected or his/her legal representative, and such complaint must be supported with evidence.

For Guías Colombia, a grievance or claim on HRs is considered as such when it is a breach of the law and, consequently, a

breach of the Colombian Constitution and the constitutional block<sup>9</sup>, which in turn encompasses all HRs and IHL international treaties signed by Colombia.

6 UN Global Compact & PRI Publication (2010). "Guidance on Responsible Business in Conflict-Affected & High-Risk Areas: A Resource for Companies and Investors". <https://www.unglobalcompact.org/library/281>

7 Ibid.

8 Determining that a grievance or complaint relates to HRs and IHL should be the result of a risk assessment, as well as of the opportunities, adverse and positive effects, and the recognition of complexities in the surrounding environment of the company, in order to facilitate the distinction between ordinary grievances and complaints, on the one side, and HRs and IHL related grievances and complaints, on the other.

9 Corporate Social Responsibility Initiative (2008). "Rights-compatible grievance mechanisms". Cambridge, MA: John F. Kennedy School of Government, Harvard University; International Organization for Standardization ISO 26000: Guidance on Social Responsibility.

## GUÍAS COLOMBIA

### GRIEVANCE AND COMPLAINTS MECHANISMS

2

# MINIMUM STANDARDS

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MINIMUM STANDARDS

Companies operating in Colombia usually implement mechanisms to receive and process potential grievances and complaints raised by their stakeholders. Those mechanisms should be compatible with the spirit of this Guide and as set out in the United Nations Framework, and respond to:

- An assessment of risks, opportunities, adverse and positive effects on HRs and IHL, therein including, among others, characteristics of the surrounding environment and a stakeholder map.

Pursuant to recent developments in the field of business and human rights, and bearing in mind available international requirements<sup>10</sup>, any grievances and complaints mechanism must be human rights-compatible; that is, outcomes and reparations

should be consistent with internationally recognized standards on HRs. Therefore, the mechanism should be based on the following principles:

The table below sets out the principles and criteria developed in the document “*Rights-Compatible Grievance Mechanisms*” by the Corporate Social Responsibility Initiative. Principles 6, 7 and 8 have been settled by the IFC in the document “Addressing Grievances from Project-Affected Communities”. The Guías Colombia Initiative developed the criteria corresponding to such principles.

| PRINCIPLES   | GUIDING CRITERIA  |
|--|---|
| 1. <b>LEGITIMATE AND RELIABLE:</b> THE MECHANISM SHOULD BE KNOWN AND ACCEPTED BY STAKEHOLDERS.   | <ul style="list-style-type: none"><li>• Create verification systems with the participation of stakeholders and third parties.</li><li>• Promote the means to ensure the mechanism’s transparency.</li><li>• Must not exclude the use of judicial means to process grievances and complaints.</li><li>• Provide adequate timeframes for all parties.</li></ul> |
| 2. <b>PUBLIC AND ACCESSIBLE:</b> THE MECHANISM SHOULD BE KNOWN AND WITHIN THE REACH OF THE COMPANY’S STAKEHOLDERS.                           | <ul style="list-style-type: none"><li>• Provide easy access for those desiring to raise grievances or complaints.</li><li>• Disclose the mechanism and the means to ensure its operation.</li><li>• Accurately identify the parties or actors involved in each case.</li></ul>  |
| 3. <b>TRANSPARENT:</b> THE MECHANISM SHOULD OPERATE IN AN OPEN, PUBLIC AND VERIFIABLE MANNER FOR THOSE HAVING A LEGITIMATE INTEREST THEREIN. | <ul style="list-style-type: none"><li>• Transparently disclose issues related to the process and its outcomes.</li><li>• Keep stakeholders informed on the operation of the mechanism.</li></ul>  |

<sup>10</sup> Corporate Social Responsibility Initiative (2008), “Rights-compatible grievance mechanisms”, Cambridge, MA: John F. Kennedy School of Government, Harvard University; The International Organization for Standardization ISO 26000: Guidance on Social Responsibility.

