

## Responses the UNGPs 10+ / Next Decade BHR ‘Have your say’ questionnaire

The purpose of this compilation is to document a cross-section of responses from various organizations to the UNGPs 10+ / Next Decade BHR project’s ‘Have your say’ [questionnaire](#) that was available on the [project web page](#) from September to December 2020. A number of additional relevant responses from individuals and other organizations were also received and considered, including those submitted on a confidential basis and only for use in aggregate analysis.

The responses included here are organized by stakeholder category. The included responses are published as received and have not been edited.

UNGPs 10+ is grateful to all those who responded.

Other written inputs to UNGPs 10+ are posted on <https://www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRsnext10-inputs.aspx>.

### Contents

National human rights institutions and ombudsperson offices.....	2
Trade unions.....	28
Civil society organizations and networks .....	49
Multi-stakeholder initiatives .....	197
Business and industry organizations .....	212
Consultancies .....	223
Academia.....	227

## National human rights institutions and ombudsperson offices

Survey response	
Organization	Eastern-Southern Africa NHRI Peer Learning Initiative
Stakeholder category	This submission is made in response to the call by the UN Working Group on Business and Human Rights (UNWG) for submissions by organisations and stakeholders on their respective and collective experiences of the United Nations Guiding Principles on Business and Human Rights (UNGPs), under the UNGPs 10+ / Next Decade BHR Project. The project aims to take stock of practice to date, identifying gaps and challenges, and developing a vision and roadmap for scaling up implementation of the UNGPs in the next decade. The submission has been generated in the context of the Eastern-Southern Africa National Human Rights Institution (NHRI) Business and Human Rights Peer Learning Initiative. The initiative has the aim of fostering peer learning and generation of collective knowledge and engagement on business and human rights (BHR) among the participating NHRIs: Kenya National Commission on Human Rights (KNCHR); Uganda Human Rights Commission (UHRC); Commission for Human Rights and Good Governance (CHRAGG) of Tanzania; and Human Rights Commission (HRC) of Zambia; and South African Human Rights Commission (SAHRC) (which made a stand-alone submission to the UNGPs+10 process). The initiative is facilitated by the Danish Institute for Human Rights (DIHR).
Region	Sub-Saharan Africa
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	Input to this submission was provided by: Kenya National Commission on Human Rights (KNCHR); Uganda Human Rights Commission (UHRC); Commission for Human Rights and Good Governance (CHRAGG) of Tanzania; and the Human Rights Commission (HRC) of Zambia. The initiative was convened by the Danish Institute for Human Rights (DIHR).
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments,	Government • The UNGPs have inspired ongoing efforts by state and non-state actors in Eastern and Southern Africa towards developing National Action Plans on Business and Human Rights (NAPs), in accordance with the framework provided by the UNGPs (e.g. Kenya, Mozambique, Tanzania, Uganda, South Africa, Zambia(1)). The draft Kenyan NAP(2) draws significantly, both in substance and principles from the UNGPs. Uganda has developed a draft NAP on Business and Human Rights(3), which is awaiting approval by the Cabinet. In Tanzania, the Commission for Human Rights and Good Governance (CHRAGG) has developed a National Baseline Study on Business and Human Rights to support the development of a National Action Plan on Business and Human Rights.(4) In Zambia, the Human Rights Commission (HRC) has developed a

<p>businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>National Baseline Assessment on Business and Human Rights as a precursor to the development of a NAP on Business and Human Rights.(5) All these initiatives are centrally guided by the framework and content of the UNGPs. Business • There is increased awareness among leading businesses of their human rights responsibilities to avoid, mitigate and remediate human rights abuses with which they are involved. • There is increased focus on transparency in some businesses in Eastern and Southern Africa, including in respect to their supply chains; environmental, social and human rights impacts. More and more businesses that have signed up to international human rights standards (including through adhering to the United Nations Global Compact or committing to the UNGPs or OECD Guidelines for Multinational Enterprises, etc.) are adopting practices to enhance due diligence, stakeholder engagement, transparency and access to information, among other measures. Multi-national corporations (MNCs) from developed countries have, particularly, emerged as front-runners in this regard. CSOs • An increased number of civil society organisations (CSOs) in Eastern and Southern Africa is working to address human rights harms and risks associated with business operations, with the UNGPs providing the normative framework for programme and project planning and implementation. NHRIs • There is increased emphasis by NHRIs on addressing BHR, in the last ten years. In Tanzania, for example, the Commission for Human Rights and Good Governance (CHRAGG) has seen an increase in its BHR work.(6) • Many NHRIs across Africa are advancing the promotion and protection of human rights in relation to business activities through their monitoring and advisory mandates. Their interventions and programmes, including sensitisation and public awareness campaigns as well as technical input in legislative and policy dialogue, are guided by the UNGPs framework.(7) Tanzania’s CHRAGG is implementing an improved complaints-handling mechanism.(8) The Uganda Human Rights Commission (UHRC) has developed a monitoring framework for business and human rights. The Kenya National Commission on Human Rights (KNCHR) through its contribution to the Strategic Environmental and Social Assessment (SESA) in Mining, Oil and gas sectors to assess ways in which environmental governance is currently conducted in a bid to increase integration of human rights and environmental risks.(9) General • There is marked growth of interest in BHR in Eastern and Southern Africa, manifesting through an increased tendency towards capacity building and engagement in policy dialogue and academic discourses on BHR, among actors who include: state departments, agencies and institutions; private sector organisations; businesses; rights-holder groups such as community members, cultural and religious leaders, minority groups and others, and their representatives; CSOs; and academia, among others. FOOTNOTES: 1 See <a href="https://globalnaps.org/">https://globalnaps.org/</a> Three African states have developed draft National Action Plans on Business and Human Rights (Kenya, Uganda, Liberia). Morocco has included a chapter on Business and Human Rights in its National Action Plan on Democracy and Human Rights. There are six other non-state led processes towards NAP development in six African states. In Zambia, the Human Rights Commission has conducted a National Baseline Assessment on Business and Human Rights, based on the structure and principles contained in the UNGPs. 2 <a href="https://globalnaps.org/wp-content/uploads/2019/07/kenya-bhr-nap-june-2019-finalised-still-to-be-approved.pdf">https://globalnaps.org/wp-content/uploads/2019/07/kenya-bhr-nap-june-2019-finalised-still-to-be-approved.pdf</a> 3</p>
--	---

	<p> <a href="https://globalnaps.org/country/uganda/">https://globalnaps.org/country/uganda/</a> 4 <a href="https://globalnaps.org/country/tanzania/">https://globalnaps.org/country/tanzania/</a> 5  <a href="http://www.hrc.org.zm/index.php/publications/general-publications/file/156-2016-zambia-national-baseline-assessment-on-bussiness-and-human-rights">http://www.hrc.org.zm/index.php/publications/general-publications/file/156-2016-zambia-national-baseline-assessment-on-bussiness-and-human-rights</a> 6 Case Studies on Business and Human Rights (Volume 1) 2019, BHRT, CHRAGG, Governance Links, LHRC, IPIS. <a href="https://ipisresearch.be/wp-content/uploads/2019/04/1904-Voices-from-Tanzania-Business-and-Human-Rights-WEB.pdf">https://ipisresearch.be/wp-content/uploads/2019/04/1904-Voices-from-Tanzania-Business-and-Human-Rights-WEB.pdf</a> 7 Examples of NHRI reliance on the language and principles of the UNGPs in their work include: Business and Human Rights Dialogue Report, SAHRC and DIHR (2018) at page 9; Policy Brief - The Right of Workers in the Context of COVID-19 in Zambia, HRC, ZFE, FFTUZ, ZCTU (November 2020); Policy Brief – The Role and Duty of the Government of Kenya in Promoting and Protecting Labour Rights in the Context of COVID-19 Pandemic in Kenya, KNCHR (August 2020) - <a href="https://www.knchr.org/Portals/0/KNCHR%20Advisory%20on%20Labour.pdf">https://www.knchr.org/Portals/0/KNCHR%20Advisory%20on%20Labour.pdf</a>. More information on the work of African NHRIs on BHR can be found in their respective annual state of human rights reports. 8 <a href="https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Remedy_in_Business_and_Human_Rights_Cases_NHRI_case_studies_2019.pdf">https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Remedy_in_Business_and_Human_Rights_Cases_NHRI_case_studies_2019.pdf</a> 9 <a href="https://www.igfmining.org/wp-content/uploads/2018/09/Session-5-Kenya-discusses-UNDPs-EGP.pdf">https://www.igfmining.org/wp-content/uploads/2018/09/Session-5-Kenya-discusses-UNDPs-EGP.pdf</a> </p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<ul style="list-style-type: none"> <li>• The level of knowledge and awareness about the UNGPs in Eastern and Southern Africa remains relatively low. As a result, BHR is less appreciated or accepted by some state, non-state, private sector and rights-holder actors. Due to these low levels of consciousness, interventions, decisions and policies at promoting human rights are not always advanced in a comprehensive and structured manner as through the UNGPs or other BHR standards.</li> <li>• There is little buy-in and/or awareness of the UNGPs by small, medium micro-level<sup>10</sup> and informal sector businesses in the Eastern and Southern African region.</li> <li>• Economic challenges in many African countries have contributed to insufficient resourcing for the development, enforcement and monitoring of national laws and policies on BHR. The lack of resources has, for instance, adversely affected the development of NAPs.</li> <li>• National regulatory frameworks with social, justice and economic consequences do not always provide clear linkages with human rights in principle or in content. For instance, national laws on environmental protection, climate change and aspects of land management and administration do not always invoke protections provided by the human rights-based approach, thereby limiting the scope for protection of aggrieved parties from human rights abuses by businesses.</li> <li>• Businesses in Eastern and Southern Africa have been slow to accept the concept and practice of human rights as a material issue and consideration in their operations. The tendency is to adopt minimal approaches towards social sustainability, including, corporate social responsibility (CSR), sustainability certification and other value chain sustainability standards, among others, which may not align with the human rights expectations of the UNGPs.</li> <li>• Because the UNGPs are a soft law framework, some businesses in the Eastern and Southern African region adopt its principles merely as a tick-box exercise and do not follow through on their commitments. In the absence of strong state</li> </ul>

	<p>regulatory frameworks and accountability mechanisms, and/or a lack of monitoring of legislation and policy, businesses are not compelled to act responsibly. As a result, numerous companies continue to abuse human rights with impunity. • The fact that business activities and operations frequently fall within various sectors of governance and the absence of specific government ministries or agencies with BHR responsibilities makes tracking the impacts of different sectors and human rights abuses associated with specific operations complicated and challenging. • Parent companies, especially those domiciled in states where human rights are more stringently enforced, rarely hold their subsidiaries operating in jurisdictions where human rights are less stringently enforced, to similarly high human rights standards. This results in rights-holders in developing countries frequently experiencing a disproportionate burden of adverse human rights impacts, particularly those living in countries with poor regulatory frameworks and/or poor legal enforcement. • There is limited access to remedy mechanisms – both judicial and non-judicial – by rights- holders who are aggrieved by business conduct in the Eastern and Southern African region. This is most prominent among the most vulnerable rights-holders in business value chains. • For coherence purposes, it is important that the UNGPs and a binding treaty processes are developed in a manner which advances complementarity for the protection and promotion of human rights in the context of business activities. • African regional institutions and economic blocs could play a more central role in advancing the protection of human rights in the context of business activities. The African Union mechanism is seldom used by aggrieved parties seeking to uphold human rights abuses that occur in the various AU Member States, owing to factors such as the relative procedural complexities and admissibility criteria, the prohibitive costs involved, the uncertainty over the enforceability of decisions of AU organs, among others. Moreover, the AU has not provided clear policy guidance to states on their respective mandates in developing national laws and policies for domesticating the UNGPs. FOOTNOTES: 10 Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its visit to Kenya, Human Rights Council, 21 May 2019</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>(THE FOLLOWING ARE CONSOLIDATED RESPONSES RELATING TO QUESTIONS 3 AND 4) Obstacles • There is limited awareness and understanding of the UNGPs and standards on BHR by state and non-state actors in Eastern and Southern Africa, including government actors, businesses, rights-holder groups, CSOs and others. • There re are limited resources, including financial resources and technical expertise, for developing policy and regulatory frameworks for enforcing and implementing the UNGPs in some African countries.(11) For some countries in the region seeking to promulgate NAPs on Business and Human Rights, securing sustainable funding for the process has been difficult. The growing national debt burden, coupled with the economic difficulties occasioned by the COVID-19 pandemic further reduces the opportunities for government funding for the development of NAPs in some African countries. Similarly, the gaps in technical capacity for BHR affect governments, businesses, CSOs and rights-holder groups. • In some African countries, there is no clearly designated</p>

focal point or state department, agency or institution to coordinate the process of developing national policy and overseeing the coordinated integration of human rights into various BHR-relevant laws and policies, or the coordinated implementation of law as relates to the UNGPs.(12) • The enforcement of human rights in the context of business operations ranks low in the order of priority of many African states owing to the concern on the part of states that it could diminish the inflow of investment and competitive business environment. • Business ownership and structures remain a complex accountability inhibitor. Shareholders of companies are protected by legal and structural veils of incorporation relating to ownership models and subsidiary governance and ownership structures. This conceals the chain of accountability and responsibility for business abuses of human rights. • The relative power of businesses and in some instances their influence in government has hindered transparency and accountability and the response by governments to calls for the enforcement of compliance by businesses with human rights. • In many Eastern African countries, some laws which have a bearing on BHR are not always formulated in a way that is compatible with international human rights commitments. Often, they neither make explicit reference to human rights nor effectively integrate human rights as part of the standards and indicators. This results in the protection of human rights being under-emphasised, especially in trade and investment agreements, inter-governmental treaties and treaties establishing multi-state common economic unions, common markets and socio-political unions. • The language and practice of human rights are perceived by some state actors and businesses in Eastern and Southern Africa to be activist and potentially disruptive to business objectives. This hinders the development and rolling out of approaches which aim to integrate human rights into the operations of state actors and businesses. • Because there are few standing learning platforms for states and non-state actors on the respective experiences with the UNGPs across the different African states, the uptake and further development of the UNGPs by African countries has been slow and unstructured. Drivers • There are indications that international pressure from bilateral and multilateral development partners on the need to comply with standards on international financing has influenced some African states in terms of regulating business conduct, including on human rights. • Domestic pressure through advocacy against business-related human rights abuses has contributed to improved accountability by businesses for their adverse impacts in the Eastern and Southern Africa region. For instance, NHRIs with a complaints-hearing mandate have increasingly utilised their complaints mechanisms to address grievances related to business activities. • Some value chain initiatives for enhancing sustainability have contributed to better protection of human rights in the Eastern and Southern Africa region. Some examples of these initiatives include: sustainability certification; sectoral initiatives including the Extractive Industries Transparency Initiative (EITI); sector-based guidance on human rights; and market or retailer standards and consumer advocacy, among others. • Eastern and Southern African states are increasingly developing frameworks for non- financial reporting by companies – including reporting on human rights – through progressive statutory provisions or compliance guidelines. • NHRIs are finding avenues for providing technical expertise for integrating human rights into relevant

governance and social justice contexts, including in: environmental protection; land management and administration; eviction and resettlement, among others. Priorities

- There is a need to increase awareness levels of state actors, businesses and rights-holders in Eastern and Southern Africa on the UNGPs.
- Eastern and Southern African states should establish and clearly designate, through legal or administrative action, focal point institutions for addressing human rights in the context of business activities.
- The African Union should conclude the process of adopting a comprehensive and responsive policy framework on BHR to provide guidance to Member States in developing national level regulatory and accountability frameworks on BHR.
- Eastern and Southern African states should allocate sufficient resources for developing and implementing NAPs.
- There should be deliberate collaboration between the global north and south to mobilise and influence MNCs operating in Eastern and Southern Africa to respect human rights in their activities across the region.
- There should be increased advocacy by CSOs, rights-holder groups, NHRIs and businesses globally, for better monitoring of business activities and promotion of a culture of protecting and promoting human rights in national and global supply chains.
- The implementation of the UNGPs in the next decade should include a strong focus on enforceable accountability avenues that are accessible to rights-holders and effective for ensuring businesses are held to account for human rights abuses with which they are involved.
- The implementation of the UNGPs in the next decade should include a focus adopting more specific, direct and unambiguous language, to reduce uncertainty in interpreting the provisions of the UNGPs. For instance, by states further developing the regulatory framework for UNGPs implementation.
- The implementation of the UNGPs in the next decade should include a focus on setting out clear and enforceable obligations on businesses to respect human rights, in a manner that does not lower the accountability thresholds under national and regional legal instruments.
- The implementation of the UNGPs in the next decade should include progressively evolving principles in relation to other national, regional and international accountability and governance frameworks, decisions and best practice.
- The extra-territorial applicability of the UNGPs should be reinforced by integrating human rights considerations into trade and investment agreements and the associated dispute resolution regimes.
- Legislative reform and implementation of existing legislation in line with the UNGPs could contribute to driving responsible business conduct.
- There should be learning and feedback mechanisms to support states and non-state actors in developing, enforcing or implementing frameworks for BHR based on the UNGPs at regional and international levels and to promote ongoing conversations for improving the efficacy of the UNGPs in protecting human rights.

FOOTNOTES: 11 DIHR, Kenya National Action Plan on Business and Human Rights: A Case Study on Process, Lessons Learned and Way Forward - <https://www.humanrights.dk/publications/kenya-national-action-plan-business-human-rights-case-study-process-lessons-learned> 12 In some African states, including, Nigeria, Ghana, Zambia, South Africa and Mozambique, non-state actors have taken the lead in coordinating processes aimed at rallying national support and dialogue towards the development of NAPs.

<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>(THE FOLLOWING ARE CONSOLIDATED RESPONSES RELATING TO QUESTIONS 5 AND 6) • BHR objectives and principles should be entrenched in international and regional human rights accountability mechanisms and systems including frameworks which require states to account for business-related human rights abuses. Among these objectives and principles are the need for human rights due diligence by businesses and effective remedy frameworks by state and business actors. • Functional national-level systems for driving the BHR agenda at national level should be established. These include the set-up of effective BHR-related complaints mechanisms, structures for enhancing participation of rights-holders in decision-making over business-related operations which affect or have potential to affect the rights-holders, among others. Establishing specific institutions and mechanisms that monitor, inspect and address issues of business operations in line with the UNGPs could also contribute. • Awareness-raising and capacity-building interventions targeting relevant stakeholders, including rights-holders affected by business activities, should be conducted to enhance knowledge and awareness for developing and enforcing BHR-relevant national laws and policies. • Governments should practice democratic and good governance to lay the ground for the realisation of human rights in the context of business activities. • There should be increased transparency relating to business ownership models to allow for increased access to information, engagement with interested and aggrieved parties and to enhance accountability across corporate entities. • To complement the UNGPs, legal instruments at national, regional and/or international levels relating to state and business accountability for human rights in the context of business activities, should be developed and adopted. • At national level a strong focus on progressing towards the development of binding laws and regulation is needed, to strengthen accountability for businesses for respecting human rights. • Parent companies should ensure that subsidiaries adhere to human rights standards. • Governments worldwide should take steps to ensure that companies registered in their jurisdiction but operating abroad are appropriately regulated to ensure they respect human rights throughout their operations. • There is need to disincentivise the practice by MNCs of deliberately setting up operations in states with relaxed enforcement of laws to avoid accountability for human rights. This may be achieved through international or national value chain advocacy and regulation by states, including through bilateral trade agreement which impose human rights obligations. • Investment agreements, Foreign Direct Investment (FDI) and multilateral investment frameworks (including associated dispute resolution frameworks) should be framed in a manner that requires business respect for</p>

	<p>human rights. • Juridical and practical barriers to accessing effective remedies by victims in national and extraterritorial contexts should be addressed by states and businesses to enhance access to remedy for parties who are affected by business-related human rights abuses. Among the aspects that should be addressed include: the high costs and inordinately lengthy processes involved in litigation; the risks of retaliation by businesses against rights-holders and human rights defenders; the low levels of awareness by rights-holders and BHR practitioners; practical barriers to state enforcement of decisions by states where extra-territoriality is involved, among others. • Relevant BHR frameworks should include a commitment to free, prior, and informed consent (FPIC), a participatory principle crucial for indigenous peoples' rights. • BHR frameworks and practice should include attention to intersectionality and gender, which is essential for the progressive development of BHR. Moreover, BHR frameworks should require that human rights considerations are, where relevant, integrated into regulatory domains such as environmental protection, climate change, and land management and administration, among others. • BHR frameworks and practice must respond to the need to protect human rights defenders, including women human rights defenders, who are at the forefront in the struggle for businesses to respect human rights. • Constitutional and/or legal provisions establishing NHRIs should imbue NHRIs with a comprehensive mandate to address human rights, independence from the state, institutional autonomy and adequate resources for effectively protecting and promoting human rights, including in the context of business activities. • NHRIs should execute their mandates with independence, including as they cooperate for purposes of cross-learning, resolving gaps relating to their respective individual NHRI capacities and complementing each other.</p>
--	---

Survey response	
Organization	Human Rights Commission of Sierra Leone
Stakeholder category	National human rights institution
Region	Sub-Saharan Africa
Additional information about your submission (e.g. collection	collection of inputs from members

of inputs from members; or inputs from consultation):	
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	As the National Human Rights Institution, the Human Rights Commission of Sierra Leone incorporated the implementation of the UNGPs in its general functions as mandated by the enabling Act by building the knowledge capacity of its staff, government personnel, security sector, businesses and members of civil society organizations; created the Business and Human Rights Unit within the Directorate of Monitoring and Research in 2015; conducted baseline studies on the business and human rights practices in the country and compiled a report; carrying out public education on the subject matter through radio, television and other mediums; develop guidelines tools for monitoring business in the country, titled "Guidelines for Monitoring Business and Human Rights in Sierra Leone"; develop a training manual on business and human rights in 2015; conducting monitoring exercise on business entities to assessing their compliance on business and human rights standards; handling complaints of business related human rights abuses through inquiry investigations, mediation and conciliation; and organized a national conference on business and human rights in 2017 with theme "Building a Culture of Human Rights within the Business Community in Sierra Leone"; etc The promising developments and practices are the general awareness created around the subject matter and the willingness and support from corporate entities to adopt rights based approach in their operations and the collaboration from the relevant government ministries, departments and agencies to handle corporate related complaints as well as the joint monitoring exercise conducted with CSOs and government MDAs. What to build on is the necessity to develop a national action plan on business and human rights for the country of Sierra Leone.
2. Where do gaps and challenges remain? What has not worked to date?	As for the Human Rights Commission of Sierra Leone, the major gaps and challenges are 1. Review of the enabling Act to provide more enforcement powers for the Commission when handling corporate related complaints; 2. the development of a National Action Plan on Business and Human Rights to provide a clear path on how government, businesses, communities, CSOs and the Commission relate with business related human rights in the country; 3. Making it compulsory for businesses to make written commitment to respect human rights prior to their registration and operation in the country.
3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be	the key obstacles are: 1. no adequate training capacity for staff of the Commission, CSOs, Companies and relevant government MDAs on business and human rights; 2. inadequate number of staff to conduct regular monitoring on operations of companies;

addressed to achieve fuller realization of the UNGPs?	
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	1. legal reform across relevant sectors 2. inappropriate judicial structures in the country to address corporate abuses 3. lack of access to remedies by affected people in remote communities
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	1. strengthening of the powers of the Human Rights Commission of Sierra Leone to effectively handle corporate related human rights abuses 2. adequate funding and logistical support to the Commission and other relevant government MDAs 3. provision of adequate and routine trainings to personnel involved in monitoring and handling of business and human rights related complaints 4. provision of annual report on business and human rights for the country to assess the level of implementation of the UNGPs in the country 5. provision of judicial structures across the country to address corporate complaints, especially so for remote communities
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	It is also necessary to create a common platform where government, companies, host communities, CSOs and the Human Rights Commission of Sierra Leone to share ideas on compliance and implementation of the UNGPs in the country. This is to be done through annual national conferences.

Survey response	
Organization	South African Human Rights Commission (SAHRC)
Stakeholder category	National human rights institution
Region	Sub-Saharan Africa

<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>It has made private sector companies more aware of the fact that they have a human rights responsibilities and that they may, at some point, be held account for violations of rights by State parties and NHRIs. The guiding principles have provided a standard to which private sector companies can be judged and held accountable for a violation of rights and plans/processes/remedies etc., to which the company has agreed. Promisingly, there has been a greater focus on transparency in companies, in terms of supply chains, environmental and social impacts, and business operations. More and more companies, signing on to the Global Compact, are engaging on issues such as due diligence, public engagement, transparency, access to information, and more. Civil society and NHRIs can build on these areas.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Because the UNGPs are not legally binding, private companies adopt its principles merely as a paper exercise and do not follow through on their commitments. In the absence of strong state regulatory frameworks and accountability mechanisms, or a lack of monitoring of legislation and policy, companies are not compelled to act responsibly. This happens even when other branches of that company or subsidiaries, do follow the regulatory frameworks in countries that have strong enforcement mechanisms. Essentially, companies do not hesitate to violate rights, when the opportunity arises. Parent companies do hold their subsidiaries accountable for violations in other regions, countries, or communities and there is often a disproportionate impact on developing countries, particularly those with poor regulatory frameworks and/or poor legal enforcement. There is very little buy-in and / or awareness of the UNGPs from small, medium and micro companies and local companies.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Explicitly, the UNGPs are not enforceable. As such, multi-national as well as trans-national companies may ascribe to the principles enshrined therein, but do not necessarily intend or do follow them. As mentioned previously, human rights responsibility becomes a check-box exercise and one that looks good on a company's annual report and website. The UNGPs fail to adequately address the victims' rights to an effective remedy as a stand-alone right a principle recognised under international human rights law, and do not provide any tangible mechanisms that would make this right more effectively enforceable. Hidden obstacles: While the UNGPs were purposely drafted in that way, to make them widely applicable and to limit loopholes, the UNGPs are entirely too broad and allow for an ambiguous reading of them. Furthermore, in certain cases, regional instruments or domestic law is more effective in addressing violations by private sector actors, and the UNGPs to some extent undermine these laws and efforts by setting lower accountability thresholds and due to the UNGPs constituting guidance and not law. The UNGPs may also lead to law reform efforts being limited, in</p>

	<p>that accountability mechanisms beyond the UNGPs may not be pursued. Other hidden obstacles relate to the extra-jurisdictional applicability of human rights, and arise in the context of, for example, Foreign Direct Investment, where investment agreements may trump a State’s human rights obligations (whether these obligations arise at national, regional or international level).</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Developmentally, strategic environmental assessments and planning should map out land use in particular areas / districts / cities, to ensure that land is used appropriately. Such processes may indicate land uses that differ from the norm of economic development at all cost. This may also solve the issue of competing land needs, e.g. between mining and agriculture. Structurally, business models must change, to allow for greater integration of business in to communities, with greater transparency, access to information and engagement with interested and affected parties and individuals. There should be a focus on skilling those community members that do not have access to education or employment opportunities. The imposition of penalties for corporate impunity is essential. Particularly in countries that lack strong enforcement mechanisms. Parent companies must ensure that subsidiaries subscribe to regulatory frameworks. Governments worldwide have consistently failed to oversee or regulate the extraterritorial human rights practices of their companies. The only way forward is to change this. Related to the issue of extraterritorial human rights practices are Foreign Direct Investment and multi-lateral investment practices. Investment agreements should be explicitly regarded as subsidiary to human rights obligations and best practice. Investor-state dispute settlement (ISDS) tribunals should accordingly defer to human rights standards that prevail at international level. Victims face a number of barriers in accessing effective remedies, such as juridical barriers and practical obstacles, both at the national and extraterritorial level. This is largely because “victims” are not viewed as rights-holders. It is thus important that “victims” are viewed as rights-holders, as they have a progressive and significant role to play in business. The UNGPs are only as strong as their corporate members choose to make them, and are useless to companies that do not want to join. While the UNGPs can help to define good human rights practices, enforceable rules are the only way of ensuring real, systematic change. Furthermore, the UNGPs do not stress the need for free, prior, and informed consent, which is vital in disadvantaged and vulnerable communities. The UNGPs do not explicitly consider inter-sectional rights and gender, which is essential for the progressive development of human rights and business. The UNGPs do not explicitly protect human rights defenders who are at the fore-front in the struggle for businesses to respect human rights.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard</p>	<p>In addition to the suggestions listed above, the narrative of companies not investing in countries with strong regulatory and enforcement frameworks must be changed. Companies should not invest in markets where they cannot effectively compete without being complicit in serious human rights abuses. This is essentially bad for business and their reputations.</p>

to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	There is therefore an incentive for companies to invest in countries that have strong legislation and enforcement – it is good for the local economy and good for the company's reputation and sustainability. Where countries do not have such frameworks, large corporations should insist that, for example, Bilateral Investment Treaties impose human rights best practice standards on host countries.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	A binding treaty is needed for business and human rights. The binding treaty should unequivocally state that businesses corporations have a legal responsibility to respect human rights. Although a binding treaty is not the panacea, it will force States to report to the relevant committee. Like with other treaty bodies, States will have to collect information for reporting purposes, however damning that information may be and will have to reckon with their failures. Furthermore, civil society organisations and community-based organisations will have an opportunity to present their experiences at an international level, forcing a State to face allegations and allowing a committee to provide recommendations to which a State must comply. A treaty body will be particularly useful in Africa, where systemic abuses and human rights violations by the private sector are far too common, as is the failure by States to hold these companies to account. In addition, State complicity in these human rights violations is also common and a mechanism is required to deal with such corruption.

Survey response	
Organization	New Zealand Human Rights Commission
Stakeholder category	National human rights institution
Region	Australia / New Zealand
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments,	During the last decade, the Human Rights Commission has been active in advancing progress on UNGPs. Although not directly referencing the UNGPs, the Commission's "Tracking Equality at Work" report in 2011 highlighted business and human rights issues through assessing the extent of systemic discrimination in New Zealand workplaces. In 2016, the Commission hosted a four-day forum for New Zealand businesses and government organizations facilitated by UNGP expert organization, Shift. Through providing workshops and sharing tools for implementation, the forum encouraged businesses to engage more meaningfully with the UNGPs. The Commission has constantly advocated for addressing ethnic

<p>businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>and gender pay gaps in New Zealand. Since 2018, the Commission’s web-based interactive “Tracking Inequalities at Work” tool has been collecting data on four key aspects of work: employment, pay, leadership and discrimination, with a view to tracking and improving progress on workplace equality. In 2019, the Commission, in collaboration with unions, businesses and women’s advocacy groups publicly lobbied government and businesses to address wage discrimination resulting from the gender and ethnic pay gap (see <a href="https://www.demandpaytransparency.org.nz/">https://www.demandpaytransparency.org.nz/</a>). To further this work, the Commission will be commencing an inquiry into the ethnic pay gap in New Zealand in 2020, focusing on investigating the causes and contributory factors to the pay gap and conditions of work and advancement of the ethnic group with the largest pay gap in New Zealand, Pacific peoples. In 2018, the New Zealand Human Rights Commission played a leading role in the introduction of the Domestic Violence Victims Protection Act 2018. The Act requires workplaces to provide flexible working conditions and up to ten days paid leave, for people affected by and/or those caring for children affected by family violence. In 2020, the COVID-19 pandemic further highlighted the importance of paid sick leave and adequate strategies to protect individuals in such situations. As a result of campaign by unions, Government agreed to introduce legislation by end of year to double statutory entitlement to sick leave from five days to ten days. One of the most promising international developments regarding the interface between business practices and human rights in recent years is the development of modern slavery legislation, for example in Australia and the United Kingdom. The Commission has thus dedicated one of its priority strategic advocacy areas to tackling and eliminating modern slavery in the workforce and has facilitated the creation of a dedicated Advisory Group on eliminating Modern Slavery in Aotearoa New Zealand, made up of experts on the field. The Group’s key objective is to spur the Government into introducing Modern Slavery legislation, which would strongly align with the UNGPs.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The key challenge for New Zealand is that the Government currently has not incorporated or endorsed the UNGPs or its “Protect, Respect, Remedy” Framework in any legal or policy work and has no concrete strategy on the UNGPs. Thus, there is no designated agency or national entity that has the mandate to monitor or inquire directly into corporate human rights abuses. Accordingly, New Zealanders have no designated agency or Minister to hold to account on the issue of business and human rights directly. Although the Government agreed to adopt a national action plan to implement the UNGPs following its latest Universal Periodic Review in 2019, to date, the Commission is not aware of any work towards such a plan. While some New Zealand businesses have adopted the UNGPs as part of their business operations, they are still in the minority. In the context of workplace health and safety, New Zealand legislation does not require compliance with human rights. Therefore, in order to ensure widespread implementation of the UNGPs, the Government must first commit to a national action plan which would guide effective policy and legislation development in this area.</p>

<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>As set out above, the key obstacle to achieving fuller realization of the UNGPs is a lack of a national action plan that would commit the government to developing robust policy and legislative responses in the area. COVID-19 has created additional challenges for businesses and human rights in Aotearoa New Zealand. While the COVID-19 Recovery (Fast Tracking Consenting) Act seeks to address a human rights emergency by stabilising employment, the Government’s commitment to an economic recovery and business expediency should not be prioritised at the expense of other human rights, such as non-discrimination and the right to participation – noting the disproportionate impact of the pandemic on already vulnerable communities, and at the expense rights secured to Māori as indigenous peoples under Te Tiriti o Waitangi (Te Tiriti) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Indeed, Māori and Pasifika<sup>[66]</sup> (<a href="https://theconversation.com/recession-hits-maori-and-pasifika-harder-they-must-be-part-of-planning-new-zealands-covid-19-recovery-137763">https://theconversation.com/recession-hits-maori-and-pasifika-harder-they-must-be-part-of-planning-new-zealands-covid-19-recovery-137763</a>, <a href="https://www.marketplace.org/2020/10/16/new-zealand-election-covid-jacinda-ardern-women-unemployment-job-losses/">https://www.marketplace.org/2020/10/16/new-zealand-election-covid-jacinda-ardern-women-unemployment-job-losses/</a>) have been disproportionately disadvantaged by COVID-19 related job losses. Accordingly, Government measures to stimulate economic growth should address systemic discrimination through prioritising vulnerable groups, while also ensuring that businesses do not compromise their human rights obligations in the interests of economic expediency. their human rights obligations in the interests of economic expediency.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Structural discrimination – particularly against Māori, Pasifika, ethnic communities and disabled people leads to lower wages, higher unemployment rates and thus greater economic hardship for these groups. Economic hardship then negatively impacts progress in sustainable development and progressive realization of other human rights such as housing, education and health. Te Tiriti and UNDRIP provide a crucial framework for addressing these issues and upholding Māori rights as indigenous peoples in Aotearoa New Zealand. However, UN treaty bodies and independent experts have consistently raised concerns about the State’s failure to comply with Te Tiriti and other relevant international standards with respect to indigenous rights. A key recent example is the dispute over a proposed housing development by a private company, Fletcher Building, on Māori land, Ihumātao. In that instance, the State has indirectly supported Fletcher Building in breaching its obligations to Māori under the UNGPs, by fast-tracking housing developments at the expense of robust consultation and free, prior and informed consent. Moreover, structural discrimination against women, ethnic minorities and disabled people leads to fewer opportunities for progression towards leadership roles within businesses, such as on corporate boards. Accordingly, these groups have little influence over the business decisions that affect them.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard</p>	<p>In Aotearoa New Zealand, the key priority will be developing a national plan of action to implement the UNGPs in response to the 2019 UPR review. The Government accepted this recommendation from the Report of the Working Group and in doing so the Government must commit to developing policy and legislation in this area. Another measure that would</p>

to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	significantly improve New Zealand's national framework on business and human rights is the introduction of an independent body to audit human rights abuses and breaches by corporations. As previously noted, the lack of any existing mechanism or national body means that there is no entity that can audit corporate human rights compliance, nor is there any designated agency or office for which New Zealanders can go to directly for such accountability. The Commission believes that the creation and mandating of such a body, which can conduct independent auditing of businesses and monitor their compliance with human rights, would achieve meaningful progress on business and human rights.
---	---

Survey response	
Organization	Danish Institute for Human Rights
Stakeholder category	National human rights institution
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	One area of clear progress is the broad consensus around the UNGPs as the authoritative framework on business and human rights and wide uptake in commitment to implementation of the UNGPs by a wide range of actors including international governmental organisations, states, national human rights institutions (NHRIs, businesses, financial institutions and civil society organisations. The UNGPs have been incorporated by a large number of regional and international organisations (e.g. Council of Europe, EU, the Organization of American States) and the UNGPs form the base for the majority of discussions to advance responsible business conduct. The UNGPs have also been acknowledged, referenced or mainstreamed into other global instruments and frameworks, such as the OECD Guidelines for MNEs, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the IFC performance standards and Equator Principles, as well as ISO standards. The 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda (AAAA) acknowledge the need for business to respect human rights to achieve the SDGs as articulated by the UN Guiding Principles. Since 2011 numerous actors including the UN Human Rights Council, the European Union, the Council of Europe, the Organization of American States, the G7 & G20, national human rights institutions and business associations have encouraged states to develop national action plans on business and human rights (NAPs) as a major vehicle for the implementation of the UNGPs at the national level. As of November 2020, 24

states have published NAPs , and at least 17 states are currently developing an inaugural NAP. 5 states have adopted an updated, edited, or second NAP (the UK, Italy, Georgia, Luxembourg, and Switzerland), and 5 further states with a NAP are in the process of drafting a second NAP ( Belgium, Chile, Colombia, Lithuania and the Netherlands). An in-depth case study about the Kenyan NAP (not yet formally adopted) shows that extensive dialogue, capacity-building and stakeholder engagements can play an important role in making the contents of the NAP relevant and detailed to adequately address national business and human rights challenges. In addition to NAPs, there has been a range of regulatory and policy progress relevant to business and human rights. These include legislation and guidance on non-financial reporting (e.g. through the 2014 Non-Financial Reporting Directive of the European Union currently being revised), measures focusing specifically on modern slavery, forced labour and human trafficking (like the 2015 UK Modern Slavery Act), alongside a general push towards mandatory human rights due diligence. States also increasingly become aware of the need to increase efforts in their own relations with the business sector (state-business nexus). It is important to note nascent initiatives to integrate human rights considerations into public procurement measures (see, e.g. the report Making Socially Responsible Procurement Work by the European Union and SDG Indicator 12.7.1 on the degree of sustainable public procurement policies and action plan implementation). Policies and standards of development finance institutions (see, e.g., FMO's Position Statement on Human Rights, IFU's Human Rights Policy, and Swedfund's Policy for Sustainable Development ) and export credit agencies are increasingly referencing human rights standards and instruments. . States also increasingly considering policy coherence by including human rights clauses in trade and investment agreements and requirements to address human rights in the impact assessments of such agreements. Since the Edinburgh Declaration, NHRIs have embraced work with business and human rights. There are a range of examples of how NHRIs around the world engage with business and human rights in relation to all three pillars of the UNGPs- NHRIs are also working collectively on the issue through the GANHRI BHR working group and the ENNHRI BHR working group. Networks of NHRIs are increasingly being engaged in international level policy advocacy, as exemplified by ENNHRI statements to the EU on a binding treaty on business and human rights, and on the adoption of an EU-level action plan on business and human rights. NHRIs play a key role in relation to access to remedy through their different mandate area and may also serve as non-judicial grievance mechanisms. This was usefully elaborated in the OHCHR ARP II project. The Danish Institute for Human Rights published a report on NHRIs and remedy, presenting an analysis of the role and practice of NHRIs regarding access to remedy in business and human rights, including four NHRI case studies from the African regions. An increasing number of businesses have formally committed to human rights and the UNGPs. While fewer are working with the framework in practice, the last decade has brought about a big shift in acknowledgement by business actors of their human rights responsibilities and awareness of the UNGPs as the 'go-to-standard' on this topic. Dominating business networks, frameworks and standards are also continuing to align policies and practices with the UNGPs, for example the

	<p>UN Global Compact. The Global Reporting Initiative, the most used framework for corporate sustainability reporting is currently revising its universal standards to align with the UNGPs). The World Benchmarking Alliance and other initiatives have taken significant steps to closer align with and reinforce the UNGPs through their work. Human Rights Impact Assessments (HRIAs) in the context of business activities have become a more widely accepted practice with a more streamlined methodology among companies, and comprehensive guidance available on the contents and process of HRIAs. While more stand-alone HRIAs are being commissioned by companies, there is no exact number of HRIAs done, given that many of them are not made public. To date approximately 20-25 company-led HRIAs are publicly available. In addition, aspects of HRIA methodology are also being integrated into environmental and social impact assessments, methodologies for community-based, participatory HRIA processes have been developed and numerous HRIAs of large-scale projects have been conducted by civil society organizations. Sector-wide impact assessment (SWIA) is another impact assessment methodology that has been developed to assess and address the negative impacts of business activities, in alignment with the UNGPs. To date five SWIAs have been carried out, of which 4 in Myanmar, and at least three more are currently underway. The responsibility of financial institutions under the UNGPs is increasingly being made clear by authoritative bodies (OHCHR, OECD and EU) as well as through recognition by the financial sector itself. Notably, the launch and traction of the Investor Alliance on Human Rights as well as the recent policy development from PRI on human rights are both examples of the increased focus and awareness in the industry of their role and responsibility in relation to respect for human rights. Development finance institutions (DFIs) are paying increasing attention to human rights in their sustainability policies and safeguards (such as the IFC Performance standards and the World Bank Environmental and Social Safeguards). Most financial actors are taking the approach of embedding human rights responsibilities in existing environmental and social policies and processes which can make it harder to assess the degree to which these actors have aligned with UNGP requirements in practice. Civil society organizations are using the UNGPs in advocacy and monitoring and it has become a means and language to engage with businesses on human rights. Even in countries with high levels of conflict and a lack of trust between stakeholders, many times the common agreed starting point for dialogue is the applicability of the UNGPs.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<ul style="list-style-type: none"> <li>• Pillar I Although there is increasing momentum at national and EU level for the implementation of mandatory measures, including requirements that companies undertake HRDD coupled with reporting etc, there have been few concrete steps taken to include hard law obligations to realise the UNGPs as a component of the “smart mix”. While there are existing laws which regulate businesses’ impacts on human rights and the environment in part (such as labour laws, environmental regulation, company law, general tort principles, etc.) they are fragmented and insufficient in addressing existing human rights abuses occurring in global supply chains. At global level, only France has adopted comprehensive legislation</li> </ul>

mandating businesses adopt a vigilance plan and share this publicly. Voluntary measures and national action planning, although much more widespread than obligatory measures, often lack accountability mechanisms and monitoring, both at national and international levels. Most national action plans on business and human rights do not include specific, measurable, achievable, relevant, and time-bound (i.e. SMART) action points. While this is a cross-cutting issue elaborated further above, adoption of NAPs is still regionally concentrated in Europe, which points to issues of resources and capacity available to conduct such processes in the global south. In addition, while some states have engaged into peer dialogue around national action plans at the regional level, there is no streamlined peer review mechanism for national action plans. Overall mechanisms for reviewing progress on the implementation of the UNGPs are lacking both at regional and international level. While an open-ended intergovernmental working group has been established to elaborate an international legally binding instrument on business and human rights, the process currently suffers from a lack of engagement by a critical number of states. While there has been important efforts on measuring business respect for human rights, little has been made to collect comparable data on the state implementation of the UNGPs. This is thrown into sharp focus by the 2030 Agenda which introduces the systematic measurement of progress through indicators, but where indicators relating to Target 12.6 on sustainable business practices is measured only by the number of companies reporting on sustainability which is clearly inadequate to capture the overall respect of human rights in a business context. There is currently little work on developing business and human rights indicators as a foundation for assessing progress in the uptake and implementation of the UNGPs. Despite some positive developments on that front outlined above, there is a gap in policy coherence. Although other international frameworks acknowledge the UNGPs, there is still a lack of clarity on what this means in practice – for example the degree to which states’ efforts to realise the SDGs can be aligned with the UNGPs. Implementation of the UNGPs, when it occurs in a country, is often confined to central government level and does not percolate down to the regional, city, or local level. Consistent application of the state duty to protect from human rights abuses still needs to be applied consistently throughout development cooperation, public procurement, and actors in the state-business nexus, such as development finance institutions, pension funds, sovereign wealth funds, and export credit agencies. Lack of policy coherence is illustrated by the occurrence of forced labour in government procurements of health equipment.

- Pillar II Despite significant progress in uptake and commitments by business to human rights as highlighted above, too few are seemingly implementing the UNGPs in practice. In addition, we have limited insight into implementation by business, aside from self-reporting, and a corresponding data and measurement gap. Analysis of company reporting to assess how human rights is reported on is also limited by the lack of common standards, use of different reporting format and absence of common repository. Implementation efforts are furthest in global MNEs, but there is little sign of a trickle-down effect of UNGP implementation by these entities through their supply or distribution chains. This is despite the central role of leverage in the UNGPs. Many times, responsible supply chain

management programmes and third-party contract clauses do not serve as a lever for uptake of UNGPs by these entities. The 2020 progress report on the UN Global Compact, ten social responsibility principles adopted by more than 10,000 companies, shows that while nine in ten have adopted human rights policies, less than a third monitor their human rights performance, and just a fifth conduct human rights impact assessments. Similarly, in the 2019 Corporate Human Rights Benchmark, assessing 200 of the world's largest listed companies in four high-risk sectors, two thirds failed to show any evidence of human rights due diligence. In the Danish context, a Snapshot of large Danish companies conducted by the Danish Institute for Human Rights in 2020 showed that while all companies assessed had a publicly available statement committing the company to respect human rights, none of them demonstrated full alignment with the responsibility to respect human rights, as defined by the UNGPs, with the weakest performance being across the indicators measuring the implementation of human rights due diligence, as well as mechanisms to remedy adverse impacts. Whereas certain business actors have been making some progress in embedding a human rights lens to parts of their business operations, like the supply chain, other parts continue to be overlooked (e.g. consumer impacts or abuses in the distribution chain). Similarly, many companies continue to be more attentive to some risks, e.g. those pertaining to labour rights, whereas others are less frequently identified and tackled, e.g. privacy rights associated with digitalisation. In addition, implementation of UNGPs in some companies become mainly an operational compliance exercise, that does not lead to fundamental and strategic questions about business models, purpose of the corporation at the top of the company. In addition, many business initiatives to support the SDGs often fall short of recognising the necessity of human rights due diligence to achieve the SDGs, although a database shows that companies who work efficiently with human rights due diligence can contribute to the realisation of the SDGs. SMEs are consistently side-lined in implementation of the UNGPs. Most actors recognise this as a gap and a challenge, but very little has been done to remedy this or to provide practical guidance to SMEs. Furthermore, uptake of the UNGPs outside of the global north remains very low (illustrated by recent assessments of Pillar 2 implementation in Ukraine and Zambia). While the financial sector has started to engage with human rights issues through social risk management and reporting measures (the 'S' in ESG reporting), more needs to be done by the industry to align their due diligence practices with the UNGPs, and ensure the leverage of investors is used to underpin uptake of the UNGPs by investee companies. • Pillar III Access to effective remedy in all of its forms is both a gap and a challenge. The gaps include lack of access to effective remedy at the domestic and international level, and the paucity of business efforts to develop their own grievance mechanisms. The few viable avenues to remedy which do currently exist have their own challenges. Litigation is costly and inaccessible to most affected parties. International and regional mechanisms lack teeth. Regulators often lack the resources to investigate, monitor and enforce laws. The global nature of multinational enterprises presents further challenges to achieving justice across borders. Jointly, these challenges underlie a continued accountability gap for both states and businesses as well as a failure to facilitate access to

	<p>effective remedy for victims of corporate human rights abuses. NHRIs can play an important role in supporting access to remedy, including through but not restricted to, their own complaints-handling mechanism when they have one. While many NHRIs have handled complaints related to business related human rights abuses and conducted investigations and national inquiries, there remain challenges in the implementation of their decisions or recommendations, especially in the case of cross-border cases. Some NHRIs remain without a mandate to address such grievances, and many NHRIs lack resources and capacity to fully engage with that role.</p> <ul style="list-style-type: none"> <li>• Cross-cutting issues There is a geographical imbalance of uptake of UNGPs. Two clear examples of this are national action plans on business and human rights and mandatory human rights due diligence, with Europe heavily skewing the numbers; 19 of the 24 countries that have adopted NAPs to date are part of the Council of Europe. While this is important considering the high number of businesses headquartered in Europe and the impact that policies and legislations in Europe may have through global supplies chain and although there is progress in other continents there is no balanced progress across all continents and regions. Some of the same concern exists on the side of uptake of the UNGPs by business entities. There is a pattern of sustainable and violent attacks on human rights and environmental rights defenders in particular in connection to business activities. The human rights defenders who are targeted are often women or indigenous peoples. (see, for example, the human rights defenders database on the business and human rights resource centre).</li> </ul>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<ul style="list-style-type: none"> <li>• Obstacles The UNGPs are still seen by some as a minimum safeguards compliance regime, which businesses should use to avoid human rights abuses, rather than as a mechanism to ensure the contribution by business to sustainable development. This among other things means that the value and importance of the UNGPs to 'do good' and activities to realise the SDGs are underestimated (see the paper on an integrated approach to the SDGs and Business and Human Rights by the Danish Institute for Human Rights). There continues to be a lack of transparency of business activities, complex value chains and business relationships. Complex corporate structures, existence of shell companies and registrations of business entities in jurisdictions favouring secrecy continue to impede accountability. Some developments in the law, have had a chilling effect on companies' willingness to know and show progress on the realization of the UNGPs. Some businesses see risks in being transparent on human rights abuses they are connected to and their efforts to address them for fear that they may expose themselves to litigation risk. In the context of public procurement, public procurement officials often do not want to step beyond what they are required to do under public procurement law (even if they can take other considerations, like human rights, into account) as they fear this will leave them open to costly challenges. As highlighted by many human rights actors (including UN Special Procedures, FRA and the COE), there is an increasing shrinking of civic space and the decline of human rights in many states which is having a significant impact on the possibility of a meaningful dialogue on business and human rights challenges. Spread of misinformation and increased</li> </ul>

	<p>polarisation often exacerbated by the use of technology, further threatens dialogue across stakeholder groups. The pace of the digital transition and the associated need for regulation and oversight to ensure the absence of human rights abuses in that realm are a continuous challenge. This is also an area where the lack of transparency is significant to the point that even the most well-informed experts can only make qualified guesses as to what impacts companies are really having or what it is in different kinds of digital products and services that are causing these impacts. Some positive developments have occurred, such as an increased number of companies that produce transparency reports, but the phenomenon of ‘black boxes’ surrounding AI models means that while we can see that impacts occur it remains difficult to understand why exactly. A further obstacle is that of a general lack of knowledge about the issues. As all companies are increasingly digital, there is a need to understand the potential impacts that relate to that so that they can be addressed. The Covid-19 crisis has underlined many of the structural problems that existed prior to the crisis, including problematic public procurement practices (notably in the context of PPE equipment), workers' rights (and especially the vulnerability of workers in global supply chains), and inequality. The sense of urgency which many governments have reacted to the pandemic indicates the possibility to move with similar dedication on issues of climate change and many of the systemic issues leading to business abuses of human rights. The willingness to “build back better” – i.e. to use the crisis in a transition to a greener and more just world needs to be leveraged. References to the UNGPs in recovery plans is an important signal that needs to be accompanied by specific requirements and monitoring. However, states’ struggle to recover economically from an unprecedented global crisis, focus on economic growth and attract FDI may favour unsustainable business and facilitate further shrinking civic space. • Drivers Recent research into the existence of a business case for human rights indicate that firms can indeed be “doing well by doing right”, but that there are also grounds for caution. Empirical evidence seems to suggest that a business case for human rights is most likely to exist for highly visible firms in consumer-facing sectors, where public scrutiny is more intense and the costs of failing high stakeholder expectations are heavier. It thereby becomes clear that a key driver to realizing responsible business conduct is the development of a regulatory and policy environment that encourages business to respect for human rights and sanctions human rights abuses. This applies at the national and sub-national levels, as well as through international frameworks and agreements, including widespread political support for a well-crafted legally binding instrument on business and human rights. Moreover, the financial sector has a key role to play acknowledging its own responsibility under the UNGPs and make clear their expectations son as to incentive businesses to respect human rights through the conduct of due diligence. There needs to be clear tools for investors to assess human rights in their portfolio companies.</p>
<p>4. What systemic or structural challenges need to be tackled to</p>	<p>Non-discrimination on a series of ground, including gender, is a key human rights principle, embedded in international human rights instruments. Non-discrimination and equality are at the core of the 2030 agenda for sustainable</p>

<p>realize sustainable development based on respect for human rights?</p>	<p>development moto of “leaving no one behind”. In the context of business and human rights, adverse impacts on human rights are disproportionately affecting certain groups. Frequently, women and girls bear a disproportionate burden of negative social, economic, and environmental impacts, however, the business and human rights field has paid too little attention to gendered impacts. Inequalities and poverty remain a structural issue and are tied to a variety of human rights abuses, including involving businesses. Informal employment is often characterized by low pay, poor working conditions, and a lack of social security and disproportionately affects women. While the UNGPs address all enterprises, the high degree of informality of economic activities in certain context require additional efforts. There is a lack of accountability for human rights abuses that needs to be addressed at many levels to ensure that rightsholders get access to an effective remedy and that businesses are strongly incentivised to prevent adverse human rights impacts through the conduct of human rights due diligence. The role of business in society continues to be understood in many places as restrained to the obligation of businesses to generate profit for their shareholders. While the UNGPs have proposed a pathway to understanding businesses as actors with human rights responsibility, this understanding has yet to permeate fully through all layers of society, including corporations themselves. There remains a divide between human rights and the environment and climate crisis. There has been some positive progress in recognizing the human rights impacts of the climate crisis, and some recognition that work to protect the environment should integrate human rights, but there remain many shortcomings which need to be addressed to allow for a sustainable development based on respect for human rights.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>Cross-cutting: • States need to step up on efforts to implement the UNGPs through a smart mix of measures at domestic level and engage in further normative development at regional and international level. o The development of national action plans, based on an analysis of gaps through a national baseline assessment, enables to identify systemic issues in a particular context and engage into a dialogue at national level on specific measures that are needed to address those. These should be both specific, measurable, achievable, relevant, and time-bound (i.e. SMART). However, to ensure the quality of such plans, states need to be held to account at regional or international level. A peer review mechanism could be a first step towards a monitoring mechanism. We have outlined relevant examples for such peer review in a briefing. o The development of mandatory measures, including mandatory human rights due diligence, disclosure requirements and other areas of law such as those governing corporate governance, public procurement, investment and trade to create a coherent regulatory environment conducive to the realisation of the UNGPs. o The development of avenues to remedy for corporate human rights abuses which are accessible, expeditious and effective. o Empower NHRIs and other actors – guarantee for greater civic space. o Overcome deadlock on the treaty through good faith engagement of states to consider a variety of models for a binding instrument. • The link between the SDGs and human rights should be strengthened.</p>

	<p>Business and human rights needs to be mainstreamed into the 2030 agenda including in relation to climate change and environment to ensure that policies and measures to preserve the climate and the environment fully integrate human rights. The data gathered through the implementation of the SDGs should be informing the implementation of the UNGPs and vice-versa. • There is an urgent need to develop methodologies to better measure the implementation of UNGPs by states. National baseline assessments can be an important tool for generating national data on gaps in laws and policies and patterns of business and human rights abuses. Building on that tool but also other relevant methodologies used by organisations such as ILO in the labour domain, new partnerships should be pursued to elaborate core business and human rights indicators as a condition for systematic, consistent and comparable data generation at the national level. • Digitalization and technology will grow exponentially in the coming years. We need to define a policy framework addressing specificities of this sector and its human rights impacts. While the focus has in the past primarily been on the freedom of expression and right to privacy, there is a need to significantly widen that scope and understand the vast range of impacts that digital technologies have on individuals as well as on society. Some large ‘big tech’ companies have primarily been scrutinised, but in a society where most companies are more or less digital, there is a need for frameworks to recognise that aspect in order to be able to address all kinds of impacts.</p>
--	---

