



RAISING THE AMBITION - INCREASING THE PACE IN LATIN AMERICA AND THE CARIBBEAN

Regional road map for the next decade of the Guiding Principles on Business and Human Rights

Introduction

The road to sustainable development, just green transition and responsible recovery goes through respect for people and the planet. The [UN Guiding Principles on Business and Human Rights](#) (hereinafter, UNGPs) are the authoritative global framework for preventing and addressing business-related human rights impacts and are a fundamental tool for addressing these major significant challenges.

Ten years after the unanimous adoption of the UNGPs in June 2011 by the UN Human Rights Council, the [United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises](#) (hereafter UNWG) [took stock of their implementation at the global level](#), in collaboration with different stakeholders, highlighting progress and challenges, to draw a roadmap for [the implementation of the UNGPs over the next decade](#).

Within the Project on Responsible Business Conduct in Latin America and the Caribbean ([RBCLAC Project](#)),¹ the UNWG undertook the task of specifying the actions needed to advance the implementation of the UNGPs and the broader business and human rights (BHR) agenda in Latin America and the Caribbean (LAC) for the next decade, through a specific roadmap for the region. It is important to note that the regional roadmap mirrors the global roadmap and should be read in conjunction with it.²

Since the [first regional consultation](#) on business and human rights for LAC in 2013 and to date, the use of UNGPs as a common framework for action and minimum floor for governments,³ the judiciary, national human rights institutions (NHRIs),⁴⁵ businesses, investors and business associations, civil society

¹ The RBCLAC Project aims to promote responsible business conduct practices in accordance with international standards. It is implemented jointly with the Organisation for Economic Co-operation and Development and the International Labour Organization with the financial support of the European Union. The Project is implemented in nine countries in the region, namely: Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama and Peru.

² [Include citation once published.](#)

³ See progress on national action plans on business and human rights based on UNGPs: <https://empresasyderechoshumanos.org/pan-edh/>.

⁴ Cantú Rivera, Humberto (ed.), *Experiencias latinoamericanas sobre reparación en materia de empresas y derechos humanos*, Bogotá, Konrad Adenauer Stiftung, 2021.

⁵ For example, see the [contributions of national human rights institutions in the Americas for the 10 years of the UNGPs](#) or the [recommendations for the incorporation of a human rights approach in the environmental impact assessment of mining projects](#)

organizations (CSOs), workers, affected groups, Indigenous and Afro-descendant peoples, and academia has increased significantly. Regional and international organizations have also used the UNGPs for the development of their work in the region, in particular the Inter-American human rights system - both the Inter-American Commission on Human Rights (IACHR), especially in the framework of the work of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA), and the Inter-American Court of Human Rights (I/A Court).⁶

Despite such progress, the region still has many challenges concerning the protection of human rights in the business dimension. Great income inequality,⁷ numerous socio-environmental conflicts related to business activity,⁸ and attacks against human rights defenders working on business and human rights issues (BHR) issues are some of them and need to be addressed together. To create more and better positive impact on people and the environment, leading to genuine sustainable development, we need to increase the ambition and pace of implementation of the UNGPs, as well as policy coherence, over the next decade.

The regional roadmap identifies five action areas with specific objectives and actions aimed at States, business, and other stakeholders. This roadmap is nourished and is meant to be read in light of the Inter-American standards on business and human rights (reports, precautionary measures, thematic hearings and jurisprudence)⁹ that reinforce and complement the UNGPs.

The document also seeks to align with various international instruments on responsible business conduct (RBC), such as the [OECD Guidelines for Multinational Enterprises](#), the [ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy](#)¹⁰ and the [Sustainable Development Goals](#) (SDGs). In turn, it aims to integrate different BHR-related agendas, such as the fight against climate change, just green transition, responsible recovery, anti-corruption efforts in the region, among others. It also seeks to emphasize the importance of providing differential and specific attention to marginalized groups that suffer disproportionately from the impacts that business activity can generate, such as Indigenous peoples and Afro-descendants; women; children and adolescents (BGTs); lesbians, gays, lesbians, gays, bisexuals, transgendered persons (LGBTI); ; persons with disabilities; human rights defenders; migrant workers and refugees, among others.

The recommendations in this regional roadmap are informed by numerous documents, reports and stakeholder consultations, including : i) the reports and visits [of the UNWG](#) - in particular its [stocktaking report on the tenth anniversary of the UNGPs](#), the contributions and consultations for the [UNGP 10+ project](#), the thematic reports and official visits to [Brazil](#), [Mexico](#), [Peru](#), and [Honduras](#); ii) the important progress generated from the implementation of the RBCLAC Project, implemented by OHCHR, in collaboration with the UNWG, the Organisation for Economic Co-operation and Development (OECD) and the International Labour Organization (ILO); iii) the debates of the six regional consultations and forums on business and human rights for Latin America and the Caribbean;¹¹ iv) recommendations issued

[prepared by the Thematic Group on Human Rights and Business of the Ibero-American Federation of Ombudsmen \(FIO\) with the support of ECLAC and GIZ.](#)

⁶ These include, for example, the report [Inter-American Standards on Business and Human Rights](#) of the IACHR's REDESCA; the jurisprudence of the I/A Court, especially the cases of Vera Rojas et al. v. Chile (2021), Lemoth Morris et al. Honduras (2020), Case of employees of the Santo Antônio de Jesús fire factory and their families v. Brazil (2020), Pueblos Kallina and Lokono v. Suriname (2015), Sarayaku v. Ecuador (2012), among others; the requirement of due diligence in human rights by the [Inter-American Development Bank](#), among others.

⁷ See [ECLAC report](#) on Social Panorama of Latin America 2020 and the World Bank's [LAC Income Inequality](#) Index.

⁸ In the Americas, some [1273 socio-environmental conflicts](#) related to business activities have been recorded since 2015, and many of them involve impacts on the rights of indigenous peoples associated with the extractive industry (see [the statement of the Indigenous Caucus at the VI regional forum on business and human rights](#) for LAC).

⁹ See IACHR-REDESCA, [Business and Human Rights. Inter-American Standards](#), Washington DC, 2019.

¹⁰ For more detail on the alignment of these documents see [Key Messages from International Instruments](#), prepared by the RBCLAC Project.

¹¹ Fifth Latin American and Caribbean Regional Forum on Business and Human Rights UN Doc. [A/HRC/47/39/Add.4](#) (11 June 2021); Fourth Latin American and Caribbean Regional Consultation on Business and Human Rights UN Doc. [A/HRC/44/43/Add.4](#) (8 June 2020); [Third Latin American and Caribbean Regional Consultation on Business and Human Rights](#) UN Doc. (8 June 2020);

by universal,¹² and regional¹³ mechanisms for the protection of human rights; v) specialized bibliography of partners and stakeholders at the global and regional levels;¹⁴ and vi) more than 500 recommendations sent by 40 organizations and experts.

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¹² References were taken from the OHCHR [Universal Human Rights Index](#) and also from the Committee on Economic, Social and Cultural Rights' General Comment No. 24 on States' obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities ([UN Doc. E/C.12/GC/24](#)).

¹³ Especially IACHR, [Business and Human Rights](#), *op. cit.* and [other thematic reports](#) of the IACHR and [booklets of the IACHR Court](#).

¹⁴ Each area of action offers, in turn, a non-exhaustive list of useful resources (bibliographic materials and recommended tools) to help guide the implementation of the recommendations proposed in this regional roadmap.

Area of Action 1: UNGPs as a compass for meeting the challenges of Latin America and the Caribbean (LAC)

Goal 1.1. Place business respect for human rights at the heart of the response to regional systemic challenges

Preventing and addressing the negative impacts that business activities could cause or contribute to through their operations and value chains is the most significant contribution businesses can make towards sustainable development. The UNGPs and their guidance on human rights due diligence (HRDD) provide a powerful normative and practical tool for States, business, and other stakeholders in leveraging the great potential of responsible business to address inequalities, achieve a just transition, and a sustainable future for all, and ultimately "building back better" from the COVID-19 crisis.¹⁵

The Human Rights Council's recognition of the human right to a clean, healthy and sustainable environment - citing the UNGPs¹⁶ - is an illustration of how climate change, the environment and human well-being are inextricably linked. Furthermore, the Just Transition Declaration, adopted at the 26th UN Climate Change Conference (COP26)¹⁷, recognizes that respect for human rights in global supply chains, implemented through HRDD in line with the UNGPs, the OECD Guidelines, and the ILO Tripartite Declaration, is necessary for a just transition.

At the regional level, there is also an increasingly linkages between the BHR, climate change, green transition, sustainable development, and responsible recovery agendas, putting marginalized groups at the heart of State and business actions. An example of this is the [Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean](#), which entered into force in April 2021. It is also worth noting that the discussions of new green transition policies in the region are based on the UNGPs, and many debates in the region highlighted the importance of linkages between UNGPs, climate change and just green transition.¹⁸

There is also increasing coordination and alignment between the UNGPs and the SDGs, both in high-level regional dialogues¹⁹ and in the development of public policies.²⁰

Regarding the COVID-19 crisis, the BHR agenda has also been progressively incorporated, for example, in IACHR resolutions²¹ and in the development of various public policies,²² understanding that respect for human rights and RBC will allow a more sustainable and responsible recovery.

Despite the fact that sustainability and the transition to a more sustainable, low-carbon economy are increasingly at the heart of the regional agenda for businesses in all sectors, the full potential of the UNGPs has yet to be realized. Human rights risks are often not considered as a key part of environmental, social and governance (ESG) criteria, which is a major challenge and a lost opportunity to support robust and coordinated progress on RBC, sustainable development, and just transition and a more equal and sustainable future in the

¹⁵See <https://www.un.org/en/coronavirus/building-back-better-requires-transforming-development-model-latin-america-and-caribbean>.

¹⁶See [Resolution A/HRC/48/13](#)

¹⁷See <https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally/>

¹⁸For reference see the [OHCHR and ECLAC report on climate change and human rights \(2020\)](#), the sessions on [climate change and renewable energy, energy justice and human rights of the V Regional Forum](#) on BHR in 2020; and the sessions on [linking due diligence and human rights to address environmental damages; effective dialogue for the human right to water in the context of investments; just transition: opportunities for decent work](#); and [just energy transition with respect for human rights](#) of the VI Regional Forum. See also the thematic sessions related to these themes held in the context of the [V Regional Forum on Business and Human Rights](#).

¹⁹See, for example, [Forum of Latin American and Caribbean Countries on Sustainable Development 2021, organized by ECLAC](#).

²⁰See for example the [PAN of Peru](#).

²¹OAS Resolutions [1/2020](#); [4/2020](#) and [1/2021](#).

²²See [Peru's NAP 2021](#), [Colombia's NAP 2020](#) and Panama's Social Responsibility and Human Rights Plan adjusted in 2021.

region. For the next decade, therefore, UNGPs need to be robustly and cross-cuttingly integrated into key-related agendas, in particular those related to achieving a just transition, combating climate change, tackling corruption and inequality, managing human mobility, and responsible recovery. Collective action between rights holders, businesses, governments, trade unions, civil society, and international organizations is an essential part of the solution to the systemic challenges that lie at the root of many business-related human rights impacts.

Action areas for States

- Integrate UNGPs into national and regional policies for the achievement of the goals set by the Paris Agreement, the Escazú Agreement and the 2030 Agenda, the SDGs, just transition, climate justice,²³ COVID-19 crisis management²⁴ and recovery,²⁵ as well as in systemic efforts to address corruption and inequality in the region.
- Design ambitious and concrete plans to fight climate change²⁶ and adhere to, ratify and implement the Escazú Agreement.²⁷

Action areas for companies

- Articulate and integrate respect for human rights into all actions and strategies for the pursuit of the SDGs, recognizing that their greatest contribution to sustainable development and environmental protection will be through the prevention, mitigation, and remediation of their impacts on people, society and the planet.²⁸

Action areas for other actors

United Nations, international organizations, international community

- From within the United Nations system, make reference to UNGPs more consistently in declarations and strategic frameworks relating to the global and regional agendas listed under this goal.
- Generate greater articulation between UN agencies, Inter-American system, OECD and International Financial Institutions (IFIs) to coordinate efforts on HRDs, responsible recovery, just transition, SDGs, etc.

Civil society, trade unions, academia

- Consider using the UNGPs as a framework to address and strengthen the role of business in realizing these global and regional goals and challenges related to sustainable development, just transition, and combating climate change.

Key resources

United Nations:

- Report of the UNWG on [Inclusive and Sustainable Development](#), 10 recommendations on [alignment with the SDGs and the 2030 agenda](#), report on corruption, and [responsible recovery post Covid-19](#).
- [Climate change and human rights - contribution from and for Latin America and the Caribbean - ECLAC and OHCHR](#).

²³ See [A/HRC/47/39/Add.4](#), paras. 81-83. See also the discussions in the framework of the [V](#) and [VI Regional Forum](#).

²⁴ See for example the recommendations adopted by the IACHR in resolutions 1/2020 on [pandemic and human rights in the Americas](#), 4/2020 on [human rights of persons with COVID-19](#), and 1/2021 on [vaccines and COVID-19](#).

²⁵ In the framework of the [VI Regional Forum](#), governments agreed to identify post-COVID-19 recovery as a priority and challenge for the next decade. See session "What are my government's priorities for the next decade of the business and human rights agenda?"

