



# What business needs to know about the UN Guiding Principles

Business & Human Rights in Brazil –  
online workshop series

12 May 2020

# Webinar **logistics**

## **Chatham House rule**

Use the information you receive today, but do not affiliate the information with the identity of the speaker(s) or other participants.

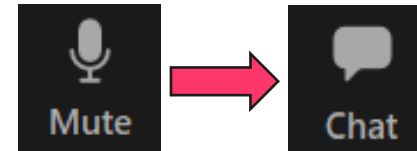
## **Recording & materials**

The meeting is being recorded.

Slides and recording will be made available following the call.

## **Questions & Comments**

Use the chat feature to ask a question or comment.



## **Mentimeter**

[www.menti.com](http://www.menti.com) use the code **75 35 78**

# Welcome



**Catie Shavin**  
Director



**Henrique Luz**  
Technical Advisor, CEBDS

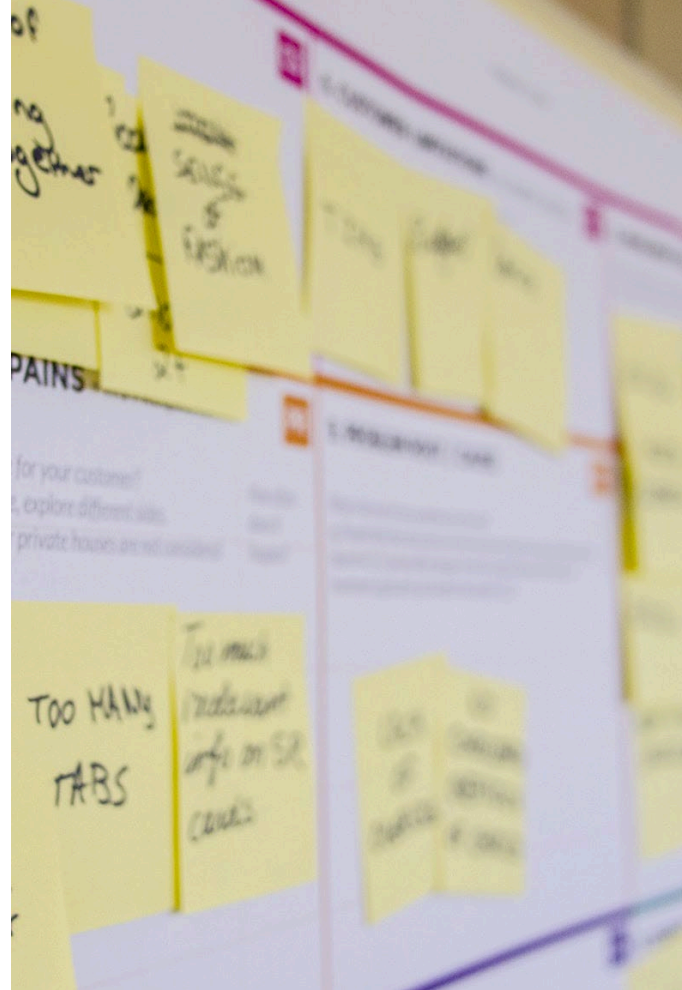


**Davide Fiedler**  
Manager - Social Impact, WBCSD



# Agenda

- 1) Opening remarks
- 2) Workshop series overview and introductions
- 3) The UN Guiding Principles on Business and Human Rights: What you need to know
- 4) Practical resources





# Today's speakers



**Andrea Álvares**

Chief Brand, Innovation, International  
and Sustainability Officer, Natura



**Simone Rocha Pinto**

Advisor - Latin America, GBI



**Gerald Pachoud**

Advisor, GBI

# Opening remarks

Andrea Álvarez, Chief Brand,  
Innovation, International and  
Sustainability Officer, **Natura**



# Workshop series overview and introductions

Davide Fiedler, WBCSD



# Business & Human Rights in Brazil online workshop series



12 May

What business needs to know about the UN Guiding Principles on Business and Human Rights (UNGPs)



26 May

Training and capability building - Talking to colleagues about human rights



9 June

Engaging stakeholders - indigenous communities, FPIC and grievance mechanisms



23 June

Managing human rights risks in the supply chain



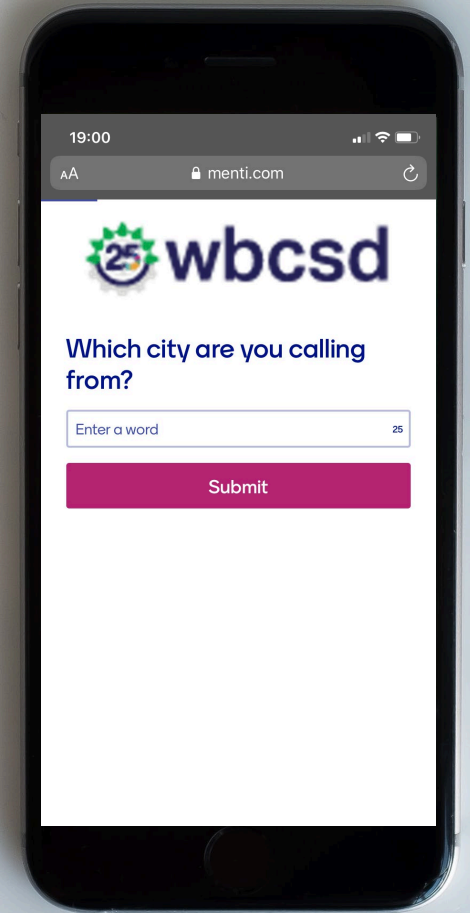
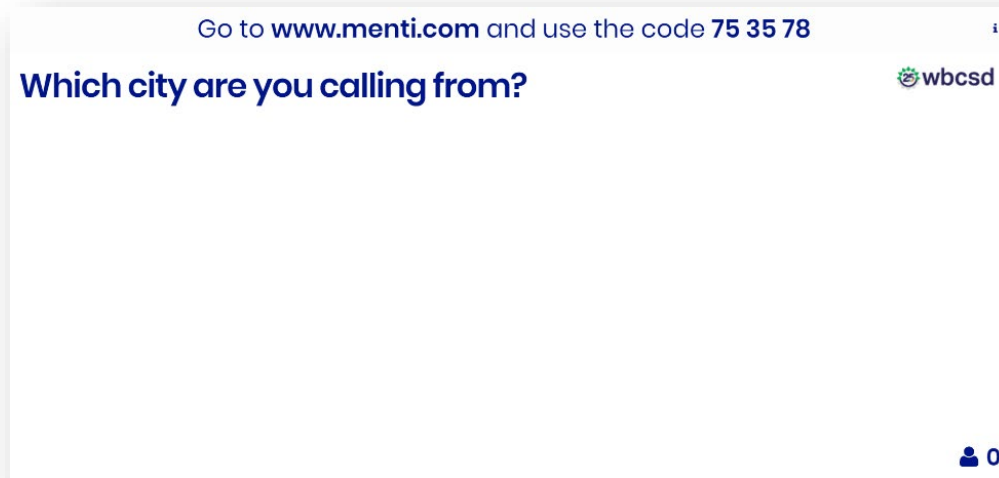
# Today's participants



