



TRAINING FACILITATION GUIDE

# HUMAN RIGHTS DUE DILIGENCE





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# ABBREVIATIONS AND ACRONYMS

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<b>BHR</b>	Business and Human Rights
<b>BHRCC</b>	Business & Human Rights Resource Centre
<b>CHRB</b>	Corporate Human Rights Benchmark
<b>CSR</b>	Corporate Social Responsibility
<b>EIA</b>	Environmental Impact Assessment
<b>GRI</b>	Global Reporting Initiative
<b>HRDD</b>	Human Rights Due Diligence
<b>HRIA</b>	Human Rights Impact Assessment
<b>HRSA</b>	Human Rights Self-Assessment
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICECSR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO</b>	International Labour Organization
<b>NAP</b>	National Action Plans
<b>NGO</b>	Non-governmental organization
<b>NHRI</b>	National Human Rights Institution
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>PPE</b>	Personal Protective Equipment
<b>UNGC</b>	United Nations Global Compact
<b>UNGPs</b>	United Nations Guiding Principles on Business and Human Rights
<b>UNICEF</b>	United Nations Children's Fund
<b>US/USA</b>	United States of America
<b>WTO</b>	World Trade Organization

# OVERVIEW AND INTRODUCTION

In recent years, a rich dialogue has emerged around the role that business plays in shaping our environment, our well-being and our security. On the one hand, business is celebrated for making contributions to sustainable development through life-saving medicines and renewable energy technologies. On the other, business is vilified for promoting overconsumption, hastening natural resource depletion, and putting profit before human dignity. In early 2020, this dual-view of business intensified as the COVID-19 pandemic raised new questions about the role of business in times of crisis, and the conditions under which large corporations under stress should expect taxpayer rescue packages.

This Training Facilitation Guide ('training guide') provides training modules which clarify what is required to conduct human rights due diligence by focusing on the basics and sticking to internationally agreed principles and widely understood terminology.

In this context, there has been a rejuvenated campaign to address the prevalence of human rights abuses in business operations and global supply chains. Consumers, shareholders and business partners are demanding that enterprises do more to minimize harms and maximize social dividends, not only in times of economic expansion, but also as a response to present and future crises. For this reason, **there has been a significant push to make the practice of human rights due diligence (HRDD) mandatory** for businesses in some regions and countries.

**Today, the regulatory landscape is rapidly changing.** Governments are passing legislation requiring corporations to report on their human rights profile in the form of "mandatory human rights due diligence." Stock exchanges and securities regulators are demanding greater transparency on non-financial risk reporting. Litigation in some jurisdictions is leading to greater levels of liability for companies operating in third countries.

The trend towards greater disclosures and scrutiny are only increasing as taxpayers question the wisdom of government bailouts for companies that hide profits in tax havens, refuse liveable wage increases, resist carbon emission standards, and lobby against disclosure requirements on non-financial risks in supply chains. In some countries, **there is widespread belief that public support to private enterprise during times of crisis**

**should only go to those companies that practise and live by their commitments to responsible business.**

Business associations, law firms and management consultancies are responding to shifts in the public mood and the regulatory environment by deploying an array of tools and advisory services to help businesses manage their human rights risks. They are joining civil society and multilateral organizations in promoting the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs) to help States and businesses meet the growing demand for socially and environmentally responsible business behaviour. The guidance provided by the UNGPs is especially timely, as calls grow louder for governments to include human rights due diligence as a key part of their corporate regulatory frameworks. Clearly, a deeper understanding of HRDD standards as clarified under the UNGPs is no longer optional.

Admittedly, there are a host of principles and internationally sanctioned guidance documents to be found, each claiming to be as important as the next. Of course, it does not help that the terminology and policy jargon employed does more to confuse than to clarify. For this reason, UNDP has provided the following training manual and approached the material in a unique way.

**The objective of these training modules is to clarify the requirements of HRDD by tacking closely to internationally agreed principles and widely understood terminology.** Applying a step-by-step approach, this allows for businesses to embark on HRDD as a stand-alone effort or as part of a pre-existing assessment process. The training modules are accompanied by a slide deck that follows the guide below to facilitate presentations. The training is also supported by the *Human Rights Self-Assessment Training Tool*.

Human rights due diligence requires companies to assess impacts and risks in their value chain, and act responsibly to prevent, mitigate and account for human rights abuses in which they may be involved through their own activities and business relationships.

## 1.1 UN Guiding Principles on Business and Human Rights

Unanimously endorsed by the Human Rights Council in 2011, the UNGPs are widely recognized as the world's most authoritative normative framework for addressing the adverse impacts of business on human rights. The UNGPs outline how the State and business share responsibility for human rights concerns, noting their complementary but differentiated roles. Composed of 31 principles, the UNGPs are divided into three "Pillars" consisting of:

1. The State duty to protect human rights
2. The corporate responsibility to respect human rights
3. The requirement for the State and businesses to provide access to effective remedy for victims of business-related abuse

Many experts cite the emergence of the UNGPs as the most important development driving responsible business practices over the last 20 years. Importantly though, **the UNGPs do not introduce new laws or regulations**. The UNGPs provide, instead, inclusive approaches, policy coherence, minimum standards and a **logical sequencing towards the assessment and management of human rights risks**.

This training guide focuses on Pillar 2, the corporate responsibility to respect human rights, which covers minimum standards for conducting HRDD. However, the guide begins with a discussion on the origins of the business and human rights agenda, to better differentiate HRDD from other compelling concepts, such as Corporate Social Responsibility or Responsible Business Conduct.

## 1.2 Introduction to the training guide

### Objective

The overall objective of the training guide is to help facilitators inform businesses on how to conduct HRDD according to international standards set by the UNGPs. More specifically, the trainings will help businesses to understand how to identify, prevent, mitigate and account for how they address their adverse human rights impacts.

In pursuit of this, the trainings will also provide an introductory understanding of the UNGPs and the basis for work in the area of Business and Human Rights.

### Target audience

This training module is **meant for businesspeople** working in different capacities, whether in senior leadership or middle management positions or in functional roles involving sales, supply chain management, legal and compliance, and social and environmental sustainability reporting. However, the training is not exclusive to people in the business sector. The training guide will be also useful to those organizations that

advocate for better due diligence practices, including UN entities, Civil Society Organizations (CSOs) or National Human Rights Institutions (NHRI).

### Audience size

This training was designed with both webinar and in-person modalities in mind. Ideally, either a webinar or in-person training using this training facilitation guide will be limited to **25 people**. A group larger than that will make it difficult to facilitate the discussions and complete the exercises and may slow down the training.

### Training modalities

The training is also designed so that it can be tailored to suit specific audiences according to their familiarity with the UNGPs. For example, "Part I – Introduction to Business and Human Rights" can be skipped when educating sustainability experts already well-versed in the material. The facilitator will also find some redundancy of material between sessions and modules, which allows the facilitator to pick and choose modalities. A short course and full-length training can be accommodated. Completing Part I and II of the training is estimated to take five full days. Facilitators might include consultants, CSO actors, staff at NHRIs, UN employees, among others. Trainings can be broken up with panel discussions involving local experts, or even field trips to places of operation to witness good practices.

This UNDP training package includes three items: 1) this training facilitation guide; 2) a slide deck that follows the training guide step by step for presentation purposes, and 3) a web-based Human Rights Self-Assessment Training Tool, which helps participants to understand how to identify and prioritize risks according to scale, scope, irremediability and likelihood factors. Items 2 and 3 are available only for UNDP staff. Should you be interested in UNDP training services, please contact [bizhumanrights.asia@undp.org](mailto:bizhumanrights.asia@undp.org).

### Organization

**The training is organized in two parts.** Part I is an introduction to the Business and Human Rights agenda. Part II is composed of a focused training on human rights due diligence.

Part I of the training provides an overall review of the wider framework of Business and Human Rights, including an introduction to the UNGPs. This section will help businesses to better understand the difference between Business and Human Rights (BHR) issues and Corporate Social Responsibility (CSR). Part I is divided into three modules:

- + Module 1: The Business Case
- + Module 2: Fundamentals of Business and Human Rights
- + Module 3: An Introduction to the UNGPs

At the end of Part I, participants will have a strong understanding of the basics of the UNGPs. Just as importantly, participants should better appreciate the origins of the Business and Human Rights agenda and its relevance to social justice movements of the past and its place in contemporary affairs. Part II is divided into two modules:

- + Module 1: An Introduction to Pillar 2
- + Module 2: Human Rights Due Diligence

Part II of the training provides a review of the four steps required to conduct HRDD:

- + Identifying and assessing actual and potential human rights impacts
- + Integrating and acting upon the findings
- + Tracking effectiveness of responses
- + Communicating how impacts are addressed

By the end of Part II, participants will be familiar with the concepts of due diligence, through both the training and having used the Human Rights Due Diligence Self-Assessment Training Tool for identifying and prioritizing risks.

### Methodology

As a content-delivery focused training, the HRDD Training Facilitation Guide is mostly based on lectures. To guide the facilitator in delivering the material, each module and section contains step-by-step guidance, background material, case studies, visuals and topic headings in the form of questions. These “question-headings” marked by the  signifier also serve as titles to slides provided in the accompanying slide deck.

The training also relies on survey software for quizzes, group work and other tools to enhance interactivity and help participants gain a deeper understanding of the topics discussed.

Details, notes and interactive components are marked in the guide as such:

	<b>Interactive component</b>
	<b>Time</b>
	<b>Learning objective</b>
	<b>Methodology</b>
	<b>Facilitator notes</b>
	<b>Procedure</b>

As noted above, the HRDD Training Facilitation Guide is **accompanied by a slide deck** that corresponds to the material below and assists in the facilitation of a live event. The training guide and the slide deck will be updated periodically. The training guide is further **complemented by the Human Rights Self-Assessment Training Tool**.

### 1.3 Summary

As suggested above, every training must strike a balance between thoroughness and accessibility. This training is weighted slightly towards the latter as experience shows that many business professionals are not looking to UNDP as a partner to help them drill down deeply into their risk profiles and unpack corporate processes. Instead, they are looking to UNDP to learn more before bringing these matters back to their offices for further action. This fact aligns with UNDP’s unique value addition to the area of HRDD.

 This material does not intend to be the standard on HRDD training guides. Instead, it aims to enrich the enabling environment for greater uptake of HRDD, so that enterprises, business consultancies and associations, as well as civil society organizations and government regulators, can speak the same language and articulate a pathway forward together.

# PART I: INTRODUCTION TO BUSINESS AND HUMAN RIGHTS

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## Icebreaker

Ask participants to introduce themselves, the organization they represent, and their role in the organization. If the training involves a large audience, or if the training is conducted via webinar, create a pie chart that illustrates from the registration materials what percentage of registrants are from different sectors, for example manufacturing, agriculture, mining, tourism and other sectors, or if the audience is not only business participants, business, government and civil society.

## Module 1: The Business Case



50 minutes



Participants should come away from this module with a better understanding of the importance of respecting human rights, as well as the relevance of the UNGPs to their companies. At the end of this session, training participants will also be aware of the broader forces giving lift to the BHR agenda.



This section begins as a lecture and ends with a quiz.



Often participants come to this training and see the BHR agenda as a mere compliance or public relations matter. So, making the “business case” for the UNGPs is key to securing strong buy-in for the rest of the training. Moreover, business participants often misunderstand the term human rights and equate the concept to a narrow band of egregious human rights violations such as “torture” or “ethnic cleansing.” They may wonder what relevance these human rights violations have for business.

If the trainer senses that the participants are already familiar with human rights and the BHR agenda, this module can be skipped.



1. Inform participants that this session will last 50 minutes.
2. Begin with a discussion on the different sources of pressure that businesses are feeling today. Leave ample time to cover legislation that guides companies on reporting and conducting HRDD.

**What role do business partners and investors have in driving the BHR agenda?**

Most business operate under a set of core values—expressed in mission statements, codes of conduct and other documents—that align with expectations around respect for human rights.

Yet, in recent years public concern over human rights abuses in business operations and global supply chains has risen drastically.

Governments, consumer protection groups, banks, industry trade groups, and journalists among others, are placing considerable pressure on companies doing business in Asia.

Institutional and retail investors alike are increasingly interested in companies with reduced environmental, social and governance (ESG) risks. They are turning to corporate indexes to gauge the suitability of companies in the ESG asset class. Examples include:

Corporate Human Rights Benchmark (CHRB) – [www.corporatebenchmark.org](http://www.corporatebenchmark.org)

Dow Jones Sustainability Index – [www.spglobal.com/esg/csa](http://www.spglobal.com/esg/csa)

Source: BlackRock commentary on engagement on human rights available at [www.blackrock.com/corporate/literature/publication/blk-commentary-engagement-on-human-rights.pdf](http://www.blackrock.com/corporate/literature/publication/blk-commentary-engagement-on-human-rights.pdf)

Human rights risks are now more easily tracked through web resources, including:

- + CSR Risk Check available at [www.mvorisicochecker.nl/en](http://www.mvorisicochecker.nl/en)
- + Business & Human Rights Resource Centre available at [www.business-humanrights.org/en](http://www.business-humanrights.org/en)

CSR Risk Check featuring risks in Viet Nam, 2020

Increasingly, trade sanctions and bans on goods from specific companies is being employed to help eliminate forced labor, child labor and other human rights risks.

**What impact is a changing regulatory environment having on BHR?**

There has been a significant increase in human rights-based legislation and regulation, including laws mandating disclosures of human rights processes that extend through a company's operations and supply chain. These include:

1. California Transparency in Supply Chains Act (2010) – [oag.ca.gov/SB657](http://oag.ca.gov/SB657)
2. UK – Modern Slavery Act (2015) – [legislation.gov.uk/ukpga/2015/30/contents/enacted](http://legislation.gov.uk/ukpga/2015/30/contents/enacted)
3. Australia – Modern Slavery Act (2018) – [legislation.gov.au/Details/C2018A00153](http://legislation.gov.au/Details/C2018A00153)

In addition to disclosure legislation, there are a host of new mandatory due diligence laws, creating a “duty to know and show” and to report on human rights risks throughout operations and supply chains. These include:

1. France – Duty of Vigilance Law (2017)
2. The Netherlands – Child Labour Due Diligence Law (2019)
3. Germany – Supply Chain Law (2021)

These legislative developments mean that businesses headquartered in some countries will be required to ask their business partners and suppliers elsewhere to show that they are mitigating risks and addressing negative impacts through HRDD.

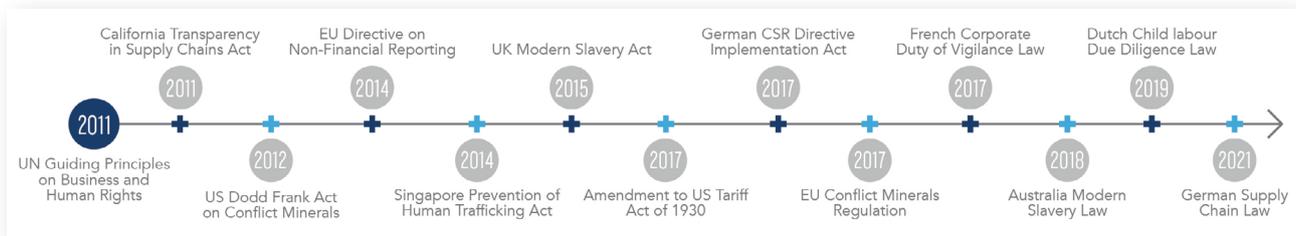
For a map of developments of mandatory due diligence, see the Business & Human Rights Resource Centre's mandatory human rights due diligence (mHRDD) portal, available at [business-humanrights.org/en/big-issues/mandatory-due-diligence](http://business-humanrights.org/en/big-issues/mandatory-due-diligence).

The increased attention to human rights also comes in the form of criminal laws and sanctions regimes. These laws punish businesses that cause, facilitate or benefit from human rights abuses. Some examples include:

1. U.S. Trafficking Victims Protection Reauthorization Act
2. UK Criminal Finances Act
3. U.S. Global Magnitsky Act

An increasing number of laws ban products from being imported from or exported to specific countries for their poor human rights performance.

Governments are also responding to heightened pressure through the implementation of the UN Guiding Principles on Business and Human Rights through National Action Plans (NAPs). NAPs involve whole-of-government approaches to tackling challenges. They help governments identify challenges and plan for multi-stakeholder responses.



“There is more and more understanding that the smart mix prescribed by the UN Guiding Principles on Business and Human Rights means that there needs to be legislation in order to reach the stated aims.”

Heidi Hautala, Vice-President of the European Parliament



## Quiz

If you have a Mentimeter account, you can copy the following slides for the questions below by accessing the [Part I – Module 1, Session 1](#) presentation online. The page is also available by scanning this QR code:



• **Which of the following countries or territories mandate that companies conduct HRDD? Pick one.**

- A. France
- B. Australia
- C. UK
- D. California

As of 2021, the correct answer is **A**. Of the choices above, only the [French Corporate Duty Of Vigilance Law](#) "establishes a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, from activities of companies they control, and from activities of their subcontractors and suppliers, with whom they have an established commercial relationship," according to the European Coalition of Corporate Justice, available at: [corporatejustice.org/publications/faqs-french-duty-of-vigilance-law](https://corporatejustice.org/publications/faqs-french-duty-of-vigilance-law).

California's Transparency in Supply Chains Act does not mandate HRDD. UK and Australian Modern Slavery Acts require reporting on the risks of modern slavery in operations and supply chains, as well as the steps taken to respond to the risks identified. However, they do not mandate that HRDD be conducted by the reporting enterprises.

• **Which of the following countries does not have a NAP on Business and Human Rights? Pick one.**

- A. Germany
- B. Sweden
- C. Thailand
- D. United States

As of 2021, the correct answer is **D**, the United States. The United States has a NAP on Responsible Business Conduct, the only NAP on Responsible Business Conduct in the world. Responsible Business Conduct, as defined by the OECD Guidelines for Multinational Enterprises, covers tax, consumer protection, competition law, anti-corruption, environmental issues and human rights. Its coverage of human rights is taken from the UNGPs.

# Module 2: Fundamentals of Business and Human Rights

	200 minutes (3 hours, 20 minutes)
	Participants will appreciate the basic contours of the Business and Human Rights agenda without detailing the principles codified in the UNGPs. Participants will appreciate the origins of the BHR agenda and develop a deeper respect for the UNGPs.
	Some participants will not understand how BHR differs from corporate social responsibility, and/or environmental sustainability work. They will have very little appreciation of the history and forces shaping the BHR agenda. Without a deeper appreciation of the difference between BHR and CSR or of the origins of the UNGPs, BHR-related work turns into another box-ticking exercise or a communications project delegated to a public relations team.

## Session 1: What are human rights?

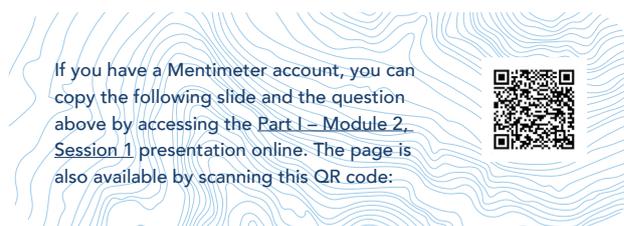
	50 minutes
	At the end of this session, participants will be introduced to the concept of human rights and have a basic understanding of which human rights are often put at risk in business operations and value chains.
	This session is delivered as a lecture, with questions to provoke discussion.
	In the experience of many who work on BHR issues, it is necessary to dedicate some time to explaining what human rights are (and what they are not). In many cases, when businesspeople think of human rights, they think first of civil and political rights. Invoking images of political protests, acts of religious intolerance or victims of torture, they may wonder why businesspeople need to worry about human rights.
	<ol style="list-style-type: none"> <li>1. Inform the audience that this opening session will take 50 minutes to complete.</li> <li>2. Explain that the session is composed of a lecture and a facilitated discussion.</li> <li>3. Open the discussion with the question: What are human rights?</li> <li>4. Facilitate a question-and-answer discussion.</li> </ol>

## What are human rights?

### Facilitated discussion

1. What are human rights?
2. What human rights are often put at risk in business operations and value chains?

For the second question, provide a Mentimeter word-cloud or mapping of the assembled words. Reflect on the most popular responses with participants. Why did some types of human rights abuses appear in the word-cloud more prominently than others?



At the heart of our understanding of human rights is the notion that all people must be treated with dignity on account of being human. Every individual is entitled to enjoy human rights without discrimination on the basis of race, religion, nationality, political opinion, gender and other social group. These rights are all interrelated, interdependent and indivisible. Human rights are often expressed and guaranteed by law, including in treaties and conventions.

While the **Universal Declaration of Human Rights** is considered the cornerstone of international human rights, these rights are codified in the:

- + International Covenant on Civil and Political Rights
- + International Covenant on Economic, Social and Cultural Rights

Collectively, all three documents are known as the International Bill of Human Rights.





After conducting a human rights impact assessment, Coca-Cola concluded that its human rights risks involved the following. See the Coca-Cola Human Rights Report 2016–2017 available at [coca-colacompany.com/content/dam/journey/us/en/responsible-business/better-shared-business-landing/human-rights-report-2016-2017-tccc.pdf](https://www.coca-colacompany.com/content/dam/journey/us/en/responsible-business/better-shared-business-landing/human-rights-report-2016-2017-tccc.pdf)

**19** Salient human rights risks:

- 20 Safety and health of all workers/security
- 22 Equality/nondiscrimination and related issues/risks
- 25 Child labor
- 26 Forced migrant labor/forced labor of seasonal workers
- 28 Freedom of association
- 29 Access to water
- 32 Working hours
- 33 Healthy lifestyles
- 34 Land rights
- 36 Product safety/quality
- 36 Rights linked to sponsorships
- 39 Right to privacy
- 41 Linkage to corruption/anti-bribery risks through value chain



Before closing, briefly remark on how this non-exhaustive list might compare with your word cloud mapping of risks at the start of your discussion.

## Session 2: What is the difference between CSR and BHR?

	50 minutes
	At the end of this session, participants should understand the difference between Corporate Social Responsibility (CSR) and Business and Human Rights.
	Lecture followed by interactive quiz.
	<p>Training participants may already have a firm understanding of CSR given its wide usage in business circles. This makes it even more imperative that the facilitator differentiates CSR from Business and Human Rights. Importantly, CSR does not have an international definition, and some organizations refer to CSR less and less frequently.</p> <p>The quiz at the end of the discussion should be helpful in clarifying the difference between the two concepts. If the facilitator has access to survey software such as Mentimeter or SurveyMonkey, answers can be inputted into participants' smartphones as a vote. Results are presented to the group before the correct answer is provided. If survey software is not available, facilitators should encourage participants to raise their hands as a vote. One person should be selected to explain their choice.</p> <p>This session is informed by the helpful article, 'Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability', by Professor Anita Ramasastry, Member of the UN Working Group on BHR.</p>
	<ol style="list-style-type: none"> <li>1. Inform the participants that the session will last 50 minutes.</li> <li>2. Inform participants that by the end of the discussion they will understand the differences between CSR and BHR. Explain that you will take questions as you go through the lecture. Allow ample time to have a discussion after each quiz question.</li> </ol>

While enterprises are increasingly reflecting the principles that underpin international labour standards in their CSR policies, the ILO considers it important to emphasize the voluntary nature of CSR.

ILO website on CSR available at [www.ilo.org/empent/Informationresources/WCMS\\_101253/lang--en/index.htm](http://www.ilo.org/empent/Informationresources/WCMS_101253/lang--en/index.htm)

### What is the difference between CSR and BHR?

Both BHR and Corporate Social Responsibility (CSR) promote responsible and socially beneficial activities—but both concepts have key differences and hence distinct identities. There is no international definition or an agreed declaration for CSR.

CSR came from scholars of the business academy; the focus is on value creation and public relations. CSR often involves philanthropy.

BHR was a result of work by legal academics and human rights advocates; the focus is on accountability.

Corporate Social Responsibility	Business and Human Rights
<ul style="list-style-type: none"> <li>+ CSR is based on voluntarism and expectations of responsibilities arising from the role of corporations as members of society.</li> <li>+ CSR is based on self-guided decision-making and voluntary measures rather than state-sponsored regulation.</li> <li>+ CSR is sometimes referred to as "charity" or "corporate philanthropy."</li> <li>+ CSR may consider social justice issues but without a human rights lens.</li> </ul>	<ul style="list-style-type: none"> <li>+ BHR is grounded in a core set of human rights norms.</li> <li>+ BHR is focused more narrowly on holding corporations accountable for harms caused or contributed to by their own activities, or directly linked to its operations, products or services by its business relationships.</li> <li>+ BHR emphasizes the role of the State, but also the independent and complementary role of business.</li> <li>+ BHR focuses on access to remedy for victims of human rights abuses linked to business conduct.</li> </ul>

There are other concepts too, that attempt to define and reinforce notions of responsible business behaviour. Among these, include Creating Shared Value, or the practice of creating economic value in a way that also creates value for society.<sup>2</sup> As compelling as this may sound, critics note that the concept largely ignores the problems and abuses caused by business.<sup>3</sup> It diverts away from areas where social and economic goals inevitably conflict. Thus, Creating Shared Value is more closely associated with CSR than BHR. However, CSR and BHR are not mutually exclusive, they can and should coexist.