²⁶ IACHR, *Business and Human Rights*, *op. cit.* para. 13, section "recommendations to States."

²⁷ See the discussions in the framework of the [V](#) and [VI Regional Forum](#) and the various [UN special procedures statements to ratify the Escazú Agreement](#).

²⁸ See

https://www.ohchr.org/Documents/Issues/Business/Session18/InfoNoteWGBHR_SDGRecommendations_SP.pdf.

- The [Framework Principles on Human Rights and the Environment](#) (2018), developed by the UN Special Rapporteur on Human Rights and the Environment.
- [Key messages from OHCHR on climate change, business and human rights](#).

Other:

- Danish Institute for Human Rights, [Linking business and human rights to the SDGs](#).
- Shift, [Sustainability and Human Rights](#) reports and [Transforming the way business impacts people: unlocking the collective power of five distinct narratives](#).
- IACHR Report on [Corruption and Human Rights](#).
- ECLAC [COVID-19 Observatory](#).

Goal 1.2 Optimize digital transformation through respect for human rights

There is a consensus that digital technologies are essential to achieve and harness accelerated potential to support development that respects human rights. However, the benefits of technology do not cancel out the human rights risks they generate. The use of certain products and services, or their deliberate misuse, can lead to a number of fundamental challenges to human rights and democracy, such as online hate speech, misinformation, mass surveillance, and undermining of democratic processes. In addition, real-life discrimination and inequality also apply in the cyberspace in many areas.²⁹

These challenges require specific actions to be tackled at their roots. . The UNGPs provide a compelling starting point for companies and States seeking to enhance the positive impact and opportunities of digital technologies by effectively managing associated risks to people.

For the next decade, these challenges need to be addressed, striking a balance between under-regulation and over-regulation, and using UNGPs as a compass to prevent the deliberate misuse of technologies³⁰ and leverage their positive impact.

Action areas for States

- Review and adopt public policies on technological development aligned with the enjoyment of human rights through transparent and inclusive processes, with the participation of all stakeholders.³¹
- Consider the recommendations of the OHCHR B-Tech Project³² to guide companies on how to identify, address and mitigate adverse human rights impacts and ensure that digital technology serves as a tool to leverage its positive aspects.
- Incorporate human rights requirements when States contract with, partner with, license from or support technology companies,³³ following the UNGPs.
- Build and increase the capacity of the State, including NHRIs, to address human rights issues in the area of technology.
- Facilitate and expand access to the Internet, bridging the multiple forms of the digital gaps, and using technology to promote the empowerment of marginalized groups, such as women and girls.³⁴

Action areas for companies

²⁹ See <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25158&LangID=S>.

³⁰ See [the session of the VI regional forum on the protection and respect for human rights in the technology sector in Latin America and the Caribbean](#).

³¹ See <https://www.ohchr.org/Documents/Issues/Business/B-Tech/b-tech-foundational-paper-state-duty-to-protect.pdf>

³² See <https://www.ohchr.org/EN/Issues/Business/Pages/B-TechProject.aspx>.

³³ See <https://www.ohchr.org/EN/Issues/Business/Pages/B-TechProject.aspx>.

³⁴ UN Doc. A/HRC/32/L.20, paras. 5 and 6.

- Incorporate HRDD in the design, development, and marketing of technology products and services.³⁵
- Collaborate with State, CSOs, and other stakeholders in exploring and implementing non-State-based grievance mechanisms to address potential human rights impacts related to technologies.³⁶

Action areas for other actors

United Nations, international organizations, international community

- Help clarify expectations towards the technology sector with respect to human rights, in line with UNGPs.
- Advice on how States could include human rights requirements when contracting with, partnering with, licensing from or supporting technology companies.

Civil society, trade unions, academia

- Consider assessing and monitoring the human rights conduct of technology companies, in order to advocate for and contribute to the design of public policies to regulate it and enhance its positive aspects.

Business organizations and institutional investors

- Provide human rights training for technology companies and others that use technology tools as part of their business model to understand the associated human rights risks.
- Communicate expectations of the technology companies they invest in to respect human rights and include safeguards to monitor their conduct.

Key resources

United Nations:

- Recommendations of the OHCHR [B-Tech Project](#).

Others:

- ADC [report](#) on how to implement due diligence in law.

Area of Action 2: State Duty to Protect

Goal 2.1. Improve policy coherence to strengthen effective State action, including adopting national action plans on business and human rights

According to the UNGPs, policy coherence implies that all State departments, agencies, and institutions are aware of human rights obligations within business activities.³⁷ To achieve this goal, States must formally express at the highest level the commitment to implement the UNGPs, while ensuring their integration into related agendas (UNGP 8). Coherence should also be reflected in the negotiation and signing of international

³⁵ See https://www.ohchr.org/Documents/Issues/Business/B-Tech/B_Tech_Foundational_Paper.pdf.

³⁶ See <https://www.ohchr.org/Documents/Issues/Business/B-Tech/access-to-remedy-concepts-and-principles.pdf>.

³⁷ See the report of the UNWG on Policy Coherence (UN Doc. [A/74/198](#)).

agreements on business activities with other States, such as trade and investment agreements,³⁸ as in the alignment of financial,³⁹ economic and taxation policies, debt-taking and tax benefits and exemptions.⁴⁰

Guaranteeing the coherence of public policies implies, then, ensuring the implementation of the UNGPs in a cross-cutting manner in all institutions and branches of government, strengthening inter-institutional coordination - both at the national and sub-national levels - and enhancing capacities for States to act in a way that is compatible with human rights obligations.

National Action Plans on Business and Human Rights (NAPs) provide a solid basis on which governments can achieve policy coherence in the BHR field and promote the full and effective implementation of the UNGPs,⁴¹ and other RBC instruments such as the [OECD Guidelines](#) and the [ILO Tripartite Declaration](#).⁴² In turn, the NAPs strengthen the alignment of the BHR agenda with other related agendas, such as the SDGs, responsible recovery, informality, environmental protection and climate change, just transition, and anti-corruption, among others.

In the region, there has been much progress in the development and implementation of NAPs.⁴³ These processes have driven the establishment of a dialogue between government departments, agencies, and various stakeholders. For example, Colombia is implementing its second NAP, Chile is in the process of developing the second version, and Peru launched its first plan in June 2021. In addition, the governments of Argentina, Brazil, Ecuador, Guatemala and Mexico have expressed a commitment to develop a NAP and are at different stages of development. At more local levels, there has also been progress with the inclusion of the BHR agenda. For example, the Autonomous City of Buenos Aires in Argentina included a chapter on BHR in the Human Rights Plan,⁴⁴ while the local governments of Cali and Barrancabermeja, the department of Cesar and the governorate of Antioquia, all of them in Colombia, had enacted a local BHR action plan.⁴⁵

In turn, with the support of the RBCLAC Project, the governments of the region formed an intergovernmental community of practice to exchange experiences on NAPs and the public agenda on BHR in the region.

The next decade must become an opportunity for States to strengthen policy coherence between UNGPs, RBC instruments and their related agendas, using the NAPs as a key public policy tool for this purpose and raising ambition with regard to their development, implementation and monitoring processes, as well as their contents.

Action areas for States

- Develop guidance and training materials on how to implement the UNGPs targeting government officials, including those negotiating international investment and trade agreements and those in charge of taxation policy design.⁴⁶
- Establish and/or strengthen human rights focal points and inter-agency BHR groups in each of the ministries and/or intergovernmental bodies of the branches of government to implement the UNGPs.
- Ensure that laws and regulations governing the creation and activities of enterprises, including those relating to corporate law, do not restrict but rather promote respect for human rights by businesses.

³⁸ See Report of the UNWG on International Investment Agreements Consistent with Human Rights, (UN Doc. [A/76/238](#)).

³⁹ In the region, there is growing government interest in adopting responsible financing policies. In [Chile](#), there is a new regulation that requires companies to report whether they adhere to the UNGPs. In Brazil, Resolution No. 4327/2014 of the National Monetary Council (CMN) obliges banks to establish a social and environmental responsibility policy in line with an entity of the Central Bank of Brazil (Banco Central Do Brasil, 2014) and according to the Brazilian Federation of Banks' SARB 14 Self-Regulatory Framework, ESG due diligence is required for general transactions. In Peru, the Regulation for Social and Environmental Risk Management requires credit institutions to conduct enhanced social and environmental risk due diligence when providing advisory services for project finance and project-related corporate loans, project finance and equity investments.

⁴⁰ IACHR, [Business and Human Rights](#), op. cit., paras. 254-267.

⁴¹ UN Human Rights Council Resolution [26/22](#) (July 2014).

⁴² See [note by ILO and the UNWG](#) on the Relationship between International Labour Standards, UNGPs and NAPs (June 2021).

⁴³ See the OHCHR [website](#) on NAPs in LAC.

⁴⁴ See https://www.buenosaires.gob.ar/sites/gcaba/files/plan_local_ddhh_web_2.pdf.

⁴⁵ See Colombia's PAN [here](#).

⁴⁶ See [A/76/238](#), para. 76.

- Align the implementation of the UNGPs with other related agendas and commitments, such as climate change adaptation measures, just green transition policies and plans for implementing the SDGs, responsible recovery policies, anti-corruption, among others, and use the NAPs as one of the tools to achieve this.
- Improve collaboration with and between OECD National Contact Points (NCPs),⁴⁷ NHRIs and their peers at the local and/or provincial level,⁴⁸ and other administrative oversight bodies.⁴⁹
- Develop, implement and monitor NAPs,⁵⁰ using diagnostic tools such as national baselines (NBLs);⁵¹ engaging effective stakeholder participation; and committing to appropriate actions to respond to the challenges and gaps identified in the process.
- Establish specific, measurable, achievable, relevant, and time-bound progress and outcome indicators for the NAPs, assign responsibilities for ensuring and measuring the implementation of the NAPs and allocate appropriate financial resources to ensure the full NAP cycle.⁵²
- Establish an inter-agency roundtable to elaborate the NAP, which will then serve as a governance body for its implementation.
- Create a multi-stakeholder advisory committee for the elaboration, monitoring and updating of the NAP, including, at a minimum, civil society, trade unions, business, representatives of affected groups and NHRIs.
- Ensure participation and transparency in NAP design, elaboration, implementation, and monitoring, including through processes of meaningful, informed and equal participation of stakeholders.⁵³
- Facilitate dialogue and coordination between the different branches of government and national and local or sub-national governments to promote the implementation of the NAPs.
- Continue to strengthen peer learning processes at the regional level to improve policy coherence (e.g., through the intergovernmental community of practice).

Action areas for companies

- Contribute to the State's ability to meet its international obligations in light of the UNGPs and not hinder its actions.
- Engage constructively in NAP development, implementation and updating processes, including by providing experiences and inputs to enhance the accountability of NAPs for corporate responsibilities to respect and remedy.
- Commit to meaningful actions within the NAP framework and implement them.

Action areas for other actors

⁴⁷ More information on indicators to monitor NCP performance can be [found here](#).

⁴⁸ See [A/HRC/47/39/Add.4](#), para. 21.

⁴⁹ For example, through action protocols. In this regard, see the Argentine experience which, Within the RBCLAC Project and with the leadership of the National Ombudsman's Office, developed a [Framework Protocol for Action by Ombudsman's Offices on Business and Human Rights](#), developed in collaboration with local ombudsman's offices. On the organization of oversight and the role of NCPs, see also the session "Mandatory due diligence and trade and investment policies: progress and prospects for promoting responsible business conduct in LAC" in the framework of the [VI Regional Forum](#).

⁵⁰ For each of the phases of elaboration of a NAP, see https://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance_SP.pdf. For a critical look at NAPs see Cantú Rivera, Humberto, [Planes de Acción sobre Empresas y Derechos Humanos: sobre la instrumentalización del derecho internacional en el ámbito interno](#), Anuario Mexicano de Derecho Internacional, 2017.

⁵¹ The LBNs prepared should include a mapping of the regulatory and policy framework, the identification of the main advances and gaps in BHR in the public and private sectors, as well as an analysis with a differentiated approach to identify the main violations of the rights of marginalized groups and identify priority economic sectors.

⁵² See UNWG, Report on Measuring the Implementation of UNGPs, UN Doc. A/70/216.

⁵³ Stakeholders, according to the UNWG Guidance and the Danish Institute and ICAR toolkit, should be considered as at least the following: (1) companies, business associations, small and medium-sized enterprises (SMEs), self-employed individuals, sole traders, cooperatives, non-profit organizations and informal sector actors; (2) trade unions and other associations of workers' representatives; (3) NHRIs, Ombudspersons, statutory equality bodies and other national accountability mechanisms with a human rights mandate; (4) civil society organizations with mandates that address relevant issues; (5) academia, including research institutes, individual experts and relevant educational institutions, such as business schools; (6) international and regional actors, including relevant UN agencies and country teams, the World Bank, regional development banks and the OECD.

United Nations, international and regional organizations, international community

- Provide support to States on BHR issues to promote greater policy coherence in the protection of human rights according to the gaps identified, including providing coordinated political and technical support to NAPs, advocating for inclusive governance of such processes and the development of LBNs.
- Promote the exchange of practices among States, academia, stakeholders, etc., on NAPs.
- At the Inter-American system level, continue including express references to the UNGPs in pronouncements, judgments and recommendations, and actively follow up on the implementation of the UNGPs in the region.

