

IBA Business and Human Rights Guidance for Bar Associations

Second edition

With commentaries

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the legal profession®

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INTRODUCTION

This Second Edition of the *IBA Business and Human Rights Guidance for Bar Associations* (Bar Guidance) updates the IBA's 2015 *Business and Human Rights Guidance for Bar Associations*.

It reflects the important developments affecting the legal, business and social uptake of the 2011 *UN Guiding Principles on Business and Human Rights* (**UNGPs**) and the need for bar associations and law societies around the world to provide up-to-date guidance to their members.¹ The IBA issued an update in November 2023 in its *Updated IBA Guidance Note on Business and Human Rights: The role of lawyers in the changing landscape* (**Updated Lawyers Guidance**)² which remains complementary to this second edition of the Bar Guidance.

The UNGPs are relevant to bar associations in two respects. First, bar associations have a responsibility to respect human rights in accordance with the UNGPs. Second, bar associations, as providers of support, guidance and education to the legal profession, have a critical role to play in supporting members to help their clients to respect human rights in accordance with the UNGPs.

1 UN Office of the High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (2011). As used in this document, the term 'bar associations' includes law societies.

2 International Bar Association, 'Updated IBA Guidance Note on Business and Human Rights: The role of lawyers in the changing landscape' (November 2023) available at: www.ibanet.org/Updated-business-and-human-rights-changing-role-of-lawyers.

This Bar Guidance focuses on the second aspect. It provides a roadmap of what bar associations can do to help their members understand and apply the UNGPs in their legal practice.

Pages 5 to 14 summarise the Updated Lawyers Guidance by discussing: the UNGPs, the enactment of the UNGPs into law, the opportunities for lawyers to integrate the UNGPs into business client services; the opportunities and challenges for lawyers posed by the UNGPs; the responsibility of law firms to respect human rights; and the risks of enabling human rights abuse by clients.

Pages 15 to 36 discuss the role of bar associations. The section begins with a general commentary and then discusses specific suggestions for bar associations, divided into six categories: (1) devising a sustainable strategy; (2) awareness raising, training and education; (3) professional conduct; (4) capacity building and technical assistance; (5) recognition and incentives; and (6) business and human rights action.

The UN Guiding Principles on Business and Human Rights (UNGPs)

Since their unanimous endorsement by the UN Human Rights Council in 2011, the UNGPs have become the authoritative global standard on what society expects of business when it comes to human rights. They were authored by Harvard Kennedy School Professor John Ruggie, whom Kofi Annan, then UN Secretary General, appointed in 2005 as his Special Representative on Business and Human Rights.

The UNGPs resulted from six years of multi-stakeholder consultations, pilot projects and research. The IBA significantly contributed to, and strongly supported the mandate and development of the UNGPs, in addition to their implementation into the practice of law.

The UNGPs are based on the three-pillar 'Protect, Respect and Remedy' framework, namely (i) the state duty to protect human rights; (ii) the business responsibility to respect human rights; and (iii) the need for greater access to remedy by stakeholders.

The UNGPs are soft law by themselves, built from international treaties, conventions and standards. Regarded as the global authoritative standard on business and human rights, they are increasingly reflected in public policy, professional ethics considerations, laws and regulations, a growing body of case law, the practices and policies of leading companies, contractual provisions and the advocacy of civil society, and so in various circumstances are becoming hard law.

The UNGPs are a living document that should reflect the evolution and articulation of international human rights standards over time, including recognition of the severe human rights impacts of climate change, pollution and biodiversity as an additional standard.

Enactment of the UNGPs into law

Recent years have seen a widespread adoption of the UNGPs, their growing importance to States, businesses and civil society, and their incorporation into law. Their relevance to the legal profession has significantly increased, due to the enactment of mandatory human rights due diligence and

disclosure legislation, the assertion of judicial and quasi-judicial claims under different theories and the recognition of the UNGPs as an authoritative global standard by investors, lenders, consumers, communities and civil society in assessing the conduct of businesses and other non-state actors when it comes to human rights.