|   |   |
|---|---|
| 4. <b>CONSTRUCTIVE DIALOGUE:</b> THE MECHANISM SHOULD PREFER DIALOGUE AS PRIMARY TOOL.  | <ul style="list-style-type: none"><li>• Promote constructive dialogue between the parties.</li></ul>  |
| 5. <b>PREDICTABLE PROCESS:</b> THE PROCESS SHOULD BE KNOWN BEFOREHAND AND CONSISTENT WITH THE TERMS AGREED UPON.  | <ul style="list-style-type: none"><li>• Agree a way to enforce decisions made in each process.</li><li>• Ensure compliance with the agreed terms.</li><li>• Have an open attitude related to the process' outcomes.</li></ul>   |
| 6. <b>CULTURALLY APPROPRIATE:</b> THE MECHANISM SHOULD BE CULTURALLY APPROPRIATE TO DEAL WITH THE CONCERNS RAISED BY DIFFERENT STAKEHOLDERS. THIS IS PARTICULARLY RELEVANT WHEN REFERRING TO LOCAL COMMUNITIES. | <ul style="list-style-type: none"><li>• Sensitive to stakeholders' specificities and respectful of any cultural difference among stakeholders.</li></ul>  |
| 7. <b>CONFIDENTIALITY:</b> THE MECHANISM SHOULD ENSURE THE COMPLAINANT'S CONFIDENTIALITY.   | <ul style="list-style-type: none"><li>• Ensure confidentiality of complainant's identity, when requested.</li><li>• Ensure confidentiality on the grievance or complaint contents and the complainant's identity, when appropriate.</li></ul>   |
| 8. <b>ACCESS TO OTHER LEGAL MECHANISMS:</b> THE MECHANISM SHOULD ALLOW AND FACILITATE ACCESS TO OTHER MECHANISMS AVAILABLE UNDER COLOMBIAN LAW.   | <ul style="list-style-type: none"><li>• Provide appropriate information to stakeholders for accessing all types of legitimate available mechanisms.</li><li>• Facilitate access to any other type of legitimate and available mechanisms.</li></ul>   |
| 9. <b>FAIR AND EMPOWERING:</b> THE MECHANISM SHOULD SEEK TO CLOSE ANY ASYMMETRIES OF POWER, KNOWLEDGE AND INFLUENCE BETWEEN THE COMPANY AND ITS STAKEHOLDERS.   | <ul style="list-style-type: none"><li>• Seek cooperation between internal and external third parties to create solutions.</li><li>• Facilitate access to neutral experts on both HRs and IHL.</li><li>• Treat all parties involved with respect.</li><li>• Involve stakeholders in all phases of the process.</li></ul> |
| 10. <b>CONTINUOUS SOURCE OF LEARNING:</b> THE MECHANISM' EFFECTIVENESS SHOULD BE MEASURED, AND LESSONS LEARNED SHOULD BE REVIEWED TO IDENTIFY ANY NECESSARY STRUCTURAL CHANGES.                                 | <ul style="list-style-type: none"><li>• Agree and monitor key indicators of operation.</li><li>• Integrate any lessons learned into the business system.</li><li>• Review the mechanism according to the experience gained in the process.</li></ul>  |
| 11. <b>INSTITUTIONAL, INTEGRATED AND ALIGNED:</b> THE MECHANISM SHOULD MATCH THE COMPANY'S STRATEGIC GOALS.   | <ul style="list-style-type: none"><li>• Implement follow-up tools at the highest management levels.</li><li>• Implement a system of indicators.</li><li>• Disclose within the organization.</li><li>• Include it in the company's mechanisms for continuous improvement (PDCA<sup>11</sup>).</li></ul>                  |

HOW TO IMPLEMENT  
THE MECHANISM



## HOW TO IMPLEMENT THE MECHANISM

The mechanism through which a company manages grievances and complaints should consider the particularities of the context, the type of business and its specific activities.

The following elements are to be taken into account for the design and implementation of such mechanism.<sup>12</sup>

### 1. WHEN THE COMPANY PUBLICIZES ITS MECHANISM, THE DIFFERENT INTEREST GROUPS MUST BE INFORMED ABOUT:

- The company and the description of the project or activity being developed in the area.
- Parties eligible to access the mechanism.
- Place, manner and time to file grievances or complaints.
- Company division or team responsible for reviewing, filing and monitoring grievances or complaints.
- Third parties involved in the process, if any.
- Expectations of the party raising the grievance or complaint, in terms of the response, time and processing.
- Steps undertaken by the company after the reception of the grievance or complaint.
- Description of admissible grievances or complaints, and information regarding mechanisms to file grievances or complaints that exceed the scope of the

company's mechanism or that should be filed before other agencies.

- Origin of the means procured to operate the mechanism.
- Information to raise stakeholders' awareness on HRs and IHL, and on the operation of the mechanism, thus providing stakeholders with tools to participate in the discussions and actions related to the processing of grievances or complaints through the company's mechanism.

### 2. THE PROCESS OF RECEPTION AND FILING OF GRIEVANCES OR COMPLAINTS SHOULD INCLUDE THE FOLLOWING:

- Collection or reception of the grievance or complaint.
- Record on a general database all grievances or complaints filed, in order of arrival or registration.
- Monitor each grievance or complaint identifying its status and level of importance, to determine the specific treatment.
- Give an answer as soon as possible.