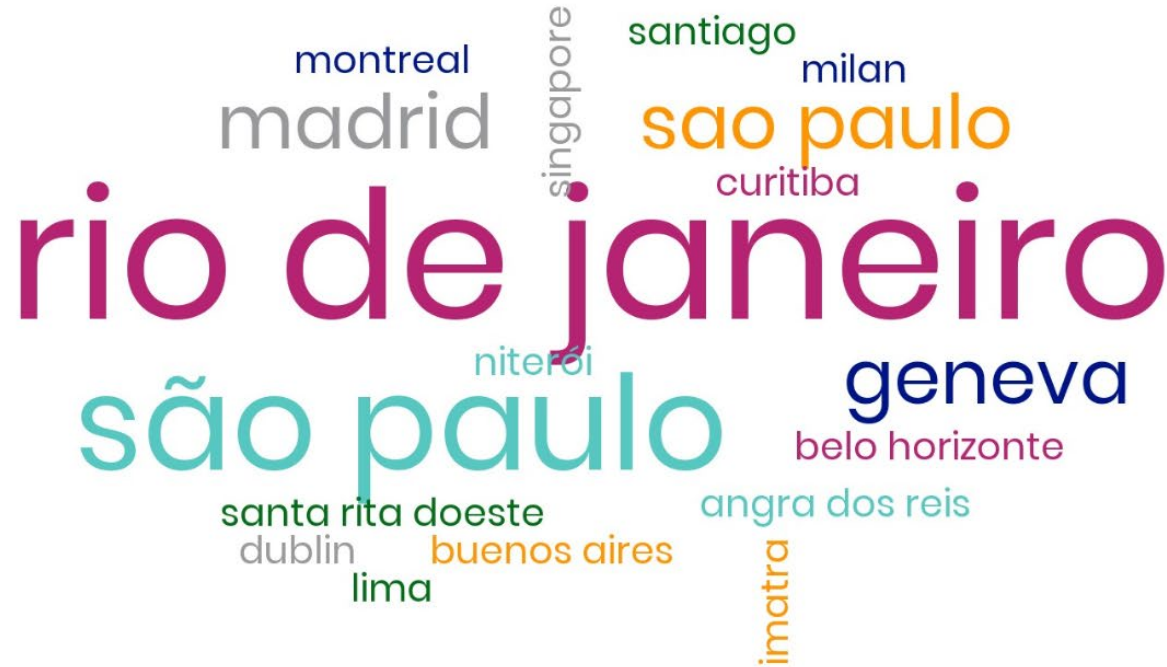


# Mentimeter

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and then enter the code **753578**



# Which city are you calling from?



# What function do you work in?



Human Rights



Sustainability



Legal

0

Human Resources

0

Communications

0

Finance



1

Procurement

0

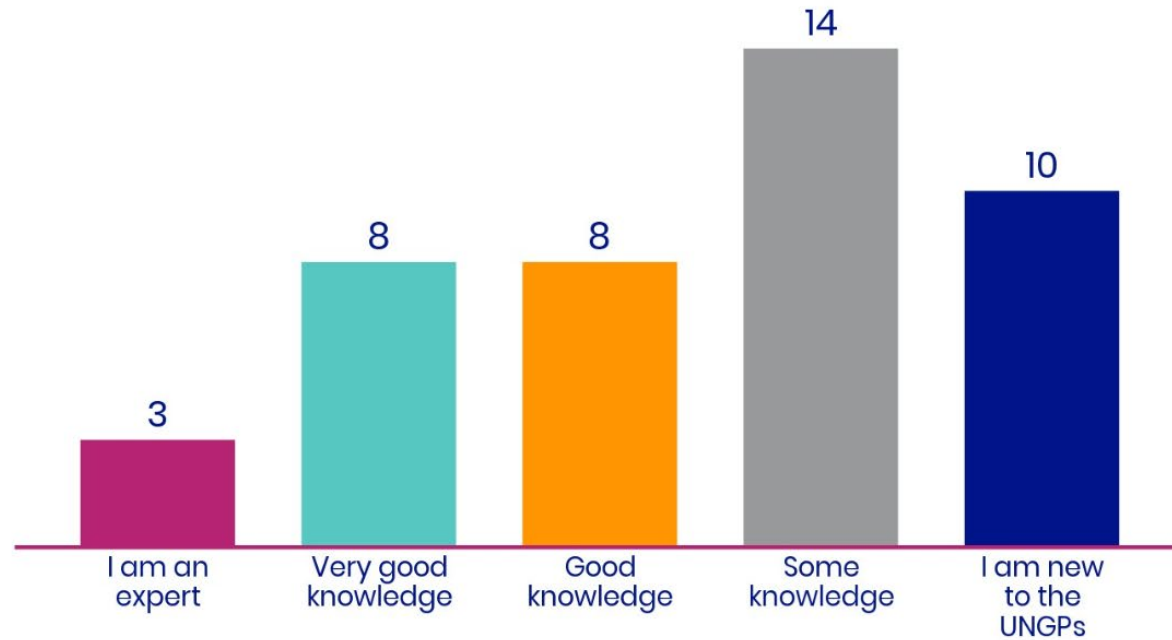
Supply Chain



Other

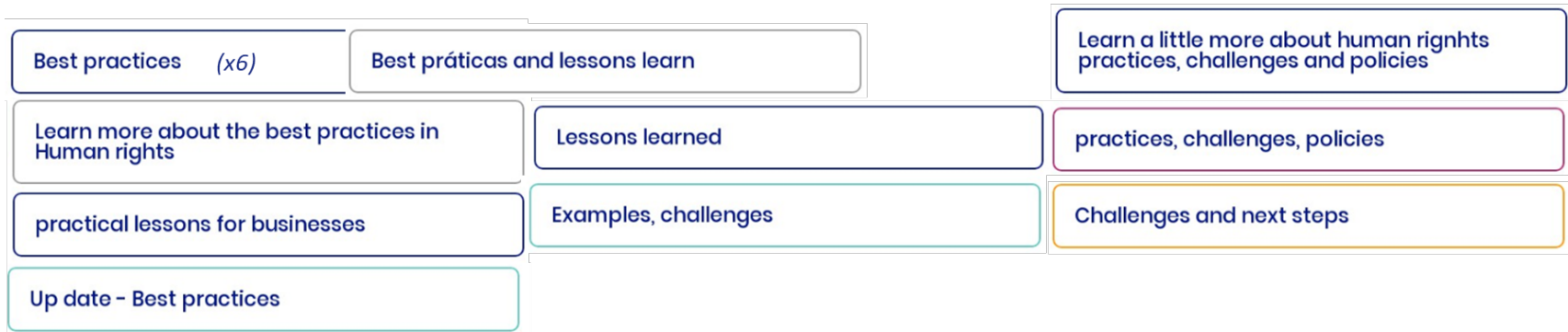
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# How well do you know the UNGPs