2 Michael E. Porter and Mark R. Kramer, *Creating Shared Value: How to reinvent capitalism—and unleash a wave of innovation and growth*. Harvard Business Review, January-February 2011.

3 Oh, Mr. Porter, The new big idea from business's greatest living guru seems a bit undercooked, *The Economist*, 12 March 2011

“At its core, BHR focuses on victims or impacted communities and articulates their concerns in terms of treaty-based rights in an effort to provide a clear basis for remedies and justice.”

Anita Ramasastry, United Nations Working Group on Business and Human Rights



## Quiz

If you have a Mentimeter account, you can copy the following slides with the questions below by accessing the [Part 1 – Module 2, Session 2](#) presentation online. The page is also available by scanning this QR code:



*You are a plant manager of a large factory site in a rural area, made up of many other factories along a water way. Are you engaging in CSR or BHR work under the following scenarios?*

**A terrible viral infection has broken out, attacking the respiratory systems of the population of a neighbouring country where the company sells its products (the business is not responsible for the infection or its spread). The factory manager decides to raise voluntary contributions among staff to provide food and personal protective equipment to those in need. CSR or BHR?**

Answer: **CSR**. Here, the factory is demonstrating that it is an organization which cares for the well-being of customers. But unless the factory has caused, contributed or directly linked to the infection, the provision of food and PPE is a voluntary action and is thus an example of CSR work.

**The viral infection is spreading rapidly and has now crossed borders. The factory is looking at the fitness of the dormitories where it houses its sizable migrant worker population. Appreciating that these dormitories are too cramped and may help spread the airborne viral disease, the factory quickly erects temporary housing facilities to provide more space per worker. CSR or BHR?**

Answer: **BHR**. Because the company provides housing for its workers, it has an affirmative duty to ensure that the accommodation provided does not prevent workers from enjoying their human rights.

**Children from a community near the factory are not being educated. While these children are not related to any current or past employees at the factory, the workers still believe that something must be done. Alongside other companies, the factory decides to help build a school for the children. CSR or BHR?**

Answer: Probably **CSR**. While this is compelling and important CSR work, the building of the school is not done in response to the factory's adverse impact on human rights.

**Children who swim in the local waterway next to the factory suddenly get sick from the factory's pollutants. The factory addresses the pollution problem and provides medical treatment. CSR or BHR?**

Answer: **BHR**. Here the factory is responsible for the problem as the pollution stems from its own activities. Moreover, the factory may be breaching laws that prohibit the dumping of toxic or hazardous chemicals.

**Community members cannot read factory job applications because they are written in a language of a different ethnic group. This ethnic group is also better educated and is considered generally more prosperous. Applications were written this way to ensure that only the most educated applicants would get through the application process, not because the job requires knowledge of the language in which the vacancy was advertised. After newspapers report this, the company later makes changes and offers applications in local ethnic and other languages. Are the changes CSR or BHR?**

Answer: **BHR**. Here the company is using language as a means to indirectly discriminate against a segment of the population based on ethnicity even if it is not intending to do so (the purpose of using the chosen language is to secure more educated applicants). Because the factory is discriminating against a group based on a protected ground, which is contrary to the right to non-discrimination, the matter is a BHR issue.

## Session 3: A brief history of responsible business principles

	50 minutes
	Participants will understand some early origins of voluntary guidelines on responsible business to better appreciate the intent of the UNGPs.
	Lecture followed by discussion.
	Session 2 and 3 provide a short history of business and human rights so that participants can better understand its evolution. This section can be shortened or skipped in the interest of time and depending on audience familiarity. As a history lesson on an unfamiliar topic, many participants will find this section an interesting departure from discussions on norms, principles and standards. However, it is structured as a lecture and the module does not involve participant interaction.
	<ol style="list-style-type: none"><li>1. Inform the participants that the session will last 50 minutes.</li><li>2. Inform participants that by the end of the discussion they will understand a bit about the history of responsible business principles.</li><li>3. Facilitate a discussion after the lecture.</li></ol>

### **Where do the principles around business conduct originate?**

There are two sets of voluntary guidelines that preceded the UNGPs relating to businesses and their respect for human rights.

Understanding the forces that led to the development of the Sullivan and MacBride Principles helps us to understand the importance of the UNGPs.

1. Sullivan Principles (1977) – South Africa
2. MacBride Principles (1984) – Northern Ireland

### **The Sullivan Principles**

The Sullivan Principles are a voluntary code of conduct developed in 1977 that were aimed at applying economic pressure on South Africa in protest of its system of apartheid. The Sullivan Principles were focused on changing the conduct of multinational companies operating in South Africa.

The Sullivan Principles were made up of seven principles, which included:

- + Non-segregation of the races in all eating, comfort and work facilities.

- + Increasing the number of blacks and other non-whites in management and supervisory positions.
- + Improving the quality of life for blacks and other non-whites outside the workplace: housing, transportation, school, recreation and health facilities.

The MacBride Principles were launched in 1984 as a corporate code of conduct for companies doing business in Northern Ireland.

The MacBride Principles are made up of nine principles which include:

- + Increasing the representation of individuals from underrepresented religious groups in the workforce.
- + Adequate security for the protection of minority employees both at the workplace and while traveling to and from work.
- + The banning of provocative religious or political emblems at the workplace.
- + Lay-off, recall and termination procedures should not in practice favour one religious grouping over another.

### **What relevance do these principles have to the UNGPs?**

- + The Sullivan and MacBain Principles are among the first voluntary guidelines focused on specific issues in specific territories: South Africa and apartheid, and Northern Ireland and religious tension.
- + Both described a role for business in addressing human rights abuses. These early efforts lead to the development of other standards by multilateral organizations.



The OECD Guidelines for Multinational Enterprises—non-binding Guidelines on responsible business conduct—were adopted in 1976. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy were launched in 1977.

However, neither the OECD Guidelines nor the ILO Declaration addressed responsible business practices as human rights matters, as the Sullivan and MacBain Principles had. The OECD Guidelines were later updated to endorse and incorporate important elements of the UNGPs including its approach to due diligence.

Both the OECD Guidelines and ILO Declaration are now aligned with the essential features and thrust of the UNGPs.

## How did the UNGPs emerge from within the UN?

In 1977, the UN General Assembly created a **Centre on Transnational Corporations**. The main task was to draft a code of conduct for transnational corporations that would focus on responsible and equitable investment practices. Among the issues of concern was the behaviour of multinational enterprises operating in mostly Global South settings where the rule of law was weak or where multinational enterprises had undue leverage over governments and people. Both States and transnational corporations objected to many of the efforts undertaken by the UN Centre on Transnational Corporations. And the effort to develop a global code of conduct was abandoned in the early 1990s.

The business community and governments were seemingly not ready for an international standard to address all human rights impacts of business operations for many years thereafter. Many justified their inaction under the unproven but compelling presumption that economic development was a precursor to greater respect for human rights.

Still, a series of unrelated but increasingly high-profile matters came to the attention and engagement of the international community, though much of it confined to the United States and Europe. These events taking place outside of UN processes influenced momentum further. Movements and milestones included:

- + The riots during the World Trade Organization (WTO) Ministerial Meeting in Seattle in 1998
- + Human rights and civil rights lawyers in 1996–99 using the US Alien Tort Statute to mount cases in US courts against Royal-Dutch Shell, Unocal and Texaco
- + The anti-sweatshop movement of the mid-1990s
- + The settlement of Holocaust victims' claims in 1999 against Swiss banks, European insurers and German corporations with respect to their involvement in World War II
- + In 2006, the movie, *Blood Diamonds*, depicting the role of mining of precious stones in driving conflict in Africa reaches theatres and gains international attention
- + Legal suit in 2007 against the web services provider, Yahoo, for handing over private information on dissidents to a government

As the scale and scope of business-related human rights issues gained wider attention, there was seemingly more at stake, including the direction of international trade and investment policy.

By some measures, business, civil society and government found themselves in stronger alignment with each other. There were incentives to driving a common approach.

In 2000, the United Nations Secretary-General Kofi Annan launched the **UN Global Compact**, whose mandate is to “promote responsible business practices and UN values among the global business community and the UN System.”

The objective was to “mainstream ten principles in business activities around the world” and “catalyse actions in support of broader UN goals.” The UN Global Compact with its 9 (now 10) principles asked companies to measure their conduct against key international human rights law, namely, the Universal Declaration of Human Rights, the ILO Core Labour Standards and the two major covenants—ICCPR and the ICECSR.

“Companies were asked via Principle 1 [of the UN Global Compact 10 Principles] to avoid being complicit in human rights violations. And so a new standard emerged of companies benchmarking their conduct against international law—no longer just local law or by codes of conduct.”

Anita Ramasastry

The architect of the Global Compact, Professor John Ruggie, was then appointed in 2005 by the UN Secretary-General as a “special representative on the issue of human rights and transnational corporations and other business enterprises.” In 2008, Ruggie was asked by the Human Rights Council to operationalize the Protect, Respect and Remedy framework he proposed.

On 16 June 2011, the Human Rights Council in resolution A/HRC/RES/17/4 unanimously endorsed the Guiding Principles on Business and Human Rights for implementing the UN “Protect, Respect and Remedy” Framework, providing—for the first time—a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity.



### Facilitated discussion

Does your employer have a code of conduct governing employee behaviour, standards for supply chain partners and/or ethical recruitment guidelines? How effective are these?

What role do principles, standards and ethics have in your workplace?

Is it difficult to get buy-in within your company to follow voluntary international standards?

## Session 4: Other multilateral responses

	50 minutes
	Participants understand other approaches to responsible business and their differences with the UNGPs.
	Lecture followed by a quiz.
	This session covers the OECD Guidelines or ILO Tripartite Declaration but not in detail.
	<ol style="list-style-type: none"> <li>1. Inform the participants that the session will last 50 minutes, and that there will be a group quiz at the end.</li> <li>2. Explain that during this session, we will be introducing other developments leading up to the UNGPs, including the OECD Guidelines and the ILO Declaration.</li> <li>3. Inform the audience that this session is not intended to provide a deep dive into OECD or ILO policies, guidelines, or declarations.</li> <li>4. Introduce the material as follows below.</li> </ol>

### **What relationship do the UNGPs have to other international standards?**

In the wake of increased attention to business-related human rights risks and impacts, multilateral organizations have created several instruments that provide guidance on responsible business practice. These include the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, Ten Principles and International Finance Corporation's Performance Standards on Environmental and Social Sustainability, among others. This section does not list or detail all standards, given the focus of the training. Instead, it covers those that have the most intimate relationship with the UNGPs.

#### **OECD Guidelines for Multinational Enterprises**

The OECD Guidelines provide principles and standards for responsible business conduct for multinational corporations operating in or from countries adhering to the OECD Declaration. The Guidelines are legally non-binding on businesses. The Guidelines were adopted in 1976. However, the OECD Guidelines did not speak specifically about human rights issues until the launch of the UNGPs in 2011.

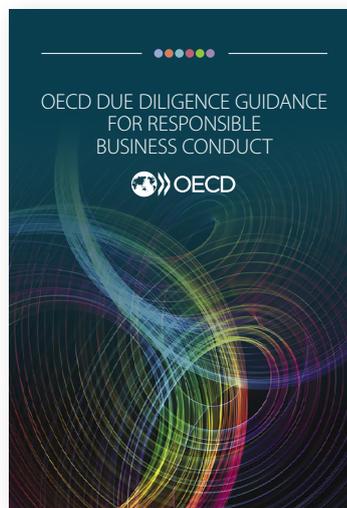
### **What do the OECD Guidelines provide for and how does "Responsible Business Conduct" relate to the UNGPs?**

The OECD Guidelines included a chapter on human rights in its updated version in 2011, following the release of the UNGPs. In addition to their chapter on human rights, the OECD Guidelines cover:

- + Employment issues
- + Environment
- + Bribery and extortion
- + Consumer protection
- + Science and technology
- + Competition
- + Taxation policy

A reference guide on Responsible Business Conduct complements the Guidelines, which follows the UNGPs' provisions on conducting HRDD.

On matters related to human rights, the OECD Guidelines essentially mirror the UNGPs, though the OECD Guidelines provide less detailed prescriptions and commentary. Further, the OECD Guidelines provide for a state based non-judicial mechanism to handle allegations of non-compliance. These mechanisms are called the National Contact Points or NCPs; these too are aligned with the provisions of Pillar 3 of the UNGPs.



Source: [mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf](https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf)

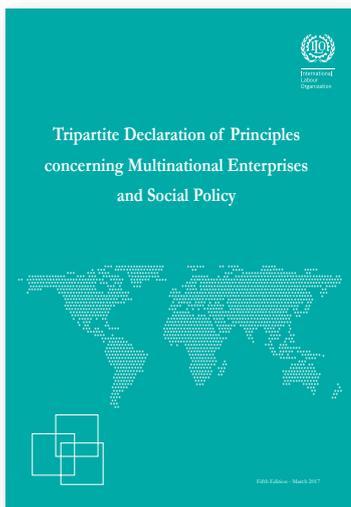
### **What relationship does the UNGPs have to other international standards?**

ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977).

The Declaration is focused on decent work. It does not have the force of a Convention.

Its principles are addressed to multinational enterprises, governments of home and host countries, and employers' and workers' organizations and cover areas such as employment, training, conditions of work and life, and industrial relations as well as general policies. The areas covered are:

- + Employment promotion
- + Social security
- + Elimination of forced or compulsory labour
- + Effective abolition of child labour: minimum age and worst forms
- + Equality of opportunity and treatment
- + Security of employment
- + Wages, benefits and conditions of work
- + Safety and health
- + Industrial relations
- + Freedom of association and the right to organize
- + Collective bargaining
- + Consultations
- + Access to remedy and examination of grievances



As noted earlier in the training, there are also eight “fundamental” ILO Conventions, covering core principles and rights at work. These include the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

For more information, participants should access the following resources:

[www.oecd.org/corporate/mne/](http://www.oecd.org/corporate/mne/)

[www.ilo.org/empent/areas/mne-declaration/WCMS\\_570332/lang-en/index.htm](http://www.ilo.org/empent/areas/mne-declaration/WCMS_570332/lang-en/index.htm)



Explain to participants that you will now provide a quick review of the UN Global Compact and its 10 Principles. The UN Global Compact's 10 principles preceded the development of the UNGPs.

### **What is the relationship of the UNGPs and the UN Global Compact's 10 Principles?**

Under the UN Global Compact's 10 Principles, businesses are asked to support and respect the protection of internationally proclaimed human rights and ensure that they are not complicit in human rights abuses.

Regarding labour, businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.

Other labour rights identified include:

- + The elimination of all forms of forced and compulsory labour
- + The effective abolition of child labour
- + The elimination of discrimination in respect of employment and occupation

Under the “Environmental” heading, the 10 Principles provide that businesses should:

- + Support a precautionary approach to environmental challenges
- + Undertake initiatives to promote greater environmental responsibility
- + Encourage the development and diffusion of environmentally friendly technologies

Under the “Anti-Corruption” heading, the 10 Principles provide that:

- + Businesses should work against corruption in all its forms, including extortion and bribery

The UN Global Compact's 10 Principles are a voluntary code of conduct for signatory companies. The 10 Principles are a precursor to the UNGPs. The UNGC and OHCHR have confirmed that the UNGC 10 Principles should be interpreted in line with the UNGPs.



## Quiz

If you have a Mentimeter account, you can copy the slides for the following questions by accessing the [Part 1 – Module 2 Session 4](#) presentation online. The page is also available by scanning this QR code:



**In addition to other human rights-related matters, which of the following are concerned with the elimination of forced labour?**

- A. OECD Guidelines for Multinational Enterprises
- B. ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- C. UN Global Compact 10 Principles
- D. All of the above

The correct answer is **D**.

**In addition to other matters, which of the following is concerned with consumer protection?**

- A. OECD Guidelines for Multinational Enterprises
- B. ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- C. UN Global Compact 10 Principles
- D. All of the above

The correct answer is **A**.

**In addition to other matters, which of the following are concerned with anti-corruption?**

- A. OECD Guidelines and ILO Declaration
- B. OECD Guidelines and UN Global Compact 10 Principles
- C. UN Global Compact 10 Principles and the ILO Declaration
- D. None of the above

The correct answer is **B**.

# Module 3: Introduction to the UNGPs

	250 minutes (4 hours, 10 minutes)
	By the end of this module, participants will have a deeper understanding of the UNGPs and their three pillars.
	This section provides a brief outline of the UN Guiding Principles on Business and Human Rights. As such, the facilitator may want to review the Commentary and Frequently Asked Questions guidance provided by OHCHR.

## Session 1: The UNGPs and Pillar 1

	50 minutes
	At the end of this session, participants will have a deeper understanding of the UNGPs, and an introduction to its three pillars. This section will also introduce Pillar 1.
	Lecture followed by activity. The activity in this section involves taking the audience through scenarios. Audience members choose 'Agree' or 'Disagree' on a smartphone application or by a show of hands. After each question is asked and answered, the facilitator should facilitate a discussion.
	This session begins with a quick overview of all three pillars of the UNGPs. It then unpacks the first of the three pillars on the State duty to protect. Business attendees may be less interested in this first pillar than Pillar 2 on the business responsibility to respect. Thus, it may be a good idea to emphasize that the State's duty to protect, creates a level playing field by holding businesses to the same standard. It may also be compelling to highlight how the State duty to protect is important to hold businesses that abuse human rights accountable to their actions, so that other businesses or industries do not suffer reputational damage by association. In other words, be ready to make the business-case for Pillar 1, as you might for Pillar 2.



1. Explain that during this session, we will be introducing the UN Guiding Principles on Business and Human Rights. Tell the participants that the session will last 50 minutes, and that there will be a group quiz at the end.
2. Inform the audience that this session is not intended to provide a deep dive into every principle.
3. Introduce the material as follows below.

### **What are the UNGPs and how were the UNGPs developed?**

Following the establishment of the UN Global Compact, Secretary-General Kofi Annan asked the architect of the new organization, John Ruggie, to come up with recommendations. After subsequent mandates, these recommendations would form the basis of the UNGPs. In 2011, the UN Human Rights Council unanimously adopted the UN Guiding Principles on Business and Human Rights (UNGPs).

The UNGPs recognize the distinct but complementary roles that the State and business have in acting in accordance with international human rights norms. This is what makes the UNGPs unique: they provide guidance to governments AND business in one package.

### **What are the UNGPs made up of?**

Thirty-one (31) principles under three pillars:

- + Pillar 1: State duty to **protect human rights**
- + Pillar 2: Business responsibility to **respect human rights**
- + Pillar 3: The role of States and businesses in ensuring rights holders have **access to effective remedy**

### **What does the State Duty to Protect entail?**

Pillar 1: State Duty to Protect (Principles 1 to 10)

The UNGPs provide that:

"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." – Principle 1

The need for States to create and enforce laws that directly or indirectly regulate business respect for human

rights is a central message of the UNGPs.

Enforcement of laws can be a significant gap in State action towards business, particularly in the areas of:

- + Non-discrimination
- + Labour
- + Environmental protection
- + Housing, land, and property
- + Privacy

### **What can States do to ensure businesses are compliant with international human rights standards?**

States must achieve greater legal and policy coherence between their human rights obligations and their actions with respect to business.

As such, States must:

- + Enforce existing laws (Principle 3a)
- + Identify and address any policy or regulatory gaps (Principle 3b)
- + Provide effective guidance to business (Principle 3c)
- + Foster business respect for human rights both at home and abroad (Principle 3d)

When there is a State–business nexus, States must also consider the following:

- + State-owned enterprises take the lead and develop human rights policies, implement HRDD processes, and provide remediation when adverse impacts are identified (Principle 4)
- + Trade or export credit support are provided to companies that embrace the UNGPs and otherwise show respect for human rights in operations (Principle 4)
- + Commercial transactions (e.g. public procurement) are informed by human rights risk assessments (Principle 6)
- + States should work with business to ensure that businesses operating in conflict-affected areas are not involved with serious human rights abuses (Principle 7)
- + Ensure that all government departments, agencies and institutions that shape business practices are aware of and observe human rights obligations when fulfilling their respective mandates (Principle 8)
- + Fulfil their duty to protect when they participate in multilateral institutions (e.g. World Bank, IMF) with other States (Principle 9)

A State can show its commitment to the UNGPs by adopting a National Action Plan on BHR. This may involve developing a steering committee, conducting a baseline study, consulting widely with stakeholders, and

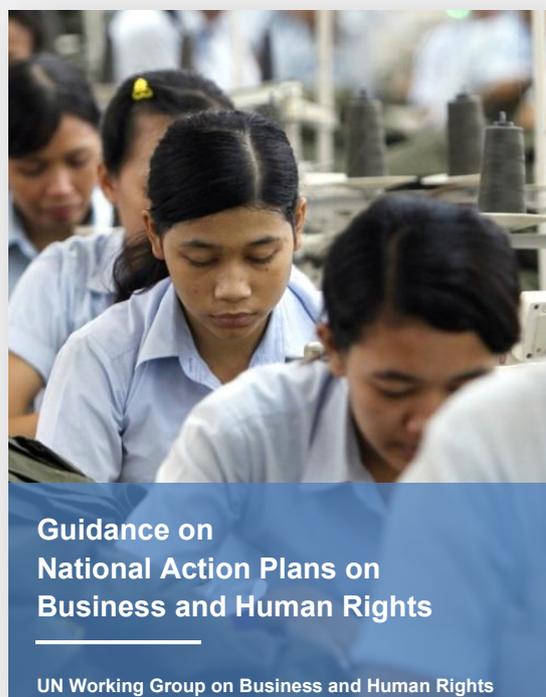
See the available resources on developing a NAP on BHR by the following organizations:

Office of the High Commissioner on Human Rights: *Guidance on National Action Plans on Business and Human Rights* (2016)

The Danish Institute for Human Rights (DIHR) and the International Corporate Accountability Roundtable (ICAR): *National Action Plans on Business and Human Rights Toolkit* (2017)

United Nations Children’s Fund (UNICEF), DIHR and ICAR: *Children’s Rights in National Action Plans on Business and Human Rights* (2015)

DIHR, National Action Plans on Business and Human Rights, <https://globalnaps.org/>



**“Businesses are not neutral actors in conflict settings ... Even if business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics.”**

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises ‘Business, human rights and conflict-affected regions: towards heightened action’ 21 July 2020, A/75/212

adopting a whole-of-government approach in design and implementation.

### 🌐 **What do the UN Guiding Principles on Business and Human Rights say about protecting and respecting human rights against business-related adverse impacts in conflict contexts?**

In conflict settings, the likelihood and severity of human rights abuses is considerably higher than in non-conflict settings, and vulnerable groups will inevitably suffer disproportionately from conflicts' negative impacts.

The State and business have complementary roles to play:

1. Home and host States should use their key policy tools and levers to ensure that business engages in conflict-sensitive heightened due diligence when operating in conflict-affected areas
2. Businesses for their part will need to adopt enhanced HRDD practices and incorporate key principles of conflict sensitivity

The role of States:

Under Guiding **Principle 7**, the UNGPs provide States should help ensure that business enterprises operating in those conflict contexts are not involved with abuses, in the following ways:

- A. Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships
- B. Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence
- C. Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation
- D. Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses

The commentary to Principle 12 further clarifies that the scope of the corporate responsibility to respect may be broader in conflict-affected contexts, as "in situations of armed conflict enterprises should respect the standards of international humanitarian law."

### 🌐 **When should States require that business take heightened due diligence?**

A report from the UNWG, 'Business, human rights and conflict-affected regions: towards heightened action' (available at [undocs.org/en/A/75/212](https://undocs.org/en/A/75/212)), provides that States and business should identify triggers of conflict and plan accordingly.<sup>4</sup>

Triggers include:

1. The presence of armed conflict and other forms of instability
2. Weakness or absence of State structures
3. Record of serious violations of international human rights and humanitarian law
4. Warnings signals, including:
  - a. steps being taken towards mass violence, including the amassing of weapons and arms
  - b. the imposition of emergency laws or extraordinary security measures
  - c. the suspension of, or interference with, vital State institutions
  - d. increased politicization of identity and
  - e. increased inflammatory rhetoric or hate speech



#### Quiz

If you have a Mentimeter account, you can copy the slides for the following questions by accessing the [Part I – Module 3, Session 1](#) presentation online. The page is also available by scanning this QR code:



*Which of the following will help the State to meet its duty to protect rights holders against human rights abuses by business actors, under the UNGPs?*

**Draft legislation to regulate or eliminate any recruitment fees taken from migrant workers: AGREE/ DISAGREE?**

Correct answer: Participants should **Agree**, as exorbitant recruitment fees lead to conditions conducive to forced or bonded labour.