<sup>12</sup> These elements are based on documents prepared under the Corporate Social Responsibility Initiative (Harvard University): "Rights-Compatible Grievance Mechanisms" (2008); "Corporations and Human Rights: Accountability Mechanisms for Resolving Complaints and Disputes" (2007); IFC paper: "Addressing Grievances from Project-Affected Communities: Guidance for Projects and Companies on Designing Grievance Mechanisms".



### 3. TO PREPARE AND COMMUNICATE A CLEAR ANSWER, THE FOLLOWING MUST BE TAKEN INTO ACCOUNT:

- Every grievance and complaint must be answered.
- Answers may be written or verbal, depending on how the grievance or complaint was received.
- If the grievance or complaint calls for an investigation, the answer must include information about the investigation process.
- The response should include information about the times required to process the grievance or complaint, and for the investigation, if necessary.
- If the grievance or complaint fails to meet the conditions established in the company's mechanism, or if it must be dealt with by another organization, the answer must include information regarding other available mechanisms to file the claim.

### 4. THE FOLLOWING IS REQUIRED THROUGHOUT THE PROCESS:

- Identify all actors adversely affected by the facts that give rise to the grievance. At the outset, this may seem unclear but to the extent the investigation progresses, this information is important to determine the parties to be engaged in the discussions.
- Keep the identity of the person filing the complaint confidential, as needed.
- Inform the complainant the following three key aspects of the process: (1) acceptance of the grievance or complaint; (2) decision on measures to be adopted because of the accepted grievance or complaint;

(3) final decision. It is advised to publish the facts and outcomes of the process in business reports, keeping the confidentiality of the affected persons.

- Identify, as appropriate, State institutions or agencies that may have a role in the discussions.
- Strive to sustain a constructive, informed and direct dialogue between the parties involved.

### 5. TO CLOSE THE CASE, IT IS NECESSARY TO:

- Document the manner in which the grievance or complaint was addressed and solved.
- Draft a resolution of the case, signed by incumbent staff, specifying the start and end date.
- Hold a meeting between the company and the complainant, to attest that the case is to be closed.
- If possible, include in the archives a written confirmation of the complainant stating that the case of the grievance or complaint was closed to his / her entire satisfaction.

### 6. WHEN MONITORING, REPORTING, AND ASSESSING THE GRIEVANCES AND COMPLAINTS MECHANISM, THE COMPANY SHOULD:

- Develop indicators to assess the mechanism.
- Prepare periodic reports to check any increase or decrease in the number of grievances filed and their processing (filing, management, and solution).

WHAT SHOULD COMPANIES  
DO IN RESPONSE TO A  
GRIEVANCE OR COMPLAINT  
RELATED TO INTERNATIONAL  
HUMANITARIAN LAW?



## WHAT SHOULD COMPANIES DO IN RESPONSE TO A GRIEVANCE OR COMPLAINT RELATED TO INTERNATIONAL HUMANITARIAN LAW?

Given that companies are responsible for respecting and complying with IHL, they should pursue actions that enable the adequate processing of grievances and complaints. As a minimum, in connection to IHL, companies should:

### HAVE KNOWLEDGE OF THE GENERAL FRAMEWORK OF IHL:

It is crucial that companies operating in contexts of armed conflict have knowledge of IHL provisions and standards. This is particularly relevant when determining the company's responsibility in potential violations. For this reason, it is important for companies to become acquainted with the following issues and are capable of answering the questions below:

- When is IHL infringed?
- Who is protected under IHL?
- What is the role of both the State and companies?

### BE AWARE OF THE CONTEXT OF ARMED CONFLICT IN ITS AREA OF OPERATIONS. WITHIN ITS RISK ANALYSIS, THE COMPANY SHOULD COVER ASPECTS SUCH AS:

- Cases of IHL infringements in the zone.
- Actors involved in IHL infringements.
- Contact information of the International Committee of the Red Cross (ICRC) offices in the region. Companies should inform and explain to victims and their

families, that they are entitled to directly resort to the ICRC to file their cases or request humanitarian aid.

Companies should bear in mind that victims and their families, and even companies themselves, are entitled to file complaints before Colombian public authorities, such as the Attorney General's Office, the national, municipal or district Ombudsman's Offices and other State authorities competent to handle grievances and complaints on the matter.

### SCENARIOS:

The company can receive grievances and complaints associated to different scenarios, which will be essential to determine the degree of corporate responsibility and the course of action to follow:

#### 1. Grievances and/or complaints may refer to IHL infringements by its employees or contractors.

As a minimum, the company should undertake the following actions:

- Fill out the Grievance and Complaints Form (See Annex 1).
- Inform the victim of the procedure and actions to be followed by the company to clarify the facts and ensure the victim's<sup>13</sup> access to justice mechanisms and reparation.