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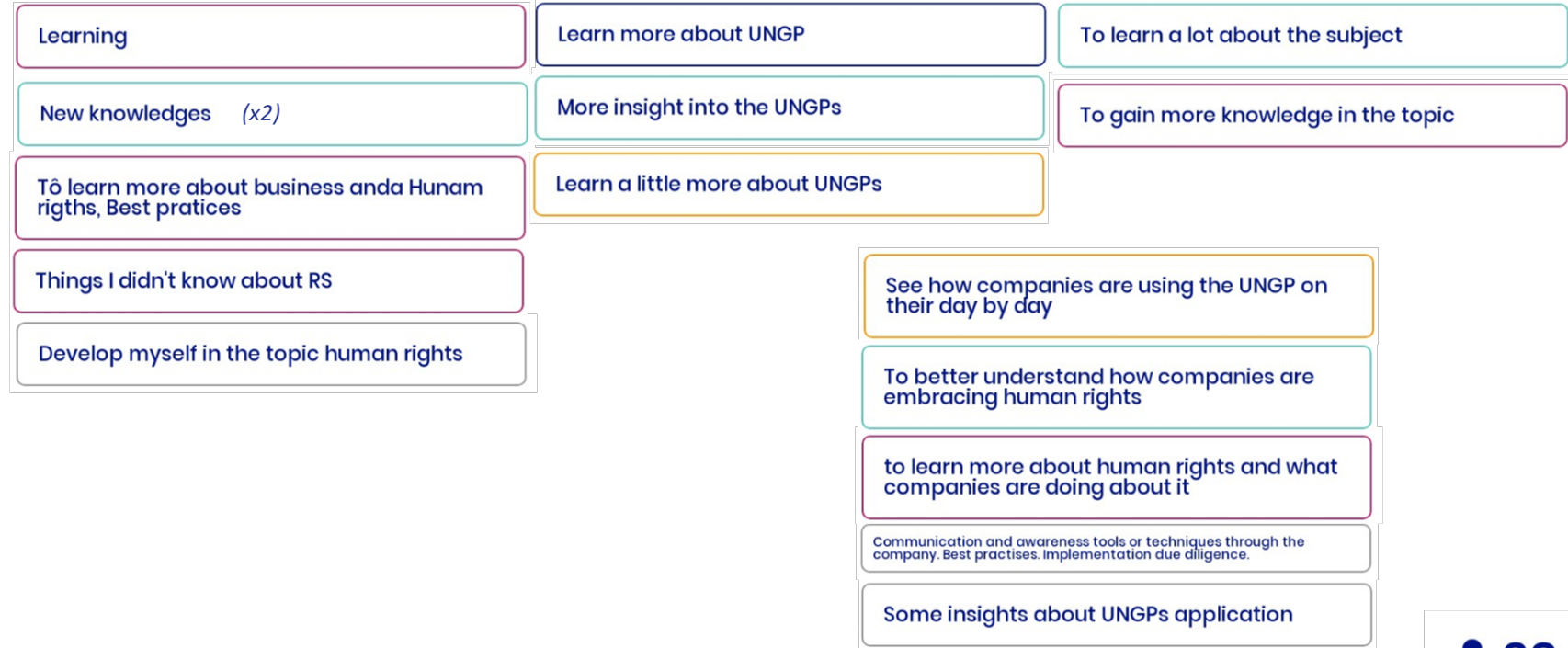
# What do you expect from the workshop today?



 38



# What do you expect from the workshop today? *(continued)*



# The UNGPs: What you need to know

Catie Shavin, GBI



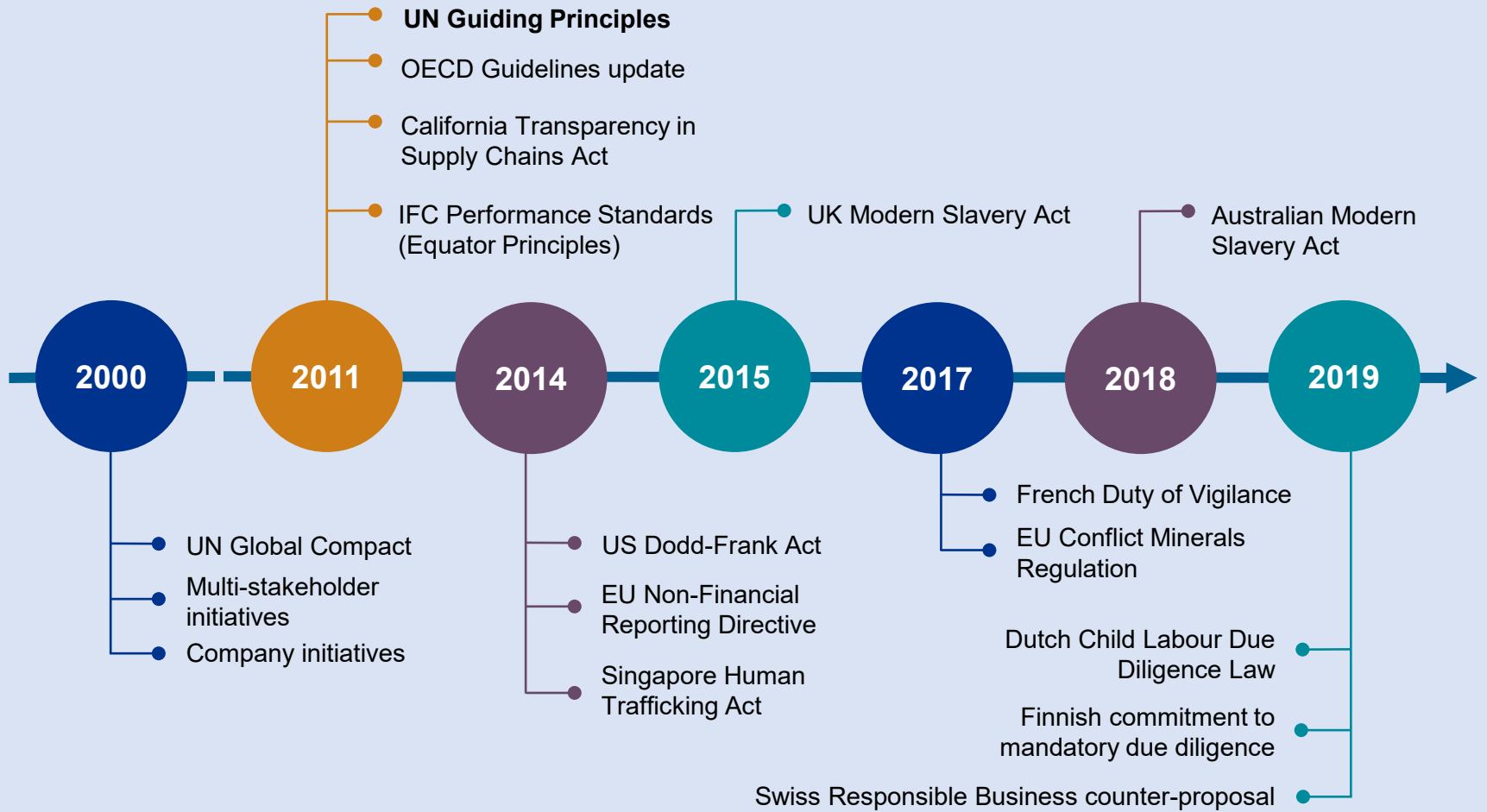
# What business needs to know about the UN Guiding Principles on Business and Human Rights

Business & Human Rights in Brazil

12 May 2020



# A fast-changing environment: 2000 - Present



# A fast-changing environment: 2011 - Present

## NORTH AMERICA

### United States

US Federal Acquisition Regulation: Ending Trafficking in Persons (eff. March 2015)

US Dodd-Frank Act Final Rule 1502 (eff. Feb 2012)

### Canada

An Act respecting the fight against certain forms of modern slavery through the imposition of certain measures and amending the Customs Tariff (proposed law)

## UNITED KINGDOM

UK Modern Slavery Act 2015

The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulation

## ITALY

Legislative Decree no. 231/01 on administrative liability

## EUROPEAN UNION

Non-Financial Reporting Directive

Conflict Minerals Regulation (eff. on companies in 2021)

## SWITZERLAND

Counter-Proposal by the Swiss Parliament to the Responsible Business Initiative (proposed law)