Elements of the UNGPs, including mandatory human rights due diligence laws, have been enacted in the EU, France, Germany, Norway and Switzerland. The EU Corporate Sustainability Due Diligence Directive (CSDDD) requires EU and non-EU companies that meet certain size and revenue thresholds to assess their actual or potential adverse impacts on human rights and the environment; prevent those impacts and provide remediation where they occur; and implement a Paris Agreement-aligned climate transition plan (among other things), with penalties applicable for non-compliance.³ Separate EU reporting legislation – the Corporate Sustainability Reporting Directive (CSRD) – requires covered businesses to file so-called ‘double materiality’ reports on their impacts on the environment and people, including their own workers, value chain workers, affected communities and consumers and end-users in alignment with the UNGPs.⁴ The CSRD applies to

3 Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. In addition, Canada, the Netherlands, South Korea and other countries are considering enactment of such laws as of the time of drafting this document.

4 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p 19). The CSRD is implemented in phases, with reporting obligations for the first tranche of companies commencing in 2025.

EU companies that meet specific size thresholds; and to non-EU companies that meet specified size thresholds in addition to thresholds for turnover in the EU. Importantly, EU and non-EU law firms that meet the relevant criteria have obligations under CSRD, including the requirement to prepare double materiality reports.

These statutory developments have led to a cross-pollination of similar laws in other states, public commitments by companies to incorporate UNGP-related standards into their business practices and enhancement of private commercial law of human rights in contractual arrangements between buyers and suppliers, as well as in public procurement and private finance.

The widespread acceptance of the UNGPs is also shown by recent increases of judicial decisions validating the duty of States to protect people and communities from business-related human rights abuse and affirming responsibility of businesses to respect human rights under the UNGPs, and pending lawsuits. There has been an increased use of nonjudicial grievance mechanisms to address claims of business-related human rights abuse under the UNGPs, including arbitration of supply chain disputes, arbitration of bilateral investment treaty disputes, OECD National Contact Points, and Special Procedures of the UN Human Rights Council.

Opportunities to integrate the UNGPs into business client services

The fast-changing and dynamic regulatory landscape surrounding human rights profoundly affects the role of business lawyers, since many companies are identifying and managing their involvement in human rights as a key legal, regulatory, operational and reputational risk.

Business clients increasingly expect their lawyers to advise them not only on technical compliance with existing human rights law, but also to act as wise counsellors, who advise them on the soft law of human rights as well, so that legal advice is placed in a meaningful context and takes into account the real risks of ignoring these significant developments. As a result, businesses may seek advice on human rights impacts from their lawyers in many areas, including not only new mandatory human rights due diligence law compliance, but also traditional practice areas, including criminal law, environmental law, corporate governance, mergers and acquisitions, finance, contracts, antitrust, reporting and disclosure, labour and employment, governmental relations, tax law, intellectual property, mining law, insurance and bankruptcy law, to name a few.

Consequently, many law firms have established environmental, social and governance (ESG) practice groups as an overall umbrella category for legal services that cover environmental, social impact, and governance factors that investors use in their decision-making. Since the E and S, or environmental and social impact factors, are heavily populated with human rights, the UNGPs

are highly relevant to the services provided by ESG practice groups.

Integration of the UNGPs into legal practice offers opportunities for lawyers to add value to the services they render to their clients. Further, compliance with all applicable laws is a foundation requirement of the UNGPs, and lawyers play a critical role in supporting legal compliance by their clients.

Lawyers are also ‘essential agents of the administration of justice’ and play a fundamental role in establishing the rule of law and promoting the broader interests of justice under the UN Basic Principles on the Role of Lawyers (**UNBPRL**).⁵

Challenges for the legal profession

The soft and hard law inspired by the UNGPs poses both opportunities and challenges for legal counsel.

a. Responsibilities of lawyers

The UNGPs do not abridge the professional responsibilities of lawyers, which include the duty to act affirmatively, within the limits of the law and professional standards, in their business clients’ best interests. This includes advising businesses on identifying and addressing risks from the client’s involvement in human rights

5 Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, ‘Basic Principles on the Role of Lawyers’ (7 September 1990) (UNBPRL), Principle 12, available at: www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers#:~:text=Governments%20shall%20ensure%20that%20lawyers,not%20suffer%2C%20or%20be%20threatened.

and environmental impacts. Consideration of the soft law of the UNGPs is essential for the lawyer to discharge their obligation to act as wise counsellor. This duty should be met notwithstanding expectations and pressures that are external to the lawyer-client relationship, subject to compliance with their professional and legal responsibilities.