<sup>13</sup> According to the ICRC, a victim is anyone who has been harmed individually or collectively, including physical or mental harm, and that suffers from emotional distress, loss of property or economic means, and has been deprived of his/her fundamental rights, as a result of actions or omissions violating HRs and IHL. The above also covers immediate family or dependents of the victim and other persons harmed when intervening to provide assistance to victims at risk or prevent their victimization.

- Adopt specific actions regarding the employees or contractors that infringed IHL.
- Inform competent authorities of the facts, to avoid any accusation of complicity by omission.
- Once the competent authority delivers its decision, the company should express a public apology, including the recognition of the facts and the definition of responsibilities.
- Establish clear mechanisms within the company to guarantee non-recurrence for the victims.

## 2. Grievances and/or complaints may refer to IHL infringements committed by the Army present in the zone to protect company employees and facilities.

The company should undertake, at least, the following actions:

- Fill out the Grievance and Complaints Form (See Annex 1).
- Inform the victim of the procedure and actions to be followed by the company to clarify the facts, support victims' access to justice, and remedy mechanisms.
- Adopt specific actions in relation to its agreement with Public Forces. To that effect, the company should contact the relevant officials to report the situation and seek to ensure that the Public Forces take the necessary measures.
- Make the facts known to competent authorities, to avoid any accusation of complicity by omission.

## 3. Grievances and/or complaints may refer to direct IHL infringements by illegal groups against people in the community, employees or contractors.

Companies should undertake, at least, the following actions:

- Fill out the Grievance and Complaints Form (See Annex 1).
- In all of the above cases, the company can and should communicate to victims or their families the ICRC contact information for reporting their case. The ICRC will receive and process the victims and their families' situation based on its own criteria and requirements. ICRC and its delegates, in accordance with its own rules, should explain to the victims or their families the course of action to follow, as well as any humanitarian answers ICRC may provide, on a case-by-case basis.



## CHECKLIST FOR SECURITY ISSUES<sup>14</sup>

### THE MECHANISM SHOULD BE BASED ON:

An assessment of risks and impacts associated to HRs and IHL, which considers the company's context as well as a stakeholder map and analysis.

### THE GRIEVANCES AND COMPLAINTS MECHANISM SHOULD HAVE:

- Protocols or roadmaps to receive, process and investigate grievances or complaints.
- Verification systems that allow participation of third parties.
- A senior executive in charge of heading and monitoring the process.
- A pool of internal and external partners recognized by key stakeholders that can contribute in the search for solutions, when necessary.
- A predictable answer mechanism.
- A predictable decision-making mechanism.
- Operation and impact indicators.
- A system to self-report.

### THE GRIEVANCES AND COMPLAINTS MECHANISM SHOULD ALLOW AND SECURE:

- Easy access for key stakeholders.
- Access to sources of information by key stakeholders.
- Fluid dialogue among parties involved.
- Direct, informed and constructive involvement of key stakeholders.
- Transparent and continuous communication between the company and the parties involved in the process.
- Confidentiality of the complainants' identity, when requested or deemed necessary.
- Equalitarian and professional treatment to all grievances or complaints.

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<sup>14</sup> This list is not exhaustive and must be adjusted according to the company's needs.

## **NON-BINDING OPTIONS**



## NON-BINDING OPTIONS

The grievances and complaints experiences explained below, although failing to comply with all of the minimum standards provided in this Guide, are sound examples of partnerships with internal and external third parties, transparency, community inclusion, mechanism disclosure, among others. They provide possible ways to fulfil some of the minimum standards of this Guide.

### BTC — PIPELINE — BP

The British Petroleum Company (BP) project in Azerbaijan<sup>15</sup>, during the process of planning the project that would join the Caspian Sea with the Mediterranean, implemented a grievances and complaints mechanism. This is an example on how to disclose a mechanism and how to include third parties in the process.

The mechanism operated as follows:

- The first step was to inform the communities about the project, how/when they could raise grievances and/or complaints. They used posters and letters with the names of the company's employees that could be contacted to learn more about the mechanism and place any grievance or complaint.
- The admissibility requirement was that any member of the community that felt affected by the pipeline could file a grievance and/or complaint by providing his/her name and telephone number.
- The complainant could present his/her concerns before judicial authorities in parallel to the company's mechanism.

- BP gave a grant to a local NGO to legally represent before a court, free of charge, unsatisfied complainants.
- The mechanism was managed by a group of NGOs and local experts. Grievances and/or complaints (written or verbal) were initially registered by the communities' liaison office. The liaison office director informed the corporate division responsible for the issue addressed in the grievance and/or complaint, and such division had the responsibility of finding an acceptable solution.
- If the complainant felt unsatisfied, the community liaison office organized a meeting between the interested parties, including local authorities, in order to reach a joint agreement (direct negotiation).
- The parties involved could bring their own documentation and/or evidence.
- If an agreement was not reached, the case was transferred to the Center for Legal and Economic Education (the NGO BP designated as arbitrator, if necessary), particularly in connection to land-related matters, compensations and other non-technical issues.
- No party was bound to accept the decision beforehand.