## NORWAY

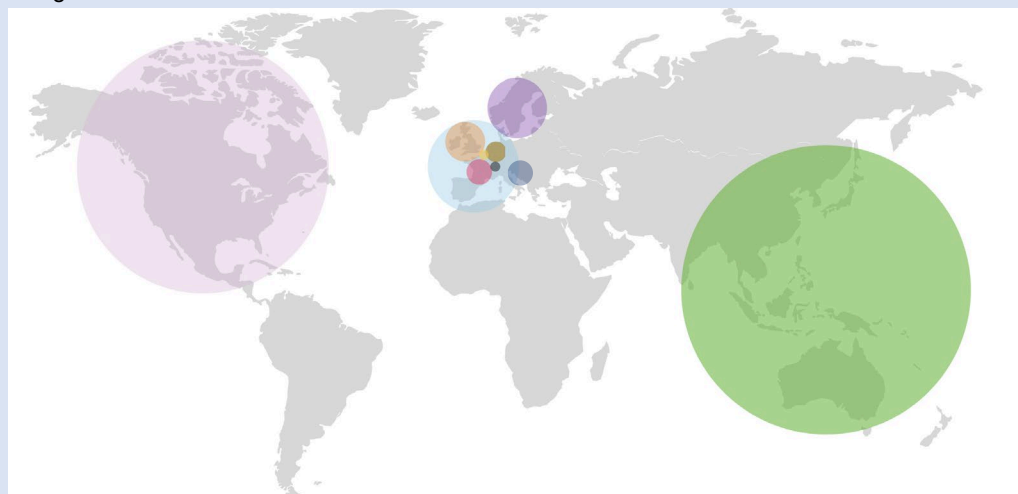
An Act regulating enterprises' transparency regarding supply chains, the duty to know and due diligence (proposed law)

## ASIA PACIFIC

Australian Modern Slavery Act 2018 (eff. Jan 2019)

NSW Modern Slavery Act 2018 (passed, not yet eff.)

Hong Kong Modern Slavery Bill 2017 (proposed)



## GERMANY

Proposal for a framework law on the sustainable design of global value chains (proposed law)

Law to strengthen the non-financial reporting of companies (NFR Directive Implementation Act).

## FRANCE

LAW 2017-399 related to Duty of Vigilance of Parent Companies and Commissioning Companies (eff. March 2017)

Amendments to the Law on Accounting PZE No. 51

## THE NETHERLANDS

Dutch Child Labour Due Diligence Act 2019 (passed, not yet eff.)

Decree Disclosure of Non-financial Information PbEU, 2014, L330 and Decree Disclosure Diversity Policy PbEU, 2014, L330.



# The UN Guiding Principles

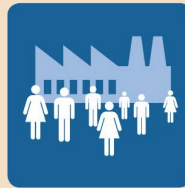
- Provide a **single authoritative** standard
- Clarify and set expectations and boundaries
  - **Different roles** for State and Companies
- Offer a clear roadmap for implementation
- Allow for **alignment** and **scale**

# The architecture of the Guiding Principles



## State duty to protect

States have a duty to protect human rights, including through policy and legal frameworks.



## Corporate responsibility to respect

Companies have a responsibility to respect human rights, including by taking steps to identify and address their adverse impacts.



## Access to remedy

Affected people should have access to an effective remedy through judicial or other processes.

# The state duty to **protect**



States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises.

## **Basic standard**

- States must protect human rights.

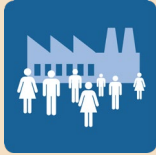
## **Mechanism**

- Take appropriate steps to investigate, prevent, punish and redress.
- Encourage business to respect human rights throughout their global operations.

## **Scope**

- Extraterritorial reach of home state grounded in activities of domiciled entities.

# The corporate responsibility to respect



Business enterprises should respect human rights, which means to avoid infringing on the human rights of others and to address adverse human rights impacts they may cause or contribute to.

## Basic standard

- All companies should respect human rights (in all contexts)

## Mechanism

- Avoid negative impacts or remedy
- Human Rights Due Diligence

## Scope

- All internationally recognised human rights: International Bill of Human Rights, ILO Fundamental Rights at Work, others where relevant.

# The Guiding Principles roadmap



Set a policy  
commitment



Exercise due  
diligence



Communicate



‘Know and Show’



# Are human rights complicated?

## The right to...

**Equality and freedom from  
discrimination**

**Life, liberty, and personal security**

**Freedom from torture and  
degrading treatment**

**Equality before the law**

**A fair trial**

**Privacy**

**Freedom of belief and religion**

**Freedom of opinion**

**Peaceful assembly and  
association**

**To participate in government**

**Social security**

**Work**

**Health**

**Education**

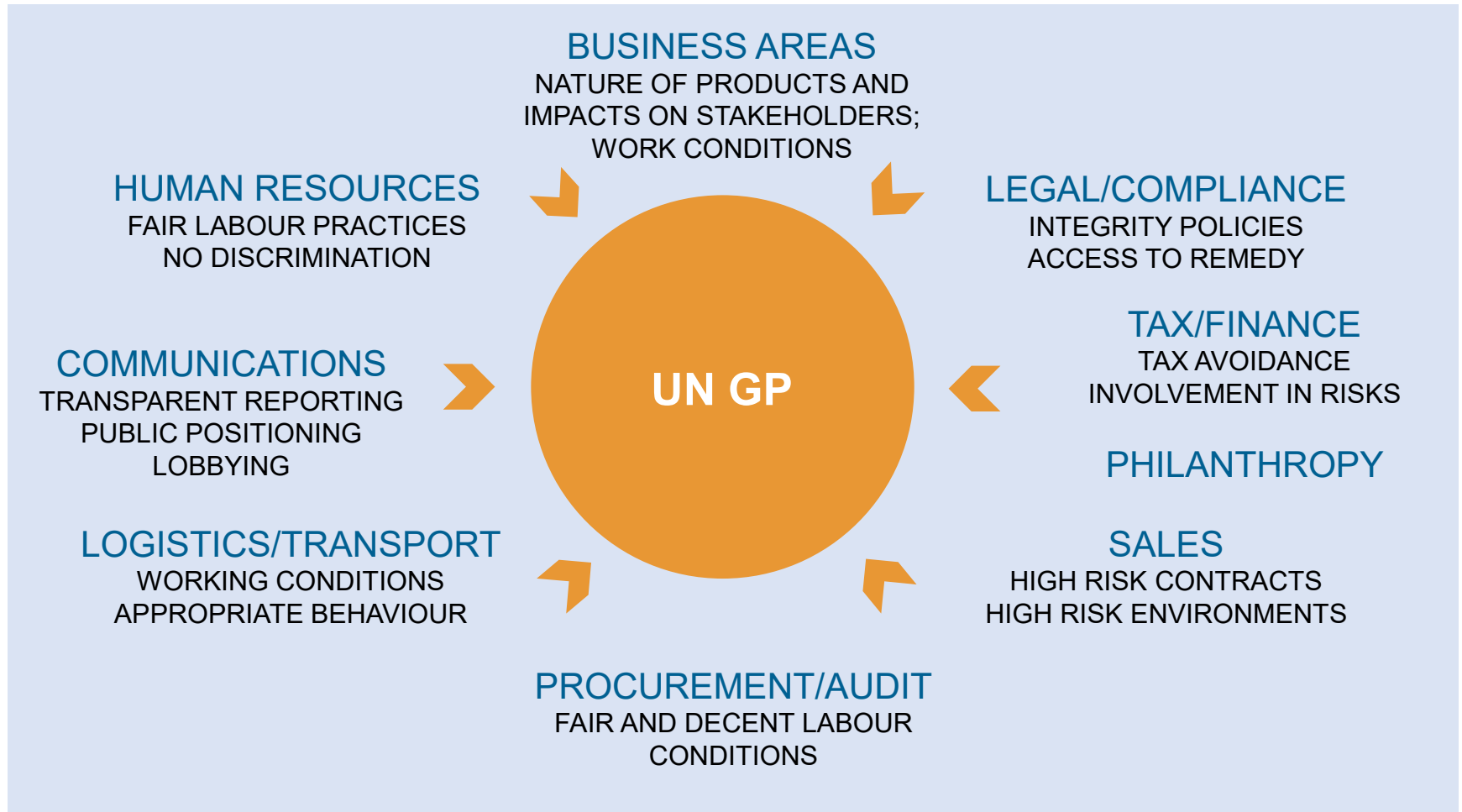
**An adequate standard of living**

**Food and housing**

Not really.