Survey response	
Organization	Defensoría del Pueblo Ciudad de Buenos Aires
Stakeholder category	Local human rights institution
Region	Latin America and the Caribbean (LAC)
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>The adoption of the United Nations Guiding Principles on Business &amp; Human Rights (UNGPs) by the UN Human Rights Council in 2011 was an essential step within the United Nations continuous work towards respect for human rights, labour standards, the environment and transparency. Over the years, these principles became the baseline for business enterprises to respect human rights by conducting human rights due diligence not to harm the rights of third parties and to redress the consequences of wrongful acts. Likewise, the States’ duty of protecting each and every single person living in their territory and/or jurisdiction has been reflected facing human rights abuses committed by third parties, including companies. In order to advance the implementation of the UNGPs, every State, every company group and every human rights group develop National Action Plans for the Promotion and Protection of Human Rights (NAPs); they also conduct international forums set to exchange good practices. As well as the UN Global Compact work, they are all practices that must be continued and reinforced to achieve that goal. Moreover, alongside similar bodies, our Ombudsman Office has the fundamental mission of defending, protecting and promoting human rights; therefore, we carry out UNGPs’ promotion</p>

	and implementation practices such as controlling and overseeing the States to comply with their obligation to uphold human rights. In addition, we build strategic alliances to disseminate the Guiding Principles; we foster the linkage with companies to provide human rights training; we serve as impartial mediators to facilitate dialogue between parties or conflict resolution; we activate the participation in forums and social media on the matter, among other actions.
2. Where do gaps and challenges remain? What has not worked to date?	The COVID-19 pandemic and the crises that have arisen in all countries revealed the inequalities and existing gaps; they also deepened the challenges to conduct a sustainable development based on human rights respect and the roadmap represented by the 2030 Agenda for Sustainable Development Goals (SDGs) The Fifth Regional Consultation on Business and Human Rights for Latin America and the Caribbean brought some gaps and challenges that still remain today, such as the absence of legislation on due diligence and the unequal efforts between governments in their duty to protect human rights. Similarly, only 24 countries have adopted the NAP on business and human rights and most of them are European.
3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?	The Corporate Social Responsibility (CSR), the Responsible Business Conduct (RBC) and the practices deriving from them have led companies to a paradigm shift in their business perspectives by incorporating social, cultural and environmental insights in their quest for building public value in each stakeholder through a positive performance within the society. Given that the Principles' drivers cover a wide range of stakeholders, when it comes to human rights in any of their action fields –including the UNGPs– it is not solely a State-society relation. Two main obstacles that need to be tackled to ensure a most complete implementation of UNGPs are the articulation and dialogue among all these parties; to that end, true commitment towards the three pillars of protecting, respecting and redressing is required.
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	First, there is a need for an in-depth integration of the SDGs from the human rights perspective within the companies. In order to strengthen women's rights inside the business areas and in the value chain, incorporation of gender perspective must continue for the implementation of the UNGPs. Human Rights institutions, both national and local, play a significant role with regard to companies and human rights. So as to comply with SDGs and UNGPs, they face the challenge of intensifying their current efforts to support their dissemination and implementation, they promote dialogue between different sectors of society and they work articulating public/private among the State, the civil society, the academy and the companies. As the Ombudsman's Office of the City of Buenos Aires, we are convinced of the importance of business sectors to apply human rights from a cross-cutting approach in all their policies; we address those calls and we work to promote, to raise consciousness and awareness of human rights in the business area. In alliance with the Global Compact Network Argentina and the Office of the High Commissioner for Human Rights (OHCHR) and as part of the Responsible Business Conduct in Latin America and the Caribbean (RBCLAC)'s project, we developed a Human Rights Program for State-Owned Enterprises.
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority	From the States' point of view, a political commitment with coherence and in coordination with national governments and international institutions towards regulation is essential. With that in mind, there must be a genuine will of enforceability to companies internationally in order to consider a future with mandatory formal standards and universal rights equally respected. Furthermore, by developing human rights programs and specific protocols, companies shall have the express

<p>areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>commitment of incorporating the human rights perspective when formulating their policies. At this point, communication to all stakeholders and contemplation of the entire value chain in its development play crucial roles. In addition to promoting and disseminating the UNGPs and acting as a bridge-builder between parties, human rights institutions can assess, for instance, if public companies policies are consistent with State obligations on human rights by providing guidance both to the State and the companies. These institutions may result to be strategic allies to raise awareness of the human rights matter into local context businesses.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Since 2006, the Ombudsman's Office of the City of Buenos Aires has been a member of the Global Compact Network Argentina. In 2018, we were elected to take part in the Board of Directors and we were recently chosen to integrate the 2020-2022 Board. From that point forward, our Ombudsman Office has participated of several workshops on due diligence with the purpose of enhancing companies' standards regarding human rights, labour rights and environmental rights. We have also trained on non-sexist language and communication for businesses in order to provide tools for a cultural change among the different stakeholders of the private sector and to improve the external to internal communication. Likewise, we identified the need to work on human rights, specifically with public companies. As mentioned before, in alliance with the Global Compact Network Argentina and the Office of the High Commissioner for Human Rights (OHCHR), we recently started a Human Rights Program for State-Owned Enterprises as part of the Responsible Business Conduct in Latin America and the Caribbean (RBCLAC)'s project. The Program is implemented jointly by the European Union (EU), the Organisation for Economic Co-operation and Development (OECD) and the OHCHR. It proposes that State-owned enterprises based in the Autonomous City of Buenos Aires are able to activate a human rights program in accordance with the UNGPs' recommendations. Finally, we also intend to work to raise awareness on human rights at the international and regional levels through Noticias de América Latina y el Caribe (NODAL) –the news portal exclusively devoted to Latin America and the Caribbean– to create a space for the exchange of perspectives of different actors. The OHCHR, the United Nations Global Compact, the National Council for the Coordination of Social Policies in Argentina, the Working Group on the Protocol of San Salvador of the Organization of American States (OAS), as well as National Human Rights Institutions (NHRIs) of Colombia and El Salvador were called to participate.</p>

## Trade unions

Survey response	
Organization	UNI Global Union
Stakeholder category	Trade union, worker representative
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>The UNGPs have changed the framework of business and human rights over the last decade. They have shifted the starting point for engaging with businesses on their human rights impacts by clearly laying out the responsibilities of companies. We have seen notable developments since to encourage the uptake of these standards, including the OECD Guidelines and extensive guidance for specific sectors. From this, we have seen some movements in practice from businesses. Some leading businesses have implemented the UNGPs in practice through establishing due diligence processes. This includes some companies with established global framework agreements which have taken some proactive steps in line with the UNGPs to reduce labour rights risks. We have also seen some institutional investors align their processes to the UNGPs, which is an important and necessary shift away from solely a materiality framework. However, as will be later discussed, respect for labour rights has worsened over the past 10 years and progress on implementation of the UNGPs has been far too limited. One of the most important developments in light of this is the growing recognition of the failure of voluntary measures alone to ensure implementation of the UNGPs. Governments' moves to adopt mandatory human rights due diligence legislation is progress on their implementation of the UNGPs, and must be cemented over the next decade by ensuring this legislation is effective, critically through meaningful enforcement and stakeholder engagement. Some model practices that can be built upon include:</p> <ol style="list-style-type: none"> <li>1. Global framework agreements UNI Global Union has nearly 60 global framework agreements, which are a key human rights due diligence tool to promote respect for fundamental labour rights in multinational enterprises. They serve as a means for global labour relations, raising human rights concerns, enabling exercise of trade union rights, and developing joint solutions to improve working conditions. Several of these agreements have now included specific recognition of UNI Global as a stakeholder in company's due diligence processes. We believe this recognition of the need to consult with global unions on due diligence is an important requirement for businesses to ensure due diligence is effective and accountable. However, there are still challenges in full implementation of this requirement and others in global agreements, demonstrating the need for mandatory due diligence to complement such voluntary agreements.</li> <li>2. The Bangladesh Accord The Bangladesh Accord provides a ground-breaking example of a binding</li> </ol>

	<p>agreement across the value chains of multinational businesses to improve respect for human rights. It has provided a highly effective means of monitoring and remediating the health and safety human rights risks in the garment sector in Bangladesh. For example, the Accord reports 92% initial remediation progress across the 1,629 factories covered. It also created an effective OSH Complaints Mechanism aligned with the expectations for non-judicial grievance mechanisms prescribed by the UNGPs, which has resolved nearly 700 complaints. Without being a binding mechanism, it would not have had the transformational impact it had when challenges arose in the process, as demonstrated in the settlements reached through arbitration to fund remediation. Based on this experience, UNI together with four major civil society groups has worked to develop model arbitration clauses which can be incorporated into binding agreements. These clauses advance a streamlined arbitration system with a rapid timeline that protects impartiality and due process while avoiding excessive litigiousness, promoting transparency, alleviating burdensome costs, and providing final and binding enforcement. This is a necessary shift to allow for more effective non-judicial processes of agreeing remedy. 3. Mandatory human rights due diligence legislation Finally, as noted above the developing mandatory human rights due diligence are promising practices by governments. The French Duty of Vigilance Law is the leading example of due diligence requirements which move beyond reporting and sector specific requirements and sets an example for further such legislation. This has been found to have started to have an impact according to Shift, with some improvements in reporting that indicate some improvements of underlying performance. However, even this legislation still has significant room for improvement in its enforcement, as noted in Question 3 below. The weaknesses of the legislation to-date, particularly the gaps in enforcement, should provide key lessons for the developments towards mandatory human rights due diligence at the national, regional and international level. Links to evidence cited:  <a href="https://bangladeshaccord.org/updates/2020/11/02/review-accord-complaints-mechanism-ungps-criteria">https://bangladeshaccord.org/updates/2020/11/02/review-accord-complaints-mechanism-ungps-criteria</a>  <a href="https://www.uniglobalunion.org/news/bangladesh-accord-arbitration-cases-resulting-millions-dollars-settlements-officially-closed">https://www.uniglobalunion.org/news/bangladesh-accord-arbitration-cases-resulting-millions-dollars-settlements-officially-closed</a> <a href="https://laborrights.org/publications/model-arbitration-clauses-resolution-disputes-under-enforceable-brand-agreements#:~:text=Designed%20for%20direct%20incorporation%20into,process%20while%20avoiding%20excessive%20litigiousness%2C">https://laborrights.org/publications/model-arbitration-clauses-resolution-disputes-under-enforceable-brand-agreements#:~:text=Designed%20for%20direct%20incorporation%20into,process%20while%20avoiding%20excessive%20litigiousness%2C</a> <a href="https://shiftproject.org/wp-content/uploads/2019/11/Shift_HumanRightsReportinginFrance_Nov27.pdf">https://shiftproject.org/wp-content/uploads/2019/11/Shift_HumanRightsReportinginFrance_Nov27.pdf</a></p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Implementation of the UNGPs as a whole remains far too limited, and even more so on the fundamental labour rights of freedom of association and collective bargaining. The ITUC's 2020 Global Rights Index found International Trade Union Confederation (ITUC)'s 2020 Global Rights Index found violations of workers' rights at a seven-year high. They report that 85% of countries violated the right to strike, and 80% of countries violated the right to collectively bargain. Trade unionists were murdered in 9 countries in 2020, and workers faced violence in 51 countries. There is also a growing challenge as a</p>

	<p>few large global companies have even more concentrated power relative to states. This is particularly true for Amazon and the other Big Tech firms. The Financial Times for example reports that: Amazon, Apple, Microsoft, Alphabet and Facebook now represent more than a fifth of the S&amp;P 500. Not since the 1980s have the biggest five companies had such a large share of the index, according to S&amp;P Dow Jones Indices. The tech giants combined for almost \$900 billion in revenues in 2019, greater than the GDP of four of the G20 nations. With the UNGP framework firmly in place, accountability is the key gap to their fulfilment. It is clear from numerous studies on company's adoption of due diligence processes and our own experience in representing more than 150 million service sectors workers that relying on only voluntary measures has failed to drive the needed implementation of the UNGPs. UNI has worked extensively within the existing due diligence channels to enforce due diligence and found that while they have driven some improvements, they have serious limitations in their ability to enforce due diligence obligations. For example, UNI has extensive experience working within the channels of the National Contact Point (NCP) process under the OECD Guidelines. While several cases UNI was involved in were successfully mediated through this mechanism, the process has clear limitations. Not least, the NCPs cannot compel companies to participate in the process, enforce any outcomes, or follow-up on recommendations. For example, in a specific instance UNI filed on VEON, the company declined to engage in the mediation offered by the Dutch NCP. Even after the NCP's statement that found that VEON had not been acting in line with what can be expected from it under due diligence standards, the company did not commit to addressing any of the concerns raised. Even the leading due diligence legislation, the French Duty of Vigilance Law has gaps in its enforcement as noted above. The NGO Sherpa and the CCRD-Terre Solidaire found that 59 out of 237 companies they identified as falling under the law not even publishing a Duty of Vigilance Plan, and many civil society organisations have noted the weaknesses in many of the published Vigilance Plans. In UNI's experience, UNI, together with Sherpa, put a company on formal notice for failing to meet the standards required. Following this, the company revised their Plan several times, which improved some reporting, but failed to substantially improve their due diligence processes. Links to evidence cited: <a href="https://www.ituc-csi.org/violations-workers-rights-seven-year-high">https://www.ituc-csi.org/violations-workers-rights-seven-year-high</a> <a href="https://www.ft.com/content/89e07076-dfb7-49bc-a970-0d15e2dd2c2a">https://www.ft.com/content/89e07076-dfb7-49bc-a970-0d15e2dd2c2a</a> <a href="https://corporatejustice.org/debating-mhrdd-legislation---a-reality-check.pdf">https://corporatejustice.org/debating-mhrdd-legislation---a-reality-check.pdf</a> <a href="https://corporatejustice.org/eccj-publications/16830-what-if-case-studies-of-human-rights-abuses-and-environmental-harm-linked-to-eu-companies-and-how-eu-due-diligence-laws-could-help-protect-people-and-the-planet">https://corporatejustice.org/eccj-publications/16830-what-if-case-studies-of-human-rights-abuses-and-environmental-harm-linked-to-eu-companies-and-how-eu-due-diligence-laws-could-help-protect-people-and-the-planet</a> <a href="https://vigilance-plan.org/duty-of-vigilance-radar/">https://vigilance-plan.org/duty-of-vigilance-radar/</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be</p>	<p>Key priorities: A key priority that must be addressed is the threats to the rights of freedom of association and collective bargaining. As noted above, threats to these fundamental rights is at a 7-year high according to the ITUC. Undermining these rights is not only directly a human rights harm, but also undermines the implementation of other human rights. Freedom of association and collective bargaining serve as enabling rights, referring to the fact that respecting these rights</p>

<p>addressed to achieve fuller realization of the UNGPs?</p>	<p>often leads to fulfilling other human rights. A trade union provides workers a means to monitor and protect their human rights' when states or businesses may be unable or unwilling to do so. This came to the fore in the COVID-19 pandemic, with the instrumental role of trade unions in ensuring robust health and safety standards and economic protections to respond to the pandemic at workplace, company, and policy levels. As such, freedom of association and collective bargaining must be more widely recognised as salient human rights. Relatedly, as binding measures come into force on due diligence, it is a priority that these incorporate robust requirements for trade unions' involvement in the design and implementation of due diligence, in addition to other relevant stakeholders. This will be essential to ensure processes are robust and effective in practice by building in further accountability and additional expertise on human rights' risks in practice. In keeping with the recent commitments to "stakeholder capitalism," this is an essential part of moving away from shareholder primacy and unilateral corporate responsibility. Key obstacles: As noted above, the lack of a global accountability framework is the key obstacle to achieving fuller realization of the UNGPs. This accountability is needed through robust mandatory human rights due diligence at the national, regional and international level with effective enforcement mechanisms. This includes the UN Binding Treaty, and provisions of liability for due diligence failures in relevant legislation. Without such, there is little incentive for companies to do effective due diligence, as there are no penalties for laggards and risks for those that go beyond the norm. It also fundamentally restricts access to remedy, as has been widely observed. Corporate lobbying against mandatory measures is an obstacle to achieving the needed accountability. This often takes place through business associations and can even be out of step with what individual companies' statements or policies are in this regard. This has been pronounced for example in Germany as they debate introduction of national mandatory human rights due diligence legislation. Key drivers: A key driver impeding implementation of the UNGPs is the growth of business models that raise fundamental challenges to human rights. Many companies are basing their business model on operating or sourcing from countries where human rights' protections are weaker, particularly on fundamental labour rights. Without accountability for ensuring they operate responsibly, these business models increase human rights risks, while in effect rewarding companies with lower costs. Another important driver of the level of human rights due diligence undertaken is the role of institutional investors. There has been a notable uptick in responsible investment commitments and practices over the past ten years. However, social issues and human rights in particular have fallen behind in practice, with a few notable exceptions. This mirrors in many ways the ways in which companies have diverged into those developing leading practices and the many failing to act as no accountability mechanisms force action. It reinforces the need for mandatory human rights due diligence with robust enforcement mechanisms to level the playing field, and for this to explicitly cover institutional investors and their relationships through investment linkages.</p>
--	---

<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Addressing the systemic failures to respect the fundamental labour rights of freedom of association is fundamental to realize sustainable development based on respect for human rights. Trade union representation built upon respect for these fundamental rights underpins sustainable development, through impacts including addressing inequality (SDG 10), ensuring decent work (SDG 8), and achieving gender equality (SDG 5). Trade unions have an essential and well-documented role in tackling inequality. For example, the OECD conclusively reports that the quality of labour relations and trust in unions are found to be negatively correlated with the unemployment rate and with earnings inequality. This is part can be attributed to the role of collective bargaining in increasing wage growth particularly at the bottom end of the pay scale which both contributes to addressing inequality and can stimulate economic growth through increased consumer spending. In addition to addressing inequality, ensuring respect for trade union rights is necessary to ensure decent work. This is exemplified in the issue of health and safety, brought to the fore in the COVID-19 pandemic. The Global Deal reported that trade unions have been instrumental in ensuring robust health and safety standards to respond to the pandemic at workplace, company, and policy levels. For example, a study from New York found that nursing homes that had a trade union were associated with a 30% relative decrease in the COVID-19 mortality rate compared with facilities without a union. This held true prior to the pandemic as well. Evidence from the US has shown that a 1% decline in unionisation causes about a 5% increase in occupational mortalities. Analysis of New York City construction sites found twice the number of health and safety violations at non-union sites vs union construction sites. Collective agreements lead to these improvements through their focus on health and safety arrangements, particularly when dedicating health and safety representatives. They can increase the amount of information available to workers, further improving standards by developing solutions to emerging problems and guaranteeing enforcement which is particularly important in contexts of weak government enforcement. Finally, research has found a significant impact of freedom of association and collective bargaining on achieving gender equality in several ways: reducing gender pay gaps, improving the pipeline of access to trainings and promotion, tackling intimidation and discrimination, and promoting work-life balance arrangements. Through the mechanisms of collective bargaining, unionised workplaces can improve wages of women and other vulnerable groups, addressing societal wage gaps. For example, as women workers are generally overrepresented in low-wage sectors, collective bargaining can improve this concentration of low-pay for women. Trade unions can also address gender pay gaps through establishing non-discriminatory employment and recruitment practices. For example, the Global Deal noted an example from the water sector in Peru of how collective bargaining led to the implementation of a gender-neutral job evaluation scheme that helped to revalue women’s jobs and skills and increase women’s pay. Collective bargaining can also help ensure equal access to promotion and training. For example, the OECD noted that around 30% of collective agreements in the retail and commerce sector in the European Union contain at least one clause on equal access to training, around 40% a clause on equal promotion opportunities, close to 50% a clause on equal pay and close to 80% a</p>
---	---

	<p>clause on non-discrimination. Trade unions in the workplace can also address risks of intimidation and discrimination. Data for European countries show that direct and mixed forms of workers' voice arrangements are associated with a lower incidence of various forms of intimidation and discrimination. Links to evidence cited: <a href="https://www.oecd-ilibrary.org/employment/negotiating-our-way-up_1fd2da34-en">https://www.oecd-ilibrary.org/employment/negotiating-our-way-up_1fd2da34-en</a> <a href="https://www.theglobaldeal.com/social-dialogue-skills-and-covid-19.pdf">https://www.theglobaldeal.com/social-dialogue-skills-and-covid-19.pdf</a> <a href="https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.01011">https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.01011</a> <a href="https://oem.bmj.com/content/75/10/736">https://oem.bmj.com/content/75/10/736</a> <a href="http://nycosh.org/wp-content/uploads/2017/01/DeadlySkyline2017_NYS-ConstructionFatalitiesReport_final_NYCOSH_May.pdf">http://nycosh.org/wp-content/uploads/2017/01/DeadlySkyline2017_NYS-ConstructionFatalitiesReport_final_NYCOSH_May.pdf</a> <a href="https://www.theglobaldeal.com/resources/Thematic-Brief-The-Contribution-of-Social-Dialogue-to-Gender-Equality.pdf">https://www.theglobaldeal.com/resources/Thematic-Brief-The-Contribution-of-Social-Dialogue-to-Gender-Equality.pdf</a></p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>As mentioned in the other sections, we will need the adoption of the UN Binding Treaty on business and human rights. This will need to be based upon:</p> <ul style="list-style-type: none"> <li>• all internationally recognised human rights, including fundamental workers' and trade union rights, as defined by relevant international labour standards;</li> <li>• coverage of all business enterprises regardless of size, sector, operational context, ownership and structure and parent company-based extraterritorial regulation;</li> <li>• access to justice for victims of transnational corporate human rights violations in the home state of transnational corporations;</li> <li>• regulatory measures that require businesses to adopt and apply human rights due diligence policies and procedures; and</li> <li>• a strong international monitoring and enforcement mechanism. Based on the second revised draft, this also still requires:       <ul style="list-style-type: none"> <li>• the explicit recognition in the treaty of trade unionists as human rights defenders and for trade unions to be expressly acknowledged as an integral part of human rights due diligence (HRDD) processes;</li> <li>• the support of a complementary international mechanism to supervise compliance; and</li> <li>• more clarity on the relationship between liability for failing to conduct mandatory HRDD and liability for human rights abuses.</li> </ul> </li> </ul> <p>These same elements are needed within national level and regional legislation such as at the European Union requiring mandatory human rights due diligence. These must also include provisions for robust enforcement through adequate supervisory authorities, and levers such as liability and sanctions. They must also mandate a role for trade unions and other stakeholders in the design and implementation process. As noted above, it is also critical that the legislation gives particular consideration to the rights to freedom of association and collective bargaining, as often they fail to be included in due diligence processes despite their importance as fundamental rights and enabling rights. For states, at the international level we should see support for the UN Binding Treaty on business and human rights. For EU member states, they should show support for the robust design and implementation of the EU directive on Sustainable Corporate Governance. At the national level, states should also develop mandatory due diligence legislation which includes enforcement mechanisms through liability and sanctions, and makes access to remedy available for victims of human rights abuses. This should also use the leverage of the state through procurement or other areas of the state/business nexus to incentivise and enforce implementation of the UNGPs. For</p>

	<p>businesses, it will be key to see that they have agreements on the design and implementation of due diligence with the relevant trade unions at the national, regional and global levels. They also should have implemented effective due diligence including: conducted adequate risk assessments based on saliency and specific risks related to their business and value chain, implemented appropriate efforts to mitigate these risks, and established processes to provide for remedy when needed. To measure the outcomes of these for both states and businesses, a core indicator is the percentage of workers covered by collective bargaining. This is a simple and quantifiable measurement providing an important insight into the outcome of the effectiveness of the company's due diligence regarding freedom of association and collective bargaining. States should measure the change over time in number of businesses headquartered or operating in their countries that report this metric and the levels reported.</p>
--	--

Survey response	
Organization	World Players Association, UNI Global Union
Stakeholder category	Trade union, worker representative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	<p>The World Player Association (World Players) is representing over 85,000 professional players (for the purpose of this submission the term 'player' and 'athletes' are used interchangeably) through over 120 affiliated player associations in over 70 countries. World Players' vision is to champion the dignity of the player and the humanity of sport. Both World Players and its affiliates have a longstanding track record of ensuring human and labour rights of players through collective bargaining. As a member of the Sport and Rights Alliance (SRA), World Players has additionally successfully advocated for sport governing bodies (SGBs) to respect human and labour rights of all involved in the delivery of sport and to combat corruption in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The experiences and lessons acquired by these engagements form the fundament of this submission.</p>
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the	<p>1) Sport Governing Bodies The widespread abuse of migrant workers on the construction sites for the FIFA World Cup 2022 in Qatar was the last straw plunging sport in a severe human rights crisis. Resulting widespread public outcry required Sport Governing Bodies (SGBs) to address their human rights impacts to retain sport's social license. Subsequently, a global consensus between all stakeholders, including SGBs and governments, emerged that in accordance</p>

<p>promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>with the UNGP Framework the human rights of all involved in the delivery of sport must be protected, respected, and access to effective remedy must be available for those adversely impacted. The vast majority of the witnessed responses by global sport, however, are orientated to answer the public relations crisis, failing to adopt a people-centred holistic reform approach and transforming global sport by embedding respect for human rights in the governance structures and providing for accountability. The fragmented and partial extent of progress becomes apparent when assessing the actions and measures taken so far (which is also illustrated here <a href="https://www.uniglobalunion.org/sites/default/files/files/news/protect_respect_and_remedy_ppt_summary_1.pdf">https://www.uniglobalunion.org/sites/default/files/files/news/protect_respect_and_remedy_ppt_summary_1.pdf</a>). Since 2016 only a handful of SGBs has adopted formal commitments to respect human rights. FIFA, UEFA and Commonwealth Sport have articulated comprehensive commitments to respect human rights, whereas those of the IOC and WADA do not even extend to player rights, as expressed in World Players Universal Declaration of Player Rights (<a href="https://www.uniglobalunion.org/sites/default/files/imce/universal_declaration_of_player_rights_14_dec_2017.pdf">https://www.uniglobalunion.org/sites/default/files/imce/universal_declaration_of_player_rights_14_dec_2017.pdf</a>). Furthermore, FIFA has adopted a comprehensive human rights policy and established an independent Human Rights Advisory Board, comprised of distinguished experts on business and human rights. Following the image crisis triggered by human rights violations associated with mega sporting events, the IOC, FIFA and UEFA have furthermore implemented human and labour rights requirements into the bidding requirements and hosting agreements for such events. Notwithstanding the importance of these commitments, they will remain meaningless paper exercises if not translated and embedded in the governance structures, daily operations and actions of those organisations. In light of the continued human rights violations in connection with sport, the Sport and Rights Alliance (SRA), an unprecedented global coalition of leading Non-Governmental Organisations (NGOs) and trade unions – including Amnesty International, the Committee to Protect Journalists, Football Supporters Europe, Human Rights Watch, the International Trade Union Confederation, ILGA, Transparency International Germany and World Players – emerged. It strives to embed human rights and anti-corruption across the world sport and to promote the rights and wellbeing of those most affected by human rights risks associated with the delivery of sport. The SRA has played a crucial role in the adoption of new human rights policies, and the inclusion of human and labour rights standards in bidding criteria and clauses of host agreements, such as the Host City Contract for the Olympic Games 2024 in Paris. 3) Centre for Sport and Human Rights Responding to before mentioned human rights crisis, multiple stakeholders combined their efforts under the umbrella of the MSE Platform, the predecessor of the Centre for Sport and Human Rights (CSHR), yielding a series of eleven comprehensive whitepapers (<a href="https://www.ihrb.org/news-events/news-events/sporting-chance-white-papers">https://www.ihrb.org/news-events/news-events/sporting-chance-white-papers</a>), detailing the required actions under the UNGP framework in relation to different sport actors. For the formalisation and institutionalisation of these extensive ongoing efforts the establishment of the independent CSHR in 2018 was a critical milestone. Through its Advisory Council, the CSHR brings together key stakeholders aiming for realigning sport with human and labour rights and providing for collective action.</p>
--	--

	<p>Based on its mission to ensure that the world of sport fully respects human rights, the CSHR has adopted the Sporting Chance Principles (<a href="https://www.sporhumanrights.org/en/principles">https://www.sporhumanrights.org/en/principles</a>), to which all members of the Advisory Council, including the governments, IGOs and SGBs, have committed. 4) International Governmental Organisations The described steps by SGBs and others have been accompanied by an evolving international policy framework providing guidance and benchmarks on the expected conduct for SGBs. Following their respective mandate, IGOs have increasingly acknowledged the responsibility of SGBs to respect human and labour rights in their policies. Important instruments include the UN General Assembly Resolution 73/24 (<a href="https://undocs.org/en/A/RES/73/24">https://undocs.org/en/A/RES/73/24</a>), the Points of Consensus resulting from the ILO Global Dialogue on Decent Work in the World of Sport (<a href="https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_735388.pdf">https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_735388.pdf</a>), the UNESCO Kazan Action Plan (<a href="https://unesdoc.unesco.org/ark:/48223/pf0000252725">https://unesdoc.unesco.org/ark:/48223/pf0000252725</a>), and the Council of Europe Tbilisi Declaration (<a href="https://www.coe.int/en/web/sport/text-of-the-tbilisi-declaration">https://www.coe.int/en/web/sport/text-of-the-tbilisi-declaration</a>). 5) States Besides commitments within the CSHR's Advisory Council, states are diffidently beginning to address their duty to protect in the context of sport. Measures taken are regularly limited to responding to large scale abuse scandals. The Larry Nassar scandal, which has shocked US sports and questioned the very legitimacy of the USOPC, for example, resulted recently in the adoption of the US 'Empowering Olympic and Amateur Athletes Act', providing for greater safeguards and state oversight. Other states, like the UK, Australia and Canada, have initiated truth commissions to shed light on historical abuse of athletes. In regard to the advancement of protecting players' economic rights, limited progress has been achieved through interventions and decisions of public anti-trust authorities against the abuse of power by monopolistic SGBs (for example here <a href="https://ec.europa.eu/competition/antitrust/cases/dec_docs/40208/40208_1384_5.pdf">https://ec.europa.eu/competition/antitrust/cases/dec_docs/40208/40208_1384_5.pdf</a> and here <a href="https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Missbrauchsaufsicht/2019/B2-26-17.html?nn=3591568">https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Missbrauchsaufsicht/2019/B2-26-17.html?nn=3591568</a>). Again, while these are important developments, they fall short of ensuring holistically that sport respects human rights.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>While sketched out actions and developments have been encouraging, significant gaps in the protection of human and labour rights in sport remain, resulting in continued human rights harm and suffering. 1) Sport Governing Bodies Assessing the progress of SGBs addressing their responsibility under the UNGPs, it becomes apparent that four years after the global consensus on the applicability of the UNGP Framework to SGBs emerged, the majority of them has not yet even started to address their responsibility. Additionally, the IOC, as the organizer of the Olympic Games and Head of the Olympic Movement, has not yet adopted a standing and binding commitment to respect player rights. Its Athletes' Rights and Responsibilities Declaration is not only failing to respect internationally recognized human rights and drafted in the absence of meaningful stakeholder engagement, but the document also constitutes a harmful and damaging</p>

reinterpretation of human rights and attempts to subject human rights to the sports paradigm. The same is true for WADA's Anti-Doping Rights Act. Both, the IOC and WADA missed an opportunity to lead by example and set new best practice examples on the effective protection of player rights. Generally, there is still a striking absence of standing and binding human rights commitments and implementation of human rights due diligence processes in global sport. Moreover, while more and more dedicated positions of 'Human Rights Managers' are created by SGBs, they fail to truly embed human rights at the strategic and political levels of their governance structures, which was also highlighted in the fourth report by FIFA's Human Rights Advisory Board (<https://img.fifa.com/image/upload/pyume2cahuue2szxgjq.pdf>). The deficiencies in addressing sports responsibility to respect are reinforced and exacerbated by the lack of access to effective remedy for rights holders. Access to effective remedy, the third pillar of the UNGPs, remains the forgotten pillar in sport, even by those SGBs who have started to address their responsibility. Based on extensive research, four gaps in relation to access to remedy have been identified: 1. Commitment by SGB, but no mechanism available, 2. Existing grievance mechanism is not fully human rights compatible, 3. Neither a Commitment nor a mechanism can be identified, and 4. Lack of willingness by SGBs to exercise their leverage to promote the protection of player rights. These gaps have been known for some time, however, progress in addressing them has been unbearably slow. Four years after Professor Ruggie's famous report to FIFA, emphasizing the need for reforming the Court of Arbitration for Sport (CAS) in light of the efficiency criteria set out in Principle 31 UNGPs, desperately needed action has not even commenced yet. In the absence of a transnational sport and human rights grievance mechanism, SGBs not only fail to promote external mechanisms but effectively bar players in many areas from entering state-based mechanisms by including 'compulsory arbitration' clauses in statutes and contracts. While inaction of SGBs to take necessary measures persists, the suffering of players continues. Harms produced under the current system are illustrated by the ongoing legal battle of Caster Semenya (World Players' position here) or the tragic and avoidable death of Iranian football fan Sahar Khodayari, who lacked standing to access a grievance mechanism in order to hold respective governing bodies accountable for ongoing gender discrimination by the Iranian Stadiums ban for women. The absence of effective mechanisms is also prevalent concerning abuse in global sport. As reports of longstanding systemic abuse in sport continue to surface resolute action to prevent abuse in sport and to deliver justice to survivors remains sparse. Only recent revelations by courageous athletes coming forward led to first tentative approaches by SGBs to address historical abuse. In this regard, Gymnastics Australia has engaged the Australian Human Rights Commission to review its operations in light of systemic abuse, and the German Olympic Committee issued a first public apology to survivors, acknowledging the suffered harm. These are important first, but still isolated, steps to address the systemic abuse all too present in sport. More needs to be done to deliver restorative justice, including reconciliation and compensation, to the many who have suffered around the world and to provide adequate protective measures. 2) States So far, States have been mostly inactive in addressing their obligation to protect players and to hold

	<p>SGBs accountable for their responsibility to respect human and labour rights. The sluggish progress of SGBs on embedding the UNGP framework in their operations and the continuing adverse impacts on player rights highlights the necessity for states to adopt mandatory human rights due diligence legislation applying to SGBs. Current initiatives on the EU and different national levels constitute essential steps to realize responsible business conduct, however, so far, the initiatives seem to omit SGBs as addressees in their scope of application. Thereby, the initiatives risk falling short of providing adequate protection for all affected persons by business activities. For the success of these critical legislative acts, it is essential to encompass sport as a multibillion-dollar industry within the scope. Additionally, existing national laws and regulations contribute to and exacerbate adverse impacts on player rights in many ways. Many states even provide extensive exemptions for sport and SGBs concerning the application of national legislation and fundamental guarantees. In numerous jurisdictions, players and athletes lack recognition as workers or employees and remain as a consequence outside the realm of critical (social) protective regimes. National jurisdictions also acknowledge and enforce sports' system of "compulsory" arbitration, which currently prevents players from accessing effective remedy. However, States not only fail to comply with their duty to protect but are increasingly directly violating athletes' human rights by targeting athletes exercising their right of freedom of expression and assembly and speaking out against injustice and oppression. This alarming trend of targeting athletes, needs to be answered by the unified and resolute action of the global (sports) community. 3) International Governmental Organisations Starting in the 1980s, an increasing number of International Governmental Organisations has concluded a multitude of agreements and memoranda of understanding with SGBs in the context of their respective mandates. The impact of most agreements, especially outside of the development context remain meagre, particularly as they do not provide for any kind of accountability. However, by concluding those agreements, International Governmental Organisations effectively legitimatise the organisation, structures and operations of the respective SGBs. Before entering any agreement, Governmental Organisations must conduct robust due diligence and provide for effective guarantees and safeguards that such agreements are not used to 'blue wash' sports human rights record.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Obstacles: The illustrated shortcomings to realize human rights in and through sport are none of capacity but of political willingness. Based on its transnational reach and the tremendous autonomy vested in SGBs, sport is arguably uniquely positioned to champion the respect for human rights and to provide access to effective remedy. To harnessing sports potential as standard-setter in the businesses and human rights discourse, a substantive, cultural and institutional change is required. These three elements of World Players Theory of Change reflect the opportunity and the challenge of this task. However, if SGBs continue to uphold their culture of monopolistic unilateral imposition of sporting regulations, without meaningful representation of and engagement with players and their legitimate representatives, sport cannot live up to</p>

the powerful and valuable ideals it proclaims. The current phenomenon to nurture the narrative of SGBs as purely ‘non-profit civil society organisations’ constitutes a disappointing sophistication of tactics by SGBs to avoid responsibility. Under the same narrative combined with the fallacious proclamation of ‘political neutrality’, SGBs fail to protect and back the brave athlete activist, which by calling out social injustices and violations of fundamental rights in their countries, become increasingly targeted by states. Witnessed reprisals for exercising their fundamental rights of freedom of expression and freedom of assembly range from arbitrary arrests of Yelena Leuchanka (<https://www.uniglobalunion.org/news/ioc-must-join-belarusian-athletes-ensure-human-rights-and-sport-are-protected>) and many others in Belarus to the horrific execution of Navid Afkari (<https://www.uniglobalunion.org/news/navid-afkari-how-sport-must-respond>). SGBs must respond to this bizarre form of political intervention by exercising their tremendous leverage over states, including by imposing sporting sanctions. Drivers: World Players strongly believes in the strength and transformative power of athletes’ voices. In the absence of SGBs making sufficient progress, athlete activism in its three dimensions of individual, collective and institutional activism has been a vital force in driving human rights reforms. Athletes have been and continue to be advocates for necessary change to ensure sport is a genuine force for good. Players from numerous sports demonstrated their support of and solidarity with the “Black Lives Matter” Movement sending a strong message on sports role to address systemic racism and social injustice. Athlete activists like Abby Wambach and Megan Rapinoe forced global sport to face its prevalent lack of gender equality, and Bilqis Abul-Qadir sacrificed her own career to campaign successfully against FIBA’s discriminatory hijab ban and to ensure following generations of players will not have to choose between their passion for basketball or their religion. Besides the individual action by athletes, collective activism through player associations constitutes another driver for change. The increasing professionalisation of sport has fostered a global surge of player associations. Environments in which athletes’ rights of freedom of association and collective bargaining are respected, have proven to be environments of prosperity in which athletes’ rights are effectively protected. In 2020 the critical role of player associations for providing an empowering environment for collective activism was underlined by the demonstrated leadership of World Player affiliates, particularly the NBPA and WNBPA, and their membership in regard to the #BLM movement. The third pillar of activism driving change is institutional activism. The SRA provides a forum in which affected groups are strongly represented, and their voices be heard. It functions as an international watchdog which is highlighting and addressing wrongs, expressing concerns of affected groups in a coordinated and effective way, while also providing human rights centred advice and recommendations. Priorities: Immediate priorities to address present shortcomings and gaps are: 1) For SGBs SGBs, particularly the IOC, must adopt a standing and binding human rights commitment, also applying to players, and provide access to effective remedy. To achieve access to effective remedy, SGBs need to abolish their system of forced arbitration for sport and human rights disputes and provide standing for affected groups regarding existing mechanisms. 2) For States States should exercise due diligence and identify how their

	<p>legislation can protect players more effectively. Necessary reforms include, besides others, the recognition of players as workers and employees, their corresponding rights of freedom of associations and collective bargaining, and their eligibility for social protection and benefits. Additionally, states must review their legislation reinforcing sports system of compulsory arbitration and ensure that state-based mechanisms are available and accessible for affected groups, including players. As emphasized by the UNGPs, states should adopt a smart mix to ensure SGBs compliance with their human rights responsibility, including by adopting mandatory HRDD legislation applicable to SGBs. The implemented legislation needs to provide adequate safeguards to hold SGBs accountable for their adverse impacts on human and labour rights. 3) For International Organisations As global sport is a transnational phenomenon, it is essential to ensure policy coherence and adequate monitoring and enforcement mechanisms on the international level.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Championing human rights presents a paradox challenge for global sport. Based on its extensive autonomy and independent judicial system, global sport has arguably all tools at hand to be a standard-setter in regard to business and human rights. However, in the absence of a cultural, systemic, and institutional change, sporting norms and interests will trump human and labour rights. To achieve the necessary change, nothing less than a shift of paradigm is required. Instead of the current corporation focused approach, SGBs need to adopt a people-centred perspective. For this transformation to take place, it is essential that sport changes from monopolistic and unilaterally acting institutions to a more inclusive environment, acknowledging the centrality of players and embracing their voices. Sports need to consider players as persons first, entitled to the same fundamental rights as all other persons, and players second. As a first essential step, SGBs must guarantee freedom of expression, and freedom of association and collective bargaining for players. Additionally, to ensure sports legitimacy, players should be given an equal say in the governance structures of SGBs. A player-centred governance approach would automatically lead to an increased focus on player physical, mental and social health and wellbeing, as well as player development and long-term personal growth, from which society as a whole will greatly benefit. There are numerous examples, particularly in the North American Leagues, where greater player representation and inclusion has served and ensured long-term sustainability.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key</p>	<p>The following lists reflect urgent and immediate priorities for SGBs and States, to address current impacts and to prevent further harm. Actions for SGBs: • become a member of the CSHR AC and commit to the SCP, • adopt a standing and binding human rights commitment, applying to and enforceable by all affected groups; • guarantee freedom of expression and freedom of association for players, • embed ongoing robust due diligence processes, • include human rights requirements in all bidding requirements and hosting contracts for major events, • establish an effective transnational sport and human rights grievance mechanism, and • reform existing mechanisms in light of Principle 31 UNGPs, and give</p>

actors in terms of meeting the UNGPs' expectations over the coming years?	standing to affected groups Actions for States: • implement legislation requiring SGBs do embed HRDD processes, providing for liability in case of non-compliance, • adopt legislation strengthening the representation and voice of players and their legitimate representatives in the governance, • recognize players as workers/employees with respective privileges, and • review arbitration legislation in light of effective protection of human rights in sport, and ensure access to effective remedy for all affected groups, including players
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	As part of its vision to champion the dignity of players and the humanity of sport, World Players, in collaboration with its affiliates and Loughborough University, has set up Project CARE (Census of Athletes Rights Experiences) ( <a href="https://worldplayerscare.co/">https://worldplayerscare.co/</a> ). The Project aims to ensure the promotion and protection of the rights of child athletes throughout the world of Sport. Project CARE will • provide systemic data on the extent to which rights of child athletes are violated, • gather representative testimonies how rights promotion or violations impacted on the performance and wellbeing of child athletes, and • provide for a coordinated and global effort to address sexual violence, harassment and abuse in sport. In the first step, a global study of the period of two years (Jan 2019 – Dec 2020) was conducted, which then, in a second step, will inform the drafting of a set of recommendations to SGBs, governments and player associations.

Survey response	
Organization	Central Organisation of Finnish Trade Unions SAK
Stakeholder category	Trade union, worker representative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	SAK represents over 900 000 workers in Finland.
1. Where has progress taken place in UNGPs implementation over the course of the last	-The UNGPs provide a strong reference point that binding measures should align with mandatory measure. There is promising movement toward mandatory measures across the EU in the form of the French duty of vigilance law and

<p>decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>developments in Switzerland, Germany, Finland, Luxembourg etc. - European civil society groups are actively involved in the UN process toward a binding treaty on business and human rights.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>-Moving beyond voluntary measures: without legal requirements that codify business and human rights standards like the UNGPs into hard law the majority of companies will not fully integrate their responsibility to respect human rights throughout their operations and value chains. Only small percentage of the business community is actively engaging in robust human rights due diligence processes but corporate respect for human rights has not yet achieved in scale. Even positive measures have been seen in several EU states, there is still significant pushback on binding mechanisms that would help ensure action and accountability on business and human rights, including from certain governments and companies that would prefer to focus on non-binding standards. - Special need to pay attention to respect for human rights in times of crisis: The current COVID-19 has posed threats to the progress made in embedding respect for human rights throughout business activities, both inside and outside of Europe. Besides 500 million full-time jobs lost too many companies rather than prioritize the rights of workers and other affected communities when giving recovery responses for the global pandemic they attempt to use force majeure to quickly pull out of contracts in ways that contribute to severe human rights risks. Many workers globally (eg. garment sector) are owed large amounts of unpaid salaries in the current context. Health and safety violations have increased. Threats to human rights defenders, including union leaders, have worsened. As highlighted in the UNGPs and the OECD Guidelines for Multinational Enterprises, international human rights standards apply across contexts, including in emergency health and economic situations. A lack of human rights due diligence at the mainstream level prior to the pandemic has also contributed to the severity of the current crisis, and governments and companies alike should double down on implementation of their human rights commitments to avoid further exacerbation of impacts. - Prioritizing human rights expertise, including the role of remedy, is essential: There is a big need for companies to build their internal human rights capacity on a substantive level. It is not enough that the business policies, processes, and practices are fulfilled when 'tick-the-box' in the format. There is a need to take exercises and move toward a deep-seated understanding of risks to people (not only the Company) across the business but also at the highest levels of decision-making in the companies. The basis of the responsibility is still not understood within most companies as being rooted in any involvement with negative human rights impacts through the company's operations,</p>

	<p>products, or services – whether through cause, contribution or linkage. Instead, many companies still insist on an approach whereby the company mistakenly sees its responsibility as being in relation to its financial leverage in a given situation or as part of a branding exercise. This leads companies to make wrong decisions putting significant limitations on individual and collective company action that enables access to remedy for affected rights-holders. Instead, many businesses still aim to avoid playing a role in the provision of remedy. And particularly when they are linked to a negative impact yet are still expected to use and build their leverage with business partners, governments and others to enable access to remedy. - Eliminating harmful corporate governance strategies: Companies should take active strategies to undermine respect for human rights including construction of deniability, setting up complex corporate structures, use of judicial strategies or lobbying for legislation that allows for corporate avoidance of liability, and setting up of contracts and agreements in ways that prioritize low costs over respect for human rights, such as in the context of purchasing practices.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>- Proactive and rights-respecting processes toward mandatory human rights due diligence that involves unions, civil society groups, and other affected stakeholders in the Global South to adequately address supply chain risks. - Forced labour and underpayment of workers and lack of workers rights in general. - Integration of UNDRIP and ILO 169 into UN outputs promoting implementation of the UNGPs, since the UNGPs do not specific reference these standards. - Wage theft and lack of safety nets for laid-off workers in the current COVID-19 context as heightened forced labour risks where changes to purchasing are rapidly increasing. - Application of the UNGPs in climate change debates and actions, including in the context of “just transitions of workforce ,” biodiversity, water, food security, climate refugees, and eg. environmental rights defenders. - Market monopolization by a relatively small number of large actors with dominant market power, such as in the garment and ICT sectors. - Impact of purchasing and procurement practices on respect for human rights, particularly on due diligence expectations. - Governments’ public procurement, where the State duty to protect human rights is still not systematically applied and preconditions and incentive structures around respect for human rights are not yet in plac (especially in relation to export credit agencies, subsidies, and the provision of effective grievance mechanisms and wages). - Heightened due diligence in conflict-affected areas, building on the Working Group’s report to the UN General Assembly on this topic and with a focus on prevention, accountability, and the development of State guidance. - State-led forced labour, including Uighur forced labour and labour camps in China, and how global brands are deeply linked to government-sanctioned programs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development</p>	<p>- Political will and urgent systemic change: It would be needed for the Working Group and other UN actors to weigh in more in terms of how markets should be reorganized for alignment with the UNGPs, including when it comes to legal changes in the EU and beyond. - Diligent monitoring and enforcement of existing laws and standards: Where mandatory</p>

<p>based on respect for human rights?</p>	<p>measures already exist, they should be continuously evaluated for effectiveness. Working Group could play a valuable role in assessing the quality of mandatory measures as they are developed, implemented, and reviewed, as well as where greater vertical and horizontal policy coherence is needed. - Government support for regional and international efforts toward binding measures - Specific guidance and case studies on the relationship between saliency and materiality: While business and human rights practitioners generally have an understanding of the relationship and distinction between these key concepts, broader understanding is still lacking and additional guidance from the Working Group and other UN actors is needed.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>- Alignment with the UNGPs: Mandatory measures run the risk of becoming “watered-down” versions of the expectations outlined in international standards like the UNGPs. Particular elements, such as full value chain coverage and a smart and sufficient mix of measures that include liability regimes, must be included in regulatory requirements. - Incorporation of incentive structures alongside liability regimes: Mandatory measures should be used to facilitate positive business practices as well as sanction negative business practices. Governments should contract with and otherwise support companies that engage in meaningful due diligence practices and enable access to remedy. - Clarification of the basis of responsibility: Mandatory measures need to be based in a duty of care that is the basis of the corporate responsibility to respect human rights, rather than the process of human rights due diligence.</p>

Survey response	
Organization	Swedish Confederation of Professional Employees (TCO)
Stakeholder category	Trade union, worker representative
Region	Western Europe
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and</p>	<p>A public inquiry was conducted on how the action plan HR and business had been implemented in Sweden 2017 and 2020 various stakeholders such as trade unions, CSO and companies are demanding obligatory HRDD through an EU Directive. The mobilisation among stakeholders has been a success in driving the demand for regulation which is very positive in our view.</p>

<p>practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The report from the inquiry in 2017 recommended that Sweden analyses the possibilities for a national legislation on HRDD. This has still not been done, The Swedish government has not been overly enthusiastic for regulation but the demand from companies, trade unions and CSO has now put the question on the agenda. Also several reports show that Swedish companies have challenges regarding HR in the activities around the world.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>We see a need for clearly adressed involvement of trade unions in the HRDD methodology in the regulatory text. The shrinking space for trade unions and CSOs in many countries is a challenge.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Inclusion in Trade Agreemenst, by th invstor community and other mechanisma and actors with decision making power. More efficient use of existing initiatives and tools sic as Global Deal, OECD guidelines for multinationals and the NCP.s.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the</p>	<p>In Europe, we see a EU directive as way forward. This would inviolve all european based companies and their undertakings worls wide. And as said above, investor guidelines should more cleray integrate Human rights</p>

UNGPs' expectations over the coming years?	
--	--

Survey response	
Organization	Akava - Confederation of Unions for Professional and Managerial Staff in Finland
Stakeholder category	Trade union, worker representative
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>The UNGPs provide a strong reference point that binding measures should align with mandatory measure. There is promising movement toward mandatory measures across the EU in the form of the French duty of vigilance law and developments in Switzerland, Germany, Finland, Luxembourg etc. European civil society groups are actively involved in the UN process toward a binding treaty on business and human rights.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>Moving beyond voluntary measures: without legal requirements that codify business and human rights standards like the UNGPs into hard law the majority of companies will not fully integrate their responsibility to respect human rights throughout their operations and value chains. Only small percentage of the business community is actively engaging in robust human rights due diligence processes but corporate respect for human rights has not yet achieved in scale. Even positive measures have been seen in several EU states, there is still significant pushback on binding mechanisms that would help ensure action and accountability on business and human rights, including from certain governments and companies that would prefer to focus on non-binding standards. Special need to pay attention to respect for human rights in times of crisis: The current COVID-19 has posed threats to the progress made in embedding respect for human rights throughout business activities, both inside and outside of Europe. Besides 500 million full-time jobs lost too many</p>

	<p>companies rather than prioritize the rights of workers and other affected communities when giving recovery responses for the global pandemic they attempt to use force majeure to quickly pull out of contracts in ways that contribute to severe human rights risks. Many workers globally (eg. garment sector) are owed large amounts of unpaid salaries in the current context. Health and safety violations have increased. Threats to human rights defenders, including union leaders, have worsened. As highlighted in the UNGPs and the OECD Guidelines for Multinational Enterprises, international human rights standards apply across contexts, including in emergency health and economic situations. A lack of human rights due diligence at the mainstream level prior to the pandemic has also contributed to the severity of the current crisis, and governments and companies alike should double down on implementation of their human rights commitments to avoid further exacerbation of impacts. Prioritizing human rights expertise, including the role of remedy, is essential: There is a big need for companies to build their internal human rights capacity on a substantive level. It is not enough that the business policies, processes, and practices are fulfilled when ‘tick-the-box’ in the format. There is a need to take exercises and move toward a deep-seated understanding of risks to people (not only the Companies) across the business but also at the highest levels of decision-making in the companies. The basis of the responsibility is still not understood within most companies as being rooted in any involvement with negative human rights impacts through the company’s operations, products, or services – whether through cause, contribution, or linkage. Instead, many companies still insist on an approach whereby the company mistakenly sees its responsibility as being in relation to its financial leverage in a given situation or as part of a branding exercise. This leads companies to make wrong decisions putting significant limitations on individual and collective company action that enables access to remedy for affected rights-holders. Instead, many businesses still aim to avoid playing a role in the provision of remedy. And particularly when they are linked to a negative impact yet are still expected to use and build their leverage with business partners, governments and others to enable access to remedy. Eliminating harmful corporate governance strategies: Companies should take active strategies to undermine respect for human rights including construction of deniability, setting up complex corporate structures, use of judicial strategies or lobbying for legislation that allows for corporate avoidance of liability, and setting up of contracts and agreements in ways that prioritize low costs over respect for human rights, such as in the context of purchasing practices.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>- Proactive and rights-respecting processes toward mandatory human rights due diligence that involves unions, civil society groups, and other affected stakeholders in the Global South to adequately address supply chain risks. - Forced labour and underpayment of workers and lack of workers rights in general. - Integration of UNDRIP and ILO 169 into UN outputs promoting implementation of the UNGPs, since the UNGPs do not specific reference these standards. - Wage theft and lack of safety nets for laid-off workers in the current COVID-19 context as heightened forced labour risks where changes to purchasing are rapidly increasing. - Application of the UNGPs in climate change debates and actions, including</p>

	<p>in the context of “just transitions of workforce ,” biodiversity, water, food security, climate refugees, and eg. environmental rights defenders. - Market monopolization by a relatively small number of large actors with dominant market power, such as in the garment and ICT sectors. - Impact of purchasing and procurement practices on respect for human rights, particularly on due diligence expectations. - Governments’ public procurement, where the State duty to protect human rights is still not systematically applied and preconditions and incentive structures around respect for human rights are not yet in plac (especially in relation to export credit agencies, subsidies, and the provision of effective grievance mechanisms and wages). - Heightened due diligence in conflict-affected areas, building on the Working Group’s report to the UN General Assembly on this topic and with a focus on prevention, accountability, and the development of State guidance. - State-led forced labour, including Uighur forced labour and labour camps in China, and how global brands are deeply linked to government-sanctioned programs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>- Political will and urgent systemic change: It would be needed for the Working Group and other UN actors to weigh in more in terms of how markets should be reorganized for alignment with the UNGPs, including when it comes to legal changes in the EU and beyond. - Diligent monitoring and enforcement of existing laws and standards: Where mandatory measures already exist, they should be continuously evaluated for effectiveness. Working Group could play an valauble role in assessing the quality of mandatory measures as they are developed, implemented, and reviewed, as well as where greater vertical and horizontal policy coherence is needed. - Government support for regional and international efforts toward binding measures. - Specific guidance and case studies on the relationship between saliency and materiality: While business and human rights practitioners generally have an understanding of the relationship and distinction between these key concepts, broader understanding is still lacking and additional guidance from the Working Group and other UN actors is needed.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>- Alignment with the UNGPs: Mandatory measures run the risk of becoming “watered-down” versions of the expectations outlined in international standards like the UNGPs. Particular elements, such as full value chain coverage and a smart and sufficient mix of measures that include liability regimes, must be included in regulatory requirements. - Incorporation of incentive structures alongside liability regimes: Mandatory measures should be used to facilitate positive business practices as well as sanction negative business practices. Governments should contract with and otherwise support companies that engage in meaningful due diligence practices and enable access to remedy. - Clarification of the basis of responsibility: Mandatory measures need to be based in a duty of care that is the basis of the corporate responsibility to respect human rights, rather than the process of human rights due diligence.</p>

## Civil society organizations and networks

Survey response	
Organization	CORE Coalition
Stakeholder category	Civil society organization
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This submission is made by the CORE Coalition, the UK civil society network on corporate accountability, with contributions from our partners - including the Business and Human Rights Resource Centre, Forest Peoples Programme, Amnesty International UK, Global Witness, Christian Aid and the Environmental Justice Foundation - who also jointly endorse the submission.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>1.1. There is a growing recognition of the UNGPs as a means to help business implement its responsibility to respect human rights. This is reflected in company reporting and other voluntary measures, such as benchmarking initiatives and multi-stakeholder initiatives. There has also been a proliferation of international standards to guide business conduct, including in challenging operating environments such as conflict situations. However, our view is that real progress must be measured by action taken to prevent corporate abuse that leads to a reduction in abuses - predominantly through binding rules and regulations by Government - and the delivery of justice for those affected by the adverse impacts of corporations, as further detailed in this submission. For instance, research has documented serious, widespread limitations of multi-stakeholder initiatives - these must not replace robust due diligence and actions by specific businesses and corporate actors, nor legislation by Government.</p> <p>1.2. Over 24 National Action Plans on business and human rights have been launched since 2011. This shows a positive trend towards greater policy coherence in this area and can help governments identify the gaps and measures necessary to fulfill their UNGPs commitments. The UK was the first state to produce a NAP in 2013, subsequently strengthened in 2016. However, the UK NAP – and NAPs globally - have proved wholly inadequate in generating decisive action and legislation. The UK's NAP is also undermined by policies in other areas that negatively impact human rights, such as trade and investment agreements (see 3.2.).</p> <p>1.3. In recent years there has been a global trend towards embedding the corporate</p>

responsibility to respect human rights (under the UNGPs) into law. The UK's Modern Slavery Act was part of the first generation of such laws. While the law has drawn greater attention to serious labour exploitation in the supply chains of UK companies, it does not require companies to take action on what they find, nor does it go beyond "modern slavery". Other states have since gone further than the UK, developing a "second generation" of laws which require for companies to take preventative action in the form of human rights due diligence (HRDD) - which has become the established means for companies to put their responsibility to respect human rights into practice; and a "third generation" of laws which combine such obligations with legal liability when companies breach their HRDD obligations and damage and loss occur (e.g., the French Duty of Vigilance law). Notably, the EU has committed to tabling a legislative proposal on human rights and environmental due diligence, including legal liability, in Q2 2021, to protect human rights and the environment, and to provide access to remedy for victims of corporate abuse.