<sup>15</sup> Rees, C. and Vermijs, D (2008) "Mapping grievance mechanisms in the Business and Human Rights Arena" Corporate Social Responsibility Initiative, Report No. 28, Harvard University.

For further information, please click on the following links:

- > [www.bp.com](http://www.bp.com)
- > <http://www.bp.com/sectiongenericarticle.do?categoryId=9006669&contentId=7015093>
- > [https://www.ifc.org/wps/wcm/connect/d01d2180488556f0bb0cfb6a6515bb18/BTC\\_LOE\\_Final.pdf?MOD=AJPERES&CACHEID=d01d2180488556f0bb0cfb6a6515bb18](https://www.ifc.org/wps/wcm/connect/d01d2180488556f0bb0cfb6a6515bb18/BTC_LOE_Final.pdf?MOD=AJPERES&CACHEID=d01d2180488556f0bb0cfb6a6515bb18)

### CLEAR VOICE HOTLINE

Clear Voice Hotline (CVH) is a grievances and complaints mechanism designed for the use of several companies. This mechanism registers, evaluates, and proposes solutions to grievances and/or complaints raised by the company's employees. This experience illustrates the progress on minimum standards of access to other remedy mechanisms, appropriate protection and alliances with third parties.

- CVH only deals with grievances and/or complaints raised by employees of companies that subscribe to the mechanism.
- Grievances and/or complaints not raised by employees of subscribed companies are transferred to other mechanisms. Information is provided on other mechanisms that may deal with such grievance and/or complaint.
- Information regarding judicial and non-judicial mechanisms is also available for employees of subscribed companies. Prior to raising grievances and/or complaints, employees receive information on existing mechanisms, enabling them to make informed decisions.

- CVH is in charge of disseminating information of the process to the employees of subscribed companies through conferences, workshops and informative material. CVH ensures confidentiality if complainants request it.
- The use of the CVH mechanism is cost-free for employees of subscribed companies.
- When a company subscribes to CVH, it signs a non-reprisal agreement. If CVH finds that a company has retaliated against its employees, CVH discloses the situation and terminates the contract with the concerned company.

For further information, please click on the following link:

- > [www.clearvoicehotline.net](http://www.clearvoicehotline.net)

### FAIR WEAR FOUNDATION

Fair Wear Foundation (FWF) is a multi-stakeholder initiative that involves unions, NGOs and companies from the apparel sector. FWF's Code of Labor Practices promotes sound labor conditions. The members of this initiative are subject to FWF audit and standards based on ILO Conventions and the Universal Declaration of Human Rights. This case is an example of progress made in terms of confidentiality and inclusion of different actors.

The FWF's grievances and/or complaints mechanism may be activated on-line, as follows:

- Workers, their representatives or concerned NGOs may file grievances and/or complaints.
- Grievances and/or complaints may be filed against companies, their suppliers, as well as against FWF procedures.

- Grievances and/or complaints may only be raised about violations of the initiative's Code of Labor Practices (CLP).
- No monetary support is provided to complainants.
- Confidentiality is ensured while processing the complaint, unless the investigation requires disclosure of the complainant's name.
- The mechanism has two modalities for case resolutions: a "local" and a "beyond local" modality. The local modality initiates in a local instance that decides on the complaint's admissibility. If admissible, and if it involves employee/employer situations, efforts are made to settle the case according to the company's internal rules. The "beyond local" modality deals with complaints that involve agents different from employees/employers, when the problem is recurrent, and/or when the support of a peer company is required.
- Outcomes are defined as "corrective actions", and may include wage raise, less work hours and better labor conditions in general.
- Normally, no appeal can be lodged against a decision, given the complainant's involvement throughout the process. However, if the party disagrees with the decision, appeals can be filed before the FWF's Executive Board.

For further information, please click on the following links:

- > [en.fairwear.nl](http://en.fairwear.nl)
- > [en.fairwear.nl/file.php?id=637](http://en.fairwear.nl/file.php?id=637)
- > <https://www.fairwear.org>

## AFRICAN DEVELOPMENT BANK

The African Development Bank has presence in Africa and Europe, and implemented a grievance and/or complaint mechanism to enable anyone adversely affected by any project funded by the Bank to file his/her claim.

- This mechanism focuses on human rights-related matters, in particular: gender, forced displacement, illegal land tenure, and right to water.
- For publicity purposes, the Bank, in addition to its website, has entered into agreements with domestic and international NGOs to disseminate information regarding the mechanism in places where Bank-funded projects are located.
- Grievances that are being processed under judicial mechanisms are considered inadmissible.
- The initial response to the claim should be issued within 14 days and the investigation must conclude within 21 days.
- The Bank may terminate the project funding, in case of finding proof of violations and abuses by the company that operates the project.

