

Responsible Business Conduct - Cambodia

An introduction for Civil Society Organizations



Understanding the Context

The speed and scale of development in Cambodia does not always benefit citizens and is rarely inclusive. However, the private sector can make an important contribution to a country's economic prosperity if the principles of responsible business conduct, good governance, transparency, accountability, and respect for human rights are upheld. This brochure provides an introduction to the principles of Responsible Business Conduct, and two mechanisms civil society can use to promote sustainable inclusive development.

What is Responsible Business Conduct?

Responsible Business Conduct (RBC) means complying with national and international laws and regulations, including human rights, environment protection, labor conditions, taxation, bribery and corruption, even when these laws are poorly enforced. It is **mandatory on States** to uphold these responsibilities. Corporations are responsible for the economic, social, human rights and environmental impacts of their activities and business relationships on workers, communities and society. Corporations should carry out **due diligence** to identify, mitigate, prevent and account for their adverse impacts – both **actual and potential** adverse impacts. RBC includes the company responsibility to address the expectations and concerns of communities and society. Business can become implicated in human rights violations in various ways, by **causing, contributing** or being **directly linked** to the abuse.

How does Responsible Business Conduct differ from Corporate Social Responsibility?

Corporate Social Responsibility (CSR) is how a company responds to community expectations of their business activities and relationships. Expectations can be raised by workers, trade unions, NGOs or via the press. CSR is voluntary. In many countries, CSR goes beyond just philanthropy, by providing company policies on how a business is expected to contribute to sustainable development and uphold its responsibilities to human rights. It can also include community projects – building a school or clinic, providing lunch for factory workers, or purchasing from local suppliers. CSR projects like these, do not replace compliance with the law or excuse business operations that harm communities, workers or the environment. The corporate responsibility to respect human rights is not voluntary.

Responsible Business Conduct Due Diligence

RBC due diligence is a management process to identify, prevent, mitigate and account for (including remedy) actual and potential adverse (harmful) impacts. This includes harmful impacts on communities, workers, indigenous people and the environment. The company should prioritize their actions and address the most harmful impacts first. **Actual** adverse impacts have occurred in the past or are occurring now. **Potential** adverse impacts have not yet occurred but are likely to occur in the future as a result of the business activity. France has adopted law imposing due diligence on multinationals human rights abuses in supply chains. Companies will be required to publish their due diligence plans, effective January 2018.

How can civil society use Responsible Business Conduct in their work?

When company activities have a negative impact on communities, their land, and their livelihoods, it is not always easy to know who should be held responsible. A starting point for civil society is understanding what RBC means. This helps ensure engagement with project developers, and advocacy, is strategic, targeted, realistic, and consistent with the legal obligations of both the company and the State. RBC provides a framework to help CSOs respond to actual adverse impacts, and to try and prevent potential adverse impacts.

Responsible Business Conduct in Cambodia – FAQ

These common questions and answers may help you understand Responsible Business Conduct (RBC).

Q. What is the link between business and human rights?

A. Human rights are international standards for all people to be treated equally, with respect and dignity, and without discrimination. Business, like other organizations, has a responsibility to respect all human rights and make sure they do not cause or contribute to adverse human rights impacts through their own activities. Business must address impacts when they occur. A company must prevent or mitigate 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.

Q. Does RBC apply to companies in Cambodia?

A. RBC and respect for human rights applies to all companies, large and small, both domestic and foreign. All companies must comply with the law, and address the expectations and concerns of those impacted by their business operations.

Q. What are the high risk sectors for business and human rights in Cambodia?

A. All sectors can potentially cause adverse impacts, but some more than others. Projects that involve natural resources and land are high risk. This includes mining, agriculture, forestry, hydropower and infrastructure projects – such as roads and railways. The construction, garment, and hospitality sectors are also high risk. Banks can also be at risk if their loans and services are directly linked to projects that do not respect human rights.