# Human rights are present in all areas of a company



# Human rights due diligence

Identify  
& Assess

Includes engagement with potentially impacted people

Communicate

Not the same as  
"reporting"

Integrate & Act

Track

# Prioritisation

Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irreparable.

## Three criteria:

- **Scale:** gravity of the impact; → **How serious is the impact?**
- **Scope:** the number of individuals that are or will be affected; → **How widespread is the impact?**
- **Irreparable character:** any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the impact. → **If the impact occurs, can it be put right?**

# Challenging contexts

## In all contexts, business enterprises should:

- a) Seek ways to **honour the principles** of internationally recognized human rights when faced with conflicting requirements;
- b) Treat the risk of causing or contributing to **gross human rights abuses** as a legal compliance issue wherever they operate.

## Companies should:

- Ensure they do not exacerbate the situation
- Draw on expertise within the company and independent experts

**can we operate responsibly in the context?**

# Access to remedy



**States** must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.

Where **business** identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

## States:

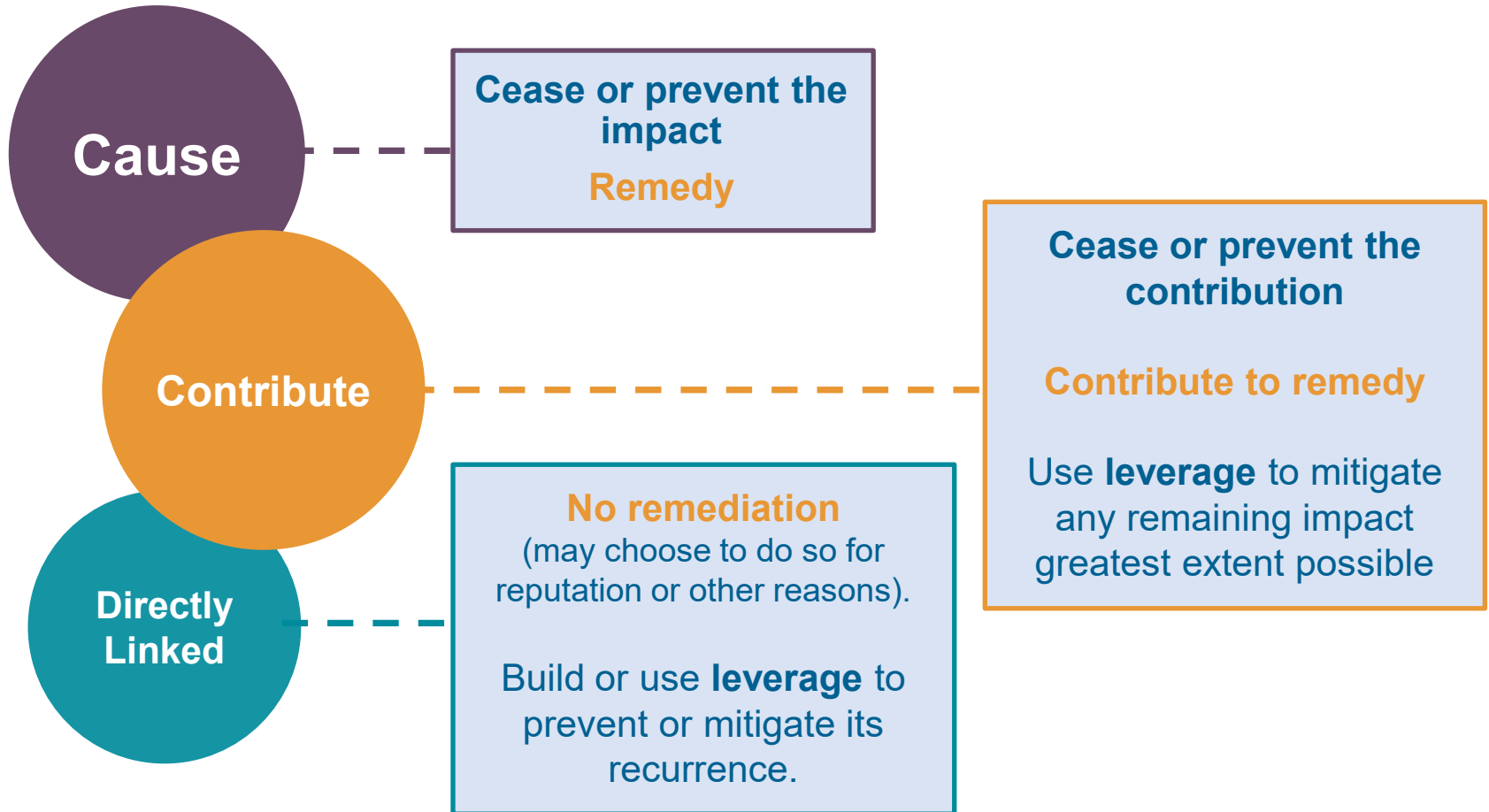
- Effectiveness of domestic judicial mechanisms
- Reduce legal, practical and other relevant barriers to access to remedy.
- Provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms
- Facilitate access to effective non-state-based mechanisms

## Companies:

- Develop operational-level grievance mechanisms
  - Legitimate
  - Accessible
  - Predictable
  - Equitable
  - Transparent
  - Rights-compatible
  - Based on engagement and dialogue



# Involvement and response

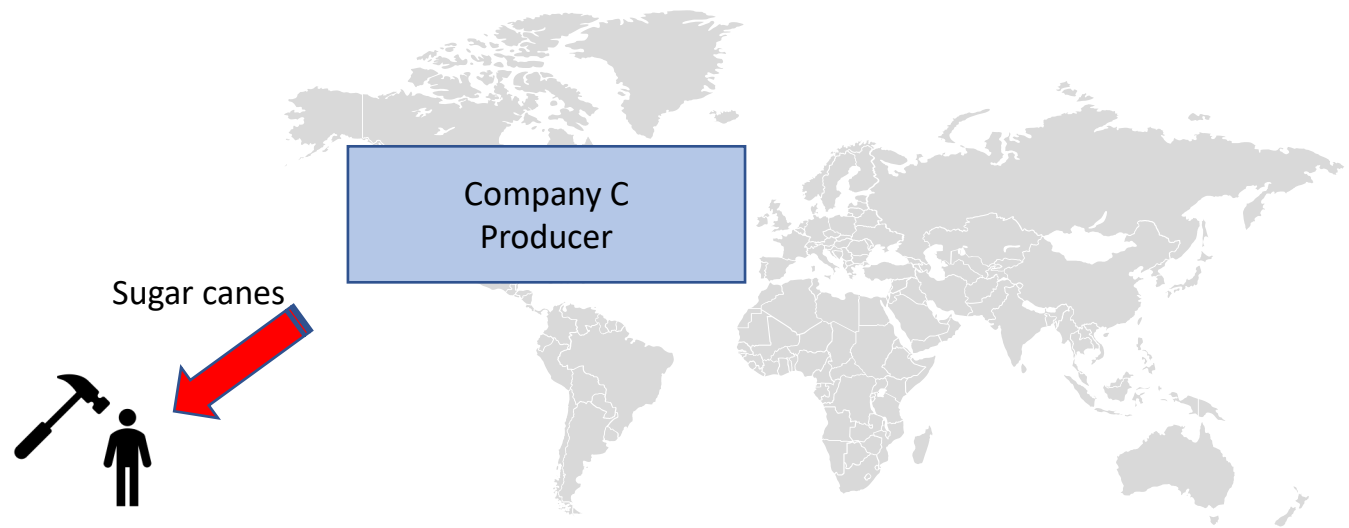




So what ???