**Create a task force to identify gaps in the regulation of environmental impact assessments (EIAs): AGREE/ DISAGREE?**

Correct answer: Participants should **Agree**, as EIAs are key to protecting, among other things, livelihoods, health, land rights, cultural rights and Indigenous Peoples' rights.

4 Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: 'Business, human rights and conflict-affected regions: towards heightened action', 21 July 2020, A/75/212

**Request local government to be involved in developing a plan to address land rights issues: AGREE/DISAGREE?**

Correct answer: Participants should **Agree**, as local government must also be engaged to protect land rights from overreaching by some businesses.

**Develop laws and policies that discourage all business enterprises from operating in conflict-settings so as not to be involved in these high-risk contexts: AGREE/DISAGREE?**

Correct answer: Participants should probably **Disagree**. The UNGPs do not advise that businesses should avoid all conflict contexts as there might be times when it is not advisable or even possible to do so. Instead, the UNGPs provide that States should engage at the earliest possible stage with business enterprises to help them identify, prevent and mitigate the human rights–related risks of their activities and business relationships.

## Session 2: Pillar 2 – Business Obligation to Respect (Principles 11 to 24)

	50 minutes
	At the end of this session, participants will have a better understanding of what businesses can do to show respect for human rights, the subject of Pillar 2.
	Lecture followed by a quiz.
	With this section, we are still providing an overview of the UNGPs but with a focus on Pillar 2. This section acts as an introduction to Pillar 2, covering the principles underlying human rights policy, HRDD and remedy.
	<ol style="list-style-type: none"> <li>1. Explain that during this session, we will be introducing Pillar 2 of the UNGPs and the underlying principles driving the business obligation to respect human rights.</li> <li>2. Inform the audience that this session is intended only as an overview.</li> <li>3. Tell the participants that the session will last 50 minutes, and that there will be a group quiz at the end.</li> <li>4. Introduce the material as follows below.</li> </ol>

### **How can business show respect for human rights?**

Pillar 2 provides that: “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.” – Principle 11.

More specifically, the UNGPs instruct that businesses should show respect by:

1. Embedding their responsibility to respect human rights by establishing a policy commitment (Principle 16)
2. Conducting HRDD (Principles 17 to 21 and 24), which is a process to identify, prevent, mitigate, and account for adverse human rights impacts
3. Remediate adverse impacts on human rights that have already occurred (Principle 22)

These three items above will be unpacked more thoroughly in the sessions to come. For now, it is important to uncover some of the underlying principles covered in the two segments below.

### **What kind of businesses should prioritize respect for human rights?**

The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their

size, sector, operational context, ownership, and structure (Principle 14).

Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts (Principle 14).

The responsibility to respect human rights extends throughout a company’s operations and includes all its business relationships throughout its value chain. This also implies that it is responsible for the impacts of all services and products it offers to end users (Principle 13). The UNGPs ask businesses to address human rights impacts beyond their “sphere of influence.”

### **What are some fundamental considerations for business to internalize before they embark on efforts to demonstrate respect for human rights?**

When the UNGPs say that risks must be prevented and mitigated, they are referring to human rights risks; Pillar 2 is not concerned with risks to the business (such as profitability).

Companies cannot offset negative impacts on people by “doing good,” through what we often call CSR. For example, a company cannot offset the fact that there is child labour used in its supply chains by building a school (See commentary on Principle 11).

Where it is difficult to address all human rights risks or impacts identified, companies should first seek to prevent and mitigate those that are most severe or where a delayed response would make them irremediable (Principle 24).

Compliance with local laws may not be sufficient to meet the expectations of the Guiding Principles (see commentary on Principle 13).

For companies working in conflict-affected areas, risk mitigation approaches would necessarily intensify, and indeed rise to the level of legal compliance (Principle 23).



### Quiz

If you have a Mentimeter account, you can copy the slides for the following questions by accessing the [Part I – Module 3 Session 2](#) presentation online. The page is also available by scanning this QR code:



**What are the three things that the UNGPs say that businesses should do to show respect for human rights?**

- A. Develop a Human Rights Policy, conduct HRDD and, provide grants to civil society organizations (CSOs)
- B. Conduct HRDD, provide grants to CSOs and, provide remedy to victims where required
- C. Conduct HRDD, develop a Human Rights Policy and, provide remedy to victims of abuses where required
- D. Develop a Human Rights Policy, divest from businesses that do not have a human rights policy, provide remedy where required

The answer is **C**. The UNGPs do not prescribe providing grants to CSOs under Pillar 2 as important as that may be to reaching human rights objectives. Further, the UNGPs do not advocate for divestment in companies that do not have a human rights policy.

**The responsibility to respect human rights applies only to large, publicly held businesses in industries where the risks of human rights abuses are well-known. TRUE or FALSE?**

**FALSE.** The responsibility of business enterprises to respect human rights applies to ALL enterprises regardless of their size, sector, operational context, ownership, and structure (Principle 14). However, the means through which enterprises meet that responsibility may vary according to size of the business, complexity of the issues and the severity of human rights risks (Principle 14).

**The UNGPs provide that a balance between risks and opportunities may need to be considered. Thus, risks need to be understood as risks to humans AND the risk to business profitability. TRUE or FALSE?**

**FALSE.** When the UNGPs say that risks must be prevented and mitigated, they are referring to human rights risks; Pillar 2 is not concerned with risks to the business (such as profitability). However, it is possible that mitigating an enterprise's human rights risk exposure leads to fewer reputational and operational challenges.

## Session 3: Human Rights Policy (Principle 16)

	50 minutes
	At the end of this session, participants will have a better understanding of what businesses can do to show respect for human rights, the subject of Pillar 2.
	Lecture followed by a review of existing human rights policies and a quiz.
	With this section, we are still providing an overview of the UNGPs, focusing here on crafting human rights policies. However, this section does not go into great detail.
	<ol style="list-style-type: none"> <li>1. Tell the participants that the session will last 50 minutes, and that there will be a facilitated discussion at the end.</li> <li>2. Further inform participants that during this session, we will be developing our understanding of what goes into developing a human rights policy.</li> <li>3. Inform the audience that this session is intended only as an overview.</li> <li>4. Introduce the material as follows below.</li> </ol>

### Why and how does a company draft a human rights policy or statement? – Principle 16

A policy statement is a critical component of implementing the responsibility to respect human rights, as it serves as the basis for embedding related processes and policies across operations and its value chain.

Though business must respect all internationally recognized human rights, some businesses will have more exposure to a class or type of human rights risk than others. It would be impractical and unwieldy for readers to digest a human rights policy based detailing responses to all possible human rights. Thus, as a first step in writing a human rights policy, a company might map out a company's salient human rights issues or begin with a particular human rights issue that has arisen in connection with the company's operations. Relevancy is the first feature of a credible human rights policy that invites buy-in from all stakeholders, including employees. For example:

- + An information and communications technology (ICT) company may want to focus on privacy rights
- + A food and beverage company may want to address labour and land issues

The human rights policy can also be integrated into a broader sustainability policy or code of conduct.

- + ANA Human Rights Policy available at: [www.ana.co.jp/group/en/csr/effort/pdf/humanrights\\_e.pdf](http://www.ana.co.jp/group/en/csr/effort/pdf/humanrights_e.pdf)
- + Coca Cola Policy available at: [www.coca-colacompany.com/content/dam/journey/us/en/policies/pdf/human-workplace-rights/california-transparency-in-supply-chain-act/human-rights-policy-pdf-english.pdf](http://www.coca-colacompany.com/content/dam/journey/us/en/policies/pdf/human-workplace-rights/california-transparency-in-supply-chain-act/human-rights-policy-pdf-english.pdf)
- + Cargill Human Rights Policy available at: [www.cargill.com/doc/1432136529974/cargill-commitment-on-human-rights.pdf](http://www.cargill.com/doc/1432136529974/cargill-commitment-on-human-rights.pdf)

**ANA Group Policy on Human Rights**

At the ANA Group, we understand that we must respect the human rights of all persons affected by our business activities, and we will make every effort to safeguard their dignity and to show them respect.

- 1. Stance**  
The ANA Group hereby establishes a Human Rights Policy ("the Policy") based on the International Bill of Rights (the Universal Declaration of Human Rights and the two International Covenants), the International Labor Organization Declaration on Fundamental Principles and Rights at Work, the Ten Principles of the United Nations Global Compact, and the United Nations Guiding Principles on Business and Human Rights, and will promote efforts for the respect of human rights. The Policy also articulates ANA's commitment to respect human rights in accordance with ANA's Mission Statement, Management Vision, and Code of Conduct (ANA's Way).
- 2. Scope of Application**  
The Policy will apply to all officers and employees of the ANA Group (all staff including executives, permanent staff and contract staff). The ANA Group will also continuously encourage its business partners and suppliers not only to support the Policy but also to adopt a similar policy, and will cooperate with its business partners and suppliers in promoting respect for human rights.
- 3. Responsibility to Respect Human Rights**  
The ANA Group will fulfill its responsibility to respect human rights by ensuring that its business activities do not result in violations of human rights, and by responding appropriately to correct any adverse impact our business activities may have on human rights. In the event our business partners or suppliers have an adverse impact on human rights, we will use our influence to encourage them to take appropriate measures. The ANA Group will name one person responsible (Chief CSR Promotion Officer) for overseeing implementation of, and monitoring adherence to, this Policy.
- 4. Compliance with Applicable Laws and Regulations**  
The ANA Group will comply with the laws and regulations of all countries where it conducts its business activities. It will also respect international human rights standards to the maximum extent possible, and actively promote these standards.
- 5. Training and Education**  
The ANA Group will provide appropriate training and education for its executives and employees.



### The Coca-Cola Company Human Rights Policy

**Respect for Human Rights**

Respect for human rights is a fundamental value of The Coca-Cola Company. We strive to respect and promote human rights in accordance with the UN Guiding Principles on Business and Human Rights in our relationships with our employees, suppliers and independent bottlers. Our aim is to help increase the enjoyment of human rights within the communities in which we operate.

This Policy is guided by international human rights principles encompassed by the Universal Declaration of Human Rights, including those contained within the International Bill of Rights and the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work.

This policy applies to The Coca-Cola Company, the entities that we own, the entities in which we hold a majority interest and the facilities that we manage. The Company also expects independent bottlers and suppliers to uphold these principles and urges them to adopt similar policies within their own businesses.

We use due diligence as a means to identify and prevent human rights risks to people in our business and value chain. Where we have identified adverse human rights impacts resulting from or caused by our business activities, we are committed to provide for or cooperate in, their fair and equitable remediation. We seek to promote access to remediation where we are linked to or involved in those adverse impacts through our relationships with third parties.

The Human Rights Policy is overseen by The Coca-Cola Company's Board of Directors, incl



**Cargill Commitment on Human Rights**

**Our Commitment**

Cargill is committed to treating people with dignity and respect in the workplace and in the communities where we do business. We promote and respect human rights as outlined in the Universal Declaration of Human Rights and the UN Sustainable Development Goals. We are a participant in the UN Global Compact. We take guidance from the UN Guiding Principles on Business and Human Rights and the International Labour Organisation Fundamental Principles and Rights at Work. These frameworks call on us to engage in due diligence and take action to remedy issues where identified in our workplaces, supply chains and extended communities.

Cargill's purpose is to nourish the world in a safe, responsible and sustainable way. We aspire to be the most trusted source of products and services across the agricultural, food, industrial and financial markets we serve. As a result of the diverse regions and industries we operate in, we aim to operationalize this Commitment in three key areas: at work, in our supply chains, and in our extended communities.

This Commitment contains overarching principles that we embed into our policies and systems. Material impacts are further outlined and addressed through specific supply chain commitments.

**Promotion of an equitable, safe and supportive workplace**

Cargill's people are our greatest asset. We provide an equitable, safe and supportive workplace. We value the unique contributions of our global team, enabling those who support Cargill's goals to achieve their own individual potential.

Our Code of Conduct serves as the foundation for the behaviors expected from all our employees. Every employee receives an introduction to Cargill's Code of Conduct and Guiding Principles, which is followed by regular training to help ensure that employees' actions align with the Company's commitments on business conduct, the environment, people and communities.

**Safe:** A key measure of our success is sending every employee and contractor home safe every day. We are committed to conducting all our business activities in a manner that protects the health and safety of our people. Cargill's commitment to safety includes protecting personal data, and we have global rules for the lawful and proper handling of this data.

**Equitable:** We apply equitable hiring practices, offer competitive compensation for our employees, and meet or exceed all applicable laws regarding working conditions. We respect the freedom of association and employees' right to choose to form or voluntarily join trade unions and collectively bargain. We have committed to achieving gender parity at the executive level by 2030.

February 2019

<b>HIGH-LEVEL REFERENCE</b>	A short reference to human rights in the company's mission, values statement, or other overarching document
<b>POLICY STATEMENT</b>	A more elaborate statement outlining the company's expectations and accountability structures with respect to human rights, either in a stand-alone policy or integrated into a broader sustainability policy or code of conduct
<b>OPERATIONAL GUIDANCE</b>	Detailed guidance in functional or geographical areas, instructing managers and others what they specifically need to do in their daily work; often integrated into existing operational policies

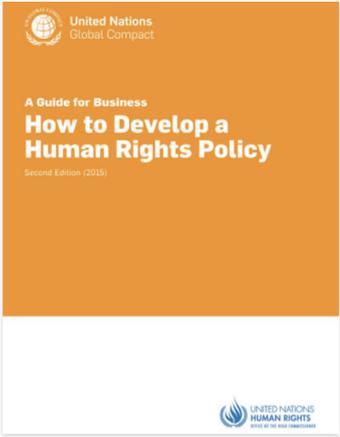
A policy statement may include the following tiers of commitments.

Source: Shift, Oxfam and Global Compact Network Netherlands. *Doing Business with Respect for Human Rights: A Guidance Tool for Companies* (2016). Available at [aim-progress.com/storage/resources/business-respect-human-rights-full.pdf](http://aim-progress.com/storage/resources/business-respect-human-rights-full.pdf)

A potential second step is to solicit employees for their views. According to Shift, a BHR advisory firm, "Engaging with [employees] can improve not only the content of the policy but can also help generate greater buy-in once it is formally adopted."<sup>5</sup>

What is true of employees is also true of external stakeholders. Engagement with stakeholders may be time consuming but in an operational setting where trust is low or the risks of human rights abuses are significant, incorporating the views of external actors **may infuse a human rights policy with life, purpose and utility.**

Engagement with external stakeholders on a human rights policy may also enhance internal management capacities and strategies. As noted by twentyfifty, another BHR advisory firm, "The capability to interact with a broad range of stakeholders in society is becoming an essential competence for general managers and CEOs and one of the keys to long term business performance and resilience in an everchanging corporate environment." Global Compact Network Germany and twentyfifty. *Stakeholder Engagement in Human Rights Due Diligence* (2014).



**Resource Author**  
United Nations Global Compact

Report (2015)

**Guide on How to Develop a Human Rights Policy**

Provides instruction on how businesses can develop and implement a human rights policy within their companies. The second edition of How to Develop a Human Rights Policy was designed by Human Rights and Labour Working Group member Ernst & Young - Japan.

**Access Resource**

- [A Guide for Business: How to Develop a Human Rights Policy \(English\)](#)
- [A Guide for Business: How to Develop a Human Rights Policy \(Spanish\)](#)

Global Compact resources are available at [www.unglobalcompact.org/library/22](http://www.unglobalcompact.org/library/22)

5 Shift, Oxfam and Global Compact Network Netherlands. *Doing Business with Respect for Human Rights: A Guidance Tool for Companies* (2016). Available at [aim-progress.com/storage/resources/business-respect-human-rights-full.pdf](http://aim-progress.com/storage/resources/business-respect-human-rights-full.pdf)

### **What are some essential features of all credible human rights policy commitments?**

The UNGPs hold that credible human rights policies must:

- + Stipulate the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services
- + Be approved at the most senior level of the business enterprise
- + Be informed by relevant internal and/or external expertise
- + Be publicly available and communicated internally and externally to all personnel, business partners and other relevant parties
- + Be reflected in operational policies and procedures necessary to embed them throughout the business enterprise



#### **Facilitated discussion**

Ask whether anyone in the audience has drafted a human rights or sustainability policy. What were their experiences?

Using the links above, read through some key passages of a human rights policy as a clearer demonstration of a policy's components. Ask the audience if they see anything missing. Ask the trainees if they would want to include more.



#### **Quiz**

If you have a Mentimeter account, you can copy the slides for the following questions by accessing the [Part 1 – Module 3 Session 3](#) presentation online. The page is also available by scanning this QR code:



### **Which one the following answers is NOT true?**

Human rights policies are strongest when:

- A. The policy is informed by employee feedback, to ensure buy-in.
- B. The policy is as broad as possible and covers areas that may go beyond the scope of business operations, to impact on the greatest number of people.
- C. The policy is approved at the most senior levels, to encourage adoption at all levels of the business.
- D. The policy is detailed enough to be incorporated into operational policies and procedures.

The correct answer is **B**. The policy is strongest when it is relevant to the business and its operational footprint. If a policy is too broad it may be difficult to secure employee buy-in. It may also make it difficult to incorporate the human rights commitment into operational policies and procedures.

## Session 4: Human Rights Due Diligence (Principle 17 to 21)

	50 minutes
	At the end of this session, participants will have a better understanding of what businesses can do to show respect for human rights, the subject of Pillar 2.
	Lecture followed by a quiz.
	This session does not go into detail on how to conduct human rights due diligence. Detailed training is found in Part 2 of this training facilitation guide. The facilitator should familiarize themselves with the UNGPs before the training itself, including the Commentary and Frequently Asked Questions guidance provided by OHCHR (available at <a href="https://www.ohchr.org/documents/publications/faq_principlesbusinessshr.pdf">ohchr.org/documents/publications/faq_principlesbusinessshr.pdf</a> ) to ensure that they can answer any questions.
	<ol style="list-style-type: none"> <li>1. Explain that during this session, we will be introducing HRDD practice as found under Pillar 2 of the UNGPs.</li> <li>2. Inform the audience that this session is not intended to provide a deep dive into human rights due diligence. That training is reserved for Part 2.</li> <li>3. Tell the participants that the session will last 50 minutes, and that there will be a group quiz at the end.</li> <li>4. Introduce the material as follows below.</li> </ol>

### What do the UNGPs say about human rights due diligence (HRDD)?

The UNGPs provide the world's highest level of agreed standards for conducting human rights due diligence. These standards are found in the UNGPs under Principles 17 to 21. HRDD is sometimes spoken of as a "know and show" process – a means to know an enterprise's human rights risks, and to show what the enterprise is doing about them.

The UNGPs outline that businesses must prevent and account for how they address their adverse human rights impacts. In doing so, businesses should undertake "due diligence" which involves four steps:

1. Identify and assess actual and potential human rights impacts
2. Integrate and act upon the findings
3. Track and verify effectiveness of responses
4. Communicate and account for how impacts are addressed and any results

When a business conducts HRDD and identifies that human rights impacts have already occurred, the business should also remediate those actual impacts (Principle 22).

### What are some of the primary considerations for conducting human rights due diligence?

HRDD should cover impacts that the business caused or contributed to through its own activities, or which may be directly linked to its operations, products or services by its business relationships (Principles 17a and 19).

Due diligence should be ongoing, as risks and impacts change overtime, just as operational contexts change (Principle 17c).

Importantly, due diligence involves multi-stakeholder engagement (Principle 18). To assess human rights impacts accurately, businesses should seek to understand the concerns of stakeholders by consulting them directly.

Business should **integrate** the findings from their impact assessments across functions and processes (Principle 19). This may involve assigning responsibilities to individuals and units, while integrating other considerations into:

- + Decision-making processes
- + Budgeting for compliance, mitigation, and remedy
- + Oversight and compliance with impact assessment recommendations

In order to verify whether adverse human rights impacts are being addressed, business enterprises should also **track** the effectiveness of their response (Principle 20).

Tracking should:

- + Be based on appropriate qualitative and quantitative indicators
- + Draw on feedback from both internal and external sources, including affected stakeholders

Business enterprises should be prepared to **communicate** how they will assess their human rights impacts externally, particularly when concerns are raised by or on behalf of affected stakeholders (Principle 21).



2. Map the main actors in the conflict and their motives, capacities and opportunities to inflict violence
3. Identify and anticipate the ways in which the businesses' own operations, products or services impact upon existing social tensions and relationships between the various groups, and/or create new tensions or conflicts

**In conflict settings how does a business prioritize what impacts and risks to address first?**

In conflict situations, prioritization requires businesses to think about the likelihood and consequences of conflict as a crucial element:

1. How likely is the issue to create or exacerbate conflict?
2. How severe are the human rights implications of the conflict risks identified?



**Facilitated discussion**

What do you see as some barriers to knowing and showing respect for human rights?

What do you see as some obstacles to complying with the provisions of Pillar 2?



**Quiz**

If you have a Mentimeter account, you can copy the slides for the following questions by accessing the [Part 1 – Module 3 Session 4](#) presentation online. The page is also available by scanning this QR code:



The correct answer is **B**. National Action Plans are government instruments though they are developed through multi-stakeholder consultations. Some participants may answer that Answer D is also not enough to show respect, which may be true. Still, Answer B is the most accurate answer to the question posed. See below.

**Which of the following statements is the least accurate?**

- A. It is important for businesses to communicate with the public about what the business has done to respect human rights.
- B. Businesses should provide a remedy for human rights abuses that they have caused or contributed to.
- C. When businesses follow national laws closely, they can be sure that human rights will be honoured.
- D. Human rights policies should be approved by the most senior levels of the company.

The correct answer is **C**. Following national laws may not be enough to ensure that human rights are respected.

**Which of the following is NOT included as a way that businesses can show respect for human rights under Pillar 2 of the UNGPs?**

- A. Articulate a commitment to human rights through a Human Rights Policy
- B. Developing National Action Plans on Business and Human Rights
- C. Developing processes to identify and address risks to human rights
- D. Following local laws strictly

## Session 5: Pillar 3 – State and Business – Access to Remedy (Principles 25 to 28)

	50 minutes
	Participants will have a better understanding of the scope of Pillar 3.
	Lecture followed by facilitated discussion.
	This section provides participants an overall understanding of Pillar 3. It does not go into detail on how to provide remedy or on grievance mechanisms. The facilitator should familiarize themselves with the UNGPs before the training itself, including the Commentary and Frequently Asked Questions guidance provided by OHCHR (available at <a href="http://www.ohchr.org/Documents/Publications/FAQ_PrinciplesBusinessHR.pdf">www.ohchr.org/Documents/Publications/FAQ_PrinciplesBusinessHR.pdf</a> ) to ensure that they can answer any questions.
	<ol style="list-style-type: none"> <li>1. Explain that during this session, we will be introducing Pillar 3 of the UN Guiding Principles on Business and Human Rights which involves “remedy.”</li> <li>2. Inform the participants that the session will last for 50 minutes, and that there will be a facilitated discussion at the end.</li> <li>3. Explain that this session on access to remedy is the final session of Part I of the training. Remind the audience that this session is merely providing an overview of the UNGPs.</li> <li>4. Introduce the material as follows.</li> </ol>

### What is access to remedy?

Access to remedy for human rights abuses is a prerequisite for the full enjoyment of human rights.

A remedy for abuse may include **apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions**, as well as efforts initiated to prevent future harm through, for example, injunctions or guarantees of non-repetition.

Below is a statement from Coca-Cola on its access to remedy work: “When we identify that we have caused or contributed to adverse human rights impacts, we are committed to providing for or cooperating in remediation. Our mechanisms do not obstruct access to other remedy procedures.”



Source: Coca Cola Human Rights Report available at [www.coca-colacompany.com/content/dam/journey/us/en/responsible-business/better-shared-business-landing/human-rights-report-2016-2017-tccc.pdf](http://www.coca-colacompany.com/content/dam/journey/us/en/responsible-business/better-shared-business-landing/human-rights-report-2016-2017-tccc.pdf)

PepsiCo’s Human Rights webpage states: “We recognize that our policies and programs may not prevent all adverse impacts in our value chain, and we aim to provide effective remedy where we have caused or contributed to those impacts and to using our leverage to encourage our suppliers or partners to provide remedy where we find impacts directly linked to our business operations, goods or services.”

Unilever’s Human Rights Statement states: “We place importance on the provision of effective remedy wherever human rights impacts occur through company-based grievance mechanisms.”

### Who has the duty to provide for access to remedy?

The United Nations Working Group on Business and Human Rights has stated that victims “should be able to seek, obtain and enforce a bouquet of remedies.” (Principles 25 – 31)

This bouquet includes non-judicial mechanisms, including operational-level grievance mechanisms.

What is key is that both judicial and non-judicial mechanisms should be capable of, “providing effective remedies in practice.”