The UNGPs do not impair the right to legal representation. Access to legal services is a fundamental right and is an essential component of the rule of law and due process. The right of access to legal counsel cannot be undermined even if the client, or the client's causes or beliefs, are highly unpopular. This applies to all clients, including individuals and persons who seek redress for remedy of business involvement in human rights abuse, and businesses who seek to defend themselves against such claims.

Lawyers must be allowed to act independently and not be identified with their clients or their clients' views (UNBPRL, Principle 18). Independence also means providing the client with unbiased advice, including risks that the client might prefer not to know, and advising the client on non-legal context that may be relevant to the legal advice and services.

b. The law firm responsibility to respect human rights

Law firms are business enterprises that have their own responsibility to respect human rights under the UNGPs. Since law firms are part of a business's value chain, clients may ask law firms to show that they are respecting human rights in their operations and legal services by identifying the human rights risks that may be linked to their practice. In addition,

some large law firms may be required by law to do so in jurisdictions that require reporting on impacts to people and communities in alignment with the UNGPs.

c. Risks of enabling human rights abuse by clients

Law firms face the risk of enabling human rights abuses by their clients. Examples include the creation of anonymous corporations to shield the assets of beneficial owners who seek to launder the money they have earned from engaging in activities that harm human rights (such as human trafficking) and filing Strategic Litigation Against Public Participation (SLAPP) lawsuits to intimidate and silence public opposition to business activities.

*The UN Business and Human Rights Working Group, which monitors the implementation of the UNGPs, observed in 2018 that 'Business lawyers – both in-house counsel and external firms – have a unique position for shaping the path an enterprise may take. Often, they are seen as one of the main obstacles to adopting effective human rights due diligence, with a traditional narrow focus on legal risk. However, some bar associations, large law firms and in-house counsel endorse the Guiding Principles and acknowledge that human rights due diligence should be a core part of the advice provided by a wise counsellor.'*⁶

6 United Nations General Assembly 'The Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises' (July 2018) UN Doc A/73/163 para 41, www.ohchr.org/en/documents/thematic-reports/a73163-report-working-group-issue-human-rights-and-transnational.

The role of bar associations

To navigate these opportunities and challenges presented by the intersections between business and human rights and legal practice, lawyers look to their bar associations to provide them with information, guidance and inspiration.⁷

The IBA wishes to use its leadership role in the global legal profession to encourage bar associations around the world to take affirmative steps to integrate the UNGPs and other business and human rights standards into the support and education they provide to members, while respecting the fundamental principles that underpin the role of lawyers and the legal profession as ethical gatekeepers within wider society.

The IBA welcomes the measures already taken by bar associations, external and inside legal counsel, and individual legal practitioners to recognise the importance of the UNGPs and other business and human rights standards to the legal profession and to integrate this topic into their practice at a domestic and international level.

⁷ For example, lessons may be learned from the guidance provided by bar associations to lawyers on climate change advice, due to the recognition of the right to a clean, healthy and sustainability environment as an international human rights standard within the scope of the UNGPs. In this regard, the IBA has launched a Climate Registry, which brings together bar guidance, resolutions and governance documents in relation to climate change and climate justice, to facilitate knowledge sharing and inspire initiatives in sustainability, the environment and the climate crisis, available at: www.ibanet.org/IBA-Climate-Registry.

Given the global reach of the UNGPs and the increasingly global nature of legal practice, the IBA encourages bar associations and lawyers to continue to collaborate on sharing experiences and best practices in this rapidly evolving area, and act as incubators of innovative techniques to practise law with respect for human rights.

GENERAL COMMENTARY ON THE BAR GUIDANCE

1. This Bar Guidance aims to inform bar associations about how they may promote, launch and develop business and human rights initiatives that are relevant to practitioners in their jurisdictions. National and regional bar associations are better positioned than the IBA to assess the specific needs of their own jurisdictions and to balance those needs with their capacity and available resources.
2. This Guidance has three different objectives:
 - a. to increase the awareness and understanding of bar associations and their members of the UNGPs and their relevance to the advice and services that lawyers provide to clients in all types of commercial and business transactions;
 - b. to help bar associations inform their members about the appropriate use of the UNGPs by the legal profession and provide technical assistance to practitioners and other interested stakeholders; and
 - c. to positively represent the legal profession and bar associations as champions of business and human rights in local and international fora by participating, for example, in initiatives to increase protection by States of human rights, in multi-stakeholder standards that encourage and enable businesses to

respect human rights and in incubating innovative commercial techniques to enable businesses to respect human rights.

