

# *UN Human Rights*

## **UNGP Effectiveness Criteria**

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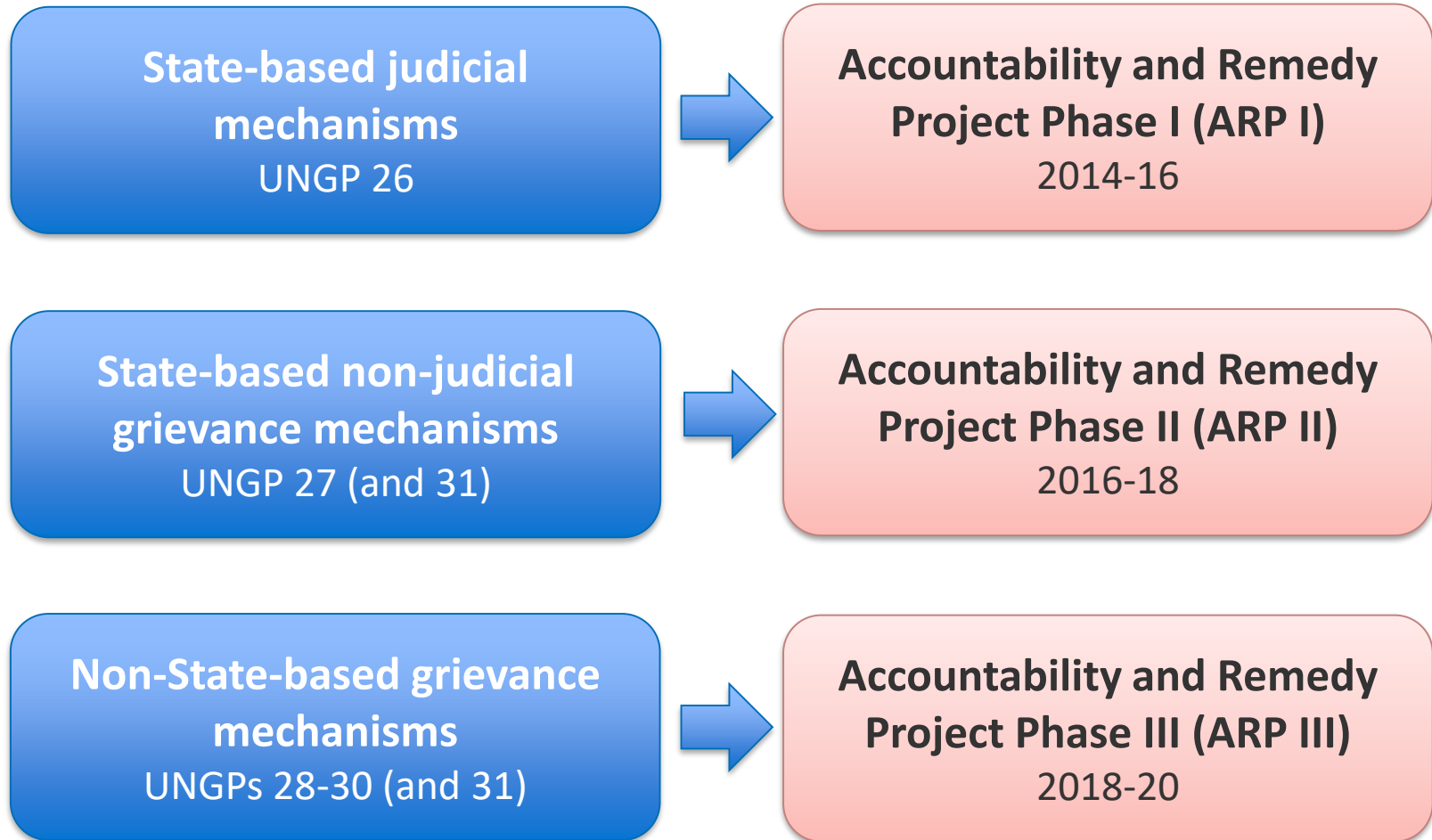
# UNGPs and the Effectiveness Criteria: Background

- **2005:** Appointment of SRSG
- **2008:** Protect, Respect and Remedy Framework (A/HRC/8/5)
  - **First draft of effectiveness criteria**
- **2009-10:** Pilot project of the effectiveness criteria (A/HRC/17/31/Add.1)
  - **Revised effectiveness criteria**
- **2011:** UN Human Rights Council unanimously endorses the **Guiding Principles on Business and Human Rights**
  - Evidence-based: voluminous research, 47 multi-stakeholder consultations



*Prof. John Ruggie  
Special Representative  
of the UN Secretary-  
General (SRSG)*

# UNGP Pillar III and the Accountability and Remedy Project



# UNGP 31(a): Legitimate

- enables trust from rights holders;
- fair processes, protected from undue interference