1.4. At the international level, the second revised draft of the UN Treaty on business and human rights is more closely aligned with the UNGPs than previous drafts (see 2.5 for detail).

1.5. With regard to access to remedy, in recent years there has been an increasing trend of victims bringing civil claims against UK domiciled parent companies for the acts or omissions of their overseas subsidiaries. An evolution in UK common law now holds that UK parent companies can have a duty of care for harms caused by their overseas subsidiaries: the UK Supreme Court's landmark judgment in Vedanta Resources Plc and Konkola Copper Mines Plc v Lungowe and Ors found that a UK parent company can, under certain conditions, be held liable for the operations of its overseas subsidiary. A similar ruling in Okpabi v Shell, heard at the UK Supreme Court in June 2020, would consolidate the principles from the Vedanta case. These developments must now be matched by developments in UK legislation: we are calling for a "failure to prevent" law on corporate human rights and environmental impacts. Progress on access to justice could be derailed further after Brexit unless provisions to prevent the use of forum non conveniens are retained in UK law. Forum non conveniens "... has been used tactically by multinational defendants and frequently had the effect of obstructing, delaying and denying justice to human rights victims", as we argued in a previous submission to the European Commission.

1.6. There is an opportunity for the UNGPs 10+ project to support promising grass-roots developments that can help businesses and States ensure more effective implementation of the UNGPs. The project should highlight that indigenous peoples' rights - including the importance of customary, collective land rights - are a fundamental precondition to the success of various global initiatives related to business and human rights, including measures to promote sustainable supply chains that ensure 'no harm' to biodiversity and the global climate. Sources: [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_243201/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm) <https://www.ft.com/content/b72e3969-522c-4e83-b431-c0b498754b2d> <https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2019> [https://cleanclothes.org/file-repository/transparency\\_position\\_paper\\_ccc\\_2020-10-15.pdf/view](https://cleanclothes.org/file-repository/transparency_position_paper_ccc_2020-10-15.pdf/view)

	<p> <a href="https://www.christianaid.org.uk/sites/default/files/2019-05/Engendering%20Business%20and%20Human%20Rights_1.pdf">https://www.christianaid.org.uk/sites/default/files/2019-05/Engendering%20Business%20and%20Human%20Rights_1.pdf</a> <a href="https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak">https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak</a> <a href="https://www.corporatebenchmark.org/">https://www.corporatebenchmark.org/</a> <a href="https://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm">https://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm</a>; <a href="http://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm">http://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm</a> <a href="http://ciw-online.org/wp-content/uploads/MSI_Summary_Report_WSR_Sept2020.pdf">http://ciw-online.org/wp-content/uploads/MSI_Summary_Report_WSR_Sept2020.pdf</a> <a href="https://www.gov.uk/government/news/uk-national-plan-on-business-and-human-rights-update">https://www.gov.uk/government/news/uk-national-plan-on-business-and-human-rights-update</a> <a href="https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf">https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf</a> <a href="https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/OEIGWG_Chair-Rapporteur_second_revised_draft_LBI_on_TNCs_and_OBEs_with_respect_to_Human_Rights.pdf">https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/OEIGWG_Chair-Rapporteur_second_revised_draft_LBI_on_TNCs_and_OBEs_with_respect_to_Human_Rights.pdf</a> <a href="https://www.leighday.co.uk/LeighDay/media/LeighDay/documents/EU-Commission-submission-on-Owusu.pdf?ext=.pdf">https://www.leighday.co.uk/LeighDay/media/LeighDay/documents/EU-Commission-submission-on-Owusu.pdf?ext=.pdf</a> </p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>2.1. NAPs are plagued by major substantial shortcomings, as identified by ECCJ’s assessment in 2017, which remains pertinent and applies to the UK’s NAP. Specifically:</p> <ul style="list-style-type: none"> <li>• NAPs are overly vague and focused on describing past government actions and policies, rather than forward-looking measures to prevent harm;</li> <li>• They are primarily focused on a voluntary approach to the corporate responsibility to respect human rights - most action points focus on actions involving awareness-raising, training, research, and other voluntary measures;</li> <li>• Most action plans fail to sufficiently explore regulatory options to prevent corporate-related human rights abuses and ensure access to remedy;</li> <li>• Asymmetry between the vast benefits companies receive for promotion of business activities compared to measures to ensure that their activities do not harm human rights;</li> <li>• Focus on non-judicial mechanisms obscures consideration of domestic barriers to judicial remedy for victims of business-related human rights abuses.</li> </ul> <p>2.2. A lack of national and regional regulation to ensure prevention and remedy. The UNGPs’ status as a legally non-binding instrument means that they do not in themselves provide a mechanism to hold companies to account or to afford access to remedy for harms linked to business activity. The “smart mix” principle established in the UNGPs, requires states to act through “effective policies, legislation, regulations and adjudications”. The legislative aspect of the “smart mix” has taken a back seat to voluntary corporate measures to respect human rights, and the vast majority of countries lack a coherent legal framework that clarifies companies’ duties with respect to their human rights and environmental impacts throughout global business operations and supply chains. The European Commission’s Study on due diligence requirements through the supply chain, which showed that only one in three businesses in the EU are currently undertaking due diligence which takes into account all human rights and environmental impacts. The UNGPs have also been used by some businesses to stall discussions around mandatory legislation. As a consequence, victims of business-related harm</p>

face insurmountable obstacles to seek remedy in countries where powerful and influential parent companies are domiciled, while companies are able to claim progress on human rights through ultimately ineffective voluntary measures. In the UK, there has also been very little progress on criminal liability for corporate human rights harm. 2.3. Weak national legislation that is failing to change corporate behaviour or bring the UNGPs fully into law. The Modern Slavery Act is an example: The Transparency in Supply Chains (TISC) provision of the Act 'requires' companies only to disclose the steps they are taking to prevent slavery in their supply chains but does not oblige them to take any steps – and limited penalties for non-compliance have not been enforced. While some companies have used transparency measures as an opportunity to advance efforts to address modern slavery, many have not. The provision also does not cover the wide spectrum of impacts businesses have across a range of human rights and the environment. Recent Government proposals to enhance the TISC provision are recognised by civil society as inadequate. Binding legislation at the national level must require corporations take action to prevent human rights and environmental abuse. We are concerned that some other countries, such as Australia, are following suit in this limited approach to regulating large companies. 2.4. Businesses have interpreted the UNGPs in a limited way, impeding their implementation in practice. A major concern is the basic challenge of common, consistent and valid understanding and interpretation of key areas of the UNGPs – such as that of human rights due diligence. There is a danger that limited, or self-serving, interpretations by businesses become adopted widely and directly influence upcoming legislation. For instance, due diligence itself is increasingly referred by some businesses (and governments) as a “risk-based process”. This language is not reflected in the text of the UNGPs themselves and risks undermining the UNGPs by shifting the focus of “risk” from those affected to risks to the business itself. 2.5. A failure to get broad international support from the UK and other States for the UN Binding Treaty on Business and Human Rights. Many civil society organisations believe that the current draft is an improvement on previous drafts; while it also requires strengthening in key areas, such as those relating to the reversal of burden of proof, the extra-territorial obligation of states and the supremacy of the Treaty over domestic law in key areas. 2.6. Continued obstacles to legal remedy in the countries in which companies are domiciled. The majority of human rights abuses perpetuated by UK corporations take place in countries in the Global South, but legal and systemic barriers make it difficult for people in those countries to hold UK corporations to account for abuses that occur. Under-resourced and over-stretched judicial systems in both host and home States, huge disparities in resources available to companies versus rights-holders and potential claimants, the importance of foreign investment from foreign corporations and the accompanying political influence they can hold, and a variety of judicial and supply chain techniques by corporations to evade accountability contribute to this situation. As such, host states (particularly countries in the Global South) are frequently unwilling or unable to hold companies accountable for their human rights and environmental impacts and to provide adequate remedies for victims. According to a European Parliament report,

out of the 35 cases on which the study focused, only three resulted in a final judicial decision finding the defendant company liable. Out of the 20 civil law proceedings brought against companies, compensation was granted by the court in only two. In the UK, while cases against UK companies Vedanta and Shell were allowed to proceed to the UK Supreme Court, in a similar case against Unilever, Kenyan workers and families have been denied this route to justice. The inconsistencies in the decisions show that legislation needs to make clear what is expected from parent companies in order to protect the communities affected by their operations.

2.7. A lack of recognition of the interdependence between the environment and human rights. The UNGPs failed to recognise that human rights, environmental protection and climate change are interdependent. A safe, healthy and sustainable environment is essential to the fulfilment of the rights to life, food, health, water, housing, decent work, and other social and cultural rights. Many negative impacts caused by a business's actions or negligence, such as a dam collapse that devastates livelihoods, or intimidation and harassment of indigenous activists defending rainforests, demonstrate that human rights and the environment cannot be extricated from one another. An integrated approach to address social and environmental impacts and risks in business operations, supply chains, investment portfolios and business partnerships is necessary. Over the next decade, states, businesses and other parties must adapt to the challenges of the current decade and recognise that the realisation of human rights will be impossible without environmental sustainability and climate justice. The effects of not having an integrated approach forwarded by the UNGPs is already demonstrated by the way in which due diligence has been interpreted in the recent UK law on forest-risk commodities that focuses solely on deforestation impacts and risks (see 2.8 and 5.5. for further detail).

2.8. Increase in the harassment, torture and murder of human rights and environmental defenders. Global Witness has reported continued increases in the number of land and environmental defenders who are killed each year. This number is disproportionately made up of indigenous peoples defending their land, territories and resources; who are frequently the first victims of corporate activity pursued with no regard to the principle of free, prior and informed consent (FPIC). The FPIC standard has been incorporated into national laws in countries such as Bolivia, and has begun to be taken up in standard-setting by international organizations such as the World Bank's International Finance Corporation, the International Council of Metals and Mining, the Forestry Stewardship Council and Roundtable on Sustainable Palm Oil. However, regulation adopted by national legislatures, including the UK, fall short. In this regard, we are extremely concerned by the UK's recent statement at the UN General Assembly that it does "not accept the concept of collective human rights in international law" as well as the UK Government's proposal for due diligence on deforestation which currently contains no meaningful provisions related to indigenous peoples and forest communities' human rights, including to land, territories and resources. Without such provisions, the proposed UK law could have the unintended consequence of giving legitimacy to lands that have already been taken from customary land owners without respect for their land

rights and without their free, prior and informed consent. 2.9. Persistent challenges in applying the UNGPs to the finance sector. This relates to both the human rights due diligence requirement and the responsibility to provide remedy. Within the finance sector, there have been voluntary initiatives to give effect to the UNGPs such as the Dutch Banking Sector Agreement and that of the Thun Group of Banks. According to UNGPs architect Professor John Ruggie, the latter misconstrues the Guiding Principles in a corporate and investment banking context, since it "reinterprets core elements of the Guiding Principles in such a way that banks, by definition, do not "contribute to" harm except through their own activities." Financial organisations should be held accountable for their roles linked, contributing to or causing human rights and environmental harms; both directly - for example, a bank or investor investing in an agribusiness involved in land grabs or that produces from farms using child labour - and indirectly - for example, funding infrastructure projects that displace indigenous populations. Financial sector organisations are increasingly recognising that the Paris Climate Agreement and accompanying increased pressure through legal action on human rights and climate, the increased focus on biodiversity loss (a now recognised driver of new zoonotic diseases), and the increased availability of information and pressure on human rights - is rapidly shifting their operating context. A clear and predictable compliance environment would better enable financial organisations to adapt to these shifts. 2.10. Persistent challenges in applying the UNGPs to the end use of companies' products and services – a neglected area of research and policy with regard to Pillar II of the UNGPs, reflected in a large accountability gap with regard to Pillar I. While user-chain responsibility is the flip-side of supply chain responsibility and an equally important element of the value chain of companies, there is much less clarity as to what is expected of companies to ensure that their products and services do not contribute to human rights violations, or of the steps required when a company's products or services are linked to abuses via a business relationship. This is evident in the financial sector as well as other sectors where products and services are linked to multiple uses. For example, the pharmaceutical industry has supplied drugs which have been used by States to administer the death penalty. Automotive manufacturers have sold pick-up trucks to dealers in conflict zones that have been used by armed groups. Earth removing equipment has been sold to agents in situations where they have been used for the demolition of homes in violation of peoples' rights. In all these cases, issues of knowledge, foreseeability and proximity to human rights violations come into play. Companies must take more preventive action to ensure their products are not used for such purposes, including the use of smart technology and contractual clauses that impose conditions on purchasers relating to the resale and use of products. There has been a tendency for companies exporting dual use products, especially within the armaments industry, to hide behind governmental controls, assuming that it is acceptable to sell products that have received export licenses or that are not subject to export controls. This needs challenging with regard to all three Pillars of the UNGPs. 2.11. The potential of sustainable public sector procurement to address risks of modern slavery in corporate supply chains has not been

sufficiently harnessed. Governments are mega-consumers of many manufactured products and services. However, little consideration has been given to the human rights impacts of the state (central and local) and other public bodies. This includes export credit and development finance agencies. This lack of policy coherence undermines fulfilment of the UNGPs. 2.12. The failure of the UNGPs to fundamentally change business behavior. The false notion that negative impacts on human rights and the environment can be externalised costs for communities, workers and nature, so long as profit and shareholder value increases, remains the default position of business almost 10 years after the adoption of the UNGPs. Embedding the UNGPs into law must be coupled with a rebalancing of corporate governance away from a singular focus on shareholder interests. See section 4 – in particular, 4.1. – for further detail. 2.13. Insufficient communication of the UNGPs to rights-holders. Independent and reliable information needs to be made available in languages and formats understandable to rights-holders, including those whose cultures come from an oral tradition. Many of those on the front line of rights abuses have little knowledge of their own rights, have never heard of the UNGPs, do not have the resources to gain in-depth technical knowledge and are not clear on what the concept of due diligence is, let alone how the process could integrate their own self-determination and decision-making. Those that do have more in-depth knowledge on their rights and the complex workings of supply and value chains, perhaps due to seeking justice on specific violations they are experiencing, still require easily accessible information on the UNGPs.

Sources: <https://corporatejustice.org/news/2245-a-critical-assessment-of-national-action-plans-on-business-and-human-rights-2017-update> <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en> [https://corporate-responsibility.org/wp-content/uploads/2020/10/Civil-society-joint-response-to-Government-TISC-response\\_FINAL-261020.pdf](https://corporate-responsibility.org/wp-content/uploads/2020/10/Civil-society-joint-response-to-Government-TISC-response_FINAL-261020.pdf) <https://www.business-humanrights.org/en/blog/victims-rights-under-the-second-revised-draft-treaty-on-business-human-rights/> <https://www.mindthegap.ngo/> [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/603475/EXPO\\_STU\(2019\)603475\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/603475/EXPO_STU(2019)603475_EN.pdf) <https://corporate-responsibility.org/mixed-messages-supreme-court-parent-company-liability/> <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/> <http://webtv.un.org/search/third-committee-14th-meeting-general-assembly-75th-session/6211097852001/?term=&lan=English&cat=Meetings%2FEvents&sort=date&page=4> [https://corporate-responsibility.org/wp-content/uploads/2020/10/CORE-response-to-DEFRA-consultation\\_FINAL\\_021020.pdf](https://corporate-responsibility.org/wp-content/uploads/2020/10/CORE-response-to-DEFRA-consultation_FINAL_021020.pdf) [https://www.fian.org/files/files/The\\_Human\\_and\\_Environmental\\_Cost\\_of\\_Land\\_Business-The\\_case\\_of\\_MATOPIBA\\_240818.pdf](https://www.fian.org/files/files/The_Human_and_Environmental_Cost_of_Land_Business-The_case_of_MATOPIBA_240818.pdf) <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/bolivia-pueblos-ind%C3%ADgenas-iniciar%C3%A1n-acciones-legales-nacionales-y-ante-la-comisi%C3%B3n-interamericana-de-derechos-humanos-contra-el-proyecto-hidroel%C3%A9ctrico-chepete-el-bala/> <https://www.inclusivedevelopment.net/anz-agrees-to-landmark-settlement-with-cambodian-farmers-displaced-by->

	<p>sugar-company-it-financed/; <a href="http://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2020/07/Global-trends-in-climate-change-litigation_2020-snapshot.pdf">http://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2020/07/Global-trends-in-climate-change-litigation_2020-snapshot.pdf</a> <a href="https://reprieve.org/lethal-injection/helping-pharmaceutical-companies-stop-medicines-used-kill/">https://reprieve.org/lethal-injection/helping-pharmaceutical-companies-stop-medicines-used-kill/</a> <a href="https://www.unav.edu/web/global-affairs/detalle/-/blogs/toyota-wars-and-the-next-generation-in-counter-insurgency-strategies">https://www.unav.edu/web/global-affairs/detalle/-/blogs/toyota-wars-and-the-next-generation-in-counter-insurgency-strategies</a> <a href="https://www.theguardian.com/business/2020/oct/12/jcb-challenged-over-machinery-used-to-demolish-palestinian-homes">https://www.theguardian.com/business/2020/oct/12/jcb-challenged-over-machinery-used-to-demolish-palestinian-homes</a> <a href="https://corporate-responsibility.org/wp-content/uploads/2018/09/ICAR-Core-Report-Who-Made-Our-Clothes-UK-Public-Sector-Apparel-Procurement.pdf">https://corporate-responsibility.org/wp-content/uploads/2018/09/ICAR-Core-Report-Who-Made-Our-Clothes-UK-Public-Sector-Apparel-Procurement.pdf</a> <a href="https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3170285">https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3170285</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>3.1. Enabling corporate accountability by converting the standards included in the UNGPs into legally binding and enforceable standards on human rights and the environment, including legislation on mandatory human rights and environmental at the national level, with liability for harms that companies or the entities that they exercise control over, cause, contribute to or are directly linked to. In the absence of developing such urgently needed regulatory frameworks, there are limited incentives for companies to prioritise human rights and environmental issues over commercial interests. A further obstacle is the risk of weak legislation on mandatory due diligence that puts the emphasis on the process, rather than the outcomes – leading to a tick-box approach by business. To address this risk, due diligence must be seen as the means rather than the purpose of legislation – the purpose being the protection of human rights and the environment (further elucidated under 5.1). 3.2. Preventing corporate capture of state power and the collusion of states and private actors that inhibits corporate accountability. Corporate lobbies pushing back initiatives to regulate business activities substantially out-number those representing the public and/or environmental interest, i.e., NGOs, trade unions, academics, victims, and consumers. Businesses have also aligned with repressive states to undermine defenders and communities. States duties to protect human rights in the context of business and human rights, as established in the UNGPs, are under threat from trade and investment agreements. Investor-state dispute settlement (ISDS) provisions are of particular concern. As noted by 10 UN Experts in 2015, ISDS threatens “the regulatory function of many States and their ability to legislate in the public interest” and may have a “detrimental impact... on the enjoyment of human rights as enshrined in legally binding instruments, whether civil, cultural, economic, political or social”. In the UK, the Government’s ongoing pursuit of trade deals during the pandemic and without a Trade Bill offering full democratic scrutiny of trade and investment agreements by Parliament raises severe concerns for future impacts on human rights. 3.3. Alongside legislation, addressing barriers to legal routes to justice for victims of corporate abuse, including under resourced judicial systems and an imbalance in power. Practical barriers in the UK include the cost for overseas claimants in bringing a claim and the risk of low financial rewards (the impact of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act; alongside the EU Rome II Regulation (Rome II);</p>

	<p>lack of resources and expertise among government prosecutors; and the risk of the return of forum non conveniens after the UK leaves the EU. See 5.3. for specific recommendations on this area. Sources: <a href="https://www.mindthegap.ngo/harmful-strategies/utilising-state-power/avoiding-regulations-through-corporate-lobbying/">https://www.mindthegap.ngo/harmful-strategies/utilising-state-power/avoiding-regulations-through-corporate-lobbying/</a> <a href="https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031">https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031</a> <a href="https://corporate-responsibility.org/wp-content/uploads/2020/11/CORE-Coalition-submission-Justice-Committee-inquiry-into-the-future-of-legal-aid-FINAL.pdf">https://corporate-responsibility.org/wp-content/uploads/2020/11/CORE-Coalition-submission-Justice-Committee-inquiry-into-the-future-of-legal-aid-FINAL.pdf</a> <a href="https://www.business-humanrights.org/en/big-issues/corporate-legal-accountability/barriers-to-access-to-remedy/">https://www.business-humanrights.org/en/big-issues/corporate-legal-accountability/barriers-to-access-to-remedy/</a></p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>As above, a chronic lack of corporate accountability for human rights abuses and environmental harm, despite well-documented abuses – which stands alongside increasing corporate power and an ability to undermine state duties to protect human rights, through provisions including ISDS. Additionally: 4.1. The primacy of economic growth, which stands at odds with social wellbeing, environmental sustainability and climate justice. Indicators such as the Human Development Index fail to recognise a strong correlation between countries’ high income levels and negative environmental impacts. From child labour to the absence of a living wage, from oil spills to mass deforestation, from harassment of human rights defenders to land grabbing – profits from these activities are accounted for as economic growth, with the assumption that ‘decent work’ is attached to GDP growth (see for instance, SDG 8). The call for continued global economic growth equivalent to 3% per year is incompatible with necessary action to protect the climate. An example in national law is Section 108 of the UK Deregulation Act 2015 which requires any person exercising a regulatory function to have “regard to the desirability of promoting economic growth”. This model has been sustained by harmful economic policies on trade, investment, tax injustice and other areas, and by financing models adopted by Public Development Banks. 4.2. Mainstream business models – and our dominant economic model - prioritise profits and shareholder value at the expense of human rights, the environment and climate resilience. Research shows the alarming increase in shareholder profits at the expense of workers, society and the environment, alongside increasing monopoly and monopsony power. Calls for a move away from a singular focus on shareholders’ interests have come from the British Academy’s Future of the Corporation project, the Business Roundtable (a US association of leading chief executives) and the Financial Times ; with the founder of the World Economic Forum also calling for a move away from neoliberalism. Lead firms wield vast power over their suppliers to define the contractual terms of production to their advantage, pushing social and environmental impacts further down the supply chain. The COVID-19 crisis has laid bare the inherent flaws of the current economic system and exacerbated the unfair purchasing and labour practices (e.g., low prices, mass production and ever shorter lead-times; the move to sub-contracted rather than directly employed labour; repression of trade unions and freedom of association; the offloading of responsibilities</p>

	<p>onto suppliers), and power of big business. For instance, fashion brands responded to the crisis by invoking the pandemic as a way to cancel or suspend orders and to dishonour existing contractual obligations, protecting shareholders over human rights. This has destroyed the livelihoods of millions of underpaid garment factory workers in countries like Bangladesh and Cambodia, where there is no adequate social security safety net and where, in many instances, the suppliers have had to incur the financial risk of production. 4.3. Systemic inequalities within and in between countries. For instance, post-colonial racial injustices are central to the underdevelopment and exploitation of natural resources and people in the Global South. Inequality in land ownership, which is often central to social and economic inequality, environmental degradation and conflict, has led to a privileged land-owning elite acting with impunity. Centuries of discrimination, prejudice and active suppression of indigenous people - and their rights their customary lands, territories and resources - exacerbates unequal power dynamics and human rights violations associated with business operations and investments. Home countries of most multinational corporations – mainly in the Global North - externalise the costs of human rights abuses and environmental damage generated by their business operations, the majority of which happen in the Global South. Sources: <a href="http://hdr.undp.org/en/content/2019-human-development-index-ranking">http://hdr.undp.org/en/content/2019-human-development-index-ranking</a> <a href="https://sdgs.un.org/goals/goal8">https://sdgs.un.org/goals/goal8</a> <a href="https://www.tuc.org.uk/research-analysis/reports/how-shareholder-first-business-model-contributing-inequality">https://www.tuc.org.uk/research-analysis/reports/how-shareholder-first-business-model-contributing-inequality</a> <a href="https://www.thebritishacademy.ac.uk/programmes/future-of-the-corporation/">https://www.thebritishacademy.ac.uk/programmes/future-of-the-corporation/</a> <a href="https://www.ft.com/content/3732eb04-c28a-11e9-a8e9-296ca66511c9">https://www.ft.com/content/3732eb04-c28a-11e9-a8e9-296ca66511c9</a> <a href="https://www.weforum.org/agenda/2020/10/coronavirus-covid19-recovery-capitalism-environment-economics-equality/">https://www.weforum.org/agenda/2020/10/coronavirus-covid19-recovery-capitalism-environment-economics-equality/</a> <a href="https://www.business-humanrights.org/en/big-issues/covid-19-coronavirus-outbreak/supply-chain-workers/">https://www.business-humanrights.org/en/big-issues/covid-19-coronavirus-outbreak/supply-chain-workers/</a></p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Placing accountability at the centre of the UNGPs – from the UN Working Group (UNWG), to States, to enterprises and investors, to NGOs and other collective bodies involved in the advancement of the UNGP project – should be the main target of the next decade. 5.1. National Governments and regional authorities must implement binding legislation to mandate companies to undertake combined 'human rights and environmental due diligence' across their supply chains and operations, and to hold companies to account when they fail to prevent human rights abuses and environmental harms, including civil and criminal liability provisions. In the UK, such a law would build on and consolidate the advances in UK case law outlined above, give domestic legal force to the UNGPs, and help to overcome jurisdictional, legal and procedural barriers that prevent many civil cases against companies from being taken. We urge that legislation is based on a duty of care with the standard being the action of companies, rather than the process of human rights due diligence. The voices, knowledge and perspective of people affected by and vulnerable to corporate human rights impacts must be central to the design and implementation of legislation. While legislation alone will not have the capacity to deliver change in the systemic challenges listed above, it is a beacon to speed and scale up UNGP</p>

implementation and contribute to a just and equitable economic recovery from the COVID-19 crisis. The UNGPs clearly recognise the principle of extraterritorial jurisdiction – including direct legislation and enforcement - under the commentary to UNGP 2. 5.2. Active State support for the UN Binding Treaty on Human Rights. 5.3. UN and State action on access to remedy for victims of human rights abuse. The UNWG should collect systemic data from the victims of human rights abuses where a business claims to have supported ‘remedy’ or used its leverage in voluntary systems – to understand how rights holders perceive the success and accountability of outcomes. In tandem, States must urgently provide more resources for judicial systems, remove or amend legislation and policies that block effective access to remedy for victims of harm by businesses in their jurisdictions (see 3.3 for further detail). 5.4. Increased participation and meaningful consultation between business, governments and human rights defenders, including indigenous peoples. Land, human rights and environmental defenders, including indigenous peoples, traditional and local communities, should be meaningfully involved at all stages in the development of legislative initiatives – including right from the start - to ensure that legislative developments do not leave different rights holders behind. Indigenous peoples are increasingly setting out their free, prior and informed consent rules and local laws which detail norms around their right to prior consultation and consent, and to self-determination related to their land, territory and resources. States and businesses must respect these community land rights and FPIC rules where they already exist, and where not available ensure funding is available for indigenous peoples and their representatives to independently formulate them. Clear recognition that indigenous peoples have the right to development as determined by their own desires, aspirations and worldview, alongside their right to self-determination and self-governance, is fundamental for a rights-based sustainable development agenda, in line with the Sustainable Development Goals (SDGs). 5.5. Corrective action must be taken to recognise the interdependence between human rights, the environment and climate in the implementation of the UNGPs. The UNWG must provide clear and coherent guidance to states and businesses on the linkages between human rights, the environment and climate, acknowledge the strategic priority of the environment in international cooperation for institutions and parties to the Paris Agreement on climate change, and promote compliance with multilateral environmental agreements. A joined-up approach to tackling human rights and environmental harm in corporate supply chains must be integrated into legislative initiatives, such as the EU legislative proposal on mandatory human rights and environmental due diligence and the UK’s deforestation due diligence proposal. 5.6. The UNWG should provide more guidance on the types of actions required by the financial sector that affect rights holders and States should integrate the financial sector in legislative and other provisions – for instance the UK’s deforestation due diligence proposal, the EU legislative proposal on mandatory human rights and environmental due diligence and the UN Treaty on Business and Human Rights. 5.7. Public sector procurement should be more effectively harnessed as a lever to ensure corporate respect for human rights. Only companies that fulfil their

	<p>human rights and environmental due diligence should qualify for public procurement and export credit support. There should also be consideration of the inclusion of public sector procurement in binding legislation on human rights and environmental due diligence, with a carefully considered and tailored approach (for instance, on penalties) and adequate and support and resourcing for public sector organisations, particularly given that public services around the world have been hard hit by cuts to funding in the last decade. 5.8. A more systemic and holistic approach to business and human rights that includes a rebalancing of corporate governance away from a singular focus on shareholder profit and towards a model elevating human rights and environmental protection as a primary goal, and which recognises the impact of trade, tax and other economic policies in enabling corporate impunity. The UK must allow full parliamentary scrutiny of trade agreements alongside a termination of Investor-State Dispute Settlement (ISDS) clauses and Bilateral Investment Treaties the UK is party to in order to guarantee the Government retains its right to regulate – to protect human rights and address future crises. 5.9. Ensure the UNWG is transparent and well-funded, and that those resources are used to better support CSOs, people and communities affected by corporate abuses to be active participants in all decision-making processes.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>A summary of our submission is as follows. In the past decade, the UNGPs have provided an authoritative framework - “Protect, Respect and Remedy” - for governments and business enterprises to prevent, address and remedy the adverse human rights impacts of business activities. However, the UNGPs often have no force in domestic law and are not adequately protecting people or the environment from corporate abuse: forced labour in global supply chains generated \$150 billion in profit according to the ILO ; global deforestation increased by 77% in 2020 ; 304 human and environmental defenders protecting their lands from corporate exploitation were killed in 2019 alone ; and more than 1,000 garment workers were killed or seriously injured in factory disasters in 2020. Abuse in the global operations, products, services and supply chains of UK and other businesses disproportionately impact vulnerable groups such as women, children and migrant workers. The UNGPs called for a ‘smart mix’ of measures – national and international, mandatory and voluntary. However, to date, we have failed to see such a smart mix. Instead, measures have been largely voluntary, with those touted as mandatory often lacking the necessary means to really be such, as in the case in the UK Modern Slavery Act 2015. Voluntary initiatives have failed to significantly change the way companies manage their social and environmental impacts - while enabling companies to claim they have. In the absence of strong laws there has been a ‘race to the bottom’ on business and human rights. The need for well-regulated supply chains has been made more evident by the COVID-19 pandemic, which has exposed structural injustices in our society and economy and the burden of risk carried by workers (in particular, women and migrant workers) and other groups – such as indigenous communities – in supply chains. Our submission focuses on the following: a) PILLAR 1: The failure of</p>

	<p>NAPs and the need for binding national regulation that holds companies accountable for their impacts on human rights and the environment (1.2-1.3; 2.1-2.3; 3.1; 5.1), and a UN Binding Treaty on Business and Human Rights (1.4., 2.5., 5.2.)</p> <p>b) PILLAR 3: Ongoing obstacles to legal remedy for victims of corporate human rights abuse, despite crucial developments in UK common law (1.5, 2.6, 3.3., 5.3)</p> <p>c) Overarching issues:</p> <ul style="list-style-type: none"> <li>o The interdependence of human rights and the environment (2.7, 5.5.; see also 4)</li> <li>o The need for greater protection of human rights defenders and fulfilment of indigenous peoples' rights (1.6, 2.8, 2.13, 5.4)</li> <li>o Neglected areas in UNGPs implementation: the financial sector, end use of products and services, and public procurement (2.9-2.11, 5.6, 5.7)</li> <li>o The need for a more holistic approach which tackles the primacy of economic growth, damaging dominant business models and harmful state policies in other areas that inhibit corporate accountability such as trade and investment (2.12, 3.2., 4., 5.8.).</li> </ul> <p>Sources:  <a href="https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm">https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm</a>  <a href="https://www.ft.com/content/b72e3969-522c-4e83-b431-c0b498754b2d">https://www.ft.com/content/b72e3969-522c-4e83-b431-c0b498754b2d</a>  <a href="https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2019">https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2019</a> <a href="https://cleanclothes.org/file-repository/transparency_position_paper_ccc_2020-10-15.pdf/view">https://cleanclothes.org/file-repository/transparency_position_paper_ccc_2020-10-15.pdf/view</a>  <a href="https://www.christianaid.org.uk/sites/default/files/2019-05/Engendering%20Business%20and%20Human%20Rights_1.pdf">https://www.christianaid.org.uk/sites/default/files/2019-05/Engendering%20Business%20and%20Human%20Rights_1.pdf</a> <a href="https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak">https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak</a></p> <p>We would be happy to also provide a version of this submission in Word or PDF format.</p>
--	---

Survey response	
Organization	European Coalition for Corporate Justice (ECCJ)
Stakeholder category	Civil society organization
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	Input in consultation with coalition members

<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>In the past decade, the UNGPs have inspired various instruments to operationalize the three pillars “Protect, Respect and Remedy”, globally recognized as an authoritative framework for the respective duties and responsibilities of Governments and business enterprises to prevent, address and remedy adverse impacts of business activities. International standards such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; due diligence practical frameworks such as the OECD Due Diligence Guidance for Responsible Business Conduct; the 2018 report of the UN working group on business and Human Rights to the UN General Assembly; and a number of sectoral and gender guidelines, rankings, benchmarks (1) , company policies and reporting frameworks (2) , all build upon the Principles and their compliance. The second revised draft of the UN Treaty on business and human rights is also more closely aligned with the UNGPs making it the major international effort to legislate binding rules based on the Principles. At regional level, notably the EU has committed to a legislative proposal on human rights and environmental due diligence in 2021(3) after a recent European Commission study on due diligence requirements through the supply chain recognized that voluntary measures have proved to be vastly insufficient to significantly change the way companies manage their social, environmental and governance impacts and that urgent legislation is needed to improve access to justice for victims of corporate-related human rights abuses and environmental damage (4) . Specifically related to pillar three, the European Parliament published a study on Access to legal remedies for victims of corporate human rights abuses in third countries (5). The Parliament is also currently preparing a legislative opinion to feed into the Commission’s legislative proposal next year. Whilst the European Commission has not yet developed a long-awaited EU Action Plan on Business and Human Rights, that would provide a systematic and coherent approach to the UNGPs’ implementation in the EU, there are indications such a plan may be on the agenda soon, with the upcoming legislation on mandatory human rights and environmental due diligence as its centre piece. The, over 24 National Action Plans(6) that have been launched (and many more in development) are an important tool to push governments to do a robust assessment of the gaps, identify options and initiate concrete measures to fulfil their duties and can be monitored against the UNGPs. However, the inadequacy and voluntary character of the measures taken in the plans demonstrate that more decisive action towards legislation at national level is necessary. Moreover, several European countries and non-European countries(7) , have adopted or started to consider legislation that embeds elements of Human Rights Due Diligence (HRDD) into law to prevent human rights and environmental impacts throughout their global business operations(8) . Broader support from the business community(9) also reflect a growing recognition of the UNGPs as a means to help business implement their responsibility to respect human rights. There is evidence that public debates on the topic and the adoption of laws, such as the French Duty of Vigilance, have already triggered a change in companies’ perception of the relevance of taking the human and environmental impacts of their operations into account. ECCJ frequently updates a document collecting an updated list of key policy and</p>
---	--

legislative developments in the field of mandatory HRDD and parent company liability that show the emergent trend towards binding legislation at EU and Member State level(10) . With caution, as there is a very long way to go, perhaps the most progress has been done around the legitimization and universalization of human rights due diligence as the foundation for the regulation of business conduct, which enables companies to put their responsibility to respect human rights into practice. The OHCHR has detailed that binding HRDD legislation can provide clarity with respect to companies' duties, create a level playing field, give human rights due diligence clear legal force and enhance access to remedy for victims of corporate misconduct(11) . Legislation in this field has evolved significantly, from transparency laws that require companies to disclose their due diligence efforts(12) , followed by laws imposing a duty to implement full HRDD procedures, to what are now called the "third generation" of laws(13), in which this substantive HRDD obligation is coupled with corporate civil liability for harm caused in breach of a company's due diligence obligations. While increasing corporate transparency have paved the way to a more coherent and balanced legal framework, only the third generation of HRDD laws can meaningfully address the pressing governance gaps that will be mentioned in the following section. ENDNOTES (1) <https://www.corporatebenchmark.org/> (2) <http://www.ungpreporting.org/> (3) <https://home.extranet.ep.europa.eu/info/law/better-regulation/have-your-say/initiatives/,DanaInfo=ec.europa.eu,SSL+12548-Sustainable-corporate-governance> (4) <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en> (5) [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO\\_STU\(2019\)603475](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2019)603475) (6) <https://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx> (7) On non-European States, see California Transparency in Supply Chains Act 2010 (US); Dodd–Frank Act, sec 1502, 2010 (US). (8) The BHRinlaw.org website provides a global overview of legislative and case-law developments in the field of mandatory Human Rights Due Diligence and parent company liability. (9) List of large businesses and associations that support human rights due diligence regulation: <https://www.business-humanrights.org/en/latest-news/eu-mandatory-due-diligence/> (10) <https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf> (11) Report of the UN High Commissioner on Human Rights, "Improving accountability and access to remedy for victims of business-related human rights abuse: The Relevance of human rights due diligence to determinations of corporate liability", June 2018. (12) Example of transparency or reporting frameworks in Europe are the UK Modern Slavery Act (2015), Provision 54, Transparency in Supply Chains, and the EU Non-Financial Reporting Directive (2014). (13) The French Duty of Vigilance Law (2017) is the most notorious example, while Switzerland is also discussing a legislative proposal which establishes mandatory HRDD and corporate liability.

<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>2.a Lack of effective prevention and remedy The prevention of human rights and environmental impacts linked to global business operations, and the need to address the multiples obstacles faced by victims of corporate abuse to access remedy remain major gaps. National Action Plans (NAPs) for instance, though a positive trend towards greater policy coherence in this area, are plagued by major substantial shortcomings as identified by ECCJ’s assessment in 2017, which remain pertinent to contemporary versions(14) :</p> <ul style="list-style-type: none"> <li>• NAPs are overly vague and mainly focused on describing past government’s actions and policies, thereby hindering adequate stakeholder monitoring of the NAP’s implementation and the capacity of the plan to ensure a systemic and effective approach to business and human rights.</li> <li>• Most action plans fail to sufficiently explore regulatory options to prevent corporate- related human rights abuses and ensure access to remedy.</li> <li>• The majority of assessed NAPs are primarily focused on a voluntary approach to the corporate responsibility to respect human rights. Most action points focus on actions involving awareness-raising, training, research, and other voluntary measures.</li> <li>• This insufficient approach to the state regulatory capacity presents a major hurdle to addressing the persistent governance gaps in dealing with business human rights and environmental impacts. However, the NAPs’ assessment also reflects a general situation of asymmetry with respect to government regulation of businesses’ rights to conduct their operations, and of companies’ duties to respect human and environmental rights throughout their global operations. Companies enjoy a vast array of rights and benefits in the form of government promotion to business activities while generally lacking the adequate mechanisms to ensure that promoted business activities do not harm human rights.</li> <li>• Focus on non-judicial mechanisms obscures consideration of domestic barriers to judicial remedy for victims of business-related human rights abuses which occur at home and abroad(15).</li> </ul> <p>2.b The need to include environmental impacts of business operations The UNGPs also have a major general gap in terms of content. They failed to provide for a clear inclusion of environmental impacts and environmental standards part of the Principles. Climate and environmental concerns, being one of the most imminent collective challenges of our time, carry their own respective weight and significance. Corrective action can be taken in the implementation phases of the UNGPs by recognizing environmental aspects’ overriding strategic political priority in international cooperation for institutions and Parties to the United Nations Framework Convention on Climate Change and promoting compliance with multilateral environmental agreements.</p> <p>2.c The need for more emphasis on the binding elements of the “smart mix” Effective implementation and enforcement of most of the instruments born out of the UNGPs has also been a challenge. The “smart mix” principle established in the UNGPs, requires states to act through “effective policies, legislation, regulations and adjudications” to meet their duty to protect against human rights abuse by third parties. National and international, mandatory, and voluntary measures are recommended to foster business respect for human rights. The time has come for the Third Pillar of the UNGPs on access to justice to take a more predominant role. Legal consequences should be attached to businesses failure to act with due care and</p>
---	---

take all reasonable measures that could have prevented the harm. Civil, administrative, and criminal liability will not only be a tool for accountability when harm has occurred but will also serve as a deterrent, increasing efforts toward the prevention of harm. The vast majority of countries lack a coherent legal framework that clarifies companies' duties with respect to their human rights and environmental impacts throughout global business operations and supply chains. As consequence, victims of business-related harm face insurmountable obstacles to seek remedy in the country where powerful and influential parent companies are domiciled. The UNGPs in their current form lack ambition to endemically change business behaviour. The notion that negative impacts on human rights and the environment can be externalized costs for the communities, workers and nature, so long as profit and shareholder value increases, remains the default vocation of business after almost 10 years of the adoption of the UNGPs. The guidelines have not been effective in incentivizing an organic change in the mainstream business model. A coherent implementation(16) of the UNGPs demands legislation that holds companies accountable, governments' commitment to regulate corporate human rights obligations and a coherent variety of regulatory tools(17) . These three elements are key to ensure that business act with due diligence with regards to a range of policy goals, while integrating considerations that are not purely short-term or profit-oriented into their decision-making processes. 2.d The need for a focus on the financial sector Financial-sector compliance remains limited: Increasing attention to Environmental, Social and Governance (ESG) issues among investors has not yet yielded a significant shift towards sustainable investment and the use their leverage to detect and prevent adverse human rights impacts that they contribute to directly (i.e. a pension fund investing in an agribusiness involved in land grabs or that systematically produce from farms using child labour(18) or indirectly (i.e. funding infrastructure projects that displace indigenous populations(19) or companies with known harmful environmental impacts(20) ). Regional and international initiatives attempting to address these gaps(21) in coherence with the UNGP include the European Commission action plan on sustainable finance(22) , the proposal for a regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU)2016/2341(23) - which will require institutional investors and asset managers to disclose on how they integrate ESG factors in their risk processes-, the Non-Financial Reporting Directive(24) under revision, the Equator Principles(25) , UNEP FI Human Rights Guidance Tool for the Financial Sector(26) , the Thun Group of Banks(27) and the Dutch Banking Sector Agreement(28) . However, these are, again, voluntary instruments and in some cases have been used to rather attempt to misconstruing the Guiding Principles(29) in a corporate and investment banking context as criticized by Professor John Ruggie(30). Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises, as the ones published by the OECD in 2019(31) explain what due diligence for responsible business conduct entails and provide practical considerations for banks at each step of the due diligence process can constitute a good basis for legislation to be integrated nationally as part of the NAPs or internationally in provisions within the European

legislative proposal on mandatory human rights and environmental due diligence or the ongoing UN Treaty on Business and Human Rights. 2.e The need for increased action on pillar I To date, there has been hardly any progress regarding States' trade and investment policies as well as the state-business-nexus, notably in public procurement and support schemes for export and foreign investment. Current trade rules prioritize global over local and regional trade, often to the detriment of local producers and their basic rights. The agricultural sector is a clear example, the food sovereignty in many producing countries is highly compromised as their reliance on food imports in a context of highly volatile prices in international markets increases(32) . Instead of improving the resilience of these countries, by for instance prioritizing people's right to food sovereignty, current trade rules tend to increase their vulnerability(33) . This has become even more obvious in the current Covid-19 crisis regardless of the sector. The power imbalance is stark, on one hand, foreign investors are granted privileged access to Investor Disputed Settlement Mechanism (ISDS) and compensation for public measures that limit expected profits from investment, even if these public measures aim for the respect, protection and fulfilment of human rights, to limit greenhouse gas emissions or to protect the environment. Investment chapters do not only protect investors from expropriation but also from alleged indirect expropriation and a frustration of their so called "legitimate expectations" while Sustainability Impact Assessments for trade agreements are conducted often too late to shape the debate about the agreement's possible impacts. On the other hand, trade and investment agreements lack binding human rights and environmental due diligence obligations for the same corporations and the State parties of the agreements(34) . States duties to protect human rights in the context of business and human rights as established in the UNGPs have been under threat by States' trade and investment policies. The 2014 public procurement directives of the EU allow for the consideration of human rights aspects; however, they leave this up to the discretion of states and procurers. Export credit agencies (ECAs) coordinate their human rights policies within the OECD export credit group. According to the OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the "Common Approaches")(35) ECAs only assess human rights impacts of a small portion of the projects they support and are free to support companies even when they have been involved in human rights abuses in the past. EU Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits(36) requires the EU Commission to report annually on Member State ECAs' compliance with the Union's objectives. Despite the European Parliament's repeated requests to the Commission, it still has not even developed an adequate methodology to do so, as the European Ombudsman confirmed in Dec 2018(37) .

ENDNOTES (14) Reference to NAPs' assessment in this section refers to the publication ICAR, ECCJ, De Justicia, "Assessment of existing national action plans (NAPs) on business and human rights", August 2017 (15) Summary of main barriers to access remedy from business-related abuses and policy recommendations are included in ECCJ et al, "The EU's business: Recommended actions for

	<p>the EU and its Member States to ensure access to judicial remedy for business-related human rights abuses”, 2014. (16) <a href="https://corporatejustice.org/news/16780-a-coherent-implementation-of-the-ungps-demands-legislation-that-makes-companies-respect-human-rights-eccj-says-to-the-un-working-group-on-bhr">https://corporatejustice.org/news/16780-a-coherent-implementation-of-the-ungps-demands-legislation-that-makes-companies-respect-human-rights-eccj-says-to-the-un-working-group-on-bhr</a> (17) De Schutter et al, “Human Rights Due Diligence: the Role of States”, Commissioned by ECCJ. ICAR, CNCA, December 2012. (18) <a href="https://www.fian.org/files/files/The_Human_and_Environmental_Cost_of_Land_Business-The_case_of_MATOPIBA_240818.pdf">https://www.fian.org/files/files/The_Human_and_Environmental_Cost_of_Land_Business-The_case_of_MATOPIBA_240818.pdf</a> (19) <a href="https://www.business-humanrights.org/es/%C3%BA%ltimas-noticias/bolivia-pueblos-ind%C3%ADgenas-iniciar%C3%A1n-acciones-legales-nacionales-y-ante-la-comisi%C3%B3n-interamericana-de-derechos-humanos-contra-el-proyecto-hidroel%C3%A9ctrico-chepete-el-bala/">https://www.business-humanrights.org/es/%C3%BA%ltimas-noticias/bolivia-pueblos-ind%C3%ADgenas-iniciar%C3%A1n-acciones-legales-nacionales-y-ante-la-comisi%C3%B3n-interamericana-de-derechos-humanos-contra-el-proyecto-hidroel%C3%A9ctrico-chepete-el-bala/</a> (20) <a href="https://www.facing-finance.org/en/2019/01/vale-implicated-in-another-dam-collapse-in-brazil-with-more-than-300-casualties-feared/">https://www.facing-finance.org/en/2019/01/vale-implicated-in-another-dam-collapse-in-brazil-with-more-than-300-casualties-feared/</a> (21) <a href="https://www.ohchr.org/Documents/Issues/Business/LetterResponseToOECD.pdf#page=3">https://www.ohchr.org/Documents/Issues/Business/LetterResponseToOECD.pdf#page=3</a> (22) <a href="https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance_en">https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance_en</a> (23) <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2341">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2341</a> (24) <a href="https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en">https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en</a> (25) <a href="https://www.finance-humanrights.org/wp-content/uploads/2019/11/Equator-Principles-4-Putting-the-22S22-into-Focus.pdf">https://www.finance-humanrights.org/wp-content/uploads/2019/11/Equator-Principles-4-Putting-the-22S22-into-Focus.pdf</a> (26) <a href="https://www.unepfi.org/humanrightstoolkit/index.php">https://www.unepfi.org/humanrightstoolkit/index.php</a> (27) <a href="https://www.business-humanrights.org/sites/default/files/media/documents/thun_group_statement_final_2_oct_2013.pdf">https://www.business-humanrights.org/sites/default/files/media/documents/thun_group_statement_final_2_oct_2013.pdf</a> (28) <a href="https://www.imvoconvenanten.nl/en/banking">https://www.imvoconvenanten.nl/en/banking</a> (29) <a href="http://www.menschenrechte.uzh.ch/dam/jcr:27abc993-0b91-46df-9b69-f90a47d3d25c/2017_01_Thun_Group_discussion_paper_final.pdf">http://www.menschenrechte.uzh.ch/dam/jcr:27abc993-0b91-46df-9b69-f90a47d3d25c/2017_01_Thun_Group_discussion_paper_final.pdf</a> (30) <a href="https://business-humanrights.org/sites/default/files/documents/Thun_Final.pdf">https://business-humanrights.org/sites/default/files/documents/Thun_Final.pdf</a> (31) Due Diligence for Responsible Corporate Lending and Securities Underwriting (32) <a href="https://www.foei.org/resources/publications/publications-by-subject/food-sovereignty-publications/agreements-block-progress-agroecology-food-sovereignty">https://www.foei.org/resources/publications/publications-by-subject/food-sovereignty-publications/agreements-block-progress-agroecology-food-sovereignty</a> (33) <a href="https://viacampesina.org/en/wp-content/uploads/sites/2/2018/02/Food-Sovereignty-A-guide-Low-Res-Vresion.pdf">https://viacampesina.org/en/wp-content/uploads/sites/2/2018/02/Food-Sovereignty-A-guide-Low-Res-Vresion.pdf</a> (34) MISEREOR and CIDSE’s (International Alliance of Catholic Development Agencies) input to DG Trade’s Policy Review Consultation, October 2020 (35) <a href="https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0393">https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0393</a> (36) <a href="https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0045:0112:EN:PDF">https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0045:0112:EN:PDF</a> (37) <a href="https://www.ombudsman.europa.eu/en/solution/en/95453">https://www.ombudsman.europa.eu/en/solution/en/95453</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed</p>	<p>Corporate capture preventing the development of mandatory rules: Data sets suggest that business lobby, in the European Parliament for instance represents well over 60 per cent of all EU lobbyists, the case is similar for the Commission, while the Council remains a black box with an even lesser extent of transparency(38) . Corporate lobbies pushing back initiatives to regulate business activities substantially out-number those representing other interests i.e.</p>

<p>to achieve fuller realization of the UNGPs?</p>	<p>NGOs, trade unions, academics, victims, and consumers. So-called “Better Regulation” Agendas and one-in-one-out-rules do not adequately take the benefits of regulations for societies and the environment into account. The Commission’s DG GROW in particular tends to favour industry lobby groups when they complain that regulations, they dislike are ‘violations’ of their rights as investors, ‘regulatory barriers to development’ or supposed ‘discrimination’. It is known that DG GROW gave privileged treatment(39) to industry lobby groups BusinessEurope, EuroCommerce, and EuroChambres in the drafting of the now withdrawn Services Notifications Procedure Directive(40) . This clash between corporate-friendly Single Market rules versus States’ duty to regulate in the public interest is growing as regulatory space is carved out by NGOs, Trade Unions, Consumer groups and victims of corporate abuse calling States into account to fulfil their obligations under the First Pillar. Corporate impunity and lack of access to judicial remedy: Cases like the German garment giant KiK after a factory fire in Pakistan, the mining company Vale after two tailings dams collapses in Mariana and Brumadinho in Brazil or the Royal Dutch Shell after decades of contamination in the Niger Delta, among many others, remain emblematic for the long-lasting legal battles between the communities affected and the parent companies and their subsidiaries(41) . While communities’ social and financial resources are depleted, corporations often continue to generate profit without major disturbances, exemplifying the power imbalances that make enforcement of the third pillar so urgent. It is imperative that the third generation of mandatory due diligence laws marries the obligations under the second pillar with broad corporate liability that in turn is enforceable by courts providing justice for victims. According to a European Parliament report on ‘Access to legal remedies for victims of corporate human rights abuses in third countries*’, out of the 35 cases on which the study focused, only three resulted in a final judicial decision finding the defendant company liable. Out of the 20 civil law proceedings brought against companies, in only 2 compensation was granted by the court. Unaccounted consequences of business misconduct include:</p> <ul style="list-style-type: none"> <li>• The human and environmental cost being externalized to the communities where these businesses operate</li> <li>• Forced labour in global supply chains generating \$150 billion in profit according to the ILO (42)</li> <li>• Global deforestation increasing of 77% in 2020 (43)</li> <li>• The killing of 304 human and environmental defenders protecting their lands from corporate exploitation in the year 2019 alone(44).</li> <li>• Over a thousand textile workers killed or seriously injured in factory disasters (fires, collapses), many of them girls(45).</li> </ul> <p>Despite the last decade’s development of relevant frameworks and guidelines, there has been little improvement for victims hoping to access justice. Indeed, it might be getting more, not less, difficult for them to do so. Existing venues for extraterritorial claims are closing(46), governments of countries where multinationals are headquartered do not provide sufficient access to judicial remedy(47) for their companies’ abuses abroad while legal harassment is increasing of those working to hold businesses accountable for human rights abuse. On the latter, two judicial strategies are becoming a wide trend among multinationals using legal action against human rights defenders to prevent public scrutiny about their activities:</p>
--	--

Strategic Lawsuit Against Public Participation (SLAPP) and the use of Investor State Dispute Settlement (ISDS). SLAPP are lawsuits intending to censor, intimidate, and silence right-holders by burdening them with the cost of a legal defence until they abandon their claim. They come in the form of defamation lawsuits not necessarily aimed at succeeding but at a) undermining the legitimacy of existing criticism, b) creating a chilling effect on future criticism, and c) draining the resources of dissenters(48). Investors have a privileged position when it comes judicial strategies to avoid a court decision that confirms corporate liability for human rights abuses, or prevent the adoption of legislation or investigations that could adversely impact a company's investments, they use the ISDS system to avoid the adoption of more stringent legislation or to put pressure on states to drop criminal investigations(49). Even in exceptional situations such as the COVID-19 crisis, this system is seen as an opportunity for business to challenge emergency measures in order to defend their profits(50). Companies abusive use of judicial processes in order to delay and complicate proceedings and withhold attention from the substance of the case represses legal challenges and vocal criticism, two of the few means to achieve corporate accountability in a general environment of impunity. Legislation that holds companies accountable for the impact of their global operations on human rights and the planet is an urgent necessity to guarantee companies respect human rights. A report commissioned by ECCJ and others(51) showed that governments in diverse jurisdictions are already using a great variety of regulatory tools to ensure that business act with due diligence with regards to a range of policy goals, such as consumer or environmental protection, the fight against money -laundering or human trafficking. These regulatory tools have required business enterprises to integrate considerations that are not purely short-term or profit-oriented into their decision-making processes. Making Due Diligence mandatory for all companies in all sectors across the full supply chain and, companies liable for their failure to implement it and for the harms caused, is the most promising avenue for the development of regulations that oblige business to walk the talk of respecting human rights. ENDNOTES (38) <https://lobbyfacts.eu/articles/30-01-2017/crowding-corridors-power-corporate-lobbyists-outnumber-ngos-and-unions-european> (39) <https://corporateeurope.org/en/2019/02/veto-power-please-lobbyists-corporations-behind-commission-power-grab-over-services> (40) <https://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-internal-market-with-a-strengthened-industrial-base-services-including-transport/file-services-notification-procedure> (41) See [https://media.business-humanrights.org/media/documents/files/documents/CLA\\_AB\\_Final\\_Apr\\_2017.pdf](https://media.business-humanrights.org/media/documents/files/documents/CLA_AB_Final_Apr_2017.pdf) and [https://corporatejustice.org/asi\\_eccj\\_report\\_final.pdf](https://corporatejustice.org/asi_eccj_report_final.pdf) (42) [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_243201/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm) (43) <https://www.ft.com/content/b72e3969-522c-4e83-b431-c0b498754b2d> (44) <https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2019> (45) [https://cleanclothes.org/file-repository/transparency\\_position\\_paper\\_ccc\\_2020-10-15.pdf/view](https://cleanclothes.org/file-repository/transparency_position_paper_ccc_2020-10-15.pdf/view) (46) <https://fas.org/sgp/crs/misc/LSB10147.pdf> (47)

	<p><a href="https://corporatejustice.org/documents/publications/eccj/the_third_pillar_-_access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf">https://corporatejustice.org/documents/publications/eccj/the_third_pillar_-_access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf</a> (48) <a href="https://www.mindthegap.ngo/harmful-strategies/undermining-defenders-communities/filing-lawsuits-to-intimidate-critics/">https://www.mindthegap.ngo/harmful-strategies/undermining-defenders-communities/filing-lawsuits-to-intimidate-critics/</a> (49) <a href="https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/taking-states-to-international-arbitration/">https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/taking-states-to-international-arbitration/</a> (50) <a href="https://longreads.tni.org/cashing-in-on-the-pandemic">https://longreads.tni.org/cashing-in-on-the-pandemic</a> (51) <a href="https://corporatejustice.org/hrdd-role-of-states-3-dec-2012.pdf">https://corporatejustice.org/hrdd-role-of-states-3-dec-2012.pdf</a> <a href="https://www.europarl.europa.eu/RegData/etudes/STUD/2019/603475/EXPO_STU(2019)603475_EN.pdf">*https://www.europarl.europa.eu/RegData/etudes/STUD/2019/603475/EXPO_STU(2019)603475_EN.pdf</a></p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The Mind the Gap consortium has identified 5 recurrent strategies(52) corporations use to avoid responsibility for their human rights abuses and environmental damage, they represent the means by which corporations maintain and deploy structural power, hindering sustainable development. 1. Constructing deniability: Companies use different arguments and strategies to deny responsibility for human rights and environmental impacts within their supply chains. While working with a range of suppliers is a common business practice, when confronted with negative human rights impacts in their supply chains, companies often argue that such impacts are undetectable due to the complexity of the supply chain, or else they place responsibility for those impacts with their supplier. The truth is that they chose, and through planning, companies control how complex or non-transparent their chains can be. Companies can also construct deniability by outsourcing high-liability activities and/or recruitment and employment, thereby limiting responsibility for those processes. Another variation of this strategy is when companies opt to disengage from certain business activities thereby cutting their association with human rights harm and thus responsibility for remediation. Companies further construct deniability by directly refusing to disclose information that could tie them to (potential) human rights and environmental impacts. 2. Avoiding liability through judicial strategies: Judicial barriers to justice for victims in business and human rights cases have been well documented(53). When companies are challenged in court, they have a variety of tools at their disposal to avoid liability. Commonly used strategies include: abusing judicial processes in order to delay and complicate proceedings and withhold attention from the substance of the case; engaging in jurisdiction shopping; shielding parent companies from liability for harms conducted by entities within their corporate group; and settling cases out of court to avoid a guilty verdict and setting a precedent. The last strategy that can be categorized as a judicial strategy to avoid liability is to take states to international arbitration to avoid the adoption of more stringent legislation or to put pressure on states to drop criminal investigations 3. Distracting and obfuscating stakeholders: The strategy to distract and obfuscate stakeholders can take a variety of forms. Companies can engage communities impacted by their operations in a symbolic rather than meaningful way to avoid community protests and subsequent demands for accountability directed at them. They can disseminate distorted information</p>

among the public to make their business seem more responsible than it is, or engage in downright fraudulent activities and disseminate false information to avoid responsibility for past or future harms. Another form in which this strategy manifests itself is by manipulation of scientific research, producing data that is favourable for the business while downgrading societal risks and impacts. Furthermore, companies can abuse standard systems that are designed to assure that products and production qualities conform with specific requirements to conceal unsustainable or substandard company practices. A last form identified here is the diversion of complaints through company controlled grievance mechanisms that pretend to offer remedy for victims, but actually delay or divert right-holders' complaints.