Civil society, trade unions, academia

- Consider contributing constructively and collaboratively to the design and implementation processes of public policies related to BHR, providing information and tools to enable the participation of all stakeholders, in particular affected and marginalized groups.
- From academia, continue to contribute to studies, research and evidence that serve as a basis for identifying gaps and opportunities for improvement in public policies on BHR.

Business organizations and institutional investors

- Encourage business partners to contribute to and not hinder the State's actions to comply with its international obligations in light of the UNGPs.
- Collaborate constructively in the 5 steps of the NAPs, committing to meaningful actions in the framework of the NAPs and putting them into practice.

Key resources

United Nations:

- UNWG: [Report on policy coherence](#) and [guidance on NAPs](#) and protection of [human rights defenders](#).
- [E-learning course](#) on BHR by OHCHR and the Global Compact, in collaboration with SHIFT.
- [Frequently Asked Questions about the OHCHR Guiding Principles on Business and Human Rights](#).

Others:

- [Toolkit for developing a NAP](#); LBN model; challenges and opportunities for the adoption of NAPs in the region; recommendations by country and thematic supplements for the incorporation of issues and points of special interest related to [technology](#), [private security](#), [children and adolescents](#), [women's rights](#) and [human rights defenders](#), among others; and [accountability in the implementation of NAPs](#), by the Danish Institute for Human Rights.
- [Extractive Industries and NAPs](#), by ICAR and DPLF.
- Cantú Rivera, Humberto, [Herramienta de diagnóstico sobre la implementación de las obligaciones internacionales de derechos humanos en el contexto de la actividad empresarial](#), IIDH, 2020.
- [Taking stock of implementation of the OECD Guidelines](#) and [report on 20 years of NCPs and the way forward](#).
- [E-learning course](#) on BHR for NHRIs and [policy recommendations](#) from the Danish Institute for Human Rights.
- [Contributions from National Human Rights Institutions](#) in the Americas on the occasion of the 10th anniversary of the UNGPs, by [RINDHCA](#), [FIO](#) and the Danish Institute for Human Rights.

Goal 2.2. To strengthen the role of the State as an economic actor and lead by example

States should take advantage of the tools and opportunities that arise when acting as economic actors to promote respect for human rights, for example through public procurement, state-owned enterprises (SOEs), pension funds, sovereign wealth funds and export credit agencies, regulation and action in special economic zones (e.g.,

free trade zones),⁵⁴ privatization of public services, negotiation of trade and investment agreements, and when participating on boards as members of IFIs.⁵⁵

In the region, there has been notable progress in integrating environmental and labour considerations into public procurement regulatory, policy and strategic frameworks. However, only a few have incorporated human rights considerations in a comprehensive manner in line with UNGPs, including HRDD requirements.⁵⁶

According to an OECD study, in LAC only 25% of SOEs or state-owned enterprises have and carry out HRDD processes⁵⁷ and even fewer governments include in their policies a requirement for SOEs to implement HRDD mechanisms.⁵⁸

For the next decade, it is necessary to consolidate and expand the requirements of respect for human rights in the framework of the actions of the State as an economic actor, and even demand and encourage HRDD processes by SOEs or companies under their control, and those with whom they have commercial relations.

Action areas for States

- Require HRDD mechanisms for SOEs, enterprises that receive significant support and tax incentives, enterprises with which they conduct commercial transactions and that provide services to the State.⁵⁹
- Integrate requirements to respect human rights, including HRDD, into public procurement regulatory, policy and strategic frameworks.⁶⁰
- Ensure that the processes of privatization of essential public services (health, education, drinking water and sanitation, among others) are accompanied by measures of oversight of respect for human rights by States, to ensure that they do not affect the full exercise and enjoyment of human rights or the availability, accessibility, adaptability, affordability, non-discrimination and quality of services.⁶¹
- Provide guidance to businesses on human rights issues and HRDD requirements, in-country through embassies and trade and commercial aggregates.⁶²
- Consider conducting human rights and environmental impact assessments of trade and investment agreements prior to signing, as well as during implementation.⁶³
- Harness the potential of international investment agreements (IIAs) to realize human rights and RBC.⁶⁴

⁵⁴ See discussion in the session "Respect for human rights in free trade zones in Latin America" in the framework of the [VI Regional Forum](#).

⁵⁵ See commentary to UNGP 5.

⁵⁶ See progress on [sustainable public procurement compiled by the OAS Inter-American Network on Government Procurement](#); OECD Report on Governments - A Glimpse of Latin America and the Caribbean; OECD Report on Integrating Responsible Business Conduct in Public Procurement; OECD Report on Integrating Responsible Business Conduct in Public Procurement. See session "Sustainable public procurement based on human rights: how to achieve it" in the framework of the [VI Regional Forum](#).

⁵⁷ See OECD, [Results of the OECD Enterprise Survey on Responsible Business Conduct in Latin America and the Caribbean](#), 2021.

⁵⁸ For example, the Chilean Business System Code encourages SOEs to undertake "a human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights risks and impacts. See [SEP Code](#), Sistema de Empresas, Chilean Ministry of Economy, Development and Tourism, p.123.

⁵⁹ See the discussion given in the session "State-Owned Enterprises: How to make them an example" in the framework of the [VI Regional Forum](#).

⁶⁰ See the [report](#) of the UNWG on HRDs.

⁶¹ This implies, among others, sanctioning restrictions on access to generic medicines, controlling excessive prices of medicines, abuse of patents, etc.; demanding continuous investment for the improvement in the provision of health services and ensuring fair prices; guaranteeing access to vaccines; regulating private education; ensuring that public household services and public transport are available, of good quality and accessible, among others. For more information see: IACHR, [Business and Human Rights](#), op. cit., para. 220-232; and UN Doc. [A/69/402](#).

⁶² See [A/75/212](#), para. 29 and 104, [A/HRC/38/48](#), paras. 29-37.

⁶³ See [A/76/238](#), para. 76.

⁶⁴ See [A/76/238](#), paras. 17, 33 and 76.

→ Regulate special economic zones in a way that ensures that human rights are protected and respected within them, ⁶⁵ in line with international standards on consultation and free, prior and informed consent (FPIC).
Action areas for companies <ul style="list-style-type: none"> → SOEs and joint ventures should lead by example and fully comply with their responsibility to respect human rights as established in Pillar 2 of the UNGPs, exerting a positive leverage on the companies with which they interact.⁶⁶ → From companies that contract and/or provide services to the State, develop and implement human rights policies, and conduct adequate HRDD processes.
Action areas for other actors <p><u>United Nations, international organizations, international community</u></p> <ul style="list-style-type: none"> → Promote respect for human rights in line with the UNGPs in their procurement and assess the HRDD of the companies they contract with. → Develop guidelines applicable to investments with a human rights perspective and making explicit the link to the UNGPs. <p><u>Civil society, trade unions, academia</u></p> <ul style="list-style-type: none"> → Consider conducting research and making recommendations on the opportunities and challenges for greater respect for human rights in the framework of business relations between the State and its enterprises. → Consider conducting research on IIAs and human rights and making concrete recommendations to States and international bodies to avoid negative impacts. <p><u>Business Organizations</u></p> <ul style="list-style-type: none"> → Support enterprises, in particular small and medium-sized enterprises (SMEs), to enhance their capacity to undertake HRDD processes and support them to participate in public procurement processes. → Contribute to strengthening SOE capacities to respect human rights and implement HRDD processes.
Key resources <p>United Nations:</p> <ul style="list-style-type: none"> → Reports of the UNWG on Human Rights Mainstreaming in Public Procurement in Latin America and the Caribbean (in progress), economic diplomacy, state-owned enterprises, international investment agreements, information note on post-COVID recovery. → UN Guiding Principles on Foreign Debt and Human Rights. → Acquisitions of women-owned businesses, UN Women. <p>Others:</p> <ul style="list-style-type: none"> → Business and Human Rights. Inter-American Standards of REDESCA-IACHR. → Human Rights Toolkit for Public Procurement Practitioners and Policymakers from the Danish Institute for Human Rights.

⁶⁵ According to UNCTAD, the region currently has almost 500 SEZs, which are home to more than 10,000 firms and employ around 1 million people. See: UNCTAD, *World Investment Report 2019* (Chapter IV Special Economic Zones), p. 146. Some possible actions include making strategic reorientations, regulatory reforms and adjustments to the value proposition necessary to respond to the imperative of sustainable development, human rights and the current demands of market competitiveness (for example, those related to environmental, social and governance indicators and standards and their adequate monitoring); ensuring that the land acquisition process and decisions on the location of these zones do not affect the rights of indigenous peoples, Afro-descendant or rural communities; among others.

⁶⁶ To this end, companies "should adopt appropriate policies and processes to address abuses, including political commitment, human rights due diligence and remediation mechanisms, which are integrated throughout their operations." See UN Doc. [A/HRC/32/45](#), paras. 101 and 102.

- OECD [Principles, Tools and Publications on Public Procurement and Public Enterprises](#).
- [Inter-American Government Procurement Network](#) of the OAS.
- UNEP Portal on [public procurement](#).

Goal 2.3. Build on the global momentum towards mandatory human rights due diligence and develop a comprehensive smart *mix* of measures (*smart mix*)

One of the most notable developments in the last ten years is that there is a growing and better understanding of the need to establish legal requirements based on the UNGPs.⁶⁷ This progress has been driven by calls from States,⁶⁸ the private sector,⁶⁹ CSOs, communities, workers' organizations,⁷⁰ among others, for clear rules on HRDD and a level playing field.

Legislative developments in Europe⁷¹ and North America, as well as their impact on businesses operating globally, show that the discussion is no longer about whether or not to carry out due diligence processes, but about how to carry them out and the consequences of the different regulatory options.⁷²

In the region, the I/A Court has recently been incisive in establishing the mandatory HRDD requirement by stating, following the UNGPs, that States must adopt measures for companies to adopt policies for the protection of human rights, due diligence processes and grievance mechanisms.⁷³ The I/A Court also clarified that this obligation must be adopted by companies and regulated by the State, and specified that regulation should focus on companies conducting ongoing human rights risk assessments, adopting effective and proportionate measures to mitigate the risks caused by their activities, and establishing accountability mechanisms for the harm that has been caused.⁷⁴

In the region, there are already countries that have adopted various legal measures that promote accountability, as well as access to and disclosure of information about the activities of enterprises related to specific sectors, issues and/or groups. Likewise, Peru has included in its NAP an action to evaluate a normative proposal on HRDD in the business sector and Ecuador continues to lead the negotiation of the legally binding instrument on BHR.⁷⁵

Looking ahead to the next ten years, it is essential to enforce existing mandatory requirements, develop mandatory policy options that work, and complement these efforts with a smart mix of measures,⁷⁶ always ensuring the participation of all stakeholders in legislative and policy-making discussions.

⁶⁷ See also [A/HRC/47/39](#), para. 38.

⁶⁸ A number of countries recently announced their commitment to redouble efforts to promote more responsible business conduct through a new instrument developed by the OECD (see [note here](#)).

⁶⁹ See the [ICHRP's list of companies](#) supporting mandatory due diligence; as well as the pronouncement of the [Global Compact](#) and its companies and the [International Organisation of Employers](#), among others.

⁷⁰ See https://www.ituc-csi.org/towards_mandatory_due_diligence.

⁷¹ See the current debates on [due diligence in the European Parliament](#) (2021) and the [report of the European Coalition on Corporate Justice on corporate due diligence](#) (2020).

⁷² This has been strongly marked by the processes that have been taking place in [the European Union](#) (more information [here](#)) and according to the legislations of countries such as Germany, France, Norway, United Kingdom and Holland or states such as California that cover due diligence aspects. More information [here](#).

⁷³ I/A Court H.R., Case of the Miskito Divers v. Honduras, op. cit.

⁷⁴ See also the discussion given in the session "Normative elements for legislating the corporate responsibility to respect human rights in Latin America" in the framework of the [VI Regional Forum](#).

⁷⁵ In compliance with the mandate established by resolution 26/9 of the United Nations Human Rights Council, the Permanent Representative of Ecuador to the United Nations in Geneva continues to serve as Chairperson-Rapporteur of the United Nations Intergovernmental UNWG negotiating the drafting of the instrument in Geneva. For more information on the instrument and all relevant official documentation, please consult: <https://www.ohchr.org/SP/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>.

⁷⁶ These include human rights clauses and approaches in trade and investment agreements; legislation on mandatory disclosure of especially non-financial information; government procurement rules; and export credit requirements, among others.

Action areas for States

- Develop mandatory HRDD requirements in line with the UNGPs, including: HRDD responsibilities throughout the value chain; meaningful stakeholder engagement (including trade unions, human rights defenders and affected communities, among others); the needs and challenges of specific production sectors;⁷⁷ the establishment of compliance monitoring mechanisms with a focus on assessing the effectiveness of business actions in terms of outcomes for people; and the creation and enforcement of effective sanctions.⁷⁸
- Adopt a smart mix of measures including appropriate guidance and support and advice and incentives for businesses, including SMEs.

Action areas for companies

- Participate constructively in HRDD development processes.⁷⁹
- Comply with HRDD, disclosure and other legal requirements linked to their responsibility to respect human rights.

Action areas for other actors:

United Nations, international organizations, international community

- Promote and develop guidelines on HRDD processes and content, taking into account Inter-American standards on the subject.
- Support governments, parliaments and other stakeholders in these efforts by⁸⁰ promoting the development of State capacities, the exchange of experiences between countries, and encouraging stakeholder participation in these processes.