Q. Who are the victims of business and human rights abuse?

A. All workers and community members are at risk, however, the risks are higher for people living in poverty, indigenous people or ethnic minorities, women, girls and children, and workers. It can be communities in rural and remote areas who lose their land, livelihoods and traditions, and workers in factories and construction sites in urban areas.

Q. Who benefits from RBC?

A. Everyone. Most importantly, communities and workers who are directly impacted by the business activity have their rights respected. Governments that provide an enabling legal environment for responsible business are more likely to attract high quality investors, and promote sustainable development. Companies that practice RBC may secure a competitive advantage, can protect their reputation, and help ensure compliance with laws and standards – particularly in countries with weak governance. Companies that respect human rights are less likely to have their operations disrupted by community unrest or be a campaign target for NGOs and trade unions. All citizens benefit when the natural environment is protected and business revenue is spent on essential services for all, and not lost to corruption.

Making Sense of Responsible Business Conduct

Communities, workers and Indigenous Peoples experience the impacts when the State and companies do not protect and respect their rights. This includes their right to housing, to food, to good health, to work, to own property, to freedom of opinion and expression, and to participate in cultural life.

Understanding who is responsible, and who should provide remedy, is not straightforward. Business structures, business ownership, and project plans are complex and can involve multiple companies. This can make advocacy efforts to protect and respect human rights difficult for communities and civil society.

Access to Information

Access to information is vital. Communities, workers, Indigenous Peoples and civil society, need access to information about projects that affect them, including:

- Details about the project developer - who they are, where the company is headquartered, who are their business partners, what role will the government play in the project?
- Project financing - who is funding the project?
- Incentives and special arrangements given to the company – e.g. no or reduced tax payment
- Scope and size of the business activity – how much land is needed? How long will the project last? What will be built? Who will get jobs, and will communities be resettled?
- Details of contract, license, permit and land concession agreements
- Social and environmental impact assessments – in a language that can be understood
- Policies that the company commits to uphold, including safeguard measures and access to complaint mechanisms.

Access to information helps to understand the different types of business impacts – Actual and Potential. It helps CSOs who are working for sustainable development.

Actual Adverse Impact: An Actual adverse impact has happened in the past or is happening now.

Example: A mining company has dumped, or is dumping, contaminated waste into a river. The polluted river harms water quality and fish stock – affecting food security and health of surrounding communities and those living upstream or downstream of the project.

Potential Adverse Impact: A Potential adverse impact has not yet occurred, but is likely to in the future as a result of the business activity.

Example: A bank provides a loan to a sugar company to develop a plantation. Communities will lose their land and be forced to resettle. In the future their livelihoods will be lost and they will be worse off.

Access to information should accompany meaningful stakeholder consultation, community participation in project decision making, including consent from indigenous peoples on whether or not the project should go ahead.

Two key mechanisms have been developed to promote responsible business conduct. The **OECD Guidelines for Multinational Enterprises**, and the **UN Guiding Principles for Business and Human Rights**. Both apply in Cambodia and can be used by civil society.

Why do the OECD Guidelines for Multinational Enterprises matter?

The OECD Guidelines for Multinational Enterprises (the Guidelines) are government supported recommendations to companies regarding responsible business conduct in their worldwide operations.

Summary of the OECD Guidelines for Multinational Enterprises

- The Guidelines include principles and standards related to human rights, employment, environment, disclosure, bribery and corruption and taxation
- The Guidelines provide expectations for companies to carry out due diligence and stakeholder consultations
- The Guidelines apply to all OECD adhering countries. They apply to the operations of enterprises operating in, and from, the countries attached to the Guidelines
- They are voluntary principles for companies, but are binding for the Governments that have signed. This means those governments must promote the Guidelines to companies, investigate cases of adverse impact by the company, (such as failing to respect human rights, and damage to the environment), and set up National Contact Points
- They are promoted and implemented by Governments via a National Contact Point (NCP) – focal point
- The Guidelines have a complaint mechanism. This can be used to hold companies to account via the State of adhering countries. The NCP is responsible for investigating complaints
- The Guidelines have support from business, trade unions, governments and some NGOs.

