The State’s duty to protect against human rights violations by businesses

States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. (UNGPs)

Why?

A state has the obligation to ensure that human rights are respected on its territory & must ensure that multinationals and other companies operating on its territory do not operate in a way that violates human rights.

This includes the activities of all private companies in Cambodia, including foreign ones.

The state must prevent, protect and remedy HR violations.

How?

The state must create an environment where it is conducive for businesses to respect human rights

This can be done through policies, legislation, regulations, and adjudication/grievance mechanisms.

For instance, a state can:

- adopt legislation on the question of businesses’ operations & their impact on human rights
- adopt a national action plan on business and human rights
- disseminate information about businesses’ obligations to respect human rights
- provide guidance to businesses about how to respect human rights
- amend its criminal legislation to ensure that businesses can be held criminally responsible in cases of human rights violations
- require human rights impact assessment to be conducted prior to any development project being approved, and closely monitor its respect
- ensure that any company which provides procurement services to the State are not involved in human rights violations, by undertaking a due diligence assessment and/or a background check

Remedy

In case of a violation, the state must ensure access to an effective remedy by a competent judicial, administrative or legislative authority, or by any other competent authority provided by the legal system of the state.

The process must be:

- impartial and fair
- effective – that is, that the remedy must actually lead to a redress of the violation. To be truly effective, a remedy must involve the cessation of an ongoing violation
- Accessible, meaning that individuals must be aware of it, and must be able to use it without undue hindrance.

It is the state’s responsibility to ensure that such remedy is enforced when granted.

Similarly, those found responsible for a human rights violation must be brought to justice by the State

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