Civil society, trade unions, academia

- Consider producing research that clarifies the legal loopholes that favor non-compliance with the UNGPs, and generate data and proposals for overcoming such loopholes.
- Participate in national, regional and international discussions related to HRDD with the aim of contributing to dialogue and fostering the constructive development of norms and public policies.

Business organizations

- Participate constructively in the process of developing and implementing regulatory instruments for HRDD.
- Use its leverage to get companies to implement HRDD processes, and support its members in the implementation of legal requirements on HRDD with a special focus on SMEs.

Key resources

United Nations:

- UNWG, [position and recommendations](#) in relation to HRDD.
- OHCHR, [positioning](#) and [key messages](#).

Others:

⁷⁷ See <http://mneguidelines.oecd.org/sectors/>.

⁷⁸ See also [A/HRC/47/39](#), para. 40.

⁷⁹ See <https://news.un.org/en/story/2021/10/1102582>.

⁸⁰ According to a [study by the Ideas for Peace Foundation](#), which analyzed 80 Colombian regulations and jurisprudence spanning 28 years, 86.67% of the analyzed instruments on BHR regulate the protection pillar of the UNGP, leaving the other two pillars less addressed.

- [Fulfilling the State Duty to Protect: A Statement on the Role of Mandatory Measures in a "Smart Mix"](#) (2019) and Shift Project's [Enforcement of Mandatory Due Diligence: Key Design Considerations for Administrative Supervision](#) (2021).
- Results of the [OECD Enterprise Survey in the](#) framework of the RBCLAC Project, OECD Ministerial Council recommendation [on the implementation of due diligence](#) and OECD [tools](#) for implementing HRDDD.
- [Study on human rights due diligence and compliance processes](#), by BHRRC, UDEM and OXFAM in the framework of the CERALC Fund.

Area of Action 3: Corporate responsibility to respect

Goal 3.1: Integrate human rights due diligence into corporate governance, including in the financial sector

In order to discharge their corporate responsibility to respect human rights, business should undertake HRDD processes. According to the UNGPs and the OECD Due Diligence Guidance, HRDD consists of several stages: (i) identifying and assessing actual or potential adverse human rights impacts in which they may be implicated, either through their own activities, or as outcomes of their business relationships; (ii) integrating the findings and taking timely action; (iii) monitoring the effectiveness of their responses; (iv) and communicating externally on the actions taken.⁸¹ These processes are complemented by a political commitment to respect human rights at the highest level and operational-level grievance mechanisms that enable the company to remediate adverse human rights impacts that they have caused or contributed to.⁸²

Within these processes, which should be periodic throughout the life cycle of a business activity and before starting a project or major operational changes, businesses should engage and consider the perspectives of stakeholders, particularly those potentially affected, and include at all times the gender and multi-cultural perspective, the human rights approach, as well as look into the differentiated impacts of business activities on specific groups, especially those in situations of vulnerability. Furthermore, these processes should serve to strengthen the engagement with trade unions and indigenous and Afro-descendant peoples, considering the specific impacts and risks they face in the business context. The responsibility to respect and implement HRDD applies to all businesses - national, transnational, public, private, including SMEs and investors.

In relation to the financial sector, it is important to note that they are also expected to be able, through HRDD processes, to prevent, address and remedy any human rights impacts their investments may cause. The growing momentum of ESG provides a unique opportunity for faster progress. However, to ensure that this development helps drive better business practices that lead to positive outcomes for people and environment, there is a need to mainstream the understanding that the UNGPs provide the core content of the social aspects (the "S" of ESG factors).

While LAC is one of the most advanced regions in terms of corporate transparency on measures to address their human rights impacts,⁸³ and some financial actors are increasingly⁸⁴ recognizing their own responsibility under the UNGPs, significant challenges remain.

⁸¹ OHCHR, [Corporate Responsibility to Respect Human Rights - Interpretative Guidance](#), 2011.

⁸² PRNU 17-22, 28 and 29 and OECD Due Diligence Guidance.

⁸³ contribution to UNGP+10 "Business and Human Rights: Towards a Decade of Global Implementation", p. 4.

⁸⁴ For example, see the [new environmental and social policy framework](#) of the [Inter-American Development Bank](#) (IDB).

A recent OECD study found that 75% of the companies in the region that responded to the survey⁸⁵ report having a RBC policy, but only about 40% of them carry out HRDD⁸⁶ processes (globally, 46.2%).⁸⁷ The study also points out that SMEs show more challenges in terms of HRDD and require specific assistance. In this regard, it is important to remember that, according to the ILO report, globally, almost 7 out of 10 workers are self-employed or work in SMEs.⁸⁸ Furthermore, only 4% of banks operating in LAC surveyed by the UN Environment Programme in 2020 indicated that ESG risk management was fully integrated into governance structures.⁸⁹

The next ten years of the UNGPs should serve to make HRDD become part of the corporate DNA, generating a culture of respect for human rights throughout the business and its business strategy, and that HRDD and the UNGPs are integrated into all major ESG frameworks and standards used by the financial sector.

Action areas for States

- Clarify the State's expectations regarding the HRDD of businesses operating in its territory or jurisdiction in line with the UNGPs, through binding provisions on HRDD,⁹⁰ as reporting, incentive measures⁹¹ and monitoring strategies for businesses, including SMEs,⁹² to implement HRDD (see Objective 2.3).
- Ensure that HRDD, in line with the UNGPs, is an explicit element in ESG definitions, frameworks, and taxonomies, including regulation on non-financial disclosure and sustainable finance.
- Advise enterprises, business associations, SMEs, investors, professional associations (e.g., lawyers, architects, engineers, chemists, etc.)⁹³ on the content, scope and implementation of HRDD,⁹⁴ indicating the expected results, the methods to achieve them and warning about the main and/or recurrent human rights impacts according to the productive sector.
- Demand greater transparency and accountability on the human rights performance of businesses, and adopt concrete and effective measures for corporate accountability, including special attention to those companies that are about to withdraw from a territory.

Action areas for companies

- Adopt a public policy statement of commitment to respect human rights at the highest level of management that is reflected in all company policies and operations.
- Design a continuous HRDD-based management system, in accordance with the UNGPs, that takes into account the actual and potential impacts of business activities on human rights (both the company's own activities and those derived from its business relationships), and the differentiated and disproportionate impacts on marginalized groups, especially when essential services are involved and/or there are contexts that merit reinforced processes (e.g., due to corruption issues⁹⁵ or conflict contexts - see objective 3.4; among others).

⁸⁵ OECD, *Results of the OECD Enterprise Survey on Responsible Business Conduct in Latin America and the Caribbean*, 2021.

⁸⁶ This varies by sector, with the extractive industries sector reporting the highest number of due diligence processes (58%).

⁸⁷ See <https://www.worldbenchmarkingalliance.org/publication/chrb/>.

⁸⁸ See https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_723414/lang-es/index.htm.

⁸⁹ See <https://www.unepfi.org/news/industries/banking/how-are-latin-america-caribbean-banks-incorporating-climate-change-in-their-risk-management/>.

⁹⁰ See IACHR, *Business and Human Rights*, op. cit. para. 3, section "recommendations to States".

⁹¹ See [A/HRC/47/39/Add.4](#), para. 43.

⁹² This need is evident from the OECD survey and from studies such as UNICEF Argentina (2019) which found that among companies with low commitments there is a high presence of small companies (68%) and almost no large companies (4%). See <https://www.worldbenchmarkingalliance.org/publication/chrb/> and <https://www.unicef.org/argentina/media/6501/file/Linea%20de%20base%20-%20Sector%20Privado%20y%20derechos%20.pdf> respectively.

⁹³ See Ramasastry, Anita, Advisors or Enablers? Bringing Professional Service Providers into the Guiding Principles' Fold, *Business and Human Rights Journal*, Volume 6, Issue 2, June 2021.

⁹⁴ See [A/HRC/26/25/Add.2](#), para. 36 (b).

⁹⁵ See [A/HRC/47/39/Add.4](#), para. 34.

- Establish and/or participate in effective grievance mechanisms, in consultation with rights holders (see objective 4.3).
- Encourage meaningful, prior, timely and effective participation of affected or potentially affected groups and other stakeholders in their HRDD processes on an ongoing and regular basis throughout the life cycle of a business activity, including prior to undertaking new activity or implementing operational changes. For meaningful and informed participation, power imbalances should be identified, acknowledged and overcome, and full and culturally appropriate information should be provided, taking into account community human rights impact assessments and autonomous FPIC protocols, where they exist (see objective 5.1).
- Implement HRDDD as a strategy for responsible economic recovery post COVID-19, reducing informality and ensuring decent work.⁹⁶
- Communicate widely and in a clear and transparent manner how the responsibility to respect human rights is being fulfilled, evidencing the results achieved⁹⁷ and provide remedy in case of human rights abuses.
- Use their leverage with business partners to prevent, mitigate and remedy negative human rights impacts in their value chain and support SMEs to implement and/or strengthen HRDD processes.⁹⁸

Action areas for other actors:

United Nations, international organizations, international community

- Help identify promising HRDD practices, provide technical advice to business organizations, and establish clear principles or criteria for collecting information for accountability on HRDD to ensure that it is accurate and balanced.⁹⁹
- Study the impact of the corporate human rights performance index and other global human rights benchmark, auditing and certification standards for business.¹⁰⁰

Civil society, trade unions, academia

- Consider develop and support measures to generate data to measure the impact and outcomes of companies' HRDD processes.¹⁰¹
- Consider further assessing and benchmarking the performance of financial institutions and holding investors accountable, especially in private markets, advocating for greater transparency and accountability.¹⁰²

Business organizations

- Train and provide technical and practical guidance to its partners for the implementation of the UNGPs and HRDD, including in the prevention and management of the most recurrent human rights risks in each productive sector,¹⁰³ paying special attention and support to SMEs and making visible the economic benefits of conducting HRDD.¹⁰⁴
- Create, adapt and articulate human rights risk assessment matrices and mechanisms by productive sectors.

⁹⁶ See [A/HRC/47/39/Add.4](#), para. 39.

⁹⁷ On measuring HRDD, see the session "Tools to measure progress and challenges in the implementation of the Guiding Principles in Latin America" in the framework of the [VI Regional Forum](#).

⁹⁸ See [A/HRC/47/39/Add.4](#), para. 43.

⁹⁹ See [A/HRC/26/25/Add.2](#), para. 36.e.ii.

¹⁰⁰ See [A/HRC/26/25/Add.2](#), para. 36 (e.v.).

¹⁰¹ See [A/HRC/47/39](#), para. 91. Evidence shows that when companies are evaluated, they make progress. See "Tools to measure progress and challenges in the implementation of the Guiding Principles in Latin America" in the framework of the [VI Regional Forum](#).

¹⁰² See [A/HRC/47/39/Add.4](#), para. 55.

¹⁰³ For an example, see <https://www.bsr.org/en/our-insights/primers/10-human-rights-priorities-for-the-financial-sector>.

¹⁰⁴ See for example Bağlayan, Başak, Landau, Ingrid, McVey, Marisa & Wodajo, Kebene, *Good Business: The Economic Case for Protecting Human Rights*, BHR, Frank Bold, ICAR, 2018. Also see report *Quantifying the Costs, Benefits and Risks of Due Diligence for Responsible Business Conduct Framework and Assessment Tool*, prepared by Columbia - SIPA for the OECD in 2016.

- Promote, within associations or multi-actor initiatives, respect for human rights and the implementation of HRDD.
- Encourage the participation of its members in national and international discussions for the implementation and promotion of RBC (including UNGP and HRDD).

Institutional Investors

- Publicly commit to respect for human rights and the work of human rights defenders¹⁰⁵ and conduct HRDD processes¹⁰⁶ in accordance with the UNGPs, in continuous dialogue with civil society, potentially affected communities¹⁰⁷ and the companies they lend to, exerting positive leverage to encourage the adoption of mechanisms for the corporate respect of human rights.
- Ensure the development of HRDD processes that inform decision-making and prevent the financing of projects with human rights risks and prioritize investment in projects that favour just energy transition, respect workers' rights, and empower marginalized groups, in line with the objective of fostering a culture of 'investment for sustainable development.'¹⁰⁸
- Ensure that information about the investment and the project is made public, as well as the possible immediate and long-term impacts.¹⁰⁹
- Raise awareness and advocate for the importance of full and effective participation of all stakeholders (especially marginalized groups) in decision-making, monitoring and evaluation of investment projects.¹¹⁰
- Promote adherence to the [UN Principles of Responsible Banking](#) and [Principles for Responsible Investment](#).

Key resources

United Nations:

- OHCHR, [Corporate Responsibility to Respect Human Rights - An Interpretative Guide](#) (2011) and Compilation of Business Experiences and Tools on Human Rights Due Diligence in Latin America and the Caribbean (developed under the RBCLAC Project, under development).
- UNWG [Report on Human Rights Due Diligence](#), [Executive Summary](#) and [Supplementary Note and 10-year review of UNRSPs in relation to institutional investors](#).
- UN Principles for Responsible Investment, [Why and how investors should act on human rights](#).
- UN Environment Programme Finance Initiative [report on integrating sustainability into financial institutions Latin America](#) and [how banks are incorporating climate change into risk management](#).