## Relevant ARP Recommendations

- Proactively **disseminate info** on how the mechanism works
- **Manage user expectations**
- Regular **consultation with rights holders** on design
- Mechanism is **sufficiently independent** from business operations
- **Minimize conflicts of interest**
- Suitably **qualified and trained personnel**
- **Understanding** of local context
- **Sensitivity** to those in situations of vulnerability

# UNGP 31(b): Accessible

- rights holders are aware of the mechanism;
- rights holders receive assistance to overcome barriers to access (for instance relating to language barriers, cost, or fears of reprisal)

## Relevant ARP Recommendations

- Proactive awareness raising and targeted outreach
- Clear, minimal eligibility criteria
- User-friendly processes: easy to lodge grievance and engage in process
- Does not prevent users from using other mechanisms
- Safe, free access, ensuring risks of retaliation are assessed and addressed
- Availability of materials and services in accessible formats

# UNGP 31(c): Predictable

- procedures, available outcomes, and means of monitoring implementation are clear and publicly known

## Relevant ARP Recommendations

- **Well-defined and suitably flexible time frames** for each stage of grievance process
- **Public information** on mechanism policies, processes and capacities
- **Avoid overpromising** re: potential remedies available
- **Meaningful consultation with rights holders** before joining grievances or involving third parties
- **Clear policies regarding cooperation** with other mechanisms, with **safeguards in place to prevent retaliation**

# UNGP 31(d): Equitable

- affected stakeholders are given reasonable access to information and expertise to engage on fair and informed terms

## Relevant ARP Recommendations

- **Provide (or direct users to sources of) advisory, technical and financial support**
- **Parties can obtain and comment on relevant information and decisions**
- Rights holders have the **right to withdraw** from process
- Options to **challenge / appeal**
- Technologies used in connection with grievance processes **respect rights**
- **Allow rights holders to decide who represents them**

# UNGP 31(e): Transparent

- in individual cases, parties should be kept informed of progress;
- the mechanism's overall performance is known through publicly-available statistics

## Relevant ARP Recommendations

- **Ongoing and proactive engagement** between the mechanism and parties to a grievance (e.g., on the status of decisions, next steps, etc.)
- **Publication of information on**
  - **Grievances** referred to mechanism
  - **Number of grievances received vs. resolved**
  - **Outcomes** of processes
- **Use of (dis)aggregated stats** depending on context



# UNGP 31(f): Rights-compatible

- outcomes and remedies accord with internationally recognized human rights

## Relevant ARP Recommendations

- **Assess and address implications of remedies** to avoid contributing to further harm
- **Remedies should be adequate, effective, prompt, culturally appropriate, and gender-sensitive**
- **Affected stakeholders are consulted** about the type of remedy and manner in which it should be delivered
- **Empower rights holders**
- Mechanism has **plan to address non-implementation of outcomes**

# UNGP 31(g): A source of continuous learning

Lessons learned from the mechanism should:

- be used to improve the mechanism itself;
- influence policies/practices of company to prevent future harm

## Relevant ARP Recommendations

- **Seek feedback** on parties' experiences
- **Keep records** on frequency, patterns and causes of grievances
- Develop strategies to **improve mechanism**
- Feed into company **human rights due diligence processes**
- **Share information** that may tend to reveal the possibility of **sector-specific or systemic issues**

# UNGP 31(h): Based on engagement and dialogue

- affected stakeholders are consulted about the design and performance of mechanism;
- decisions are arrived at through dialogue with those affected

## Relevant ARP Recommendations

- Develop an **understanding of local contexts**
- **Meaningfully and regularly consult stakeholders** about their needs and expectations
- Provide **multiple avenues** for stakeholder views
- Draw from **mediation best practice**
- Use **joint investigation and problem solving**
- Rely on **independent third party adjudicators** where necessary

# UNGP 31: Effectiveness Criteria

- A. **Legitimate** – enabling trust from the stakeholders for whose use they are intended and being accountable for the fair conduct of the process
- B. **Accessible** – being known to all affected stakeholder groups, providing assistance where relevant
- C. **Predictable** – clear and known procedure with an indicative time frame, clarity on types of processes and outcomes they offer
- D. **Equitable** – seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise
- E. **Transparent** – keeping parties informed about progress and providing information on the mechanism’s performance
- F. **Rights-compatible** – outcomes and remedies accord with internationally recognized human rights
- G. **A source of continuous learning** – identifying lessons for improving the mechanism and preventing future harms
- H. **For operational-level grievance mechanisms: Based on engagement and dialogue** – consulting with stakeholder groups for whose use they are intended on design / performance, and focusing on dialogue to resolve grievances



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# Thank You!

**For any follow up:**

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