In the UNGPs, remedy provision is applicable to both State and businesses:

The State obligation to protect human rights through remedy is outlined under Principles 25 to 28.

Businesses' responsibility to provide for access to remedy is found under Principles 29 and 30.

Effectiveness criteria for all remedies under Pillar 3 of the UNGPs are listed under Principle 31.

States must provide remedy through "judicial, administrative, legislative or other appropriate means" (Principle 25). This means that States have various types of mechanisms at their disposal to ensure State-based remedy. These State-based mechanisms can be divided into two general categories:

- + State-based judicial mechanisms (for example, courts)
- + State-based non-judicial grievance mechanisms (for example, tribunals inside of a ministry or National Human Rights Institutions)

Principle 27 provides that States should take appropriate steps to ensure that their courts are effective in addressing business-related human rights abuses. In this respect, States should also consider ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

Moreover, States should also establish non-judicial mechanisms to complement courts. Principle 27 provides that "States should provide effective and appropriate non-judicial grievance mechanisms ... as part of a comprehensive State-based system for the remedy of business-related human rights abuse."

The United Nations Working Group on Business and Human Rights acknowledges that some non-judicial processes can enhance complainants' choice, self-determination and autonomy and give them the opportunity to shape the types of remedies they receive.

### **What is a State-based remedy provision?**

The commentary found under Principle 25 provides that "unless States take appropriate steps to investigate, punish and redress business-related human rights abuses when they do occur, the State duty to protect can be rendered weak or even meaningless."

## Case study

### **4. Peerapol Mining Co. Ltd v Khao Khuha Community Rights Network (Thailand)**

Members of the Khao Khuha Community Rights Network (KKCRN) ["defendants"] protested against the operations of Peerapol Mining Company in the Khao Khuha area in Thailand, alleging that these operations had resulted in excessive dust and other environmental harms for their community. The community also sent a letter to the Prime Minister requesting the suspension of the company's concession/permit and filed cases against public officials before the Office of the Ombudsman.

As a result, in 2011, Peerapol Mining Co. filed defamation charges in front of the local court under the Tort Act against nine members of the KKCRN, seeking 64,000,000 Thai Baht (over USD 2 million) in damages. The company withdrew their case before it could go to trial. The community members subsequently filed and won a countersuit against the company in front of the Supreme Court, seeking damages for harms to their reputation and dignity. The Supreme Court ruled in favour of the members of the KKCRN, affirming their right to protest and to file official complaints against the company. The court further noted that the residents were merely exercising their rights, and that the lawsuit brought by Peerapol Mining was damaging behaviour, not carried out in good faith, and ordered the company to pay for reputational injury caused, as well as for health and "mental damages".

Source: Peerapol Mining Co. Ltd v Nine members of Khao Khuha Community Rights Network (2013), available at [business-humanrights.org/sites/default/files/documents/2020\\_CLA\\_Annual\\_Briefing\\_SLAPPs\\_SEA\\_FINAL.pdf](https://business-humanrights.org/sites/default/files/documents/2020_CLA_Annual_Briefing_SLAPPs_SEA_FINAL.pdf)

In a court case against a mining company for remedy, the Thai Supreme Court ruled in favour of the members of the Khao Khuha Community Rights Network, affirming their right to protest and to file official complaints against the company. The court further noted that the residents were merely exercising their rights, and that the countersuit involving defamation was damaging behaviour not carried out in good faith and ordered the company to pay for reputational injury caused, as well as for health and "mental damages."

Source: BHRRC. Defending Defenders, Challenging Malicious Lawsuits in SE Asia (2020), available at [media.business-humanrights.org/media/documents/files/documents/2020\\_CLA\\_Annual\\_Briefing\\_SLAPPs\\_SEA\\_FINAL.pdf](https://media.business-humanrights.org/media/documents/files/documents/2020_CLA_Annual_Briefing_SLAPPs_SEA_FINAL.pdf)

Remedy may take various forms, including a combination of apologies, restitution, rehabilitation, financial compensation, punitive sanctions and/or guarantees of non-repetition.

### What are some examples of non-judicial mechanisms?

- + National Human Rights Institutions (NHRIs)
- + OECD National Contact Points (NCP)
- + Government agencies
- + Independent bodies
- + Labour tribunals
- + Ombudspersons
- + Government-run complaints offices

### Case study: State-based non-judicial mechanism

#### 6. CONCLUSION

On 24 April 2013, the Rana Plaza building in Dhaka, Bangladesh collapsed. The building housed a number of textile manufacturers, including New Wave Style, a supplier to the respondent, PWT Group A/S. The collapse killed 1,138 people and injured more than 2,000.

On the basis of this event, Clean Clothes Campaign (CCCC) and Aktive Forbrugere (AF) submitted a complaint to the NCP asserting that PWT Group had not carried out due diligence in terms of ensuring that New Wave Style complied with its obligation to ensure just and favourable working conditions, as well as health and safety at the workplace, see the OECD Guidelines for Multinational Enterprises, chapter II (General Policies), chapter IV (Human Rights) and chapter V (Employment and Industrial Relations).

The complainant has asserted that PWT Group acted in violation of the OECD Guidelines for Multinational Enterprises by neglecting to carry out due diligence to prevent the building collapse.

This complaint is rejected by PWT Group, with reference to the company's decision-making and risk systems, which have regularly assessed the conditions at New Wave Style and ensured that the supplier had orderly conditions for its employees. PWT Group asserts that, in connection with its inspections of New Wave Style, no circumstances were

#### 7. RECOMMENDATIONS

The NCP recommends that the respondent, PWT Group, revises its management and risk assessment systems in order to implement processes by which the company can meet the requirement of due diligence in relation to its suppliers, in accordance with chapter II of the OECD Guidelines.

PWT Group should also ensure that the company's CSR policy complies with the OECD Guidelines for Multinational Enterprises, particularly with regard to fundamental human and labour rights.

PWT Group is recommended to review its suppliers' self-assessments in conjunction with an analysis of industry and country risks and, on this basis, select which circumstances are to be inspected. The NCP recommends that PWT Group report and communicate about these efforts and about the measures carried out by the supplier to prevent potential risks, see the OECD Guidelines, chapter II, paragraph 10 and chapter IV, paragraph 5 and associated comment no. 45.

The NCP recommends that PWT Group continues its efforts to systematically incorporate the company's Code of Conduct into management and risk systems.

Occurrences such as that at Rana Plaza show that companies cannot assume that inspections of building safety are responsibly conducted by local authorities, nor by their own employees without special structural engineering qualifications.

After the collapse of the Rana Plaza building in Bangladesh, civil society organizations brought complaints to the OECD National Contact Point (NCP) in Denmark, alleging that a buyer had not conducted HRDD in accordance with the OECD Guidelines for Multinational Enterprises. Finding against the company, the NCP recommended a review of the buyer's management systems, and supplier self-assessments among other actions.

Source: Final Statement of the Denmark National Contact Point to the OECD on a 'Specific instance notified by Clean Clothes Campaign Denmark and Active Consumers regarding the activities of PWT Group' available at [businessconduct.dk/file/631421/mki-final-statement.pdf](https://businessconduct.dk/file/631421/mki-final-statement.pdf)

### What do remedies look like?

- + Improved conditions for victims of corporate abuses
- + Directly improved conditions for victims of corporate abuses
- + Restitution and/or (non-)financial compensation for harms
- + Punitive sanctions
- + Guarantees of non-repetition
- + A statement (ideally by the company, potentially by those administering the grievance mechanism) acknowledging wrongdoing

### What are some challenges to achieving remedies?

- + Public awareness of these mechanisms can be low
- + Accessibility is limited by costs and procedural requirements
- + Expert and financial support is lacking
- + Power imbalance is too large between parties
- + Courts or other grievance mechanisms (such as NCPs) are under-equipped
- + Strategic lawsuits against public participation (SLAPP) undercut remedies
- + NHRIs have complaints mechanisms, but case loads are large
- + Class action suits are not permitted in some contexts
- + Extraterritorial barriers to claimants may exist outside the state of domicile

### What does business-based remedy provision look like?

The business responsibility to respect human rights through remedy is outlined under Principles 29 to 31.

The UNGPs provide that businesses and industry groups should establish or participate in operational-level grievance mechanisms to address human rights impacts (Principles 29 and 30).

According to the UNGPs, a grievance is a perceived injustice evoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.

Company-level grievance mechanisms are encouraged to operate through dialogue and engagement, rather than with the company acting as the adjudicator of its own actions.

Grievance Reports and Types			Unit: No. of reports
Types of Grievance	2017	2018	2019
Work conditions	3,894	4,467	4,015
Work environment	4,403	4,165	2,941
Interpersonal relationships	2,414	2,362	2,910
Health and safety	1,755	1,184	1,350
Work change	550	440	456
Organizational change	139	115	71
Harassment	64	63	68
Discrimination	36	18	17
<b>Total</b>	<b>13,255</b>	<b>12,814</b>	<b>11,828</b>

Above, breakdown of disputes brought to Samsung's grievance mechanisms 2016-2019. Samsung Electronics, Sustainability Report, 2020 available at [images.samsung.com/is/content/samsung/p5/uk/aboutsamsung/pdf/Sustainability\\_report\\_2020\\_en\\_F.pdf](https://images.samsung.com/is/content/samsung/p5/uk/aboutsamsung/pdf/Sustainability_report_2020_en_F.pdf)

### What are the benefits and challenges of company-level grievance mechanisms?

Operational grievance mechanisms support the identification of adverse human rights impacts as a part of an enterprise's ongoing human rights due diligence.

Grievance mechanisms make it possible for grievances, once identified, to be addressed and for adverse impacts to be remediated early and directly by the business enterprise, thereby preventing harms from compounding and grievances from escalating.

Challenges:

- + They are difficult to maintain, especially for smaller companies
- + Many complaints will be received that are not related to human rights issues
- + They can undermine the role of trade unions in addressing labour-related disputes

### What are the components for effective non-judicial grievance mechanisms?

As provided for under Principle 31, operational-level mechanisms should be based on engagement and dialogue. Stakeholder groups that are likely to be affected by business operations should be involved in the design of these grievance mechanisms. Further, they should be:

- + Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes
- + Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access
- + Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation

- + Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms
- + Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake
- + Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights
- + A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms



#### Facilitated discussion

What have been your experiences with operational-level mechanisms or non-judicial grievance mechanisms?

How would you improve access to remedy for stakeholders?



# PART II: HUMAN RIGHTS DUE DILIGENCE

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# Overview

## 1.1 Introduction

Part II of the *Human Rights Due Diligence Training Facilitation Guide* focuses primarily on Principles 17 to 21 of Pillar 2 of the UN Guiding Principles on Business and Human Rights (UNGPs). The training also covers Principles 22 to 24 involving remedy, enhanced due diligence and prioritization.

Part II follows Part I of the training guide which covers the content of the UNGPs more broadly. Again, **the objective of the training modules in Part II is to clarify the basic elements of human rights due diligence by tacking closely to internationally agreed principles and widely understood terminology.** Employing a step-by-step approach, the training module allows for businesses to embark on human rights due diligence as a stand-alone effort or as part of a pre-existing assessment or compliance process.

## 1.2 UN Guiding Principles on Business and Human Rights

Unanimously endorsed by the Human Rights Council in 2011, the UNGPs are widely recognized as **the world's most authoritative normative framework** for addressing the adverse impacts of business operations on human rights. The UNGPs "clarify the duties and responsibilities to protect and respect human rights in the context of business activities and to ensure access to an effective remedy for individuals and groups affected by such activities."<sup>9</sup> Composed of 31 principles, the UNGPs are divided into three "Pillars" consisting of:

1. The State duty to protect human rights
2. The corporate responsibility to respect human rights
3. The requirement for States and businesses to ensure access to effective remedy for victims of business-related abuse

Many experts cite the emergence of the UNGPs as the most important development driving responsible business practices over the last 20 years. Importantly though, **the UNGPs do not introduce new laws or regulations.** The UNGPs, instead, propose inclusive approaches, policy coherence, minimum standards and a **logical sequencing towards assessing and addressing human rights risks.**

## 1.3 Organization of the Training Facilitation Guide, Part II

### Objective

The overall objective of Part II of this training guide is for businesses to be informed of **how HRDD is conducted** according to international standards set by the UNGPs.

In pursuit of this, the training will also:

- + Provide an introductory understanding of the UNGPs
- + Help businesses to understand how to identify and prioritize human rights risks
- + Outline ways that businesses can integrate human rights into their management processes

### Target audience

This guide provides facilitators with a tool to train **businesspeople** working in a variety of different capacities, whether in senior leadership positions or middle management, or with functional responsibilities in sales, supply chain management, legal and compliance, or sustainability. However, the training is not exclusively targeted to people in the business sector. The training is also valuable to those who want to learn more about the UNGPs in general, and more specifically about the responsibilities that businesses have towards human rights. UNDP encourages users of this training facilitation guide to tailor their trainings to suit their participants' needs and time constraints: thus, to use the modules or sessions that are necessary.

### Organization

Part II of the Training Facilitation Guide is **organized into two modules:**

Module 1: Introduction to HRDD

Module 2: Unpacking the Four Steps of Human Rights Due Diligence

Module 2 of the training provides a review of the major components of human rights due diligence:

1. Identifying and assessing adverse human rights risks
2. Integrating and acting upon the findings
3. Tracking the effectiveness of responses
4. Communicating how impacts are addressed

9 Office of the High Commissioner for Human Rights (OHCHR). Frequently Asked Questions about the Guiding Principles on Business and Human Rights (2012).

## Methodology

As a content-delivery focused training, the HRDD Training Facilitation Guide is mostly based on lectures. To guide the facilitator in delivering the material, each module and section contains step-by-step guidance, background material, case studies, visuals and topic headings in the form of questions. These “question headings” marked by the  signifier also serve as titles to slides provided in the accompanying slide deck.

The training also relies on survey software for quizzes, group work and other tools to enhance interactivity and help participants gain a deeper understanding of the topics discussed.

Details, notes and interactive components are marked in the guide as such:

	<b>Interactive component</b>
	<b>Time</b>
	<b>Learning objective</b>
	<b>Methodology</b>
	<b>Facilitator notes</b>
	<b>Procedure</b>

As noted above, the HRDD Training Facilitation Guide is **accompanied by a slide deck** that corresponds to the material below and assists in the facilitation of a live event. It is further **complemented by the ‘Human Rights Self-Assessment Training Tool’** (both the slide deck and tool are available only to UNDP staff).

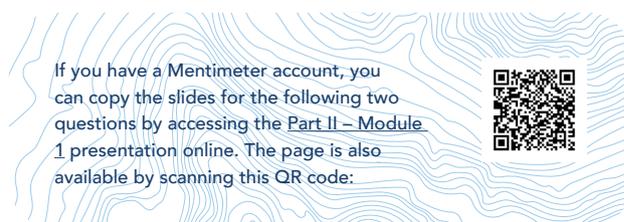
# Module 1: Introduction to Human Rights Due Diligence

	120 minutes (2 hours)
	Participants should come away from this module with a broad understanding of what the training will cover, including what is required of human rights due diligence practice.
	This module is divided into an introductory icebreaker exercise followed by two sessions. The first session focuses on the foundational principles of Pillar 2, while the second session introduces the four steps of HRDD. Module 2 then breaks down the four operational elements of HRDD into detail.
	<p>Some participants may already be subject to significant environmental and social auditing requirements by business partners or clients. As such, they may be wary of the potential time and resource requirements of HRDD. Other participants may be excited about HRDD practice but be worried about getting buy-in from colleagues in management, procurement or human resources units. To alleviate these worries, it is important to keep the material simple and straightforward. It is also helpful to inform participants from time to time that the UNGPs, including Pillar 2 and the HRDD process, were developed in consultation with businesses. In other words, the material which the Training Facilitation Guide covers has been pre-vetted by the business community and has been found to involve an effective and fair approach.</p> <p>If you sense that there is still much apprehension or even scepticism among participants, consider conducting the session under <i>Part I, Module 1. The Business Case</i>, if you did not already do so.</p>
	<ol style="list-style-type: none"> <li>1. Introduce yourself as the trainer or facilitator.</li> <li>2. Inform the participants that by the end of this module, they will gain a strong understanding of what is required of businesses that undertake HRDD.</li> <li>3. Explain that the UNGPs provide the world's most authoritative, normative standards for conducting due diligence. These standards have been adopted by enterprises, business associations and multilateral organizations such as the OECD.</li> <li>4. Tell the audience you want to start the training by understanding the different kinds of expectations they may have of the training.</li> <li>5. Introduce the icebreaker question below on a slide for participants to review.</li> </ol>



## Icebreaker

Consider using Mentimeter, Kahoot, SurveyMonkey or other “live” survey software to collect responses to the questions and other exercises. However, access to a video projector and smartphone functionality is not required. The questions can be asked and answered without registering answers in a software application.



### Question 1: What do you want out of this training today?

- A. To be an expert on HRDD
- B. To get an in-depth overview of HRDD so that I can help my company get started
- C. To understand the basics of HRDD so that when my colleagues talk to me about it, I understand what they are saying
- D. To be licensed as an HRDD expert

If the audience numbers are small enough, ask each participant to introduce themselves and provide a response to the question.

If there are 20 or more people in the training, prepare to conduct the survey online. Share information with participants on how to access the survey online and ask them to respond to the questions using their laptops or smartphones.

Assuming that internet access and/or smartphone functionality is available to the group, please share the consolidated results back to the audience for reflection.

If people chose **answer D**, kindly inform everyone that this is not a licensing programme. However, if all modules are completed successfully with a UNDP trainer, participants will be provided with a certificate of completion.

After this exercise, ask participants to share one thing that they fear going into the training, again using the questions and responses below.

 **Question 2: What concerns do you have about the training today?**

- A. I am worried that the material will be too complicated.
- B. I am worried that the material will not be relevant.
- C. I am worried that the material will not be interactive enough, and I will get bored.
- D. I am worried that I will be distracted by my smartphone and miss out on important information.

Share the consolidated results with the group.

Assure participants that this is an introductory training, and that the material will be supported by case studies and other relevant materials. Thus, for those who chose **answer A**, assure them the material will not be too complicated and will be grounded in case studies which are easy to understand.

Some may be worried that the material is not relevant or suited for businesses and choose **answer B**. As such, inform participants that the HRDD process as outlined in the UNGPs and detailed below has been vetted and endorsed by numerous business associations, including the International Chamber of Commerce and the International Organization of Employers.

For those who are afraid of falling asleep from boredom, **answer C**, inform participants that there are a number of interactive features—quizzes and surveys, facilitated discussions and group work exercises—at the end of each session to keep the training lively.

Hopefully, at least one person from the audience will have chosen **answer D** above. This can prompt you to ask, in a light-hearted manner, for the participants in the room to put their smartphones face down until asked to pick them up during any group exercises. If participants need to communicate with their offices, kindly ask them to leave the room for the calls or messaging so as not to distract others. Thank those who chose answer D for their honesty.

If relevant, inform the group that **due to social distancing rules, the training will not focus on group work common to many workshops**. Instead, there will be periods of facilitated discussion and short quizzes and games to test our newly attained knowledge.

## Session 1: Introduction to human rights due diligence – Part A

	50 minutes
	Participants will gain an introductory understanding of the foundational principles informing the HRDD process.
	This session begins as a lecture—a review of the UNGPs—and ends with two facilitated discussions. The first facilitated discussion is a short exercise on stakeholder engagement to provoke discussion. The second exercise is concerned with potential challenges. These facilitated discussions on multi-stakeholder engagement are intended to reinforce the importance of stakeholder engagement to HRDD. However, if time does not permit, these exercises can be skipped.
	This session will begin by introducing the participants to the UNGPs (if they did not do Part 1 of this training) or to otherwise refresh their understanding. There is also a brief section on what are human rights. Both of these sections can be skipped depending upon the sophistication of the audience.
	<ol style="list-style-type: none"> <li>1. Inform the audience that this session will be 50 minutes in duration.</li> <li>2. Explain that this session and the next are introductory sessions that explore the principles and operational elements of HRDD.</li> <li>3. Explain further that before proceeding, you will quickly summarize what you learned during Part I of the training, Introduction to Business and Human Rights.</li> <li>4. Introduce the material as follows.</li> </ol>

### Brief review of Part I of the HRDD training

As discussed in Part I of this training, Pillar 1 of the UNGPs involves the State duty to protect human rights in the context of business operations. Pillar 2 covers the business responsibility to respect human rights and Pillar 3 involves the roles and/or responsibilities of the State and business to ensure access to remedy for those who have been adversely impacted.

Under Pillar 1, we learned that **States have a duty to protect human rights** in the context of business operations:

- + States must take appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication (Principle 1)

Under Pillar 2, we learned that **business must demonstrate respect for human rights**:

- + Businesses must “avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved” (Principle 11)

Under Pillar 3, we learned that **access to remedy** is a duty of the state, but that businesses too, have responsibilities:

- + States must take appropriate steps to ensure that when human rights abuses occur those affected have access to effective remedy (Principle 25)
- + Further, businesses should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted (Principle 29)

### What are human rights?

Human rights are often expressed and guaranteed by law, including in treaties and conventions. At the heart of our understanding of human rights is the notion that people have a right to be treated with dignity on account of their being human. Every individual is entitled to enjoy human rights without discrimination. These rights are all interrelated, interdependent, and indivisible.

While the Universal Declaration of Human Rights is considered the cornerstone of international human rights, these rights are codified in:

- + The International Covenant on Civil and Political Rights
- + The International Covenant on Economic, Social and Cultural Rights

Collectively, all three documents are known as the International Bill of Human Rights.

Labour rights are enshrined in the Declaration on Fundamental Principles and Rights at Work, which includes four categories of principles and rights:

- + Freedom of association and the right to collective bargaining
- + The elimination of forced labour
- + The abolition of child labour
- + The elimination of discrimination in respect to employment and occupation

These rights are covered in the International Labour Organization’s eight core Conventions.

### How does a business show respect for human rights?

A business can demonstrate respect for human rights by mainstreaming and implementing policies and processes that assist in preventing and addressing human rights abuses in its operations and others in their value chain. Businesses’ commitments can be articulated in human

rights policies, expressed through human rights due diligence practice and demonstrated in the provision of remedies to those who have suffered adverse human rights impacts.

- + Human rights commitment – Develop a human rights policy and make it public and share it with employees, suppliers and external stakeholders
- + Human rights due diligence – Go through the four-step process articulated by the UNGPs
- + Provide a remedy to rights holders when abuses to human rights are uncovered

**What does Pillar 2 of the UNGPs say about conducting HRDD?**

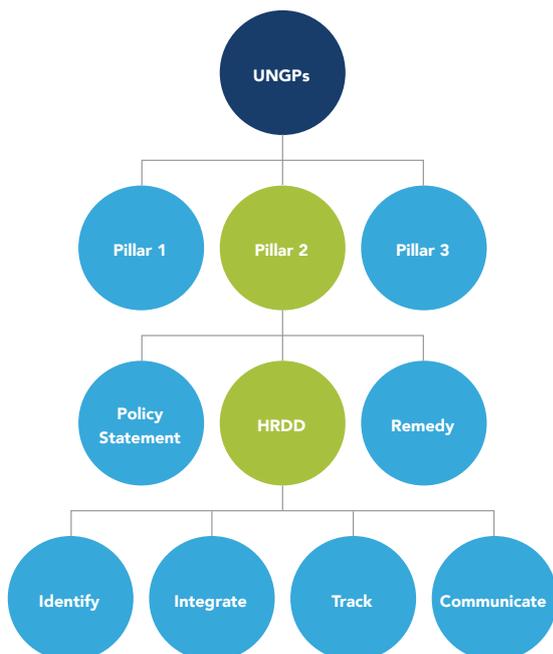
Under **Principle 17**, the UNGPs provide that addressing human rights impacts requires that businesses carry out HRDD to identify, prevent, mitigate and account for human rights abuses.

To meet the business responsibility to respect human rights, the UNGPs provide a set of principles with which to approach HRDD, while outlining a four-step process.

The four-step process for conducting HRDD requires that companies:

1. Identify and assess actual and potential human rights impacts
2. Integrate and act upon the findings
3. Track responses
4. Communicate how impacts are addressed

The following chart demonstrates where HRDD fits into the UNGPs.



**What are some of the foundational principles guiding HRDD practice?**

The HRDD process is informed by the following foundational principles:

Businesses are only responsible for the impacts that they may cause or contribute to through their own activities or which are directly linked to their operations, products or services by their business relationships<sup>10</sup> (Principle 17a).

There is no “off the shelf” approach to HRDD; approaches will vary according to complexity of operations, country context, production factors and enabling environment. HRDD practice will also vary in complexity with the size of the business enterprise and the severity of risks posed to stakeholders (Principle 17b).

HRDD should be conducted on an ongoing basis, much like occupational health and safety reviews, to demonstrate commitment across the organization and to consumers (Principle 17c).