NCPs must promote the Guidelines and also function as an complaint mechanism. They can be used to hold companies to account via the state. The NCP is responsible for resolving disputes, primarily through mediation and conciliation, however, not all NCPs do this effectively.

Learn more: <http://www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterprises.htm>

FAQ

1. Do the Guidelines apply in Cambodia?

Cambodia is not an OECD country but many of the companies doing business in Cambodia come from one of the 46 countries who have endorsed the OECD Guidelines. The Guidelines do apply to businesses coming from an OECD country, which includes: Australia, Canada, France, USA, Germany, Korea, and Japan etc., when they do business in Cambodia.

2. Do the Guidelines apply to companies from Asia?

Only Japan and South Korea have endorsed the Guidelines, so they do apply to companies from South Korea and Japan who do business in Cambodia. The complaint mechanism can be used if companies from these countries cause adverse impacts on workers, communities, and the environment in Cambodia.

The Guidelines do not apply to companies coming from China, India, Thailand, Vietnam, Malaysia etc. The complaint mechanism cannot be used if a company from these countries causes harm in Cambodia. However, if a company from Thailand or China, for example, received a loan or other services from a bank or company headquartered in an OECD country, such as Norway or Finland, the complaint mechanism can be used to bring a case against the bank or company for causing, contributing or being directly linked to the adverse impact in Cambodia.

3. How does the complaint mechanism work?

Any 'interested party' can make a complaint, including individuals, NGOs, trade unions, workers and communities who are negatively impacted by the business activity. Complaints can only be made against a company operating in Cambodia if they come from an OECD adhering country, and must detail which specific provisions of the OECD Guidelines have been violated. This includes adverse impacts in their supply chain (e.g. a global brand sources from a factory in Cambodia), and business relationships (all types of business partners, e.g. a bank headquartered in an OECD country supports agribusiness that results in a land grab).

The OECD Watch 'Case Check' can help you prepare your complaint.

Learn more: <http://www.oecdwatch.org/oecd-watch-case-check>

Complaints, called 'Specific Instances' are made to the National Contact Point (NCP). Cambodia does not have a NCP, so a complaint would go to the NCP of the country where the company comes from. For example, a complaint about an Australian mining company operating in Cambodia would be made to the Australian NCP.

If a complaint is accepted by the NCP it usually takes at least 12 months to reach mediation and conclusion, sometimes longer. Not all complaints are accepted, many are rejected, or the NCP is not responsive. Some NCPs carry out their responsibilities better than others. Some NCPs will make it clear (and public) that the company has breached the Guidelines, others will not. For most victims of corporate misconduct remedy remains rare.

Learn more: <http://www.oecdwatch.org/>



The UN Guiding Principles on Business and Human Rights

The UN Guiding Principles on Business and Human Rights (UNGPs) are for States and companies. They outline their duties and responsibilities to protect and respect human rights in business activities. They promote access to effective remedy for individuals and groups adversely affected. They can be used by civil society for due diligence monitoring, as a benchmark of best practice, and to strengthen national laws.

Summary of the UN Guiding Principles on Business and Human Rights

- The UNGPs include the 'Protect, Respect and Remedy Framework'. This is the State duty to Protect Human Rights, the corporate responsibility to Respect Human Rights, and to ensure access to Remedy for victims of business related human rights abuse
- The UNGPs highlight steps for States to foster business respect for human rights, and offers guidance for government, through policy, legislation, regulation and adjudication, to prevent, mitigate and address human rights abuses
- They provide a roadmap and responsibility for business to respect human rights, and to identify, prevent, mitigate and account for actual and potential adverse human rights impacts as a result of their activities. Under the UNGPs, all companies have the responsibility to protect human rights wherever they operate, regardless of their size, and whether or not the State fulfills its own obligations
- The UNGPs are a benchmark for stakeholders, including donors, development partners and multilateral financial institutions (e.g. the World Bank International Financial Corporation - IFC), to monitor business respect for human rights, to encourage due diligence by public and private partners, and to not undermine the ability of beneficiaries to meet their responsibility to respect human rights.
- The UNGPs are global standards that are reflected in other international frameworks, including the OECD Guidelines for Multinational Enterprises