Others:

- OECD Due Diligence Guidance, [Sectoral CER](#) and [Alignment Guides](#).
- [Doing business with respect for human rights](#), Shift, Global Compact and Oxfam.
- [Human Rights Risk Matrix](#) of Global Compact Chile.
- [Human Rights Impact Assessment Guide and Toolkit](#) from the Danish Institute for Human Rights.
- [The labour dimension of RBC: A guide for employers](#) and their [self-diagnostic tools by ILO country](#).
- Monash University, [Human Rights Translated 2.0.A Business Reference Guide](#) (in collaboration with OHCHR and Global Compact).
- WBCSD, [CEO Guide for Human Rights](#), 2019.
- [Human Rights Toolkit for Investors](#), from the Investors Alliance for Human Rights.
- FIDH's [Human Rights Risk Toolkit for Investors](#).
- Guidelines on [Why and how investors should act with respect to human rights?](#) by UNPRI.

¹⁰⁵ See [A/HRC/47/39/Add.4](#), para. 57 (a).

¹⁰⁶ According to [Amnesty International](#), "almost none of the world's largest private equity firms have robust human rights due diligence policies." See also [A/HRC/47/39/Add.4](#), paras. 43 and 57 (b).

¹⁰⁷ See [A/HRC/47/39/Add.4](#), para. 57 (d).

¹⁰⁸ See [A/76/238](#), para. 77.

¹⁰⁹ See [A/HRC/47/39/Add.4](#), para. 57 (c).

¹¹⁰ See [A/HRC/47/39/Add.4](#), para. 57 (e).

Goal 3.2: Challenge business practices that are inconsistent with respect for human rights

As well as policy coherence by States, improving the coherence of business practices is fundamental to achieving effective implementation of the UNGPs. Addressing practices that are inconsistent with the corporate responsibility to respect human rights is therefore a key issue for the next decade.

Engaging in or being complicit in attacks and intimidation against human rights and environmental defenders, engaging in strategic lawsuits against public participation (SLAPPs), and disregarding social dialogue and the legitimate demands of trade unions, goes against HRDD. Intervening illegitimately and/or in bad faith to weaken laws and policies to protect human rights and the environment, as well. Likewise, evading remedy for human rights abuses, engaging in taxation practices that undermine the State's ability to fulfil economic, social and cultural rights, and engaging in acts of corruption also go against the corporate responsibility to respect human rights.

A sign of the lack of coherence between business commitments to human rights and practices in the region is that in 70 per cent of the cases of attacks on human rights defenders linked to business, these companies claimed to have human rights policies in place.¹¹¹

The next decade calls for the private sector to incorporate, in a consistent and sustained manner, respect for human rights.¹¹²

Action areas for States

- States should set clear expectations in relevant legal and policy frameworks on HRDD and make it clear that RBC includes respect for all human rights and should give special consideration to marginalized groups, including human rights defenders.

Action areas for companies

- Lead by example through the policies and practices of senior management, generating a genuine culture of respect for human rights inside and outside the business and throughout the value chain (including respect for the rights of human rights defenders).¹¹³
- Include HRDD in overall compliance, sustainability, anti-corruption and RBC commitments and strategies.¹¹⁴
- Refrain from undue and non-transparent interference with State institutions or unduly influencing public decision-makers in order to influence their behaviour for the business' own benefit and self-interest.¹¹⁵
- Refrain from using corporate social responsibility (CSR) actions and strategies to contribute to the SDGs as a substitute for their responsibility to respect human rights.¹¹⁶

¹¹¹ See the Business and Human Rights Information Centre's [database](#) on attacks on human rights defenders.

¹¹² See the [key recommendations of the UNWG](#) on "The business and human rights dimension of sustainable development: incorporating 'protect, respect and remedy' in the implementation of the SDGs, as well as the session "SDGs and human rights as a business model for sustainable development" in the framework of the [6th Regional Forum](#).

¹¹³ [A/HRC/47/39/Add.2](#), para. 123.

¹¹⁴ [A/HRC/44/43](#), paragraph 76.

¹¹⁵ IACHR, [Business and Human Rights](#), op. cit. para. 53.

¹¹⁶ Information Note UNWG on Business and Human Rights, "The business and human rights dimension of sustainable development: Embedding 'Protect, Respect and Remedy' in SDGs implementation," recommendation No. 6. See also Cufre, Denisse, "Desarrollo sostenible y derecho," in Böhm, María Laura (Dir.), Empresas (transnacionales) extractivas, derechos humanos y desarrollo sostenible en Argentina. Abordaje anascópico de casos y de problemáticas institucionales y normativas. Autonomous City of Buenos Aires: Editores del Sur, 2021. pp. 39-65.

- Comply with the letter and spirit of taxation regulations and refrain from formulating, adopting, recommending or financing actions, policies, programmes or practices that directly or indirectly hinder the enjoyment of human rights.¹¹⁷

Action areas for other actors

Civil society, trade unions, academia

- Continue to denounce and make visible practices that are inconsistent with the corporate responsibility to respect human rights and engage on ways to close the gaps between commitments and practice.

Business organizations

- Raise members' awareness of the inconsistency between a commitment to respect human rights and engaging in practices or relationships that undermine human rights.
- Refrain from undue interference with the State (institutions and/or public officials) to obtain benefits for the private sector that may result in human rights violations.

Goal 3.3. To increase preventive measures in conflict context

LAC is the most dangerous region for people defending human rights in the context of business activities.¹¹⁸ The region has a high number of socio-environmental conflicts linked to business projects, particularly those associated with natural resource extraction. Many of these conflicts are related to widespread power asymmetries, the lack of genuine stakeholder engagement, and the weakness or absence of public power.¹¹⁹ Other countries in the region are going through or have gone through armed conflicts and military dictatorships, and/or contexts of generalized violence, where it has been evidenced that companies have been involved.¹²⁰ All of the above has an adverse impact on sustainable inclusive growth and social cohesion in the region.¹²¹

In addition to being a driver of conflict, the risk of serious human rights abuses by business is further increased in conflict zones, requiring businesses operating in such zones to exercise enhanced or improved HRDD and for States to pay particular attention to business activity in such areas.¹²² In turn, considering that numerous abuses in the region have involved private security companies, enhanced HRDD by States and businesses is required to prevent, address and remedy any abuses by security agents.

Over the next decade, the obligation of States to protect and the corporate responsibility to respect human rights must be at the core of preventive measures in conflict context and in peace and reconciliation processes.¹²³

Action areas for States

- Use all functions and powers of the State to ensure that businesses enhance HRDD when operating in conflict-affected areas.¹²⁴
- Raise efforts to ensure the comprehensive presence of the State throughout the territory, especially of oversight institutions and institutions mandated for the protection of human rights throughout the territory.
- Issue specific guidance and warnings to businesses regarding human rights risks posed by specific conflict or post-conflict zones.

¹¹⁷ See [Principle 14 of the OECD Principles on Human Rights in Tax Policy](#) and Guidelines, chapter XI on tax issues.

¹¹⁸ See https://media.business-humanrights.org/media/documents/HRDs_2020_infographic.pdf.

¹¹⁹ See <https://library.fes.de/pdf-files/bueros/mexiko/15783-20191202.pdf> and <https://ejatlas.org/?translate=es>.

¹²⁰ See for example the report of the José Alvear Restrepo Lawyers' Collective [on the role of companies in the armed conflict and socio-political violence](#) in Colombia

¹²¹ See <https://www.cepal.org/es/articulos/2016-america-latina-caribe-es-la-region-mas-desigual-mundo-como-solucionarlo>.

¹²² OHCHR, [Frequently Asked Questions](#), op. cit. p. 27.

¹²³ See <https://www.humanrights.dk/publications/economy-human-rights>.

¹²⁴ See [A/75/212](#), paras. 29 and 104.

- Promote truth, justice, reparation and guarantees of non-repetition and clarification of the involvement of businesses in conflict.¹²⁵ This must be accompanied by effective remedy by businesses involved.
- Assess and regulate the use of public or private security by companies, including through their NAP,¹²⁶ to ensure that human rights are respected.¹²⁷
- Implement mechanisms for social dialogue, facilitating the peaceful resolution of conflicts where human rights violations by businesses are invoked.

Action areas for companies

- Enhance HRDD in conflict context, strengthening the prevention approach.¹²⁸
- Work closely with justice and transitional justice mechanisms in the clarification of past events that are linked to business¹²⁹ and publicly acknowledge the responsibilities of companies in appropriate cases.
- Strengthen and ensure dialogue and work collaboratively with the State, civil society, affected communities and groups, and other social actors in peacebuilding, with the understanding that the responsibility for achieving peace belongs to all citizens.¹³⁰

Action areas for other actors

United Nations, international organizations, international community

- Contribute to the development of a business, peace and security strategy that incorporates UNGPs as a key component.¹³¹
- Establish strong inter-agency cooperation to ensure that all UN agencies, funds and programmes and other international and cooperating organizations that have to work with businesses in conflict-affected contexts act in a coordinated manner and disseminate UNGPs.

Civil society, trade unions, academia

- Consider contributing to the processes of consolidation of peace, memory, truth, justice and reparation through independent investigations and strengthening the capacity of victims to demand their rights.
- Consider carrying out socio-community, environmental and human rights impact monitoring in conflict contexts.

Business organizations and institutional investors

- Develop guidelines, conduct training and accompany enterprises to understand their responsibility to protect human rights in situations of conflict and social protest¹³² contribute to truth processes.
- Make public statements in support of human rights defenders and their work and commit to respecting their rights.
- Refrain from offering credit to businesses linked to land grabbing and forced displacement, and that have contributed or contribute to a greater extent to socio-environmental conflicts.

¹²⁵ See [A/75/212](#), paras. 29 and 104, [A/HRC/38/48](#), paras. 29-37, [A/HRC/34/62](#), and IACHR, *Business and Human Rights*, *op. cit.* para. 11, section "recommendations to States."

¹²⁶ See [Private Security Governance](#) and NAPs, Danish Institute for Human Rights and Geneva Center for Security Sector Governance.

¹²⁷ Of interest in this regard are the [Montreux Document](#) on relevant international legal obligations and good practices with regard to the operations of private military and security companies during armed conflict, [the Voluntary Principles on Security and Human Rights](#), and the [International Code of Conduct](#) for Private Security Service Providers, among others. See also UN Doc. [A/70/438](#), paras. 48-50; [A/HRC/42/42](#); see the work of the UN UNWG on the [use of](#) mercenaries.

¹²⁸ See [A/75/212](#), para. 106.

¹²⁹ See [A/75/212](#), para. 106 and IACHR, *Business and Human Rights*, *op. cit.* paras. 209, 210, 218, 219.

¹³⁰ See [UN News](#), Colombia. Available at

¹³¹ See [A/75/212](#), para. 105.

¹³² See, for example, <https://empresaspaiddh.ideaspaz.org/nota/como-deben-actuar-las-empresas-frente-al-derecho-la-protesta-social>, and <https://cmecolombia.co/wp-content/uploads/2018/05/Documento-Recomendaciones-CME-v4.pdf>.

Key resources

United Nations:

- Report of the UNWG on [Conflict and Post-Conflict](#) and the [work](#) of the UN Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence.
- Open-ended [intergovernmental UNWG](#) to consider the possibility of developing an international regulatory framework on the regulation, oversight and monitoring of the activities of private military and security companies.

Others:

- IACHR Report on Inter-American Standards on [Memory, Truth, Justice and Reparations in Transitional Contexts](#).
- [Private Security Governance](#) and NAPs, Danish Institute for Human Rights and Geneva Center for Security Sector Governance.

Action Area 4: Access to remedy

Goal 4.1. Ensure access to State-based judicial mechanisms

Effective judicial mechanisms are essential to ensure access to remedy. In the region, there is a growing jurisprudential development in relation to the BHR agenda,¹³³ particularly at Supreme Courts level,¹³⁴ especially with regard to extractive projects, indigenous peoples' rights, and environmental and labour rights,¹³⁵ but also at the Inter-American system level, through the jurisprudence of the Inter-American Court¹³⁶ and the development and identification of [inter-American standards](#) by the IACHR.

However, normative, political and institutional obstacles, as well as practical, economic and cultural barriers to accessing judicial complaint mechanisms persist, as identified by the OHCHR Accountability and Remedy Project (ARP I).¹³⁷ At the regional level, the [IACHR](#) has also identified obstacles related to the rule of law in the region and corporate law, such as difficulties in investigating parent businesses for abuses committed by their subsidiaries and/or in their supply chains, as well as in hearing cross-border cases.¹³⁸

Another concern relates to the use of the judicial system to silence the work of human rights defenders through strategic prosecutions against public participation (SLAPP). LAC accounts for 39% of SLAPP cases worldwide.¹³⁹

¹³³ Debevoise & Plimpton, [UN Guiding Principles on Business and Human Rights at 10. The Impact of the UNGPs on Courts and Judicial Mechanisms](#), 2021, para. 429.

¹³⁴ Cantú Rivera, Humberto (ed.), *Experiencias latinoamericanas sobre reparación en materia de empresas y derechos humanos*, Bogotá, Konrad Adenauer Stiftung, 2021.

¹³⁵ See Debevoise & Plimpton, [UN Guiding Principles on Business and Human Rights at 10. The Impact of the UNGPs on Courts and Judicial Mechanisms](#), 2021.