- + There is rarely a justification for “one-offs” in conducting due diligence on human rights risks as business operations are constantly in flux as they respond to changes in market conditions and production methods
- + Conducting HRDD during different periods of a project’s life cycle can be especially important—design and planning, financing, construction, production, during changes in operations and closing.<sup>11</sup> This also includes periods when there are project expansions, mergers and acquisitions

HRDD should draw on internal or independent external human rights expertise, to understand the issues and best practices in working with vulnerable groups (Principle 18a).

HRDD must be informed by stakeholder engagement. It is also necessary to engage with stakeholders of different backgrounds and interests in the HRDD process to get a complete and accurate view of human rights risks posed by the business (Principle 18b). Importantly, the concept of “stakeholders” includes the sub-segment of “rightsholders,” who require additional attention, as their human rights are the chief concern when conducting HRDD. Rightsholders are particularly important for step 1 of the HRDD cycle (identifying and assessing impacts).

The clothing retailer, H&M, expressed its commitment to conducting HRDD as follows: “Our HRDD is an ongoing process that monitors the practice of and respect for human rights throughout H&M group. We conduct this due diligence ... during relevant assessment processes including, for example, risk management processes, business partner due diligence, stakeholder engagement, grievance handling and all internal training. H&M updates their list of priority human rights risks annually.”

10 See OHCHR. Corporate Responsibility to Respect Human Rights: An Interpretive Guide (2012), p. 33.

11 See OHCHR. Corporate Responsibility to Respect Human Rights: An Interpretive Guide (2012), pg. 37.

Note the number of principles above embedded in this statement.

Respect for human rights is fundamental to any successful business. As our human rights policy states, we work to integrate this respect across all operations and relevant activities. To do this, we must both understand the risks and impacts on human rights in our value chain and seek ways to prevent, mitigate and remediate these risks and impacts.

**HUMAN RIGHTS DUE DILIGENCE**  
Our human rights due diligence is an ongoing process that monitors the practice of and respect for human rights throughout H&M group. We conduct this due diligence systematically during relevant assessment processes including, for example, risk management processes, business partner due diligence, stakeholder engagement, grievance handling and all internal training. Each assessment process contains a clear component that enables us to identify, address and report on any risks or impacts that relate to human rights.

H&M sees risks across all operations and activities.



### Facilitated discussion

The facilitator explains to participants that they have heard or will hear a lot about stakeholders and their importance to conducting HRDD during this training. Ask people to help clarify the term to stoke conversation.

*“What is a stakeholder?”* A possible answer from the audience: A member of a group without whose support the organization would cease to exist.

*“What are some examples of stakeholders?”* Explain to participants that a complete list of stakeholders is difficult to compile as they are numerous, but generally they might include:

- + Workers or employees
- + Workers of supply chain partners
- + Consumers
- + Shareholders and investors
- + Service contractors
- + Communities near or downstream from a factory plant or plantation
- + Civil society actors
- + Transportation professionals
- + Other vulnerable groups including women and girls, people with disabilities and indigenous peoples

*“What is a rightsholder and how is it different from a stakeholder?”* A possible answer: rightsholders are those whose rights may be infringed upon by business operations. “Stakeholders” is a wider grouping that may include government officials or members of senior management in an enterprise. Rightsholders tend to be members of vulnerable groups, but not necessarily so.

### What are multi-stakeholder consultations and why are they important?

Multi-stakeholder consultations are often structured processes that are used to ensure participation on a specific issue and are based on a set of principles, often inspired by the rights-based approach to development.

Multi-stakeholder consultations aim to ensure participation, accountability and transparency, and to develop partnerships and networks among different stakeholders.

Consultations can inspire trust between different actors, raise viewpoints, inform businesses of issues, and facilitate solutions and win-win situations.

Meaningful stakeholder consultations will be appropriate to the size of the business enterprise and the nature and context of the operation (Principle 18b).

In assisting its member companies, the Responsible Business Alliance takes the following approach to stakeholder engagement:

With regard to the core processes of supply chain due diligence, the RBA's stakeholder engagement efforts help members:

- Catalogue responsible business conduct standards, issues and regulations (core process 1)
- Complete data gaps in supply chain risk identification (core process 2)
- Develop long-term, credible solutions by incorporating stakeholder feedback into mitigation actions (core process 3)
- Engage with stakeholders on expectations of effective due diligence and ways to improve the due diligence process (core process 4)
- Develop best-in-class reporting for specific risks, for example the Responsible Minerals Initiative's (RMI) collaboration with the Global Reporting Initiative (GRI) on a reporting tool (core process 5)
- Understand and explore appropriate remediation actions in collaboration with stakeholders (core process 6)

See Responsible Business Alliance. Practical Guide to Implementing Responsible Business Conduct Due Diligence in Supply Chains (June 2018), available at [responsiblebusiness.org/media/docs/RBAPracticalGuide.pdf](https://responsiblebusiness.org/media/docs/RBAPracticalGuide.pdf)

### What are some challenges in conducting multi-stakeholder consultations?

It is not always easy for a company to conduct direct consultations with potentially affected rights holders. Engagement with some groups may require competent local partners, which may not be readily available. Carrying out truly representative consultations requires a relatively large investment in terms of time and budget. At times, it is difficult to understand which NGOs and other types of stakeholders should be consulted in the local context and who is a legitimate representative of a potentially affected group. In some circumstances, it is not possible to conduct separate consultations with women.

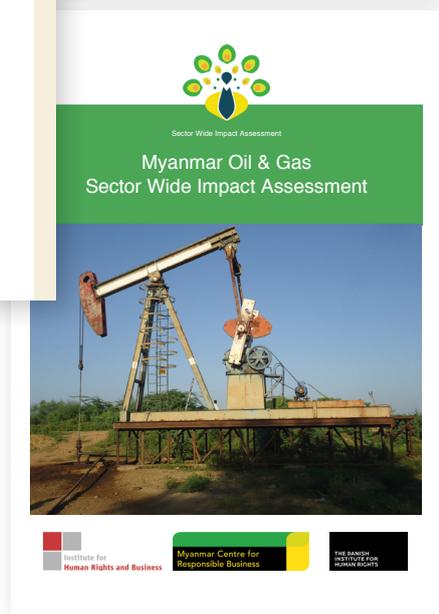
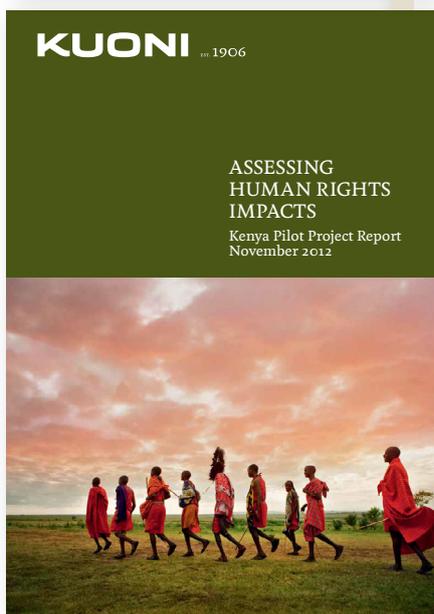
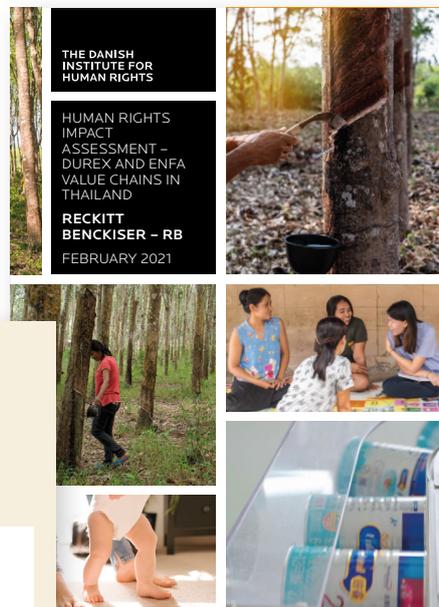
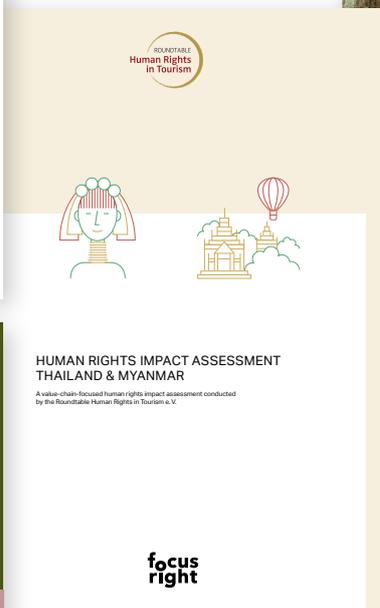
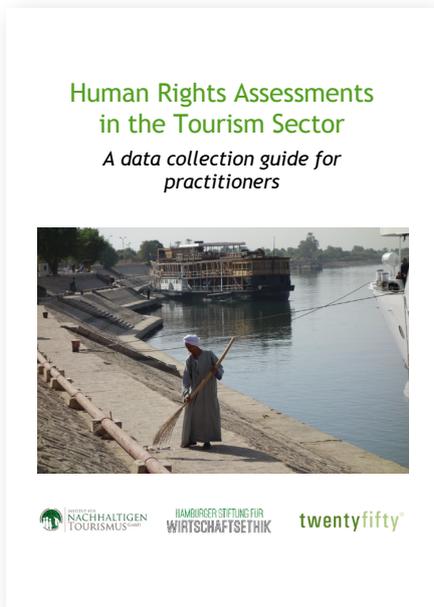
To address stakeholder engagement challenges, businesses often seek external expertise to locate legitimate and hard-to-reach stakeholders. Business should ask potential partners for assistance. For example,

UN entities and well-established international and national NGOs have substantial experience and guidance in navigating sensitivities at the group level.

Human Rights Impact Assessments (HRIA) are an important means of understanding the value and challenges of conducting multi-stakeholder consultations. These are conducted by business and human rights advisory groups, enterprises, business associations, civil society organizations and some National Human Rights Institutions. See extensive guidance on conducting HRIsAs by DIHR at: [www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox](http://www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox). Examples of HRIsAs are provided below.

 **Facilitated discussion**

Facilitators should ask participants whether anyone has conducted a multi-stakeholder consultation before on either human rights, land-use issues, resettlement or environmental impact assessments. What were their challenges? What did they do to meet these challenges?



HRIsAs conducted by twentyfifty, focusright and DIHR.

## Session 2: Introduction to human rights due diligence – Part B

	50 minutes
	Participants will understand the basics of the four component parts or steps for conducting HRDD.
	This session begins as a lecture, with questions towards the end to provoke discussion.
	This session is the first in which we will go into some depth on HRDD. However, further details on each component step will be offered under Module 2 below.
	<ol style="list-style-type: none"> <li>1. Inform participants that the session will run for 50 minutes.</li> <li>2. Explain that this session provides a brief overview of each step of the HRDD process. These steps will be unpacked in more detail in subsequent, dedicated sessions starting with Module 2.</li> <li>3. Inform participants that you will first provide a brief review of the last session. Then discuss the difference between due diligence, auditing and other compliance processes.</li> <li>4. Introduce the materials as follows below.</li> </ol>

### A quick review of the introduction to HRDD

We have learned that a business is responsible for the abuses it causes or contributes to through its own activities or which are directly linked to its operations, products or services by its business relationships.

A business can address human rights risks and impacts by adopting policies and processes that assist in preventing and addressing human rights abuses in its own operations and others in its value chain. A business can also address impacts through remediation processes.

We learned that HRDD involves a systematic approach composed of four steps. The process involves identifying and assessing actual and potential impacts throughout business operations, integrating and acting upon the findings, tracking effectiveness of responses to efforts, and communicating how impacts are addressed.

Finally, we also learned that HRDD should be conducted on an ongoing basis and be informed by stakeholder engagement.

### How is HRDD different from other risk management and auditing exercises that businesses employ?

Auditing, compliance-driven due diligence and risk management practices all seek insights into the operations of a company. However, there are important distinctions:

- + More conventional forms of due diligence typically involve the investigation or exercise of care that a reasonable business or person is expected to take before entering into an agreement or contract with another party. It is a form of risk management. Due diligence in this case is primarily intended to protect the best interest of the enterprise.
- + Human rights due diligence, on the other hand, is understood as the care taken to ensure human rights risks and the impacts of a company's operations and supply chain are prevented and mitigated. Human rights due diligence focuses on protecting somebody else, a person or community not necessarily involved in a transaction with the enterprise. **HRDD is about risks and impacts to people and not risk to business.**

Auditing involves reviewing company statements to see whether those statements are a true and fair view of the practices, finances performance of a company. HRDD practice can involve auditing to verify HRDD findings are integrated and communicated. However, HRDD requires a series of more proactive steps.

Risk management is the process of assessing, managing and mitigating threats to the enterprise. Non-financial risk management is often focused on identifying and reducing the potential for accidents, losses and catastrophes. HRDD is a type of risk management but involves managing threats and impacts to human rights.

Human rights due diligence may involve both risk management and auditing practices, for example, when:

- + Ensuring that a supplier has a human rights policy
- + Ensuring non-discrimination in hiring practices as indicated in auditing report
- + Asking employees whether a factory is paying fair wages on a timely basis
- + Ensuring that in the wake of a localized public health crisis, a subsidiary has enforceable guidelines on waste disposal
- + Leveraging the business relationship to enact changes in the operational policies and practices of a business partner to mitigate legal liability and reputational risks

“[Human rights] due diligence implies more than just an assessment of risks for the company; the purpose is to understand and address risks and abuses that the company’s activities pose to rights holders, including in its supply chain and through its other business relationships.”

How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy: A guide for civil society organizations

### What are the four steps to conducting HRDD?

The UNGPs divide human rights due diligence into four steps:

1. Identifying and assessing – to gauge the types and severity of the risks (Principle 18)
2. Integrating and acting upon findings – to prevent and mitigate adverse impacts (Principle 19)
3. Tracking effectiveness – to verify whether risks are being assessed (Principle 20)
4. Communicating action – to account for how a business addresses their impacts (Principle 21)

Each of these steps requires that we consider the circumstances in which the business is operating. These might include special considerations for the:

- + Geographic region
- + Industry or sector of operations
- + Unique business structure employed by the company
- + The nature of the links between the parent company to its subsidiaries, subagents, and supply chain partners

### What does identification and assessment require?

The first step in conducting HRDD is identification and assessment, which enables a business to understand the extent of its impact and to prioritise risks to act upon.

We are looking to answer: “What are the specific impacts on specific people in a specific area of operations?”

- + Answering this question requires that businesses map out their activities and their business relationships
- + It also demands that enterprises employ meaningful consultations with potentially affected groups

The step of identifying and assessing adverse impacts can also be done through HRIAs and other assessment approaches such as audits, or through the integration of human rights into Social Impact Assessments, or Environmental and Social Impact Assessments.

### What does integrating and acting on findings entail?

Integrating and acting on findings means taking the information based on the risks and abuses that have been identified and assessed, and ensuring action is planned or taken across internal functions and processes (Principle 19). In particular:

- + Responsibility for action should be assigned to the appropriate level and function within the business enterprise
- + Internal decision-making, budget allocations and oversight processes should be calibrated to enable effective responses to risks and impacts

Action will vary according to whether the enterprise caused or contributed to an adverse impact, or whether it was involved only because the impact was directly linked to its operations, products or services by a business relationship. In the latter category, action will also vary according to the leverage that the business has over its business partners.

### What does tracking effectiveness mean?

The third step in HRDD, involves assessing if efforts to integrate findings have been implemented effectively.

- + It requires that tracking be based on qualitative and quantitative indicators
- + It draws on feedback from external and internal stakeholders, including affected stakeholders

### What does communicating action refer to?

Communication is the fourth and final step of the HRDD process. Communication requires reporting on the risks and impacts that a business poses, and on the steps that the business is taking to prevent, mitigate and address adverse human rights impacts.

- + Communication can strengthen engagement with stakeholders and improve transparency of a business
- + It must be sufficient to evaluate the adequacy of any response to human rights impacts involved
- + It must not pose risks to affected stakeholders



## Quiz

If you have a Mentimeter account, you can copy the slides for the following two questions by accessing the [Part II – Module 1 Session 1](#) presentation online. The page is also available by scanning this QR code:



**Which of the following is most likely to be a part of HRDD? Choose the most accurate answer:**

- A. Asking a supplier to produce its health and safety certifications
- B. Preparing an assessment of financial liabilities of a company
- C. Reviewing the country context for recent political developments in the run-up to a highly contested election
- D. Preparing communication protocols for any disruption of shareholder meetings
- E. None of these are even remotely related to HRDD

The correct answer is **C**. In the run-up to elections, the ability of workers—particularly those represented by trade unions—to assemble may be constrained. The political context can inform the degree of freedom of workers to assemble, voice their opinions and negotiate for collective purposes.

**What are the four specific steps of HRDD in the correct order as defined by the UNGPs?**

- A. Identify, Integrate, Audit, Communicate
- B. Identify, Integrate, Communicate, Track
- C. Identify, Integrate, Track, Communicate
- D. Integrate, Identify, Track, Communicate
- E. None of the above steps are in the correct order

The correct answer is **C**. Selection “A” is incorrect as “audit” is not a step in the HRDD process. Selection “B” is incorrect as “communicate” is the final step. Selection “D” is incorrect as the first step is to identify, not integrate.

## Module 2: Unpacking the Four Steps of Human Rights Due Diligence

	Over six and a half hours (six sessions at 50 minutes each. And a seventh session for wrapping up and collecting feedback).
	After this training module, participants will have a strong familiarity with the four steps in HRDD: 1) identifying and assessing 2) integrating and acting upon findings 3) tracking effectiveness and 4) communicating.
	There are seven sessions under this module, based primarily on lectures, covering all four steps of HRDD. The first of the four steps, identifying and assessing, will be unpacked in three separate sessions. One of these three sessions will focus on the use of the <i>Human Rights Self-Assessment Training Tool</i> .
	The facilitator should inform the audience that the following sessions will unpack each of the four steps of HRDD. Ask the audience if there are any questions before proceeding. Should the questions point to a detailed response relating to HRDD, explain that these questions will be answered in the following sessions.
	<ol style="list-style-type: none"> <li>1. Inform participants that the module involves 6 substantive sections at 50 minutes each, covering the 4 steps of HRDD: 1) identifying and assessing 2) integrating and acting upon findings 3) tracking effectiveness and 4) communicating.</li> <li>2. Explain that the first step, "identifying and assessing," will be divided into three separate sessions.</li> <li>3. Inform participants that after identifying and assessing, the fourth session will involve "integrating and acting upon findings." The fifth session will cover "tracking effectiveness" and the sixth session will focus on "communicating impact."</li> </ol>

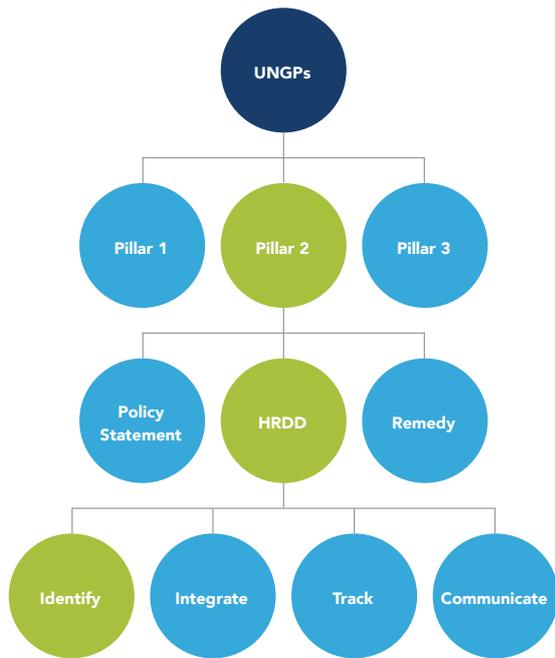
## Session 1: Identifying and assessing (Part 1)

	50 minutes
	Participants will understand some best practices in identifying human rights risks, the first of the four components of the HRDD methodology described in the UNGPs.
	This session begins as a lecture and leads to a group exercise.
	This session is one of the most important sessions of the HRDD trainings as it introduces participants to the first step of HRDD, and each step of the four-step process builds on the findings of the preceding step.
	<ol style="list-style-type: none"> <li>1. Inform participants that this section will take 50 minutes.</li> <li>2. Explain that this is the first of three sessions on identifying and assessing human rights risks.</li> <li>3. Explain further that the second session will cover prioritizing risks, while the third session will introduce UNDP's Human Rights Self-Assessment Training Tool.</li> <li>4. Introduce the materials as follows below.</li> </ol>

### How does a company begin the process of conducting HRDD?

To effectively prevent and address impacts, an enterprise first needs to know the types and extent of its actual and potential impacts. **Principle 18** is that "business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships."

In pursuit of understanding risks, the UNGPs provide that enterprises should (a) draw on internal and/or independent external human rights expertise and (b) involve meaningful consultation with potentially affected groups and other relevant stakeholders.



Identification under HRDD typically involves four steps:

1. Mapping activities of operations and the operations of suppliers and other business relationships
2. Understanding operational context
3. Identifying potential and actual impacts
4. Identifying potentially affected stakeholders/rightsholders

By starting the HRDD process with a 'generic value chain' an enterprise can identify wider categories of risk, and then more easily drill down into specific risk areas.

### What are some ways to understand context?

Identifying human rights risks and impacts requires us to first conduct a broad review of human rights issues before more in-depth exploration. Enterprises should:

- + Identify the operating countries or regions of a country that have the greatest human rights risks
- + Identify human rights issues at risk in an industry or sector

### Case study

Before rolling out a HRDD programme, a multinational mining company decided to first look at higher-risk geographies. To help it set priorities, the company conducted a risk analysis using 12 publicly available country risk indices which included the Corruption Perceptions Index and the Fragile State Index. The results confirmed the company's own perception of where its high-risk sites are located.

Source: Global Compact Network Germany, German Institute for Human Rights & twentyfifty, Assessing Human Rights Risks and Impacts: Perspectives from corporate practice (2016), accessible at [www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/Assessing-Human-Rights-Risks-and-Impacts.pdf](http://www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/Assessing-Human-Rights-Risks-and-Impacts.pdf)

Online resources, such as the CSR Risk Check website (available at [www.mvorisicochecker.nl/en/worldmap](http://www.mvorisicochecker.nl/en/worldmap)), the Corruption Perceptions Index (available at [transparency.org/en/cpi](http://transparency.org/en/cpi)) or the Fragile State Index (available at [fragilestatesindex.org](http://fragilestatesindex.org)), can help highlight the risks that might be found in various countries as per the number of reports that are filed in these countries.

✕ CLOSE

### UNITED STATES OF AMERICA

9 country risk(s) have been identified

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**LABOUR RIGHTS (4)** +

---

**HUMAN RIGHTS & ETHICS (2)** +

---

**ENVIRONMENT (2)** +

---

**FAIR BUSINESS PRACTICES (1)** +

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**DO THE FULL CHECK**

The risks shown above are related to the selected country only. For a complete insight in risks related to a combination of product and country, and a download of the results, please go to the CSR risk check tool.

**START THE RISK CHECK**

CSR Risk Check – World map, featuring risks in the United States of America to the right of the map, 2021.

**What are some ways to begin identifying stakeholders that might be adversely affected by business operations?**

Consider playing the video on how civil society organizations are working with businesses to understand stakeholders. "Sustainable development means that communities and people can be together for business."

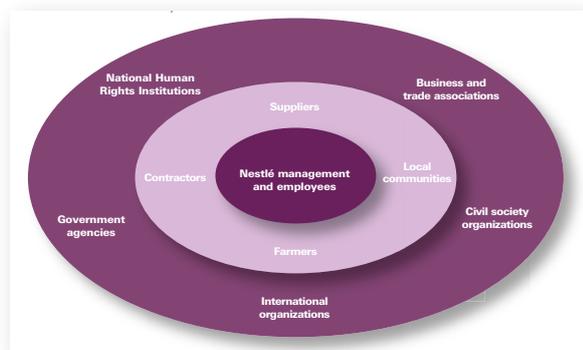


[youtu.be/watch?v=JqNui25n3Sc](https://youtu.be/watch?v=JqNui25n3Sc)

Civil society organization representatives, such as Khun Sor in the video above, can be valuable to providing inputs as a stakeholder, but also as an intermediary with hard-to-reach groups. Her organization, Community Resource Center, provides mediation services and community inputs into Environmental Impact Assessments.

To reach stakeholders, first develop a plan and prioritize stakeholder groups.