Learn more: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Watch this: <https://www.youtube.com/watch?v=BCoL6JVZhrA&authuser=0>

Learn

more: <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Guiding%20Principles%20on%20Business%20and%20Human%20Rights%20Implementing%20the%20United%20Nations%20Protect%20Respect%20and%20Remedy-%20Framework%20Khmer.pdf>

Watch this: <https://www.youtube.com/watch?v=UHTEvt15I04>.

FAQ

1. Do the UNGPs apply in Cambodia?

Yes. Cambodia has ratified most of the nine core human rights treaties. The Constitution of the Kingdom of Cambodia enshrines international human rights obligations: “***The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s rights and children’s rights***”. The UNGPs recognize States’ existing obligations to respect, protect and fulfill human rights and fundamental freedoms. This means, the standards on business and human rights are directly applicable to the Kingdom of Cambodia through their international legal commitments and domestic law. They apply to domestic and foreign, large and small, companies operating in Cambodia.

2. Are the UNGPs legally binding?

The UNGPs clarify and elaborate on the relevant provisions of **existing international human rights standards**, some of which are legally binding on States, including Cambodia. They provide guidance on how to put them into operation. The UNGPs are not ratified by States, and do not create new international law. All States have a duty to protect everyone within their jurisdiction from human rights abuses committed by companies. In most cases this is a legal obligation through their commitment to the legally binding international human rights treaties. There is a global expectation that States and companies will comply with the UNGPs.

3. Do the UNGPs have a complaint mechanism?

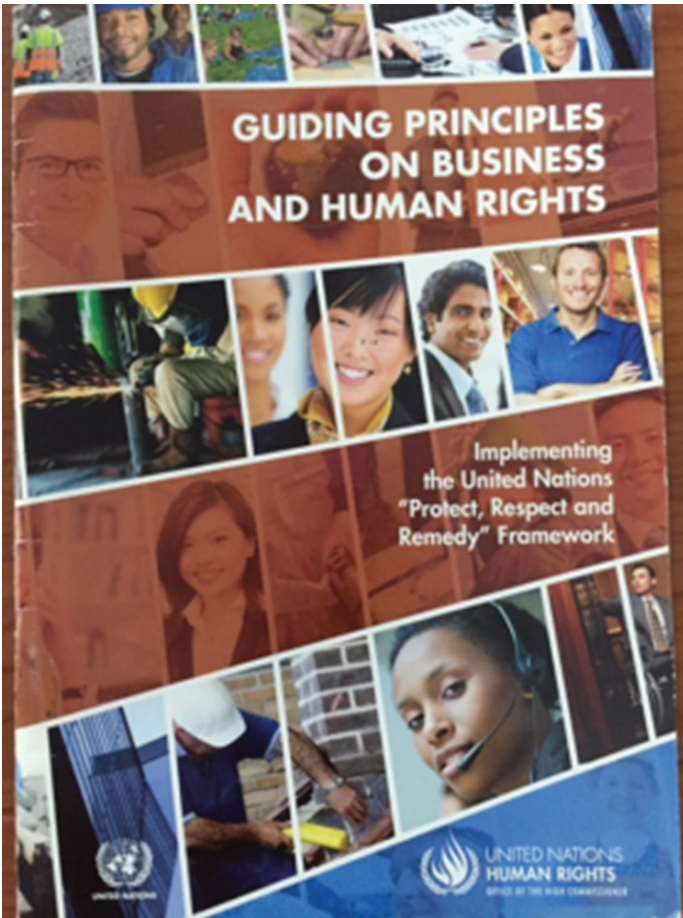
In Cambodia, as elsewhere, the State has a duty to protect human rights, including access to remedy for those adversely affected by business activity. The UNGPs affirm that the State duty to protect rights includes ensuring that, if companies abuse human rights, States will provide effective remedy to those affected - through judicial, administrative, legislative or other appropriate means, when such abuses occur.