4. Undermining defenders and communities: The chosen mechanism for silencing criticism varies depending on the social context and judicial tools available. Strategies against defenders and communities can take the form of physical attacks or threats executed by affiliates of the company for opposing corporate activities. Or the judicial system can be weaponized against human rights defenders through strategic lawsuits, criminalization, and claims of defamation. Companies can also use community engagement and the promised developmental benefits of their investments to pit community members against those protesting misconduct. And they can obstruct the collective organization of workers and thereby avoid having to respect other labour rights.

5. Utilizing State power: The instruments used by companies to gain and leverage state assistance vary in their legality and acceptance. One way companies do this is by exploiting the governance gaps created by states: (foreign) investment is attractive to governments, thus luring companies often involves preferential treatment of these entities, including disregarding internationally accepted standards for corporate conduct. Furthermore, corporate lobbying against regulations intended to protect human rights and the environment, but that potentially harm business interests, is a common practice. Another way companies use state power to avoid having to take responsibility for human rights abuses is by aligning with suppressive state institutions that violate human rights. Finally, companies can engage state security forces to protect their business interests, even when serious human rights violations can be expected as a result. Moreover, in the conjunction between economic and development objectives there are also many structural challenges to human rights centred sustainable development and the role that responsible business conduct plays. The first being that the default logic of sustainability implies a capital- centred development with an inherent value bias. Sustainable development based on respect for human rights places 'sustainable development' as the main goal when, today, the traditional concept of sustainability is falling short of addressing the needs of our societies and the planet. The COVID-19 crisis has laid bare inequalities in the system that allow companies to operate in total impunity despite of their human rights and environmental abuses. An iconic example of this time has been the garment sector's complex and secretive supply chains that have enabled brands to profit from evading their responsibility to address low wages and exploitation in supply chains subduing any sustainable development standards to market profitability(54). A resilience component, on the other hand, rather than sustain over

a determined period seeks to regenerate and harmonize the relationships among humans and our natural ecosystems. Climate justice, therefore, becomes focal to how we approach employment and innovation, living standards, and social equity. Sustainability indicators such as the Human Development Index fail to consider ecological aspects and put emphasis on levels of income violating sustainability principles due to the strong correlation between income and ecological impact. The countries that score highest on the HDI also contribute most, in per capita terms, to climate change and other forms of ecological breakdown(55), are the home countries of most of the multinational corporations expanding their economic profits by externalizing the costs of human rights abuses and environmental damages generated by their business operations. The same applies to the Sustainable Development Goals. Goals 1-6 and 11-16 call for humanity to protect the planet from degradation(56) and to leave no one behind while achieving “harmony with nature”(57). Goals 7, 8, 9 and to some extent goal 12 however well intended, fail to take into account the negative impacts of private sector engagement. Numerous instances of corporate malpractice exemplify how business profit from child labour to the absence of a living wage, from oil spills to mass deforestation, from harassment of human rights defenders to land grabbing(58). Turning the blind eye on the egregious means to achieve them, these profits are accounted for as economic growth. Within SDG 8, the assumption is that decent work is intrinsically attached to GDP growth is rather detrimental to the achievement of the other SDGs and of Goal 8 itself as it is based on the imposition of the industrial extractive economic model as the only means to achieve development. The call for continued global economic growth equivalent to 3% per year, which opposes meaningful reductions in aggregate global resource use and reductions in CO2 emissions rapid enough to stay within the carbon budget for 2°C(59). Scaling down resource in order to achieve the climate target, real clean and affordable energy specially for those deprived of it access and sustainable consumption and production patterns also requires a human rights and nature centred approach that ensures good jobs and respects traditional ways of low-impact-living to flourish among others. Two major systemic obstacles that require business and human rights regulation to deconstruct them are a) The post-colonial economic system operating under the illusion of endless resources; b) A profit centred and growth-focused business model. Enforceable legislation making human rights and environmental impacts a centre piece for business accountability is therefore essential. While legislation alone will not have the capacity to deliver change in those systemic challenges, it is a beacon to define the frame of action and to overcome existing gaps in current Action Plans. Section 108 of the UK Deregulation Act 2015(60) that requires any person exercising a regulatory function to have “regard to the desirability of promoting economic growth” and China advocacy for the human right to wealth creation over human rights in its economic driven policies are two examples of economic growth being inserted as a policy priority(61). This is in response to a paradigm that has proven to be insufficient to achieve social objectives such as full employment and improved quality of life. The pursuit of economic growth also stands at odds with environmental sustainability and

	<p>well-being of most of the global population. The next decade will be crucial to set course towards a fundamentally different approach to managing the economy required to put people and the planet ahead of growth in GDP. The regulatory frameworks that will be developed to speed and scale up UNGP implementation in the roadmap for the next decade have the opportunity to not only drive a meaningful change in the business model but to contribute to an economic recovery from the COVID-19 crisis that is currently under threat by the blind spot in SDG Goal 8. Realizing the SDGs without full UNGP implementation is impossible, encouraging good practices needs to come together with robust legislation and effective enforcement mechanisms. ENDNOTES (52) <a href="https://www.mindthegap.ngo/about-us/summary/">https://www.mindthegap.ngo/about-us/summary/</a> (53) <a href="https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/#_ftn1">https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/#_ftn1</a> (54) <a href="https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains">https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains</a> (55) Ecological economics journal – <a href="https://static1.squarespace.com/static/59bc0e610abd04bd1e067ccc/t/5de24834a06c92692061e801/1575110717082/Hickel+-+The+Sustainable+Development+Index.pdf">https://static1.squarespace.com/static/59bc0e610abd04bd1e067ccc/t/5de24834a06c92692061e801/1575110717082/Hickel+-+The+Sustainable+Development+Index.pdf</a> (56) <a href="https://www.un.org/sustainabledevelopment/sustainable-development-goals/">https://www.un.org/sustainabledevelopment/sustainable-development-goals/</a> (57) <a href="https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf">https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf</a> (58) <a href="https://corporatejustice.org/news/351-eu-action-plan-on-sdgs-overlooks-human-rights-risks-of-corporate-activity">https://corporatejustice.org/news/351-eu-action-plan-on-sdgs-overlooks-human-rights-risks-of-corporate-activity</a> (59) UN environment – Resource efficiency: potential and economic impacts <a href="https://www.resourcepanel.org/sites/default/files/documents/document/media/resource_efficiency_report_march_2017_web_res.pdf">https://www.resourcepanel.org/sites/default/files/documents/document/media/resource_efficiency_report_march_2017_web_res.pdf</a> (60) <a href="https://www.gov.uk/government/publications/retaliatory-eviction-and-the-deregulation-act-2015-guidance-note">https://www.gov.uk/government/publications/retaliatory-eviction-and-the-deregulation-act-2015-guidance-note</a> (61) <a href="https://www.researchgate.net/publication/222427987_Increased_ecoefficiency_and_gross_rebound_effect_Evidence_from_USA_and_six_European_countries_1960-2002">https://www.researchgate.net/publication/222427987_Increased_ecoefficiency_and_gross_rebound_effect_Evidence_from_USA_and_six_European_countries_1960-2002</a></p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’</p>	<p>The Mind the Gap Project and ECCJ’s latest publication Debating mHRDD legislation: A reality check(62) , offers some 'counter-strategies' to tackle corporate strategies that prevent structural obstacles to corporate accountability and sustainable development to be overcome. Some concrete examples are: Liability for both cause and contribution to: The UNGPs extend a company’s responsibility to respect human rights beyond the adverse impacts of its own activities to also include “business relationships”. Furthermore, they clarify that if companies cause or contribute to adverse human rights impacts - through their acts or omissions, by themselves, together with or via a third party - they are responsible for (contributing to) remediating the harm. This provision should be enforceable through national, regional, and international binding legislation. We note that in the EU competition law there is a judicial presumption that a</p>

expectations over the coming years?	<p>parent company has control over its subsidiaries(63). Non-contractual elements such as control and “economic dependence” are useful for determining the relationship for liability purposes. Anti-SLAPP measures: In accordance to the UN Working Group on Business and Human Rights Guidance on National Action Plans on Business and Human Rights(64) , States should enact anti-SLAPP legislation to ensure that human rights defenders do not incur civil liability for their activities. UN Special Rapporteur to the rights to freedom of peaceful assembly and of association, Ms Ciampi made the following recommendations to States in her SLAPPs Info Note(65): “States should protect and facilitate the rights to freedom of expression, assembly and association to ensure that these rights are enjoyed by everyone by, inter alia, enacting anti-SLAPPs legislation, allowing an early dismissal (with an award of costs) of such suits and the use of measures to penalize abuse.” • Mind the Gap recommends specifically adding a sub article under Art 4. Rights of Victims of the UN Treaty on business and Human Rights reading: State Parties shall ensure effective legislative and judicial protection from frivolous Strategic Litigation Against Public Participation (SLAPP) lawsuits brought by corporate plaintiffs against civil society actors, including but not limited to NGOs, civil society groups, trade unions, citizens, journalists and human rights defenders, in order to protect the latter’s right to free speech, association, petition and public communication from ill-founded judicial claims amounting to intimidation and harassment. Civil society actors shall be afforded a special motion to swiftly dismiss such frivolous SLAPP claims against them with award of costs and initiators of SLAPP actions shall be subject to penalties and sanction. Corporate and supply chain transparency: mapping, sharing and disclosure of supply chain information as a common international standard, which would have a real practical effect in improving global due diligence efforts through both prevention and redress, and would create a level playing field to overcome the competitive disadvantage of front-running companies disclosing their supply chain information voluntarily. ESG aspects shall be treated with the same level of rigor as quality and financial traceability and reporting. Adequate indigenous peoples and local community engagement: FPIC is a right and a process that enables indigenous peoples to negotiate the conditions under which a project will be designed, implemented, monitored, and evaluated, if at all. In the event that consent is given in a free, prior and informed manner, they are entitled to withdraw it at any stage. This is also embedded within the universal right to self-determination and its practice should be expanded to local non-indigenous communities directly affected by business activities. In many cases the argument “on behalf of the national interest” leads to disproportionately negative impacts on certain non-indigenous communities of for instance farmers or fisherfolk against a marginal increase of the GDP that doesn’t translate on well-being for the people affected nor the majority of the population. The standard has been incorporated into national laws in countries such as Bolivia, and has begun to be taken up in standard-setting by international organizations such as the World Bank’s International Finance Corporation and the International Council of Metals and Mining(66) . The Food and Agricultural Organization also operates under this principle(67). However, most consultation</p>
-------------------------------------	--

regulations adopted by national legislatures fall short of genuine FPIC, because they limit themselves to consultation and don't require consent, don't allow indigenous communities to determine the process, limit the scope of the consultation unduly and don't respect the decision of indigenous peoples not to engage in FPIC negotiations in the first place. Therefore, indigenous peoples of all continents have in recent years developed their own FPIC protocols, which define the conditions for a genuine FPIC process, in line with their own customary laws and legal institutions. In several countries, courts have afforded some form of recognition to these protocols and determined that governments and companies are duty-bound to abide by them. FPIC protocols have tremendous potential to ensure effective protection of indigenous rights and therefore should be widely promoted and observed. So, more efforts should be made to guarantee the compliance with this important standard as part of the implementation of the UNGPs in the next decade.

Availability of group claims: The financial costs and risks of litigation for an individual against a typically well-resourced corporate defendant are often prohibitively high, and include lawyers' fees, court costs, and expert evidence; as well as the risk of financial ruin in the event of loss due to the typical application of the loser pays principle. In situations of mass harm, individual victims have to bring their own, individual and competing claims, meaning less efficient use of state resources. Group claims have consistently been identified by both international and regional human rights institutions and bodies as a key tool of redress in scenarios involving abuse by business entities, as expressed by the UN High Commissioner for Human Rights in his report to the UN Human Rights Council in 2016(68) . The Committee of Ministers of the Council of Europe also adopted Recommendation CM/Rec in 2016(69), endorsing the use of group claims as means to further the implementation of the UNGPs, which was in turn endorsed by the Council of the European Union in its conclusions on business and human rights(70) . State shall guarantee victims access to group claim mechanisms for all forms of harm arising from business activities. Jurisdictions in a diverse range of states including India, Mexico, China, Indonesia, South Africa, Australia, the UK, and Brazil already permit this type of claims. The European Union is in the process of finalizing inter-state collective redress measures for European consumers(71) . Several other important elements are relevant and possible to illustrate through the specific context of Europe in terms of developing legislation in coherence with the UNGPs implementation. ECCJ has proposed a model for EU legislation on mandatory Human Rights Due Diligence and corporate liability(72), requiring companies to identify, prevent, mitigate, and account for human rights abuses and environmental damage in their global value chains. The set of minimum provisions that such legislation should include to ensure an effective and comprehensive EU regulatory framework for the above purposes sheds light on what actionable measures a key actor such as the EU can take in order to meet the UNGPs expectation over the next decade and beyond. Moreover, the NFRD reform proposal of DG FISMA should be ambitious enough not to undermine the future EU HRDD legislation, but to stimulate and strengthen it. In this sense, the NFRD reform should rely on the UN Guiding Principles reporting framework as the means by which

European companies fulfil their existing legal HRDD duty to report under the NFRD. The key recommendations for the upcoming EU mandatory Human Rights Due Diligence (HRDD) regulatory framework are: 1. Apply to all undertakings, including financial institutions, domiciled in a Member State, or placing products on or providing services in the internal market. 2. Require undertakings to respect all internationally recognized human and labour rights, and environmental standards in their own activities, and to ensure respect and compliance with those rights and standards throughout their global value chain. 3. Require undertakings to take all necessary measures in the exercise of due diligence, to meaningfully consult stakeholders for the purpose of defining and implementing due diligence, and to publicly report on these processes and their results. 4. Require that due diligence extend to the undertakings' entire global value chains. 5. Compel Member States to provide for penalties and sanctions, to designate competent investigating and enforcement authorities, and to allow members of the public to challenge non-compliance. 6. Compel Member States to provide for civil liability of undertakings for harm arising out of human rights and environmental abuses caused or contributed to by controlled or economically dependent entities. 7. Compel Member States to provide for civil liability of undertakings for human rights and environmental abuses directly linked to their products, services or operations through a business relationship, unless they can prove they acted with due care and took all reasonable measures that could have prevented the harm. 8. Ensure a fair distribution of the burden of proof, with the defendant corporation having to prove its relationship with the business entity involved in the harm and whether the former acted with due care. 9. Harmonize time limits to take legal action by setting a minimum limitation period of five years and ensure EU courts' jurisdiction regardless of related proceedings or rulings against subsidiaries, suppliers, or subcontractors outside of the EU. 10. Be qualified as overriding mandatory law, thus applying irrespective of the law otherwise applicable under private international law

Regarding pillar I, increased action in the areas of Trade policy and public procurement is needed. In this sense we find constructive some of the recommendations made by MISEREOR and CIDSE, one of our allies in the European NGO coalition working on mandatory Human Rights and Environmental Due Diligence, in their input for this years' DG Trade Policy Review(73) :

- Trade Sustainability Impact Assessments (SIA) need to be strengthened by providing more resources and improving methodologies for broad consultations of civil society and possibly affected people and communities within the EU and in partner countries. Furthermore, comprehensive SIA should be conducted before the start of trade negotiations and should be updated before the conclusion of the agreement and be repeated after some period of the implementation of the agreements.
- Transparency, participation, and democratic procedures should be strengthened in trade policy. The European Parliament and national parliaments should play an important role in the formulation and adoption of trade negotiation mandates and the trade agreements themselves. As a precondition for increased civil society participation, all draft negotiation mandates, and chapters of trade agreements of the EU should be published timely to enable critical and constructed debates. As a

basic precondition for the ratification of trade agreements, the State parties should be required to ratify and to implement the core international agreements on human rights, multilateral labour standards and Multilateral Environment Agreements (MEA). • Current human rights clauses and Trade Sustainable Development (TSD) chapters should be fundamentally reformed and strengthened based on legal proposals(74). The TSD chapters should require human rights and environmental due diligence obligations for corporations and foresee complaint mechanisms and sanctions in the case of abuses. All obligations of the TSD chapters should be fully covered by the state-to-state dispute settlement mechanism of the trade agreement, including the full sanctioning mechanism in cases of breaches of these obligations. A civil society complaint mechanism should be established and the panels for disputes should dispose of the necessary expertise on human rights, labour, and environmental issues. New trade and investment agreements should not contain any Investor-to-State-Dispute-Settlement (ISDS) Mechanism. Current trade and investment chapters, that contain such ISDS-mechanism, should be re-negotiated with partners. • A General Exception Clause should explicitly establish the primacy of international agreements on human rights, labour rights and the environmental over other rules of the agreement. The clause should establish that trade and investment rules shall never be interpreted in a way to limit policy spaces of States parties to respect, protect or fulfil human rights within their own territory and abroad. States and regional integration organizations, in particular the EU, should also refrain from promoting a new Multilateral Investment Court (MIC). Rules on investor protection should be limited to the principle of non-discrimination. Review clauses in future trade agreements should explicitly enable and require modifications of trade rules if they are found to limit policy spaces to fulfil human rights obligations or to promote sustainability. Regular SIA should inform decisions on such revisions of a trade agreement. Participation of civil society should play a key role in the revision of the agreements. • In addition, to prevent states from becoming involved in human rights abuses, regulations for public procurement as well as for support by export credit and investment guarantee agencies should be enhanced. Only companies that fulfil their human rights and environmental due diligence should qualify for public procurement and ECA support. States should require adequate verification of this and should establish meaningful transparency on their transactions and the human rights and environmental assessments they have conducted. ENDNOTES (62) <https://corporatejustice.org/debating-mhrdd-legislation---a-reality-check.pdf> (63) [https://ec.europa.eu/competition/publications/cpn/2010\\_1\\_9.pdf](https://ec.europa.eu/competition/publications/cpn/2010_1_9.pdf) (64) [https://www.ohchr.org/documents/issues/business/unwg\\_%20napguidance.pdf](https://www.ohchr.org/documents/issues/business/unwg_%20napguidance.pdf) (65) [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjy\\_PHeiYftAhVF4YUKHVI\\_APkQFjAAegQIAhAC&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FFAssociation%2FInfoNoteSLAPsFoAA.docx&usg=AOvVaw2g2D1CNNK3K\\_21zXVZbY3b](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjy_PHeiYftAhVF4YUKHVI_APkQFjAAegQIAhAC&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FFAssociation%2FInfoNoteSLAPsFoAA.docx&usg=AOvVaw2g2D1CNNK3K_21zXVZbY3b) (66) <https://politicsofpoverty.oxfamamerica.org/2013/05/icmm-commits-to-free-prior-informed-consent-standard/> (67) <http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>

	<p>(68) UNHRC, 10 May 2016, “Improving accountability and access to remedy for victims of business-related human rights abuse” pt. 15.3. Available at: <a href="http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A_HRC_32_19_AEV.pdf">http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A_HRC_32_19_AEV.pdf</a> (69) <a href="https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html">https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html</a> page 19. (70) <a href="https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/council_conclusions_on_business_and_human_rights_foreign_affairs_council.pdf">https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/council_conclusions_on_business_and_human_rights_foreign_affairs_council.pdf</a> (71) <a href="https://www.europarl.europa.eu/news/en/press-room/20200108IPR69812/negotiations-on-new-eu-collective-redress-rules-to-begin">https://www.europarl.europa.eu/news/en/press-room/20200108IPR69812/negotiations-on-new-eu-collective-redress-rules-to-begin</a> (72) <a href="https://corporatejustice.org/2020-legal-brief.pdf">https://corporatejustice.org/2020-legal-brief.pdf</a> (73) MISEREOR and CIDSE’s (International Alliance of Catholic Development Agencies) input to DG Trade’s Policy Review Consultation, October 2020 (74) <a href="https://www.cidse.org/2017/03/03/ensuring-the-primacy-of-human-rights-in-trade-and-investment-policies/">https://www.cidse.org/2017/03/03/ensuring-the-primacy-of-human-rights-in-trade-and-investment-policies/</a></p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Placing accountability at the centre of the UNGP from the Working Group, to states, to enterprises and investors, to NGOs and other collective bodies involved in the advancement of the UNGP project should be the main target of the next decade. The EU has a crucial role to play in this, however, most of the elements identified by ECCJ in its reaction to EEAS Staff Working Document on UNGPs implementation from 2015(75) have not been addressed. We are at a conjunctural moment with the potential to change this. In the context of the ongoing European Commission public consultation on the initiative of a legislative proposal on Sustainable corporate Governance including mandatory human rights due diligence(76) , the UN working group is highly encouraged to make an official contribution including the recommendations at the end of the last response and taking into consideration of some of the elements of our mid-term evaluation below:</p> <ul style="list-style-type: none"> <li>• EU plans on access to judicial remedies should be further developed, in particular, the harmonization of access to evidence -a major obstacle to access to justice- should be examined.</li> <li>• The Commission needs to make a priority out of incorporating a business and human rights angle in the review of the Recommendation for collective redress (2017) and in the revision of Brussels I and Rome II Regulations. The EU and its Member States must meet their duty to protect human rights by embedding the corporate responsibility to respect human rights into the mHREDD law.</li> <li>• The Commission should further encourage and coordinate discussions with Member States on embedding corporate responsibility in civil/tort law. Fulfilling the moral responsibility and international law requirement to protect human rights will create a level playing field within the EU common market. The current lack of a level playing field within the EU undermines the efforts of companies that try to ensure high standards of human rights protection in their value chains.</li> <li>• Respecting and reporting on human rights due diligence standards must be required from all companies operating in the EU market.</li> <li>• The legislation should require companies to undertake full and effective due diligence, across the whole of a company’s value chain. The legislation should be effective both inside</li> </ul>

	<p>the EU and outside. To be effective and because all businesses must comply to human rights law, all business enterprises, no matter their size or corporate structure, including SMEs must be covered by the legislation. • The legislation must foresee administrative sanctions in cases of abuse and establish civil liability of European corporations for damages when these companies cause or contribute to human rights and environmental violations that are foreseeable and avoidable. The legislation must provide for joint liability for harms caused or contributed to by entities under their control or those which are economically dependent. The legislation should be closely aligned with international due diligence standards, namely the United Nations Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct. • The EU should set up a peer review process for EU Member States National Action Plans for implementation of the UNGPs. Assuming an active role in coordinating the debate among Member States would significantly improve the uptake of the UNGPs. It would also help to identify those matters where a coordinated EU action is needed, and the division of competencies needs to be thought over. • Future external EU actions need to take account of the Inter-Governmental Working Group established by the UN Human Rights Council to elaborate an international legally binding instrument. The EU is right to promote implementation of the UNGPs by all states. At the same time, the EU and its Member States should engage in the “UN Treaty” process and ensure it contributes to the mutually reinforcing objectives of protecting human rights in the globalized economy and building a level playing field for business worldwide. ENDNOTES (75) <a href="https://corporatejustice.org/news/170-reaction-to-the-european-commission-and-external-action-service-staff-working-document-on-ungps-implementation">https://corporatejustice.org/news/170-reaction-to-the-european-commission-and-external-action-service-staff-working-document-on-ungps-implementation</a> (76) <a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance</a></p>
--	---

Survey response	
Organization	Focal Group of Civil Society Organizations on Business and Human Rights (LAC)
Stakeholder category	Civil society organization
Region	Latin America and the Caribbean (LAC)
Additional information about your submission (e.g.	The Focal Group of Civil Society Organizations on Business and Human Rights is comprised of Business and Human Rights Resource Centre, Mexican Center for Environmental Law (CEMDA), Project on Economic, Social and Cultural Rights

<p>collection of inputs from members; or inputs from consultation):</p>	<p>(ProDESC), Network in Defense of Digital Rights (R3D), Oxfam Mexico, Services and Advice for Peace (Serapaz), accompanied by the Interamerican Association for Environmental Defense (AIDA) and Peace Brigades International (PBI). The Civil Society Focal Group on Business and Human Rights in México was created to ensure respect, promotion, and protection of human rights with regard to national and transnational business activities.</p>
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>In Mexico, the UNGPs have been accepted and recognised by several sectors, including the government, civil society, academia and businesses. There is a general recognition of the need to advance their implementation, monitoring, compliance, and the creation and stance of a narrative on the subject. Also, the UNGPs have been an important instrument for civil society organizations and affected communities to identify the human rights abuses by certain businesses. i. Civil Society Organizations developments and practices. In 2015, the Focal Group of Civil Society Organizations on Business and Human Rights (Focal Group) was founded, and to date is coordinated by the Project on Organizing, Development, Education and Research (PODER) and composed by other eight civil society organizations: Business and Human Rights Resource Centre, Mexican Center for Environmental Law (CEMDA), Project on Economic, Social and Cultural Rights (ProDESC), Network in Defense of Digital Rights (R3D), Oxfam Mexico, Services and Advice for Peace (Serapaz), accompanied by the Interamerican Association for Environmental Defense (AIDA) and Peace Brigades International (PBI). The Focal Group has worked to ensure the respect, promotion and protection of human rights by the Mexican State, national and transnational corporations through the implementation of the UNGPs and other human rights international and regional standards and seeking an open dialogue, active and permanent participation with different sectors and stakeholders. The Focal Group has developed the following in promoting the implementation of the UNGPs: i) bolstered and strengthened the voices of affected communities in decision-making international, regional and national forums and worked on capacity-building, ii) advocated for a National Action Plan and the recognition of Business and Human Rights issues in public policy documents and processes such as the National Human Rights Program, iii) developed materials including the Baseline Diagnosis for the implementation in Mexico of the UNGPs and its supplement, the Annual Report on the evaluation and monitoring of the National Action Plan, the Monitoring on the Implementation of International Recommendation on Business and Human Rights by the Mexican State, iv) participated in the development of the Mexican National Action Plan but had to cease due to the lack of substantive participation, v) co-organized the multistakeholder forum on mandatory human rights due diligence and effective reparation. ii. Challenges in developments and practices However, despite the efforts made by the Focal Group, and other stakeholders, including governmental authorities to advance the development of public policy that regulates and makes business liable on their obligations to respect, protect and remedy human rights violations that they have caused or contributed to, there has not been much progress on this during the past and current administration. As of today, the advancement of the UNGPs implementation by the government has been merely in the integration of Business</p>

	<p>and Human Rights issues in public policy documents such as the 2014-2018 National Human Rights Program (PNDH) strategy 4.4. “Promote Human rights and gender in the private sector” or the Human Rights National Commission General Recommendation 37.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>To this day there are certain gaps and challenges that still remain and that reflect what has not worked to this day: i) Challenges in their non-binding nature. The UNGPs, as mentioned in its text, do not create new international law obligations, but their purpose is to guide States regarding its obligations to respect, protect and fulfill human rights and businesses in their responsibility to respect human rights and the manner in which they can comply with this responsibility. This non-binding nature of the UNGPs represent a challenge in its implementation: States do not necessarily comply strictly with their first pillar: for instance the Mexican government does not require businesses with whom they have a business relationships to undertake human rights due diligence in order to enter into agreements, nor do they respect human rights when it comes to State-owned businesses. In this vein, the non-compliance by the State and State-owned businesses represents a bigger challenge in the implementation and promotion of the second pillar. ii) Challenges in public policy. a. Challenges in the development of a Mexican National Action Plan. To date, in Mexico there has been no advancement in the creation and development of a National Action Plan, nor has information been made public regarding this process. In 2015, the Mexican government initiated the process for the development of a Mexican NAP. The Mexican government was not prepared to undertake a specialized public policy process which led the Focal Group to provide the government with observations, documents and inputs during face-to-face meetings. However, during the process there was a constant lack of transparency, accountability and the participation of affected communities, leading the Focal Group to leave the process. All these elements represent the illegitimacy of the process and the outcome was deemed void before the UN system. The Focal group continued to monitor the process over, motivating discussions and developing key materials for a new NAP process for instance the Supplement to the Mexican National Baseline Assessment, the 2018 NAP report and the 2019 report on the implementation of international recommendations on business and human rights. To this day, after the first Mexican NAP process the Mexican government has not initiated a new process nor provided any information on its development. b. Challenges in the 2020-2024 National Human Rights Program. Mexico has a five-year National Human Rights Program (PNDH), a human rights public policy document in which the human rights priorities and actions of the federal government are set forth. The PNDH and the NAP are independent public policy documents however, the 2015 Mexican NAP processes stemmed from the 2014-2018 National Human Rights Program 4.4. Strategy: “Promote human rights and gender in the private sector, as well as in business policies and activities”. After the failure of the first NAP process, the 2019-2024 National Human Rights Program’s works began in 2019. The Focal Group provided input for the business and human rights section. In November 2019, the Ministry of the Interior, in a meeting with the Focal Group,</p>

declared that the inclusion of objectives and lines of work on business and human rights in the National Human Rights Program would be the foundation for a new Mexican NAP. In March 2020, during the multistakeholder forum on mandatory human rights due diligence and effective reparation organized by the Focal Group, the OHCHR-Mexico, OECD, ILO and the University of Monterrey - funded by the European Union, the Mexican government announced a new NAP process. During the development process of the 2019-2024 National Human Rights Program there has been a lack of CSO participation and transparency, and to date, the public policy document has not been published, nor further developments have been informed. Moreover, there are challenges in the coordination of the governmental offices' discourse and actions: for instance the Ministry of Foreign Affairs and the Ministry of Economy. iii) Gaps and challenges in human rights due diligence legislation. The Mexican National Baseline Assessment and its Supplement assessed and compiled the implementation of the UNGPs through the Mexican national framework which in certain cases establish elements of human rights due diligence, including the the General Law of Ecological Equilibrium and Environmental Protection, the Electric Industry Law, the Labour Federal Law, amongst others. However, the Mexican legal framework: i) lacks mechanisms for the participation of communities and stakeholders in both text and in implementation, and ii) lacks integration of human rights and transparency international legal standards. Now, regarding the implementation and compliance of the legal framework by businesses, there are no public governmental reports, and businesses are not obliged to inform on the development and implementation of their existing human rights obligation. Mexico has a well-known issue on the fact that it has a “strong” human rights legislation, but a deficient implementation since the government does not undertake a due diligence approach, nor is there a periodic evaluation of the mechanisms. Most recently, in September 2020 the Initiative for the General Law on Corporate Responsibility and Corporate Due Diligence was presented before the Senate. The law intends to reflect a human rights due diligence mechanism. However, civil society organizations were not taken into consideration in order to participate during the process, and the law lacks a complete human rights and gender perspective, as it ignores active and real participation in both its development and text. iv) Challenges in access to effective remedies. In Mexico, there are expert civil society organisations that accompany communities in their search for justice for the negative impacts of national and transnational businesses operations on their human rights. One such case is that of the indigenous Zapotec community of Unión Hidalgo in Oaxaca, who with the support and direction of Project on Economic, Social and Cultural Rights (ProDESC) and the European Center for Constitutional and Human Rights (ECCHR), used the mechanism established in the French law on the duty of vigilance for the first time in the Americas, urging the French company Electricité de France (EDF) to comply with their legal obligation to establish measures to prevent and mitigate the risk of human rights abuse with regards to the Gunaa Sicarú wind park. Although the case is still ongoing, it shows the importance of the lack of effective judicial mechanisms that are in reach for affected communities, particularly when there are no legal remedies for corporate accountability in their home country, and risks of corporate capture and impunity are present. ProDESC also accompanies

	<p>groups of temporary migrant workers in their demands for justice with employers in the USA through the RADAR Program. It focuses on the legal concept of ‘knowledge’ found in H-2A and H-2B visa regulations; and ‘joint employment’ under the Fair Labor Standards Act (FLSA). This innovative program aims to combat abuses that occur in the recruitment process of migrant workers under H-2 visa programs. It opens the door to making US employers legally liable for the abuses committed by their recruiters in Mexico and furthers transparency and accountability throughout the labor and product supply chain, and demonstrates the lack of effective mechanisms. Another case is that of the Sonora River regarding Grupo Mexico’s 40 million liters of acidulated copper sulfate spill in the Sonora and Bacanuchi Rivers. The affected communities are represented by PODER and are organized in a citizen movement called the Rio Sonora Watershed Committees (CCRS), which have been in a battle for the past 6 years to defend their rights and challenge the corporation’s impunity in the case. To supposedly remediate the situation, the then Mexican government administration and Grupo México created the Rio Sonora Trust Fund (FRS), a private mechanism without any participation of the affected communities. In 2017, the trust fund was closed, without informing those affected and without repairing the various human rights violations. There was no effective redress from the Mexican government or the judicial courts, as established by the UNGPs third pillar. This year the SCJN granted by unanimity the amparo and federal protection to the communities of the Sonora and Bacanuchi rivers. Specifically, in the amparo trial that challenged the extinction of the FRS and the conclusion of the Environmental Remediation Program but did not refer to the UNGPs.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>i. State institutional obstacles In the Mexican political context, the realization of the UNGPs seems to be a complex task. The current administration has not taken into account the civil society organization’s inputs thoroughly nor has it followed up on multi stakeholders dialogues. Moreover, the Business and Human Rights agenda does not seem to be a priority for some governmental instances or its realization has been deliberately hindered by other governmental instances. For instance, the Ministry of the Interior has focused mainly on enforced disappearance issues and gross human rights violations. ii. The outcomes of the COVID-19 pandemic and the economic recovery The COVID-19 pandemic has represented a regressive shift on the respect and protection of human rights in the context of business activities. There have been certain cases in which national and transnational businesses have flexibilized workers' conditions illegally, without any repercussions from the Mexican State: from obliging workers to take unpaid licences or reducing ‘voluntary’ their salaries amongst other businesses policies that represent a violation to the right to work and to fair conditions. Now, as the Focal Group we consider that the State must prioritize and take the necessary measures to ensure the following during the COVID-19 pandemic and the economic recovery: a) the guarantee of the protection of human rights defenders, specially defenders of the territory and the environment, and of labour rights, who have faced greater difficulties to organize and enforce their rights, such as risk of contagion, the lack of protocols, health services and their correct implementation and the false dilemma of choosing</p>

	<p>between health and the economy. b) effectively guarantee the rights of access to information, to participation and to justice in environmental matters. c) apply the principles of prevention, precaution and progressivity, and avoid flexible measures in environmental regulations, in financing for development, and in general in business operations, which reduce protection measures. d) establish suitable measures are needed to prevent and address the climate crisis, through mitigation, adaptation and compensation measures from a human rights and gender perspective. e) respect and guarantee the rights of native peoples and comparable communities so that they can exercise their right to consultation and consent in a prior, free and informed manner.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>i. Corruption, corporate capture and impunity Amongst the systemic or structural challenges that need to be tackled in Mexico to realize a sustainable development based on respect for human rights are the corruption, corporate capture and impunity phenomenon. During the COVID-19 the corruption and corporate capture phenomenon has been even more visible: Employers have limited workers rights, certain business sectors such as the extractive sectors have been allowed to operate during the pandemic under the argument that their operation is essential, and some businesses have taken advantage of the situation to advance on the governmental approval of their projects, policies and legislation that have a negative impact on human rights. For instance, during the COVID-19 pandemic corporations intervened in the development and implementation of public policies that regarded the declaration of the suspension of non essential sectors to be regarded as essential, particularly the extractive sector. Additionally, when it comes to effective forms of remedies and access to justice, Mexico has a systemic issue regarding the lack of corporate accountability and effective reparations when it comes to repairing human rights abuses and human rights violations. ii) Lack of accountability, transparency and participation The lack of corporate accountability and transparency is a structural issue in the country. Corporations are not obliged to disclose certain information that is vital for communities and stakeholders' access to justice, and when such information can be sought through government's transparency means, the State is reluctant to provide victims with such information under the argument that businesses have the right to privacy. Regarding the lack of participation, as mentioned previously, civil society organizations and affected communities are not considered to have an active participation in the development of public policy, and legislations which leads to a common issues: the law and public policies lack a complete human rights and gender perspective, as it ignores active and real participation in both their development and text.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and</p>	<p>i. Active and real participation by Civil Society Organizations and affected communities It is vital that States consider the active and real participation of civil society organizations in the development and implementation of public policy and legislation. During certain processes, there has been a constant lack of transparency, accountability and the participation of affected communities, leading the Focal Group to leave such processes. The lack of participation of civil society actors and</p>

<p>priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>all these elements represent the illegitimacy of the process and the outcome was deemed void before the UN system. It is crucial that the States take into account civil society and affected communities inputs in the development and the implementation of any public policy or legislative instruments, and that the outcomes are transparent and seek corporate accountability. ii. A human rights due diligence mandatory mechanism in legislation It is vital that the States develop a human rights due diligence legislative or public policy instrument as recommended by the Business and Human Rights UN Working Group. Also, it is essential that the States undertake a due diligence task in the matter that the existing human rights framework is duly implemented, and develop a State policy that obliges businesses with whom it contacts and State-owned businesses to undertake human rights mechanism due diligence procedures. It is crucial that States pursue the adoption and implementation of mandatory corporate human rights due diligence, and that in such mechanisms the participation of stakeholders, affected communities, and social society organizations is active, real and ongoing during all the stages of its implementation. Therefore, it is also essential that the Mexican government supports and pursues these mechanisms through the adoption and ratification of the Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business and the ratification of other key instruments such as the ILO C190, which in addition to government obligations includes Recommendations for employers on eradicating violence and harassment in the workplace . iii. Dialogue with key institutional investors It is key that there is an active and real dialogue with key institutional investors so that their investments decisions integrate a social, environment, governance and respect for human rights perspective, and that through such perspective they can exercise the necessary and direct leverage to influence businesses to respect human rights.</p>
---	--

Survey response	
Organization	MVO Platform
Stakeholder category	Civil society organization
Region	Western Europe
Additional information about your submission (e.g. collection of inputs	The MVO Platform is a network of 24 civil society organisations and trade unions in the Netherlands.

<p>from members; or inputs from consultation):</p>	
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>The UNGPs have been essential for realising the progress that has been made on the issue of business and human rights in the past ten years. The concept of due diligence has become increasingly well-established and widely understood by governments and companies, although much work remains to be done. Promising developments are the trend towards mandatory due diligence requirements in several European countries and at the EU level. There is also an increasing awareness of the importance of a ‘smart mix’ of binding and voluntary policy measures, as prescribed by the UNGPs. In the Netherlands, the new government policy on Responsible Business Conduct (RBC) is built upon the smart mix framework, identifying five types of government instruments to improve adherence to RBC standards by companies: informing companies, incentivising companies (e.g. through subsidies), facilitating companies and MSIs, setting RBC conditions and imposing legal RBC requirements. This framework acknowledges the mutual dependence of voluntary and binding measures for effective government policies on RBC. The experience of the Dutch government as well as Dutch companies, civil society organisations and business with setting up multi-stakeholder initiatives to promote RBC, which has been evaluated by the KIT (<a href="https://www.rijksoverheid.nl/documenten/rapporten/2020/07/08/evaluation-of-the-dutch-rbc-agreements-2014-2020">https://www.rijksoverheid.nl/documenten/rapporten/2020/07/08/evaluation-of-the-dutch-rbc-agreements-2014-2020</a>), is useful for the further implementation of the UNGPs in the Netherlands and beyond. The increased awareness and experience of companies, governments and civil society with the UNGPs and monitoring adherence to the UNGPs is also an important building block for further implementation. The work that has been done on integrating the UNGPs in various policy instruments, e.g. financing conditions and responsible procurement policies, is also a first step towards better implementation of the Guiding Principles.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Despite some progress on the implementation of the UNGPs, huge challenges remain. In the Netherlands, the Dutch government’s National Action Plan to implement the UNGPs and previous RBC policy have not led to substantial improvements in terms of companies’ adherence to the UNGPs. Monitoring reports have repeatedly shown low rates of commitment from companies to the Guiding Principles (and even lower numbers of companies reporting on actually implementing due diligence). The Dutch government’s RBC policy to date has been far from effective, as shown by the overall policy evaluation conducted by the IOB (2019) and the KIT’s evaluation of the government policy for RBC agreements (2020). The one-sided focus on voluntary policy measures has been insufficient to ensure companies implement the UNGPs. Without a binding obligation to adhere to the UNGPs and means for stakeholders and governments to hold companies to account in case of non-implementation or violation of the Guiding Principles,</p>

	<p>far too few companies decide to implement the Guiding Principles voluntarily. This is reflected by the continued, structural and widespread occurrence of human rights violations in global supply chains. The Dutch government itself has also failed to fully implement the UNGPs. Regarding Pillar 1, the government should do much more in terms of the state-business nexus, for example regarding the integration of RBC standards in public procurement processes. RBC standards also lack in part of the business financing instruments the government provides, as well as in the long-term economic support packages that were developed in response to the Covid-19 crisis. The government could also do more to ensure a clear and undisputed understanding of the UNGPs among all stakeholders, which is also particularly relevant for the current discussions on mandatory requirements on business and human rights (e.g. making clear that due diligence covers the entire value chain rather than direct suppliers only, clarifying the scope of due diligence). Regarding pillar 3, companies and governments have only taken very limited steps to improve access to remedy for victims of human rights abuse. Although there are some promising signs (e.g. the development of sectoral grievance mechanisms), overall the Dutch government has taken little action to improve access to remedy (e.g. a 2015 study on the status quo of Dutch law and the duties of care of Dutch businesses (<a href="https://www.wodc.nl/binaries/2531-summary_tcm28-124392.pdf">https://www.wodc.nl/binaries/2531-summary_tcm28-124392.pdf</a>) did not lead to any follow up in government policies or regulations).</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Key obstacles are companies' unwillingness to voluntarily adhere to RBC standards and governments' unwillingness or inability to hold companies to account for human rights violations in supply chains. Reasons for this corporate behavior vary, but an important underlying factor is that profit-oriented businesses will not see sufficient short-term benefits from investing in due diligence, and therefore will not take sufficient action unless legally required. Other factors are unawareness, the complex nature of certain BHR problems and low commitment at the executive level. Obstacles for more ambitious government policies are lacking political will and commitment, limited political attention for BHR problems, the complex nature of certain BHR problems and strong resistance from business associations. Other obstacles include lacking policy coherence and commitment from all government departments and ministries. Priorities for better implementation of the UNGPs should be ambitious and well-functioning legislative requirements for due diligence, proper enforcement and improved access to remedy.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Structural challenges that need to be tackled are the profit-driven, shareholder-focused orientation of many companies, with a focus on outsourcing production and externalising costs. Another related challenge is the lack of accountability of companies on the issue of business and human rights and the strategies companies use to avoid such accountability (also see e.g. <a href="https://www.mindthegap.ngo/">https://www.mindthegap.ngo/</a>). Another structural challenge is the 'race to the</p>

	bottom' in a competitive global economy, in which labour standards, law enforcement, wage levels and environmental regulations are factors through which countries compete against one another in order to attract foreign investment.
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	Binding due diligence requirements, in line with the OECD Guidelines for Multinational Enterprises, are an essential part of the smart mix of measures. Strong enforcement of such binding regulations is essential for these requirements to be effective. Governments should ambitiously implement the UNGPs. A revision of the National Action Plans, as the Dutch government is currently doing, can be useful in this regard. Governments should also be requested to improve monitoring of the implementation of RBC standards by companies (see e.g. the Dutch monitoring reports) and should continue to monitor and evaluate the effectiveness of their policies. Stronger political commitment and improved policy coherence, e.g. in the field of coherent public procurement and RBC conditions for government support, are other important elements of the smart mix that need improvement. Governments and companies should also take concrete steps to improve access to remedy for victims of human rights abuse.

Survey response	
Organization	Access Now
Stakeholder category	Civil society organization
Region	North America
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society	Commendable progress by businesses have been made on the pillar to respect human rights. In the tech sector, several companies have made their commitment to the UNGPs explicit and many have instituted human rights policies, committing to respect the rights to privacy and freedom of expression that are essential human dignity in the digital age. More companies, particularly companies outside the U.S and Europe, should make and uphold human rights commitments. Those laggards should be able to see leaders in the space implementing their high level policies in measurable, transparent, and rights-respecting ways. Civil society organizations have been instrumental in pushing more companies to respect human rights in the tech sector. From documenting internet shutdowns to mapping out use of surveillance technologies, civil society has worked to provide the tools for accountability.