- + Conduct a stakeholder mapping of internal and external stakeholders
  - Internal stakeholders include: employees, shareholders, senior management, investors and in some cases contractors and/or temporary workers
  - External stakeholders may include: NGOs, community based groups, faith based groups, trade unions, NHRIs, UN agencies, academia, individual subject matter experts, industry associations, and company peers
- + Pay attention to groups that may have a heightened risk of vulnerability; pay attention to rights holders



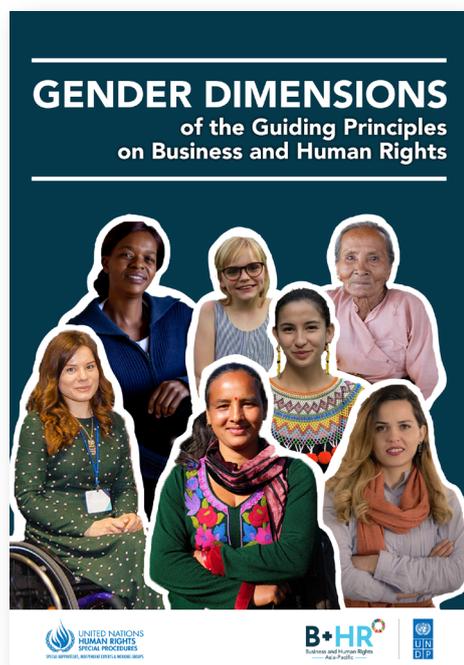
Stakeholders map provided by Nestle, Talking the Human Rights Walk, accessed at [nestle.com/sites/default/files/asset-library/documents/library/documents/corporate\\_social\\_responsibility/nestle-hria-white-paper.pdf](https://www.nestle.com/sites/default/files/asset-library/documents/library/documents/corporate_social_responsibility/nestle-hria-white-paper.pdf)

- + Consult with outside experts to facilitate discussions
- + Review any complaints filed through company grievance mechanisms

From this information, a list can be drawn up of the specific human rights impacts that stakeholder groups might experience. Be mindful of the different risks that may be faced by women, children, Indigenous Peoples, members of LGBTI communities, Persons living with Disabilities, human rights defenders, etc. For example:

- + Female job candidates are required to undergo pregnancy testing as a condition of recruitment
- + Female workers may be more vulnerable to sexual violence or harassment in the workplace, and less likely to report it out of fear that they will lose their jobs
- + Female workers are paid less than their male counterparts or compelled to accept unreasonable deductions from their pay
- + Female workers are only given access to low-skilled, low-paid work, or access to work with little chance of promotion
- + Pregnant and/or nursing women workers are exposed to undue reproductive health risks on the job

Guidance on the risks and mitigation actions can be found in the publication, *Gender Dimensions of the Guiding Principles on Business and Human Rights*.



"Business enterprises should always regard sexual harassment and gender-based violence as risks of severe human rights impacts. They should have zero tolerance for such impacts throughout their operations."

– Source: Gender Dimensions of the Guiding Principles on Business and Human Rights (2019), p. 29, available at [www.undp.org/content/undp/en/home/librarypage/democratic-governance/gender-dimensions-guiding-principles-on-business-n-human-rights.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/gender-dimensions-guiding-principles-on-business-n-human-rights.html)

## What is involved in the mapping of operations?

Mapping out activities and business relationships also reveals human rights risks. Mapping may also serve as the basis for conversations with suppliers and other stakeholders.

There are many ways of conducting a mapping, so details are not provided here. However, every strong mapping exercise involves an examination of:

- + All relevant activities of the company and business partners in the supply chain
- + The upstream and downstream portions of the value chain, including transportation and contractual services, like catering and cleaning
- + All functional units, including research and development units, functional materials teams, marketing and sales teams



Mapping of key business functions that may be involved in addressing gaps

Source: twentyfifty, 5 Steps Towards Managing the Human Rights Impacts of Your Business (2015), p. 21, available at [www.twentyfifty.co.uk/en/news-views/publications/2015/5-steps-towards-managing-the-human-rights-impacts-of-your-business/](http://www.twentyfifty.co.uk/en/news-views/publications/2015/5-steps-towards-managing-the-human-rights-impacts-of-your-business/)

Mapping activities and relationships does not necessarily require that every tier and function will be researched or investigated. However, inputs from the following units or teams often reveal gaps:

- + CSR/sustainability teams
- + Risk management units
- + Legal/compliance
- + Procurement
- + Human resources
- + Government/public affairs
- + Security functions
- + Sales
- + Marketing
- + Responsible sourcing, including procurement and supply chain management
- + Data security/IT



## Facilitated discussion

How can the various departments help us map human rights risks? For example, how can human resources locate sensitive issues for inclusion in our mapping exercise?

How might procurement teams or CSR teams help clarify risks?



The roles of some units may be less obvious. Advise participants to contact government and public affairs units, and risk management units for further discussion.

Government and public affairs units provide insight into how human rights risks have been or could be heightened by state or regulatory actions.

Risk management units can provide expert input into human rights impact assessment processes and integrate human rights into existing risk management process.

According to the BHR advisory organization, Shift, “internal company reports may also provide useful insights, such as reports on the use of whistle-blower policies and grievance mechanisms, self-assessments by suppliers or business units, management reports by relevant functions (for example, human resources, compliance, CSR/sustainability), as well as reports of workers’ councils and other worker representative bodies.”

Source: Shift, *Doing Business with Respect for Human Rights: A Guidance Tool for Companies* (2016), p. 49.

## What are some ways of understanding the risks presented by my suppliers?

Requesting inputs on human rights risks from Tier 1 suppliers may not be straightforward. Some suppliers are in high demand and may balk at requests to examine and share insights into the human rights risks and impacts of their operations. Suppliers at Tiers 2 and below may be unknown or illusive.

Ways of understanding human rights risks of suppliers may involve:

- + Examining published Human Rights Impact Assessments, Environmental Impact Assessments, and industry research

- + Looking to the resources available at the Business and Human Rights Resource Center website to gather information and cases about the company and suppliers in question
- + Reviewing benchmarking resources that rank companies by human rights performance, such found on the Corporate Human Rights Benchmark
- + Talking to other stakeholders, including communities that might be impacted by the business activities of suppliers, and/or civil society organizations such as watchdog organizations
- + Focusing your investigation primarily on “high risk” suppliers
- + Review of supplier audit results

**Which human rights impacts should be included?**

The UNGPs provide that while country-risk analysis and stakeholder views are key, all internationally recognized human rights should be considered when identifying and assessing human rights risks and impacts.

At a minimum, this means considering the rights enshrined in:

- + The Universal Declaration of Human Rights (available at [www.un.org/en/universal-declaration-human-rights/](http://www.un.org/en/universal-declaration-human-rights/))

- + The two International Covenants on Civil and Political Rights (available at [www.ohchr.org/en/professionalinterest/pages/ccpr.aspx](http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx)) and on Economic, Social and Cultural Rights (available at [www.ohchr.org/en/professionalinterest/pages/cescr.aspx](http://www.ohchr.org/en/professionalinterest/pages/cescr.aspx))
- + The ILO Declaration on Fundamental Principles and Rights at Work (available at [www.ilo.org/declaration/lang-en/index.htm](http://www.ilo.org/declaration/lang-en/index.htm)), and the eight ILO core Conventions

Other international standards should be considered where specific groups are identified as being vulnerable, for example the Convention on the Rights of the Child (available at [ohchr.org/en/professionalinterest/pages/crc.aspx](http://ohchr.org/en/professionalinterest/pages/crc.aspx)) where the rights of children are implicated in business activities. Other examples might include, ILO Convention 169, Indigenous and Tribal Peoples Convention (available at [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312314](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314)).

This expansive view may lead to an explosive number of potential risks and impacts. Consultation with stakeholders and a methodical approach to prioritization will be required to get started. This will be covered later in Session 2. See the illustration below of some of the risks identified by large multinational enterprises.

Table: Examples of salient issues identified by companies using the UNGP Reporting Framework

Company	Sector	Salient human rights issues identified	Source
ABN AMRO	Finance	<ul style="list-style-type: none"> <li>▸ Privacy</li> <li>▸ Discrimination</li> <li>▸ Labour rights</li> <li>▸ Land-related human rights</li> </ul>	Annual (Integrated) Report 2015 <sup>32</sup>
Ericsson	ICT	<ul style="list-style-type: none"> <li>▸ Right to privacy</li> <li>▸ Freedom of expression</li> <li>▸ Labour rights</li> </ul>	Sustainability and Corporate Responsibility Report 2015 <sup>33</sup>
H&M	Apparel	<ul style="list-style-type: none"> <li>▸ Fair living wage</li> <li>▸ Health and safety</li> <li>▸ Forced labour</li> <li>▸ Discrimination and harassment</li> <li>▸ Child labour</li> <li>▸ Freedom of association and collective bargaining</li> <li>▸ Social security</li> <li>▸ Land rights</li> <li>▸ Working hours</li> <li>▸ Access to water</li> </ul>	Sustainability Report 2015 <sup>34</sup>
Total	Energy	<ul style="list-style-type: none"> <li>▸ Forced labour</li> <li>▸ Child labour</li> <li>▸ Discrimination</li> <li>▸ Just and favourable conditions of work and safety</li> <li>▸ Access to land</li> <li>▸ Rights to health and an adequate standard of living</li> <li>▸ Risk of misuse of force</li> </ul>	Human Rights Briefing Paper, July 2016 <sup>35</sup>
Unilever	Food and beverage	<ul style="list-style-type: none"> <li>▸ Discrimination</li> <li>▸ Fair wages</li> <li>▸ Forced labour</li> <li>▸ Freedom of association</li> <li>▸ Harassment</li> <li>▸ Health and safety</li> <li>▸ Land rights</li> <li>▸ Working hours</li> </ul>	'Enhancing Livelihoods, Advancing Human Rights'. Human Rights Report 2015 <sup>36</sup>

Common human rights risks identified by large multinational enterprises

Source: Shift, Doing Business with Respect for Human Rights: A Guidance Tool for Companies (2016), p. 58, available at [aim-progress.com/storage/resources/business-respect-human-rights-full.pdf](http://aim-progress.com/storage/resources/business-respect-human-rights-full.pdf)



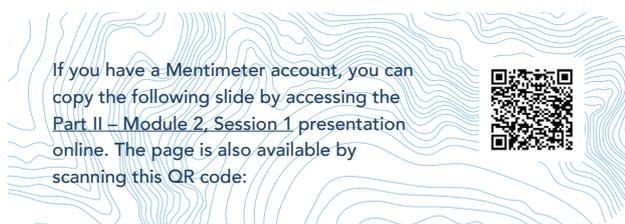
## Facilitated discussion: Identifying relevant risks to your business or industry

To open this facilitated discussion, explain that the non-exhaustive list of risks below can be used to identify potential risks in your industry. Provide the following on a slide:

Non-exhaustive list of human rights risks by category:

- + Labour – fair wages, forced labour, child labour, occupational health and safety, and stigma and discrimination
- + Environment and land – impact of toxics and pollutants, land rights and land use regulation
- + Voice – freedom of association, collective bargaining and trade union membership
- + Gender – sexual harassment, discrimination and violence against women
- + Marketing and advertising – gender stereotyping, minority stereotyping, insensitivities towards groups that have suffered legacies of marginalization
- + Product development and product use – surveillance technology, dual use products and safety
- + Government relationships and security – corruption, intimidation and abuse by private security forces
- + Indigenous peoples – Free, Prior and Informed Consent and preserving culture and ways of life
- + Digital rights and security – privacy rights, hate speech, intimidation and harassment, child protection

On the basis of the above broad categories of risks, the facilitator then asks participants to identify all those risks above that are relevant to their business or industry. To collect results use Mentimeter, Kahoots or other polling software.



If polling software is not available, then ask for a show of hands under each risk. If even that exercise is cumbersome or inappropriate for the circumstances, simply ask for a volunteer in the audience to reflect on the risks that might be relevant to their company or their industry.

This activity is intended to help the facilitator to tailor conversations on risk to meet the audience's interest. For example, a room of professionals from the mining industry might identify more risks under the government and security category than those in the tourism sector.

After polling is complete, highlight the top three categories of risks that were identified as the most common risks of interest in the room. Explain that you will unpack ways to prioritize the various risks identified in the next session on identifying and assessing risks.

Before going forward, explain that you will now undertake a group work exercise on identifying risks.



## Group work: Hypothetical risk identification exercise

*The XYZ Corporation with operations in 13 countries worldwide has decided to integrate human rights considerations into its risk management and compliance systems. Though it is unsure where to start, especially as a highly decentralized organization, it has received a lot of bad press on account of an aluminium rolling plant in Country A. The operation is located in a rural area suffering ongoing governance gaps. Newspapers based in the provincial capital are reporting that people in a town 10 kilometres away are suffering from unexplained respiratory illnesses. Workers at the rolling plant are claiming they have similar health problems, though more acute. The workers, the bulk of which are migrants, also claim they cannot leave the cramped dormitory facilities on their days off to go to the clinic as they are afraid of being arrested by local police without proper documentation. An auditor noted in informal conversations that security guards working at the factory and the mine are intimidating and seem ready to enforce unspoken rules against leaving the facility.*

In small groups of six or more, answer these two questions:

### Question 1: How should the company start the process of conducting human rights due diligence?

- + Instruct participants to provide detailed ideas and be ready to report back to the room
- + To get the process going, suggest that participants start by constructing a 'generic value chain' for Company A: inbound logistics, operations, distribution, marketing and sales, and service
- + Ask participants to list what resources they would use to understand risks along their value chain, and which functional units, and external stakeholders they would talk to

### Question 2: What are some human rights risks that might be uncovered?

- + Instruct the participants to provide details on risks, not actual harms
- + Inform them that the presence of one risk might mean there are others related to it that may require investigating
- + Consider asking participants to list the potentially affected group on each segment of the generic value chain

Reconvene the group after 15 minutes. Ask for volunteers to provide answers for the first question. Ask others to provide their answers to the first question.

Answers to the first question will likely include the following:

- + Go to online resources and identify country risks
- + Read the newspaper article to understand the complaints better
- + Talk to the local community and workers about their health problems
- + Reach out to representatives of trade unions, civil society organizations or watchdog groups

Less obvious answers which you should share include:

- + Hire an outside expert or organization to conduct an assessment of the risks of the integrated operation
- + Conduct an off-the-record conversation with the newspaper reporter to discuss the problems they uncovered to understand what (not who) is driving the complaints and whether they have seen other issues like this elsewhere
- + Speak with civil society organizations representing women's interests to see whether this is impacting them, their families or their communities

Answers to the second question might include:

- + The health of workers is being denied
- + The access to health of workers is being denied
- + Worker identification cards are being withheld by the employer
- + The security guards seem ready to risk physical violence against the workers

Less obvious answers which you should share include:

- + Migrant workers on premises are not seasonal workers, so they might be accompanied by families; dependents may not have access to health and education provision
- + Respiratory illnesses are sometimes linked to dust particles emitted by large transport vehicles; roads and other transport activities may be too close to communities
- + Conditions of dormitories may be unfit for habitation; respiratory illness may be linked to viruses spreading in dormitories
- + Collusion between police and security guards in keeping migrants from leaving premises may be restricting migrant worker rights to freedom of movement
- + If health care is denied, other rights may be denied, leading to conditions that enable forced labour
- + If the workers needed to go to the newspapers for a solution, the company grievance mechanisms may not be working, or local managers are not responding



## Facilitated discussion

*How can I present my mapping exercise to internal and external stakeholders?*

A mapping exercise may look like the table below, based on the work of a company selling essential oils. The oils are bought from intermediaries around the world before being refined in Europe and marketed. While working with the BHR advisory group, twentyfifty, the essential oils company produced the following mapping of risks.



The facilitator may want to present the following table to illustrate the outcome of a mapping process, demonstrating how potential impacts are catalogued. Go through the various columns and rows and request viewpoints from the participants.

	Supply chain	Operations	Sales and end use
<b>Area of potential human rights impacts</b>	Hazardous working conditions and child labour possible in some sourcing countries	Discrimination against employees with family responsibilities	Product safety
	OHS issues present at refineries	Data security of employees	Unethical marketing
	Health effects of pesticide use on farm workers and farm communities	Pollution and waste management risks	
	Impacts on livelihood: clean drinking water/access to land		
	Transport labour conditions on ships		
<b>Potentially affected groups</b>	Workers, communities in farms and refineries	Employees	Subcontractors
	Intermediary employees	Personnel of business partners	Service providers
	Logistics providers		End consumers
<b>Groups at particular risk</b>	Migrant workers on ships and farms		
	Children		
	Female workers in some countries		
<b>Relevant business functions</b>	Procurement	Quality management team	Quality management team
	Quality management team	Health and safety team	Marketing and sales
	Logistics	Human resources	Customer support
		Internal audits	External sales agents
<b>Relevant business relationships</b>	Intermediaries	Packaging suppliers	External sales agents
	Logistic providers	Service providers (cleaning, etc.)	
	Office material suppliers	Security personnel	
	IT equipment suppliers	IT suppliers	
		Temporary employment agencies	

Source: twentyfifty, 5 Steps Towards Managing the Human Rights Impacts of Your Business (2017), pp. 18–19, available at [www.twentyfifty.co.uk/en/news-views/publications/2015/5-steps-towards-managing-the-human-rights-impacts-of-your-business](http://www.twentyfifty.co.uk/en/news-views/publications/2015/5-steps-towards-managing-the-human-rights-impacts-of-your-business)

## Session 2: Identifying and assessing (Part 2)

	50 minutes
	Participants will understand how to assess and prioritize risks they have identified.
	This session begins with a lecture, including brief references to case studies, and ends with a quiz.
	Participants may now have a good idea of how to systematically identify risks. However, assessing or prioritizing these risks for action requires a specific methodology. The next session will introduce the <i>UNDP Human Rights Self-Assessment Training Tool</i> . This tool is at the centre of this part of the training, given its functionality.
	<ol style="list-style-type: none"> <li>1. Explain that this session will take 50 minutes to complete.</li> <li>2. Begin with a short comment from the last exercise on the hypothetical situation involving the aluminium rolling plant. Highlight how the identification exercise showed that there could be a large number of human rights at risk from any one business operation.</li> <li>3. Explain that assessing and prioritizing risks is important in a world of finite resources and time constraints.</li> <li>4. Introduce the material as follows.</li> </ol>

### What are some issues I should consider before prioritizing risks?

Given the number of human rights risks that a business activity can pose, it is important to first prioritize and address the most significant issues. Principle 24 of the UNGPs provides a systematic methodology.

Key principles to keep in mind as a business embarks on prioritizing human rights risks and impacts include:

- + Human rights due diligence is concerned with **risks to people**, not to the business.
- + Under international human rights law, there is no hierarchy of human rights. No human right is recognized as more important than another. However, one can prioritize one over another in the context of business operations, owing to the severity of the harm involved and the constraints of finite resources.
- + Companies should **address the most severe human rights abuses first**. However, the presence of high-priority, severe human rights impacts does not mean that low-severity impacts should remain unaddressed. Some low-priority risks will be relatively easy to

address, or require few additional resources, and there is no reason why companies should not deal with them. High and low priority risks can be addressed in tandem.

- + Severity of the impact of operations on human rights is the most important factor in determining the size and complexity of the due diligence process employed by the company.

### What is the process for prioritizing risks?

Prioritizing means making judgements on the **severity** of the risk and the **likelihood** that the risk will occur. It is a two-part test.

But how do we judge the **severity** of the risk? The UNGPs provide guidance that severity is understood according to three measures: 1) scale, 2) scope, and 3) irremediability.

Likelihood, on the other hand, is more straightforward. It is the measure of the probability that the risk could lead to a harm. Measuring **likelihood** means looking at the company's own operating contexts and the ability of the company's various business relationships to effectively manage human rights risks. Likelihood is also not considered a prevailing factor: it can only increase a severity rating, not decrease severity.

Under **Principle 24**, the explanatory commentary provides that, "In the absence of specific legal guidance, if prioritization is necessary **business enterprises should begin with those human rights impacts that would be most severe**, recognizing that a delayed response may affect remediability. Severity is not an absolute concept in this context but is relative to the other human rights impacts the business enterprise has identified."

### **How does a business measure severity?**

Measuring severity requires unpacking the following three elements:

- + **Scale:** equates to the gravity or seriousness of the impact
- + **Scope:** refers to the number of people impacted
- + **Irremediability:** refers to any limit in the ability to restore those affected back to a situation at least the same as, or equivalent to, their situation before the adverse impact

### **How do I assign a value to scale?**

Scale measures a totality of circumstances including: 1) nature and context of the abuse or treatment, 2) manner of the execution of the abuse, and 3) the status of the victim. Measuring "scale" is far from an exact science.

The nature of the abuse inflicted might involve considerations of the following factors:

- + **Physical impact,** for example, whether it involves loss of life or lifelong physical debilitation
- + **Mental or emotional impact,** for example, if it leads to permanent mental illness or involves a temporary experience of humiliation
- + **The extent it affects family and community relationships**

The manner of the execution of the abuse might involve the following factors:

- + **Duration of the abuse**
- + **Duration of mental and physical anguish**
- + **Whether physical person and/or property is impacted**
- + **Whether livelihood is destroyed or mitigated**
- + **Whether persons are forcibly displaced and/or forced to take inadequate compensation**
- + **Whether it involved purposeful targeting or flagrant disregard for human dignity**

The status of the victim may affect how impact is measured:

- + **Gender:** man, woman, non-binary or transgender
- + **Age:** adult or child
- + **State of health,** including mental health of the victim
- + **Disabilities status**
- + **Sexual orientation:** lesbian, gay, bisexual or transsexual
- + **Minority or underclass status**
- + **Whether vulnerability is compounded by a history of abuse suffered as a group**

The abuse can also be rated at different levels of impact:

- + **High:** the abuse involves severe impact on the physical, mental and/or emotional well-being of a person and/or communities; the target community is considered especially vulnerable
- + **Medium:** the abuse involves a moderate impact on the physical, mental and/or emotional well-being of people and/or communities
- + **Low:** the abuse does not have long-term or substantive effect on the victims' lives and does not target vulnerable populations

### **How do we measure scope?**

Scope is a measure of the number of people involved. It often involves an estimation of the size of the group impacted. However, it may also include an estimate of the size of the community impacted as well. Accounting for the number of community members affected is necessary when we discuss risks related to the environment, land rights, and public health. We will use the following to define "scope" in our exercise following this lecture.

- + **High:** a large number of people affected, which might include the workforce, families or workers and surrounding communities
- + **Medium:** a moderately large number of people impacted
- + **Low:** a small number of people impacted

### **What does irremediability mean and how is it measured?**

Irremediability is a measure of the ability to restore someone's rights. It often involves an estimate of the "promptness of action required" to restore the impacted individual's rights to the same level prior to the business operations that affected it. We will use the following to define "irremediability" in our exercise following this lecture.

- + **High:** unless action is taken immediately, the impact of human rights abuses can never be remedied
- + **Medium:** unless action is taken soon, the impact of human rights abuses will not likely be remedied
- + **Low:** action not required immediately to remedy the human rights abuse in full



Take a breath here and do a quick review. Scale, scope and irremediability are three means to come to a finding on severity.

To help us visualize: SCALE + SCOPE + IRREMIADIABILITY = SEVERITY

The next step after assessing severity is to combine a measurement of severity to an estimate of likelihood.

**How does one measure likelihood?**

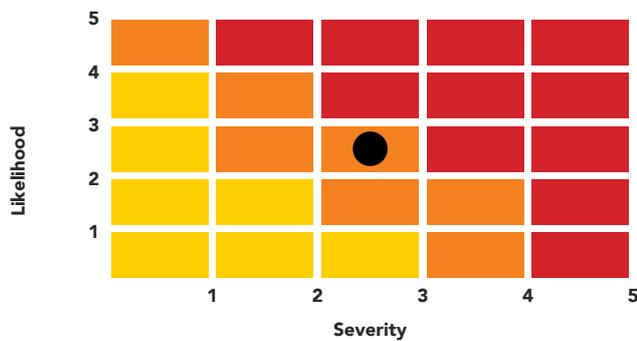
In addition to severity, companies should consider the likelihood that the event leading to the impact will occur again in the future. The more likely the risk will lead to a harm, the higher the measure, and the more urgent it is to take action.

- + **High:** the event has occurred in the operation (or in the sector) several times per year, and will very likely occur again
- + **Medium:** the event has occurred in the operation several times, and has occurred in the industry in the past
- + **Low:** the event has never occurred in the operation, but it is possible that it has occurred in the industry in the past

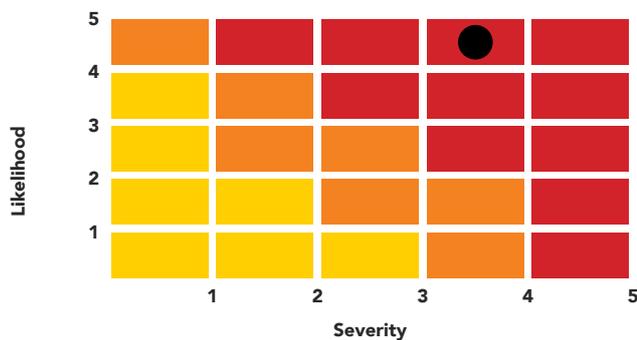
To illustrate further:

- + SCALE + SCOPE + IRREMEDEABILITY = SEVERITY
- + SEVERITY + LIKELIHOOD = PRIORITY

The heat maps below may further illustrate how plotting severity and likelihood measurements together might help to assess priority. Note, however, that using heat maps is an imperfect tool for analysis and should be considered only one of several ways of assigning priority. In fact, the UNGPs suggest that high severity risks should always be prioritized first even when the likelihood of those risks occurring is negligible.