For further information, please click on the following links:

- > [www.afdb.org](http://www.afdb.org)
- > [www.afdb.org/irm](http://www.afdb.org/irm)



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- Office of the United Nations High Commissioner for Human Rights in Colombia. Available at: <http://www.hchr.org.co/>

### IHL

- ICRC. International Humanitarian Law. Available at: [http://www.icrc.org/web/eng/sitespa0.nsf/iwplList2/Humanitarian\\_law](http://www.icrc.org/web/eng/sitespa0.nsf/iwplList2/Humanitarian_law)
- ICRC. International Humanitarian Law and International Human Rights Law. Similarities and Differences. Available at: [http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/\\$FILE/IHL\\_DIDH.pdf](http://www.icrc.org/Web/spa/sitespa0.nsf/htmlall/5V5L32/$FILE/IHL_DIDH.pdf)

### BUSINESS AND HUMAN RIGHTS

- Business and Human Rights Resource Center. Available at: <http://www.business-humanrights.org/>

- 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 Framework". Available at: <http://www.business-humanrights.org/SpecialRepPortal/Home>
- United Nations Global Compact (Global Pact). Available at: <http://www.unglobalcompact.org/>
- Global Business Initiative on Human Rights (GBI). Available at: <http://www.global-business-initiative.org/>
- Institute for Human Rights and Business (IHRB). Available at: <http://www.institutehrb.org/>
- School for Peace Culture, Universidad Autónoma de Barcelona. Available at: <http://escolapau.uab.cat/index.php?lang=en>
- International Business Leaders Forum (IBLF). Available at: <http://www.iblfglobal.org/>
- ISO 26000 Guidance on Social Responsibility.
- Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law. Available at: <http://www.icrc.org/eng/resources/documents/publication/p0882.htm>

GRIEVANCE MECHANISMS

- Caroline Rees. (2008) *"Grievance Mechanisms for Business and Human Rights: Strengths, Weaknesses and Gaps"*. Corporate Social Responsibility Initiative. John F. Kennedy School of Government, Harvard University. Available at: [https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper\\_40\\_Strengths\\_Weaknesses\\_Gaps.pdf](https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_40_Strengths_Weaknesses_Gaps.pdf)
- (2008) *"Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders"*. Corporate Social Responsibility Initiative. John F. Kennedy School of Government, Harvard University. Available at: [http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper\\_41\\_Rights-Compatible%20Grievance%20Mechanisms\\_May2008FNL.pdf](http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms_May2008FNL.pdf)
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- IFC Addressing Grievances from Projected-Affected Communities. Guidance for Projects and Companies on Designing Grievance Mechanisms. Available at: <https://www.ifc.org/wps/wcm/connect/cbe7b18048855348ae6cfe6a6515bb18/IFC%2BGrievance%2BMechanisms.pdf?MOD=AJPERES&CACHEID=cbe7b18048855348ae6cfe6a6515bb18>



HOW TO REPORT THE COMPANY'S PROGRESS?

If it is the first time you report to the Guías Colombia Initiative, please answer the following baseline information; otherwise, refer to the indicators.

|     |  |                       |                       |
|-----|--|-----------------------|-----------------------|
| A.1 | HAVE YOU EVER IMPLEMENTED A FORMAL GRIEVANCES AND COMPLAINTS MECHANISM?            | YES                   | NO                    |
|     |  | <input type="radio"/> | <input type="radio"/> |
| A.2 | TO WHICH STAKEHOLDERS IS YOUR MECHANISM DIRECTED?                                  | SPECIFY               |                       |
|     |  |                       |                       |
| A.3 | DO YOU HAVE OPEN COMMUNICATION CHANNELS WITH YOUR STAKEHOLDERS?                    | SPECIFY               |                       |
|     |  |                       |                       |
| A.4 | TO WHICH STAKEHOLDERS ARE YOUR COMMUNICATION MECHANISMS DIRECTED?                  | SPECIFY               |                       |
|     |  |                       |                       |
| A.5 | HAVE YOU IMPLEMENTED A MECHANISM TO MONITOR STAKEHOLDERS' SATISFACTION?            | YES                   | NO                    |
|     |  | <input type="radio"/> | <input type="radio"/> |
| A.6 | ARE BUSINESS IMPROVEMENT PLANS RELATED TO THE GRIEVANCES AND COMPLAINTS MECHANISM? | SPECIFY               |                       |
|     |  |                       |                       |

## ANNEXES



A1

GRIEVANCE AND COMPLAINTS FORM

FORMAT FOR RECEIVING GRIEVANCES AND COMPLAINTS

WHO RECEIVES THE GRIEVANCE OR COMPLAINT?