# How companies can be involved in human rights impacts

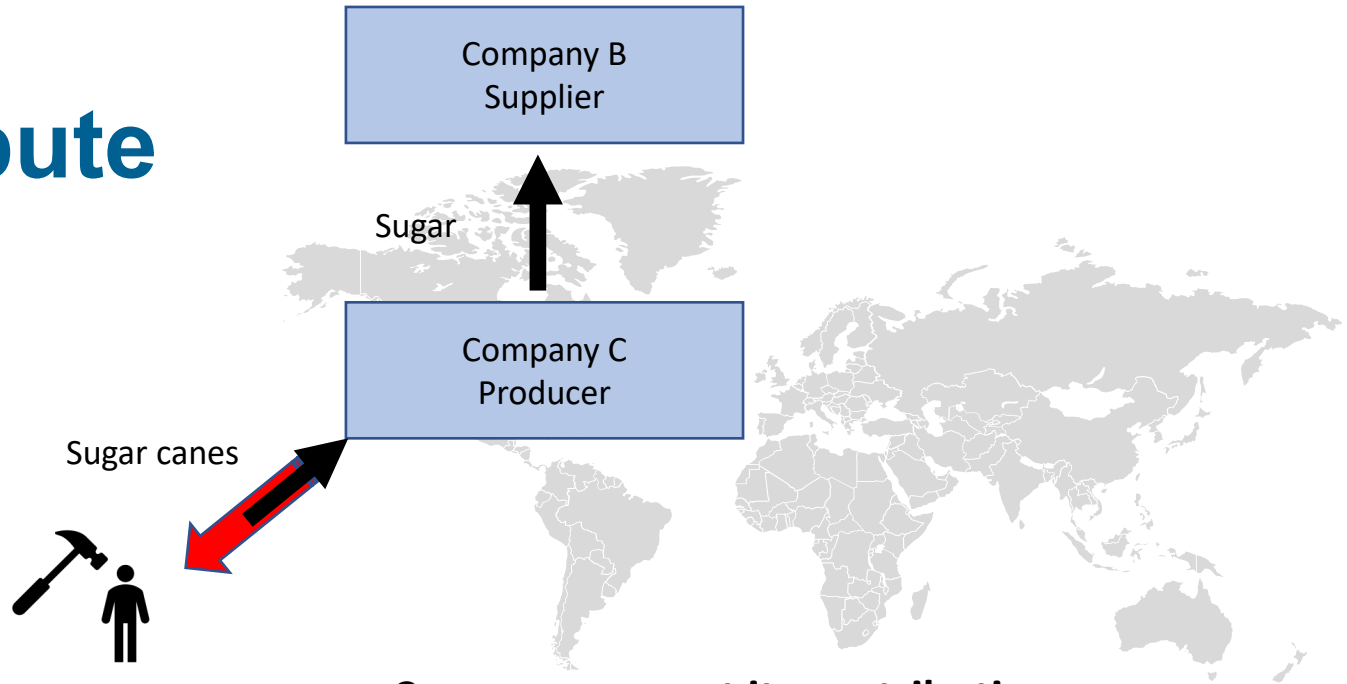
## Cause



- Cease or prevent the impact
- Remedy
  - You break it, you fix it

# How companies can be involved in human rights impacts

## Contribute



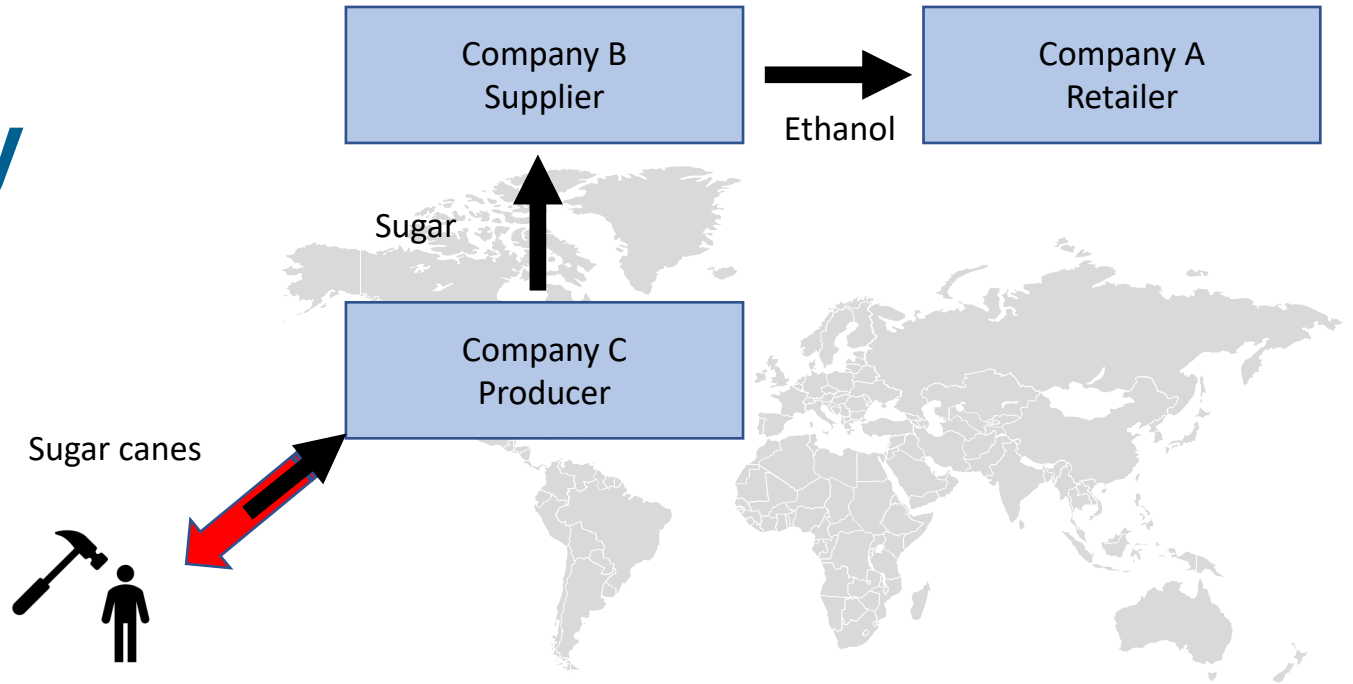
- **Cease or prevent its contribution**
- **Contribute to remediation**
- **Use its leverage to the greatest extent possible**

# How companies can be involved in human rights impacts

## Directly Linked

Links through:

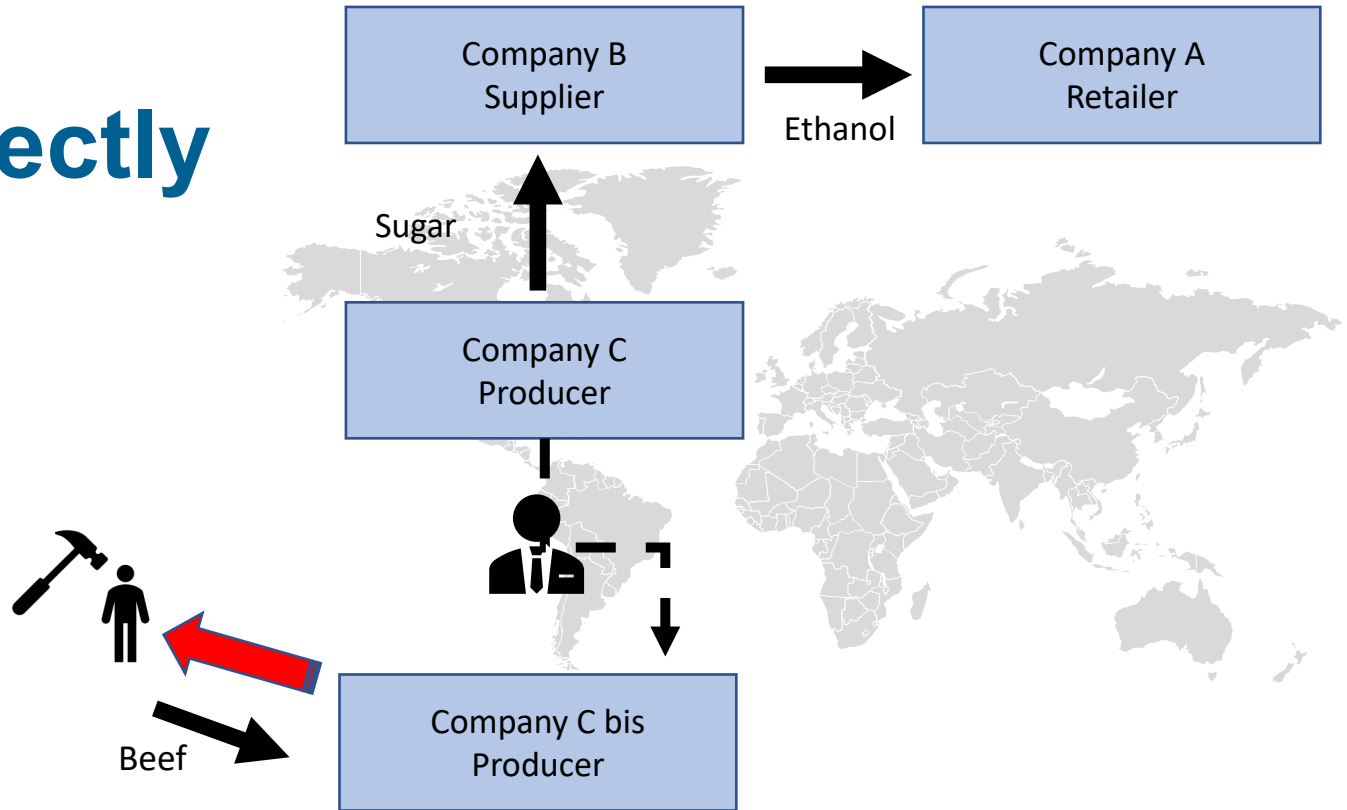
- Products
- Services
- Operations



- **No remediation**
- **May choose to do so (reputation or for other reasons)**
- **Use its leverage to encourage the actor to prevent or mitigate**

# How companies can be involved in human rights impacts

**Not Directly  
Linked**



# In conclusion



# UNGP in Brazilian context

## Stakeholder Expectations:

### External:

- Investors/States
- International/Regional Organizations

### Internal:

- Federal Government
- Public Attorney's Office
- Civil Society/Academia



# UNGP in Brazilian context

## Navigating in uncharted waters:

- Anti-rights rhetoric
- Particular challenges:
  - Land
  - Indigenous, tribal and traditional communities
  - HR defenders
  - Environment

# Q&A



# Q&A question 1

**Q: Is setting a policy commitment based on the International Bill of Human Rights and ILO standards a good beginning, or can we directly use the UNGPs?**

**A:** The UNGPs expect companies to commit to respecting internationally recognised human rights, with reference – at a minimum – to those expressed in the International Bill of Human Rights and the ILO Declaration of Fundamental Principles and Rights at Work. Ideally, a policy commitment will explicitly recognise this responsibility and reference these international standards. There may be additional human rights instruments that are relevant to the company’s operations, that a company may wish to reference.

To meet the expectations set out in the UNGPs, it is not necessary to explicitly reference the UNGPs. However, an increasing number of forward-looking companies find it valuable to communicate explicitly in their policy commitment that they are committed to meeting the responsibility to respect human rights as set out in the UNGPs. This clarifies for stakeholders – including investors, business partners and civil society organisations – that the company is working towards meeting the expectations set out in the UNGPs.

For example, Marks & Spencer’s [Human Rights Policy](#) states:

“M&S is committed to respecting internationally recognised human rights in line with the principles and guidance contained in the United Nations (UN) Guiding Principles on Business and Human Rights. Our Human Rights Policy is informed by the International Bill of Human Rights, International Labour Organisation’s (ILO) Declaration on Fundamental Principles and Rights at Work, the Children’s Rights and Business Principles, UN Women’s Empowerment Principles and the UN Global Compact, to which we are signatories.”

You may find it helpful to explore the material available on the [Making a Policy Commitment](#) page of the GBI [Business Practice Portal](#).

## Q&A question 2

**Q: How would you recommend engaging with internal stakeholders, such as human resources departments, to implement due diligence based on the UNGPs?**

**A:** Engaging and collaborating with internal stakeholders across the business will be key to managing human rights risks effectively. There is no 'one right way' to do this, and in practice this will be an ongoing, iterative and multi-faceted process involving awareness raising activities, training and capability-building. It will also involve efforts to integrate mechanisms and processes to ensure human rights due diligence is embedded into the work of relevant teams across the business and ensure effective coordination.

We will explore awareness raising, training and capability-building more in our [next webinar on 26 May 2020](#). In the meantime, you may find useful insights and approaches on the GBI [Business Practice Portal](#) – in particular, the pages on [Awareness Raising, Training and Capacity Building](#) and [Engaging Stakeholders](#).

## Q&A question 3

**Q:** In Brazil, most of the impact studies are carried out by the companies during the environmental licensing process according to the requirements set up by the licensing body. Those study requirements are not human rights focused. They address some aspects, but don't dig into them. The environmental licensing teams of the companies, on the other hand, usually don't pay attention to what is not required by the licensing body. So the human rights impacts are not likely to be considered in the project planning. This is the modus operandi in extractive industries in Brazil, and my perception includes global companies that operate in Brazil. Those impacts are identified late, during operations. So, of course there's homework for the companies to integrate human rights in their processes. But is there any action focused on engaging licensing bodies' teams in order to make them integrate human rights aspects in its licensing requirements? How do we break this mindset?

**A:** To our knowledge, there have not been any initiatives to engage federal or state-level licensing bodies to incorporate human rights issues, or even a human rights lens into the Brazilian licensing process. Conceived by law in 1981, and regulated by CONAMA's (Environment Council) in the 80s and 90s, the licensing process has been under discussion in Congress for the past 15 years. More recently, debates have been around measures meant to make it less bureaucratic or swifter. None of these propositions, however, favour an enhanced human rights perspective. To the contrary, even though some of the suggested measures work well in more mature societies, in Brazil they risk worsening both environmental and social protection altogether.