3. The suggested measures in this Guidance are not exhaustive. They do not attempt to define every means by which a bar association may wish to design a business and human rights strategy for its own jurisdiction.
4. Different national bar associations and regulatory bodies will be at different stages in their implementation of business and human rights initiatives. Some bar associations will have already considered the issues and implemented several of the suggested recommendations set out in this Guidance. Other bar associations are still acquiring the capacity or the authority to do so.
5. Although this Guidance is addressed to bar associations, it may also be relevant to other professional legal and non-legal organisations, and associations of law firms.
6. This Guidance is aspirational, not binding. The IBA has neither the intention nor the authority to impose business and human rights compliance obligations on the legal profession or on individual bar associations.
7. This Guidance shall not be construed to undermine the right of access to legal advice and services from independent counsel for all clients, including individuals and persons and companies, regardless of the popularity of the client, its political views, its causes or its beliefs. Nothing in this Bar Guidance shall be interpreted as undermining or contradicting the professional responsibilities of lawyers, in line with the UNBPRL.

CHAPTER 1: DEVISING A SUSTAINABLE STRATEGY

Article 1. Organisational structure

Bar associations may wish to establish and support an appropriate structure for the management and development of the topic of business and human rights within the association, to inform their strategy for engaging with members on the relevance of business and human rights to legal practice.

Commentary

1. To promote, launch, and develop an efficient and sustainable business and human rights strategy for engaging with members on human rights issues ('engagement strategy'), bar associations may wish to support it with an effective organisational structure. Doing so will likely enhance the effectiveness and legacy of the strategy and any connected initiatives through appropriate policies, procedures and mechanisms approved at the most senior level, and provide accountability.
2. A bar association may choose to establish an independent committee on business and human rights or to establish a sub-committee or working group. Regardless, bar associations may wish to ensure that the responsible body welcomes members from:

- a. all legal practice backgrounds, including human rights, commercial law, dispute resolution, environmental law, labour and employment law, tax law, intellectual property, mining law, insurance, bankruptcy law and others; and
 - b. all different legal communities, including but not limited to those coming from private practice, in-house counsel, government, not-for-profit, the judiciary and academia.
3. Depending on its means and capacity, a bar association may wish to consider supporting the strategy with the assignment of appropriate staff and budget. Engagement of internal or external human rights expertise may also be appropriate.
4. A bar association may wish to delegate this mission to an appointed or a selected group of individuals with special interest in the topic. Nevertheless, a successful programme requires the full support and oversight of the bar association's top management and leadership, supported by appropriate policies and procedures to embed the commitment in the activities of the association and its member lawyers.
5. The structure that is established to support member engagement on the UNGPs may be the same as or overlap with any structure established to operationalise the UNGPs within the bar association's own operations (including, for example, making a public policy commitment to respecting human rights). This will be a matter for bar associations and falls outside the scope of this Guidance.

Article 2. Ensuring effective implementation

Bar associations may wish to consider the following implementing milestones, which can help to ensure an effective initiative regardless of its scale and dimension:

- a) developing an engagement strategy with specific objectives;
- b) devising a realistic timescale;
- c) considering the sustainability and legacy of the project;
- d) identifying indicators of success; and
- e) allocating responsibility for implementation.