<p>organizations, etc.) that can be built on?</p>	
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Gaps remain in fulfilling the third pillar of access to remedy. In the last 10 years, we have seen more harms arise from the tech sector with little access to remedy for individuals when their rights have been violated. Companies have created grievance mechanisms such as the Facebook Oversight Board, but these measures alone are not sufficient to ensure that individuals have meaningful access to remedy. In practice, few tech and telecom companies exercise adequate due diligence or participate in meaningful remedial mechanisms. The mantra of speed and scale outpaces regulation and leaves companies to operate in pursuit of profit, maximizing data collection and failing to protect vulnerable communities from online harms. The lack of investment in content moderation, where scores of contracted employees in countries far from Silicon Valley are left to deal with the harmful effects of viewing offensive and dangerous material, illustrates how the sector's own business practices perpetuate harm both within and outside the platform's bounds. Challenges also remain in the State obligation to fulfill human rights. For example, internet shutdowns and disruptions have increased throughout the world as States use these measures to stifle dissent and suppress opposition. The prevalence of this practice demonstrates that States have not upheld their duty to ensure that their citizens are fully able to exercise their human rights to access necessary information and services.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>A priority that must be addressed in order to achieve fuller realization of the UNGPs is greater attention to the way tech companies impact human rights. The last 10 years have shown that the power of the tech sector is here to stay as we now live almost all of our lives online. As this sector grows, the impact on human rights are interconnected from digital rights such as freedom of expression and privacy, to the impact on labor rights due to surveillance in the workplace. Projects such as the B-Tech project are important to understanding the impact of the tech sector on human rights and must remain a priority.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The fundamental question of business models must be addressed to realize sustainable development based on respect for human rights. The business models of companies such as social media platforms that monetize the spread of misinformation and disinformation are at odds with respect for human rights. There is a growing call to understand the business models of online platforms and other tech companies and as we learn more about these business models, we see that there are some practices that are fundamentally incompatible with a respect for human rights. For example, in the issue of surveillance, tools that can be used for mass surveillance are incompatible with human</p>

	rights. States need to understand where these red lines are and ensure that these business models do not continue to perpetuate harm.
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	States must implement stronger oversight over technology companies. In the U.S., for example, the government is still yet to pass a federal data protection law. As harms from online platforms like Facebook and Twitter become more evident, it is all the more necessary for States to have a federal data protection law to protect individuals. States should also implement mandatory human rights due diligence requirements for companies. As the E.U. gets closer to this reality, other States should follow suit in order to fulfill the obligation to protect human rights. Companies must make transparency and human rights due diligence part of their business operations. The Access Now Transparency Reporting Index has recorded over 70 companies releasing transparency reports since 2010. Transparency reporting is one of the strongest ways for companies to disclose threats to their users' human rights and the reporting by companies over the years has helped the public understand the scope of government overreach and surveillance. However, reporting has declined over the years therefore going forward, transparency must be a bigger priority for companies.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	Resources: Transparency Reporting Index: <a href="https://www.accessnow.org/transparency-reporting-index/">https://www.accessnow.org/transparency-reporting-index/</a> 2019 shutdowns report, <a href="https://www.accessnow.org/cms/assets/uploads/2020/02/KeepItOn-2019-report-1.pdf">https://www.accessnow.org/cms/assets/uploads/2020/02/KeepItOn-2019-report-1.pdf</a> "What the Facebook Oversight Board means for human rights, and where we go from here" <a href="https://www.accessnow.org/cms/assets/uploads/2020/06/Response-to-FB-Oversight-Board-announcement.pdf">https://www.accessnow.org/cms/assets/uploads/2020/06/Response-to-FB-Oversight-Board-announcement.pdf</a> Two years under the GDPR, <a href="https://www.accessnow.org/cms/assets/uploads/2020/05/Two-Years-Under-GDPR.pdf">https://www.accessnow.org/cms/assets/uploads/2020/05/Two-Years-Under-GDPR.pdf</a> Report on freedom of association and assembly, <a href="https://www.accessnow.org/cms/assets/uploads/2020/07/Defending-Peaceful-Assembly-Association-Digital-Age.pdf">https://www.accessnow.org/cms/assets/uploads/2020/07/Defending-Peaceful-Assembly-Association-Digital-Age.pdf</a> Report on misinformation and free expression during covid, <a href="https://www.accessnow.org/cms/assets/uploads/2020/04/Fighting-misinformation-and-defending-free-expression-during-COVID-19-recommendations-for-states-1.pdf">https://www.accessnow.org/cms/assets/uploads/2020/04/Fighting-misinformation-and-defending-free-expression-during-COVID-19-recommendations-for-states-1.pdf</a> Report on data protection during covid, <a href="https://www.accessnow.org/cms/assets/uploads/2020/03/Access-Now-recommendations-on-Covid-and-data-protection-and-privacy.pdf">https://www.accessnow.org/cms/assets/uploads/2020/03/Access-Now-recommendations-on-Covid-and-data-protection-and-privacy.pdf</a> More than 3.5 billion left in the dark: why we're still fighting to reach U.N. targets for internet access, <a href="https://www.accessnow.org/internet-access/">https://www.accessnow.org/internet-access/</a> Facebook blocked reforms that to address misinformation because they reduced engagement: <a href="https://www.nytimes.com/2020/11/24/technology/facebook-election-misinformation.html">https://www.nytimes.com/2020/11/24/technology/facebook-election-misinformation.html</a> Amazon's surveillance of warehouse workers and labor unions: <a href="https://www.vice.com/en/article/5dp3yn/amazon-leaked-reports-expose-spying-warehouse-workers-labor-union-environmental-groups-social-movements">https://www.vice.com/en/article/5dp3yn/amazon-leaked-reports-expose-spying-warehouse-workers-labor-union-environmental-groups-social-movements</a>

Survey response	
Organization	Accountability Counsel
Stakeholder category	Civil society organization
Region	North America
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>With respect to Principle 31 on effective grievance redress mechanisms, best practices for independent accountability mechanisms (IAMs) have developed extensively over the last decade, such that every multilateral development bank has one, as does the United Nations Development Programme (UNDP) and national development financial institutions. While IAMs have proven their worth for development finance, other types of financiers largely have not adopted them. This means that for many financial flows, an accountability gap exists. One promising development in the area of impact investing is the UNDP's SDG Impact Standards for Private Equity Funds, which were finalized in October 2020 and require fund-level managers to provide effective grievance redress mechanisms as a means of demonstrating appropriate governance controls.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>Despite the success that IAMs have had in promoting better outcomes in development finance, a critical accountability gap remains with respect to other international financial flows that affect communities. With the exception of the SDG Impact Standards, most private sector attempts to implement governance for human and environmental rights into investment strategies have failed to require Principle 31 grievance redress mechanisms. As an example, despite embracing many of UNGP's initiatives, the IFC Operating Principles for Impact Management fail to impose requirements on signatories to provide effective grievance redress mechanisms. While all financial flows that could cause environmental and social harms should be governed by accountability mechanisms, there is particular opportunity for impact investors to embrace them. Given impact investors' more expansive definition of net impact, they should want to ensure that communities do not suffer unintended harms. The next 10 years should prioritize making Principle 31 accountability mechanisms standard practice for impact investors. There are numerous reasons why now is the time for the UN Working Group on Business and Human Rights to develop a robust movement for accountability mechanisms in impact investing. First, the potential for positive impact if an accountability framework for impact investing is implemented is staggering. The converse is true of the status quo. If impact investing proceeds at its current scale without governance structures in</p>

	<p>place to prevent abuse and address harm, the consequences to local communities will be dire. Impact investments can cause the same negative impacts as traditional investments. Accountability Counsel’s work with communities negatively impacted by renewable energy and conservation projects prove this point. Take, for example, a biomass project in Liberia that was billed as an impact investment advancing renewable energy in a country rebuilding after years of devastating conflict. In reality, the project caused deforestation, embedded dependence on charcoal, sent family farmers into poverty, and contaminated water resources, amid sexual abuse and labor rights violations. Similarly, a hydroelectric project in Mexico that was intended to produce renewable energy instead began through illegal land acquisition and endangered local villages’ water supply and the safety of an adjacent dam curtain. When investors learned of these impacts due to communities’ use of an accountability office, they ultimately decided that the project was untenable. In both cases, investors believed that they were benefiting their host communities. Yet it took hearing from those communities through IFI accountability office processes to understand the catastrophic financial, human, and environmental outcomes. Further, a forest and wetlands conservation project in Myanmar -- funded by UNDP and impact investors -- risked infringing upon indigenous communities’ land rights and imperiling a fragile patchwork of ceasefire agreements in the region. Communities raised a complaint to UNDP’s IAM, and the project has been paused for reevaluation. Second, and as is evidenced by the above examples, but for the existence of an accountability mechanism, investors might not have been made aware of the unintended harms. The mechanisms provided an opportunity for investors to learn of issues directly from communities and have an opportunity to address them. Awareness of this current knowledge gap should convince investors of the value of accountability mechanisms. Third, accountability mechanisms help measure compliance with environmental and social standards; they are the “G” in “ESG.” They offer invaluable insight into where non-compliance exists and how the investor can close policy gaps that would otherwise impair the ability of current and future investments to deliver positive impacts and respect for human rights. Moreover, when failure happens—as it can, even when an investor does engage in earnest due diligence—then the people harmed need a forum to raise grievances and a process to provide meaningful remedy.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>In short, a better business case for accountability mechanisms is needed. First, learnings from development finance are not necessarily known by investors focused on other areas. Too few impact investors outside of the development finance space know what accountability mechanisms are or why they matter. Second, some impact investors do not perceive that they might be causing harm. Many impact investors not only have good intentions but also have strong risk assessment practices. To be convinced that an additional process is required will require additional education and awareness raising. Third, investors push accountability obligations onto their clients. The requirement for project-level grievance mechanisms, at least on paper, are more prevalent than investor-level accountability mechanisms in the non-</p>

	<p>development-finance investment space. While project-level grievance mechanisms are important, they often lack the requisite independence and authority to address certain environmental and social issues. Investors should be encouraged to establish accountability mechanisms at the investor-level. Fourth, effective grievance mechanisms are perceived as costly and bureaucratic. Investors need to better understand the ways that accountability mechanisms can ensure better investments. They serve as a direct feedback channel from communities who will know unintended impacts first. Further, they offer efficient and effective ways to address problems outside of litigation.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Accountability Counsel recommends that impact investors adopt effective accountability mechanisms at the institutional level. Ideally, some impact investors would come together to create a joint accountability mechanism. However, fund managers could also design their own mechanisms, provided they are sufficiently independent and meet the effectiveness criteria laid out in Principle 31 of the UNGPs. Given the rate of growth in impact investing and its potential to cause adverse human rights impacts, the UN Working Group on Business and Human Rights could: (1) increase awareness of Principle 31 among impact investors; (2) provide provide concrete guidance as to how impact investors could implement Principle 31; and (3) advocate for impact measurement standards to include existence of and reporting on accountability mechanisms. Measurable targets could include: (1) an impact investor piloting an accountability mechanism; (2) impact investors discussing publicly the benefits of an accountability mechanism; and (3) impact measurement standards including requirements for and reporting on accountability mechanisms.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Accountability Counsel is grateful for the opportunity to provide input on this initiative. Given the important role that accountability mechanisms play in remedying adverse human rights impacts and the current lack of effective accountability mechanisms outside of development finance, we sincerely hope that the Working Group will encourage and advise private investors -- particularly impact investors -- to adopt accountability mechanisms at the institutional-level as part of the UNGPs 10+ / Next Decade BHR project.</p>

Survey response	
Organization	Anti-Slavery International
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<ul style="list-style-type: none"> <li>• Anti-Slavery International notes that, in the past decade, the UNGPs have been essential in providing an authoritative framework for governments and business enterprises to prevent, address and remedy adverse human rights impacts of business activities. There is general consensus around the recognition of the UNGPs as a means to help business implement their responsibility to respect human rights. This is reflected in company reporting and other voluntary measures, such as benchmarking initiatives (<a href="https://www.corporatebenchmark.org">https://www.corporatebenchmark.org</a>) and multi-stakeholder initiatives.</li> <li>• In recent years there has been a global trend towards embedding the corporate responsibility to respect human rights (under the UNGPs) into law. Recent years have seen a number of significant national and extra-territorial initiatives in this direction.</li> <li>• For example, the UK's Modern Slavery Act Transparency in Supply Chains (TISC) provision was one of the first laws in this direction. At the time, the legislation was considered ground-breaking, as the UK became the first country in the world to introduce transparency in supply chains requirements. Due to TISC, a number of companies have taken substantive action to identify and act on risks of labour exploitation in their supply chains (see analysis <a href="https://www.modernslaveryregistry.org/pages/FTSE_100_reports">https://www.modernslaveryregistry.org/pages/FTSE_100_reports</a> by BHRR of the FTSE 100, which identifies examples of leading practice), and numerous industry initiatives have been established to focus on specific risk areas – for example, focused on car washes (<a href="https://www.theclewerinitiative.org/safecarwash">https://www.theclewerinitiative.org/safecarwash</a>), construction (<a href="https://www.ciob.org/campaigns/tackling-modern-slavery-construction">https://www.ciob.org/campaigns/tackling-modern-slavery-construction</a>) and the UK garment industry (<a href="https://www.fastforwarduk.org/">https://www.fastforwarduk.org/</a>). Some investors (<a href="https://citywire.co.uk/wealth-manager/news/rathbones-spearheads-modern-slavery-campaign/a1338024">https://citywire.co.uk/wealth-manager/news/rathbones-spearheads-modern-slavery-campaign/a1338024</a>) are now considering companies' anti-modern slavery commitments in their investment decisions.</li> <li>• Unfortunately, a lack of an enforcement mechanism has led to many companies not complying with the law, or simply addressing it as a 'tick box exercise'. The independent review of the Modern Slavery Act (<a href="https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report">https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report</a>), conducted by Frank Field MP, Maria Miller MP and Baroness Butler-Sloss, noted that the legislation is "light on detail" on reporting, and estimated 40 per cent of eligible companies are not complying with the legislation at all. Civil society has had to take on the role of holding companies accountable. Moreover, as a transparency and reporting obligation alone, TISC only requires companies to disclose the steps they are taking to prevent slavery in their supply chains, but does not</li> </ul>

	<p>oblige them to take those steps. Although some companies have used transparency measures as an opportunity to advance efforts to address modern slavery, many have not. Recent Government proposals to enhance the TISC provision are recognised by civil society as inadequate (<a href="https://corporate-responsibility.org/wp-content/uploads/2020/10/Civil-society-joint-response-to-Government-TISC-response_FINAL-261020.pdf">https://corporate-responsibility.org/wp-content/uploads/2020/10/Civil-society-joint-response-to-Government-TISC-response_FINAL-261020.pdf</a>). • Other states (<a href="https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf">https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf</a>) have since gone further than the UK, developing laws which require companies to take preventative action in the form of human rights due diligence (HRDD) in line with the UNGPs, with legal liability when companies breach their HRDD obligations and damage and loss occur, for example, the French Duty of Vigilance law and the Dutch Child Labour Due Diligence Law. Notably, the EU has committed to tabling a legislative proposal on human rights and environmental due diligence, including legal liability, in Q2 2021, to protect human rights and provide access to remedy for victims of corporate abuse. Anti-Slavery international strongly believes that the introduction of binding due diligence laws with liability attached will drive significant progress in corporate action to prevent forced labour in their supply chains.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>• We believe that the voluntary nature of the UNGPs has failed to ensure businesses are responsible for preventing forced labour across supply chains and achieving decent work. Weak national legislation that is failing to change corporate behaviour or bring the UNGPs fully into law. In most contexts, the UNGPs have no force in domestic law and are not adequately protecting people or the environment from corporate abuse. Forced labour in global supply chains generates \$150 billion in profit per year, according to the ILO (<a href="https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm">https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm</a>). Abuse in the global operations, products, services and supply chains of UK and other businesses disproportionately impact vulnerable groups such as women, children and migrant workers. • The UNGPs establish a smart mix of measures both national and international, mandatory and voluntary. However, to date, we have failed to see such a smart mix; instead, measures have been largely voluntary, with those touted as mandatory often lacking the necessary means to really be such, as in the case of the UK Modern Slavery Act 2015 as described above. Voluntary initiatives have failed (<a href="https://www.msi-integrity.org/not-fit-for-purpose/">https://www.msi-integrity.org/not-fit-for-purpose/</a>) to significantly change the way companies manage their social impacts while enabling companies to claim they have. In the absence of strong laws there has been a ‘race to the bottom’ on business and human rights. It is time for mandatory measures that level the playing field and hold businesses to the same standards. • The Covid-19 crisis has further underscored the urgent need for binding legislation that makes businesses legally responsible for respecting the rights of workers in their supply chains. During Covid-19, in industries and services such as food, PPE production, and delivery, there were reports of workers facing heightened risk of labour exploitation, including forced labour. Further, in industries with disrupted demand, many businesses have used (<a href="https://covid19.businesshumanrights.org/en/tracker/">https://covid19.businesshumanrights.org/en/tracker/</a>) their</p>

purchasing power to cancel orders, delay payments, and require discounts, putting the workers in these supply chains at risk. In garment manufacturing in South and South East Asia, this led to mass layoffs (<https://www.business-humanrights.org/en/big-issues/covid-19-coronavirus-outbreak/supply-chain-workers/>) of workers without adequate state safety nets to protect them, destroying the livelihoods of millions of underpaid garment factory workers in countries like Bangladesh and Cambodia. Mass unemployment, even if temporary, means that major sections of the global population are at greater risk of exploitation in forced labour and other modern forms of slavery. As the world emerges and recovers from Covid-19, there is a need for new binding standards which benefit all. • Risk of tick-box approaches and reliance on audits and certification bodies. We continue to see the risk that many companies rely on a heavy auditing/certification approach to human rights due diligence. Cocoa and coffee production in Brazil are two clear examples where child and forced labour are common. There have been cases of multinational companies purchasing both cocoa (<https://reporterbrasil.org.br/2020/08/chocolate-com-trabalho-escravo-as-violacoes-trabalhistas-na-industria-do-cacau-no-brasil/>) and coffee (<https://reporterbrasil.org.br/2019/05/slave-labor-found-at-second-starbucks-certified-brazilian-coffee-farm/>) beans from farms where inspections have found slave labour, despite these farms being either certified by UTZ (certification no longer valid) or certified for good practices. A reliance on audits (<https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>) and certifications (<http://speri.dept.shef.ac.uk/2018/05/31/the-global-business-of-forced-labour-major-report-by-professor-genevieve-lebaron-published/>) is insufficient to identify, prevent, mitigate or remedy forced labour in supply chains, and should not be understood as effective human rights due diligence, which should entail enhanced risk approaches designed to identify and address egregious, and often hidden, abuses such as forced labour. This necessitates robust and effective stakeholder consultations with workers, trade unions, groups in vulnerable situations (for forced labour, for example migrant worker organisations). In addition, meaningful human rights due diligence to address forced labour must include an assessment of whether and how a company's own practices and business models are creating or enabling the conditions for forced labour – for example, the role of purchasing practices, promotion of living wages, and an enabling environment for freedom of association and collective bargaining. As we move towards mandatory legislation at the EU level and in a number of EU member states, it is fundamental that this legislation is designed to require effective due diligence, rather than to encourage an even greater reliance on audits and certification bodies. • Corporate focus on human rights due diligence at Tier One of supply chains only. According to the European Commission study (<https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>) which involved a survey of over 300 businesses, only 1/3 of business respondents (37%) stated that they currently undertake some form of due diligence which takes into account all human rights and environmental impacts. The majority of business respondents which undertake human rights due diligence (52%) only address first-tier suppliers, i.e.

direct suppliers, and not the whole supply chain, while only 16% cover the entire value chain. This is a glaring gap in corporate's implementation of Pillar II of the UNGPs, and suggests that the majority of companies are failing to adequately address forced and child labour in their supply chains. Forced and child labour is evidenced to be present in all tiers of supply chains – yet is often most hidden in lower tiers of supply chains. Long and opaque supply chains allow exploitation to thrive, while obscuring (<https://www.fashionrevolution.org/transparency-beyond-tier-one/>) which companies have the responsibility and leverage to redress them. An example is Tamil Nadu in India, where the forced labour of women and girls in the region's spinning mills and factories is known as the 'Sumangali System' ([https://www.antislavery.org/wp-content/uploads/2020/09/ASI\\_ECCJ\\_Report\\_FINAL.pdf](https://www.antislavery.org/wp-content/uploads/2020/09/ASI_ECCJ_Report_FINAL.pdf)). Under this system, unmarried girls aged between 13 and 18 live in unsanitary hostels with poor living conditions that inflict chronic illnesses. Working conditions are appalling: unpaid overtime, 12-hour shifts, no days off, pay below minimum wage and frequent injuries in the workplace. Numerous European and American brands and retailers' supply chains are linked ([https://www.antislavery.org/wp-content/uploads/2017/01/slavery\\_on\\_the\\_high\\_street\\_june\\_2012\\_report.pdf](https://www.antislavery.org/wp-content/uploads/2017/01/slavery_on_the_high_street_june_2012_report.pdf)) to spinning millings in Tamil Nadu. In addition, forced labour is highly prevalent (<https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>) across raw materials in many industries. A failure for companies to meaningfully undertake due diligence at lower tiers of supply chains – and to exacerbate the risk of forced labour in lower tiers by relying on business models which enable unauthorised outsourcing and long, complex supply chains – will limit progress with effectively addressing the global prevalence of forced labour in supply chains. Mandatory human rights due diligence measures must require transparency, traceability and human rights due diligence across companies' entire value chains. • The UNGPs have failed to drive a change in business models. Further progress towards implementation of the UNGPs must be coupled with an examination of the role of business models – in enabling exploitation and human rights abuses. See Section 3 and 4. • Lack of meaningful and effective access to remedy and justice in the home countries of multinationals. The UNGPs status as a legally non-binding instrument means that they do not in themselves provide a mechanism to hold companies to account or afford access to remedy for harms linked to business activity. The lack of mandatory legislation has meant that victims of business-related harm face insurmountable obstacles to seek remedy in the country where parent companies are domiciled. As an example, we note the ongoing case (<https://earthrights.org/media/nestle-and-cargill-claim-right-to-profit-from-child-slavery-without-accountability/>) in the United States under the federal Alien Tort Statute against Nestle and Cargill by alleged former forced child laborers on cocoa farms in Cote D'Ivoire. In the UK, there has also been very little progress on criminal liability for corporate human rights harm. Although cases against UK companies Vedanta and Shell were allowed to proceed to the UK Supreme Court, in a similar case against Unilever, Kenyan workers and families have been denied (<https://corporate-responsibility.org/mixed-messages-supreme-court-parent-company-liability/>) this route to justice. • A gap over the role

of business in response to state-imposed forced labour. Over the past decade, Anti-Slavery International has focused on the issue of state-sponsored forced labour in the cotton sector in the cotton industries of Turkmenistan and Uzbekistan(<http://www.cottoncampaign.org/>), and more recently, in cotton and textile production in the Xinjiang Uyghur Autonomous Region (Uyghur Region)(<https://enduyghurforcedlabour.org/>). In all these contexts, companies in the garment and textile industry face significant risk of profiting from the state-imposed forced labour. Our evidence (<https://committees.parliament.uk/writtenevidence/13174/pdf/>) suggests that virtually the entire fashion industry is at risk of retailing products ‘tainted’ with the forced labour of Uyghurs, due to the Uyghur Region’s global role in cotton production, and the structure of textile supply chains. Similarly, Anti-Slavery’s research (<https://www.antislavery.org/wp-content/uploads/2019/04/Turkmenistan-Turkey-report.pdf>) has concluded that companies sourcing textiles or garments from Turkey face a high risk of the use of Turkmen cotton in their products. In line with UN Guiding Principles (Principle 19) which notes that businesses should end or disengage from business relationships where prevention or mitigation of harm is not possible by other means, Anti-Slavery International calls upon companies to end all sourcing from Turkmenistan, Uzbekistan and the Uyghur Region due to companies’ lack of leverage to promote change in these contexts. However, the immaturity of transparency and traceability in garment supply chains – as described above – leaves companies at high risk exposure due to their lack of visibility (<https://www.fashionrevolution.org/transparency-beyond-tier-one/>) as to their sourcing of cotton, yarn, fabric and textiles. • Furthermore, in the case of the Uyghur Region, there are a number of suppliers to companies which, according (<https://www.csis.org/analysis/connecting-dots-xinjiang-forced-labor-forced-assimilation-and-western-supply-chains>) to human rights researchers, have subsidiaries or operations located in the Uyghur Region, which have allegedly accepted Chinese government subsidies and/or employed workers provided by the Government. Anti-Slavery notes that some brands (<https://committees.parliament.uk/writtenevidence/13174/pdf/>) and retailers continue to be in relationships with suppliers alleged to be in this category, rationalising their ongoing business relationship with said companies by the alleged reassurance from the suppliers that the consignment of product produced for the brand/retailer has not been produced in the Uyghur Region, and/or does not use inputs produced in the Uyghur Region for the company’s products. The UN Working Group on Business and Human Rights must provide greater clarity to companies on their corporate responsibility to respect human rights in such business relationships, whereby companies risk being in a financial relationship with suppliers which are allegedly involved in a forced labour system which legal experts have said may amount to crimes against humanity (<https://www.barhumanrights.org.uk/bhrc-publishes-new-report-outlining-the-responsibility-of-states-under-international-law-to-uyghurs-and-other-turkic-muslims-in-xinjiang-china/>). • The UNGPs fail to recognise the interdependence between the environment and human rights. The principles must cover the wide spectrum of negative human rights and environmental impacts of business operations and value chains. Forced and child

	labour does not occur in a vacuum, and evidence ( <a href="https://www.antislavery.org/climate-change-slavery/">https://www.antislavery.org/climate-change-slavery/</a> ) has shown that the wider impact of many industries, including environmental damage and climate-change impacts can make people more vulnerable to exploitation and modern slavery.
3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?	<ul style="list-style-type: none"> <li>• The root causes of forced and child labour are systemic (<a href="https://www.antislavery.org/slavery-today/modern-slavery/">https://www.antislavery.org/slavery-today/modern-slavery/</a>) – linked to poverty, discrimination, social exclusion and weak rule of law and limited labour protections. A failure by governments to address these root causes, and to introduce, implement and enforce basic labour protections, in line with the core ILO Conventions, will continue to allow forced labour to thrive. See Section 4.</li> <li>• Furthermore, corporate practices and business operations create (<a href="https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/">https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/</a>) a demand for forced labour. Concentrated corporate power, the constant search for low prices and high profits, the drive for ever quicker turnaround of products, the move to sub-contracted rather than directly employed labour, coupled with ongoing restrictions to freedom of association, all create the demand for and enable the risk of worker exploitation and modern slavery. For example, Shift has identified (<a href="https://shiftproject.org/wp-content/uploads/2020/06/ValuingRespect_RedFlags_05052020_v4.pdf">https://shiftproject.org/wp-content/uploads/2020/06/ValuingRespect_RedFlags_05052020_v4.pdf</a>) a non-exhaustive list of business models that carry inherent risks for people’s rights, such as low-cost goods or services, high speed delivery, projects with short or fixed timelines, etc. See Section 4.</li> <li>• As expressed in section 2, the UN Working Group should prioritise enabling corporate accountability by converting the standards included in the UNGPs into legally binding and enforceable standards on human rights and the environment, including legislation on mandatory human rights and environmental at the national level, with liability for harms that companies or the entities that they exercise control over, cause, contribute to or are directly linked to. In the absence of developing such urgently needed regulatory frameworks, there are limited incentives for companies to prioritise human rights and environmental issues over commercial interests. A further obstacle is the risk of weak legislation on mandatory due diligence that puts the emphasis on the process, rather than the outcomes – leading to a tick-box approach by business. To address this risk, due diligence must be seen as the means rather than the purpose of legislation – the purpose being the protection of human rights and the environment.</li> </ul>
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	<ul style="list-style-type: none"> <li>• In order to realise sustainable development on respect for human rights, the root causes of forced and child labour mentioned in Section 3 must be addressed, including poverty, discrimination, migration regimes, and weak labour governance and enforcement. At the current rate of progress, we are not on track to achieve Sustainable Development Goal 8.7, the eradication of modern slavery by 2030. Beyond the role of corporate accountability, there remain key gaps in anti-slavery response, with the noted need to: criminalise all forms of slavery in law with strict sanctions that are enforced; governments to ratify the Protocol to the Forced Labour Convention; governments to protect and support</li> </ul>

	<p>victims, with measures that are informed by the lived experiences of survivors and are victim-centred; and governments to reform immigration law and policy which creates vulnerability to slavery. • As noted in Section 3, mainstream business models, including elements such as purchasing practices or subcontracting, prioritise profits and shareholder value at the expense of human rights. The COVID-19 crisis, as explained in Section 2, has laid bare the inherent flaws of the current economic system and exacerbated the unfair purchasing and labour practices, and power of big business. • The link between corporate accountability models, trade and development policy. The introduction of binding human rights due diligence legislation must not be understood as a ‘silver bullet’. Complementary action is required to ensure a more equitable distribution of costs and benefits in global supply chains, including the inclusion of human rights and environmental standards requirements in trade deals and public procurement, a focus on the root causes and drivers of human rights abuses in development policies, and development of new business models and alternative economic systems.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<ul style="list-style-type: none"> <li>• Governments must introduce binding legislation to mandate companies to undertake ‘human rights and environmental due diligence’ across their supply chains and operations, and to hold companies to account when they fail to prevent human rights abuses and environmental harms, including through civil and criminal liability provisions. In the UK for example, such a law would build on and consolidate the advances in UK case law outlined above; give domestic legal force to the UNGPs; and help to overcome jurisdictional, legal and procedural barriers that prevent many civil cases against companies from being taken. We urge that legislation is based on a duty of care that forms the basis of the action of companies, rather than the process of human rights due diligence. • Governments must support the UN Binding Treaty on Business and Human Rights – the binding instrument on transnational corporations and other business enterprises with regard to human rights, with a support for a treaty that reflects the lessons learnt from the current gaps in UNGPs implementation. • The voices, knowledge and perspective of people affected by and vulnerable to corporate human rights impacts must be central to the design and implementation of legislation. To ensure that policy translates into best practice, local and grassroots organisations working on the ground with people and communities affected by corporate abuses must be in the conversation. The voices of affected communities must be central in all debates. The UN Working Group on Business and Human rights has the power to ensure that resources are used to better support CSOs, people and communities affected by corporate abuses to be active participants in all decision-making processes. • Greater UN and state support to enable access to remedy for victims of negative corporate human rights impacts. This should include the resourcing of national and local level judicial and non-judicial grievance mechanisms in line with the</li> </ul>

	UNGPs. • The UNWG should provide more guidance to businesses on the corporate responsibility to respect human rights when operating in, sourcing from, or exporting to contexts with state-imposed forced labour.
--	---

Survey response	
Organization	Arisa
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	In the Netherlands an interesting development has taken place since 2014, when the Dutch government decided to set up sector-based multistakeholder-initiatives, called the Covenants. Since then businesses from different sectors, CSO's, trade unions and the government have in the context of these covenants put their efforts into the implementation of the UNGP's. As Arisa we are active in the textile and natural stone covenants. Over the last few years many discussions and debates have been taken place on the effectiveness of these covenants. For an overall view we would like to refer to the evaluation report (KIT), in which we recognize our own experiences on working within the covenants. Also we would like to refer to the report of MSI Integrity Not Fit for Purpose. The Dutch government has provided funding for projects on the implementation of the UNGP's by companies. This is positive and we are also partner in some of these projects. We note that public funding will also be needed in the future to set up public private partnerships to tackle complex causes of business-related impacts on human rights and the environment and as important learning platfora. The UN Global Compact, Unicef and Save the Children joined forces, which resulted in 2012 in the publication of the Children Rights and Business Principles. From our perspective the CRBP's provide a thorough overall insight of potential children's rights impacts by businesses and are therefore a key tool for companies to be used in their children's rights impact assessments.
2. Where do gaps and challenges remain? What has not worked to date?	We see a gap in governmental legislation and voluntary measures and enforcement mechanisms. The experiences of the last years have shown that voluntary measures alone are not sufficient, despite some front runners companies that adhere to the UNGP's. The CRBP's need to be fully integrated in this legislation. International trade, free trade and investment policies of governments are not aligned with governments' duty to protect human rights and the environment. A coherence of public policies is lacking, whereby priority is given to the growth of international trade and

	<p>the interests of the private sector despite the larger impacts on people and planet. See also (Olivier de Schutter). Governments should lead by example. Public procurement regulations and policies often, at least in the Netherlands, mention social and environmental criteria, but are not yet decisive. In most cases final decisions are based on the lowest price. Foremost we have noticed a lack of prioritization of children’s rights by companies within their due diligence. Businesses don’t seem to have yet have a full understanding of children’s rights and are not able to analyze potential risks through a children’s rights perspective or lens. There is hardly any knowledge of the CRBP’s. If children’s rights are prioritized, it is mainly child labour. In many cases businesses seem to see their responsibility in relation to the first tier, and not beyond. This could be due to a lack of full understanding of the UNGP’s or because of not knowing how to act; especially for larger companies it could also be part of a lack of willingness to use their leverage towards suppliers and sub-suppliers. Despite reports of the EU Fundamental Rights Agency and the concrete recommendations given in those reports the Dutch government has so far not improved the access to remedy for victims of business-related human rights. Access to remedy thereby remains a weak pillar of the UNGP’s. A future adjudication of laws and policies should also give children access to remedy, taking into account the long-life impact that business-related violations may have.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Collaborations between companies, CSO’s, trade unions, local stakeholders and government have proven to be positive to implement the UNGP’s. Trust between the different partners is a key determinant in such multi-stakeholder initiatives. Realization of the UNGP’s need to be integrated in the management-systems of companies and not be an activity separated from highest management commitments. In debates businesses mention their fear of extra expected regulatory burden that could come with mandatory due diligence obligations. While we understand these concerns, we nevertheless believe that the protection of human rights and the environment, laid down in several Treaties, outweigh the possible needed extra efforts by companies. Furthermore the shrinking civil society space as well as many countries that do not allow workers to organise is a worrying trend that somehow the UNGP 10+ project will need to address or at least needs to acknowledge as in many countries important stakeholders are not able to participate in consultations etc.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The large majority of current business models are based on maximum profit making, whereby production is outsourced to lower income countries and to countries with a lack of (enforcement of) protective environmental or labour/safety regulations. These can no longer be considered sustainable. A new mindset is needed, in which economic and sustainability goals need to be fully integrated in a company’s vision and mission. This is likely to be one of the most systemic challenges for the near future and for UNGP’s 10+.</p>

<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Despite all efforts by many key actors and stakeholders within the field of business and human rights the state of play of implementation of the UNGP's by companies is not satisfactory and progress is slow. An acceleration is needed, which can be achieved with a national or international mandatory due diligence regulation. Complementary to this regulation governments need to support companies, CSO's and trade unions to collaborate in (sector-based) multistakeholderplatforms and public private partnerships to realize the implementation of the UNGP's and building of concrete projects to prevent or mitigate the negative impacts on the ground.</p>
--	--

Survey response	
Organization	Better Buying Institute
Stakeholder category	Civil society organization
Region	North America
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil	<p>Most progress has focused on upstream suppliers and what they should do differently. Companies in apparel, footwear, household textiles, and some other consumer goods industries are learning more about their own impacts by collecting data from their suppliers to better understand their own contribution to human rights risks. For example, 45 companies have had their own practices comprehensively and independently assessed by their suppliers using the Better Buying™ Purchasing Practices Index. Another group of companies has made commitments to improve certain purchasing practices in order to make progress on paying living wages to workers, while another made commitments to a select list of responsible sourcing decisions in response to COVID-19. There have also been important conversations happening at an</p>

<p>society organizations, etc.) that can be built on?</p>	<p>industry level, such as a panel discussion on managing human rights risks in the garment sector global supply chain in 2013, the forum on living wages in 2017, and the roundtable on gender-sensitive human rights due diligence in 2018.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>One clear gap is that purchasing practices are not yet solidified as a key component of companies' human rights due diligence efforts in the apparel industry. In many other consumer goods industries, purchasing practices aren't even a topic of conversation. We need brands and retailers to better understand their responsibilities in respecting human rights and to identify and address how their purchasing practices cause or contribute to human rights abuses in their supply chains. Too much of the focus related to human rights due diligence has been on the role of suppliers and manufacturers, without much attention paid to brand and retailer responsibility for ongoing human rights abuses in their supply chains. Furthermore, too few companies are engaging on the topics of purchasing practices and relying on independently collected and verifiable data to understand how their own practices impact suppliers and workers. We need ALL companies, including brands and retailers, to both "know" their role and their impacts, and to "show" they are taking concrete steps toward improved practices (as evidenced by data that demonstrates their practices are improving over time).</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Two key obstacles include fear among buyer companies of making changes that would impact their business profitability and a lack of understanding of the impacts of purchasing practices outside the apparel and footwear industry. Many companies maintain the perception that improvements to their purchasing practices will require increased costs. While this might be true in some cases, responsible purchasing practices - and in particular, forming mutually beneficial partnerships with suppliers - can unlock cost savings, reduce business risks, and increase efficiency and profitability. Purchasing practices have risen to the apparel and footwear industry's collective consciousness in the past several years (and even more so since the COVID-19 pandemic), yet this important work needs increased takeup in other industries as well, including a wide range of consumer goods and food beverage, as well as public procurement.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	
<p>5. In concrete terms, what will be needed in order to achieve</p>	<p>In order to achieve meaningful progress on companies' responsibility to respect human rights, independent supplier surveys and data collection will be key. Better Buying™ has established methods for collecting supplier feedback and</p>

meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	protecting supplier anonymity, as well as for showing the impact of company practices and policies on both suppliers and workers. Our tools allow progress to be tracked over time. Companies should be expected to use an independent system to gather supplier feedback as part of their human rights due diligence, and to lead transparency efforts by publicly reporting their findings and what they are doing as a result. Potential targets could include a percent of companies that are collecting data from their suppliers and that are publicly reporting their results and actions.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	2020 Better BuyingTM Index Report: <a href="https://betterbuying.org/wp-content/uploads/2020/10/2020-Better-Buying-Index-Report.pdf">https://betterbuying.org/wp-content/uploads/2020/10/2020-Better-Buying-Index-Report.pdf</a> Better BuyingTM Spotlight on Hardgoods Performance: <a href="https://betterbuying.org/wp-content/uploads/2020/12/Better-Buying-Spotlight-on-Hardgoods-Performance-Q4-2020.pdf">https://betterbuying.org/wp-content/uploads/2020/12/Better-Buying-Spotlight-on-Hardgoods-Performance-Q4-2020.pdf</a> Better BuyingTM Special Report: COVID-19 Guidance for Brands and Retailers: <a href="https://betterbuying.org/wp-content/uploads/2020/04/Better-Buying-Special-Report-COVID-19-Guidance-for-Brands-and-Retailers.pdf">https://betterbuying.org/wp-content/uploads/2020/04/Better-Buying-Special-Report-COVID-19-Guidance-for-Brands-and-Retailers.pdf</a> Better BuyingTM Special Report: Payment and Terms and the Need for New Practices: <a href="https://betterbuying.org/wp-content/uploads/2020/06/Better-Buying-Special-Report-Payment-Terms-and-the-Need-for-New-Practices.pdf">https://betterbuying.org/wp-content/uploads/2020/06/Better-Buying-Special-Report-Payment-Terms-and-the-Need-for-New-Practices.pdf</a> Better BuyingTM Special Report: Cost and Cost Negotiation and the Need for New Practices: <a href="https://betterbuying.org/wp-content/uploads/2020/07/Better-Buying-Special-Report-Cost-Cost-Negotiation-the-Need-of-New-Practices.pdf">https://betterbuying.org/wp-content/uploads/2020/07/Better-Buying-Special-Report-Cost-Cost-Negotiation-the-Need-of-New-Practices.pdf</a>

Survey response	
Organization	Centre for Sport and Human Rights
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by	In recent years, the UNGPs have gained in awareness in the world of sport. This development was triggered by a number of initiatives from different organizations and stakeholders. A starting point was the 2014 open letter to then president of the Fédération Internationale de Football Association (FIFA) Joseph Blatter, from the former UN High Commissioner for Human Rights and president of Ireland, Mary Robinson, and former UN Special Representative on Business and Human Rights, John Ruggie in their respective capacities as Patron and Chair of IHRB. The letter highlighted the human

<p>governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>rights challenges related to the then upcoming World Cup in South Africa and formulated concrete recommendations on how FIFA should address adverse human rights impacts. Ruggie was later commissioned by FIFA to recommend how to embed human rights into policies and practices, using the UNGPs as the authoritative standard. NGOs like Human Rights Watch and Amnesty International also included the UNGPs in their advocacy work on mega-sporting events and human rights, and human rights and sport more generally. In 2016, CSHR's precursor, the Mega-Sporting Events Platform for Human Rights, adopted the 'Sporting Chance Principles', which build upon and explicitly refer to the UNGPs. A number of concrete changes in sport governing bodies in the past years should be noted at international and regional levels. For example, FIFA adopted a human rights policy with reference to the UNGPs and reformed its bidding regulations to include human rights provisions that mention the UNGPs. Commonwealth Sport (before: Commonwealth Games Federation) committed to implementing the UNGPs in its daily operations and relationships. The Union of European Football Associations (UEFA) issued new bidding and tournament requirements with explicit reference to the UNGPs. More sports bodies on the international and national levels are currently in the process of revising their regulations from a human rights perspective, using the UNGPs as guidelines.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The majority of sport organizations still lack awareness and understanding of human rights and their responsibilities or are resistant to embedding human rights into policies and practices. The latter in particular obstructs progress in this field. Furthermore, while there are positive examples and initiatives to build on and learn lessons from, the opportunities for sharing best practice and knowledge are still limited. One of the most difficult challenges to address is the accountability gap that exists around sport-related human rights abuses. Pillar III of the UNGPs clarifies the responsibilities of relevant actors to ensure access to effective remedies. However, those affected often lack effective remedies for their abuses altogether or face significant obstacles in accessing available mechanisms. In addition, even where mechanisms can be accessed and complaints heard, the relevant mechanisms often lack human rights capacity. As a result, state and non-state actors responsible for the abuses are too often not held accountable for their actions or inactions when it comes to addressing harms done.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>The key obstacles to achieve fuller realization of the UNGPs in the world of sport are the resistance of some sport governing bodies and organizers of sporting events to recognize the scope of their responsibilities and the persistent attitude of some actors that promotes the autonomy of sport. This attitude is upheld by policies of sports governing bodies that prevent interference through state regulation and ordinary court systems, and fostered by the fact that the autonomy of sport has been recognized and confirmed by international and regional intergovernmental organizations. However, while it is true that sport has its own unique governance structures, it is not true that these exist outside</p>

	<p>internationally-recognized human rights standards and achieving this change of mind-set needs to be a priority. More wide-spread acceptance that human rights apply to the world of sports is an essential driver to achieving fuller realization of the UNGPs. Another priority and driver at the same time is stakeholder engagement. This is even more important in the context of specific groups like children, persons with disabilities, or migrant workers, who in many ways are more vulnerable in the context of sport and sport events. While there are examples of stakeholder engagement initiatives of sport bodies and sport event organizers on topics related to human rights, it is missing in many developments relevant to the sport and human rights movement. Learning lessons from the business and human rights field and transferring best practices to the world of sport to enhance stakeholder engagement as well as other processes, such as risk identification and assessment and other elements of human rights due diligence, needs to be a priority as well.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>In addition to challenges related to the notion of ‘autonomy of sport’, there are a number of systemic and structural challenges that need to be addressed to ensure development towards a world of sport that fully respects human rights and in a sustainable manner. Cases of different forms of abuse of athletes, including child athletes, have recently come to light around the world. Power imbalances between coaches and athletes, or representatives of sport organizations and athletes, facilitate unsafe environments in which these cases of abuse can occur. Furthermore, inequalities, not only in terms of gender but also in relation to parasports and equal opportunities to participate in sport present other structural challenges that need to be addressed. This includes strengthening diversity and inclusion at the governance levels of different sports. The lack of transparency of many sports governing bodies, in particular where it concerns mechanisms and processes that can help to deal with cases of sport-related human rights abuses, including the system of arbitration, which is the most common method of dispute settlement in the world of sport nationally but also internationally through the Court of Arbitration for Sport, creates additional structural challenges that need to be addressed. Further challenges arise from the way human rights organizations are perceived by sports governing bodies or organizers of sport events. It is important to signal that many organizations would be constructive and helpful in making sport human rights compliant and sustainable, by harnessing the power of sport and of the diversity of actors involved, and building their capacity.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority</p>	<p>Meaningful progress has to be made on all the challenges mentioned above. That requires first and foremost that all relevant actors within the ecosystem of sport recognize their human rights responsibilities. In concrete terms, all sports governing bodies and sport event organizers need to have a human rights policy in place, which refers to the corporate responsibility to respect human rights and includes coherent commitments to respect and protect human rights, and to</p>

<p>areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>remedy abuses where they occur . At the same time, key actors that can play a role in facilitating or providing access to remedy for sport-related human rights abuses, including states and international organizations, need to increase their efforts and live up to their respective obligations and responsibilities, to help close the accountability gap. Stronger implementation of the UNGPs can generally help to prevent cases of sport-related human rights abuses, and where these cases cannot be prevented, ensuring that all contributing actors are held accountable. Another actionable target is the enhanced transparency and traceability of processes and decisions taken by sports governing bodies and event organizers, their ethics and disciplinary committees and grievance mechanisms. The increase of diversity of staff among sports governing bodies and sport event organizing committees is a related measurable target. What is needed more generally to reach those targets is a commitment to collective action from all stakeholders and sustainable structures for knowledge sharing.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>CSHR is currently in the process of co-editing a special issue of the International Sports Law Journal on the topic of remedy and redress for sport-related human rights abuses, to be published in Q4 2021 or Q1 2022. The UNGPs and in particular pillar III of the UNGPs play a central role in that project. In addition, CSHR organized events and published a number of tools and guidelines for various actors in the ecosystem of sport, which build upon and explicitly mention in one way or another the UNGPs. This is a selection of relevant documents published this year: - "Sport, Business and Human Rights" (September 2020), available at: <a href="https://www.sporhumanrights.org/en/resources/meeting-report-2019-sport-business-human-rights">https://www.sporhumanrights.org/en/resources/meeting-report-2019-sport-business-human-rights</a> - "The 2019 Sporting Chance Forum Meeting Report" (June 2020), available at: <a href="https://www.sporhumanrights.org/en/resources/meeting-report-2019-sporting-chance-forum">https://www.sporhumanrights.org/en/resources/meeting-report-2019-sporting-chance-forum</a> - "Time for domestic sport to implement human rights commitments" (May 2020), available at <a href="https://www.sporhumanrights.org/en/resources/time-for-domestic-sport-to-implement-human-rights-commitments">https://www.sporhumanrights.org/en/resources/time-for-domestic-sport-to-implement-human-rights-commitments</a> - "Games time: Planning and acting to respect human rights in mega-sporting events" (April 2020), available at: <a href="https://www.sporhumanrights.org/uploads/resources/Games_Time_Guide.pdf">https://www.sporhumanrights.org/uploads/resources/Games_Time_Guide.pdf</a> More CSHR resources on sport and human rights with reference to the UNGPs can be found at <a href="https://www.sporhumanrights.org/en/resources/centre-resources">https://www.sporhumanrights.org/en/resources/centre-resources</a>.</p>

Survey response	
Organization	EarthRights International

Stakeholder category	Civil society organization
Region	North America
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	EarthRights' submission draws upon the experiences of our offices in North America, Southeast Asia, and Latin America.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>1. The UN Guiding Principles on Business and Human Rights, and the UN Working Group, have played an important role in creating a global community of business and human rights practitioners. The UNGPs create a common language for businesses, governments, and civil society to speak about human rights issues. The forum and associated activities have also begun to create a space where businesses and civil society actors can exchange ideas and best practices. The involvement of civil society and human rights defenders in such activities — particularly the UN Forum on Business and Human Rights — has provided a platform for the voices of civil society to be heard, recognized and, most importantly, legitimated. However, there is a downside to this approach. The desire within the business and human rights community to focus on collaboration and consensus is admirable, but this should not come at the expense of discussions about accountability, which remains the unaddressed “elephant in the room.” Until the UN addresses this missing piece, the potential effectiveness of the UNGPs will be limited. 2. An important element of the mandate of the UN Working Group is that it enables civil society to confidentially communicate about business-related rights violations and adherence to the UN Guiding Principles. This has provided an important avenue in which specific instances of non-compliance to the UN Guiding Principles can be raised and the targeting of communities and human rights defenders can be highlighted. 3. Concerns by civil society also appear to be given greater weight as they are able to clearly reference adherence, or non-adherence, to the UN Guiding Principles in submissions to different UN bodies such as the Universal Periodic Review. 4. EarthRights International engages actively in business and human rights issues in the United States, Southeast Asia, and the Amazon region. Thailand is the first country in Asia that adopted and implemented a National Action Plan (NAP) to implement the Guiding Principles.. There are four priorities in Thailand’s NAP -- labour rights, land and natural resources, human rights defenders, and multinational investment and Thai outbound investment. CSOs in Thailand, including EarthRights, have worked with communities in Myanmar and those affected by Thai outbound investments (such as hydropower, coal, and special economic zones) to influence the NAP priorities. With regard to the Thai outbound</p>

	<p>investment, we used this opportunity to share a set of recommendations for strengthening the human rights due diligence of Thai investors abroad. We have provided some observations in our responses below.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>1. Businesses continue to deflect their responsibilities In the past ten years, civil society organizations have begun to track the scale of business-related human rights abuses more systematically and expose instances where there has not been adherence to the UN Guiding Principles. Research by Global Witness (see, e.g.: <a href="https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/">https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/</a>), the Business and Human Rights Resource Centre (see, e.g.: <a href="https://media.business-humanrights.org/media/documents/files/Business__Human_Rights_Defenders_in_Colombia.pdf">https://media.business-humanrights.org/media/documents/files/Business__Human_Rights_Defenders_in_Colombia.pdf</a>), and others has helped to draw attention to the widespread nature of business-related human rights abuses, especially reprisals against human rights defenders. We now have stronger statistics and measurements to demonstrate that the problem of business-related human rights abuses remains widespread and pervasive. We have noticed that many -- if not most -- businesses continue to deflect their responsibilities, claiming that other businesses or the host government bear the responsibility for managing human rights issues. Businesses seem to have the complete freedom under the UN Guiding Principles to determine what level of “control” they have over human rights abuses, and have used this freedom to deflect responsibility without consequence. This is particularly problematic in mega-development projects, where multiple businesses often play an enabling role, and yet many of the businesses involved -- even multinational corporations -- deflect their responsibilities onto the host government or the lead project sponsor. For example, in the case of the controversial Xayaburi Dam on the Mekong River, the Finnish/Swiss consulting company Poyry provided crucial studies that were used to falsely downplay the negative impacts of the project. Civil society organizations brought a complaint against Poyry through the Finnish OECD National Contact Point, alleging that the company had a responsibility to respect human rights even as an engineering consultant involved in the project. Poyry deflected responsibility and evaded accountability through closed-door meetings with the Finnish government in which civil society was not invited to participate, claiming that it was “only” a consultant and did not bear any responsibility.</p> <p>2. Access to remedies is being undermined by voluntary corporate initiatives We are concerned by the lack of progress on the access to remedies pillar of the UN Guiding Principles. The business community and many governments, including the U.S. government, have attempted to sidestep this issue by encouraging over-reliance on voluntary corporate initiatives as a substitute for meaningful accountability. The ongoing crisis of child slave labor on West Africa’s cocoa plantations is a stark example of the limitations of voluntary corporate initiatives. Most of the world’s cocoa comes from West Africa. Every major chocolate brand in the United States sources cocoa from the region. Awareness of slave labor and child labor in West Africa cocoa supply chains grew in the late 1990s. In 2001, the U.S. House of Representatives passed a bill that would</p>

have banned the import of chocolate made with child labor. In response to the threat of regulation, the cocoa industry offered to make a deal. After negotiations, the cocoa industry agreed to the 2001 Harkin-Engel protocol, in which industry members promised to eradicate “the worst forms of child labor” from its supply chains by 2005 in exchange for avoiding regulation. Twenty years later, the industry has failed to meet its promise. The cocoa industry reportedly spent over \$150 million over two decades to try to address the problem, a small fraction of the industry’s estimated \$103 billion in annual sales. In 2019, a Washington Post investigation in West Africa found “an epidemic of child labor that the world’s largest chocolate companies promised to eradicate nearly 20 years ago.” (See: <https://www.washingtonpost.com/graphics/2019/business/hershey-nestle-mars-chocolate-child-labor-west-africa/>) A 2020 study commissioned by the U.S. Department of Labor found that an estimated 1.6 million children still work in child labor conditions in West Africa, and that 43 percent of these children are engaged in hazardous work -- a higher percentage than a decade ago. (See: [https://www.norc.org/PDFs/Cocoa%20Report/NORC%202020%20Cocoa%20Report\\_English.pdf](https://www.norc.org/PDFs/Cocoa%20Report/NORC%202020%20Cocoa%20Report_English.pdf)). MSI Integrity’s Not Fit-for-Purpose report (2020) found similar patterns across a number of voluntary corporate initiatives. (See: <https://www.msi-integrity.org/not-fit-for-purpose/>) The authors concluded: “After reflecting on a decade of research and analysis, our assessment is that this grand experiment has failed. [Multi-stakeholder initiatives] are not effective tools for holding corporations accountable for abuses, protecting rights holders against human rights violations, or providing survivors and victims with access to remedy.” 3. Businesses are a key driver of reprisals against human rights defenders, especially environmental and land defenders Attacks against environmental and land defenders frequently come from businesses. For the past decade, Global Witness has tracked the number of killings of environmental and land defenders across the world. (See: <https://www.globalwitness.org/en/campaigns/environmental-activists/land-and-environmental-defenders-annual-report-archive/>). As Global Witness and others have highlighted, the crisis extends far beyond the killing of defenders. Countless environmental and land defenders in the regions where EarthRights works -- in the Amazon, Southeast Asia, and the United States -- have faced criminalization, arbitrary detention, digital surveillance, smear campaigns, and other tactics designed to silence their opposition to business activities (See: [https://earthrightsdefenders.org/wp-content/uploads/2018/12/ERD\\_Report\\_Web.pdf](https://earthrightsdefenders.org/wp-content/uploads/2018/12/ERD_Report_Web.pdf)). While there is growing attention and condemnation of reprisals against human rights defenders, we are concerned that those who work on environmental and land rights issues are often excluded from the protections afforded to other human rights defenders. Environmental and land defenders are especially vulnerable to business-related human rights abuses, because they tend to live outside the capital cities in rural areas, may not speak the national language, and come from marginalized groups or indigenous communities that have faced years of discrimination. Governments have stigmatized environmental and land defenders and isolated them from government and international support mechanisms that exist for human rights

defenders. In Honduras, Colombia, and Myanmar, EarthRights has observed government and business attempts to label human rights defenders who raise concerns about mega-projects as “anti-development.” For example, in the case of the murder of renowned indigenous human rights defender Berta Cáceres, (see: <https://www.goldmanprize.org/recipient/berta-caceres/>) one of the executives accused of masterminding her murder hired a public relations firm, Amsterdam and Partners, to delegitimize and stigmatize Cáceres’ surviving family and the indigenous rights organization she co-founded. Amsterdam and Partners published and circulated a paper that accused Cáceres’ NGO COPINH of being anti-development. (See: <https://amsterdamandpartners.com/amsterdam-partners-llp-publishes-new-white-paper-on-major-honduras-case>) In the Philippines, “red tagging” of environmental and land defenders has prevented many at-risk individuals from receiving support from the embassies and the international community. (See: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25924>). In February 2020, Michel Forst, the United Nations Special Rapporteur on Human Rights Defenders, completed an investigation into the ways that human rights defenders are being criminalized in Peru. He found that human rights defenders, especially those working on land and environmental issues, are being stigmatized in the media as “criminals,” “terrorists,” and “enemies of the state.” Similarly, certain religious and conservative groups are stigmatizing LGBTQ rights activists as “killers” and “sinners,” inciting harassment on social media. (End of mission statement by Michel Forst, United Nations Special Rapporteur on Human Rights Defenders, Visit to Peru, January 21 –February 3, 2020) In at least 960 cases, the government and companies have wielded Peruvian courts as a weapon against human rights defenders. The government is prosecuting these individuals on trumped-up criminal charges, and then targeting lawyers and doctors who support the cases. Courts are allowing prosecutors to draw out the investigations and prosecutions of defenders for years, imposing a severe financial and emotional toll on those who are targeted. When human rights defenders raise complaints to law enforcement officials about harassment, they must meet an “unreasonably high” standard of proof to receive protection, and the government’s response to attacks is often “unduly slow.” (Source: Michel Forst’s end of mission statement for Peru) In the Greater Mekong Subregion of Southeast Asia, criminalization and judicial harassment remain some of the biggest threats for human rights defenders. Strategic lawsuits against public participation (or SLAPPs) and similar procedures frequently undermine human rights, including the rights of freedom of expression, association and assembly and political participation, and in turn, the adherence to the UN Guiding Principles. In Thailand, the cases of Angkana Neelapajit, Sutharee Wannasiri, and Nittaya Muangklang exemplify how human rights defenders are targeted for their work exposing rights violations by businesses. SLAPPs are a clearly established tactic to silence human rights defenders in the country and send a “chilling effect” across civil society, which silences the voices of the human rights defenders and leaves them in perilous legal and financial situations. Likewise, the Myanmar government has actively used its judicial system to punish activists and journalists for criticizing the government and military, and for

reporting on human rights abuses by businesses. In 2020, for example, a government official filed charges against Saw Tha Phoe, a Karen environmentalist, after he supported communities affected by a cement plant operated by a military-owned company that switched from a gas-fired to a coal-fired kiln (See: <https://www.irrawaddy.com/news/burma/environmental-activist-faces-arrest-myanmars-karen-state-rights-groups-object.html>). Such prosecutions are common in Myanmar; Human Rights Watch documented more than 250 in 2019 alone. (Source: <https://www.hrw.org/world-report/2020/country-chapters/myanmar-burma>) The Myanmar government has also used the trial process itself as a form of punishment. In 2016, Human Rights Watch documented numerous examples where prosecutors purposefully prolonged criminal proceedings, forcing human rights defenders to remain in detention for years while awaiting a verdict, or to return to court for weekly hearings for months on end. (Source: <https://www.hrw.org/report/2016/06/29/they-can-arrest-you-any-time/criminalization-peaceful-expression-burma>) Similarly, in Honduras, criminalization is a tactic commonly used against land and environmental defenders. In the case of the Guapinol mine, seven local water defenders have been arbitrarily detained for over a year. (See: <https://earthrights.org/blog/criminalized-guapinol-earth-rights-defenders-should-be-immediately-released/>). We have also seen the prolific use of SLAPPs as a preferred tactic among businesses in the United States (where violent attacks on human rights defenders are less frequent). The significant cost and time burdens of the U.S. civil litigation process make it vulnerable to manipulation by SLAPP filers. Even a case that is ultimately dismissed can impose significant damage on a human rights defender. In response, EarthRights helped to create the “Protect the Protest” coalition, which provides legal defense and communications support for human rights defenders who face SLAPPs in the United States. Human rights defenders also face the threat of physical violence, adverse impacts on their campaigning and existing work, and denial of the right to a healthy environment and public participation. For example, in Colombia and Honduras, human rights and environmental defenders are frequently murdered in retaliation for their advocacy work (See: <https://earthrights.org/media/organizations-urge-governments-to-protect-activists-and-communities-threatened-by-armed-groups-during-covid-19-pandemic/>). Tragically, the COVID-19 pandemic and lockdown measures have in many cases exacerbated these risks even further (See: <https://earthrights.org/blog/activists-under-attack-in-honduras/>). A particularly important problem that remains is that the psychological impact of these reprisals on human rights defenders is not well studied. Those defending the land and environment from adverse business activities often face negative effects on their psychosocial wellbeing. This is often a result of the trauma of being targeted with reprisals, and the power imbalance between those human rights defenders working on the ground and those powerful actors targeting them. Human rights defenders and civil society often lack the financial, legal, and psychosocial resources to adequately protect themselves against powerful businesses. We are concerned that governments and the business community have not developed coordinated or effective responses to support human rights defenders who face reprisals for speaking up

about business activities. Where support exists, it often does not account for the many ways that reprisals against human rights defenders take place. For example, the U.S. government often takes action in response to “gross human rights violations,” such as extrajudicial killings, but does not appear to have a coordinated process in place for supporting human rights defenders that face judicial harassment, smear campaigns, digital surveillance, or other threats that can escalate into violence over time. Likewise, there is no indication that economic officers at U.S. embassies are equipped to engage with businesses on human rights defender issues. Nor do the UN Guiding Principles, the Voluntary Principles on Security and Human Rights, the IFC Performance Standards, the International Council on Mining and Metals principles, or other industry standard setters provide robust tools to ensure broader industry understanding or implementation of strategies for supporting human rights defenders in a nuanced and holistic way. 3. EarthRights remains concerned that the business community is not proactively trying to improve its approach to security forces. The Voluntary Principles on Security and Human Rights may have helped to improve private security practices, but has not “solved” the problems related to the use of force against local communities. We are concerned that we have not seen active efforts in the business community to continue to strengthen its approach to security forces, especially with regard to attacks on human rights defenders. Many attacks on human rights defenders occur at the hands of security forces—military, police, prison guards and other officials acting in their official capacity, but also in an unofficial capacity on behalf of companies and criminal organizations. In the Bajo Aguán region of Honduras, for example, the Dinant Corporation and other palm oil businesses have coordinated with Honduran state military and intelligence officials, local police, and paramilitary groups to target local community leaders with violence. These actors have also reportedly used infiltration tactics in order to create the illusion that the violence is inter-communal in nature, rather than linked to business activities. Both the Honduran and U.S. governments have promoted this false narrative. The U.S. government, for example, has assisted Honduran prosecutors to pursue only a limited scope of cases in the region that fit within this narrative. Often, the lines between “official” and “unofficial” are blurry, with state security forces being hired out to private interests. In Peru, EarthRights documented the existence of 138 contracts where extractive companies hired police units to provide security services. (Source: <https://earthrights.org/media/report-contracts-perus-police-extractive-companies>) On several occasions, these forces have harassed and attacked human rights defenders during peaceful protests. In Peru, security forces acting under a memorandum of understanding with Newmont responded with violence against community activists protesting the Conga mine. The police fired tear gas, rubber bullets, and live ammunition, killing several people and injuring dozens between 2011 and 2014. (Source: <https://earthrights.org/case/campos-alvarez-v-newmont-mining>) As UN Special Rapporteur on Human Rights Defenders Michel Forst observed, “This commercialization of the police force creates institutional and individual ties that seriously interferes with the impartiality of law enforcement, exposing environmental defenders to additional risk.” (Source: Michel Forst’s end of mission statement for Peru) 4. As

communities around the world experience the devastation associated with climate change, many businesses have called for reductions in future greenhouse emissions, but few are being held accountable for their ongoing role in the crisis. Greenhouse gas emissions are leading to rising average temperatures, which is causing drastic changes in climates. The United Nations has found that fossil fuel combustion accounted for nearly 80% of all greenhouse gas emissions between 1970 and 2010. We have already reached a dangerous point in the climate crisis. Even if we were to reduce our global greenhouse gas emissions to zero by tomorrow -- an impossible scenario -- there are already enough emissions trapped in the Earth's atmosphere to guarantee that we will continue to experience increasingly severe climate impacts for the next several decades. For more than 50 years, the fossil fuel industry has known about the harm that their products would cause to communities, but chose to conceal the dangers from the public. In 1968, industry scientists warned these companies that "significant temperature changes are almost certain to occur by the year 2000" due to rising GHGs, and that "the potential damage to our environment could be severe." (See: <https://www.smokeandfumes.org/documents/document16>). By the 1970s, they knew with high certainty that their products were dangerous and that inaction would cause dramatic, or even catastrophic, changes to the climate. ExxonMobil even took measures to protect itself from climate change: for example, the company adapted its own facilities to protect from sea level rise.(See: <https://graphics.latimes.com/oil-operations/>). Yet the fossil fuel industry chose to conceal this knowledge from the public, in order to continue promoting and selling fossil fuels. And worse, they continue to participate in efforts to spread doubt about climate change and discredit the scientific voices that they knew were telling the truth. A recent New York Times investigation revealed some of the communications tactics being used by the industry with the support of public relations firm FTI Consulting. (See: <https://www.nytimes.com/2020/11/11/climate/fti-consulting.html>) EarthRights is representing local governments in Colorado in an ongoing lawsuit against two fossil fuel companies, Exxon and Suncor, for their role in the climate crisis. The plaintiffs in this case are asking for the companies to pay their fair share of the damages that the communities now face as a result of the companies' reckless behavior. Several local and state governments around the United States have filed similar lawsuits. The legal theory in these cases is similar to that which has been used successfully to hold the tobacco and opioid industries accountable in the United States: these companies knew about the dangers of their products, chose to conceal the dangers from the public, and now should be expected under tort law to pay their fair of the resulting damages. (See: <https://earthrights.org/wp-content/uploads/2018-06-11-18-31-11-CO-Climate-Amended-Complaint.pdf>). Myanmar has some clear examples of how the business community is continuing to fail in this regard. The Japan International Cooperation Agency is pushing Myanmar to increase its energy from coal from 2% to around 30% which would allow Japan to export its harmful "clean coal" technology (See: <https://www.tni.org/en/publication/paradigm-trap>). The International Finance Corporation recently funded a cement