In this example above, after the company judged the likelihood of the risk as moderate (between 2 and 3), and the severity risk as moderate (2 and 3), the risk posed by the company was assigned a medium-level priority, relative to others.



Here, the risk posed by the business involved was deemed very likely (between 4 and 5) and the severity was also considered to be moderate-high (3 to 4). Thus, the risk is labelled as a high priority.

**Quiz**

If you have a Mentimeter account, you can copy the following slide with the questions below by accessing the [Part II – Module 2, Session 2 presentation online](#). The page is also available by scanning this QR code:

**For businesses to PRIORITIZE human rights risks, they should measure the severity of the risk and compare this to the risk to the business’s reputation or operations. True or false?**

Answer: **False!** HRDD is concerned with the risk to people, not business operations, reputation, or profitability.

**For businesses to PRIORITIZE human rights risks, they should measure the LIKELIHOOD of the harm occurring and the SCALE of the harm. True or false?**

Answer: **False!** Scale is one of three measures that allow us to think about SEVERITY. Scale involves the intensity of the harm committed, but not the numbers of people to be affected nor the irremediability of the harm caused.

**The most severe human rights risks should be prioritized behind less serious risks since reflection on lesser risks is always recommended before taking action on big issues. True or false?**

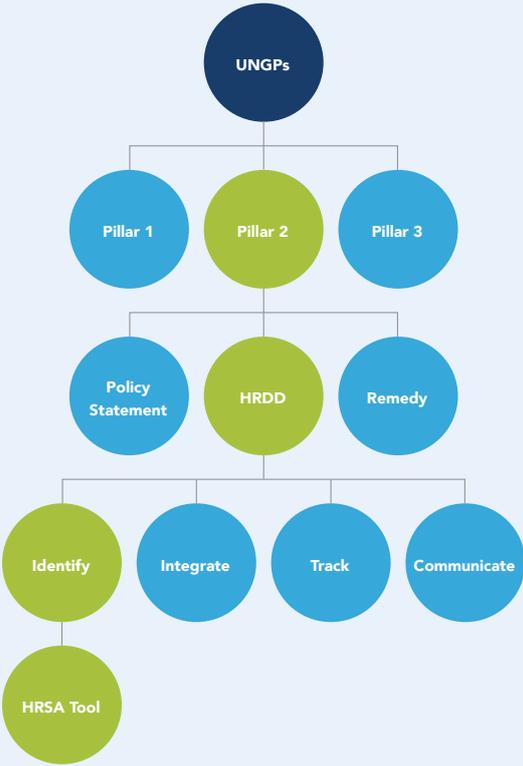
Answer: **False!** The most severe risks should be addressed first. However, low priority risks should not necessarily be treated last, especially if they can be addressed quickly and without much planning.

After the quiz, ask the participants for any questions they may have. Explain that you will take the audience through an exercise to help them identify and prioritize risks in their industry using the *Human Rights Self-Assessment Training Tool*.

## Session 3: Identifying and assessing (Part 3)

	50 minutes
	Participants will deepen their understanding of how to prioritize risks through an interactive exercise involving the <i>UNDP Human Rights Self-Assessment Training Tool (HRSA)</i> .
	This session is entirely a group exercise with a minimum of guidance.
	Participants should now be ready to use their basic understanding of severity and likelihood ratings to proceed with the exercise with very little guidance. Allow time for participants to reflect on the exercise and ask other participants, if reasonable to do so, to share and explain their results.