NAME:

CITY:

WHO FILED THE GRIEVANCE OR COMPLAINT?

NAME:

CITY:

WHO IS OR ARE THE VICTIMS?

GROUP IDENTIFICATION:

| CHILDREN | WOMEN HEAD OF HOUSEHOLD | ADOLESCENT | DISPLACED PERSON | COMPANY EMPLOYEE | OTHER |
|----------|-------------------------|------------|------------------|------------------|-------|
|          |                         |            |                  |                  |       |

NAME, IF NEEDED:

FILING METHOD OF THE GRIEVANCE OR COMPLAINT

| VERBAL | WRITTEN | E-MAIL | PHONE | MEETING | OTHER |
|--------|---------|--------|-------|---------|-------|
|        |         |        |       |         |       |

DESCRIPTION OF THE FACTS:

PLACE:

DATE:

FACTS: FULL DESCRIPTION, PLACE, PARTIES INVOLVED

IDENTIFY:

|            |                                 |                        |                       |                          |
|------------|---------------------------------|------------------------|-----------------------|--------------------------|
| SITUATION: | Human rights violation or abuse | IHL violation or abuse | Risk of HRs violation | No-risk of HRs violation |
|------------|---------------------------------|------------------------|-----------------------|--------------------------|

|                  |  |   |   |                                |
|------------------|--|---|---|--------------------------------|
| AFFECTED RIGHTS: | First generation, or civil or political rights | Second generation, or economic, social or cultural rights | Third generation, or solidarity and peoples' rights | International Humanitarian Law |
|------------------|--|---|---|--------------------------------|

SPECIFIC RIGHT, IF NEEDED:

|                               |                 |                        |                        |                     |            |       |
|-------------------------------|-----------------|------------------------|------------------------|---------------------|------------|-------|
| PERSON ALLEGEDLY RESPONSIBLE: | Corporate staff | Private security staff | Public Force Officials | Illegal armed group | Contractor | Other |
|-------------------------------|-----------------|------------------------|------------------------|---------------------|------------|-------|

PERSON RESPONSIBLE, IF KNOWN:

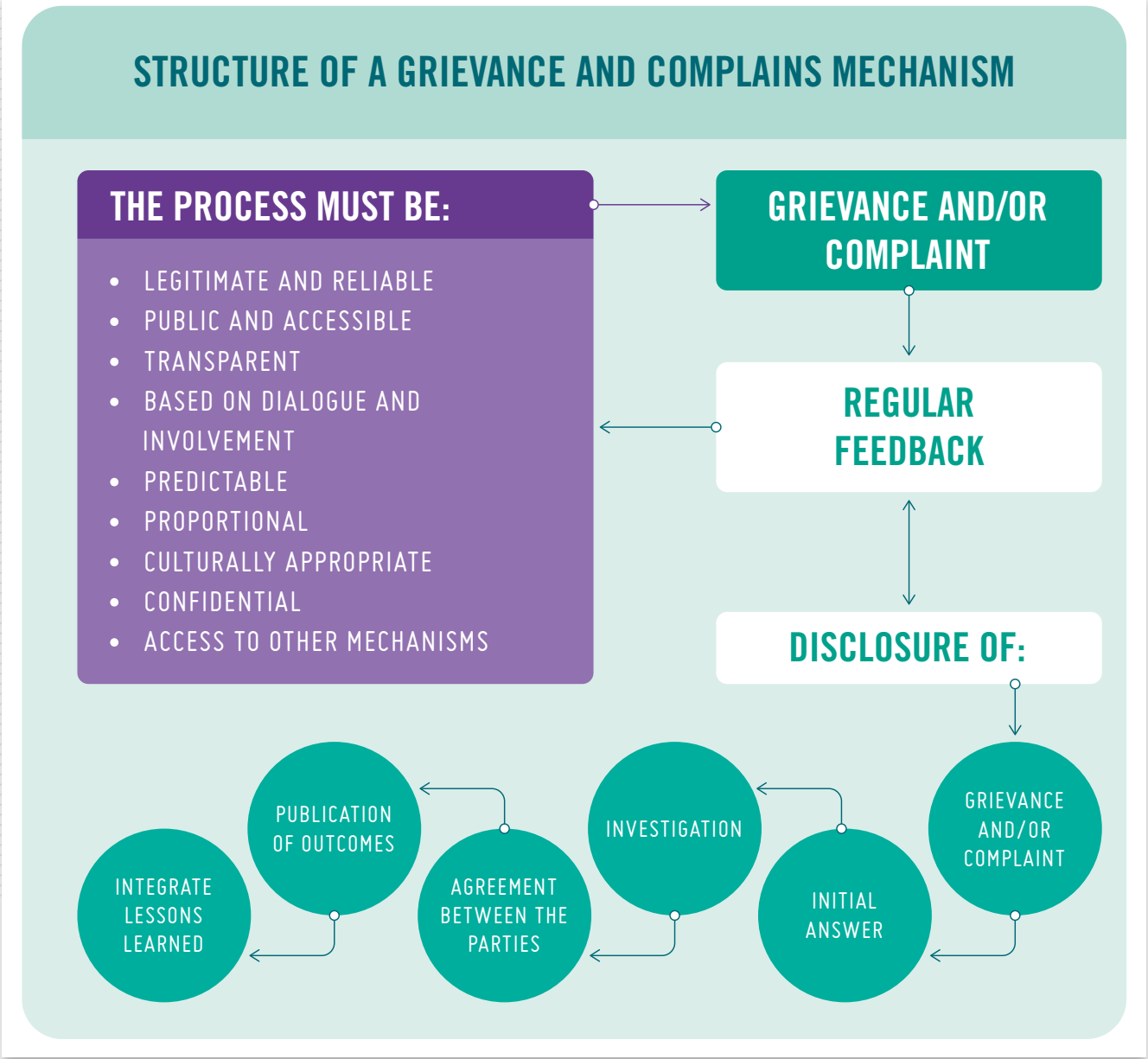
COURSE OF ACTION FOR THE GRIEVANCE OR COMPLAINT