¹³⁶ See for example Case of Vera Rojas et al. v. Chile (2021), Lemoth Morris et al. (Miskito divers) v. Honduras (2020), Case of employees of the fire factory in Santo Antonio de Jesús and their relatives v. Brazil (2020), Pueblos Kalina and Lokono v. Suriname (2015), Sarayaku v. Ecuador (2012), among others.

¹³⁷ These include "(a) lack of material resources, access to technical knowledge and appropriate lawyers to match the capacities of companies, especially when dealing with global companies; (b) lack of access to evidentiary material; (c) fear of retaliation in the form of reputational damage; (d) tBHRats to one's physical integrity or that of family members and witnesses; (e) stigmatization at work; (f) violation of physical integrity; (g) public corruption and dishonest conduct by companies; (h) a formalistic legal culture; (i) lack of independence of justice bodies; (j) difficulties in accessing the various local and international mechanisms because their procedures are not well known or because accessing them can be costly; (k) lack of knowledge of human rights on the part of victims." [A/HRC/26/25/Add.2](#), para. 25.

¹³⁸ See IACHR, [Business and Human Rights](#), *op. cit.* para. 131 -141.

¹³⁹ See <https://www.business-humanrights.org/en/from-us/briefings/slapped-but-not-silenced-defending-human-rights-in-the-face-of-legal-risks/>.

For the next ten years, it will be important to redouble efforts to make access to justice in BHR cases a reality in the region.

Action areas for States

- Analyse and assess the scope and effectiveness of domestic legal regimes governing corporate respect for human rights, in light of OHCHR ARP I guidance,¹⁴⁰ with particular attention to obstacles and barriers to accessing judicial mechanisms and to responding more effectively to the practicalities of organisation and management of business and cross-border cases.¹⁴¹
- Encourage judicial authorities to consider HRDD processes to determine corporate liability, taking into particular consideration the *quality of HRDD* as a preventive process.
- Explore effective legislative measures to enforce corporate responsibility to redress harm where businesses cause or contribute to impacts, including appropriate liability provisions.
- Design and implement capacity-building activities for lawyers and judges on UNGPs and HRDD.
- Put rights-holders at the centre of reparations and ensure that their differentiated experiences and expectations are considered throughout the process,¹⁴² providing legal assistance and enabling collective reparations.
- Take proactive measures to address power imbalances between companies and affected rights holders,¹⁴³ for example, by balancing considerations of access to remedy on the one hand, and fairness to all parties on the other, in public law and private law regimes at the national level, to promote a fair distribution of the burden of proof.
- Prevent judicial processes from being used to hinder, impede or delegitimise the work of human rights defenders, and develop tools to prevent and identify these cases early on, including SLAPPs.¹⁴⁴

Action areas for companies

- Engage constructively with legal grievance mechanisms.
- Respect the right to an effective remedy, and refrain from taking measures to eliminate or reduce the ability of an individual or community to enjoy that right.¹⁴⁵
- Refrain from contributing to the creation of obstacles to the legitimate and peaceful activities of human rights defenders.

Action areas for other actors

United Nations, international organizations, international community

- Contribute to strengthening the capacity of justice administrators to assess business-related cases in light of the UNGPs and foster cross-border cooperation between state agencies and judicial bodies in different countries.¹⁴⁶
- Continue to conduct studies and analysis of the implementation of Pillar 3 of the UNGPs and provide concrete recommendations to improve judicial mechanisms in light of ARP I.

Civil society, trade unions, academia

¹⁴⁰ OHCHR guidance on improving corporate accountability and access to remedy at the judicial level ([A/HRC/32/19](#), pp.14-25).

¹⁴¹ See IACHR, *Business and Human Rights*, *op. cit.* para. 52 and concordant, report of the UNWG on [Transboundary Cooperation](#) and the [Maastricht Principles](#).

¹⁴² See UN Doc. A/72/162, para. 86.

¹⁴³ See UN Doc. A/72/162, para. 86.

¹⁴⁴ IACHR, [Guía Práctica sobre lineamientos y recomendaciones para la elaboración de planes de mitigación de riesgos de personas defensoras de derechos humanos](#), 2021.

¹⁴⁵ UN Doc. A/72/162, para. 87.

¹⁴⁶ See A/HRC/32/19.

- Consider promoting strategic litigation in BHR cases, especially in those jurisdictions where challenges persist in addressing these cases from the judiciary and where there is no consolidated jurisprudence.¹⁴⁷
- Consider providing legal and technical advice to victims (e.g., to diagnose and quantify social, environmental and economic damages) so that they can participate meaningfully in legal proceedings.¹⁴⁸
- Consider creating and/or strengthening coalitions to leverage the work of civil society, trade unions and academia to bring to the attention of States and companies the diverse experiences and expectations of marginalized groups in relation to access to effective judicial remedies.¹⁴⁹
- Consider promoting and participating in review processes undertaken by States to improve effective access to judicial mechanisms, including in a cross-border context.¹⁵⁰

Business organizations

- Engage constructively and in good faith in review processes undertaken by States to improve effective access to judicial mechanisms,¹⁵¹ including in cross-border contexts.
- Adjust the codes of ethics of lawyers and bar associations to require them to consider human rights when advising clients.¹⁵²
- Develop guidelines to address the risk of reprisals against victims, their families, communities and civil society organizations accompanying them in managing legal claims.¹⁵³

Key resources

United Nations:

- OHCHR: accountability [project \(ARP I\)](#).
- UNWG, report on [all roads to remedy](#) and [cross-border law enforcement cooperation](#).

Others:

- Debevoise & Plimpton, [UN Guiding Principles on Business and Human Rights at 10. The Impact of the UNGPs on Courts and Judicial Mechanisms](#), 2021.
- Cantú Rivera, Humberto (ed.), *Experiencias latinoamericanas sobre reparación en materia de empresas y derechos humanos*, Bogotá, Konrad Adenauer Stiftung, 2021.
- CREER and GIZ, [Análisis, sistematización y comparación de los mecanismos de acceso a reclamo en la región andina](#), 2021.
- FIDH, [Corporate Accountability for Human Rights Abuses. A Guide for Victims and NGOs on Grievance Mechanisms](#), 2016.

Goal 4.2. Strengthen State-based non-judicial mechanisms

According to UNGP 27, 'States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.' These mechanisms, whether administrative, legislative or other, play an essential role in

¹⁴⁷ See Debevoise & Plimpton, *op. cit.*

¹⁴⁸ Fourth Regional Consultation, *op. cit.*, p. 20.

¹⁴⁹ UN Doc. A/72/162, para. 88.

¹⁵⁰ UN Doc. A/72/162, para. 88.

¹⁵¹ UN Doc. A/72/162, para. 87.

¹⁵² See Ramasastry, Anita, Advisors or Enablers? Bringing Professional Service Providers into the Guiding Principles' Fold, *Business and Human Rights Journal*, Volume 6, Issue 2, June 2021, pp. 293 - 311 and "Preparatory Session with Bar Associations" organized by the Vance Center in the framework of the VI Regional Forum on Business and Human Rights (summary of the session soon available in the report of the VI Forum).

¹⁵³ See, for example, IDB, [Guide for Independent Accountability Mechanisms on Measures to Address the Risk of Reprisals in Complaint Management: A Practical Toolkit](#), Washington DC, 2019.

complementing and supplementing judicial mechanisms. They can take many different forms (complaint mechanisms, inspection services, ombudsman services, mediation or conciliation bodies, arbitration tribunals, among others).¹⁵⁴

In the region, NHRIs are increasingly investigating abuses, conducting public investigations and mediating different cases related to human rights abuses in the business context.¹⁵⁵ There have also been occasions where NHRIs from various countries in the region have cooperated in the investigation of cross-border cases.¹⁵⁶ Despite their valuable role, several NHRIs in LAC do not yet have a legal mandate to receive complaints and others have suffered threats that undermine their legitimate human rights work.¹⁵⁷

Additionally, there are seven NCPs¹⁵⁸ in LAC, and several of them are already following up on cases of business-related human rights abuses.¹⁵⁹ It should also be noted that there is progress on the part of inspection mechanisms to monitor how public officials and/or companies protect and respect human rights in the context of business activities, such as labour inspections,¹⁶⁰ superintendencies and consumer protection services, or the General State Ombudsman or Attorney General's Office,¹⁶¹ among others.

However, a number of common obstacles to these non-judicial mechanisms persist, including limited awareness of UNGPs, lack of coordination and collaboration between non-judicial and other mechanisms, or even ignorance of their existence,¹⁶² and finally insufficient legal powers of State-based non-judicial mechanisms when it comes to cross-border cases.

For the next decade, there is a need to strengthen the support to existing of State-based non-judicial institutions and mechanisms to maximize their potential and ensure their independence and effectiveness in line with UNGP 31.

Action areas for States

- Undertake a comprehensive review process, in consultation with stakeholders, to determine the range and types of non-judicial mechanisms and review their effectiveness in line with OHCHR's recommended measures to improve the effectiveness of State-based non-judicial mechanisms (ARP II).
- Take steps to improve the effectiveness of non-judicial mechanisms, including through NAPs, strengthening NCPs,¹⁶³ and implementing cooperation strategies between NHRIs, NCPs and other judicial and non-judicial mechanisms at the national level and between LAC countries.

¹⁵⁴ See OHCHR report on improving accountability and access to remedy for victims of business-related human rights violations through non-judicial State mechanisms ([A/HRC/38/20](#)).

¹⁵⁵ See the functions of NHRIs and concrete cases handled by NHRIs in the region in the report of the UNWG on Business and Human Rights on the Role of NHRIs in Facilitating Access to Remedy A/HRC/47/39/Add.3, para. 23-25; and "[The role of national human rights institutions in the field of corporate accountability](#)", *Boletín Mexicano de Derecho Comparado*, 2020.

¹⁵⁶ For example, the cooperation between the [NHRIs of Ecuador and Colombia](#) to carry out a verification mission in the indigenous territory of the Kichwa-Siona Community of San José de Wisuya and the Community of Buenavista is a good example of transnational cooperation to carry out on-site visits to verify alleged human rights violations.

¹⁵⁷ See "[Bachelet alarmed by attempts to undermine national human rights institutions in Latin America and the Caribbean](#)" (6 May 2021).

¹⁵⁸ See <http://mneguidelines.oecd.org/ncps/NCPs-at-20/>, <http://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf> and <https://www.oecdwatch.org/indicator/>.

¹⁵⁹ Debevoise & Plimpton, *op. cit.* para. 431.

¹⁶⁰ [Report of the UNWG on its visit to Mexico \(A/HRC/35/32/Add.2\)](#), para 69-70; Report of [the UNWG on its visit to Honduras \(A/HRC/44/43/add.2\)](#) p.50-51; [Report of the UNWG on its visit to Peru \(HRC/38/48/Add.2\)](#) para 61; Report of [the UNWG on its visit to Brazil - HRC/32/45/Add.1](#) p.51.

¹⁶¹ See [Directive 001 of 2014 of the Colombian Attorney General's Office](#) to local authorities and regional control bodies to verify that public officials comply with the UNGPs.

¹⁶² See [OECD's LAC survey on RBC](#) and Cantú Rivera, Humberto, [The OECD and Human Rights: The Case of the Guidelines for Multinational Enterprises and National Contact Points](#), *Anuario Mexicano de Derecho Internacional*, 2015.

¹⁶³ In Colombia, see <https://www.mincit.gov.co/getattachment/mincomercioexterior/Temas-de-Interes/Colombia-en-la-OCDE/Punto-Nacional-de-Contacto-PNC-de-las-Directrices/Punto-Nacional-de-Contacto-PNC-de-Colombia/Que-es-el-proyecto-Conducta-Empresarial-Responsabl/RBC-LAC-Project-NCP-CO-RoadMap-FormattingWebPage-07-09-20.pdf.aspx?lang=es-CO>. In Costa Rica,

<ul style="list-style-type: none"> → Widely disseminate the existence and functions of State-based non-judicial mechanisms among rights-holders, as well as the remedy options offered each of them offer,¹⁶⁴ and strengthen their capacities.¹⁶⁵ → Evaluate and adjust the mandate and functions of these mechanisms to enable them to act in cross-border cases.¹⁶⁶ → Encourage collaboration and dialogue between different judicial and non-judicial mechanisms in national and to cross-border cases, including through collaboration agreements. → Collaborate with other stakeholders to identify and remedy human rights abuses, among others.
<p>Action areas for companies</p> <ul style="list-style-type: none"> → Collaborate constructively with non-judicial grievance mechanisms.
<p>Action areas for other actors</p> <p><u>United Nations, international organizations, international community</u></p> <ul style="list-style-type: none"> → Widely disseminate the recommendations of ARP II¹⁶⁷ through training and awareness-raising, and provide support and training to non-judicial mechanisms on BHR issues. <p><u>Civil society, trade unions, academia</u></p> <ul style="list-style-type: none"> → Consider providing training on access to non-judicial mechanisms, including NHRIs and NCPs. → Consider providing technical assistance to victims to enable them to meaningfully engage in non-judicial mechanisms (e.g., to diagnose and quantify social, environmental and economic damages).¹⁶⁸ <p><u>Business organizations and institutional investors</u></p> <ul style="list-style-type: none"> → Encourage companies to cooperate, where requested, with non-judicial remedy mechanisms and not to hinder or delegitimize their work.
<p>Useful Resources</p> <p>United Nations:</p> <ul style="list-style-type: none"> → OHCHR: draft accountability report (ARP II) and its addendum with explanatory notes. → UNWG, report on the role of NHRIs in facilitating access to remedy; all paths to remedy and cross-border cooperation. <p>Others:</p> <ul style="list-style-type: none"> → Debevoise & Plimpton, UN Guiding Principles on Business and Human Rights at 10. The Impact of the UNGPs on Courts and Judicial Mechanisms, 2021. → OECD, Working Together: National Human Rights Institutions and the OECD Guidelines for Multinational Enterprises, 2020. → CREER and GIZ, Análisis, sistematización y comparación de los mecanismos de acceso a reclamo en la región andina, 2021.

https://www.comex.go.cr/media/8111/roadmap_ncp_cr.pdf.