	<p>plant that burns thousands of tonnes of coal, rather than financing lower carbon alternatives. This made use of a caveat to World Bank Group’s policy not to fund coal, which allows the IFC to fund steel and cement plants that use coal. This plant was widely opposed by civil society, is operated by a company controlled by an individual thought to be a drug trafficker and money launderer (See: <a href="https://www.frontiermyanmar.net/en/ifc-urged-to-turn-down-cement-plant-partnership/">https://www.frontiermyanmar.net/en/ifc-urged-to-turn-down-cement-plant-partnership/</a>). Given the stage of the climate crisis that we have reached, stronger accountability actions are necessary. The business community needs to play a key role in shifting to a carbon neutral future. Those businesses that block or delay urgent climate action -- by deceiving the public about the dangers of their products, participating in the reckless deforestation of forest sinks in the Amazon, investing in coal despite the availability of cleaner alternatives, and attempting to silence human rights defenders who speak up on climate change issues -- need to be held accountable. A true test of the UN Guiding Principles is whether it can play a role in mobilizing these urgently needed behavioral shifts in the business community.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>1. Lack of enforcement For many of the communities with which EarthRights partners, human rights laws and global standards such as the UN Guiding Principles are only valuable to the extent to which they are enforceable. Myanmar, for example, has decent environmental laws, but businesses do not follow them and the government does not enforce them. In such cases, the business responsibility to respect human rights is meaningless for local communities. Many countries face weak enforcement capacity, even where government leaders have good intentions to respect and protect human rights and the environment. For this reason, it is especially important that transnational accountability is available, especially where foreign investment is involved. Yet this global commitment to accountability and access to remedies is lacking. The U.S. government has not taken meaningful steps to prosecute or hold accountable businesses that commit human rights abuses overseas. The United States has federal criminal statutes in the area of human rights that apply extraterritorially and could be invoked against businesses. The U.S. Department of Justice is charged with prosecuting these crimes in cooperation with other government agencies. However, prosecutions against businesses for these human rights crimes remain rare. Moreover, federal criminal prosecutions of these crimes do not generally result in damages or compensation to victims. 2. Non-participatory environmental and social impact assessments continue to exclude rights holders The extent to which mega-projects respect human rights and the environment depends heavily on the quality of environmental and social impact assessments (ESIAs). Numerous challenges remain that have undermined the quality of ESIA while excluding communities from these processes. When conducting ESIA, many businesses still fail to treat communities like rights-holders. ESIA become a highly technical, opaque, box-checking exercise, rather than an opportunity to identify communities’ rights and empower stakeholders to have a voice in the process. Consultants that conduct ESIA are often not independent of the project developer and have incentives to downplay the negative impacts</p>

of a project. Even where the ESIA process is not undermined by corruption or conflicts of interest, some project developers make the process so technocratic that it undermines the effective participation of rights holders. In Myanmar, this occurred in the context of the New Yangon Project, developed by the China Communications Construction Company (which was blacklisted by the World Bank from 2007-2019 due to allegations of fraud and corruption). (Source: [https://melbourneasiareview.edu.au/dilemmas-for-advocacy-organisations-in-myanmars-changing-political-landscape/?fbclid=IwAR1Z9yJgJS-6K0KF\\_wUdZ7cDbRc-OhosbUO-YoYC3T8zW0Et0EER8VkGk-g](https://melbourneasiareview.edu.au/dilemmas-for-advocacy-organisations-in-myanmars-changing-political-landscape/?fbclid=IwAR1Z9yJgJS-6K0KF_wUdZ7cDbRc-OhosbUO-YoYC3T8zW0Et0EER8VkGk-g)) In June 2020, the Extraterritorial Obligation Watch coalition sent a letter to the UN Working Group and other UN entities raising concerns about Thai overseas investments. Among these concerns were the inadequate ESIA's being used in the region -- project developers routinely failed to account for transboundary impacts, cumulative impacts, and human rights impacts. The affected communities lack forums where they can access remedies. (See: <https://www.business-humanrights.org/it/ultime-notizie/eto-watch-coalition-calls-for-greater-inclusion-of-marginalised-communities/>). 3. Domestic corporate accountability remains weak, and potentially growing weaker In many countries, laws and regulations governing corporate behavior do not adequately reflect the reality of modern corporate relationships, supply chains, and transnational business deals, nor how business-related human rights abuses occur. Gray areas in the law leave businesses with substantial room to escape accountability. As a result, many companies appear to find it more cost effective to deny and deflect allegations, rather than to remedy harms where they occur. In the United States, corporate lobby groups -- such as the U.S. Chamber of Commerce, American Petroleum Institute, and American Legislative Exchange Council -- continue to advocate successfully at both the federal and state levels for the narrowing of access to remedies for victims of business-related human rights abuses. In a 2019, a group of U.S. civil society organizations led by Earthjustice published a report that identified five main ways that access to justice is being targeted: (1) preventing the courts from hearing challenges to certain types of government actions, (2) restricting people's ability to bring corporations to court through the use of forced arbitration clauses and limits on class action lawsuits; (3) making public interest litigation too financially risky to pursue; (4) limiting the ability of courts to provide effective redress for injuries; and (5) undermining the government's ability to reach settlements in a way that provides relief to people who are urgently in need. (See: <https://accesstojusticereport.org/report>) 4. Access to remedies for transnational human rights abuses remains weak, and potentially growing weaker Significant barriers remain to providing victims of transnational human rights abuses with remedies. In the United States, for example, few avenues exist for victims of overseas human rights abuses to seek remedies from businesses. In 2021, the U.S. Supreme Court will decide whether victims of child slave labor in West Africa can seek justice from two multinational corporations, Nestlé and Cargill, in federal court (Nestle and Cargill v. Doe). The plaintiffs in the lawsuit allege that both businesses knowingly profited from slave labor in their cocoa supply chains in Côte d'Ivoire and refused to compensate the victims. The question before the Supreme

Court involves the Alien Tort Statute, a centuries-old law that has provided human rights victims with a path to justice in U.S. courts, but whose scope has been repeatedly narrowed by the Supreme Court in the past decade. (See: <https://www.scotusblog.com/2020/11/case-preview-when-can-u-s-companies-be-sued-for-alleged-violations-of-international-human-rights/>). The Trump Administration and industry groups asked the Supreme Court to take this opportunity to end victims' ability to use the statute to bring lawsuits against corporations in U.S. courts for human rights abuses committed outside of America's borders.

5. National Action Plans are not necessarily leading to concrete outcomes that improve respect for the rights of project-affected communities

On 29 October 2019, the Thai Cabinet approved Thailand's first National Action Plan (NAP) on Business and Human Rights (2019-2022). Despite the fanfare around Thailand being the first country in Asia to develop and adopt a NAP, since its adoption there has been little progress to meaningfully protect and respect human rights and remedy human rights' violations. The NAP refers to stronger efforts in the protection of human rights defenders and legal reform in order to oblige with the UN Guiding Principles. However, CSOs have expressed concerns about the transparency of the NAP drafting process and the extent to which community's voices are integrated into the recommendations. The NAP also fails to guarantee the effective protections and remedies to human rights defenders against the violation of their rights through physical harassment and judicial harassment. One year on, the NAP remains largely dormant, characterized by limited transparency and accountability on plan's commitments and activities, many of which remain vague. A number of key government agencies identified in the NAP remain unaware or have no clear plans to protect human rights; the NAP's expectations of businesses to respect human rights remain unmet; and an effective remedy mechanism has not been developed, let alone implemented. There is also no clear monitoring framework to ensure that the NAP's progress and achievements remains aligned with the UN Guiding Principles. A fundamental gap in the NAP to date has been the limited opportunities for communities and people who are the most impacted by business activities – and whose fundamental rights are at the most risk – to meaningfully participate in and shape the NAP's implementation and review. To ensure that the NAP translates into meaningful actions that improve the human rights situation in Thailand and beyond, the Community and Civil Society Coalition for Business and Human Rights Watch -- of which EarthRights is a member -- recommends that the Thai government:

- Clarifies and elaborates NAP activities in the four NAP action plans with more specific activities, time-bound targets and indicators. Many of the activities remain vague and aspirational without time-bound targets. There must be more emphasis on concrete time-bound actions to progress the protection and respect for human rights. -
- Increase the NAP's transparency and accountability, requiring regular public disclosure and feedback mechanisms. At a bare minimum, this should include public disclosure of regular reports, demonstrating progress to date and actions to address delays and/or lack of progress in key activities. --- Ensure meaningful public participation in the development, implementation, monitoring and evaluation of NAP's four action plans and activities. The NAP will not succeed in

	<p>translating the “Protect, Respect, Remedy” framework into action, unless people can meaningfully participate in its design, delivery, and review. --- Prioritize the operationalization of an effective and accessible remedy mechanism in line with the UN Guiding Principles on Business and Human Rights. In the Southeast Asia context of business and human rights, the main challenge is the implementation of the UNGP in all priorities areas - labor rights, land and natural resources, human rights defenders, and multinational enterprises. In Thailand, reprisal and intimidation (and threats) against human rights defenders remain a serious issue that continues to this day despite the work to create a NAP in which human rights defenders are recognized. In other countries in the Greater Mekong Subregion such instances also occur but without any formal, or meaningful, adherence to implementing the UN Guiding Principles. While the NAP is like a blueprint for greater accountability and human rights compliance of the Thai investor abroad regarding the extent to which NAP is implemented. It is rare that the investors discuss or generate the claim to adopt NAP requirements in their business and human rights practices. Civil society groups in other countries that have gone through the process of drafting a NAP have raised similar concerns; see for example the case of Colombia (See: <a href="https://tierradigna.org/2016/03/09/las-7-perlas-del-plan-nacional-de-accion-de-empresas-y-derechos-humanos">https://tierradigna.org/2016/03/09/las-7-perlas-del-plan-nacional-de-accion-de-empresas-y-derechos-humanos</a>). 6. NAPs need to address access to remedies in a more meaningful way EarthRights is concerned that NAPs have not led to stronger actions by governments to provide access to remedies to victims of human rights abuses, including both domestic and transnational abuses. In December 2016, in the final month of the Obama Administration, the U.S. State Department published its approach on business and human rights. The action plan relied heavily on voluntary corporate initiatives, while downplaying the importance of access to remedies. At the time, EarthRights observed: “The Government’s scattershot ‘approach’ appears to consist of a random collection of public-private partnerships, generally informative and aspirational guides, and legislative initiatives, most of which are years — if not decades — old. Most glaring of all, despite enthusiastic references to the UN Guiding Principles on Business and Human Rights, the document completely ignores the need for victims to have access to justice and glosses over the administration’s troubling record on remedies.” There is no indication that the Trump Administration made progress in implementing the commitments included within this action plan.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>1. Rights-holders must be the driving force behind all business and human rights initiatives The failure to adequately address the important role of rights-holders and civil society organizations is one of the glaring failings of the UN Guiding Principles. Some of our greatest human rights challenges, including systemic inequality, environmental injustice, and identity-based discrimination, are reinforced by a failure to adequately include and take the lead from rights-holders and affected communities in decision-making processes. Progress in the business and human rights community must be rooted in overcoming that failing. Multinational corporations continue to speak about business and development issues</p>

in terms of economic growth -- a model that not only fails to account for rights-holders, but also exacerbates societal inequality. Violation of community rights, including the seizure of land and destruction of the environment on which communities depend, continues to be an acceptable externality of business. In 2019, in response to growing public frustration with corporate abuse, the Business Roundtable -- a leading lobby group in the United States that represents multinational corporations -- released a statement, signed by 181 CEOs, saying that corporations do not exist solely to make money for shareholders. The CEOs committed to run their companies in a way that benefits all stakeholders— shareholders, but also customers, employees, suppliers, and communities. The announcement made headlines for its potentially transformative shift in the U.S. business community towards a more environmentally and socially responsible business model. The CEOs' statement has not yet resulted in any noticeable reforms. A 2020 study found no evidence that the CEOs were taking their commitment seriously. (Source: <https://www.kksadvisors.com/tcp-test-of-corporate-purpose-september2020>) None of the boards of directors for these corporations amended their corporate governance guidelines to reflect the statement. As the COVID-19 pandemic unexpectedly upended the U.S. economy a few months later, many of these same corporations responded by engaging in shameless profiteering. As millions of Black Lives Matter protesters demanded an end to police brutality and systemic racism, many of the same corporations that expressed public support for the movement continued to fund politicians and industry groups that promote racial discrimination. At the same time, corporate capture of democratic processes has undermined the ability of local communities to have a voice in decision-making that affects them. In EarthRights' work, we have seen this phenomenon play out in several concrete ways. In Colombia, EarthRights is supporting the U'wa people in a case that they have brought before the Inter-American Court on Human Rights. Since the early 1990s, the U'wa have worked to protect their territory from oil and gas companies, including Occidental Petroleum and Ecopetrol. The Colombian government has approved the exploration and exploitation of oil, coal, and other minerals in projects that overlap with U'wa ancestral territory, while failing to recognize the U'wa's right to collective ownership over their ancestral territory. The projects have proceeded without their free, prior and informed consent. The U'wa has also engaged in large-scale protests and occupations of oil company installations on their land, which the Colombian government has violently repressed. The Colombian government has not met its obligations to remedy the rights violations that the U'wa have suffered. (Source: <https://earthrights.org/case/uwa-indigenous-people-vs-colombia>) In Myanmar, we have seen several companies treat their human rights due diligence responsibilities as a tick-the-box compliance exercise. For example, we have witnessed the reluctance of companies in the Thilawa special economic zone to engage with communities in managing the human rights risks of their business activities. The project developers, which include the Myanmar government and the Japan International Cooperation Agency (JICA) -- first denied the need for an operational-level grievance mechanism. Then later, as the community was presenting its own community-driven operational grievance mechanism in Geneva at the

UN Business and Human Rights Forum , the developers imposed an operational grievance mechanism on the community (The community-driven model is discussed in more detail in the response to Question 5 below). This company-controlled mechanism used a generic model including material cut and pasted from publicly available sources. The community in Thilawa have demonstrated their capacity to develop a mechanism, their desire to cooperate with relevant stakeholders and their ability to advocate for their rights to be respected through a community drive mechanism. In presenting their community-driven operational grievance mechanism (CD-OGM) model to the UN forum on business and human rights in Geneva in 2017, the community forced the hand of stakeholders in the Thilawa Special Economic Zone to develop a mechanism. However the one they developed has been little more than a box ticking exercise to demonstrate to the international community their willingness to comply. The reality, the enforcement of an ineffectual grievance mechanism developed without sufficient community ownership and input has rendered the system redundant. The Thilawa Complaints Management Procedure (TCMP) was conceived without the input of the DC members who had been holding regular meetings and workshops with the community on implementing a grievance mechanism. Multiple subsequent attempts to review the TCMP with the MJTD were rarely responded to, whilst the DC members have reported community members still bringing concerns about remedy and the project to them rather than accessing the TCMP. The TCMP process was initially only published in English, in 2018 it was published in Burmese, but not yet in Tamil, a language spoken widely in Thilawa. The TCMP does not appear to be proactive and inclusive, and its inception did not take any pains to engage properly with the community or respond to the criticism of its inception or the subsequent attempts to develop the TCMP into a truly inclusive community driven mechanism. Its simple existence does not mean that the process has been effective and engaging of the community, and the design committee in Thilawa have continued their efforts to engage with key stakeholders to further discuss implementing a properly effective grievance mechanism. The community in Thilawa have regularly demonstrated their willingness and desire to cooperate with key stakeholders to develop this mechanism, reaching out to project investors and government representatives. So far their attempts to fully engage in the development process have been met with reticence and in some case ignored by the project stakeholders, further demonstrating a lack of real desire from the corporations involved to properly work with communities to develop a system that is genuinely respectful of their rights and impactful in helping them seek remedy. The Myanmar government considers the Thilawa special economic zone to be the “most developed and successful economic industrial zone outside of the Yangon metropolitan area.” This tax-free zone is supposed to attract foreign investment. The project has continued to expand, despite the continuing use of illegal land grabbing from local farmers. In the 1990s, the military seized a large area of land, including that is used for the SEZ, from farmers and forced them to accept only a fraction of its value in compensation. In August 2019, the Myanmar government’s Land Reinvestigation Committed decided that this coercive taking of the land was acceptable and deprived farmers on land adjacent to the

	<p>special economic zone of their rights. In January 2020, the Myanmar Supreme Court found these farmers guilty of trespass for continuing to farm their land. In May 2020, the military-owned Myanmar Economic Corporation completed a fence blocking farmers from their paddy fields on land adjacent to the special economic zone. These farmers have now lost their livelihoods. The lessons from these examples are clear: Solutions to business and human rights problems need to be led by rights-holders. It is not enough for businesses to satisfy their “responsibility to respect human rights” by complying with national law, when national law is fundamentally incompatible with international human rights standards. 2. Governments need to shift away from over-reliance on voluntary corporate initiatives. One decade after the adoption of the UN Guiding Principles on Business and Human Rights, it is clear that a voluntary approach to corporate human rights abuses is insufficient. Voluntary initiatives play an important role -- they provide a space where businesses can exchange ideas and best practices. However, voluntary initiatives are not a substitute for accountability. For example, the U.S. government has long embraced the concept of “voluntary multi-stakeholder initiatives” as a way to shift industry human rights practices, but has hesitated to take stronger measures to hold businesses accountable when abuses occur. Indeed, in many legal cases, the U.S. government has actively worked against accountability, siding with industry over victims in advancing legal arguments that limit the ability of survivors to seek remedies and hold corporations accountable.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>1. Rights-holders must be the driving force behind all business and human rights, and sustainable development initiatives. The next ten years of implementation of the UN Guiding Principles will need to exist within the context of enormous, transboundary crises like climate change, racial injustice and identity-based discrimination, the land grabbing epidemic, inequality, closing civic space, and the botched response to the COVID-19 pandemic. These are difficult, systemic, and structural problems. The UN Guiding Principles is framed in a technocratic way -- it focuses on specific mechanisms and lists of steps that businesses and governments can take to fulfill their responsibilities. The Ten Year Roadmap is an opportunity to acknowledge the systemic nature of these problems and frame the debate accordingly. This reframing should place rights-holders and civil society organizations front-and-center in a vision of what the UN Guiding Principles is intended to accomplish. The adoption of worker-driven social responsibility initiatives is demonstrating the transformative potential of human rights initiatives grounded in rights-holder design, monitoring, and enforcement. Examples in the workplace context include the Coalition of Immokalee Workers’ Fair Food Program, or Migrant Justice’s Milk with Dignity Program. Without meaningful governmental protection for labor rights, workers themselves have crafted and monitor human rights based codes of conduct for their employers, and have ensured real enforcement and accountability by introducing independent bodies to receive and adjudicate complaints, and by ensuring economic consequences for noncompliance. Several opportunities exist for concrete action. To name just a few: First, the UN</p>

Working Group could promote the importance of community-driven operational grievance mechanisms (CD-OGM), rather than portraying company-controlled mechanisms as the only viable option. (For more information, see <https://earthrights.org/what-we-do/corporate-accountability/cdogm>) EarthRights has worked closely with communities in Myanmar as they develop consensus and show companies what an effective CD-OGM looks like to them. This approach is more closely aligned to the criteria for effective operational-level grievance mechanisms described in the UN Guiding Principles. The overriding concept at the heart of the CD-OGM model is that of centrality of the rights holder. Those people most impacted by a business activity or development should be squarely at the center of a process of access to remedy, and in deciding what remedies would be appropriate and sufficient from their point of view. The design, implementation, monitoring and follow up of any mechanism that seeks remedy should retain the involvement and leadership of affected communities throughout all stages of the process, as far as this is still the desire and will of the community at large. Communities affected by these activities retain their own conceptions of justice and fair remedies, whilst being protected and supported by international laws and principles including right to remedy for human rights violations and those principles of free, prior and informed consent. Any grievance mechanism must respect these international laws and standards, whilst placing the perspective and concepts of fairness of the communities at the center of the development process. When communities are aware of their rights when impacted by a project, the question becomes one of helping them to effectively access those rights and take ownership of the mechanisms put in place to ensure that access. The benefits of taking time to adequately develop a community driven mechanism is that it takes account of local concepts of justice and fair remedy, as well as contextual concerns that may render a one size fits all mechanism redundant. Second, the UN Working Group could encourage businesses involved in economic development projects, especially in the extractive industries, to routinely sign community benefit agreements with local communities that provide guarantees of legal accountability. Businesses regularly sign contracts with each other that provide both parties with access to remedies; in jurisdictions where the rule of law is weak, they often apply foreign laws and submit to foreign jurisdictions. It is also common to put up bonds and guarantees that pay out in the event of a company not meeting its obligations to another company. There is nothing to stop businesses from making similar legal commitments to communities in which they work. At minimum, businesses should treat communities as well as they treat other businesses. Third, when it comes to interactions with indigenous peoples, businesses need to commit to higher legal standards. Free, prior, informed consent is not just a check-the-box consultation exercise. It is a formal process in which the rights of indigenous peoples are respected, and which agreements that are made are legally enforceable. 2. Don't stop with mandatory human rights due diligence. We are pleased with the shift in the European Union and other jurisdictions towards mandatory human rights due diligence. The UN Working Group should aggressively support such initiatives, and it is noteworthy that many multinational corporations have supported

mandatory human rights due diligence, as well. However, it is important that mandatory human rights due diligence does not become a substitute for legal accountability and access to remedies. The UN Working Group will need to ensure that the business community, having supported mandatory human rights due diligence legislation, does not consider their commitments to rights holders to be resolved. We fear that the UNGPs will provide diminishing value over the next decade unless they are able to address the accountability gap that currently exists with respect to business-related human rights abuses. Accountability for business-related human rights abuses has two dimensions. First, victims must have a right to effective remedies that enable them to rebuild their lives and dignity. Remedies need to be available for all rights violations, no matter how economically or politically powerful the perpetrator is. Second, businesses must face consequences for their role in human rights abuses, even if their role is indirect, or if the host government shares in their culpability. While penalties can be remedial to the victims, penalties should also serve a deterrent effect, imposing costs that are significant enough to change the behavior of the perpetrators and prevent others from engaging in similar conduct. Governments must act to ensure access to remedy through their judicial systems, removing all major barriers to remedy. For their part, corporations must stop interfering with the development of these legal pathways to remedy. With respect to non-judicial human rights mechanisms, rights-holders must be deeply involved in, if not the principal drivers of, their design and implementation, and all such mechanisms must be binding, enforceable, and carry real consequences. In fact, human rights due diligence would not need to be mandated if strong accountability existed. Faced with accountability, businesses would innovate ways to meet their responsibility to respect human rights. They will conduct human rights due diligence from the onset of their operations. They will pressure their peers and competitors to participate in a “race to the top.”

3. Clarify governments’ international law obligations to provide access to remedies for transnational torts. We encourage the UN Working Group on Business and Human Rights to seek opportunities to highlight government duties with respect to human rights abuses committed outside of their borders. We are pleased that the UN Working Group has taken steps to shift in this direction, but believe that further emphasis is needed. In a 2017 report to the UN General Assembly on access to remedies, the UN Working Group wrote: “As part of their extraterritorial obligation to respect, protect and fulfill human rights, States should provide access to effective remedies even to foreign victims in appropriate cases. Doing so will be consistent with States signaling to enterprises ‘domiciled in their territory and/or jurisdiction’ to ‘respect human rights throughout their operations.’” By focusing a future report on the challenge of providing access to remedies in extraterritorial cases, the UN Working Group could help to encourage governments and policymakers to fill this gap. In the United States, the Supreme Court’s decision in the Nestle and Cargill v. Doe case could potentially narrow the scope of the Alien Tort Statute so that it cannot be used to provide access to remedies for corporate human rights abuses. This could, in effect, turn the United States into a safe haven for transnational corporate human rights abuses. The UN Working Group could help to call attention to this gap,

	encouraging the Biden Administration to use the legal authorities available to it (such as sanctions, trade restrictions, procurement regulations, and Department of Justice enforcement actions), while encouraging the U.S. Congress to adopt new legislation that updates the Alien Tort Statute or similar legislation. 4. We need transparent and participatory monitoring of governments' NAPs Finally, we encourage the UN Working Group to take steps to encourage governments to monitor the implementation of their NAPs in close coordination with civil society. In particular, we hope that the Thailand government will set an example for other Asian countries by working with civil society organizations to monitor progress towards its four focus areas -- labor rights, land and natural resources, human rights defenders, and multinational enterprises.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	In December, EarthRights will publish a discussion paper that focuses on how the U.S. government can strengthen its approach to business and human rights.

Survey response	
Organization	ECPAT International
Stakeholder category	Civil society organization
Region	Asia
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	ECPAT International is a global network of civil society organisations, working to eradicate all forms of sexual exploitation of children. Over the past 30 years, ECPAT has become the forefront international NGO network dedicated to end this severe form of violence against children, advocating for State accountability and more robust measures across sectors to enhance the protection of victims. ECPAT currently has 121 member organisations operating in 103 countries around the world. This submission incorporates contributions made by members of the ECPAT Network for the purpose of this call: ECPAT Austria, APLE Cambodia/ECPAT Cambodia, ECPAT Germany, Equations/ECPAT India, Defence for Children – ECPAT Nederland.
1. Where has progress taken place in UNGPs implementation over the	The awareness about the negative impact that governments and businesses can have on children and their rights is increasing, however children's rights are still not sufficiently prioritised. Focus has been given to child labour in terms

<p>course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>of eliminating work done by children and to product responsibility towards children. Less attention has been given to other areas, amongst others to children’s right to protection from all forms of sexual exploitation and abuse, including those considered to be worst forms of child labour. There are some promising examples of institutional cultures where the issue of child protection has been included as a co-principle of sustainable development. However, these need to be put into action and fully integrated by governments and business to effectively mitigate risks for children. Highlights of the promising practices include: ● The Global Sustainable Tourism Council (GSTC) Destination Criteria v2.0 included a child protection performance indicator, based on the recommendations of ECPAT International. The current Criterion B5 calls upon travel destinations to have laws, practices and established codes of conduct to prevent and report on human trafficking and sexual exploitation, in particular: “destination and key tourism players are signatories to The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism” hereinafter ‘The Code’. ● The UNWTO Framework Convention on Tourism Ethics explicitly refers to children’s rights and the protection of children from sexual exploitation (art. 5.2, 5.3 and 9.6). On 2 October 2020, the Republic of Indonesia became its first signatory. It is a significant step towards the ratification of the Convention, which was adopted during the UNWTO General Assembly in 2019. With the travel and tourism sector currently facing up to the biggest crisis in its history, countries should use this pause to prepare and realign tourism with ethical standards, including in relation to child protection measures, as specified in the Call for Action launched by civil society organisations on the occasion of the World Tourism Day. ● The Regional Action Group of the Americas (GARA), composed of 16 Authorities of Tourism, cooperates with the private sector and civil society organisations to create protective environments for children in the travel and tourism industry through the implementation of national codes of conduct that are government-regulated child protection standards. Civil society organisations are also more and more visible in their actions towards preventing child rights violations with business while strengthening systems and practice to integrate child protection measures at national levels. Examples come from several ECPAT members working in Europe, the USA, Southeast Asia, South Asia, Africa, Latin and Central America that engage with the industry to implement The Code. In Austria, a law was introduced (2018) for all travel agents who offer volunteer travels with programmes which include contact with children, that requires them to have child protection mechanisms in place - the law made it easier for ECPAT Austria to approach companies and motivate them to implement The Code, including its voluntourism policy. In the travel and tourism sector, awareness about the sexual exploitation of children has increased over the last decade among ‘frontrunner’ businesses, willing to improve. Much more needs to be done to hold companies accountable through the entire supply chains, and to ensure engagement of online accommodation and sharing economy platforms as well as small and medium enterprises, including the informal economy. EQUATIONS, India (ECPAT India) that has been successfully working to engage the informal</p>
--	--

	<p>economy sector, calls for a systemic approach through the UNGP to address human rights in informal business, an issue that is relevant for many countries in the Global South. Companies in other sectors also start taking action to protect children from sexual exploitation. In line with broader global advocacy efforts by ECPAT International, for example APLE Cambodia (ECPAT member) has been advocating for Internet service providers (ISPs) and online businesses to take action towards child protection and for all industries to do mandatory background checks and require police clearance for those applying for work with or for children. ECPAT Germany stressed that a national action plan for the implementation of the UNGP was developed in Germany, but its voluntary aspect poses challenges to its practical implementation. Defence for Children – ECPAT Nederland brought a promising example of a mix of policy measures that has been developed in the past years, with the aim to fulfill responsibility to protect the rights of children in business. However, there is no firm legal regulation in terms of legislation besides a law on Child Labour, which is of limited scope and has yet to come into effect in The Netherlands.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Although many businesses refer to the UNGP and other human rights guidelines, children’s rights are still not equally perceived as an intrinsic part of human rights frameworks. Regulatory frameworks are key for the implementation of the mix of voluntary and obligatory measures by businesses, however, significant gaps remain in the enforcement of laws and policies to better protect children from all forms of sexual exploitation. Without enforcement, a voluntary approach to the implementation of standards, no strict requirements by the governments, and promoting the idea that the initiative should be taken by the private sector itself, the change cannot be achieved. Legal and regulatory measures vary across jurisdictions, and more efforts are needed to harmonise laws across regions to improve child protection measures, including through ensuring the liability of businesses throughout the supply chains. For example, while the Council of Europe (CoE) Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (also known as Lanzarote Convention) requires each State party to ensure that any legal person, which includes companies, can be held liable for criminal offense that is committed for its benefit by a natural person; or in the USA, certain states have laws that can be used to prosecute companies for facilitating, promoting or advertising sexual exploitation, business liability laws are missing across other regions, leaving a scope of impunity for businesses and enterprises. However, even where laws are in place, their enforcement remains a challenge and the situation of impunity means that victims of corporate-related human rights abuses have little chance of claiming their rights or seeking compensation and ensuring the right to remedy for victims. While child sex offenders (international, regional and domestic) keep adapting their modus operandi to exploit children online and offline with the use of technology, financial and banking systems, ICT and travel and tourism infrastructure, the responses by the private sector, including investors and governments result insufficient to protect children. In terms of procurement measures,</p>

governments under utilise their own procurement policies as a way to stimulate implementation, for example, the research from The Netherlands indicates that only in the case of an estimated 2,5% of the entire procurement budget, social criteria are part of the decision-making. Government-regulated standards for the industry such as national codes of conduct for the travel and tourism industry are implemented in a limited number of countries, are rarely of obligatory nature, and in some countries difficult to enforce. The ISPs, financial and telecommunication corporations are mostly unregulated, and not held accountable. This calls for urgent responses, as child sex offenders that have been grooming children online during the COVID-19 pandemic, are expected to travel to directly sexually abuse the same victims – a risk that is expected to increase when travel restrictions are relaxed. Countries have been developing new plans to restart travel and tourism with a range of initiatives on relevant infrastructure, including building environmentally-friendly resorts. Such plans however do not explain how children’s rights will be protected. Experiential, community-based, rural, voluntourism and eco-tourism as an alternative to mass tourism are on the rise, and while this has a positive impact on poverty reduction and the preservation of the environmental and human culture, it also encourages close interaction with local communities, leaving vulnerable children at risk of sexual exploitation. It needs to be anticipated that some companies, opening up for their own survival after COVID-19 pandemic, without strong regulations to protect children may fall into tolerating sexual exploitation of children (ECPAT International and the Down to Zero Alliance, 2020. The Call for Restarting Travel & Tourism with Child Protection in Focus). Urgent efforts are needed to close gaps in legal and policy frameworks across the regions, including to regulate and monitor the use of the volunteers in activities with direct child contact and establishing obligatory government-regulated child protection standards for the tourism sector. Besides travel and tourism industry, private sector actors working in the ICT field play a key role in not only facilitating, enabling and propagating the sexual exploitation of children through the misuse of their online platforms, systems and services but also in developing systems and platforms that can help detect and take down illegal content disrupting the dissemination of child sexual abuse and exploitation materials (CSAM/CSEM). Although some examples of self-regulation by these companies are promising, governments must enact legislation requiring specific actions from private sector actors and hold them accountable when their platforms or services are misused. In this sense, governments should require Internet providers to set up takedown procedures to block access and enable the removal of CSAM/CSEM from their platforms and services. For business to take effective preventive measures, they have to be enabled by governments to operate within appropriate legislative, regulatory and policy frameworks, and binding laws seem to be the strongest motivator for business. To make sure that laws are enforced, cross-sectoral cooperation with civil society

	<p>organisations and the private sector is needed to provide governments with technical assistance and specialised knowledge on specific issues related to sexual exploitation of children, in both online and offline environments.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Children’s rights are not understood and discussed as much as human rights of adults in business contexts. The needs of children are often forgotten, ignored or simply not acknowledged as requiring specific consideration. Awareness and knowledge on issues related to the sexual exploitation of children in relation to business is very limited, both from industries and governments, contributing to lack of prioritisation of children’s best interests. This involves also clichés that the crime of sexual exploitation of children is limited to certain countries and regions, while it is a global problem. Due to the hidden nature of the sexual exploitation of children, data collection for evidence based advocacy to influence the private sector and governments, remains a challenge. The difficulty in capturing data related to trafficking and sexual exploitation was recognised in the ILO, IOM, OECD and UNICEF 2019 report “Ending child labour, forced labour and human trafficking in global supply chains” that focused on child labour statistics, which are more easily accessible. In this respect, the UNGPs implementation could contribute to better measurement of the problem of the sexual exploitation of children, if obligatory measures for reporting are imposed. Mandatory reporting should include professionals working with children and institutions, that due to the nature of their activities, may come across suspected cases of sexual exploitation of children, these include healthcare professionals, teachers (in both public and private schools), ISPs, travel and tourism industry, credit card companies or banks. Moreover, to align the implementation of business and human rights principles with the Sustainable Development Goals, the role of the private sector in contributing to states reporting (specifically under the Goal 16, target 16.2 to end abuse, exploitation, trafficking and all forms of violence against and torture of children) should be strengthened. This can be done through partnerships with the civil society organisations that can contribute to this process.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>It is key to encourage the use of a holistic approach to sustainability discourse by incorporating children’s rights and child protection as an equal component of business models and broader certification processes, among management, cultural and environmental issues. This includes: leveraging solutions that address the root causes of socio-economic vulnerabilities of children and families; conducting risk and impact analyses regarding children’s rights – also when businesses are developing new products related to digital transformation, experiential tourism and seamless travel solutions; following sustainable practices throughout supply chains; creating awareness among customers and local communities; providing regular trainings on child protection to all the staff and establishing codes of conduct (preferably of an obligatory nature), including through the adoption of the GSTC Criteria and the six criteria of The Code, with the participation of civil society organisations working at the ground level. Focus should be placed on the</p>

	<p>prevention of business-related human rights impacts, by requiring all companies to address the sexual exploitation of children. In particular, businesses should create protective environments for children while developing experiential, community-based, rural and eco-tourism as an alternative to mass tourism, by cooperating with local communities and CSOs to ensure that children are not used as ‘tourism attractions’ and are protected. Preventive efforts by governments can have a greater impact if there is proactive engagement and strong collaboration from the private sector including travel and tourism industry, ICT and financial industry – both public and private. On top of regulating the industry, governments and civil society must build partnerships in order to help businesses understand their impact on children’s rights, including the sexual exploitation of children and work together to develop innovative solutions to this crime that is constantly evolving. To effectively engage all actors, synergies should be built with other existing legal instruments, such as the UNWTO Convention on Tourism Ethics. While there are no alternative reports to the Tourism Ethics Convention, it should be advocated with the UNWTO to introduce a chapter on child protection in its reporting mechanisms to the General Assembly. Such a process would allow monitoring of governments and the travel and tourism industry progress in relation to child protection from sexual exploitation. Moreover, it’s necessary to further build upon the CRC’s General Comment No. 16, that recognises that the duties and responsibilities to respect the rights of the child extend in practice beyond the state, state-controlled services and institutions and apply to all private actors and business enterprises. A coherent regulatory framework, with due attention for children’s rights, and specifically the crime of sexual exploitation of children is needed, to create an integral regulatory framework. A culture of impunity, social structures and norms stigmatising victims of sexual exploitation that interfere with efforts to achieve broader understanding towards respecting children’s rights and increased reporting needs to be overcome by promoting the implementation of the UNGP. Taboos related to sexual abuse and exploitation of children lead to a culture of silence and lack of response from local authorities even when cases are known.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of</p>	<p>Voluntary child protection measures are insufficient, in particular in countries where businesses are not under public pressure or where the crime of sexual exploitation of children is tacitly tolerated. Laws and policies need to be developed and harmonized, with a greater effort on regions and countries that are lagging behind. Government-regulated child protection standards, that include response protocols in cases involving sexual exploitation of children, across a wide range of industries need to be established and enforced. Governments must develop mandatory and enforceable policies to protect children in public and private developments, including the obligation to conduct thorough human-rights impact assessments. Child rights risk management, including from sexual exploitation, should be integrated into criteria of public procurement and awarding contracts. This could also include</p>

<p>meeting the UNGPs' expectations over the coming years?</p>	<p>compliance with national codes of conduct to protect children that should be of obligatory character, subject to penalties for businesses in case of non-compliance, and/or with the six criteria of The Code as a practical way for meeting legal obligations and international standards. National Action Plans (NAPs) on business and human rights should be more actionable, include a stronger focus on children's rights, and pay particular attention to preventing the crime of sexual exploitation of children in online and offline environments. Governments should explicitly include considerations for children's rights in business context in all NAPs, as a cross-cutting issue to be monitored by governments. Meaningful participation of victims and survivors of sexual exploitation should be taken into consideration to influence policies and actions on business and human rights from a child rights perspective. Civil society organisations, like ECPAT International, can contribute to such process. Last but not least, take into account the negative socio-economic impact of COVID-19 pandemic, that is increasing risks to the implementation of a wide range of children's rights - besides the disruption of direct services to children it is affecting civil society organisations and restricting their 'room to move' with governments and the private sector to contribute to the implementation of the UNGPs.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>In line with its mandate, ECPAT International's input specifically focuses on the protection of children from the risks and harm of sexual exploitation. Governments and the private sector need to take into consideration a complex and evolving nature of this crime, that involves close overlaps between the exploitation of children in prostitution, the sale and trafficking of children for sexual purposes, online child sexual exploitation, the sexual exploitation of children in travel and tourism and some forms of child, early and forced marriages. Communication is of critical importance to respect, protect and implement the rights of the child. The use of universally agreed terminology is essential to enable information and ideas to be passed on rapidly and legibly amongst all stakeholders and to ensure a victim-centered approach, also in the context of business and human rights. The lack of common terminology can generate inaccuracy and inconsistency in policymaking and legislation or undermine prevention efforts due to miscommunication. To address this problem the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse aim to help navigate the complex lexicon of terms that relate to the sexual exploitation of children. Businesses should ensure the images and language they use do not further harm or stigmatise victims. For example, even though international instruments use the term 'child sex tourism', the expression 'sexual exploitation of children in travel and tourism' should be used because it highlights the exploitative nature of this activity, and emphasises that is not another form of tourism. Publications: ECPAT International advocates for better domestic legislation to ensure that countries have laws and policies that are in line with international standards. ECPAT's country reports (<a href="http://www.ecpat.org/resources">www.ecpat.org/resources</a>), as well as reports (<a href="http://www.ecpat.org/what-we-do/human-rights-reporting">www.ecpat.org/what-we-do/human-rights-reporting</a>)</p>

	<p>to the UN Human Rights Council and the CRC Committee have been instrumental in helping governments identify gaps in the law so they can make appropriate changes. These reports, although not specifically focused on business and human rights issues, include also elements relevant to the progress in UNGP's implementation with respect to children's rights. ECPAT would also like to flag the upcoming publication Codes of conduct on child protection for the travel and tourism industry in the Americas: an overview that is the first report analysis how national codes of conduct are used in the region by governments and businesses, along with the ECPAT hosted initiative The Code to help meet the international legal standards to protect every child from all forms of sexual exploitation. The report will be launched by ECPAT International and the Regional Action Group for Americas (GARA) composed of 16 Tourism Authorities in December 2020. ECPAT has also developed a Legal checklist for governments with suggestions for key legal interventions to adopt – if they have not done so already – to improve their national legal and policy frameworks to address the sexual exploitation of children in travel and tourism along with its online elements more effectively. The 24-points legal checklist helps also monitor progress on the private sector liability and government regulated child protection standards for businesses. As of November 2020, research on the implementation status of the 24 points has been conducted by ECPAT International in over 40 countries in Southeast Asia, South Asia, Africa, and the Americas.</p>
--	---

Survey response	
Organization	EIRIS Foundation
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international	1. Companies are talking about it, internally and externally, and some are doing a lot, as shown by the Corporate Human Rights Benchmark (CHRB) project. This project also demonstrates that a mixture of transparency, competition, clear requirements and goodwill on the part of internal human rights staff can lead to significant improvements in disclosed compliance. 2. Increased litigation on issues of corporate responsibility and human rights in particular. 3. Projects like the CHRB have built a guide for companies on how to comply with the UNGPs. 4. It is hard for companies to claim any longer that they have no responsibility to anything other than profits. 5. The detailed CHRB data shows

<p>organizations, civil society organizations, etc.) that can be built on?</p>	<p>leading companies have been able to develop “learning” cultures in which they explain the challenges they face in tackling particular human rights issues (or in rolling out the plans they had devised to do so) and can provide examples of the further steps they took to overcome the challenges identified. 6. Some have been able to present statistical analysis of the effects of different interventions on human rights outcomes (for example which interventions on child labour work best for girls and which for boys).</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>1. The challenge demonstrated by CHRB is that while there are leaders, the majority of companies are still far from compliant even with basic human rights due diligence (HRDD). It is also difficult to see the exercise being repeated in the same way across the tens of thousands of companies that need to do HRDD if the UNGPs are to achieve their potential. 2. Establishing norms is a great achievement but the EIRIS Foundation has found that people do not act on these norms without other pressures. CHRB started in 2017 and every sector covered turned out to start from a low base (despite the UNGPs having been in existence for several prior years making the norms pretty clear). 3. It would be useful to see the UNGPs explicitly incorporated more often into other mechanisms such as ICC and SDGs. 4. The issue of remedy is often unclear – Pillar 3 needs more attention 5. Remedy is being developed company by company and institution by institution. As well as asking each player to provide remedy, there needs to be visibility for the overall “remedy environment” available for different sorts of victims in different contexts. In principle, a victim might pursue remedy or seek leverage to receive remedy with the immediate businesses involved, with clients or investors of the business, with trade associations or national contact points, and/or by legal means. In addition to asking each business to address their individual responsibilities, there should perhaps be more of a focus on the overall “remedy environment” in different contexts and how victims can navigate this environment. The overarching goal would be for some global “tracking” of whether “the global B&amp;HR system” is yet working for victims or not, context by context to motivate more granular innovation. 6. Though the UNWG clarified the issue of operating in conflict areas, there are still gaps which it identified. 7. More clarity and attention to the role and responsibilities of investors, particularly as the EU starts to make them all report on their impacts and moves to reduce harm on a systematic basis. 8. Adhering to UNGPs is difficult for small companies if they must fully understand the entire process and its philosophy to act as expected. 9. Companies learn how to use the lingo without necessarily genuinely adopting the principles of UNGPs. 10. How can UNGPs help people working in the informal (gig) economy? 11. For those companies who have adopted the UNGPs, the disclosure of their risk assessments rarely give systematic details of the scale and scope of the risks or impacts that they identify and which they have gone on to use as the criteria for prioritising the most salient. This means that a report reader cannot easily judge whether the action plans adopted are proportionate to the challenges</p>

	<p>identified. This also makes it harder for an investor (or a purchaser in a supply chain) to get an overall picture or prioritise their engagement across a “portfolio” of businesses.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>1. The increased power of some companies over government and vice-versa. 2. The status and impact of International Law is not as significant as it should be. 3. Progress on human rights (HR) can be hard to measure. 4. There is a lot of attention on climate change and less on HRs. For example, the IFRS is looking at launching global sustainability reporting standards, but suggesting that they should start only with climate and only with impacts on the firm rather than including salience and the impacts of the firm upon society and environment. They seem to be driven to this view by the urgency of climate change and the complexity of “dual materiality”. The inter-relationships need to be better understood, and the de-prioritisation of human rights avoided. 5. Within the private sector B&amp;HR needs to move from a specialist “leading companies” activity to “business as usual”. That means a much wider range of managers and departments within companies playing their part, as well as a much larger number of companies. It means developing a human rights culture in the way that many more companies seek to develop safety cultures, or quality cultures, for example.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>1. The competition for attention between HR and CC actions and the potential for pursuing one at the expense of the other. 2. How to include the Informal (gig) economy.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>1. In the next ten years, one of the main tasks is to scale up the implementation of the UNGPs by many more companies, especially smaller ones. What is required is an ‘economy of scale’ - one in which it is cheaper and easier to find the parts. It is not to say that the implementation of the UNGPs will become entirely a mass-produced box-tick exercise (although some aspects might be systematised). Rather, we would like to see a process similar to that of the health and safety (H&amp;S) movement which has been ongoing over the last 100 years and more. 2. H&amp;S is now a field where individuals and companies have clear, concrete guidelines and procedures to follow so that they can ensure operations are not going to kill or injure people or harm the environment. And when things go wrong, there is a process to follow. Ideally, a thorough investigation ensues which leads to clear lessons and to remedy for the victims. 3. A similar process should happen to with the UNGPs implementation. Companies, especially small ones who cannot employ a team of CSR professionals, need tools, training and procedures to follow the UNGPs. We do understand that every situation is unique; that rights apply in different ways and that the essence of this cannot be summarised into a</p>

	<p>generic procedure. However, it is also clear that some patterns and processes are similar and we believe that an attempt should be made in clarifying and breaking down to easy procedures at least regarding some situations/rights. For example, the process of stakeholder engagement might benefit from formal standards at the ISO level. While every stakeholder engagement is different, there are a lot of the challenges that repeat themselves. Such standards might also help particular corporate cultures take these ideas on board more easily. 4. There would be value in more effective sharing of “discoveries” about the most effective interventions in particular situations, and also seeking to expand upon collaborative working and “escalation” strategies (to governments, multilateral bodies or civil society) in cases where companies identify a problem as symptomatic of wider issues in the communities where they are doing business or which they cannot tackle alone for other reasons. 5. It may also be helpful to think about clarifying the role of different teams within a business (purchasing, innovation, finance, human resources, legal etc) and their different roles. The implications of a major scaling up include most of the work inside companies being done by people who are not human rights specialists but still being clear about the larger whole to which they are contributing without “everyone chasing the ball”. 6. Businesses should be encouraged to be explicit about their assessment of the scale and scope of the human rights risks and impacts they identify and to address directly whether they believe that the action plans they put in place are proportionate to the challenges they have identified. If not, they should be clear what further steps they are considering. 7. There is also a need for an overview of the state of business human rights impacts and risks that looks across different rights and different contexts to help business and other stakeholders prioritise their efforts most effectively. A global “tracking” that can assess the effectiveness of action on business and human rights in aggregate and provide actionable feedback to individual businesses and initiatives in their own tracking of progress. 8. One way that we envisage a number of these things happening is by establishing a UNGPs panel of experts somewhat like the role of the IPCC in relation to climate change for the UNFCCC process. This panel could develop a matrix for specific rights and identify easy tools and guides on specific human rights violations (or identify gaps that civil society and business should fill) or clarify specific issues such as ‘what engagement with stakeholders must include’. This will enable a process of scaling and expanding uptake of UNGPs also by smaller companies.</p>
--	---

Survey response	
Organization	Global Witness

Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>1. Legislative developments in Europe Domestic legislation in the Netherlands (2019) and France (2018) introducing mandatory due diligence requirements for companies in certain instances is a promising development in the implementation of the UNGPs at the State level. Similarly, legislation is under consideration in a number of other States across Europe which would introduce similar standards for large companies. The European Commission's commitment to tabling a legislative proposal in 2021 for an EU-wide law that would require businesses to conduct human rights and environmental due diligence is another positive development. It is also anticipated that the Commission's legislative proposal will include a mechanism for corporate liability. This will be critical for ensuring that there are opportunities for effective access to remedy for victims of human rights and environmental harms.</p> <p>2. National action plans To date, 24 States have produced national action plans on business and human rights (NAPs) to implement the UNGPs and integrate this standard. This is an encouraging first step although as noted below, there have been considerable challenges in implementing and improving NAPs at the State level.</p> <p>3. Proliferation of standards There has been a proliferation of standards to guide business conduct, including in challenging operating environments such conflict situations. A range of civil society, State, intergovernmental and private sector actors have shown leadership in this respect. These tools are a promising development where they incorporate international standards such as the UNGPs and OECD Guidelines, and provide much needed sector specific guidance for business. However, they it is critical that these standards are a complement to binding regulations, requiring companies to respect human rights and the environment across their operations and supply chains.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>1. Lack of State engagement Following the publication of NAPs, States have continued to focus primarily on voluntary measures for companies and non-judicial grievance mechanisms which do not provide effective access to remedy. Although this has drawn criticism from civil society and academia, progress continues to be slow. Further, efforts to develop a treaty on business and human rights which would codify the duties of States and responsibilities of business have failed to get broad support from States. At the latest round of negotiations, the European Union was conspicuously absent despite its own commitments to introduce EU legislation on human rights and environmental due diligence for companies.</p> <p>2. Legal character of the UNGPs The UNGPs' status as a legally non-binding instrument means that they do not themselves provide a mechanism to hold companies to account or to afford access to remedy for harms linked to business activity. In addition, States are not obliged to incorporate the UNGPs into domestic law</p>

	<p>and few have made any attempt at all to codify these standards in this way. There continues to be no direct mechanism to create liability for human rights, environmental and governance harms that businesses cause, contribute to or are directly linked to through their business relationships. The result, is a total lack of accountability for companies, including those in the financial sector that continue to benefit from business practices that cause harm to people and the planet. In the absence of meaningful liability or enforceability of the standards created in the UNGPs, we see widespread misuse of arguments regarding ‘leverage’. In many instances, companies seek to justify deferring their own accountability and keeping profits made from activities involving human rights and environmental harms. The result is a continued lack of accountability not only to affected people and communities, but also for harm to the environment and contributing to climate breakdown.</p> <p>3. Limited scope of the UNGPs The UNGPs are inherently limited since their scope only relates to adverse human rights impacts and does not explicitly include negative environmental impacts or climate impacts. This is a glaring omission, given the overwhelming evidence of negative impacts of business activity on the environment and its contribution to the climate crisis. The UNGPs have not evolved in line with the new sustainability agenda, covering all environmental, social and governance (ESG) risks or treating them as intertwined issues. In contrast, the OECD Guidelines for Multinational Enterprises covers a much wider range of issues including environmental, corruption and anti-bribery and others under the umbrella of responsible business conduct. This is a helpful starting point for driving the transformative changes in business that are needed. There have been persistent challenges in applying the UNGPs to the finance sector both in relation to operationalising the due diligence requirement and fulfilling its responsibility to remedy harms. In the interim, the sector has continued to underwrite and finance corporate activity that leads to significant damage to people and the planet. Global Witness investigations have uncovered how banks and investors have financed companies that are responsible for deforestation in the world’s largest rainforests. The 2019 Report ‘Money to Burn’ highlights that between 2013 and 2019, major agribusinesses have received \$44 billion USD in support of commercial activities that have razed rainforests in the Amazon, Congo Basin and Papua New Guinea. This demonstrates the importance of financial institutions falling within the scope of due diligence requirements and like other sectors, being held to account for harms that they cause, contribute to or are directly linked to. We recognise the Working Group’s efforts to link environmental and governance issues, including corruption to the business and human rights agenda and would welcome further work in this respect.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed</p>	<p>1. Voluntary measures are wholly inadequate for driving responsible business conduct. The standards captured in the UNGPs need to be legally binding and enforceable, including against public sector entities and financial sector actors</p> <p>2. Corporate accountability legislation is needed at the national and regional level. At an absolute minimum, such</p>

<p>to achieve fuller realization of the UNGPs?</p>	<p>legislation must: (1) require all companies to conduct human rights and environmental due diligence; and (2) introduce liability for harms that companies or the entities that they exercise control over, cause, contribute to or are directly linked to. Similar to the UNGPs, future legislation should prioritise opportunities for effective access to remedy for human rights abuses and environmental harms. 3. A lack of clear incentives for companies to prioritise human rights and environmental issues over commercial interests. This includes the absence of binding regulatory frameworks. 4. The lack of actionable transparency requirements is a major barrier in ensuring corporate accountability. For example, although some financial sector actors develop policies or make commitments to respect human rights and/ or the environment, there is often no way to verify whether their practices align with these policy commitments. Affected communities therefore have no way of knowing which bank is financing destructive activities on their land. BankTrack, Oxfam International and others have shown ways to address this including making ‘consent to be named as a client’ a basic loan requirement. 5. Continued attacks against human rights, land and environmental defenders. Defenders are at the front line, offering the first line of defence against corporate abuses of power and climate breakdown. Year on year increases in attacks against defenders demonstrate a concerning lack of progress in efforts by the State or business, to ensure that all companies respect human rights (and the environment).</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>1. Chronic lack of corporate accountability for human rights abuses and environmental harm, despite well-documented and evidenced abuses. 2. Business models based on infinite growth and the extraction of finite natural resources which have prioritised profit and shareholder value. As a result, critical issues including environmental protection, the climate crisis and the interests of defenders, affected communities, rights-holders and other stakeholders are relegated or ignored. 3. Under-resourced and over-stretched judicial systems and regulators in both host and home States increase the challenges for victims in gaining access to effective remedy for harms caused by or linked to business activity. 4. Major disparities in the resources available to companies when compared to rights-holders and other potential claimants increase the difficulty of getting access to remedy in either host or home States. 5. Historical racial injustices that have led to the underdevelopment and exploitation of people and natural resources, particularly in the Global South. 6. Financing models adopted by Public Development Banks and other similar mechanisms do not consistently prioritise a rights-based approach to sustainable development and climate resilience. 7. Corruption and money laundering helps finance unsustainable corporate conduct and persistently undermines systems for accountability for crimes and harms. 8. Inequalities in land ownership are often directly linked to broader social and economic inequality in societies, environmental degradation and conflict. In some countries, this has also led to a privileged land-owning elite acting with impunity.</p>