Commentary

1. Article 2 indicates some practical issues that bar associations may wish to consider when developing and implementing a strategy on business and human rights.
2. *Setting specific and realistic objectives:* The engagement strategy should set out the bar association's objectives with respect to engaging with its membership on business and human rights issues. Once the bar association has considered its own authority, means, plans, priorities and political possibilities, it may wish to consider setting specific objectives to create a clear path that allows the organisation to address the more pressing needs of its membership with respect to business

and human rights issues. This may involve undertaking a survey or other process to gather information about current levels of membership understanding of and engagement with the UNGPs. This strategy could include objectives with respect to awareness raising, training and education (see Chapter II below); professional conduct (see Chapter III below); capacity building and technical assistance (see Chapter IV below); recognition and incentives (see Chapter V below); and business and human rights action (see Chapter VI below). Illustrative examples of possible initiatives include:

- a. establishing a vibrant committee (that includes member representatives);
- b. convening a widely attended annual gathering on the subject to discuss (for example) the relevance of business and human rights instruments and principles to legal practice and emerging trends in human rights risks for business; and
- c. producing guidance for law firms or helping law schools in their jurisdictions to include business and human rights matters in their curricula. Such guidance may be broad or focus on specific business human rights issues such as climate change or modern slavery.

Some bar associations may feel prepared to work on several objectives in parallel. It is advisable that all objectives and plans be discussed and consulted on among those responsible for steering the project (see Commentary 4 of Article 1) and, preferably, also more broadly among members and other stakeholders.

3. *Devising a realistic timescale*: It would be appropriate to accompany each objective with a realistic timescale for completion, considering the existing resources and the level of interest and knowledge of the subject among members at any given time.
4. *Considering the sustainability and legacy of each initiative*: The topic of business and human rights is an evolving one that will continue to grow and gain relevance for legal professionals. Therefore, although initiatives introduced should be enduring, bar associations should be able to adjust and to improve them over time.
5. *Identifying indicators of success*: In addition to identifying objectives, bar associations may wish to consider identifying metrics that show that their business and human rights programmes are achieving the desired results, eg, assessing whether training on the UNGPs is effective and whether answers to requests for information about the UNGPs and other business and human rights standards from lawyers were helpful in practice. Approaches could include surveys of lawyer, client and public perceptions.
6. *Allocation of responsibility for implementation*: Bar associations may wish to appoint individuals or groups of individuals to lead these initiatives. Delegating responsibility can help to ensure that strategy implementation is accountable and clearly focused. Rotation in the project's leadership can help to involve a wider group of interested members and incentivise the development of new ideas and plans.

7. *Review and update*: Bar associations may wish to establish processes for periodic review of the engagement strategy and achievement of its objectives, so that updates can be made accordingly – including to take account of developments in hard and soft business and human rights law.

CHAPTER II: AWARENESS RAISING, TRAINING AND EDUCATION

Article 3. Awareness raising

Bar associations may wish to use all available resources to raise awareness of the existence and relevance of business and human rights instruments and principles among all members.

Commentary

1. Bar associations may wish to take advantage of all possible opportunities to raise awareness of the existence of the UNGPs. These efforts could readily target all audiences within the legal profession, regardless of the level of prior knowledge in the subject matter or whether they work directly with businesses.
2. Although the primary focus of the awareness-raising efforts by bar associations will be on the legal profession, these campaigns may also extend to the public.
3. Awareness-raising campaigns can use different avenues, methods, and formats, including:
 - a. special sessions on business and human rights in conferences, seminars and other similar events;

- b. specific sections of the bar association's website dedicated to the theme of business and human rights;
- c. specific business and human rights sections in existing publications or new publications on the topic, including newsletters, bulletins, books and journals; and
- d. videos or podcasts of business and human rights material available in social media or online.

Article 4. Comprehensive education

Bar associations may wish to actively promote, participate in and/or establish educational programmes on the relevance of business and human rights principles for legal practice. This effort could be extended comprehensively to all different stages of legal education, including:

- a) law schools and/or universities;
- b) programmes for newly qualified lawyers;
- c) continuing professional development;
- d) programmes for senior-level practitioners; and
- e) mentoring programmes.

Commentary

1. Article 4 highlights the role of education in raising awareness within the legal profession at every stage of a professional legal career.

Lawyers who work in law firms, companies, governments and civil society organisations may have very different approaches to the same matter. Educational programmes can reduce those differences by helping to provide a common understanding of evolving developments and expectations in this field.