¹⁶⁴ Debevoise & Plimpton, *op. cit.*, para. 431. And ARP II, Policy Objective 2.

¹⁶⁵ For example, through action protocols. In this regard, see the Argentine experience which, Within the RBCLAC Project and with the leadership of the National Ombudsman's Office, developed a [Framework Protocol for Action by Ombudsman's Offices on Business and Human Rights](#), developed in collaboration with local ombudsman's offices. On oversight organizations and the role of NCPs, see also the session "Mandatory due diligence and trade and investment policies: progress and prospects for promoting responsible business conduct in LAC" in the framework of the [VI Regional Forum](#). See also indicators to monitor NCP performance [here](#).

¹⁶⁶ See [A/HRC/47/39/Add.3](#).

¹⁶⁷ See <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRAccountabilityandremedyproject.aspx>.

¹⁶⁸ Fourth Regional Consultation, *op. cit.*, p. 20.

→ FIDH, [Corporate Accountability for Human Rights Abuses. A Guide for Victims and NGOs on Recourse Mechanisms](#), 2016.

Goal 4.3. Promote and strengthen non-State-based grievance mechanisms

UNGP 28 calls on States to facilitate non-State grievance mechanisms that address human rights abuses related to corporate activities. These include, among others, mechanisms established by businesses on their own or in conjunction with stakeholders, mechanisms created by multi-stakeholder initiatives, as well as mechanisms established by IFIs (such as the Independent Consultation and Investigation Mechanism (MICI) at IDB and the CAO and the Inspection Panel at the World Bank). In this context, UNGP 22 explicitly notes 'Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes,' and UNGP 29 calls on them to establish effective operational-level grievance mechanisms.

In addition to the challenges identified in the preceding sections, the operational-level mechanisms in the region, in addition to the fact that they are still few in number, are often not in line with the effectiveness criteria of the UNGP 31.¹⁶⁹ In addition, there is a lack of stakeholders engagement (especially of marginalized groups) in the design, implementation and evaluation phases of such mechanisms.¹⁷⁰ The absence of continuous improvement and learning has also been identified, as well as weaknesses in terms of adherence to human rights, and therefore, the lack of differential and gender-based approaches.¹⁷¹

The quantity and quality of information that companies disclose about their mechanisms and their performance is also limited, and few businesses clearly identify how to submit a claim (channel) and how they work. All of the above means that information on their effectiveness is uneven.

For the next decade, it is necessary to make visible operational-level grievance mechanisms' potential¹⁷² and to strengthen their capacities in line with UNGPs effectiveness criteria.

Action areas for States

- Consider how to facilitate access to effective non-State grievance mechanisms through legislation and policies¹⁷³ in line with OHCHR guidance on how to improve accountability and access to reparations through non-State grievance mechanisms (ARP III).¹⁷⁴
- Raise awareness and inform stakeholders about the existence of different operational-level grievance mechanisms as well as the opportunities, advantages and disadvantages they pose.

¹⁶⁹See, for example, <https://minsus.net/mineria-sustentable/wp-content/uploads/2021/03/Análisis-sistematización-y-comparación-de-los-mecanismos-de-acceso-a-reclamo-por-actividad-minera-en-la-región-andina.pdf>. Also, session "Access to remedy: reflecting on operational grievance mechanisms" in the framework of the VI Regional Forum.

¹⁷⁰ See <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.

¹⁷¹See <https://minsus.net/mineria-sustentable/wp-content/uploads/2021/03/Análisis-sistematización-y-comparación-de-los-mecanismos-de-acceso-a-reclamo-por-actividad-minera-en-la-región-andina.pdf>.

¹⁷² In 2020, the RBCLAC Project carried out a training cycle called *ABC of International Financial Institutions (IFIs) and National Contact Points (NCPs) grievance mechanisms*, which had more than 500 people registered from more than 27 countries. 56.4% of the people who registered indicated that they had no knowledge of the subject and 88% had not used the IFI and NCP mechanisms (25.3% because they were unaware of their existence and 62.7% for other reasons). More information on this cycle can be found at: <https://www.hchr.org.co/index.php/informacion-publica/micrositios/ceralc>.

¹⁷³ The ARP Project, in document [A/HRC/44/32/Add.1](#), p. 4, provides terms of reference for reviewing how the State facilitates access to remedy through non-State grievance mechanisms.

¹⁷⁴ [A/HRC/44/32](#).

- Encourage and advise businesses to establish grievance mechanisms at the operational level and engage and complementarity with State and non-judicial judicial mechanisms, always focusing on victims and considering their differentiated experiences and expectations.¹⁷⁵

Action areas for companies

- Develop and implement a reparations approach that is in line with the UNGPs, and that builds on the recommendations of ARP III, in particular by establishing or participating in grievance mechanisms at the operational level, in consultation with affected parties, that are effective in terms of procedures and outcomes.¹⁷⁶
- Monitor the effectiveness of mechanisms and remedial measures provided, through continuous learning and improvement processes, in consultation with stakeholders and in line with UNGP 31.¹⁷⁷
- Ensure that rights-holders are always at the centre of the reparation and ensure that their distinct experiences and expectations are taken into account throughout the process.
- Provide remedies beyond compensation, including, inter alia, preventive, compensatory and dissuasive measures, to repair the damage caused or contributed to by companies, and ensure that remedies are adequate, effective and prompt.¹⁷⁸
- Take steps to ensure that they establish or participate in effective grievance mechanisms in their business relationships, and encourage their effectiveness to be regularly assessed in dialogue with relevant stakeholders.
- Implement measures to ensure that affected persons do not suffer reprisals for using non-state grievance mechanisms and design and implement measures to reduce power imbalances that may exist in accessing operational grievance mechanisms.
- Refrain from forcing individuals to waive their right to access other grievance mechanisms (State or non-State) as a condition for accessing operational-level grievance mechanisms.

Action areas for other actors

United Nations, international organizations, international community

- Widely disseminate the recommendations of ARP III¹⁷⁹ through training and awareness-raising activities with States and companies.
- Provide support and training on BHR issues to operational-level grievance mechanisms.
- Help disseminate IFI's grievance mechanisms and encourage them to use and refer to the UNGPs.

Civil society, trade unions, academia

- Consider independent monitoring of operational-level grievance mechanisms and their effectiveness.
- Explore providing advice to victims so that they can participate meaningfully in these mechanisms, including support for diagnosing and quantifying social, environmental and economic damages.¹⁸⁰

Business organizations

- Consider offering operational-level grievance mechanisms at the sectoral level (based on UNWG and OHCHR recommendations) and support companies in setting up their mechanisms by providing training, guidance and expertise.

¹⁷⁵ UN Doc. [A/72/162](#), para. 86.

¹⁷⁶ UN Doc. [A/72/162](#), para. 87.

¹⁷⁷ Legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on participation and dialogue.

¹⁷⁸ UN Doc. A/72/162, para. 87.

¹⁷⁹ See <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>.

¹⁸⁰ Fourth Regional Consultation, *op. cit.*, p. 20.

Key resources

United Nations

- OHCHR: accountability project (ARP III) ([overview](#), [report](#) and [addendum](#)).
- UNWG, report on [all roads to remedy](#).

Others:

- Debevoise & Plimpton, [UN Guiding Principles on Business and Human Rights at 10. The Impact of the UNGPs on Courts and Judicial Mechanisms](#), 2021.
- CREER and GIZ, [Análisis, sistematización y comparación de los mecanismos de acceso a reclamo en la región andina](#), 2021.
- ICJ, [Effective Operational-level Grievance Mechanisms](#), 2019.
- FIDH, [Corporate Accountability for Human Rights Abuses. A Guide for Victims and NGOs on Grievance Mechanisms](#), 2016.

Area of Action 5: More and better stakeholder engagement and enhanced protection for marginalized groups

Goal 5.1 Improved stakeholder engagement

Meaningful stakeholder engagement must be at the heart of States' and businesses' strategies for legitimate and effective responses to human rights risks and impacts in the business context, from legal measures and public policies to HRDD. It should also include effective multi-stakeholder engagement as an integral part of HRDD. According to the Inter-American standards on BHR, participation on issues involving BHR should be broad and ensure adequate engagement with directly affected individuals, communities and populations, human rights defenders, and civil society organizations.¹⁸¹

In the region, the issue of meaningful stakeholder engagement and the FPIC processes of Indigenous and tribal peoples and Afro-descendant and rural communities in matters related to business activity continues to be a concern and a significant challenge.¹⁸² Many economic projects in LAC (particularly on extractive, agricultural and renewable energy) are developed in territories where Indigenous and Afro-descendant peoples live and/or in surrounding areas and, in most cases, the right to FPIC is not respected in light of international standards.¹⁸³ As a result, States and business often do not see these stakeholders as partners with whom they should meaningfully engage. Consequently, States policies and businesses' approaches will lose the opportunity to address risks to people and the environment adequately, not be trusted by people and communities, and are therefore likely to be less effective and to cause and fuel pre-existing social conflicts. To make up for poor participation and consultation, communities have in some instances conducted their own human rights impact assessments in the region,¹⁸⁴ and indigenous peoples have developed their own protocols for FPIC.¹⁸⁵

¹⁸¹ IACHR, [Business and Human Rights](#), *op. cit.* para. 49.

¹⁸² See [study](#) by the Expert Mechanism on the Rights of Indigenous Peoples on FPIC and IACHR [report](#) on Indigenous and Afro-descendant Peoples and Extractive Industries.

¹⁸³ See, for example, OXFAM, [Desterrados: tierra, poder y desigualdad en América Latina](#), 2016.

¹⁸⁴ See the [Getting it Right](#) tool for conducting community-based human rights impact assessments; the [impact assessment of the Usina Trapiche company in Pernambuco, Brazil](#); and of [Canadian mining projects](#) in the territory of the Diaguitas Huasco Altinos community in Chile.

¹⁸⁵ See [report](#) by Indigenous Peoples Rights International and International Work Group for Indigenous Affairs on "UNGPs, Human Rights, and Indigenous Peoples. Progress Made, Implementation Gaps and Challenges for the Next Decade," as well as the report of the Independent Mechanism on Indigenous Peoples on [FPIC](#).

Looking ahead to the next ten years of the UNGPs and for new ideas, perspectives and creative solutions to enhance stakeholder participation, urgent action and consultation with Indigenous and Afro-descendant peoples is required to obtain FPIC in light of international standards.¹⁸⁶

Action areas for States

- Ensure effective and public participation criteria at the general level in decision-making processes related to the BHR field,¹⁸⁷ especially regarding NAPs and legislative frameworks for HRDDs and RBC in general.
- Hold consultations to obtain the FPIC of indigenous and tribal peoples and Afro-descendant communities through their own representative institutions and authorities, before adopting any legislative or administrative measures related to business activities or contexts that may affect them. The information provided should be culturally appropriate and clear about the direct and indirect impacts, intended or unintended, of corporate activities.¹⁸⁸
- Recognize indigenous peoples' own FPIC protocols, and support them to develop them where they have not yet done so but wish to do so, and ensure that companies within their jurisdiction also respect indigenous peoples' FPIC protocols.
- Provide forums for civil society organizations and communities, including indigenous and tribal, Afro-descendant communities, and businesses to engage with each other to address positive aspects and root causes of business-related human rights harms.

Action areas for companies

- Place affected communities at the heart of their HRDD processes.
- Demonstrate how they involve stakeholders in their HRDD and remediation processes, especially in designing mechanisms and monitoring the measures' effectiveness, paying particular attention to the differentiated risks they may face from marginalized groups.
- Hold consultations with indigenous and tribal peoples and Afro-descendant and rural communities its representative institutions and authorities, respecting their right to FPIC, abiding by indigenous peoples' protocols on FPIC where they exist,¹⁸⁹ and refraining from any strategy to divide, co-opt or confuse communities.

Action areas for other actors

United Nations, international organizations, international community

- Continue to organize regional forums on business and human rights to enhance and channel dialogue and collective action on BHR.
- Help establish and support platforms to facilitate interactions between business and business organizations with CSOs, human rights and environmental defenders, indigenous peoples' networks, trade unions, women's associations and others working directly with stakeholders on the ground.
- Advice on applying international and Inter-American human rights standards on stakeholder engagement and consultation with indigenous and tribal peoples and Afro-descendant and rural communities.

Civil society, trade unions, academia

¹⁸⁶ See [UN Declaration on the Rights of Indigenous Peoples](#), and ILO Convention No. 169 on [Indigenous and Tribal Peoples](#).

¹⁸⁷ IACHR, [Business and Human Rights](#), *op. cit.* para. 49, section "recommendations to States."