<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>In order to achieve meaningful progress: 1. The scope of the UNGPs should be expanded to include environmental and governance issues that are linked to business activity. This scope should look into the interconnectedness of these three harms using a rights-based approach. 2. Binding regulations on responsible business conduct are needed at the national and regional level. These should include a requirement for businesses to conduct due diligence and to be held liable for harms that they cause, contribute to or are directly linked to. 3. States should support the ongoing development of the UN Treaty on Business and Human Rights which should continue to be strengthened including on issues such as liability and the reversal of the burden of proof, access to justice and the protection of defenders. 4. A fundamental change in corporate governance is urgently needed to replace business models based on infinite growth, shareholder primacy and profit maximisation with models that prioritise human rights and environmental protection (including climate), and recognise the importance of other stakeholders. 5. State and private sector actors must ensure human rights, environmental and land defenders are protected. In particular, there must be greater efforts to ensure that communities give free prior and informed consent (FPIC) to business activity on their lands, and attacks and killings of defenders and indigenous communities must stop. 6. Meaningful stakeholder engagement processes must form part of human rights and environmental due diligence processes. Such engagement must regularly include human rights, environmental and land defenders alongside other rights-holders and affected communities. This should be carried out in accordance with international standards such as FPIC and defenders and communities should have the right to say no to projects. In order to support these efforts, the Working Group (WG) on BHR should: 1. Develop work that demonstrates the connections between corporate conduct that leads to human rights abuses, environmental harms and poor governance (including corruption, money laundering, tax evasion and bribery). 2. Promote the increased protection of human rights, land and environmental defenders as a priority for both States and business. In particular, this should include: i. Further development of thematic work on the impact of business operations and conduct on defenders; ii. Increasing official communications to business on threats and attacks against defenders; and iii. Ensuring that defenders and local communities are recognised as key rights-holders in the due diligence process and have access to remedy. 3. Provide guidance on the types of transparency that are needed by all sectors (including finance) that affect rights-holders, and those most likely to face abuse, with actionable information to pursue remedy. 4. Collect data from the victims of human rights abuses, where a business claims to have supported 'remedy' or used their leverage in voluntary systems – to understand how rights-holders perceive the success of these measures and efforts at ensuring corporate accountability.</p>
--	--

<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Relevant Global Witness publications: 1. Money to Burn - <a href="https://www.globalwitness.org/documents/19811/Money_to_Burn.pdf">https://www.globalwitness.org/documents/19811/Money_to_Burn.pdf</a> 2. Defending Tomorrow - <a href="https://www.globalwitness.org/documents/19938/Defending_Tomorrow_EN_high_res_-_July_2020.pdf">https://www.globalwitness.org/documents/19938/Defending_Tomorrow_EN_high_res_-_July_2020.pdf</a> 3. Why the EU needs to act to ensure companies aren't harming people and planet - <a href="https://www.globalwitness.org/en/campaigns/european-union-brussels-global-witness-eu/time-eu-act-and-introduce-mandatory-corporate-due-diligence-legislation-protect-people-and-planet/">https://www.globalwitness.org/en/campaigns/european-union-brussels-global-witness-eu/time-eu-act-and-introduce-mandatory-corporate-due-diligence-legislation-protect-people-and-planet/</a> 4. Strengthening corporate responsibility - <a href="https://www.globalwitness.org/en/campaigns/forests/strengthening-corporate-responsibility-uk-briefing/">https://www.globalwitness.org/en/campaigns/forests/strengthening-corporate-responsibility-uk-briefing/</a> 5. Why the EU action to tackle deforestation shouldn't let finance off the hook - <a href="https://www.globalwitness.org/en/campaigns/forests/why-eu-action-tackle-deforestation-should-not-let-finance-hook/">https://www.globalwitness.org/en/campaigns/forests/why-eu-action-tackle-deforestation-should-not-let-finance-hook/</a></p>
--	---

Survey response	
Organization	Greenpeace International
Stakeholder category	Civil society organization
Region	International
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>The UNGPs represent a step forward on the path to holding businesses to account for their adverse impacts on human rights and the environment. They delineate the respective roles and responsibilities of different societal actors in advancing human rights, and create a general understanding of what companies need to do to meet their obligations under international human rights law. Over the course of the past decade, the UNGPs have become an authoritative legal instrument in understanding corporate responsibilities to protect human rights from climate harms, including the role of businesses in addressing these harms. The UNGPs assist in the interpretation of national and international law in a way that complies with recognised human rights standards. Greenpeace organisations around the world have used the UNGPs in this way to promote accountability for the climate crisis. The following two examples are particularly apposite in this regard (For the contribution of Carbon Majors to the climate crisis please see, Heede, R. Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854–2010. <i>Climatic Change</i> 122, 229–241 (2014)): i. The Climate Change and Human Rights Inquiry in the Philippines</p>

(For details please see, Greenpeace, 'The Climate Change & Human Rights Inquiry Archive', available at <https://www.greenpeace.org/philippines/the-climate-change-human-rights-inquiry-archive/>) The Climate Change and Human Rights Inquiry (the "Inquiry") in the Philippines is the world's first investigation into corporate responsibility for the climate crisis (For details please see, Greenpeace, 'The Climate Change & Human Rights Inquiry Archive', available at <https://www.greenpeace.org/philippines/the-climate-change-human-rights-inquiry-archive/>). It was launched by the Philippines Commission on Human Rights ("CHR") soon after typhoon survivors and civil society groups, including Greenpeace Southeast Asia, filed a complaint before the CHR in September 2015, calling for a probe into the possible human rights violations of the 47 biggest fossil fuel and cement companies ("Carbon Majors") resulting from climate change. In the Inquiry, the UNGPs were relied on as an authoritative document for (i) establishing the commission's extraterritorial jurisdiction over Carbon Majors whose harmful activities take place in countries removed from where negative impacts are suffered and (ii) informing the CHR's understanding of the human rights obligations of multinational corporations (Please see, Final Memorandum for the Petitioners: National Inquiry on the Impact of Climate Change on the Human Rights of the Filipino People and the Responsibility therefor, if any, of the Carbon Majors, 2019, pp. 124-138, available at [https://www.greenpeace.org/static/planet4-philippines-stateless/2016/07/86837911-memorandum-for-the-petitioners\\_received-copy-rdc.pdf](https://www.greenpeace.org/static/planet4-philippines-stateless/2016/07/86837911-memorandum-for-the-petitioners_received-copy-rdc.pdf)). The petitioners and expert witnesses assert that compliance with the UNGPs should be interpreted in accordance with international law governing climate change, the best available science, as well as with norms of international environmental law, including the precautionary principle, the polluter pays principle, and the preventive approach. The CHR is asked to rely on the UNGPs, not as new obligations, but rather as encapsulating existing and established international human rights law relevant to private actors. Finally, the CHR is asked to make the following findings under the UNGPs and international law: a. The Honorable Commission should take a purposive and holistic approach to applying human rights standards to the respondent Carbon Majors; b. Businesses have the responsibility to respect and protect human rights, as described in the UNGPs and international jurisprudence; c. The UNGPs require enterprises to assess, address, and take responsibility for the climate-related human rights impacts of their products and operations; d. Given the significant human rights impacts of climate change, the UNGPs apply to companies' direct and indirect GHG emissions and actions and inactions with respect to climate science, actions, and solutions; e. In accordance with the UNGPs, communities affected by climate change are key stakeholders for business human rights due diligence; f. In order to comply with the responsibility to respect and protect human rights, the respondent Carbon Majors must take all steps to i) mitigate all climate pollution from their products and operations; ii) remediate climate harm, including paying for loss and damage in the Philippines; and iii) fund climate preparedness efforts in the Philippines. (Please see, Final Memorandum for the Petitioners: National Inquiry on the Impact of Climate Change on the Human Rights of

the Filipino People and the Responsibility therefor, if any, of the Carbon Majors, 2019, pp. 156, available at [https://www.greenpeace.org/static/planet4-philippines-stateless/2016/07/86837911-memorandum-for-the-petitioners\\_received-copy-rdc.pdf](https://www.greenpeace.org/static/planet4-philippines-stateless/2016/07/86837911-memorandum-for-the-petitioners_received-copy-rdc.pdf)). While the outcome of this landmark inquiry is expected by the end of 2020, a number of preliminary findings were announced by the CHR in 2019. Drawing from the evidence and testimonies of dozens of experts, the CHR found that climate change poses an emergency situation and action is needed urgently. The CHR further found that the defendant companies had a clear adverse impact on climate change, and therefore found them to have violated human rights in relation to climate change (“Groundbreaking Inquiry in Philippines Links Carbon Majors to Human Rights Impacts of Climate Change, Calls for Greater Accountability.” Center for International Environmental Law, 9 Dec. 2019, available at [www.ciel.org/news/groundbreaking-inquiry-in-philippines-links-carbon-majors-to-human-rights-impacts-of-climate-change-calls-for-greater-accountability](http://www.ciel.org/news/groundbreaking-inquiry-in-philippines-links-carbon-majors-to-human-rights-impacts-of-climate-change-calls-for-greater-accountability)). The CHR is likely to rely in large part on the UNGPs, resulting in the first judicial pronouncement of the role of the UNGPs in assessing the responsibilities of businesses in the climate crisis. ii. Milieudéfensie et al. v. Royal Dutch Shell plc. (For details please see, Milieudéfensie, ‘Friends of the Earth Netherlands sues Shell for causing climate change’, available at <https://en.milieudéfensie.nl/climate-case-shell>.) Shell is the largest polluter of the environment in the Netherlands and its production of greenhouse gases accounts for double the amount of greenhouse gases produced by all people living in the Netherlands. This is why Milieudéfensie (Friends of the Earth Netherlands) and Greenpeace Netherlands, along with other co-plaintiffs, sued Shell in a Dutch court seeking a ruling that would require Shell to reduce its CO2 emissions by 45% by 2030 compared to 2010 levels and to zero by 2050, in line with the Paris Agreement. The co-plaintiffs argue that the widely-supported UNGPs are used by the European Court of Human Rights to inform its understanding of corporate human rights obligations. The UNGPs were said to be particularly applicable in relation to Shell given that the company has endorsed and publicly declared its commitment to the UNGPs, under which it has an obligation to respect human rights and prevent violations thereof, regardless of any gap in national or international legislation (Milieudéfensie, The Unofficial Translation of the Court Summons, para. 702, available at [https://en.milieudéfensie.nl/news/court-summons-translation.pdf/@@download/file/2019-04-05%20SUMMONS%20\(dagvaarding\)%20unofficial%20translation%20of%20the%20Dutch%20original.pdf](https://en.milieudéfensie.nl/news/court-summons-translation.pdf/@@download/file/2019-04-05%20SUMMONS%20(dagvaarding)%20unofficial%20translation%20of%20the%20Dutch%20original.pdf)). The co-plaintiffs further argue that international tribunals, such as the European Court of Human Rights, refer to non-binding legal standards in its judgments in order to give substance to the rights enshrined in the European Convention on Human Rights. As a result, the non-binding but widely supported UNGPs can have a direct impact in human rights litigation (Milieudéfensie, The Unofficial Translation of the Court Summons, para. 715, available at

	<p>05%20SUMMONS%20(dagvaarding)%20unofficial%20translation%20of%20the%20Dutch%20original.pdf). The hearings in that case will be held in December 2020.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>While the UNGPs establish a common framework defining the roles and responsibilities of states and businesses, their implementation have predictably fallen short due to their non-binding nature. As long as the UNGPs remain non-binding, companies will continue to pick and choose what principles they adhere to and how, and governments will not be obliged to protect human rights from abusive business practices by enacting laws and policies. As a consequence of the non-binding nature of the UNGPs, significant discrepancies have emerged in their national implementation. Only France and the Netherlands have gone so far as to enact mandatory human rights due diligence laws (the latter's scope being limited to child labour), and legislative initiatives are underway in only a handful of European countries (Business and Human Rights Resource Centre, National &amp; regional movements for mandatory human rights &amp; environmental due diligence in Europe, 3 July 2020, available at <a href="http://www.business-humanrights.org/en/latest-news/national-regional-movements-for-mandatory-human-rights-environmental-due-diligence-in-europe">www.business-humanrights.org/en/latest-news/national-regional-movements-for-mandatory-human-rights-environmental-due-diligence-in-europe</a>). The vast majority of states failed to establish even national action plans on BHR as per Pillar I of the UNGPs, let alone having any hard law initiatives on their agenda. The normative development of BHR based on the UNGPs has been slow and sporadic in the past decade due to its non-binding nature. Another adverse consequence of the non-binding nature of the UNGPs has been in relation to strategic lawsuits against public participation (SLAPP suits). Large corporations (and sometimes public officials acting in a private capacity) use these legal intimidation tactics to shut down legitimate protest, advocacy, and other activities of human rights and environmental defenders. As per Pillar II of the UNGPs, businesses should refrain from causing adverse human rights impacts through their use of the courts (Ciampi, Annalisa. the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Info Note on SLAPPs and FoAA rights, p. 6., available at <a href="https://www.ohchr.org/Documents/Issues/FAssociation/InfoNoteSLAPPsFoAA.docx">https://www.ohchr.org/Documents/Issues/FAssociation/InfoNoteSLAPPsFoAA.docx</a>). SLAPPs are a clear example of how companies exercise control over rights to free speech, peaceful assembly, and association in a way comparable to government censorship. The UNGPs have fallen short in effectively addressing the adverse impact of SLAPP suits to human rights due to lack of binding rules to hold corporations accountable.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed</p>	<p>The key obstacles that need to be addressed in the next decade include: - States' lack of willingness to implement the UNGPs undermine the common framework: only a few states have so far enacted or are negotiating to enact mandatory human rights due diligence laws of which not all of them cover the whole array of business operations, but rather focus on thematic issues such as child labour. - State and business performances under the UNGPs cannot</p>

<p>to achieve fuller realization of the UNGPs?</p>	<p>be monitored due to a lack of a monitoring mechanism, which is ultimately a result of the lack of binding power of the UNGPs. - The interdependent nature of human rights require effective implementation of other international legal instruments such as the ICESCR, ILO Conventions, and the UN Convention against Corruption in line with the efforts to achieve fuller realization of the UNGPs. The priorities of the next decade should be: - Environmental issues, particularly those relating to climate change, must be incorporated into laws on human rights due diligence and parent company liability (Inspiration in this regard can be drawn from the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, which refers to the UNGPs concerning the states' obligation to ensure the effective enforcement of their environmental standards against public and private actors. [Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc. A/HRC/37/59, Framework Principle 12, para. 35.]). - The UN Working Group should report on the financial sector's impact on business-related human rights abuses, climate impacts and nature degradation, and expand the scope of the UNGPs to include this sector. These efforts should lead to inclusion of the financial sector in the Binding Treaty on human rights (officially known as the international legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to human rights) as well as national due diligence laws.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The vast majority of businesses have not moved beyond the policy commitment stage of the UNGPs in the past decade. Companies are therefore able to publicly support the UNGPs without changing anything in their practices. Even if a company voluntarily undertakes human rights due diligence in its operations, the UNGPs do not provide any deadline or timeframe for this. Companies can take years to conduct due diligence, rendering it meaningless. Greenpeace has been calling for decades for effective binding rules on companies to shift the centre of BHR from moral sentiments to international obligations with concrete consequences in case of non-compliance. Finally, transnational loopholes pose a significant systemic challenge towards a future in which companies respect human and environmental rights. Greenpeace has documented and extensively reported on these loopholes including, inter alia, (i) Glencore's, a Swiss mining giant, abuse of tax loopholes in Burkina Faso (Greenpeace International, "Justice for People and Planet: Ending the Age of Corporate Capture, Collusion and Impunity", 2018, pp. 84-87), (ii) Novartis', a pharmaceutical corporation, abuse of weak anti-pollution legislation in India and contributing to the death of 700.000 people (Greenpeace International, "Justice for People and Planet: Ending the Age of Corporate Capture, Collusion and Impunity", 2018, pp. 106-107), and (iii) Trafigura's, a transnational oil trading company, toxic waste dump in Côte d'Ivoire which caused a public health crisis but victims were denied justice due to weaknesses in the legal system (Greenpeace International, "Justice for People and Planet: Ending the Age of Corporate Capture, Collusion and</p>

	Impunity”, 2018, pp. 118-121). Because of these transnational loopholes, corporations have gained more power than many countries through consolidation and unchecked monopolies, tax evasion and/or avoidance, and by lobbying policy makers to write laws in their own interest, rather than for the greater good. UNGPs should focus on reversing this trend.
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?	Concretely, the only way the UNGPs will be effective is if they are made binding. This is the target to focus on (for example, how many countries pass mandatory human rights and environmental due diligence, or similar, laws). Greenpeace acknowledges the contribution of the UNGPs to the BHR field. However, voluntary commitments and self-regulation do not guarantee corporate liability or effective access to remedy for victims. This is why states must create international and national legally binding obligations for companies regarding human and environmental rights. Efforts to advance the UNGPs should complement the current hard law efforts at the national and international level and not undermine them.

Survey response	
Organization	Haki Madini Kenya Coalition
Stakeholder category	Civil society organization
Region	Sub-Saharan Africa
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society	There has been efforts to put in place institutions that would work to implement the UNGPs at the national level by the national government and civil society organizations. The promising developments are existing structures in place to help in engagements on UNGPs on human rights ie national organizations ie Kenya Human Rights Commission

organizations, etc.) that can be built on?	
2. Where do gaps and challenges remain? What has not worked to date?	We have a challenge in the security of the human rights defenders. They are always at risk. The funding for human rights issues has been curtailed by government and in some cases the government has tried to gag the organizations from implementing their work
3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?	Obstacles - for government, some police officers and government officials are ignorant of human rights and tend to violet the UNGPs Priorities - fund protection of human rights defenders at all fronts
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	Capacity among community members to be able to identify what human rights violations are and how to report them
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	Target the human rights violators ie police, mining companies etc and build their knowledge on the UNGPs

Survey response	
Organization	Human Rights International Corner (HRIC)

Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>UNGPs have become the common reference point for the worldwide movement on BHR. They have established for the first time a shared level playing field, which has been endorsed by States, companies, international institutions and the civil society, as well. They have been incorporated into norms or guidelines disseminated by international standard-setting bodies, including ISO standards, OECD Guidelines for Multinational Enterprises, International Finance Corporation sustainability policies and the European Commission's Corporate Social Responsibility (CSR) Strategy. Such initiatives have been further supported by government and business human rights commitments in specific industry sectors, and via use of the UNGPs by civil society and worker organizations as advocacy and accountability tools. Outcomes and progress include: increasing acknowledgment of BHR issues within corporate sector; legislative developments (e.g. 2017 French Corporate Duty of Vigilance Law; Italian Legislative Decree 231/2001); UNGPs incorporation in regional and international instrument on human rights; incorporation of UNGPs in national policies (e.g. public procurement regimes); the OEIWG negotiations for an international treaty on business and human rights. In respect to the European regional legal system, the GDPR Regulation has introduced important elements of human rights due diligence with reference to the protection of personal data and is becoming the international standard for data protection. Also, the proposed European Union (EU) Directive on mandatory human rights and environmental due diligence has the potential accelerate significantly the implementation of HRDD and in general of the UNGPs around the globe.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>Despite efforts to promote the UNGPs through collaborative learning networks at multiple scales, the extent to which the UNGPs have achieved recognition and impact has varied widely across countries, sectors and individual companies, so that UNGPs implementation has remained limited and uneven. Gaps involve several areas. Just to mention the most important: a) generally speaking, the commitment by States in implementing the UNGPs is still low. Too much low if we take into account the number of National Action Plans (NAPs) adopted till today: 25 NAPs adopted out of 196 recognized States. In the same vein, much more policy coherence should be applied in States' national and international actions in respect to BHR issues. b) one of the major challenges to deal with involves the Access to Remedies area and the circumstance that victims still have to face multiple obstacles to access judicial remedies. Main barriers include but are not limited to: obstacles on admissibility; the prohibitive costs associated with pursuing remedies through the courts; restrictive procedural rules related to the disclosure of evidence in civil</p>

	<p>litigation; the absence of clear liability standards for corporate involvement in human rights abuses and the lack of clarity regarding the application of rules of private international law in transnational civil litigation. While some barriers are specific to certain States (i.e. they relate to the specific characteristics of a given State’s judicial or legal system), some are common to many States (e.g. as for instance at the EU regional system, when such barriers arise from the application of harmonized legislation such as “Rome II Regulation”). Often combined, these obstacles make it virtually impossible for victims to access justice! c) another issue of concern and a challenge for the future decade involves the protection of human rights defenders from the perspective of the physical, legal and financial risks they run when defending victims of corporate-related human rights violations. d) the deploy of Artificial Intelligence (AI) technology has the potential to affect revolutionary changes in the world in the next decade. The impact of AI on human rights already presents several critical issues, from the impact of automation on labor worldwide, to the potentially distorted use of big data. e) finally, as far as companies are concerned, the main gap resides in the fact that even when they have endorsed UNGPs, the majority of them has not yet moved from the policy-setting stage to the operationalization stage of corporate due diligence and corporate remedies. There are potentially several reasons explaining this situation. An important one is that firm ownership and governance structures play an important role in shaping the vulnerability of different firms to market pressures to comply with international human rights standards. Despite their prominent role in many sectors worldwide, companies who are not ‘sensitive’ to market pressure (e.g. family and state-owned enterprises) in particular when these firms are not listed on stock exchanges, escape sources of public pressure to which publicly-listed companies are subjected. Here and in similar situations, much more commitment has to be demonstrated by the vast majority of the private sector for an effective change in their business practices.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>One of the major obstacles resides in the capacity of business interests to influence, condition, or capture, state regulatory processes. This capacity varies widely between countries as well as between sectors, in turn reflecting differences in factors such as state regulatory capacity, business-state linkages and cultures of corruption. In many countries and sectors, the influence of international human rights norms is constrained by powerful linkages between state and business interests, variously taking the form of oligarchic patronage networks, money politics, or the personal financial interests of political and bureaucratic elites in particular companies or sectors. Such barriers are often intensified by a broader state responsiveness to business interests, reflecting the structural demands of policy regimes oriented towards promoting industrialization, inward investment and export growth. In contrast, human rights norms are more likely to receive support in the presence of strong state-society linkages between rights-oriented civil society groups and political and bureaucratic actors sympathetic to human rights norms, or where there</p>

	<p>are strong linkages to international organizations or foreign governments incorporating rights agendas into their diplomatic engagements and development cooperation programs. Therefore, from a general perspective addressing this ‘misalignment at a global level is one of the most urgent priorities for the future decade. In addition, and turning to a micro- perspective analysis, priority should be afforded to the following issues: addressing gaps in corporate accountability and in establishing legal liability for human rights abuses; reinforcing the development of legislations on mHRDD; assuring that this legislation apply HRDD to the global supply chains system.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The major structural challenge resides in the necessity to addressing the extreme inequality discriminating States and peoples worldwide. As this inequality is the antithesis of human rights, then the very same neoliberal economic model, which has contributed to increasing inequality levels, has to be seen as a significant impeding factor of human rights protection and respect. There is increasing consensus that the existing economic paradigm with its emphasis on unregulated markets and maximizing shareholder value has reproduced a dynamic that has led to increased capital accumulation and concentrated market power into the hands of a few. Accordingly, addressing this challenge requires that the next decade States and the international community proceed towards the reorganizing of contemporary economic model, the production processes of such a model by a reshaping the mechanism of supply chains in a socially and environmentally responsible way. As far as the structure of the human rights legal system is concerned, there are two future challenges at the very least. The first one, is the need for remodeling the international human rights mechanism of control by allowing that international human rights monitoring bodies might supervise and monitor private sector’s conducts from a human rights perspective. This might happen by the adoption of a global treaty on business and human rights establishing a jurisdictional or quasi-jurisdictional competence for corporate human rights abuses over worldwide companies. A second one, is the necessity to proceed to a general recognition, by human rights international and regional monitoring bodies of the existence of the principle of the extraterritorial application of the State duty to protect human rights from the violations occurring in the framework of business operations. Furthermore, it is worth mentioning the potential disruptive changes for our societies that Artificial Intelligence may bring in the future decade: the impact of AI should have to induce decision makers to consider the UNGPs as the basis and the benchmark for the development of AI technologies respectful of internationally recognized human rights. For example, the EU should carefully consider the peculiarities and challenges posed by AI when drafting its future legislation on human rights and environmental due diligence. In addition, tech companies should carefully consider as a priority to carry out on their products an ongoing and extensive process of human rights due diligence.</p>

<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>There are multiple answers to this item. We want to stress one which is in our point of view, the basis of every process of change: the individual cultural empowerment and learning process. No concrete success will be attainable, indeed, without a change of the paradigms and cultural factors driving up contemporary corporate governance models. Leaving this job to the regulation field area alone might not prove useful. Actually, what is need is educating the future generations of business leaders to sustainability, responsible conduct, human rights respect and protection. This may only be realized by changing worldwide academic curricula currently still focused on the idea of the necessity the profit maximization for the benefit of shareholders even despite negative impact on the society. BHRs studies should be integrated in training curricula in higher education institutions and in the regular educational path of managers and business leaders.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Documents: FIDH and HRIC; ITALIAN LEGISLATIVE DECREE No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?, available at <a href="https://media.business-humanrights.org/media/documents/files/documents/report_231_2001_ENG.pdf">https://media.business-humanrights.org/media/documents/files/documents/report_231_2001_ENG.pdf</a> G. Lepore, B. Pesce, M. Bordignon National Action Plans on Business and Human Rights: a guidance for the mid-term review, available at <a href="https://it.humanrightsic.com/post/out-now-national-action-plans-on-b-hr-a-guidance-for-the-mid-term-review">https://it.humanrightsic.com/post/out-now-national-action-plans-on-b-hr-a-guidance-for-the-mid-term-review</a> HUMAN RIGHTS INTERNATIONAL CORNER (HRIC), Position Paper on Artificial Intelligence (AI) And The United Nations Guiding Principles On Business And Human Rights (Ungps) available at <a href="https://it.humanrightsic.com/post/hric-position-paper-on-artificial-intelligence">https://it.humanrightsic.com/post/hric-position-paper-on-artificial-intelligence</a></p>

Survey response	
Organization	Institute for Human Rights and Business (IHRB)
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and	The Institute for Human Rights and Business (IHRB) welcomes the UNGPs10+/Next Decade project by the UN Working Group on Business and Human Rights and this opportunity to contribute views. Our responses to the Working Group's survey are drawn from our 2019 report - BUILDING A MOVEMENT: Reflections on the History and Future of Business and Human Rights. Progress on the business and human rights agenda over the past decade is evident. The UNGPs

<p>practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>are the globally agreed framework on business and human rights and have advanced understanding of and need for strengthened actions to ensure access to effective remedies for those adversely impacted by business activities. Standard setting bodies, national and international, as well as key inter-governmental organisations and industry sectors have integrated core elements of the UNGPs into their own standards and work. Efforts to engage companies and other stakeholders at regional levels by UN and other actors is also encouraging. Some companies have been proactive in developing human rights due diligence processes, as well as by joining collective action initiatives and coming forward to learn how to implement the UNGPs. Some companies have pushed for internal culture shifts on specific issues, as we've seen in our own work on migrant worker rights and responsible recruitment. A few have demonstrated willingness to speak out on the precarious conditions facing human rights defenders. These and many other examples are noteworthy steps that should be built upon in the coming years.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>There is still a lack of broad-based awareness and buy-in to the business and human rights agenda across the world's business community. This is a particularly acute challenge in emerging economies but, even among firms headquartered in countries where the responsible business debate is more mature, there remains limited understanding of what respecting human rights means in practice. Companies are also having to deal with the implications of political uncertainty, and new, more hostile, operating environments in which free trade and the rule of law can no longer be taken as given. This is making it more difficult for middle-managers in companies, who could once get the attention of their CEOs, and who now struggle to be heard on human rights issues. The risk is that companies and governments may feel the time has come to move on to seemingly more urgent challenges, and the business and human rights agenda will become, if anything, an afterthought. With respect to government efforts to advance the UNGPs, although national action plans have been praised as being useful in raising national awareness and encouraging greater policy coherence, they have been criticised as well for falling short in advancing effective protection in areas such as trade and investment, state-owned enterprises, and particularly in relation to legislative developments and access to remedy. This aligns with criticisms that progress on the business and human rights agenda has not been broad based enough, nor has it yet become a central aspect of mainstream business knowledge and practice. Indeed, even the world's largest companies in key sectors are still far from achieving the levels of performance expected of them by the UNGPs, as demonstrated, for example, in the findings of the Corporate Human Rights Benchmark.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and</p>	<p>Translating the broad international human rights agenda into clear corporate policies and practices in different industry and geographic contexts continues to be a critical challenge and requires significant shifts in priorities and</p>

<p>priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>increased knowledge within and across companies. It is evident that effective financial incentives to encourage improved performance are still lacking, as are more visible efforts to demonstrate how current business models, practices, and processes directly or indirectly contribute to adverse impacts on individuals and communities. Another major obstacle concerns apparent lack of government willingness to regulate, in part because of fears about making domestic companies uncompetitive. In many countries, governments are still not using their authority to ensure implementation of human rights standards within nationalised industries, or to encourage corporate respect for human rights via public procurement criteria, stock-market listing requirements, export credit rules, or court guidance on hearing criminal cases against companies. Human rights due diligence legislation is clearly part of a broader accountability landscape that should be prioritised in the years ahead, including more effective remedies at all levels for those whose rights are violated in the context of business actions or inactions. Strengthening national legislation and implementation, ending impunity, and supporting human rights defenders, in particular those that hold business to account must continue at broader scale. Greater efforts to advance the recommendations of the OHCHR Accountability and Remedy Project is also relevant here.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>There is an urgent need to integrate human rights perspectives into broader systemic approaches, in particular those that measure “ESG” (Environment, Social, Governance) dimensions across business as a whole and especially approaches that align with the UN Sustainable Development Goals and with strategies to confront the climate crisis. All too often human rights concerns are pushed to the edge of sustainability commitments. This must not be replicated as the business and human rights community seeks to integrate into ESG approaches and works to contribute to broader economic and social development challenges including just transitions in the context of responses to climate change. More effective strategies are needed to ensure that governments incentivise frontrunners and punish free-riders. That requires making business and human rights messages and approaches more relevant to debates on a broader range of issues from fair taxation to trade policies to economic recovery strategies in the context of the COVID-19 pandemic. To do otherwise would be an abrogation of the imperative to address issues where business activities affect people’s dignity and wellbeing.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable</p>	<p>One observation that has been made about the development of the business and human rights agenda is that the governmental, business and NGO communities have largely grown in parallel but not often enough together – and that there has been a lack of accountability, and willingness to challenge each other while showing respect between all three. As Mary Robinson urged in her keynote remarks to the 2020 UN Forum on Business and Human Rights, the time has come to develop new forms of collective action spanning disciplines and constituencies, which more</p>

<p>targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>successfully involve grassroots actors and affected groups directly. Collective action has underpinned work in the area of business and human rights for over two decades, with collaboration among groups at the local or international level seeking to achieve results. Multi-stakeholder initiatives and more recent forms of collective endeavor and partnerships have forged alliances between business, government, human rights and union activists, and inter-governmental actors. There have been significant challenges and shortcomings in such approaches as well that must be learned from, but the need for scaled up collective action in a range of contexts remains vital to achieving further and broader progress in the years ahead. The business and human rights community should set clear targets for attracting new champions to this work from a range of sectors and fields, including trade, poverty alleviation, anti-corruption, and climate change – within companies, academia, civil society, unions, and governments. There is also an enormous opportunity to engage the next generation of leaders and advocates for the business and human rights agenda. Considering that in some countries over 60% of the population is under 35, there is a huge incentive to develop new forms of outreach and training to increase levels of engagement with future leaders, for example by working with business and legal programmes at universities as well as youth activist networks on all continents as well as young entrepreneurs in start-up companies. To do this, focusing perhaps less on the nuts and bolts of human rights due diligence reporting requirements, and more about people's dignity in the face of corporate abuses, will be critical. Finally, targets are needed relating to the gender dimension of efforts to implement the UNGPs in order to achieve deeper progress. The UN Working Group on Business and Human Rights has drawn on relevant international human rights instruments - notably the Convention on the Elimination of all Forms of Discrimination Against Women and the recommendations of the UN Secretary-General's High-Level Panel on Women's Economic Empowerment - to inform its efforts and guidance in this area to date. There is an urgent need for new partnerships and scaled up strategies to build on this work.</p>
--	--

Survey response	
Organization	Institute for Policy Research and Advocacy (ELSAM)
Stakeholder category	Civil society organization
Region	Asia

Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This information based on several discussion on CSO consolidation and ELSAM's research.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	The existence of two international guidelines, namely the NAP on Business and Human Rights Development Guidelines published by the United Nations Working Group and the NAP on Business and Human Rights Toolkit published by DIHR in collaboration with ICAR, plays an important role in assisting countries in developing, implementing and reviewing the NAP. However, there are a number of EU countries that developed NAPs even before the UN Working Group published the NAP on Business and Human Rights Guidelines. This further proves the leadership of the European Union in the promotion and protection of human rights, particularly against human rights violations related to the business sector. Moreover, from the 23 countries that already have NAPs on Business and Human Rights, most of these countries are European Union member states, other than a several Latin American countries (Chile and Colombia) and one ASEAN country (Thailand). There are many good practices found in the NAPs on Business and Human Rights of the 23 countries, including but not limited to the drafting process (aspects of participation and drafting of the NBA), priority issues and the format or substance framework covered in the NAP. Furthermore, not only a comparison, the rationalization of each of these countries in creating the NAP as a strategy for norming the UN Guiding Principles, which has the nature of soft law, can be seen. Please read full report on <a href="https://elsam.or.id/wp-content/uploads/2020/11/Executive-Summary-NAP_FINAL1.pdf">https://elsam.or.id/wp-content/uploads/2020/11/Executive-Summary-NAP_FINAL1.pdf</a>
2. Where do gaps and challenges remain? What has not worked to date?	The challenge comes from the critical points identified as the root of the problem in implementing the UN Guiding Principles have not yet been developed. It is a reflection comes from Various efforts related to the implementation of the UNGPs in Indonesia cannot be separated from the perception and meaning of each element of the polycentric order (system) on their respective roles and contributions to business and human rights issues, especially for victims affected by corporate operations, services, and products. Perceptions that emerge from both government, corporate, and civil society member, show that there are still gaps that become a critical point in implementing the Guiding Principles for Business and Human Rights in Indonesia. <a href="https://perpustakaan.elsam.or.id/index.php?p=fstream&amp;fid=687&amp;bid=15349">https://perpustakaan.elsam.or.id/index.php?p=fstream&amp;fid=687&amp;bid=15349</a>
3. What are key obstacles (both visible and hidden), drivers, and	The obstacles regarding corporate abuse or business activity related to business and human rights are about their act of putting human rights as a burden because it hinders company productivity. For that reason, entrepreneurs acting on

<p>priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>behalf of MSMEs will find it challenging to meet human rights standards. The most frustrating act from corporate was they purposing draconian law to the legislative so the legislative as part of the government will downgrade the liability of human rights protection. It is a living example of a modern scam.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>In Indonesia, we found the relation between sustainable development based on respect for human rights. For example, to support programs in the field of new and renewable energy, Leaks of palm oil due to the involvement of biodiesel suppliers in the case of forest and land fires have raised issues of sustainable development (sustainability issues) that intersect with human rights issues. In ELSAM research in 2019 show about political will from the Corporation is urgent to expand. The Corporation needs to adopt commitments in realizing a climate of sustainable development and implementing a human rights and environmental due diligence mechanism to identify, address, and mitigate human rights and environmental impacts that may arise from the operations of the supplier companies. Please find on <a href="https://elsam.or.id/wp-content/uploads/2020/04/Identifikasi-Modalitas-dan-Hambatan-Kepatuhan-Pertamina_FINAL_FOR-WEB.pdf">https://elsam.or.id/wp-content/uploads/2020/04/Identifikasi-Modalitas-dan-Hambatan-Kepatuhan-Pertamina_FINAL_FOR-WEB.pdf</a></p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>To achieve meaningful progress will be if we have priority areas based on that stage actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years. Indonesia has a big project on tourism. ELSAM looked in detail at the tourism project in 2019. This can be seen through the phenomenon of tourism corporatization that puts the role of the corporation as the main actor in this sector. The domination of the role of corporations limits the capacity of the state and the ability of the public, especially vulnerable groups, to participate in exercising control over tourism activities to reduce the harmful impacts on human rights and the environment that threaten their lives. <a href="https://elsam.or.id/wp-content/uploads/2020/11/pdfresizer.com-pdf-resize-3.pdf">https://elsam.or.id/wp-content/uploads/2020/11/pdfresizer.com-pdf-resize-3.pdf</a></p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>The UNGPs 10+ should prioritize Asian countries where many large companies operate. Then the draconian law flourished, destroying the value of human rights.</p>

**Survey response**

Organization	International Dalit Solidarity Network
Stakeholder category	Civil society organization
Region	Asia
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>In the past decade, the UNGPs have provided an authoritative framework - “Protect, Respect and Remedy” - for governments and business enterprises to prevent, address and remedy adverse human rights impacts of business activities. However, the UNGPs often have no force in domestic law and are not adequately protecting people or the environment from corporate abuse: forced labour in global supply chains generated \$150 billion in profit according to the ILO ; global deforestation increased by 77% in 2020; 304 human and environmental defenders protecting their lands from corporate exploitation were killed in 2019 alone ; and more than 1,000 garment workers were killed or seriously injured in factory disasters in 2020. Abuse in the global operations, products, services and supply chains disproportionately impact vulnerable groups such as women, children and migrant workers. There is a growing recognition of the UNGPs as a means to help business implement their responsibility to respect human rights. In our view, although the UNGPs have given visibility on the human rights obligations regarding business enterprises, by compiling the existing international human rights norms, a decade has passed without adequate focus on the most marginalized and vulnerable workers. From IDSN’s perspective, the business and human rights agenda needs to take in caste discrimination as a priority issue. The most common exploitation of workers from caste-affected communities, include (a) the use of children and bonded labourers (debt slaves), working under hazardous conditions for a minimal pay; (b) discrimination in employment practices – applicants from caste-affected communities never considered for skilled or managerial jobs; (c) discrimination in the services and utilities offered by an employer, such as housing, health care, and education and training; and (d) misappropriation of land belonging or allocated to caste-affected communities. IDSN has developed or participated in the elaboration of important tools to help eliminate caste discrimination by business activities and are key resources to be used: - In 2019, IDSN, together with Ethical Trading Initiative, launched the Ethical Trading Initiative Base Code Guidance on Caste in Global Supply Chains, seeking to support businesses in understanding the risks posed by caste discrimination when their operations and supply chains stretch into caste-affected countries. The guidance explains how caste, if unaddressed, can fundamentally undermine the implementation of the ETI Base Code and ensuring compliance on labour rights. It also sets out good governance and management practices to enable businesses to proactively counter caste-based discrimination, respect fundamental human rights, and advance access to decent work for all.</p> <p><a href="https://www.ethicaltrade.org/resources/base-code-guidance-caste-global-supply-chains">https://www.ethicaltrade.org/resources/base-code-guidance-caste-global-supply-chains</a> - The Ambedkar Principles are</p>

	<p>aimed at assisting foreign investors in South Asia. They include a set of employment principles as well as a set of additional principles addressing economic and social exclusion of Dalits in South Asia. The Principles intend to acknowledge the degree of historic injustice against Dalits in South Asia and aim to compensate for this through affirmative action, in line with international human rights standards, although not to the detriment of other excluded groups.</p> <p><a href="http://idsn.org/fileadmin/user_folder/pdf/New_files/IDSN/Ambedkar_Principles_brochure.pdf">http://idsn.org/fileadmin/user_folder/pdf/New_files/IDSN/Ambedkar_Principles_brochure.pdf</a> - The Dalit Discrimination Check is a web-tool developed specifically to help companies identify and prevent discrimination and exploitation of Dalits in their Indian operations and suppliers. It is designed as a comprehensive check-list with self-guided questions and indicators of possible violations of national Indian law and international law. It has been developed by the Danish Ministry of Foreign Affairs, IDSN and the Danish Institute for Human Rights as a separate check under the Human Rights Compliance Assessment. <a href="https://hrca2.humanrightsbusiness.org/Page-TheDalitDiscriminationCheck-22.aspx">https://hrca2.humanrightsbusiness.org/Page-TheDalitDiscriminationCheck-22.aspx</a> - The ISO26000 standard on social responsibility refers to discrimination based on caste and the obligation of private sector actors to contribute to eliminating such practices. - The draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent are a comprehensive legal framework developed to eliminate caste discrimination globally. Based on existing international human rights principles and obligations, the framework proposes general and special measures to be taken by multiple stakeholders, including private sector actors.</p> <p><a href="http://idsn.org/international-advocacy/un/un-principles-guidelines/">http://idsn.org/international-advocacy/un/un-principles-guidelines/</a></p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The first decade of the UNGPs was dedicated to the establishment of the very rules and debates on its implementation, awareness raising, and consolidation at the Human Rights Council. The WG on Business and Human Rights has worked on a number of areas. For the next decade, there are of course challenges to effectively implement the UNGPs. This is the particular case of marginalized and vulnerable groups that suffer disproportionately the impacts of business human rights violations or abuses. From our experience, these principles must be taken into account throughout the value chain, in many industry and service sectors, either private or public and take into account both the human – specifically gender, but also the environmental impacts. Dalit girls and women and other low caste groups recruited under the “Sumangali Scheme” suffer multiple rights violations in the spinning mills in India, which supply the global garment industry. Employees were found to work a 68-hour week, with no contracts or payslips, no education and no bonus. They were locked inside factory and dormitory compounds during working and non-working hours. At the mills investigated, there were violations of freedom of movement and freedom of association, amounting to conditions of forced labour. Dalit workers were housed in separate hostels and the working conditions often harsher. The workers felt that the supervisors were threatening and hostile, and there were reports of sexual harassment. Tragically, a number of girls committed suicide while on the company compound. Studies have also found extensive violations in home-based work in India, supplying the</p>

	<p>garment industry. Moreover, agriculture employs more bonded labourers than all other industries and services combined. In India it accounts for 85% of bonded workers. Workdays are extremely long, payment is nominal and may only consist of receiving two meals a day, and the work is gruelling. Supply chain related products affected include cottonseed, cotton, sugar, rice and tea. Reports have documented that almost half a million children in India work as child labourers in the cottonseed production industry. Most of them are low caste – Dalits or Adivasis – and are subject to hazardous work and harmful chemicals. A 2017 ILO study found Dalits to be particularly vulnerable to exploitation in the sugar cane industry, where bonded and child labour were common, and the work undertaken highly dangerous. Dalits working in tea plantations in Bangladesh and India suffer below minimum wages, hazardous work and long hours. A second decade should focus on the non-discrimination component, enshrined as a principle of the UNGPs. Thus, social sectors marginalized, such as Dalits, should be given priority in the debates of effective implementation of these principles, through a bottom-up approach, consultation with members of these sectors, focused training and awareness raising. Overall, attention should be given to the specific means by which those groups are impacted by business violations and abuses.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>As stated in the previous question, the spirit of the UNGPs should, as a matter of priority, reach out to the most marginalized and vulnerable groups in society, in order to increase its effectiveness. While the UNGPs are relatively established in the mainstream of society and the human rights actors, an in-depth study by the WG on Business and Human Rights on vulnerability factors would be of an added value. For instance, a compilation of the WG’s “case law” and works on discrimination issues could further illustrate how the UNGPs can be used to tackle disproportionate impact on certain social sectors.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>From our experience, structural challenges relate to structural discrimination ingrained in many societies, reflecting business practices that perpetuate discrimination. Conversely, reinforcing the non-discrimination clause of the UNGPs can be a powerful tool of social mobilization and change. A more focused approach on how the UNGPs can be a tool contributing to the achievement of the SDGs can be of great added value, with a particular focus on gender. For that objective to be reached, States that have implemented their National Action Plans should measure progress of these plans in synchronicity with the national SDGs targets and indications. Equally, the relevant SDG reports presented at the HLPF, every year, should be articulated with the objectives of their National Action Plans. In both cases, information should be provided about the impact of business activities in the most marginalized groups within at State, for instance, in a separate part of the report.</p>

<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Caste should be recognized and explicitly stated as a ground of discrimination in company non-discrimination policies, human rights due diligence legislation and other in environmental policies. Discrimination based on caste and analogous forms of inherited status should be explicitly identified as a key factor contributing to the ongoing exploitation of children and workers in the form of trafficking, child labour and slavery</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>For instance, post-colonial racial injustices have led to the underdevelopment and exploitation of natural resources and people in the Global South. Inequality in land ownership, which is often central to social and economic inequality, environmental degradation and conflict, has led to a privileged land-owning elite acting with impunity. This is particularly relevant in caste-affected countries where 'Dalits and Adivasis are at the bottom of the hierarchy and are not only the victims of indecent work practices, but also those most likely to be affected by the exploitation of natural resources. We would like the UNGPs 10+ to specifically address caste, especially the intersection of caste and gender.</p>

Survey response	
Organization	MSI Integrity
Stakeholder category	Civil society organization
Region	North America
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	Work-in-progress

<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>Promising developments: A general rise in understanding that communities and rights holders need to be at the table--which means more than just passive consultation--see our joint submission with the International Human Rights Clinic at Harvard Law School re the Fourth Pillar Project.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>A failure to address and recognize the root causes of abuse and structural issues. Both voluntary responses (e.g. MSIs--see our Not Fit-for-Purpose: The Grand Experiment of MSIs in Global Governance and Human Rights, reflecting on a decade of research into MSIs*) and mandatory efforts (e.g. due diligence legislation) have significant limitations. Ultimately, to address corporate abuse we need to tackle the drivers and causes of abuse, which lie in tackling corporate governance and ownership issues. We need to put workers and communities in the center of the governance and ownership of companies. That, ultimately, is the deep transformation necessary to prevent abuse. *MSIs should not be relied upon in the UNGPs as a tool for remedy, accountability or as a way of satisfying the State Duty to Protect (Pillar 1). We cite examples of how many NAPs rely on MSIs as tools for remedy or protection, yet of the 40 MSIs we evaluated 1/3 do not have a grievance mechanism and those that do not need meet the effective criteria in Principle 31. Similarly, MSIs consistently fail to detect abuses, hold companies to account for them or otherwise ensure rights protection. This is not to suggest MSIs do not have value--they can be very powerful as tools for learning, policy reform, experiment and engagement--however they are not effective as tools for remedy, accountability etc. Please see the report for more.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Challenge the corporate form itself: Companies are run and controlled by a board of directors, executive management, and shareholders, who do not directly experience the on-the-ground consequences of the company's decisions. They are not the people who live near or work in the mine sites, farmland, or factories where the repercussions of business practices reverberate. This, combined with the fact that boards are legally prohibited from prioritizing community or societal interests above the financial interests of shareholders, means that decision makers in a corporation are neither structurally situated nor primarily motivated to consider human rights impacts. Instead, companies are incentivized—and often obligated—to make whatever decisions will maximize shareholder profits, without sharing those returns with workers or affected communities. This has caused extreme economic inequality between those who own or run</p>

	<p>companies and those who do not—a divide that is shaped by inequalities in race, class, gender, sexuality, geography, ability, and other forces of social and economic stratification. Therefore, perhaps the most significant and transformative human rights project is one that has received little attention within the human rights domain: challenging the corporation itself and reimagining our economic enterprises.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>See above. It is critical to challenge the corporate form itself: Companies are run and controlled by a board of directors, executive management, and shareholders, who do not directly experience the on-the-ground consequences of the company's decisions. They are not the people who live near or work in the mine sites, farmland, or factories where the repercussions of business practices reverberate. This, combined with the fact that boards are legally prohibited from prioritizing community or societal interests above the financial interests of shareholders, means that decision makers in a corporation are neither structurally situated nor primarily motivated to consider human rights impacts. Instead, companies are incentivized—and often obligated—to make whatever decisions will maximize shareholder profits, without sharing those returns with workers or affected communities. This has caused extreme economic inequality between those who own or run companies and those who do not—a divide that is shaped by inequalities in race, class, gender, sexuality, geography, ability, and other forces of social and economic stratification. Therefore, perhaps the most significant and transformative human rights project is one that has received little attention within the human rights domain: challenging the corporation itself and reimagining our economic enterprises.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>1) Recognize a right for a) workers to profit from their labor and b) have control over their workplaces. 2) Push beyond the existing UNGPs to meaningfully engage dialogue and discussion re (1), and how it is central to addressing business and human rights issues.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>We are happy to provide more information and research on the need to go "Beyond Corporations" and to put workers and communities at the center of businesses. Whether a company shares its ownership and governance ought to be central metrics as to whether a company is considered "ethical" or not. Per our research into MSIs, which is now</p>

	<p>complete (we are entirely transitioning to focusing on shifting Beyond Corporations-- new organizational name to follow!), please see: <a href="https://www.msi-integrity.org/not-fit-for-purpose/">https://www.msi-integrity.org/not-fit-for-purpose/</a> Critically, MSIs should not be relied upon in the UNGPs as a tool for remedy, accountability or as a way of satisfying the State Duty to Protect (Pillar 1). We cite examples of how many NAPs rely on MSIs as tools for remedy or protection, yet of the 40 MSIs we evaluated 1/3 do not have a grievance mechanism and those that do not need meet the effective criteria in Principle 31. Similarly, MSIs consistently fail to detect abuses, hold companies to account for them or otherwise ensure rights protection. This is not to suggest MSIs do not have value--they can be very powerful as tools for learning, policy reform, experiment and engagement--however they are not effective as tools for remedy, accountability etc. Please see the report for more.</p>
--	--

Survey response	
Organization	Norwegian People's Aid
Stakeholder category	Civil society organization
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This is a joint submission by the Norwegian Union for General and Municipal Employees (NUMGE), the largest trades union in Norway, and Norwegian People's Aid, the Norwegian labour movement's humanitarian solidarity organisation.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil	

<p>society organizations, etc.) that can be built on?</p>	
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Thank you for the opportunity to contribute to the consultation process for the UN Working Group on Business and Human Rights’ project “Business and human rights: towards a decade of global implementation”. This stock-taking project, identifying gaps and challenges, is particularly important as legislation requiring mandatory due diligence is passed in an increasing number of jurisdictions, enhancing the policies and processes in the Guiding Principles. This is a joint submission by the Norwegian Union for General and Municipal Employees (NUMGE), the largest trades union in Norway, and Norwegian People’s Aid, the Norwegian labour movement’s humanitarian solidarity organisation. Our submission relates to the question of business and human rights in conflict areas, the subject of the Working Group’s report in July 2020. We welcomed this report as it, amongst other things, underlines the fact that activities linking businesses to conflict are often not perceived as salient human rights issues and therefore might be ignored or underprioritized in standard human rights impact assessments. We have during the course of the last decade engaged in dialogue with Norwegian financial institutions on the ramifications of having investments in companies involved in high-risk human rights contexts, with a particular focus on the occupied Palestinian territory. During the course of this dialogue we have become aware of various issues that appear to be insufficiently understood or where existing guidance is currently inadequate to be of practical use to institutional investors. First, as the UN Working Group report from July 2020 points out (paragraph 51), prioritization is an essential part of due diligence, with businesses needing to consider salient risks in terms of both human rights and conflict. However, the need to prioritize the most serious human rights impacts as part of enhanced due diligence does not allow an investor to circumscribe its due diligence efforts solely to those cases, overlooking other violations potentially linked to it by its shareholding relationships. Dialogue with asset managers and others reveals that it is not always the case that all investments related to business operations in conflict areas are subject to enhanced due diligence. Second, as the United Nations Office of the High Commissioner for Human Rights has recognized, there is a continuum between ‘directly linked to’ and ‘contributing to’ a human rights impact. Businesses, including institutional investors, move along that continuum if they are aware of their link to a violation and fail to take action. An eventual contribution to a human rights impact will entail a new set of obligations, including remedies, and may also raise the prospect of legal liability. Third, investors’ use of leverage to prevent or mitigate adverse human rights impacts cannot be an indefinite process. There appears to be a reluctance to set clear timelines, even on a case-by-case basis, for active ownership processes between investors and investee companies. This can result in well-documented examples of investee companies contributing to negative impacts over a decade without facing any consequences on the part of investors. As the UN Guiding Principles also make clear, “the more severe the abuse, the</p>

	<p>more quickly the enterprise will need to see change” (UNGP 19, Commentary). Fourth, the Guiding Principles’ assert the need for enterprises, in situations of armed conflict, to respect the standards of international humanitarian law. What this implies for the enterprises themselves, but also for enterprises in business relationships with the former, requires further elaboration. For example, the high occurrence of holdings in investee companies with activities in illegal settlements on occupied Palestinian territory, testifies to insufficient awareness of the responsibility incumbent on enterprises “directly linked” to these activities. Even companies engaged in activities tantamount to the war crime of pillage, such as exploitation of natural resources on occupied territory, regularly appear in the investment portfolios of banks, pension funds and sovereign wealth funds. In 2018, we commissioned a report from the Essex Business and Human Rights Project at Essex University in the United Kingdom on the Government Pension Fund Global, the world’s largest sovereign wealth fund. The report, <i>Investor Obligations in Occupied Territories: A Report on the Government Pension Fund Global</i>, published in 2019, addresses these issues as well as many others related to the due diligence obligations of financial institutions: <a href="https://www.npaid.org/publications/investor-obligations-in-occupied-territories">https://www.npaid.org/publications/investor-obligations-in-occupied-territories</a>. A 2-page summary of the report will be sent separately to the working group. A roadmap for scaling up implementation of the UNGPs over the course of the next decade should include the development of additional guidance or instruction that encourages broader understanding of the requirements of context-based enhanced due diligence, including all the issues highlighted above.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	
<p>5. In concrete terms, what will be needed in order to achieve</p>	

<p>meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	
--	--

Survey response	
Organization	Save the Children Netherlands
Stakeholder category	Civil society organization
Region	Western Europe
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>A. In 2014, an interesting development has taken place in the Netherlands , when the Dutch government decided to set up sector-based multistakeholder-initiatives, called the Covenants (<a href="https://www.imvoconvenanten.nl/en">https://www.imvoconvenanten.nl/en</a>). Efforts for implementation of the UNGPs by businesses have henceforth been done within the context of these covenants, in cooperation with CSO's, trade unions and the government. Over the last few years discussions have been taken place regarding the effectiveness of these covenants. For an overall view we would like to refer to the evaluation report (<a href="https://www.kit.nl/publication/evaluation-of-the-dutch-rbc-agreements-2014-2020/">https://www.kit.nl/publication/evaluation-of-the-dutch-rbc-agreements-2014-2020/</a>), which reflects our own experiences on working within the covenants. In addition, we would like to refer to the report of MSI Integrity 'Not Fit for Purpose' (<a href="https://www.msi-integrity.org/not-fit-for-purpose/">https://www.msi-integrity.org/not-fit-for-purpose/</a>), that provides a useful analysis of multistakeholder platforms. B. The Dutch government has provided funding for projects on the implementation of the UNGPs by companies. We welcome this measure, also for the future. However, we regret that these funding opportunities have mostly been used by companies that already have a strong RBC policy in place, including implementation of the UNGPs. More efforts are needed to incentivise use of these funds by companies that have so far lagged. We believe that more public funding will also be needed in the future to set up public private partnerships to tackle complex causes of business-related impacts on human rights and the environment. C. The UN Global Compact, Unicef and Save the Children</p>