 1. Explain that the HRSA tool helps us to conduct HRDD in a very distinct area: identification and assessment.



```

graph TD
    UNGPs((UNGPs)) --- Pillar1((Pillar 1))
    UNGPs --- Pillar2((Pillar 2))
    UNGPs --- Pillar3((Pillar 3))
    Pillar2 --- PolicyStatement((Policy Statement))
    Pillar2 --- HRDD((HRDD))
    Pillar2 --- Remedy((Remedy))
    HRDD --- Identify((Identify))
    HRDD --- Integrate((Integrate))
    HRDD --- Track((Track))
    HRDD --- Communicate((Communicate))
    Identify --- HRSATool((HRSA Tool))
    
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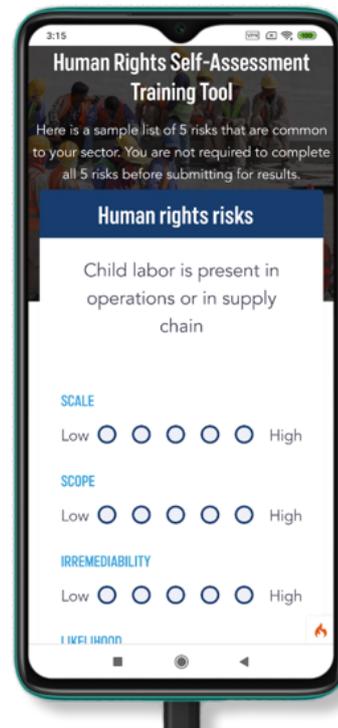
2. Explain that the tool helps participants create their own heat map to help prioritize risks.

3. Explain that this is a training tool only, and is not adequate to assess adverse impacts on the ground.

4. Project the QR code for the interactive HRSA web-based training tool.



5. Explain that by using the software, participants will assign a “severity value” of low, medium or high and a “likelihood value” of low, medium or high to the risks that were identified in the earlier exercise. This will generate a heat map that demonstrates risk prioritization.
6. Proceed to the HRSA and ask the audience to rate the five risks identified there. Walk around the room and ask if assistance is needed. If webinar-based, demonstrate in the share-screen mode how you would use the tool.
7. After participants have indicated that they have rated all the risks, ask for comments and questions. On the projected screen, show the heat maps, and share your conclusions on risks.
8. Explain to participants that the next sessions will focus on further steps they should consider once the risks are identified. Importantly, for many companies, their most significant human rights risks may be connected to their business relationships rather than their own activities.



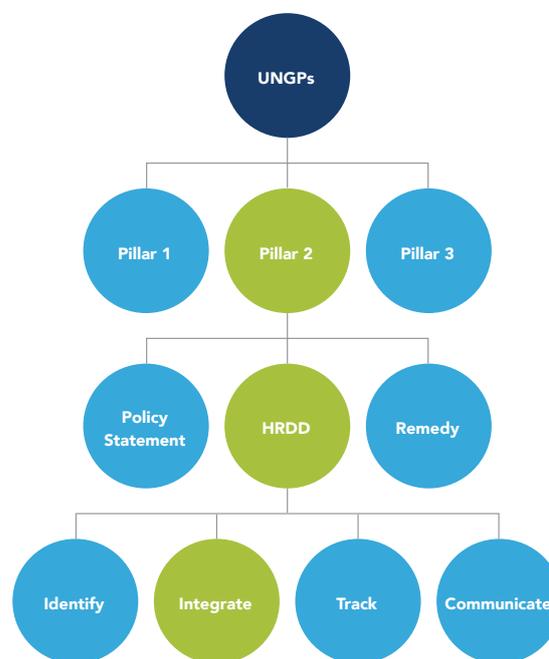
## Session 4: Integrating and acting on findings

	50 minutes
	Participants will understand how to integrate responses across their businesses to address priority risks identified and act accordingly.
	This session begins with a lecture, including brief references to case studies, and ends with a quiz.
	<p>Participants may now understand how to go about systematically assessing risk, but what next? Companies should now be able to integrate these findings into their corporate processes and assign roles and responsibilities. The degree to which the company should react depends on the relationship the company has with the incident or risk.</p> <p>A warning: this section of the training can get confusing for participants. For example, it may be difficult for participants to understand whether a company caused or contributed to the impact. The exercise provided after this part of the session should help to clarify this.</p> <p>The last section of the session involves the question of leverage. If a supplier or business partner was involved, what is the extent of leverage the company has over the supplier or business partner?</p>
	<ol style="list-style-type: none"> <li>1. Inform the participants that this session on integrating and acting on findings will be 50 minutes in duration and involve a short exercise at the end.</li> <li>2. Inform participants that you will begin with a brief review of the first step of the HRDD process (as below).</li> <li>3. Explain that the session will then cover two primary issues: 1) what integration of findings may require, and 2) what degree of action in response to human rights risks or impacts is necessary.</li> <li>4. Explain that the exercise at the end of the training will ask us to consider linkages between culpability (caused, contributed or linked) and action required.</li> <li>5. Introduce the material as follows.</li> </ol>

### Brief review of the prior session on identifying and assessing human rights risks

We have learned that to identify human rights risks, we should understand context, consult with stakeholders, and map operations. After cataloguing the relevant human rights risks, we then assess these risks in order to prioritize them. Prioritization requires that we make judgements on the severity and likelihood of risks. This first category of actions might be considered as risk-based measures to prevent / mitigate human rights impacts. The second category of actions might be thought of as process-oriented measures to embed HRDD in the business.

Indeed, after identifying priority human rights issues, we need to embed plans for action into our business processes. This involves integrating our findings across relevant internal functions and processes (Guiding Principle 19).



### What does integrating and acting upon findings require?

According to Principle 19, to prevent and mitigate adverse human rights impacts, business enterprises should:

- + Integrate the findings from their human rights risk assessments across relevant internal functions and processes
- + Take appropriate action

Integration, in turn, requires two things:

- + Assigning responsibility for addressing risks and impacts to the appropriate unit within the business enterprise
- + Ensuring efforts to address risks and impacts are:
  - Supported by budget allocations
  - Subject to oversight and compliance measures
  - Aligned with internal decision-making processes

Integration may occur more naturally for small enterprises unencumbered by many departments, units or processes. Large enterprises will require a more systematized approach. This may require:

- + Collaboration between departments
  - Example 1: human resources works with the legal department on matters related to contracts with recruitment agencies
  - Example 2: the CSR/sustainability unit works with development teams involved in green-field investments
- + Developing clear reporting requirements, hosting regular interactions with external experts, and enhancing collective action with industry associations and government departments
- + Creating incentives for suppliers and other businesses to also respect human rights
  - Example 1: drafting contracts that minimize the likelihood of human rights risks
  - Example 2: conducting trainings with suppliers on the expectations around the respect for human rights

### Case study

After efforts to identify and assess human rights risks were concluded, a mining company found that it posed risks to the right to water, an adequate standard of living and a healthy environment and to freedom of association. Also, they found that the company was not providing access to appropriate grievance mechanisms.

The company integrated responses to these risks through the following measures: 1) specific adjustments to guidelines and corporate processes, including tendering and hiring processes, in order to ensure non-discrimination; 2) more in-depth studies commissioned on the impacts of worker influx on the rights of local communities; 3) more training and information provision, to enhance the professionalism of security staff at the sites; 4) training for local communities on potential environmental impacts; 5) improvements in supplier checks and specific projects on individual aspects of human rights, such as the prevention of sexual violence and; 6) improvements in access to complaints mechanisms were proposed.

Source: Global Compact Network Germany, German Institute for Human Rights & twentyfifty, *Assessing Human Rights Risks and Impacts: Perspectives from corporate practice*, (2016), accessible at: [www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/Assessing-Human-Rights-Risks-and-Impacts.pdf](http://www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/Assessing-Human-Rights-Risks-and-Impacts.pdf)

### What degree of action is required once an adverse human rights impact has been brought forward?

The UNGPs provide that the appropriate response or action will vary according to:

- + Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved because the impact is directly linked to its operations, products or services by a business relationship
- + The extent of its leverage in addressing the adverse impact

There are three ways in which a business can be involved in adverse impacts on human rights:

- + It may cause the impact through its own activities
- + It may contribute to the impact through its own activities, either directly or through some outside entity
- + It may neither cause nor contribute but be directly linked to the impact

### What does it mean when a company CAUSES a human rights impact?

A business activity is a cause when it is directly responsible on its own for the adverse impact. Examples of business activities causing human rights impacts:

- + Routine discrimination by a restaurant in its treatment of customers
- + Exposure of factory workers to hazardous working conditions
- + Conducting logging operations on land set aside for the enjoyment of indigenous peoples

Where a business causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact.

### What does it mean when a company CONTRIBUTES to a human rights impact?

The enterprise contributes in one of two circumstances:

- + When the business activity has a direct impact on someone's human rights but alongside other entities
- + When the business activity has an impact *indirectly* through other entities

Examples of businesses contributing to adverse human rights impacts:

- + Providing data about internet service users to a government that uses the data to trace and prosecute political dissidents
- + Targeting marketing of high-sugar foods and drinks to children, which will likely lead to child obesity
- + Changing product requirements for suppliers repeatedly and without adjusting production deadlines and prices, thus pushing suppliers to breach labour standards in order to deliver

## What does it mean when a company is LINKED to a human rights impact?

A business may neither cause nor contribute to the impact but be involved because the impact is caused by an entity with which it has a business relationship and is linked to its own operations, products or services.

In this circumstance, a company is linked to the adverse human rights impact.

Examples of businesses linked to adverse human rights impacts:

- + Providing financial loans to an enterprise for business activities that, in breach of agreed standards, result in the eviction of a community
- + Embroidery on a retail company's clothing products being subcontracted by the supplier to child labourers in homes, counter to contractual obligations



### Quiz

Cause, contribute or linked? Participants are asked to work in groups to discuss whether a company caused, contributed or is linked to a particular human rights risk and why.

Read through the fact pattern below. Assign participants into small groups to read the fact pattern and report back to the wider group. Or as an alternative, embed the questions below into a survey software to assess the answers.

After each answer is provided, be sure to ask if there is disagreement or if participants have anything further to add.

If participants are in working groups, they should remain in the same groups for the next session, which covers tracking effectiveness.

If you have a Mentimeter account, you can copy the following slides with the questions below by accessing the [Part II – Module 2, Session 4](#) presentation online. The page is also available by scanning this QR code:



Read the following fact pattern<sup>12</sup> out loud and provide paper copies if the event is in person (and not online).

*The Factory Fire:*

*International Clothing Retailer (ICR) entered into a contract last year with Reliable Clothing Suppliers (RCS). RCS agreed to supply ICR's material for the next spring, summer, autumn and winter collections. RCS worked with Factory Owners Inc (FOI) to lease the factories. Workforce Recruitment Agency (WRA) supplied the labour force behind the operation.*

*With fashion trends going through rapid and shorter cyclical changes, ICR's relationship with RCS suffered. ICR attempted to impose frequent changes in the orders put to RCS.*

*After an audit several months into the contract, ICR found that WRA had used misleading information to secure the labour contracts for 300 women. These women believed they would be working in state-of-the-art facilities, compliant with international standards in workplace safety. Many months later, the factory was hit by a tremendous fire and hundreds of people, mostly young women, were killed.*

*According to news reports, the number of fatalities was exacerbated by poor health and safety conditions at the factory, which included serious overcrowding and a lack of fire escapes. Worse, some fire escapes appeared to have been deliberately blocked by management at the factory.*

*According to investigators working at the scene, employees at the factory were engaged in clothing manufacturing for several well-known brands, including brands owned by ICR.*

**Which company likely CAUSED the adverse human rights impacts? Select the most accurate answer.**

- A. Clothing retailer, ICR, because they did an audit and should have known that the factory was unsafe
- B. Clothing suppliers, RCS, because they were in control of the facilities and had blocked the fire escapes
- C. Factory owners, FOI, because they owned the factory and were responsible for its conditions
- D. RCS and FOI because these two entities were directly responsible for structural safety and workplace safety

The correct answer is **D**. RCS and FOI were directly responsible for either structural safety or workplace safety.

<sup>12</sup> This fact pattern was inspired by material prepared by the International Bar Association at [www.ibanet.org/Handbook-for-lawyers/Chapter-2.aspx](http://www.ibanet.org/Handbook-for-lawyers/Chapter-2.aspx)

**Which company CONTRIBUTED to the adverse human rights impacts? Select the most accurate answer.**

- A. The clothing retailer, ICR, because it placed orders with RSC when it should not have, based on the findings of the audit
- B. The recruitment agency, WRA, because it used misleading tactics to get the women to work in the factory in the first place
- C. The factory owners, FOI, because they owned the factory and anything bad that happens in its facilities is something they have contributed to
- D. WRA and possibly ICR

The most accurate answer is **D**. The recruitment agency, WRA, because it used misleading tactics to get the women to work in an unsafe factory in the first place. ICR might also have contributed if it can be said that its lack of action after its audit allowed business to go on as usual. Further, ICR may have contributed if ICR's frequent changes to orders led to exploitative, dangerous or abusive workplace practices.

**Which companies are directly LINKED to the adverse human rights impacts?**

- A. RCS because it was contracting from outside the country
- B. RCS and ICR by virtue of their supply agreements and subcontracting arrangements
- C. WRA because they had the contracts with the labourers who lost their lives
- D. FOI because they were only the factory owners, not the company that employed the women labourers

The most accurate answer is **B**, by virtue of their business relationships and the supply and subcontracting arrangements they employed.

**What is "leverage" and why is it important?**

Where the company has contributed or is linked to adverse human rights impact, it must use its leverage to mitigate any remaining impact to the greatest extent possible. According to the OHCHR's *An Interpretive Guide of the Corporate Responsibility to Respect Human Rights*, "leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm."

There are many ways of measuring leverage:

- + Whether there is a degree of direct control by the enterprise over the entity
- + The terms of contract between the enterprise and the entity
- + The proportion of business the enterprise represents for the entity

- + The ability of the enterprise to incentivize the entity to improve human rights performance in terms of future business, reputational advantage, capacity-building assistance, etc.
- + The benefits of working with the enterprise to the entity's reputation and the harm to its reputation if that relationship is withdrawn
- + The ability of the enterprise to incentivize other enterprises or organizations to improve their own human rights performance, including through business associations and multi-stakeholder initiatives
- + The ability of the enterprise to engage local or central government in requiring improved human rights performance by the entity through the implementation of regulations, monitoring, sanctions, etc.

**How do you use leverage with suppliers and others when their products or services are so important to your enterprise?**

Clearly, relationships with suppliers are key to competitiveness, productivity and profitability. Thus, enterprises are not keen to use leverage to get suppliers to change their behaviour without careful consideration. In some cases, especially with suppliers in high demand, leverage is not readily available.

The UNGPs acknowledge these circumstances and suggest a twofold approach:

- + **With non-crucial business relationships:** Use leverage to mitigate the risks. If unsuccessful, end the relationship.
- + **With relationships that are crucial to the enterprise:** Use leverage to mitigate the risk. If unsuccessful, consider ending the relationship or demonstrate efforts made to mitigate the abuse, recognizing the possible consequences of remaining.

If lacking leverage, explore options for increasing leverage to mitigate the risk that continues. If possible and practical, increase leverage through collective means, teaming up with other buyers so you have more collective leverage. This may also involve joining multi-stakeholder/ industry initiatives to influence policy and the uptake of regulatory enforcement.

If all of these efforts lead to nothing, look to end the relationship in a responsible manner.

## Session 5: Tracking effectiveness

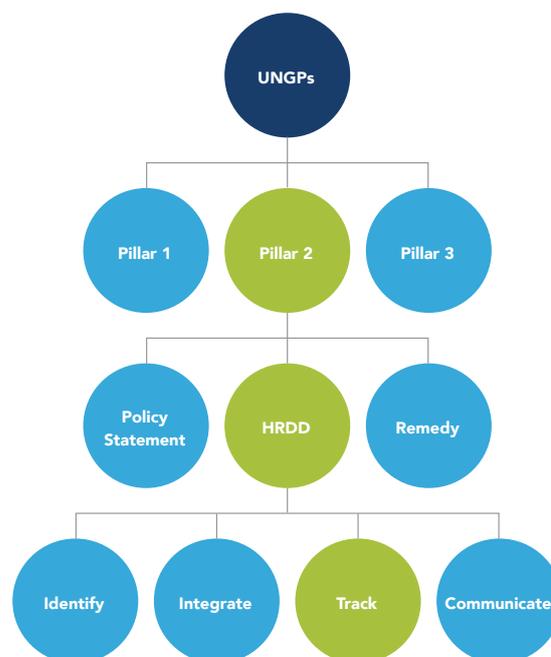
	50 minutes
	Participants will understand how to track the effectiveness of their responses to human rights risks and impacts.
	This section begins as a lecture, including brief references to case studies, and ends with a quiz.
	By this point in the training, the participants will have been exposed to a lot of material on HRDD. To help participants absorb the material, it will be important for the facilitator to refer back to concepts covered in prior sessions. Bring in old case studies or fact patterns to explain the material on tracking that follows.
	<ol style="list-style-type: none"> <li>1. Inform participants that this session on tracking effectiveness will be 50 minutes in duration and involve a short exercise at the end.</li> <li>2. Explain that tracking effectiveness is the third out of four steps on HRDD.</li> <li>3. Inform participants that you will begin with a brief review of the last session on integration.</li> <li>4. Introduce the material as follows.</li> </ol>

### Brief review of the prior session on integration of human rights risks

We have learned that to integrate responses to human rights risks and impacts, we should incorporate the findings from human rights risk assessments across relevant internal functions and processes. This entails assigning responsibility for addressing risks and impacts to the appropriate unit within the business enterprise and providing the necessary support to those roles. Unpacking this still further, the unit might be tasked with developing action plans with clear objectives, measures, concrete responsibilities, KPIs, timelines, etc.

We have also learned that the action to be taken by these units depends on whether the enterprise caused, contributed or is linked to any adverse human rights impacts. Exercising our leverage is important when we are linked to human rights abuses through our business relationships.

Now, after identifying and integrating responses in relation to human rights risks and impacts, we need to verify whether they are being addressed effectively. The UNGPs provide that as a third step in conducting HRDD, we must **track** the effectiveness of our efforts (Guiding Principle 20).



### Why is tracking effectiveness important?

Tracking the effectiveness of efforts is essential if staff are to account for their success in respecting human rights and learn from any shortcomings. Tracking human rights issues and responses also helps a business to identify trends and patterns and delineate systemic challenges. Tracking may also allow for best practices to be identified and help improve business performance. Mostly, tracking is critical to preventing or mitigating the continuation or recurrence of human rights abuses.

### What does tracking effectiveness require?

According to Principle 20 of the UNGPs, tracking requires:

- + Developing appropriate qualitative and quantitative indicators
- + Drawing from feedback from both internal and external sources

Though quantitative and qualitative inputs are required, tracking efforts should be kept simple. Tracking is merely the process of reviewing how well the enterprise responds to any potential impacts identified.

Importantly, there is no predetermined way of tracking effectiveness, only that the process makes sense with regards to the enterprise's wider systems and culture. Businesses may look to other internal reporting and tracking systems already in place for guidance, for example, in occupational health and safety. Integrating human rights-focused tracking systems into pre-existing tracking efforts, tools or models may help normalize or mainstream wider awareness and respect for human rights. This might also include embedding indicators in:

- + Contract performance reports
- + Surveys and audits
- + Balanced scorecard approaches
- + Grievance mechanism information
- + Internal assurance processes

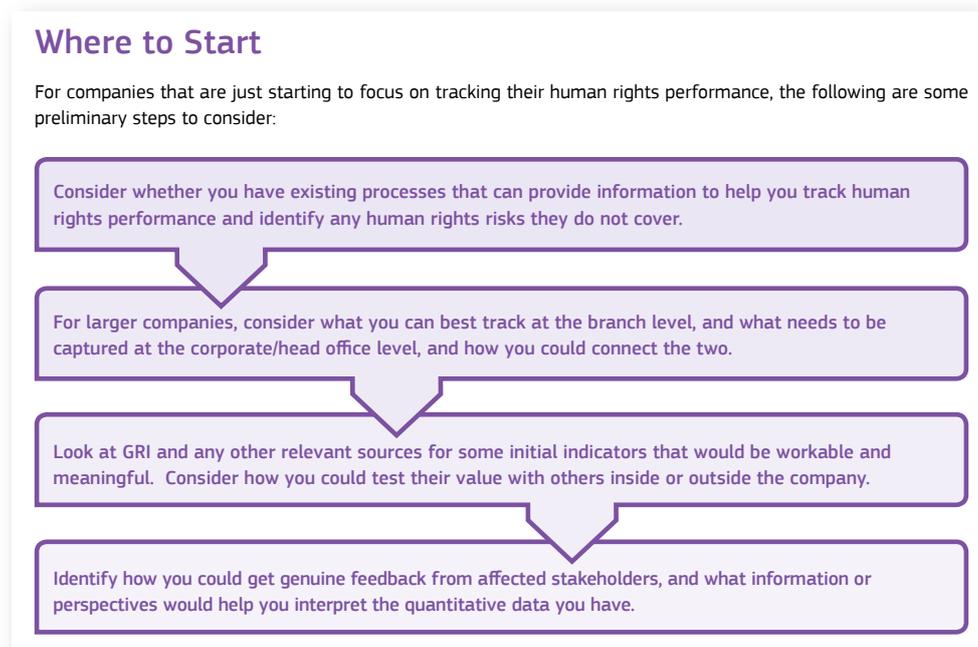
Ideally, tracking takes place after a human rights policy is in place to ensure buy-in and awareness. The policy may strengthen a monitoring and tracking plan that requires inputs from a variety of functional units or departments. Tracking responsibilities should be assigned to specific persons and/or departments.

### What does a tracking plan look like?

A successful tracking plan will have support from senior management, buy-in from employees and input from affected communities. Management should assign performance targets related to HRDD, to increase incentives for performance. In designing a tracking plan, consider the following:

- + Ensure that efforts to track effectiveness are understood by the most senior management to enhance collaboration and cooperation from various business units.
- + Increase the relevance of efforts taken by basing the tracking plan on human rights risk priorities identified during the first step of the HRDD process. Hopefully, these human rights risks have been identified with a variety of inputs from internal and external stakeholders, securing buy-in.
- + Draft indicators based on the priorities established. Seek internal and external expertise for feedback. Consider sharing them with external stakeholders including affected communities for their input.
- + Gather information to populate these indicators from existing grievance mechanisms, employee surveys, union representative feedback, and auditing processes. Consult reports prepared by country directors or regional offices for relevant information on the national human rights situation and its connection to the business. Consult further with vulnerable groups. Ensure women's voices are heard during consultations.

The following guidance is provided by the European Commission to employment and recruitment agencies for their efforts to track human rights performance:



Source: European Commission. Employment & Recruitment Agencies Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights (2012), available at [ec.europa.eu/anti-trafficking/sites/antitrafficking/files/employment\\_and\\_recruitment\\_agencies.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/employment_and_recruitment_agencies.pdf)

Labor and Human Rights assessment deductions				
	Core Violations	Violations	Administrative Non-Compliance	Total Deductions
Working Hours	- 0.1	- 3.4	- 0.4	- 3.9
Wage, Benefits and Contract	-	- 3.3	- 0.2	- 3.5
Prevention Of Involuntary Labor	- <0.1	- 0.6	- 0.6	- 1.2
Protected Class	-	- 0.6	- <0.1	- 0.6
Anti-Discrimination	-	- 0.2	- 0.3	- 0.5
Grievance Mechanism	-	- 0.3	- 0.1	- 0.4
Anti-Harassment and Abuse	-	- <0.1	- 0.2	- 0.2
Prevention of Underage Labor	- <0.1	- <0.1	- 0.1	- 0.2
Freedom of Association and Collective Bargaining	-	- <0.1	- <0.1	- 0.1

Average Total Score: 89

Tracking example, found in Apple's Supplier Responsibility report, available at [www.apple.com/supplier-responsibility/pdf/Apple\\_SR\\_2019\\_Progress\\_Report.pdf](http://www.apple.com/supplier-responsibility/pdf/Apple_SR_2019_Progress_Report.pdf)

### What indicators are important?

There are many useful and important indicators and many different sources for obtaining them. The most important factor is the relevance of these to the business. Indicators can be grouped into process/input indicators or incidence/impact indicators. Below are samples of each type:

Process/input indicators:

Over a ## month period

- + Percentage of workers trained on human rights policy
- + Percentage of workers who have access to operational grievance mechanisms
- + Number of human rights impact assessments conducted

Incidents/impact indicators:

Over a ## month period

- + Number of incidents of sexual harassment identified
- + Number of instances where internet user data was passed to governments and on what basis
- + Number of employee injuries
- + Number of instances of child labour reported
- + Percentage of cases filed by employees, disaggregated by sex, with operational grievance mechanism
- + Number of land rights violations reported to local government where supplier is operating

There are a number of publications that provide sample indicators from international organizations. For example:

- + Shift and Mazars, 'UN Guiding Principles Reporting Framework'
- + 'GRI Sustainability Reporting Standards'
- + Danish Institute for Human Rights, 'Human Rights Indicators for Business'
- + Danish Institute for Human Rights, 'Human Rights Compliance Assessment'

Key performance indicators				
TRAINING AND SECURITY				
		2017	2018	2019
Hours of training on human rights	(number)	7,805	10,653	25,845
In class		52	164	108
Distance		7,753	10,489	25,737
Attendances in human rights training courses		2,084	10,557	44,396
Employees trained on human rights		1,360	8,512	19,745
Employees trained on human rights <sup>(a)</sup>	(%)	74	91	97
Security personnel trained on human rights <sup>(b)</sup>		308	73	696
Security personnel [professional area] trained on human rights <sup>(c)</sup>	(%)	88	96	92

(a) This percentage is calculated as the ratio of the number of registered employees who have completed a training course on the total number of registered employees.  
(b) The variations of the KPI Security resources trained on human rights, in some cases also significant, which can be detected between one year and the next, are linked to the different characteristics of the training projects and to the operating contingencies.  
(c) This data is a percentage of a cumulated value. The change compared to 2018 (96%) is due to a change in the scope of consolidation, due to the inclusion of new resources to be trained and the exit of resources already trained.

Eni launched a massive human rights campaign between 2016 and 2017, and in 2018 and 2019 the human rights program continued with thematic follow-ups.

See ENI Report on Human Rights to understand how to use Key Performance Indicators to measure progress in raising human rights awareness, available at [eni.com/assets/documents/eni-report-human-rights.pdf](http://eni.com/assets/documents/eni-report-human-rights.pdf)

### Why are qualitative indicators important?

To enhance the credibility and utility of tracking, qualitative indicators are particularly important. These may require inputs from both expert observers and affected stakeholder groups, providing for a more accurate appreciation of the meaning of quantitative figures. In fact, stakeholder engagement might be employed at the earliest stages of the tracking planning stages, including inputs into the shape of indicators themselves. Integrating stakeholders, particularly vulnerable groups, in tracking effectiveness provides an opportunity for right holders and duty bearers to learn from the HRDD process.

### What should happen from a monitoring and tracking standpoint, when an impact is found?

Whenever an adverse human rights impact is identified, the enterprise should undertake a root cause analysis or equivalent process to understand how and why it occurred.

A root cause analysis can pinpoint what actions, related to the enterprise, played a role in generating the impact and how. Better understanding of the root causes may also uncover the incentives and disincentives of respecting human rights.



## Quiz

If you have a Mentimeter account, you can copy the following slide with the question below by accessing the [Part II – Module 2, Session 5](#) presentation online. The page is also available by scanning this QR code:



### Which of the following is **NOT** considered a reason why tracking effectiveness is considered important?

- A. To account for success in respecting human rights and learn from any shortcomings
- B. To help identify and assess human rights risks
- C. To identify trends and patterns, and help identify systemic challenges
- D. To prevent or mitigate the continuation or recurrence of human rights abuses

The correct answer is **B**. Identifying and assessing is the first step of the HRDD process and is important to prioritizing risks and impacts, not accounting for progress.

## Session 6: Communicating actions

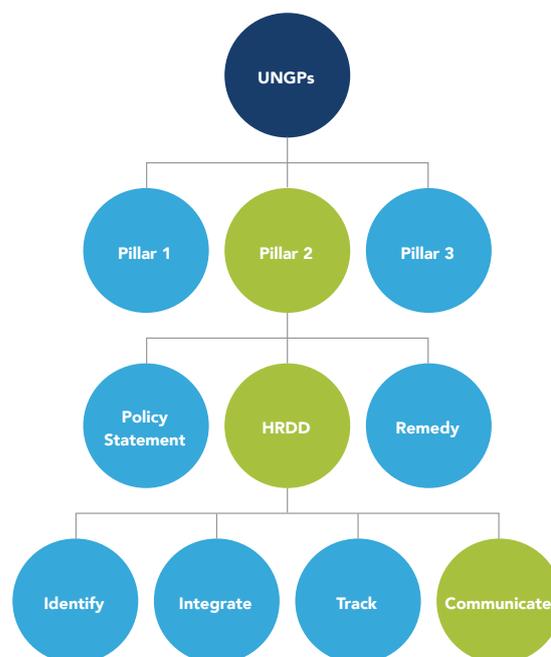
	50 minutes
	Participants will understand how businesses can communicate the actions taken to address human rights risks and impacts.
	This session is delivered as a lecture, including brief references to case studies.
	This is the last module of the training on BHR and HRDD! It will be important to finish strongly. Be mindful of audience fatigue.
	<ol style="list-style-type: none"> <li>1. Inform participants that this session on communicating will be 50 minutes in duration.</li> <li>2. Explain that communicating impact is the last of the four steps on HRDD.</li> <li>3. Inform participants that you will begin with a brief review of the last session on tracking effectiveness.</li> </ol>

### Brief review of the prior session on tracking effectiveness

We have learned that in order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their responses.

We also learned that tracking should be based on appropriate qualitative and quantitative indicators; and draw on feedback from both internal and external sources, including affected stakeholders.

Now, after tracking our progress in addressing human rights impacts, businesses need to publicly communicate the actions they have taken or intend to take. The UNGPs provide that as a fourth step in conducting HRDD, communication is vital to efforts by businesses to hold themselves accountable (Guiding Principle 21).



### What is required to communicate actions in compliance with the UNGPs?

To account for how they address their human rights impacts, business enterprises should be prepared to communicate their actions externally.

Business enterprises whose operations or operating contexts pose risks for severe human rights impacts should report formally on how they address them (Principle 21).

Communications should:

- + Be of a form and frequency that reflect an enterprise's human rights impacts
- + Should be accessible to intended audiences
- + Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved
- + Not pose risks to affected stakeholders or personnel; not include names/locations that could disclose identities of rightsholders who may face retaliation
- + Not pose risks to legitimate requirements of commercial confidentiality

### How does a business prepare itself to communicate actions?

To communicate actions on human rights impacts, enterprises should develop or leverage existing internal information-gathering and accountability systems. This allows a business to respond effectively when there are allegations of human rights abuses.

The business should also be well positioned to communicate on the enterprise's general approaches to addressing its human rights risks, or if relevant, any systems the enterprise has in place to mitigate those risks and to address any harm that may occur. But process-oriented communications are only one level of communication.

Business must also be ready to communicate on concrete human rights issues and the actions to prevent/mitigate them. These harms would by necessity include those that have been identified as priority human rights risks. All businesses, but especially those enterprises that work in high-risk industries, should be able at a moment's notice to communicate about specific responses to a particular human rights impact.

### **What are the different forms of communication a business should consider?**

Any communication should be fit for its purpose, which implies, among other things, that the material is easily accessible to the target audience.

Forms of communication may include:

- + Regular emails to employees on human rights issues that may have arisen
- + Inclusion of human rights issues and actions in an annual sustainability report

#### **Which key principles guide our stakeholder relations?**

Our principles for guiding the development of stakeholder relations are:

- Those affected by the adidas Group business have a right to be informed about our activities, participate in a transparent stakeholder engagement process and be involved in issues and opportunities that affect them.
- Stakeholders will be provided with timely and accurate information about our business and we will take into account the needs and concerns of stakeholders when making decisions on the company's behalf.
- We will actively seek stakeholder input and feedback on its business decisions and will respond to what we learn.
- We will encourage stakeholders to define the manner in which they wish to be consulted, and will strive to remain flexible and responsive to stakeholder preferences.
- We identify, assess and address potential risks on stakeholders' and adidas Group's side to ensure a high quality process and outcome of the engagement.
- Those acting on behalf of the adidas Group must be willing to be influenced by stakeholders and where appropriate, act on the input even if it means making changes to the company's business plans.

See adidas 'Stakeholder Relations Guidelines' for an approach to communications, accessible at [www.adidas-group.com/media/filer\\_public/37/b2/37b226ab-4f05-4ebc-bed4-b20cfb41d9d5/2016\\_stakeholderrelationsguidelines.pdf](http://www.adidas-group.com/media/filer_public/37/b2/37b226ab-4f05-4ebc-bed4-b20cfb41d9d5/2016_stakeholderrelationsguidelines.pdf)

The OECD Due Diligence Guidance for Responsible Business Conduct also recommends:

- + In-person meetings
- + Online dialogues
- + Consultations with impacted or potentially impacted rights holders
- + Formal public reports
- + The sharing of audit or assessment findings with trade unions
- + Communications through an intermediary

If the purpose of the communication is to reach affected stakeholders, language and cultural barriers need to be considered carefully. Verbal exchanges during face-to-face meetings may be more appropriate. Direct communication may be required with parties which claim to be directly affected or to represent their interests.

Where the enterprise poses risks of severe human rights impacts, they should produce formal public reports on the actions the business is taking.

Formal reports may include:

- + Self-standing reports on the enterprise's human rights performance
- + Part of a wider report on non-financial performance covering social and environmental issues
- + Part of an integrated report on both financial and non-financial performance

To facilitate reporting, many companies use the Global Reporting Initiative (GRI) reporting standards; the UN Global Compact's Communication on Progress framework or; the UNGP Reporting Framework. Notably, neither the GRI nor the UN Global Compact reporting framework are considered fully aligned with the UNGPs.

The benefits of transparency and disclosure should also be carefully weighed, as consumer loyalty, brand distinction or ESG profile are either heightened or damaged by the quality of reporting on any adverse human rights impacts.

Strong communications can bring attention to the issue and call for contributions from other stakeholders (government and other industry leaders) or lead to platforms for dialogue with civil society organizations, National Human Rights Institutions, and trade unions.

#### **Quality indicators of good corporate human rights reporting<sup>8</sup>**

1. **Governance:** Does the reporting explain how the company's governance structures support the management of human rights risks?
2. **Specific processes:** Does the reporting go beyond high-level statements of policy and commitment and discuss specific processes for implementing respect for human rights?
3. **Specific impacts:** Does the reporting refer to specific impacts that occurred within the reporting period and are associated with the company's operations or value chain?
4. **Clear examples:** Does the reporting provide clear, relevant examples of how the company's policies and processes have influenced practice and outcomes within the reporting period?
5. **Stakeholder perspectives:** Does the reporting explain how the company gains the perspective of stakeholders who could be negatively impacted?
6. **Challenges:** Does the reporting discuss complex or systemic human rights challenges and how the company grapples with them?
7. **Metrics:** Does the reporting include specific data, key performance indicators or other metrics that offer clear and relevant evidence to support the narrative?
8. **Forward focus:** Does the report include information about the company's plans for advancing its efforts to respect human rights?
9. **Strategic initiatives:** If the reporting references particular initiatives, for example, projects, third-party assessments or participation in industry or multi-stakeholder organisations, does it make clear how these initiatives help the company advance its own management of human rights risks?
10. **Improving disclosure:** Where this is not the first year of human rights reporting for the company, does the reporting show improvements in the quality of its disclosure in comparison with previous years, taking into account the indicators set out above?

Source: Shift, Quality indicators from UNGPs Reporting Framework, from *Doing Business with Respect for Human Rights: A Guidance Tool for Companies* (2016), p. 58, available at [aim-progress.com/storage/resources/business-respect-human-rights-full.pdf](http://aim-progress.com/storage/resources/business-respect-human-rights-full.pdf)

## Session 7: Closing exercises

	15 minutes
	The closing session is primarily geared towards gathering inputs into the effectiveness of the training. However, it can also be used to transmit final messages or key lessons.
	This session begins with a very brief review of what was covered by the training and ends with casual reflections from the audience. A survey is offered at the end to help tabulate responses.
	When covering this summary session, the trainer should not go into detail but rather go over the headlines and simply remind the audience what was covered. If a certificate of completion is contemplated, then a small ceremony should be hosted.
	<ol style="list-style-type: none"> <li>1. Inform participants that this session is the final session and is mainly to summarize and to take in reflections.</li> <li>2. Congratulate trainees on completing the training.</li> <li>3. Inform participants that you will begin with a quick summary of the training, and then seek feedback through an online survey.</li> <li>4. Turn to a facilitated discussion based on the questions below.</li> <li>5. Finally, thank the trainees for their participation. Provide certificates of completion if appropriate.</li> </ol>

### What did we cover in this training?

In Part I, the training provided a basic understanding of the UNGPs, including its history.

We discussed the business case for embracing responsible business practices, and the rapidly rising expectations on business to better manage their human rights risks.

In Part I, we discussed the meaning of human rights and the difference between Corporate Social Responsibility and the BHR agenda. We also discussed the concept of human rights and the types of abuses that occur in business operations.

The first part of the training also covered the three pillars of the UNGPs, providing a look into the: 1) state duty to protect; 2) the business obligation to respect and; 3) the requirement for both to provide for access to remedy.

In Part II, the training drilled down into the component part of Pillar 2 and focused on HRDD. As a brief review we spoke of the four steps to HRDD. This included: 1)

identifying and assessing human rights risks; 2) integrating and acting on findings; 3) tracking performance and; 4) communicating. During the first step we also introduced the HRDD Self-Assessment Training Tool.

If you have a Mentimeter account, you can copy the following slide with the question below by accessing the [Part II – Module 2, Session 7](#) presentation online. The page is also available by scanning this QR code:



### What did you find most helpful in the training? Which sections were the most effective? Rank the following:

Under Part I, discussions related to the following were the most effective:

- + Session on the rising expectations on business
- + Session on COVID-19 and response to other global risks
- + Session on the introduction of human rights
- + Session on the difference between CSR and BHR
- + Session introducing the UNGPs

Under Part II, discussions related to the following were the most effective:

- + Introduction to HRDD, Part A
- + Introduction to HRDD, Part B
- + Session on identifying and assessing risks
- + Session on integrating and acting on findings
- + Session on tracking effectiveness
- + Session on communicating actions



### Facilitated discussion

1. What did you learn during the training that you did not know before?
2. Based on what you learnt, what will you do differently going forward?
3. What else would you like to learn and when?
4. If you could bring anyone else from your organisation to do this training, who would you bring and why?
5. What would you do to improve the training?



The facilitator may want to add additional quizzes/closing exercises that are appropriate for the audience and match the delivery of the content.

They can invite participants to share their most important take-aways.

# SOURCES

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Danish Institute for Human Rights (2020). Human Rights Impact Assessment Guidance and Toolkit. Available at [www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox](http://www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox)

European Commission (2012). Employment & Recruitment Agencies Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights. Available at [ec.europa.eu/anti-trafficking/sites/antitrafficking/files/employment\\_and\\_recruitment\\_agencies.pdf](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/employment_and_recruitment_agencies.pdf)

Gap, Inc. (2020). Human Rights Policy. Available at [www.gapincustainability.com/sites/default/files/Human%20Rights%20Policy.pdf](http://www.gapincustainability.com/sites/default/files/Human%20Rights%20Policy.pdf)

H&M Group (2018). Sustainability Report 2018. Available at [about.hm.com/content/dam/hmgroup/groupsite/documents/masterlanguage/CSR/reports/2018\\_Sustainability\\_report/HM\\_Group\\_SustainabilityReport\\_2018\\_%20FullReport.pdf](http://about.hm.com/content/dam/hmgroup/groupsite/documents/masterlanguage/CSR/reports/2018_Sustainability_report/HM_Group_SustainabilityReport_2018_%20FullReport.pdf)

McManus, Father Sean (1997). The MacBride Principles. Available at [hrlibrary.umn.edu/links/macbride.html](http://hrlibrary.umn.edu/links/macbride.html)

OECD (2011). OECD Guidelines for Multinational Enterprises. Available at [www.oecd.org/daf/inv/mne/48004323.pdf](http://www.oecd.org/daf/inv/mne/48004323.pdf)

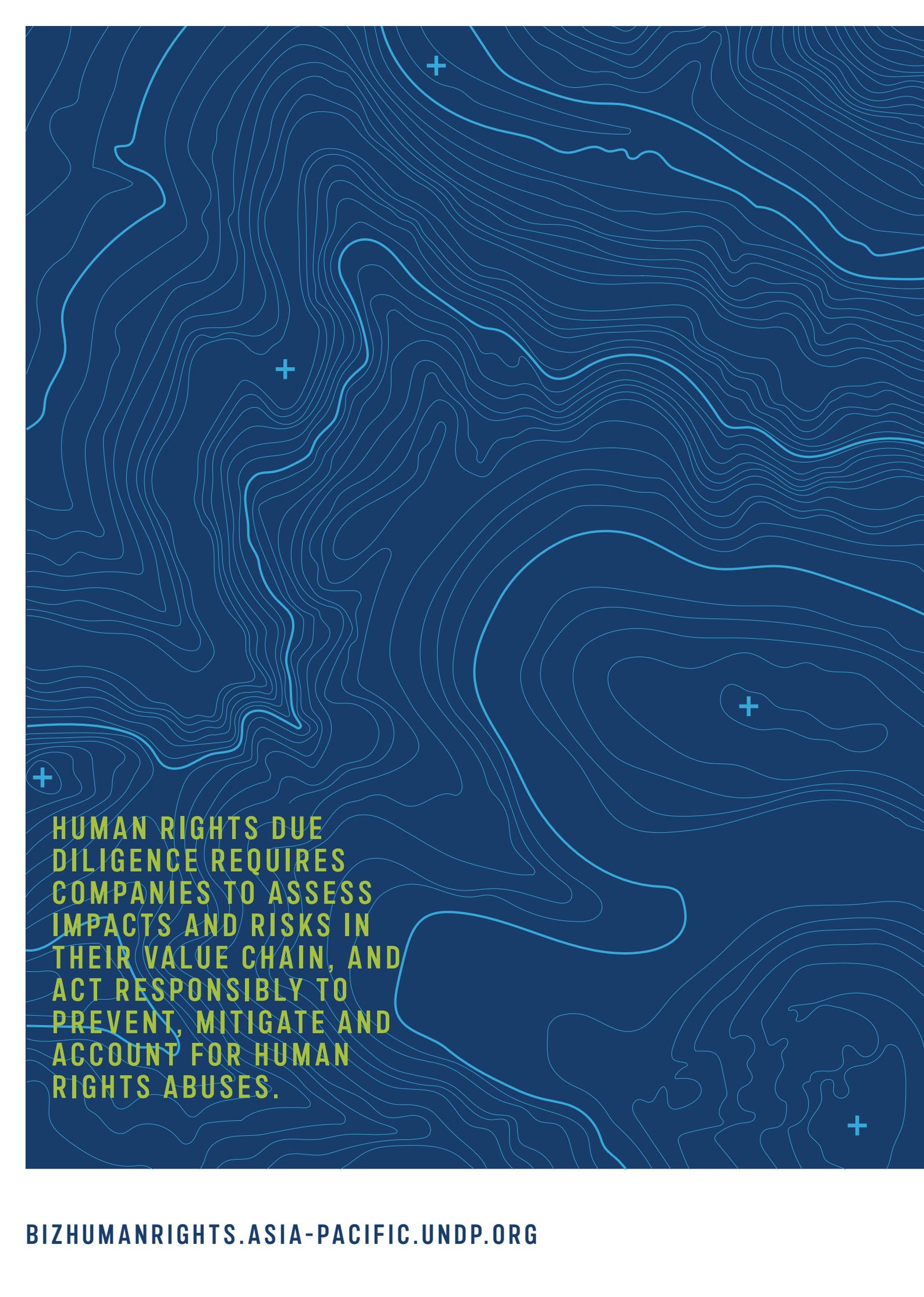
Responsible Business Alliance (2018). Practical Guide to Implementing Responsible Business Conduct Due Diligence in Supply Chains. Available at [www.responsiblebusiness.org/media/docs/RBAPracticalGuide.pdf](http://www.responsiblebusiness.org/media/docs/RBAPracticalGuide.pdf)

Shift (2014). Business and Human Rights Impacts: Identifying and Prioritizing Human Rights Risks. Workshop Report. Available at [shiftproject.org/wp-content/uploads/2014/01/Shift\\_SERworkshop\\_identifyHRrisks\\_2014.pdf](http://shiftproject.org/wp-content/uploads/2014/01/Shift_SERworkshop_identifyHRrisks_2014.pdf)

The Global Sullivan Principles (n.d.). Available at [hrlibrary.umn.edu/links/sullivanprinciples.html](http://hrlibrary.umn.edu/links/sullivanprinciples.html)

United Nations Human Rights Office of the High Commissioner for Human Rights (OHCHR) (2011). Guiding Principles on Business and Human Rights. Available at [www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](http://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

United Nations Human Rights Office of the High Commissioner for Human Rights (OHCHR) (2012). The Corporate Responsibility to Respect Human Rights: An Interpretative Guide. Available at [www.ohchr.org/Documents/publications/hr.puB.12.2\\_en.pdf](http://www.ohchr.org/Documents/publications/hr.puB.12.2_en.pdf)



**HUMAN RIGHTS DUE  
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THEIR VALUE CHAIN, AND  
ACT RESPONSIBLY TO  
PREVENT, MITIGATE AND  
ACCOUNT FOR HUMAN  
RIGHTS ABUSES.**