



TV production: Remediating human rights harms when things go wrong

Background

Sometimes, regardless of the preparation and risk mitigations, things will go wrong. When they do, what is the role of broadcasters and production companies in putting things right?

International human rights standards and frameworks provide guidance on corporate responsibility in relation to providing remedy for human rights harms. For example, the third pillar of the [UN Guiding Principles on Business and Human Rights](#) is 'Access to Remedy' and the principles state that:

“Potential impacts should be addressed through prevention or mitigation, while **actual impacts** – those that have already occurred – **should be a subject for remediation.**”

In November 2022, the TV Industry Human Rights Forum explored several scenarios to build an understanding of what remedy can look like. This paper summarises key considerations for those working in TV production.

Impacts that require remediating

Most human rights impacts can and should be resolved at the production or site level, such as through effective human resources system. Examples include discrimination, bullying and harassment, issues related to pay, working hours, leave, health and safety.

However, production companies and broadcasters that have commissioned productions need to be prepared to respond swiftly to severe human rights violations.

Assessing a human rights violation for severity involves three aspects:

- Scale: How serious is the harm?
- Scope: How widespread is the harm?
- Remediability: If the harm occurs, can it be put right?

The issues provided as examples may constitute severe human rights impacts if they meet thresholds in terms of scale, scope and/or remediability.

Responsibility for remedy

The UN Guiding Principles on Business and Human Rights say that companies that **cause or contribute** to a human rights harm should be actively engaged in its remediation, by itself or in cooperation with others, and using leverage to mitigate the risk that any remaining impact continues or recurs.

Companies that are **directly linked** to a harm through their operations, products, services or business relationships are expected to play a role in ensuring those affected can access remedy but they may not need to provide the remedy directly. In such cases, a company may use its leverage, individually or by working with others to facilitate remedy.

There are also examples where companies provide remedy because they are in a position to do so but are not directly linked to the original abuse, e.g. by providing employment opportunities specifically for victims of trafficking even though the company is not linked to the trafficking experiences of those victims.

Question: If there is a severe human rights impact at a commissioned production caused by the production company, is the broadcaster a contributor to that harm or directly linked?

Answer: It depends on the actions of the broadcaster. If the broadcaster set conditions such that it made the impact more likely (action) or if there was a failure to take any mitigating steps (omission), then it is more likely to have been a contributor and would be partly responsible for providing remedy. If the broadcaster had put all preventative measures in place, ensured its own actions would not place undue pressure on the production and could not have known about the harm, then it is more likely to be directly linked and not directly responsible for remedy but should play a role in making sure that victims access remedy.

NB a broadcaster can also cause a human rights harm in TV production through its commissioning practices, e.g. through discriminatory financing or hiring practices.

About remediation

Remediation is the process of putting right negative human rights impacts as a result of a company's actions or omissions.

The Office of the High Commissioner for Human Rights (OHCHR) defines remedy as:

- Equal and effective access to justice
- Adequate, effective and prompt repair for harm suffered:
 - Restitution
 - Compensation
 - Rehabilitation
 - Satisfaction
- Access to relevant information concerning violations and reparation mechanisms

Repair for harm can include:

- Restoration of employment
- Acknowledgement and apology
- Setting the record straight
- Medical and psychological care
- Costs of legal assistance
- Effective measures aimed at preventing continuing violations
- Financial compensation
- Holding people to account for their actions

Remedy for severe human rights harms: key considerations

- Remedy is complicated and needs to be addressed case by case:
 - Different impacts need different forms of remedy
 - Remedy needs to be appropriate to victims and take their perspectives into account
 - Beware of making things worse, such as causing retaliation against victims or the mental health impact to victims of reporting issues
 - Providing remedy should not set inappropriate precedents, for example by accidentally incentivising ongoing criminal activity
- Remedy takes time and usually requires involvement from different stakeholders:
 - Severe violations may involve local criminal and civil justice systems
 - Existing processes, such as law enforcement investigations or internal escalation procedures, may need to be taken into account

Example scenarios that could constitute severe human rights harms

1. Forced labour used at a hotel being stayed in by a production team
2. Systematic serious sexual harassment affecting crew on a production
3. Severe pollution incident by a production, impacting health and livelihoods
4. Exploitative working conditions by a supplier to productions
5. Threats to local freelancer crew as a result of their involvement in a production
6. Ostracism and loss of employment for a contributor to a news/documentary piece as a result of sharing their story

Types of steps that broadcasters and production companies could take

1. Ascertain and document as many facts as possible
 - a. Do not put anyone at further risk in the gathering of information
 - b. Support people to report by creating the right culture but aim not to increase the burden on victims
 - c. Consider bringing in someone independent to carry out any investigations or use third-party expertise
 - d. Actively seek the perspective of those affected or work through their representatives, such as trade unions or NGOs
 - e. Use on the ground cultural consultants where needed to help understand issues
2. Map all those affected and relevant stakeholders
 - a. Find other organisations, brands or broadcasters impacted
 - b. Identify NGOs, trade unions and human rights organisations to work with and develop relationships
 - c. Use internal expertise from legal, security, human resources, safeguarding, health and safety teams
 - d. Consider whether to involve local law enforcement and/or to engage local government bodies, e.g. for managing environmental issues
3. Aim to work fast so that victims do not have to wait a long time for remedy
 - a. If content related, pull content from platforms, perhaps temporarily until investigations are complete
 - b. Provide support to victims – e.g. if they plan to make a police report; on communications; with information; with counselling
 - c. Look for precedents where something similar has happened previously and any published guidance on response and remedy
 - d. Review processes, policies, protocols and reporting practices to understand why issue(s) occurred and extent to which broadcaster and/or production company practices contributed
4. Document steps taken and decisions made
5. Follow up on remedy to ensure it is implemented and effective

Opportunities for leverage

1. Contractual relationships – leverage tends to be higher earlier in a TV production
2. Wider relationships of broadcaster beyond specific production, e.g. hotel chain, supplier to productions that is widely used
3. Existing partnerships, e.g. sports federations,
4. Relationships with NGOs, trade unions, human rights organisations
5. Connections to news teams or other communications channels