¹⁸⁸ See the report on "free, prior and informed consent: a human rights-based approach" by the Expert Mechanism on the Rights of Indigenous Peoples (UN Doc. [A/HRC/39/62](#)). Also the [Fact Sheet](#) for Human Rights Defenders Free, Prior and Informed Consent by PBI and Simmons Simmons, and [Good Practice Guide](#) for Prior Consultation in the Americas by KAS, among others.

¹⁸⁹ See for example the [report of the International Work Group for Indigenous Affairs](#).

- To promote and strengthen alliances between CSOs, trade unions, human rights defenders, indigenous and tribal peoples, Afro-descendant and rural communities, women's organizations, among others, from different countries, to enhance capacities, exchange experiences and advocate for the BHR agenda.¹⁹⁰

Business organizations and institutional investors

- Encourage and support companies to include engagement with stakeholders, including affected groups, in their HRDD processes.
- Support companies in their relations with peoples and communities, especially concerning FPIC to ensure the observance of international and Inter-American standards on the matter and compliance with agreements.

Key resources

United Nations:

- [OHCHR Guidelines for States on the Effective Implementation of the Right to Participation](#).

Others:

- [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector](#)
- [HRDD Due Diligence Guidance](#) for Engagement with Communities by Guías Colombia-FIP.
- [Report](#) by Indigenous Peoples Rights International and International Work Group for Indigenous Affairs on 'UNGPs, Human Rights, and Indigenous Peoples; Progress Made, Implementation Gaps and Challenges for the Next Decade.'
- The [Getting it Right](#) tool for conducting community-based human rights impact assessments.

Goal 5.2. Strengthen protection and respect for the rights of groups in situation of vulnerability

'Leaving no one behind' and focusing actions and efforts on rights holders and victims are the *raison d'être* of international human rights law and, therefore, also of the UNGPs.

The negative impacts of business activities differentially and disproportionately affect certain groups for multiple reasons, including those related to historical discrimination.

For example, in LAC, human rights defenders, including environmental defenders and Indigenous and Afro-descendant leaders in the context of business activities suffer the most attacks globally. Trade unions, researchers and journalists face similar risks.¹⁹¹

Indigenous and tribal peoples and Afro-descendant communities suffer disproportionately from the impacts of corporate activity¹⁹² due to the large number of economic projects being developed on their lands and/or in surrounding areas without respect for their right to self-determination and FPIC. In turn, these groups (and within them, especially women and children) are affected by the unequal distribution of land in the region and the high level of legal insecurity concerning land tenure,¹⁹³ resulting from, among other things, underlying historical racial discrimination. Consequently, disputes with businesses and corporate projects, especially over access, control, use, and accumulation of communal lands and territories of indigenous peoples, Afro-

¹⁹⁰ See session "Business and Human Rights: the role of Civil Society Organizations" in the framework of the [VI Regional Forum](#).

¹⁹¹ See [Global Witness report](#) on the number of killings of human rights defenders in the region. The term human rights defenders should be understood in terms of the UN Declaration on Human Rights Defenders and includes journalists, indigenous leaders, and women defenders.

¹⁹² See [Report of the UN Special Rapporteur on the rights of indigenous peoples on attacks against and criminalization of indigenous human rights defenders A/HRC/39/17](#).

¹⁹³ See, among others, the OXFAM report '[Desterrados: tierra, poder y desigualdad en américa latina](#),' 2016.

descendants and displaced rural communities, is a source of conflict. In turn, the defense by indigenous¹⁹⁴ and Afro-descendant people, together with peasant communities, of the environment, their territories and natural resources, often results in harassment and attacks against them.¹⁹⁵

Regarding women, the overload of domestic and care tasks, often invisible, contributes to the existing discrimination in access to quality jobs,¹⁹⁶ leadership positions, equal pay for equal work, among others. This is not to mention the sexual harassment and violence that women suffer in the workplace or in the communities surrounding economic projects. Likewise, LGBTIQ+ people suffer barriers to access employment, are victims of multiple forms of violence, and are more represented in the informal sector. LGBTIQ+ people also suffer the impacts of business activities in a differentiated and disproportionate manner.¹⁹⁷

Likewise, a very high number of people in a situation of human mobility¹⁹⁸ are exposed to a diversity of risks and human and labor rights violations, mainly migrant workers and their families, internally displaced persons and refugees and/or asylum seekers. It is also worth noting the discrimination and disproportionate impact suffered by older persons and persons with disabilities,¹⁹⁹ which requires urgent specific action by States and businesses.

For the next decade, it is essential to empower rights holders, especially groups in situation of vulnerability, their representatives and civil society, and to take concrete actions with a differential approach to prevent, address and remedy the impacts they suffer in the business context.

Action areas for States

- Generate studies and statistics on the impact of business activities on specific groups and, based on them, adopt specific legislative and public policy actions to protect rights and reduce gaps in the exercise of those rights.
- Provide technical assistance to businesses to identify, assess and address the impacts of business activities on marginalized groups.
- Articulate and consolidate efforts related to land management and the titling of individually owned or communal land to protect rights holders, before granting exploitation concessions to companies.
- Adopt preventive measures²⁰⁰ and protection mechanisms for human rights defenders, following the highest human rights standards,²⁰¹ with particular attention to women defenders and Afro-descendant indigenous leaders, and reduce SLAPPs to zero.²⁰²
- Ensure the protection of the right to organize and collective bargaining.

Action areas for companies

- Ensure that their HRDD processes take into account the differentiated and disproportionate impacts suffered by actual or potentially affected communities, in particular indigenous and tribal peoples, Afro-descendant

¹⁹⁴ Note the express "call to States and companies to abandon the practices of promoting the stigmatization, persecution, criminalization, attack and murder of indigenous leaders who defend the collective rights of their peoples against the activities of companies" by the [Indigenous Caucus](#) held as a prelude to the VI Regional Forum (see final report of the VI Forum, in process).

¹⁹⁵ See IACHR, *Indigenous Peoples, Afro-descendants and Extractive Industries*, 2015.

¹⁹⁶ See for example the session "Women Speak: Experiences and good practices to strengthen the exercise of the rights of migrant women agricultural workers" in the framework of the [VI Regional Forum](#).

¹⁹⁷ See General Comments No. 16 and 25 of the Committee on the Rights of the Child.

¹⁹⁸ See IACHR, *Human Mobility, Inter-American Standards*, 2016.

¹⁹⁹ See session "Respect and protection of persons with disabilities in the world of work" in the framework of the [VI Regional Forum](#).

²⁰⁰ See, for example, IACHR, *Guía Práctica sobre lineamientos*, *op. cit.*

²⁰¹ See, for example, the work carried out by the United Nations Rapporteur on Human Rights Defenders (<https://www.ohchr.org/sp/issues/srhrdefenders/pages/srhrdefendersindex.aspx>) and the Inter-American system. (<https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/r/DDDH/default.asp>).

²⁰² See <https://www.business-humanrights.org/en/from-us/briefings/slapped-but-not-silenced-defending-human-rights-in-the-face-of-legal-risks/>.

- and rural communities, women²⁰³, LGBTIQ+ persons²⁰⁴, human rights defenders, persons with disabilities, children and adolescents,^{205 206} migrants, displaced persons and refugees,²⁰⁷ among others.²⁰⁸
- Implement policies that consider the differentiated needs of groups in situation of vulnerability, implement gender equality initiatives; provide leave and other family-friendly workplace policies for childcare;²⁰⁹ use inclusive and non-sexist language; review accessibility conditions of products, services and facilities of business for people with different disabilities; close the wage gap within businesses; include more women and LGBTIQ+ people in all spaces, including in leadership positions (e.g., through quotas or other affirmative action measures); address sexual and gender-based harassment and violence in the workplace through quotas or other affirmative action measures;²¹⁰ addressing sexual and gender-based violence and harassment; preventing discriminatory practices based on gender, sexual identity, ethnicity, disability, etc.
 - Recognize the importance of the work of human rights defenders and refrain from threatening their security, integrity and/or hindering their work.²¹¹

Action areas for other actors

United Nations, international organizations, international community

- Ensure and support situational analysis with a differential approach for the respect and protection of the rights of marginalized groups in the business context.

Civil society, trade unions, academia

- Consider continuing to provide support to marginalized groups in the business context and make visible the situation they face.
- Consider further promoting marginalized groups' awareness of their rights, especially in relation to business context.
- Consider developing studies to assess the business related impacts or business sectors on marginalized groups.

Business organizations

- Develop guidelines to implement HRDD processes, considering the rights and differentiated impacts of business activities on marginalized groups.
- Develop codes of ethics and conduct that prohibit SLAPPs and recognise the work of human rights defenders.

²⁰³ By way of example, see some good practices that companies can develop in <https://lac.unwomen.org/es/digiteca/publicaciones/2020/04/argentina-buenas-practicas-empresas-weeps-ganar-ganar>.

²⁰⁴ See [ACNDUH Standards of Conduct](http://www.oas.org/es/cidh/informes/pdfs/violenciapersonaslgbti.pdf) for Business in relation to LGBTIQ+ people and [self-diagnostic tool](http://www.oas.org/es/cidh/informes/pdfs/violenciapersonaslgbti.pdf), <http://www.oas.org/es/cidh/informes/pdfs/violenciapersonaslgbti.pdf>.

²⁰⁵ On the social and labour inclusion of persons with disabilities, see the session "Respect and protection of persons with disabilities in the world of work", in the framework of the [VI Regional Forum](#).

²⁰⁶ See general comments Nos. 16 and 25 of the Committee on the Rights of the Child (CRC). Also CRC/C/BRA/CO/2-4, paras. 21, 57, 58; CRC/C/BRA/CO/2-4, para. 66; CRC/C/MEX/CO/4-5, para. 51; CRC/C/ARG/CO/3-4, para. 29; CRC/C/PAN/CO/5-6, para. 13; CRC/C/PER/CO/4-5, para. 23; CRC/CECUCO/5-6, para. 15; CRC/C/BRA/CO/2-4, para. 66; CRC/C/CHL/CO/4-5, para. 18; CRC/C/COL/CO/4-5, para. 17; CRC/C/ECU/CO/4, para. 71; etc. Also UNICEF, [Overweight in childhood. A call for prevention in Latin America and the Caribbean](#), 2021.

²⁰⁷ On social and labour inclusion of migrant and refugee populations or asylum seekers see, for example, sessions "The SDGs and human rights as a business model for sustainable development" and "The inclusion of refugees, a corporate responsibility" in the framework of the [VI Regional Forum](#).

²⁰⁸ See <https://www.bsr.org/en/our-insights/primers/10-human-rights-priorities-for-the-financial-sector>.

²⁰⁹ See for example studies by UNICEF LACRO, Mexico and Argentina on the [right to care in company policies, family-friendly workplace policies](#), [promotion of breastfeeding](#), and the importance of [restructuring the workplace to be family-friendly](#), among others.

²¹⁰ See, for example, the [decision of the Banco de la Nación Argentina](#) to ensure job quotas for transgender people.

²¹¹ The [UNWG notes](#) that responsible business actors also recognize that shrinking civic space and targeting human rights defenders is not only detrimental to human rights, but also undermines the rule of law, undermining the enabling environment for responsible business and ultimately undermining sustainable development. See IACHR, [Practical Guide on Guidelines](#), *op. cit.*

Institutional Investors

- Demand concrete commitments to zero-tolerance against all types of discrimination, violence and reprisals against human rights defenders and marginalized groups; and withdraw financial support from businesses that violate the human rights of these groups.
- Strengthen the requirement for FPIC in the framework of economic development projects and refrain from financing projects that do not perform it.
- Conduct a study within financial institutions to close the pay gap²¹² and include more women and LGBTIQ+ people in all spaces, including in leadership positions (e.g., through quotas or other affirmative action measures), address sexual and gender-based violence and harassment, and prevent discriminatory practices.²¹³

Key resources

United Nations:

- OHCHR [Standards of conduct](#) for business in relation to LGBTIQ+ people and [self-diagnostic tool](#).
- Report of the UNWG on [Gender lens to the UNGP](#) and [guidance on ensuring respect for human rights defenders](#).
- General Comments of the CRC on State obligations in relation to business activities ([GC16](#)), on safe digital environments for children ([GC25](#)) and on climate change ([in progress](#)).

Others:

- IACHR reports on [business and human rights](#), [indigenous peoples](#) and [Afro-descendants](#), rights of [LGBTIQ+ persons](#), among others.
- IWGIA and IPRI report on [UNGP and indigenous peoples](#).
- UN Women and Global Compact [Women's Empowerment Principles](#).
- Joanna Burka Martignoni and Elizabeth Umlas, [Gender-Responsive Due Diligence for Business Actors: Human Rights-Based Approaches](#), Geneva Academy of International Humanitarian Law and Human Rights, Geneva, 2018.
- [Shedil](#), practical tool helping business to safeguard women and girls' human rights in their operations.
- The Danish Institute for Human Rights' work on [gender](#) and gender mainstreaming in [NAPs](#).
- [Tools and publications](#) on gender and women's rights systematized by the Business and Human Rights Information Center.

²¹² See <https://www.bsr.org/en/our-insights/primers/10-human-rights-priorities-for-the-financial-sector>.

²¹³ See <https://www.bsr.org/en/our-insights/primers/10-human-rights-priorities-for-the-financial-sector>.