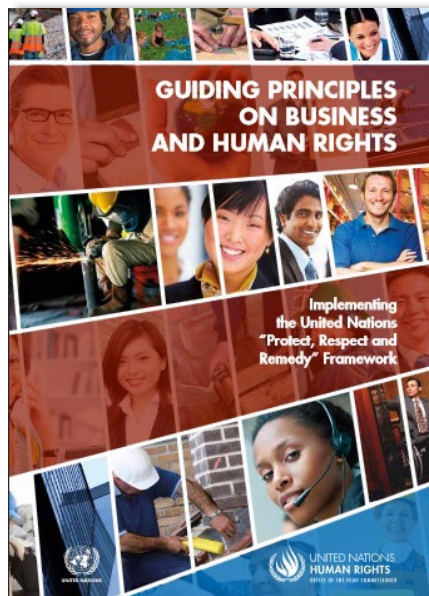
# Resources

Henrique Luz, CEBDS





# Getting started



## Princípios Orientadores da ONU

OHCHR

## A responsabilidade Corporativa de Respeitar os Direitos Humanos: Um Guia Interpretativo

OHCHR

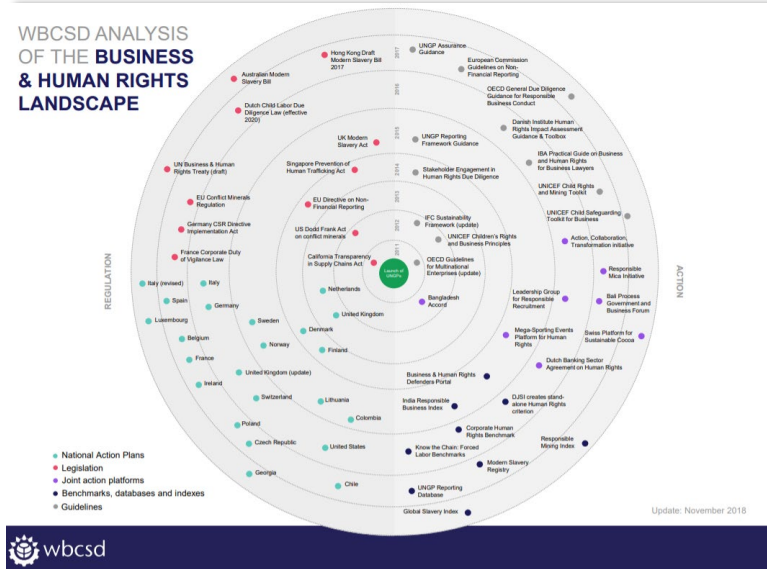
## GBI Business Practice Portal – Getting started



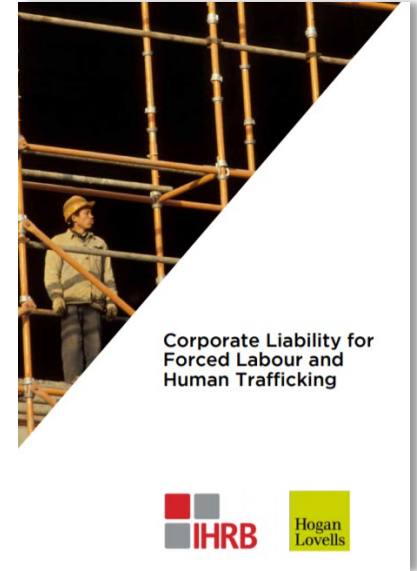
# Legal and policy developments



**Business and human rights: navigating a changing landscape**  
 GBI, Clifford Chance



**Analysis of the Business & Human Rights Landscape**  
 WBCSD



**Corporate Liability for Forced Labour and Human Trafficking**



**Corporate liability for forced labor and human trafficking**  
 IHRB, Hogan Lovells



# Business practices and approaches

**GBI Business Practice Portal**

**WBCSD Business & Human Rights Gateway**

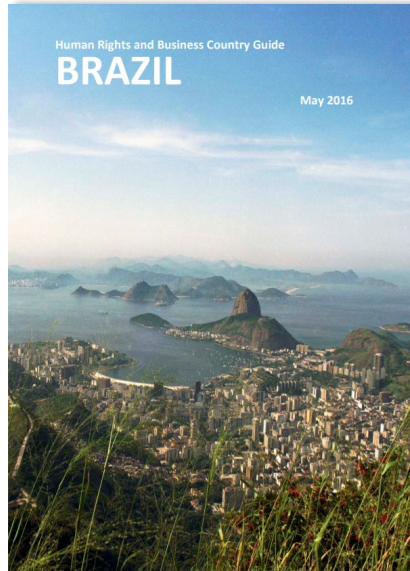
**Guia do CEO sobre Direitos Humanos**

WBCSD

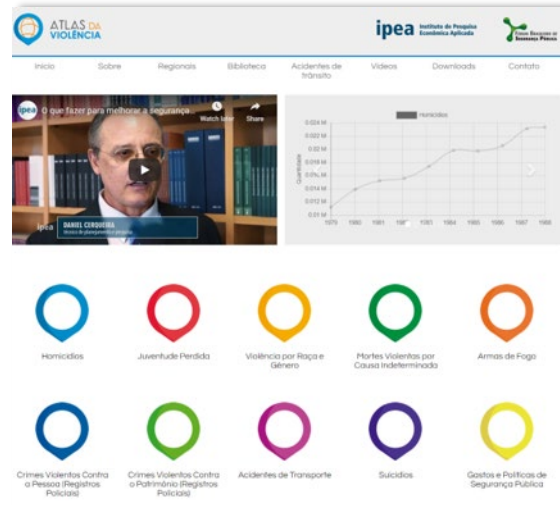
**The Human Rights Opportunity**

Shift & WBCSD

# Business & human rights in Brazil

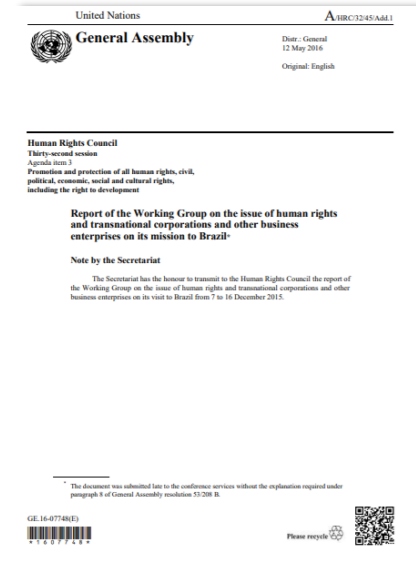


**Human Rights and Business Country Guide – Brazil**  
Danish Institute for Human Rights and Ethos Institute



## Atlas of Violence

Institute of Applied Economic Research, the Brazilian Forum of Public Security



**UN Working Group on Business and Human Rights visit to Brazil (2015): [Statement](#) and [report](#)**  
OHCHR

# Next dates in this series

For more information and to register, please follow the links under the respective dates.



26 May

**Training and capability building  
- Talking to colleagues about  
human rights**



9 June

**Engaging stakeholders -  
indigenous communities, FPIC  
and grievance mechanisms**



23 June

**Managing human rights  
risks in the supply chain**



# Contact us



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obrigado.  
fique seguro.