2. Article 4(a) brings to the attention of bar associations the option of urging law schools and/or universities to incorporate business and human rights programmes into their curricula. Some bar associations may also choose to develop their own seminars for law students or to promote these courses jointly with educational institutions. In addition to law schools, other faculties – such as humanities, business, accountancy and engineering – can play an important role in the promotion of business and human rights in the legal profession.
3. Articles 4(b), (c) and (d) recognise the importance of developing educational programmes and tools on business and human rights for qualified legal practitioners who may not have been exposed to the topic at law school.
4. It could be very useful for bar associations to develop practical advice for lawyers and provide case-based examples of how lawyers can apply the UNGPs in specific practice areas.
5. Bar associations may wish to consider addressing the following items in their educational programmes:
 - a. information about the international human rights framework, including all

- applicable laws, principles and standards at the international, regional and/or domestic levels, and how these have been interpreted in judicial and non-judicial proceedings;
- b. the role that the legal profession can play in promoting business and human rights principles and the importance of advising clients on these matters; and
 - c. the incentives, opportunities and the business case for lawyers to integrate business and human rights principles into their areas of legal practice – and the disincentives and risks if they do not do so.
 - d. practical advice for lawyers that addresses the needs of both in-house and external counsel. For example, educational programmes may include practical advice for external law firms and internal corporate lawyers advising clients on:
 - i. compliance with applicable human rights due diligence and/or disclosure legislation;
 - ii. intersections between human rights law and criminal law;
 - iii. potential adverse human rights impacts of environmental harms, climate change, pollution and loss of biodiversity where relevant to the client;

- iv. how to embed human rights diligence into corporate internal governance structures and enterprise risk management, policies, processes and procedures;
 - v. how to ensure that human rights and environmental risks are identified and addressed early in the context of M&A transactions;
 - vi. (where the client is a financial institution or investment bank) how to embed human rights due diligence in the loans and investments they make and the actions taken by their borrowers and shareholders;
 - vii. embedding human rights considerations in buyer or supplier contracts;
 - viii. managing human rights complaints through judicial and non-judicial dispute resolution processes (including operational-level grievance mechanisms under the UNGPs); and
 - ix. antitrust law implications of undertaking human-rights focused initiatives.
- e. practical advice for law firms on the policies, processes, leadership and governance that they should use to meet their responsibility under the UNGPs as business enterprises to respect human rights, consistent with their professional ethical responsibilities.

CHAPTER III: PROFESSIONAL CONDUCT

Article 5. Increasing awareness of lawyers

Bar associations are strongly encouraged to draw to their members' attention the ethical considerations that a lawyer should consider in the field of business and human rights when advising clients.

Commentary

1. Advising clients on compliance with applicable law – including laws that incorporate or reflect the UNGPs or other human rights standards – is a fundamental legal competence.⁸ Advising clients on relevant soft law implications of the UNGPs is wise counselling.
2. Codes of professional conduct are key instruments for the promotion of best practices in a range of areas, including business ethics and human rights. The codes of some bar associations are already strongly aligned with the UNGPs, although it is possible that there will be tensions and dilemmas arising from their application in practice. Therefore, individual bar associations, to the

8 See IBA, 'IBA International Principles on Conduct for the Legal Profession' (11 October 2018) page 30 available at: [www.ibanet.org/document?id=IBA%20International%20Principles%20on%20Conduct%20for%20the%20Legal%20Profession%20\(2018\)](http://www.ibanet.org/document?id=IBA%20International%20Principles%20on%20Conduct%20for%20the%20Legal%20Profession%20(2018)).

extent they have authority to do so in their respective jurisdictions, may wish to consider whether, and the extent to which, their own professional codes of conduct prevent, permit, encourage or require lawyers to take the risk of human rights impacts into account in their advice to business clients and how to address potential dilemmas.

3. Bar associations may also wish to consider, in examining their codes of professional conduct, the differing roles that lawyers play in addressing business human rights issues: that is, as technical advisers, as wise counsellors or as leaders of the institutions in which they work. They may also wish to consider the impact of the differing institutions in which lawyers work and address business and human rights issues, such as outside law firms, in-house counsel departments, governments and civil society, among others.
4. It is important to emphasise and recognise that these ethical considerations apply to all lawyers, irrespective of their practice area.

CHAPTER IV: CAPACITY BUILDING AND TECHNICAL ASSISTANCE

Article 6. Guidance and technical assistance

Bar associations may wish to consider assisting their profession through technical assistance and guidance to help them strengthen their institutional and human capacity to adopt more effective practices in business and human rights.