The UNGPs do not have their own complaint mechanism, but they make clear that access to remedy applies not only to States. Companies should collaborate with judicial mechanisms, and provide for, or collaborate with, operational-level mechanisms for addressing grievances from individuals and communities that may be adversely affected by their business activities.

The UNGPs set out a list of effectiveness **criteria for non-judicial grievance mechanisms**. Non-judicial grievance mechanism should be legitimate, accessible, predictable, equitable, transparent, rights compatible, a source of continuous learning, protected from corruption, and free of political influence. Effective remedy for victims of human right abuses by companies is not just a public relations exercise.

4. How can the UNGPs be used by civil society?

The UNGPs provide a framework for civil society (CSO), and victims, to measure whether States and companies have taken steps to protect and respect human rights, and provide access to remedy. For example, CSOs have used the UNGP framework to analyze risks in specific sectors, such as extractives, and then advocate for improvements. The UNGPs have been used to help establish and improve grievance mechanisms. The UNGPs have been used to produce guides for victims of corporate human rights abuse and for advocacy purposes by CSOs. They can be used by CSOs and affected stakeholders, to support submissions to the Universal Periodic Review of the Human Rights Council.



Sources of Information and Support

Responsible Business Conduct (RBC) might be a new area of work for your organization. Working with others and sharing experience, expertise and resources will bring the best results.

In Cambodia

The following list includes some of the organizations working on RBC in Cambodia. You can also contact trade unions, youth, indigenous and legal aid groups. Check these websites for guides, tools and resources.

- [ActionAid Cambodia](#)
- [Cooperation Committee for Cambodia - CCC](#)
- [Cambodian Centre for Human Rights - CCHR](#)
- [CSR Cambodia Platform](#)
- [Dan Church Aid - DCA](#)
- [Development and Partnership in Action- DPA](#)
- [Equitable Cambodia \(EC\)](#)
- [Highlanders Association](#)
- [Inclusive Development International - IDI](#)
- [LICADHO - Cambodian League for the Promotion and Defense of Human Rights](#)
- [Mother Nature](#)
- [NGO Forum on Cambodia](#)
- [Oxfam](#)
- [Transparency International Cambodia](#)
- [UNOHCHR Cambodia](#) The UNOHCHR Cambodia has publications on business and human rights in [Khmer](#) and [English](#), including [FAQs on the UNGPs](#)

Globally

Internationally, there is a lot of work being done on RBC. Here is a starting point.

[OECD Watch](#) is an international network of civil society organizations promoting corporate accountability. Their website has information on the OECD Guidelines for Multinational Enterprises, including a [case database](#), guidance for CSOs on how to use the [Guidelines complaint mechanism](#), and the [Case Check](#) to help you prepare your complaint.

The Centre for Research on Multinational Corporations – [SOMO](#) – has good information on different sectors such as [extractives](#), [agriculture](#), [garments](#), [land](#), and others. They also have [tools](#) and guides on [grievance mechanisms](#) and how to file a complaint. **Watch this** short [video](#).

The [Business and Human rights Resource Centre](#) has a lot of information. Sign up for the weekly update. The Centre has a list of leading [international business and human rights organizations](#).

About this brochure

This brochure provides an introduction to Responsible Business Conduct and business and human rights. It also gives an overview of the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. These two leading mechanisms can promote responsible business conduct and be used to hold corporations to account for their actions. This is not easy to achieve. CCC recommends impacted communities, civil society and workers first try to engage directly with the company to resolve grievances and address adverse impacts.