|  | NON-EXISTENT | MINOR      | SERIOUS      | GROSS |
|--|--------------|------------|--------------|-------|
| TYPE OF VIOLATION:   |              |            |              |       |
|  | PREVENTIVE   | CORRECTIVE | COMPENSATORY |       |
| TYPE OF MEASURE TO BE ADOPTED  |              |            |              |       |
| CORPORATE DIVISIONS INVOLVED:  |              |            |              |       |
| WHO IS THE CORPORATE OFFICER RESPONSIBLE OF MANAGING THE GRIEVANCE OR COMPLAINT? |              |            |              |       |

| MONITORING:   |          |
|---|----------|
| SOURCE OF DATA TRIANGULATION:   | REMARKS: |
| State institution   |          |
| State control bodies  |          |
| Media   |          |
| Grievances portal   |          |
| Union   |          |
| NGO   |          |
| Community   |          |
| Other   |          |
| MONITORING:   |          |
|   | REMARKS: |
| Internal record or report   |          |
| Grievance receipt acknowledgement   |          |
| Outcomes of internal investigation  |          |
| Company corrective action   |          |
| Report to authorities (as appropriate)  |          |
| Monitoring actions by authorities   |          |
| Outcome of State authority/institution investigation  |          |
| Corrective actions of competent authorities   |          |
| Results from actions undertaken   |          |
| Disclosure of outcome from investigations and corrective measures adopted for people adversely affected |          |
| Satisfaction of affected persons with the adopted measures  |          |
| Closure   |          |
| "Place" where information is archived   |          |

A2

STRUCTURE OF A GRIEVANCE AND COMPLAINS MECHANISM<sup>16</sup>



<sup>16</sup> Background paper by Luc Zandvliet and Mary B. Anderson "Getting it Right: Making Corporate-Community Relations Work", Greenleaf Publishing.

A3

## WHAT IS THE RESPONSIBILITY OF COMPANIES TOWARDS IHL?

### WHAT IS THE RESPONSIBILITY OF COMPANIES TOWARDS IHL?

IT IS IMPORTANT TO DETERMINE TO WHAT EXTENT AND IN WHICH SITUATIONS COMPANIES MAY BE CONSIDERED INFRINGERS OF IHL, EITHER DIRECTLY OR THROUGH THIRD-PARTY ACTIONS, ASSOCIATED TO THE BUSINESS VALUE CHAIN.

#### RESPONSIBILITY FOR DIRECT ACTIONS

- In the context of internal or external armed conflict, companies can be accused of breaching IHL in situations where HRs are violated. For instance, if a company is involved in forced displacement, forced labor, illicit acquisition of private or public assets, torture, sexual abuse or genocide (Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law. See references).

#### RESPONSIBILITY FOR THIRD-PARTY ACTIONS

- The following conditions should be met for adjudging a company's partial liability: existence of a relation of subordination between the company and the third party; illicit actions performed by the third party when developing its duties for the company. Similarly, a company may be accused of breaching IHL in case of complicity for supporting or encouraging actions against IHL. Therefore, companies should monitor their employees and contractors, Military Forces and other private security staff servicing the company.

GUIDE ON GRIEVANCE AND  
COMPLAINTS MECHANISMS  
RESPECTFUL OF HUMAN  
RIGHTS AND INTERNATIONAL  
HUMANITARIAN LAW