Commentary

1. Article 6 stresses the role bar associations may have in providing support and guidance to the legal profession together with education to enhance integration between education and implementation.
2. The convening authority of bar associations as a focal point of the legal profession in each country may be utilised to provide expertise, create forums for discussion and for the identification of best practices.
3. Technical assistance can consist of non-financial support such as sharing information and expertise, transferring skills or know-how, and supporting the administration,

management, policy development and capacity building for those lawyers that wish to include viewing the advice they provide to their clients through a human rights lens.

4. Through a strong supporting structure, bar associations may help, guide and lead lawyers to reach better outcomes in integrating the UNGPs into the practice of law by focusing on the needs and priorities identified by the legal profession in their jurisdictions.
5. It is essential that lawyers have access to international and domestic business and human rights instruments, preferably in their own language.

Article 7. Sharing examples of best practice

Bar associations may wish to provide ways through which legal professionals can share examples of best practice and experiences of dealing with the topic of business and human rights. The sharing of knowledge and experience can assist in creating a coherent strategy for the legal profession.

Commentary

1. Article 7 brings to the attention of bar associations the importance of sharing examples of best practice. An important role that bar associations can play is bringing the legal profession together and enabling lawyers and law firms who have had success in embedding business and human rights principles in the advice they provide to clients to share those experiences.
2. As well as encouraging their members to share examples of best practice, bar associations may wish to share experiences, ideas and best practices with one another when implementing their business and human rights strategies. Learning from the best practices and challenges faced by other bar associations around the world can improve and strengthen a bar association's own human rights programme.
3. To accomplish the foregoing, bar associations may wish to consider publishing the steps that they are taking to address the question of business and human rights.

CHAPTER V: RECOGNITION AND INCENTIVES

Article 8. Acknowledgement

Bar associations may wish to publicly acknowledge successful business and human rights measures or programmes adopted by legal practitioners in their jurisdiction.

Commentary

Article 8 brings to the attention of bar associations the option of publicly acknowledging successful business and human rights initiatives in the legal sector. Legal professionals may be incentivised by recognition from their bar association. This acknowledgement could be manifested in several forms, for example:

- a) providing awards for outstanding performance or improvement in advising on these issues;
- b) promoting the work of successful business and human rights programmes by individual lawyers in bar association publications;
- c) keeping a record or publishing a list of, or potentially providing certification to, lawyers and law firms who have consistently adopted a business and human rights lens in the advice they provide to clients; and

- d) giving an ambassadorial role to lawyers with great interests and achievements in business and human rights so that they can promote and raise awareness of the bar association's programme in different local and international forums.

Promoting the work of successful business and human rights initiatives is closely related to the sharing of best practice as considered above in Article 7.

CHAPTER VI: BUSINESS AND HUMAN RIGHTS ACTION

Article 9. An active legal profession

Bar associations may wish to take appropriate steps to involve the legal profession in work to integrate business and human rights principles in domestic policy and legislation, and the development or review of global or industry-specific principles and standards relating to business and human rights.

Commentary

1. Governments are increasingly translating global business and human rights principles into domestic policy or legislation. Likewise, domestic, international and multistakeholder organisations create or revise global and industry-specific principles or good practice standards that are relevant to business and are therefore of concern for the legal profession. Most of these processes involve public consultations phases where all interested parties are invited to participate.
2. A bar association may wish to ensure that the views of the legal profession are represented in these processes, and that lawyers play a role in shaping these laws, principles and standards, so that these instruments effectively further the objectives of the

UNGPs in a way that takes into account the role of the legal profession, including lawyers' professional obligations. This may also assist other academic disciplines and professions in aligning with the UNGPs. A bar association may wish to consider establishing working partnerships or alliances with other stakeholders for the purpose of engaging with these processes and identifying best practice.

3. The law is dynamic; what is considered merely unethical today may be unlawful tomorrow. This is particularly true in the business and human rights context. As companies increasingly see the identification and management of human rights risk as a key strategic goal, they expect that their lawyers will act not only as technical legal experts, but also as wise counsellors in identifying and advising on human rights impacts, based on the hard and soft law of human rights. Bar associations can play a key role in ensuring their members are engaged in these issues and understand the implications set out in domestic, regional and international hard and soft laws and regulations.

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