About CCC

The Cooperation Committee for Cambodia (CCC) was established in 1990. It is the largest membership based organization in Cambodia. CCC currently has more than 160 NGOs members - both local and international NGOs. CCC is recognized for its ability to work in partnerships to promote good governance, to improve the enabling environment, and to be responsive to Cambodia's development challenges. Promoting responsible business conduct supports CCC's Vision for **Sustainable Development for Cambodia**.

CCC is a member of the [CSR Cambodia Platform](http://www.csrcambodia.org) and a member of [OECD Watch](http://www.oecdwatch.org/).

www.csrcambodia.org

<http://www.oecdwatch.org/>

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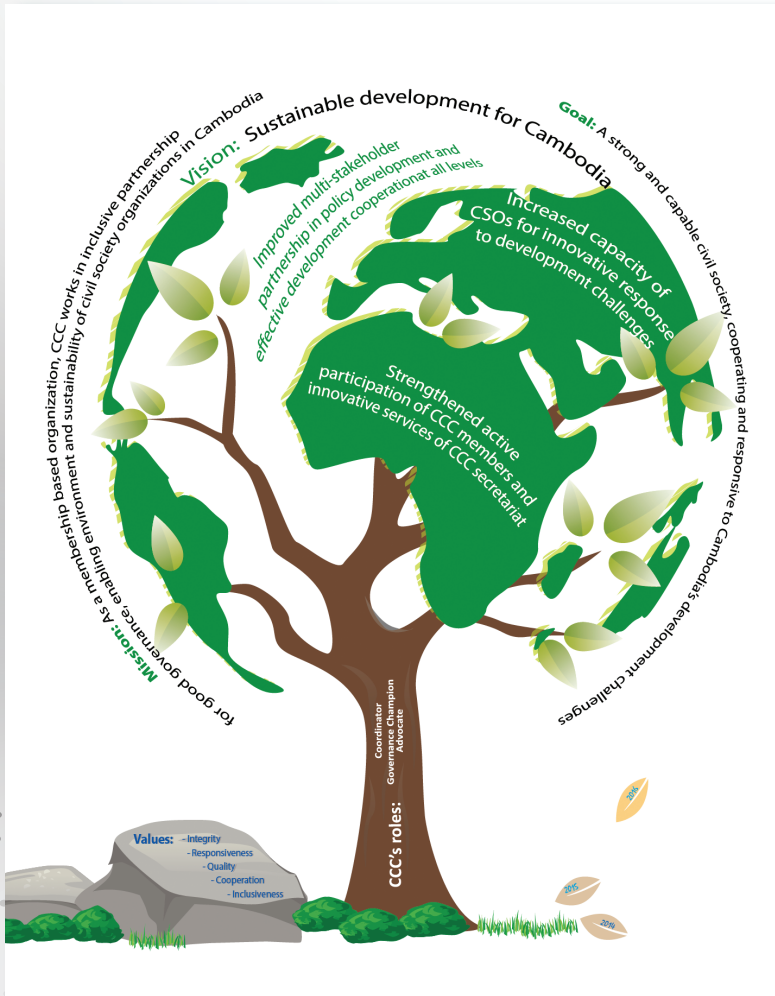
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Acknowledgements

The production of this brochure was made possible through the financial support of the ASEAN CSR Network. The contents of this publication are the responsibility of CCC – developed by Serena Lillywhite – RBC Adviser to CCC. CCC would like to acknowledge Ame Trandem (OECD Watch / SOMO), Romina de Jong (CSR Platform Cambodia), and Bophal Keat (UNOHCHR Cambodia) for providing valuable feedback.





CCC
Responsible Business
Conduct and
Corporate
Social
Responsibility
Strategy 2016 - 2021

Partnerships for Sustainable Development in Cambodia

GPP
Global Reporting
Partnership