	<p>joined forces, which resulted in 2012 in the publication of the Children Rights and Business Principles (CRBPs). From our perspective the CRBPs provide a thorough overall insight of potential adverse children’s rights impacts by businesses and are therefore a key tool for companies to use in their children’s rights impact assessments. More efforts are needed to ensure that the CRBPs will be integrated in companies’ human rights and sustainability policies and impact assessments.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>A. We see a gap in governmental legislation and enforcement mechanisms. The experiences of the last years have shown that voluntary measures alone do not suffice, despite positive performance by a few front-runner companies that adhere to the UNGPs. A mandatory human rights due diligence legislation could additionally incentivise companies to take part in sector-based multi-stakeholder initiatives. B. In our daily work with companies and the financial sector we have noticed a lack of prioritisation of children’s rights by companies within their due diligence. Businesses don’t seem to have a full understanding of children’s rights, hindering a comprehensive analysis of potential risks. Although children are explicitly mentioned as a vulnerable group in the UNGPs, companies are currently not (fully) equipped to substantiate children’s rights in their policies and due diligence practice. C. In many cases businesses consider their due diligence obligations only in relation to the first tier and not beyond. This could be due to a lack of an in-depth understanding of the UNGPs or inexperience with integration of UNGPs in their daily operations; especially larger companies could do more to use their leverage towards their suppliers and sub-suppliers. D. Local stakeholder engagement is essential and should be part of a company’s monitoring process. In practice we see very few examples of those type of engagements. E. International trade, free trade and investment policies of (EU-) governments are not in alignment with governments’ duty to protect human rights and the environment. A coherent policy is lacking, whereby Western governments’ priority is given to economic growth and the fostering of international trade without fully taking into account the negative impacts that might occur on human rights and the environment. See also: Report of the Special Rapporteur on the right to food, Olivier De Schutter “Guiding principles on human rights impact assessments of trade and investment agreements”. F. Governments should lead by example. In the Netherlands, but also within the EU Institutions, public procurement regulations and policies mention social and environmental criteria, but those are not yet decisive. In most cases, the lowest price determines the purchasing or awarding decision. G. Despite reports of the EU Fundamental Rights Agency and the concrete recommendations given in those reports (<a href="https://fra.europa.eu/en/project/2018/business-and-human-rights-access-remedy-improvements">https://fra.europa.eu/en/project/2018/business-and-human-rights-access-remedy-improvements</a>), the Dutch government has not improved the access to remedy for victims of business-related human rights yet. Hence, access to remedy remains a weak pillar of the UNGPs. A future adjudication of laws and policies should also acknowledge children to have access to remedy, taking into account the long-life impact that business-related violations may have on them.</p>

<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>A. Collaborations between companies, CSO's, trade unions, local stakeholders and government have proven to be positive to implement the UNGPs. Trust between the different partners is a key determinant in such multi-stakeholder initiatives. B. More capacity within companies and a full commitment from companies' executive and senior management is needed to have the UNGPs successfully implemented. Due diligence needs to be fully integrated in the management-systems of companies. C. Businesses fear an increased regulatory burden that could come with mandatory due diligence regulation. While we understand these concerns, we believe that the protection of human rights and the environment, laid down in several treaties, outweigh the potential extra efforts by companies.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Most business models are based on maximising of profit, causing outsourcing of production to lower income countries and/or to countries with a lack of (enforcement of) protective environmental or labour/safety regulations. This can no longer be considered sustainable. A new mindset is needed in which economic and sustainability goals need to be fully integrated in a company's vision and mission. This is likely to be one of the most systemic challenges for the near future and for UNGPs 10+.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>A. Despite all efforts within the field of business and human rights the state of play of implementation of the UNGPs by companies is not satisfactory and progress is slow. Acceleration is needed, which can be achieved with a national or international mandatory due diligence regulation. B. Complementary to this regulation governments need to support companies, CSO's and trade unions to collaborate in (sector-based) multi-stakeholder platforms to realize the implementation of the UNGPs. Not only financially, but by initiating and facilitating projects to prevent or mitigate the negative impacts on the ground.</p>

Survey response	
Organization	ShareAction
Stakeholder category	Civil society organization

Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>We agree that there has been some good progress made in terms of uptake by investors and companies. While we are seeing the introduction of human rights policies within organisations that are aligned with the UNGPs, there is still a long way to go for them to become mainstream. 1. Investors: Evidence that there is a broader constituency involved and they are acting on this issue. Last decade has coincided with the rise of ESG investing. Covid-19 has highlighted the importance of incorporating a human rights lens to the workforce, in terms of business resilience and long-term sustainability. 2. Governments: UNGPs have been taken up by supranational and national level governments in the past decade including the EU and the UK, which was the first government to develop a National Action Plan (NAP). The development of sector specific guidance by OECD on the importance of human rights for business has added further value. While NAPs have been established in a number of countries globally, we believe that there has not been enough critical evaluation around the development of an action plans. National Contact Points (NCPs), while excellent in theory are still relatively unknown in the business and investment community. It is unclear who they are, how to reach them and what exactly they do. We believe the framework of protect, respect, remedy, including the notion that there is joint limited responsibility is excellent. We also believe the difference between cause and contribution is helpful and important because it allows companies to engage with issues and understand their responsibility to the human rights of their workforce.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>The following is a list of challenges that could be developed further: 1. Within the financial system, there is still a lack of focus on the 'S' of ESG. While this has changed slightly as a result of the global pandemic, social issues remain largely undervalued in the investment process. 2. NAPs / NCPs not well recognized outside of the space. There is a need for more knowledge of these institutions outside the specific field. For this, it will be necessary for more cooperation across government, civil society, the financial and corporate sectors. 3. Need for better taxonomy and frameworks. 4. For point 3 to happen, we strongly believe that there is a need for better data. 5. Linked to point 2, there is a need for coordinated campaigning and advocacy across all sectors. 5. Many companies still don't understand the rational (business case) for introducing human rights and UNGPs. What has not worked: 1. Lack of evidence of remediation. There is still a lack of evidence around whether and how companies provide remedy to affected rightsholders. 2. White washing In the context of reporting is still ubiquitous owing to the loose framework on the UNGPs. 3. Reprisals from companies on their workforce and the relative impunity with which they operate.</p>

<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Obstacles: The framework remains voluntary. We believe that it is necessary to start talking seriously about mandatory due diligence. This would also level the playing field between companies who are progressing on these issues and those that aren't. Recent developments in the EU and Switzerland on mandatory reporting are welcomed. SDGs and UNGPs: we believe there is a question mark around whether the SDGs have overshadowed UNGPs. Although we recognize that the two are fundamentally different, particularly in the way the UNGPs provide specific responsibility and accountabilities, it may not be so clear to financial and corporate actors, who have limited prior knowledge / experience of these two frameworks. Priorities: 1. As mentioned above, we believe more cooperation and coordination between the private and public sector is necessary to achieve results. 2. An increase in general public awareness as to the importance of the UNGP framework is also necessary. There is still a lack of awareness as to the issues / abuses affecting the workforce by both investors and the public -&gt; need more scrutiny on companies and more data. 3. Focus on reporting. Need better quality data and better oversight on workforce. 4. Strike the balance between the business case for companies, while ensuring that its rights holders centric. 5. More and more accessible resources are necessary -&gt; company / governmental resources on education/ implementation and remediation. Drivers: 1. Legal frameworks including mandatory public reporting. 2. Penalties for companies that do not comply. 3. Making the business case for human rights due diligence in the context of the UNGPs i.e. operational, reputational and legal costs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Main Challenges: 1. Materiality versus saliency arguments. We believe that the concept of saliency is not well understood within the financial/ corporate sector. Furthermore there is a clear conflict between what is a material and what is a salient workforce issue. 2. Short-termism in the financial and corporate system. 3. Global inequality -&gt; geographies at biggest risk of rights violations are those in which their capacity to remedy those situations is limited. 4. Lack of knowledge and enforcement around extra- territorial obligations. 5. Trade inequalities. Conditions should be made within trade agreements and public procurement contracts to respect human rights of stakeholders.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs'</p>	<p>1. Mandatory Human Rights legislation &amp; non-Financial reporting. The EU can be a pioneer on this &gt; Conducting due diligence &amp; providing remedy. There is a need for penalties and repercussions. 2. Focus on implementation/ monitoring and enforcement of existing legislation rather than introducing new legislation. 3. Binding Treaty on business and human Rights with wide reaching country support and implementation. 4. In line with the EU's legislation, investors to have a standalone human rights policy and due diligence process aligned with the UNGPs AND implement that within their investment governance and investment decisions. 5. Standard practice in international trade agreements that countries don't trade with other who have a history of human rights violations.</p>

expectations over the coming years?	
-------------------------------------	--

Survey response	
Organization	Solidaridad
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	The United Nations Guiding Principles have consolidated their status of a globally agreed standard for governments and business enterprises to embed respect for human rights in a business context. Therefore, companies have started to acknowledge what are the expectations about their responsibility to respect human rights. However, only a few companies have moved to the implementation phase and a much larger number of companies remain unclear about the overall notion of human rights due diligence and what this means in practice. Governments on the other side, have remained slow in putting forward initiatives that go beyond voluntary measures to comply with their duty to protect human rights. This, despite the number of available studies and reports about the limitation of voluntary standard and certification schemes to solve human rights impacts. This one-sided focus from Governments has slowed the route for implementation. Within this context, national, regional and international initiatives that are proposing a legislative approach as part of a smart mix of measures to address the human rights violations in supply chains can be seen as promising developments from where to continue building on. Projects between CSOs, the government and companies that are focused on actually improving sourcing practices and the livelihoods of the people in producing countries in the Global South could also be seen as promising developments towards effective and meaningful implementation of the UNGPs. Their scalability should be assessed.
2. Where do gaps and challenges remain? What has not worked to date?	The main gaps remain in the correct and meaningful implementation of the UNGPs. Concretely in the case of due diligence, companies overfocus on reporting and looking good on paper instead of implementing a process that actually drives concrete and measurable changes on the ground. During COVID the lack of uptake and implementation of the UNGPs was evident. In the textile sector, for example, cancelled orders and lack of payment from international brands left millions of workers in South East Asia with a partial or no wage at all, a limited, if any, compensation, and no social

	<p>security. See for example the ILO report from October 2020, "The supply chain ripple effect: How COVID-19 is affecting garment workers and factories in Asia and the Pacific". Limited attention goes to the need to address the underlying causes that are driving human rights abuses such as the unequal distribution of power and value throughout supply chains and dire poverty in Global South countries. Companies tend to assess their risk against a limited group of human rights in detriment to others that are more likely to tackle the root causes of unsustainable supply chains such as living income, right of association, and the rights of indigenous people and women. Despite the efforts of the UN Working Group on Business and Human Rights and the thematic project to unpack the gender dimension of the UNGPs, companies and governments are still not giving adequate attention to the differentiated impacts of business-related human rights abuses on women. Finally, environmental instruments and environmental rights are not in the scope of the UNGPs. This narrow scope limits the potential impacts of the implementation of the guidance in practice as environmental harm is undoubtedly connected or leads to human rights violations.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>To improve the realization of the UNGPs we need to look more closely to the interest of farmers and workers of the global south. What has human rights due diligence delivered to them in the last 10 years? Companies still feel disconnected from the realities beyond the first tier of suppliers in their supply chains. The human rights impacts of those at the beginning of a company supply chain are often poorly identified, understood, monitored and managed. Despite promising developments around digital solutions, in many complex international supply chains, the necessary transparency required to implement proper due diligence is still not available. Smallholder farmers, workers and miners need to be in the scope of the next 10 years of the UNGPs with specific topics that are relevant to them such as living income, bargaining power, purchasing practices, value distribution, etc. Companies have a role to play in improving the livelihoods of those at the beginning of their supply chain. As already mentioned, another key obstacle is the limited scope of the UNGPs as it does not cover the role of States and Business enterprises with regard to the environment despite the evident connection between human rights and the environment and the current climate crisis.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>From Solidaridad's experience of working for more than 50 years with producers in the Global South, the main systemic and structural challenges to the realization of sustainable development and human rights include the persistence of poverty and unequal distribution of value and power in supply chains. Global value chains are characterized by exploitative relations, where local farmers, workers and miners have little or no bargaining power and are forced to sell their labour and their products at unsustainably low prices. Not only does this prevent farmers, workers and miners in the Global South from rising above poverty, but it also often forces the expansion of production activities to protected</p>

	<p>areas, as people cannot make a decent living from their land and labour alone. Companies and Governments should not be blind to these realities.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Companies should start focusing on addressing the key drivers and root cause of unsustainable practices in their supply chains. The UNGPs should incentivize the identification of these structural issues as part of a company's ongoing human rights due diligence through continued and meaningful stakeholder participation. International human rights instruments and standards on living income, land tenure, access to information and participation, etc should be an essential part of the benchmarks against which companies assess their impacts. Due diligence should also encourage companies to use their leverage (including their price-setting power) in order to ensure fair prices, living wages and living incomes for the most vulnerable people in their supply chains. Governments should assume a more active role and work in close cooperation with each other through long term partnership. These partnerships should include all actors in supply chains, including producers - especially smallholder farmers, workers and miners in the Global South who are typically under-represented in multi-stakeholder platforms- as well as companies, the financial sector, civil society organisations and trade unions. Again, focus issues should be the realisation of fundamental rights and addressing systemic issues such as living income, living wage, deforestation, land tenure, climate change impact, etc. Resources, capacity building, and knowledge sharing are key to foster long-term changes in value chains and should be the backbone of such partnerships. The UN Working Group on Business and Human Rights could create specific working groups to focus on the suggested priority areas. For example, a working group focused on producers and farmers could advise how to better include their interest when conducting human rights due diligence. Specific guidance for these topics could be advanced in this regard. Another working group could focus on looking at other potential measures of the smart mix to advance sustainability in supply chains by looking at best practices around the world. This could enhance the implementation of the UNGPs and support the emergence of innovative practices around the world that could equally guide business and policymakers. Additionally, the UNGPs could be revised or complemented to include the environment and environmental rights. Multilateral Environmental Agreements should be part of the benchmarks against which companies assess their impacts. Moreover, including the rights of access to information, public participation and access to justice in environmental matters will reinforce the third pillar of the UNGPs and transform the notion of victims into right-holders. There is growing momentum in Europe around human rights and environmental due diligence legislation. The working group could adopt a more active role in assisting States and concretely policymakers with recommendations for what it means to protect, respect and remedy the rights of women and other traditionally marginalized groups in a business context in line with the UNGPs. Mainstreaming gender in due diligence procedures is essential as women experience</p>

	business-related human rights abuses in unique ways and are often affected disproportionately. Gender-blind due diligence legislation risks reinforcing practices that oppress women.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	Solidaridad has written a position paper advocating for a regulatory framework for sustainable supply chains that include: Intergovernmental partnerships driving sustainable production throughout all levels of the supply chain, Complementary measures to support producing countries in the Global South, and Mandatory due diligence obligations for business enterprises. While the position paper is focused on the EU, the information included is well applicable at the global level and could feed into the discussions on the UNGPs 10+. The document can be found in the following link: <a href="https://www.solidaridadnetwork.org/sites/solidaridadnetwork.org/files/publications/Solidaridad_CHANGEING%20GEAR_ACCELERATING%20INCLUSIVE%20AND%20SUSTAINABLE%20PRODUCTION%20THROUGH%20A%20NEW%20EUROPEAN%20REGULATORY%20FRAMEWORK.pdf">https://www.solidaridadnetwork.org/sites/solidaridadnetwork.org/files/publications/Solidaridad_CHANGEING%20GEAR_ACCELERATING%20INCLUSIVE%20AND%20SUSTAINABLE%20PRODUCTION%20THROUGH%20A%20NEW%20EUROPEAN%20REGULATORY%20FRAMEWORK.pdf</a>

Survey response	
Organization	The Syrian Legal Development Programme (SLDP) Human Rights and Business Unit
Stakeholder category	Civil society organization
Region	Middle East / North Africa (MENA)
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	The first 10 years of implementation of the UNGPs resulted in the idea that business enterprises and not just states have a responsibility to respect human rights is universally accepted. This contributed to influencing the work of countless civil society organisations around the world, including the Syrian Legal Development Programme (SLDP). It is likely that without the mentality shift generated by the UNGPs, SLDP would have never established a unit exclusively dedicated to the involvement of business enterprises in human rights abuses in the Syrian context, the Human Rights and Business Unit (HRBU). And as a result of the UNGPs, there is now greater clarity about the respective roles and responsibilities of governments and business concerning the protection and respect of human rights. This issue is of great importance to the Syrian crisis; it has brought to the attention of stakeholders and policymakers that abuses and crimes are not constrained to those who carry weapons, businesses, and businessmen are also involved in human rights abuses in the Syrian conflict. Put in broad terms, increased Business and Human Rights education has proved to be necessary.

<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The recent report by the UNWG on “Business, Human Rights and Conflict Affected Regions” is a welcomed step in the right direction, but more work is required for an effective implementation of the UNGPs in conflict and post-conflict settings. During SLDP’s work on business and human in Syria the following gaps in the current UNGPs’ framework emerged:</p> <ul style="list-style-type: none"> <li>• Despite the guidance provided by the UN Working Group on Business and Human Rights (UNWG) and the OHCHR, further clarification is required with regards to the scope of the business responsibility to respect human rights, specifically on the definition of two of the types of involvement in adverse human rights impacts mentioned under Principle 13, namely contribution and direct link. The concepts of contribution and direct link as currently formulated arguably fail to encompass certain types of business involvements in adverse human rights impacts that are common in conflict settings and that should form part of human rights impacts assessments in those contexts. An example of such businesses are those that have a relationship with an entity that is causing or contributing gross human rights abuses but are not necessarily linked to the abuses.</li> <li>• Further guidance is required on heightened human rights due diligence in conflict and post-conflict settings that go beyond a conflict-sensitivity approach and that takes into account the relationships between business enterprises and entities committing human rights abuses that are unique to conflict affected regions.</li> <li>• The UNGPs focuses on ongoing and future adverse human rights impacts. In that regard, no particular attention has been given to the business enterprises’ past involvements in adverse human rights impacts involvements. Failing to include an assessment of businesses past involvements in adverse human rights impacts limits the effectiveness of the UNGPs as an instrument of change in post-conflict settings.</li> <li>• The existing framework on grievance mechanisms does not adequately reflect the challenges surrounding access to remedy in conflict and post-conflict settings.</li> <li>• The UNGPs under pillar I, expects of states to exercise their duty effectively to protect people against human rights violations perpetrated by companies. Yet this is an expectation is unrealistic, considering the circumstances where human rights violations are caused by and/or mandated by the State itself and its business partners. For example, due to the authoritarian nature of the Syrian government and the amount of power these businesses have many small Syrian businesses, as well as international actors operating in Syria have struggled to avoid engaging in business with such actors. For example, many humanitarian actors in Syria, and particularly UN agencies operating from Damascus have procured goods and services from Syria’s business elites, many of whom have been engaged in human rights violations and international crimes.</li> <li>• Over the last decade priority was given to the implementation of the UNGPs by states and by “for profit” business enterprises. Limited to no attention has been dedicated to non-profits undertaking commercial activities, including the humanitarian and development agencies like the UN, even though they are equally as capable of becoming involved in adverse human rights impacts as for profit business enterprises.</li> </ul>
---	--

<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>While participating in reconstruction in Syria carries a number of human rights risks, a diligent and human rights focused approach to business operations in Syria can ensure compliance with international law and avoidance of corporate complicity in war crimes. The continuation of the conflict in Syria creates an environment that makes reconstruction and business activity difficult, as perpetrators of war crimes are still at large. The actors who have taken part in the vast war crimes committed in Syria and continue to hold control of territory in Syria are likely to impact the operations of businesses contributing to Syria’s reconstruction. While calls for heightened action by states, businesses and the UN system to help ensure that business activity does not lead to human rights abuse, in turn, stimulate or exacerbate conflict or negatively impact peace building, are necessary, they do not take into account the existing political and economic realities that would impede this approach. Therefore, it is worth considering, especially in an ongoing conflict scenario, to hold current perpetrators accountable, and deal with past involvement of business related human rights abuses, in order to make way for transitional justice, remedy for victims and uphold higher standards and seek a fuller realization of the UNGPs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>SLDP’s research on the procurement activities of UN humanitarian and development agencies in Syria reveals that the implementation of the UNGPs by non-profits would substantially contribute to realising sustainable development based on the respect for human rights. The UN humanitarian and development agencies play a crucial role in the realisation of sustainable development in areas affected by conflict or by natural disasters. However, in order for sustainable development and respect for human rights to go hand in hand, the activity of these agencies must be premised on the UNGPs and built on transparency.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>With regard to the gaps and challenges identified under question 2), the following recommendations are provided: • Further guidance is needed in relation to the scope of the business responsibility to respect human rights, especially in conflict and post-conflict settings. Additionally, more attention should be dedicated to transitional justice rather than international criminal law. The strict mens rea requirements of international criminal law and the extremely limited number of cases involving business enterprises in that field of law make it a less than ideal sounding board when trying to determine whether a businesses is involved in adverse human rights impacts under the UNGPs. • The need for a better understanding of what are the requirements, triggers and indicators to conduct heightened human rights due diligence. More emphasis should be dedicated to understanding the operating environment including by consulting with experts or human rights organisations operating in the conflict affected region. Develop regulations and guidance to govern their businesses’ activities in reconstruction. • Businesses past involvements in adverse human rights impacts: they should form part of the human rights due diligence required to businesses in post-conflict settings and should be</p>

	<p>taken into consideration by grievance mechanisms in post-conflict settings. • Address the challenges grievance mechanisms face in conflict and post-conflict settings by integrate transitional justice mechanisms in the remedy pillar of the UNGPs. As acknowledged by the UNWG report. • Approach states involved in human rights abuse from an accountability perspective, namely in circumstances where human rights violations are caused by and/or mandated by the State itself and its business partners. • Require humanitarian and UN actors they fund to abide by a minimum human rights due diligence. More emphasis should be place on the need by all entities, including humanitarian and international organisations, undertaking commercial activities to implement the UNGPs. It is imperative that the UN leads by example in this regard.</p>
--	--

Survey response	
Organization	Tahrir Institute for Middle East Policy
Stakeholder category	Civil society organization
Region	Middle East / North Africa (MENA)
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This submission seeks to provide information regarding the role of social media platforms in spreading hate speech and disinformation in the MENA region.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil	<p>A range of actors have been responsible for developing promising content moderation policies and practices over the past decade. States themselves have taken an active role in developing responsible nation-wide content moderation policies and strategies to fight and regulate harmful disinformation and hate speech. Taiwan in particular has pursued an active “whole-of-society” approach, especially towards disinformation (1). While Taiwanese civil society actively works with social media companies in collaborative partnerships, the government has also pursued a range of society-wide media literacy initiatives, such as organizing public debates on citizen-run platforms and community-level engagement efforts. European states have also sought to develop responsible national level content moderation practises. Germany in particular has pursued an intermediary liability approach, via the NetzDG law which was passed in 2017 and came into effect in early 2018 (2). The bill subjects social networks and media sites with more than 2 million members to the law;</p>

<p>society organizations, etc.) that can be built on?</p>	<p>gives websites 24 hours to remove “obviously illegal posts” or face fines up to 50m euro; forces social media companies to act quickly and put in place comprehensive complaint structures so that posts can quickly be reported; and produces compulsory bi-annual transparency reports detailing how they respond to user reports. France, Brazil and at least ten other countries worldwide have passed legislation based on Germany’s NetzDG law (3). Despite some successes, the NetzDG law and its worldwide copycats, have been criticized by human rights groups and civil society as potentially illegally limiting freedom of expression by over-policing content (4). Despite these concerns, these laws demonstrate an increasing recognition of the need to more actively regulate content moderation of large social media companies. Regional bodies have also demonstrated meaningful commitment to developing responsible content moderation practises. The EU has initiated a public consultation on their forthcoming Digital Services Act; the text is not yet publicly available. The European Commission launched its “Code of content on countering illegal hate speech online” in 2016, in collaboration with Facebook, Twitter, YouTube, and Microsoft (5). The implementation of the Code is monitored by a network of civil society organizations located in different countries. The European Commission also published a communication outlining the challenges associated with disinformation online in 2018, which resulted in the development of a “Code of Practice” created through efforts by leading social media companies and advertisers (6). Platforms themselves have also made substantial progress within the past ten years towards developing responsible content moderation policies. Social media platforms have developed definitions of hate speech and robust community guidelines delineating the kinds of content allowed on their platforms (7). Platforms have created and substantially expanded policies targeting abusive and threatening content as needed. They have also developed internal policies for limiting content that violates their community guidelines and remedies for implementing these policies and guidelines. They have developed punishments for violators, including the permanent suspension of accounts, among other remedies. Platforms and civil society came together in 2018 to develop an industry voluntary set of principles called the “Santa Clara Principles on Transparency and Accountability in Content Moderation,” which signatories aim to implement to ensure due process and transparency in content moderation (8). Although little progress has been made on the state level in the MENA region, the development and implementation of industry standards will be vital for protecting individuals in the MENA region’s use of social media platforms. Sources: 1. <a href="https://foreignpolicy.com/2020/11/11/political-disinformation-taiwan-success/">https://foreignpolicy.com/2020/11/11/political-disinformation-taiwan-success/</a> 2. <a href="https://www.techagainstterrorism.org/2020/10/21/the-online-regulation-series-germany/">https://www.techagainstterrorism.org/2020/10/21/the-online-regulation-series-germany/</a> 3. <a href="http://justitia-int.org/en/the-digital-berlin-wall-how-germany-created-a-prototype-for-global-online-censorship/">http://justitia-int.org/en/the-digital-berlin-wall-how-germany-created-a-prototype-for-global-online-censorship/</a> 4. <a href="https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law">https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law</a> 5. <a href="https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1135">https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1135</a> 6. </p>
---	---

	<p>market/en/news/code-practice-disinformation 7. <a href="https://www.theverge.com/2017/12/18/16789606/twitter-new-safety-policies-hate-groups">https://www.theverge.com/2017/12/18/16789606/twitter-new-safety-policies-hate-groups</a> 8. <a href="https://santaclaraprinciples.org/">https://santaclaraprinciples.org/</a></p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>One primary challenge that continues to exist in the context of content moderation and disinformation on social media platforms is the lack of clarity around the line between moderation of hate speech and disinformation, and suppression of free speech. This is a difficult line to tow for a number of reasons (1). Firstly, in a time when social media platforms are used to spread political and sectarian messaging, it can be difficult to determine what qualifies as disinformation and what is an exercise of free, legitimate speech. This is particularly important in the MENA region, where government suppression of speech is rampant and where many governments have sought to criminalize expression of political thought on social media platforms. Secondly, in contexts where states are suppressing speech, including in the MENA region, they are also taking advantage of social media platforms to spread disinformation (2) in a way intended to influence (3) public opinion in their favor (4), to thwart the efforts of activists and human rights defenders, and to incite hatred against minorities (5). Governments have also sought to silence human rights defenders and activists by taking advantage of content moderation tools to ensure that the posts and profiles of activists and human rights defenders are taken down (6). These actions seek to suppress free speech by taking advantage of gaps in content moderation tools. Furthermore, the range of remedies to address violent hate speech and harmful disinformation in democratic states is oftentimes used to suppress freedom of expression in illiberal and authoritarian states. For example, while Germany's NetzDG law actively regulates content moderation on social media platforms through an intermediary liability approach, this law has been copied (7) by illiberal and authoritarian states as a tool to limit expression online. Separately, many authoritarian states have long standing (8) fake news and violent speech laws that predate the internet and social media. These laws do little to actually combat disinformation or violent speech and, instead, criminalize legitimate speech. They are increasingly being used in the MENA region to restrict the online space. A second challenge relating to content moderation and disinformation is lack of due process and appeals of content moderation decisions. Increasingly, only those with the power to pressure social media platforms are able to have content moderation decisions reversed. Although some platforms do include appeals processes, they are inadequate and often go unanswered (9). A third challenge is the fact that there are significant gaps in the resources and attention large American-based social media companies grant developing states in the global south, leading to dangerous inequalities in the quality and speed of content moderation. The approach of large social media companies to fight harmful disinformation and violent speech during the 2020 American Presidential election was largely a success (10). However, the large-scale cooperation between government, social media platforms, civil society and academia that was necessary to contain the spread of harmful disinformation during the 2020 election cannot be easily reproduced in other contexts. The success of the election</p>

response was due to large-scale cooperation (11); the granting of access to important data by platforms to civil society groups and academia; and a willingness of platforms to invest time and resources into a coordinated response. Levels of engagement and interest by social media companies is significantly less for states in the global south, where oftentimes the risk is much higher. Gaps in resource allocation, cooperation and granting of access to important data to civil society groups, academia, and government in the global south is a dire hindrance to responsible content moderation policy. Furthermore, while social media companies have developed robust community guidelines and internal policies in regard to content moderation, an important factor in the success of these policies is consistent enforcement, particularly in vulnerable global south countries. Tied to ensuring consistent enforcement of company policies is also transparency. Adequate transparency on the part of social media companies is also notably lacking in important areas of content moderation policy. For example, it has been reported (12) that Facebook has around 12,000 content moderators worldwide; some of these moderators are contractors, while some are Facebook employees. However, very little information is available about the linguistic breakdown of these moderators. Adequate linguistic representation is an absolutely essential aspect of successful content moderation, particularly because issues of hate speech and disinformation are incredibly context specific: the identification of violent speech requires (13) intimate knowledge of local languages and dialects. If certain language and dialects are not adequately represented among content moderators, the quality and speed of moderation in impacted countries and regions suffers greatly. This is of particular concern in the Middle East and North Africa, which is home to many different dialects of Arabic and other minority languages. If content moderators from these communities are not adequately represented, responsible moderation will greatly suffer. Moreover, given the dominance of American-based large social media companies, language discrepancies are disproportionately manifest in developing nations. Particularly in a region like the Middle East and North Africa, unmoderated hate speech, political disinformation and violent incitement can further exacerbate societal tensions and on-going conflicts. Ultimately, it is impossible for civil society to formulate informed demands regarding the linguistic composition of content moderators because large social media companies do not release even the most basic information about the composition of their moderators. Social media platforms can also be used as a platform for hate speech (14) against minority and LGBT communities in the MENA region, sometimes even rising to the level of incitement to violence. Social media companies that fail to limit such speech are in part responsible for the resulting damage to the community, which can include attacks against minorities, members of the LGBT community, or even human rights defenders. 1. <https://www.ohchr.org/Documents/Issues/Opinion/ContentRegulation/APC.pdf> 2. <https://www.middleeasteye.net/news/algeria-morocco-european-union-trained-police-data-harvesting> 3. <https://www.demdigest.org/global-disinformation-order-organised-social-media-manipulation-in-at-least-70-countries/> 4. <https://globalfreedomofexpression.columbia.edu/publications/mena-region-battles-the-infodemic-from-fake-news->

	<p>to-hashtag-washing-in-the-regions-ongoing-information-wars/ 5. <a href="https://www.hrw.org/news/2017/09/26/saudi-arabia-official-hate-speech-targets-minorities">https://www.hrw.org/news/2017/09/26/saudi-arabia-official-hate-speech-targets-minorities</a> 6. <a href="https://www.middleeasteye.net/opinion/palestine-facebook-twitter-google-erasure-warning">https://www.middleeasteye.net/opinion/palestine-facebook-twitter-google-erasure-warning</a> 7. <a href="https://foreignpolicy.com/2019/11/06/germany-online-crackdowns-inspired-the-worlds-dictators-russia-venezuela-india/">https://foreignpolicy.com/2019/11/06/germany-online-crackdowns-inspired-the-worlds-dictators-russia-venezuela-india/</a> 8. <a href="https://public.opentech.fund/documents/EgyptReportV06.pdf">https://public.opentech.fund/documents/EgyptReportV06.pdf</a> 9. <a href="https://www.eff.org/deeplinks/2019/04/content-moderation-broken-let-us-count-ways">https://www.eff.org/deeplinks/2019/04/content-moderation-broken-let-us-count-ways</a> 10. <a href="https://www.lawfareblog.com/2020-election-security-success-story-so-far">https://www.lawfareblog.com/2020-election-security-success-story-so-far</a> 11. <a href="https://www.lawfareblog.com/lawfare-podcast-most-intense-online-disinformation-event-american-history">https://www.lawfareblog.com/lawfare-podcast-most-intense-online-disinformation-event-american-history</a> 12. <a href="https://bhr.stern.nyu.edu/tech-content-moderation-june-2020">https://bhr.stern.nyu.edu/tech-content-moderation-june-2020</a> 13. <a href="https://blogs.lse.ac.uk/mediase/2020/07/23/facebook-language-and-the-difficulty-of-moderating-hate-speech/">https://blogs.lse.ac.uk/mediase/2020/07/23/facebook-language-and-the-difficulty-of-moderating-hate-speech/</a> 14. <a href="https://www.middleeasteye.net/opinion/clegg-should-directly-address-facebooks-role-spreading-anti-muslim-hatred">https://www.middleeasteye.net/opinion/clegg-should-directly-address-facebooks-role-spreading-anti-muslim-hatred</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>A key obstacle to determining state obligations relating to content moderation and disinformation is the global nature of social media. It can be difficult to regulate online content or even the activities of social media companies when the lines between domestic and international are blurred. Moreover, considering the large number of users these platforms have, it is near impossible to regulate the activity of all end-users. An additional obstacle relates to holding perpetrators of online abuse such as those intentionally spreading disinformation, hate speech, or incitement to violence, accountable. As so many users are involved in the spread of false information, it can be difficult to know where the information originated as well as which actors are intentionally facilitating the spread of false or damaging information. Investigations of such activity requires technical knowledge. Another obstacle is that, in many cases, governments are involved in spreading misinformation and taking advantage of gaps in social media platform regulation. If governments are unwilling to regulate or are the guilty parties themselves, they may be unwilling to work with social media companies to improve content moderation practices and this makes the work of companies hoping to improve their practices in particular regions more difficult. It is also important to note that, often states' abuse of content moderation tools is done in the name of combatting terrorism (1). However, often in the MENA region (2), states have labeled legitimate opposition groups as terrorists in an attempt to discredit and delegitimize them. Through this method, they are able to combat their online activity by requesting their content be taken down under the pretense of combatting terrorism. Another key obstacle to the fuller realization of the UNGP's is the lack of coercive mechanisms forcing large companies to invest adequate resources to content moderation infrastructure in the global south. These platforms have so far proved to be unwilling to invest equal resources into the equal implementation of essential content moderation policies across all states where their products are widely used. At worst, these inequalities have led in some cases to violence and genocide (3). To remedy these inequalities, coercive mechanisms must be developed to incentivize platforms to invest adequate</p>

	<p>resources into content moderation in the global south. One final obstacle is the reliance on artificial intelligence to moderate content in some contexts. The use of automation to moderate content has significantly increased since the beginning of the COVID-19 epidemic, as it was deemed unsafe for contract content moderators to continue their work from home. Large social media companies have since relied evermore on AI technologies to automatically moderate content. This has exacerbated pre-existing issues with the use of AI to moderate content and, again, these issues disproportionately impact the global south and moderation of non-Western languages. Content moderation using AI technology requires (4) large datasets of hate and violent speech terms in minority languages and dialects. These datasets are used to train the AI's to properly identify and remove illegal content. However, oftentimes these datasets are not available or are much less developed than datasets in Western languages. This results in uneven moderation, whereby Western-languages receive fast and accurate moderation, while languages prevalent in the global south are slow, clunky, and easily exploited by bad actors trying to circumvent the restrictions or censor legitimate content. This is a particular challenge in the Middle East and North Africa region, which is home to many different spoken and written dialects of Arabic. Moreover, oftentimes incitement and threats are subtle and easily evade the detection of AI technology. In these cases, automated content moderation must be boosted by manual content moderation. Sources: 1. <a href="https://www.ohchr.org/documents/publications/factsheet32en.pdf">https://www.ohchr.org/documents/publications/factsheet32en.pdf</a> 2. <a href="https://www.ohchr.org/Documents/Issues/RuleOfLaw/NegativeEffectsTerrorism/ADHRB.pdf">https://www.ohchr.org/Documents/Issues/RuleOfLaw/NegativeEffectsTerrorism/ADHRB.pdf</a> 3. <a href="https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&amp;LangID=E">https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&amp;LangID=E</a> 4. <a href="https://www.newamerica.org/oti/reports/everything-moderation-analysis-how-internet-platforms-are-using-artificial-intelligence-moderate-user-generated-content/the-limitations-of-automated-tools-in-content-moderation/">https://www.newamerica.org/oti/reports/everything-moderation-analysis-how-internet-platforms-are-using-artificial-intelligence-moderate-user-generated-content/the-limitations-of-automated-tools-in-content-moderation/</a></p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>An overarching structural challenge that many states are not only unable, but unwilling to tackle involves regulating social media platforms and/or the disinformation spread on them. Instead, many states take advantage of this gap to further cause harm and further spread disinformation. This makes it more difficult for social media platforms to maintain their responsibility to respect human rights when states are not abiding by their obligations to protect. Additionally, the global nature of social media means that actors in one part of the world may be causing harm in other parts of the world. Therefore, in contexts where the harm is outside of the jurisdiction of a state, the onus is on social media platforms to repair the harm to the best of their ability.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard</p>	<p>To achieve meaningful progress, there are a number of steps the UN working group on business and human rights, states, businesses, and investors can take. UN Working Group on business and human rights The UNWG can collaborate with the UN special rapporteur on the promotion and protection of freedom of opinion and expression to clarify for</p>

<p>to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>states and businesses how to moderate online content without suppressing the right to freedom of expression. This can also form the basis of how the UNWG can respond to communications regarding alleged business related abuses of human rights regarding content moderation or disinformation related concerns. The UNWG should also provide guidance on how states or the private sector can hold perpetrators of online abuse accountable, either through state, business, or international grievance mechanisms. In particular, the UNWG can explore the issue of extraterritorial accountability. How can harmful behavior on social media platforms be remedied when the harm is in one state but the perpetrator is in another? States In accordance with their duty to protect individuals from business related human rights abuses, states should refrain from taking advantage of flaws in content moderation procedures to suppress free expression on social media platforms or spread further misinformation. To ensure compliance with the UNGPs, states can assess legislation relating to online content to ensure it does not violate the right to freedom of expression. States should work closely with social media companies to determine how best to hold perpetrators of abuse stemming from online content accountable for abuses of human rights. States should ensure that any use of content moderation tools is transparent and part of efforts to mitigate hate speech and abuse of human rights. Businesses Social media companies should work closely with the UNWG and experts in business and human rights as well as free speech to develop training for content moderators which does not infringe on freedom of expression. Conduct heightened human rights due diligence, including human rights impact assessments of various contexts to understand what political drivers and sensitivities may result in disinformation or hate speech online and how they can impact communities. This should include an assessment of what political actors exist and whether or not they are seeking to limit free speech on social platforms or otherwise. Social media companies should ensure that any content moderation activities: take into account the due process of the user including through creating legitimate, accessible, predictable, equitable, transparent rights-compatible complaint mechanisms, which include appeals decisions in compliance with Principle 31 of the UNGPs. Are protective of the right to free expression through training content moderators on the protection of free speech and ensuring accountability mechanisms for content moderators who use their positions to intentionally restrict speech. Investors Investors should specifically include in contracts with social media companies the inclusion of more content moderators in multiple languages. Investors should also require heightened human rights due diligence, which should take into account the human rights risks of users in various states depending on the human rights, political, or conflict situation in those states. The UN working group on business and human rights can achieve meaningful progress by working with a variety of other stakeholders, including other branches of the UN, civil society, academia, social media companies, and governments, to develop a living tree of content moderation principles. The multilateral development of these principles will responsibly guide this range of actors in their respective content moderation approaches, as well as serve as a benchmark through which future progress is measured. Moreover, the Working Group must work with this</p>
--	--

	<p>same range of actors to develop coercive mechanisms to incentivize companies to enforce their content moderation policies uniformly across jurisdictions. States can pass primary legislation that balances the need to control harmful disinformation and violent hate speech, with respect for freedom of expression. While in certain jurisdictions there have been some glimmers of success in the state-centric legislative response, other jurisdictions have used these legislative tools as a pretext to limit legitimate speech. The promotion of national legislation must take into consideration political diversity and recognize the potential for abuse that the legalization of content moderation on the national level poses. Accordingly, there must be strict limits and oversight mechanisms on national level content moderation legislation. Social media companies have an important role if any meaningful progress is to be achieved in this space. Platforms must commit to dramatically increasing transparency in their content regulation mechanisms by divulging essential information about their regulation regimes. Such information must include, but is not limited to: what content is regulated, how often different kinds of content is regulated in different contexts, by whom it is regulated, and the mechanisms of their AI technology. Additionally, platforms must commit to equal investment of content moderation resources across jurisdictions. They must also work closely with civil society and local organizations across the jurisdictions within which they work to capitalize on local expertise and rapid response mechanisms. Companies must be more transparent in the release of their data to civil society, researchers, academia, and users.</p>
--	---

Survey response	
Organization	Transparency International
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international	Progress has been achieved in terms of the influence of the UNGPs on standards of international and regional institutions, national laws and company guidelines and practices. Here are a few examples. The UNGPs were immediately incorporated into the OECD Guidelines for Multinational Enterprises in 2011, resulting in human rights becoming part of responsible business conduct, and HR due diligence applicable to the other parts of responsible business conduct , i.e. environment, social (workers') rights and corruption prevention. In the same year, 2011, the OECD adopted an Investment User's Toolkit for promoting responsible business conduct, which was influenced by the

<p>organizations, civil society organizations, etc.) that can be built on?</p>	<p>UNGPs. In 2012 the International Finance Corporation published an analysis comparing the UNGPs with the IFC's Sustainability Framework. At the EU level, the UNGPs influenced the 2014 non-financial reporting directive. In 2020, the UN Principles for Responsible Investment, a UN-supported network of investors, issued six principles for how investors can act upon human rights abuses of their investees through a three-tiered responsibility approach. This reflects increased recognition of the role institutional investors and financial institutions can play in promoting the business and human rights agenda through investing in companies only after conducting thorough due diligence of their human rights, governance and environmental practices. Also at private sector level, in 2018 the Equator Principles Association composed of major financial institutions commissioned a study to look at the alignment of the Equator Principles with the UNGPs. The World Economic Forum, put a spotlight on business and human rights in 2018. In some countries, regulations and legislation are in place inspired by the UNGPs and other international developments, feeding from the UNGPs: e.g. French Duty of Vigilance Law of 2016 and The Dutch Child Labour Due Diligence Law. These laws establish binding obligations towards companies based and operating in these two countries around corporate responsibility to host communities and workers and against child labour among others. Similar laws are under consideration in Germany, and in the European Union (EU), but a law proposed in Switzerland on responsible business conduct was rejected in a referendum in November 2020. From the perspective of stakeholders engaged in anti-corruption work, one of the most promising developments is the increasing connection made between the obligations of state and business organisations to prevent and remedy adverse human rights impacts and their obligations to prevent and remedy business corruption and the harm it causes. The two are strongly interlinked. This year the UN WGBHR issued an important report on the linkages between the business human rights and anti-corruption agendas. A search of the word "corruption" in the Business &amp; Human Rights Resource Centre produces 478 results, covering stories ranging from the recent Och-Ziff court judgement awarding restitution to investors harmed by a bribery scheme in the Democratic Republic of Congo to a criminal complaint against four banks for alleged complicity in a deal linked to the murder of a journalist in Malta. Also concerning the business human rights/anti-corruption linkage, in September 2020, Business at OECD (BIAC) issued a guide entitled "Connecting the anti-corruption and human rights agendas: A guide for business and employers' organisations" noting that there is a global convergence of the anti-corruption and human rights agendas. A previous initiative in the same direction was UN Global Compact's 2016 Practice Note on Linking Human Rights and Anti-Corruption Compliance. Another welcome development is the revival of stakeholder capitalism/value discourse with increasing calls on redefining purpose of a company to align with societal expectations. Another area of progress, including in linking business human rights and anti-corruption, has been in the development of the UNGP National Action Plans (NAPs), especially in countries that have undertaken consultations with civil society when drafting them (which is a good practice that should be</p>
--	--

encouraged.) The US NAP is an example of one that links human rights, labour rights and anti-corruption and has used a multi-stakeholder approach in its formulation: "The US NAP reporting process has received rather positive comments, particularly in regard to its full transparency with all key information available on the dedicated website developed by ICAR (civil society), and broad involvement of stakeholders not only from the capital but also across the whole country through a series of multi-stakeholder meetings, organised with the stakeholders' active participation" . However, progress is slower than anticipated, and the focus should not be merely on existing national regulations and legislation but also on actionable targets and commitments against which the governments can measure impact and progress . We are also seeing increased and welcome pressure for mandatory human rights and anti-corruption due diligence. A concrete example is the EU mandatory corporate due diligence legislation commitment. Draft legislation on corporate due diligence on human rights and environmental degradation is expected to be released in the first half of 2021 and political momentum is mounting . In April this year, Justice Commissioner Didier Reynders made strong remarks on the need for a mandatory EU corporate due diligence mechanism to be included in the European Commission's (EC) next programme of work. An EC public consultation on an EU mandatory corporate due diligence mechanism is underway and is open until February 2021, with the aim of launching a new company law proposal in 2021. Subsequent legislative steps in the European Parliament and EU Council are expected to follow in 2021. It is unclear at this stage if the EU legislation will incorporate corruption and governance issues within its scope. However, corporate legislation focussing on human rights can be adversely impacted by corrupt practices, unless these are effectively addressed and sanctioned. A single corrupt link in one tier of a supply chain can jeopardise efforts at due diligence on human rights, environment, or employee rights in other tiers. Therefore, good governance - including due diligence for anti-corruption throughout the value chain - should be a key part of the proposed regulation, along with human rights and environment, and should be accompanied by deterrent sanctions and effective cooperation between the member states in the area of prosecution. References used for Question 1 are listed as follows:  
<https://www.unpri.org/download?ac=11953> <https://www.business-humanrights.org/en/going-dutch-four-things-you-should-know-about-the-netherlands%E2%80%99-new-law-to-eliminate-child-labour>;  
[https://www.assentcompliance.com/assentu/resources/article/french-corporate-duty-of-vigilance-law/?PF\\_Corporate\\_Social\\_Responsibility\\_\\_c=true](https://www.assentcompliance.com/assentu/resources/article/french-corporate-duty-of-vigilance-law/?PF_Corporate_Social_Responsibility__c=true) In the case of the French Duty of Vigilance Law, the law applies to companies who employ at least 5,000 employees, within the head office and within subsidiaries; and companies with a head office on French territory or abroad, who employ a minimum of 10,000 employees (including subsidiaries). Dutch Child Labour Due Diligence Law covers "all companies selling products on the Dutch market will be required to show that they are addressing the issue of child labour in their global supply chains".  
[https://www.youtube.com/watch?v=iYugKtF6FuM&feature=emb\\_logo](https://www.youtube.com/watch?v=iYugKtF6FuM&feature=emb_logo)

	<p><a href="https://www.europarl.europa.eu/RegData/etudes/STUD/2017/578031/EXPO_STU(2017)578031_EN.pdf">https://www.europarl.europa.eu/RegData/etudes/STUD/2017/578031/EXPO_STU(2017)578031_EN.pdf</a>, See p.53.  <a href="https://shiftproject.org/where-were-at-taking-stock-of-progress-on-business-and-human-rights/">https://shiftproject.org/where-were-at-taking-stock-of-progress-on-business-and-human-rights/</a>  <a href="https://www.business-humanrights.org/en/latest-news/eu-commission-releases-study-on-options-for-regulating-due-diligence/">https://www.business-humanrights.org/en/latest-news/eu-commission-releases-study-on-options-for-regulating-due-diligence/</a>; <a href="https://www.euractiv.com/section/global-europe/news/new-human-rights-laws-in-2021-promises-eu-justice-chief/">https://www.euractiv.com/section/global-europe/news/new-human-rights-laws-in-2021-promises-eu-justice-chief/</a></p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>A major challenge relates to the effect of COVID-19 on supply chains and migrant workers, in light of existing gaps in supply chain management and integrity systems of multinational enterprises. In terms of public procurement standards, there is now more urgency for governments to require companies to respect human rights and mitigate the “deadly cost” of corruption especially in relation to healthcare supply chains, mainly personal protective equipment (PPE) and essential medicine procurement. Further, the rights to assembly and speech of workers as part of the supply chains are further restricted due to measures taken to control the spread of COVID-19. Another key challenge is the absence of strong beneficial ownership transparency regulations in many jurisdictions. Anonymous companies are vehicles for illicit practices, including money laundering, bribery, and tax evasion. Knowing the ultimate beneficial owner of a company is crucial when it comes to victims’ compensation and access to remedy; as well as part of effective enforcement of law and sanctions. Much still needs to be done when it comes to beneficial ownership transparency and this should be addressed within the business and human rights agenda on the path to Agenda 2030. A recent Transparency International report found that only 1 out of 83 countries reviewed complies with Recommendation 24 of the Financial Action Task Force (FATF). This recommendation calls for countries to ensure that competent authorities, such as law enforcement, financial intelligence units and tax agencies, have access to, or an ability to obtain, adequate, accurate and up-to-date information on beneficial ownership and control of companies and other legal persons in a timely fashion. While there has been progress, much remains to be done in many corruption-prone sectors where there are frequently adverse human rights impacts. These include the following sectors: Extractives and transition minerals, health, defence, agri-business and large-scale land-based investments. • Human rights abuse risks in these sectors include adverse impacts on labour rights, modern slavery in corporate supply chains, as well as abuses against indigenous and rural communities in land-based investments. Within this context, the frequent disregard for the right to free, prior and informed consent of indigenous communities, which is enshrined in international human rights law are of growing concern as part of land-based investments. Also of concern are pharmaceutical supply chains that lead to the introduction of substandard or falsified medical products with life-endangering and significant economic consequences, having adverse impacts on citizens’ right to health . • The defence sector is often shrouded in secrecy on account of national security and often exempt from regulations</p>

governing other sectors, such as regarding their procurement procedures. There has been a rapid increase in militarization of key state functions globally, especially within the public health response and its associated procurement and logistical functions following the COVID-19 crisis. Several cases of the diversion of funds designated for COVID-19 relief and shipments of personal protective equipment indicate the presence of a much larger problem. Thus far, there is insufficient respect for international due diligence standards in supply chains, namely standards that call for companies to build and strengthen internal systems and mechanisms to identify, detect and mitigate risks of human rights abuses. Responsible business conduct still needs to be strengthened by robust policies, training and an embedded culture of integrity, in relation to both human rights and anti-corruption. More needs to be done by companies to align their human rights due diligence to the existing compliance, anti-bribery and anti-corruption policies and frameworks. Looking at the business human rights/anti-corruption link, more needs to be done about the role illicit/opaque company lobbying plays in reducing tax payments, which means resources that may not be available to provide essential services to the public. Companies may also use opaque campaign contributions, conflicts of interest and revolving doors to influence legislative and regulatory processes in ways leading to adverse human rights impacts including influencing the legislative agenda against improved labour standards, higher minimum wages etc. Illicit campaign contributions and influence on electoral processes that undermine rights to representative government need to be addressed. Lastly, connecting the UNGPs with the UN SDGs would make clearer how businesses can contribute to the Agenda 2030, goals ranging from tackling climate change to SDG16 on peace, justice and strong institutions, all responding to various aspects of human rights and the UNGPs. As UN Global Compact says based on the insights from John Ruggie: “business contribution = act responsibly + find opportunities” in the path towards the sustainable development agenda. References used for Question 2 are listed as follows:  
<https://knowledgehub.transparency.org/assets/uploads/kproducts/Getting-Ahead-Of-The-Curve-ENG.pdf>  
[https://images.transparencycdn.org/images/2019\\_Who\\_is\\_behind\\_the\\_wheel\\_EN.pdf](https://images.transparencycdn.org/images/2019_Who_is_behind_the_wheel_EN.pdf)  
<https://www.who.int/news/item/28-11-2017-1-in-10-medical-products-in-developing-countries-is-substandard-or-falsified>; <https://www.who.int/publications/i/item/study-on-public-health-socioeconomic-impact-substandard-falsified-medical-products-978-92-4-151343-2> TI Submission to the UNWG on BHR on the “Connecting business, human rights and anti-corruption agendas, from May 2020:  
<https://www.ohchr.org/EN/Issues/Business/Pages/2020Survey.aspx> <https://triponelconsulting.com/2020/07/20/anti-corruption-and-business-and-human-rights-agendas-are-closely-interconnected/>; <https://shiftproject.org/where-were-at-taking-stock-of-progress-on-business-and-human-rights/>; TI Submission to the UNWG on BHR on the

	<p>“Connecting business, human rights and anti-corruption agendas, from May 2020:  <a href="https://www.ohchr.org/EN/Issues/Business/Pages/2020Survey.aspx">https://www.ohchr.org/EN/Issues/Business/Pages/2020Survey.aspx</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Mandatory due diligence has not yet been fully introduced, implemented, and endorsed by governments. Voluntary practices by businesses fall short in coverage and tend to be inconsistent. A likely obstacle to more laws on this subject is that many large corporations and SMEs perceive mandatory due diligence throughout their supply chains as an unwelcome cost to their companies, despite the fact that in the mid- to long-run, it contributes to corporate success and reputation, as well as financial sustainability. Further, we have yet to see laws which require due diligence to address both human rights and corruption risk, apart from some transparency laws, e.g. the EU Non-Financial Directive. This is a disadvantage and should be addressed because it tends to weaken a holistic and integrated understanding of human rights as part of responsible business conduct, as embedded in the OECD Guidelines for Multinational Enterprises, and the UN Global Compact’s 10 Principles or the EU non-financial reporting directive.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>A “human rights-based approach” by governments and companies alike to corporate regulations, legislation and behaviour would make a great difference to achievement of the SDGs. This approach should include full tax compliance, taking necessary measures in preventing profit shifting to no-tax jurisdictions, considering that tax revenues are a significant source of income for local governments in the delivery of basic public services. As Transparency International argued earlier this year, “precious resources that countries could use to meet development targets end up lost to corruption, tax evasion and tax avoidance.” Corporate tax liabilities and their impact on human rights and society on a broader scale are not sufficiently reflected within the current UNGP framework. When it comes to corporate tax liability, the Addis Ababa Action Agenda (AAAA) states that “all companies, including multinationals, (should) pay taxes to the Governments of countries where economic activity occurs and value is created, in accordance with national and international laws and policies.” When companies pay their fair share of taxes to host societies, this has direct implications for the fulfilment of human rights and successful implementation of Agenda 2030. If multinationals published country-by-country (CbC) reporting, this would help prevent cross-border tax abuses and corruption and would thereby contribute to achievement of the sustainable development goals and the fulfilment of human rights with dignity in host communities. It would also contribute to a level playing field in international investment and trade. In this sense, corporate responsibility to respect human rights and contribute to development should not be limited to multinational enterprises benefiting from advantageous tax schemes, but should also cover the tax advisors, lawyers and financial institutions that act as</p>

	<p>enablers for tax evasion. As it happens, the UNGP and the SDG agendas are often tackled by different governmental departments at the national level. This is counter-productive because the business contribution to the SDGs should translate into responsible conduct both in terms of human rights and anti-corruption. There is currently only very weak coordination between the various government departments working on policies related to business and human rights (BHR) . But government responses and policies towards UN SDGs can also intersect with the BHR agenda and UNGP NAPs could better align and demonstrate states' efforts on BHR and SDG agendas. Experiences from national governments on how they prepared their NAPs include multi-stakeholder consultations (Italy), collection of information from companies with more than 500 employees about incorporating human rights due diligence into their management practices on a voluntary basis (Germany) and inclusion of NAPs into SDGs National Plan and Growth Plan of the country (Japan) . Unfortunately, to date, companies do not sufficiently recognise that it is in their best interest to contribute to the sustainable development of countries they invest in. References used for Question 4 are listed as follows: <a href="https://www.ohchr.org/Documents/Issues/RtD/InfoNote_Taxation.pdf">https://www.ohchr.org/Documents/Issues/RtD/InfoNote_Taxation.pdf</a> <a href="https://www.transparency.org/en/news/un-facti-panel-priority-reforms-to-advance-sdgs-counter-illicit-financial-flows">https://www.transparency.org/en/news/un-facti-panel-priority-reforms-to-advance-sdgs-counter-illicit-financial-flows</a> <a href="https://www.weforum.org/agenda/2019/12/why-we-need-the-davos-manifesto-for-better-kind-of-capitalism/">https://www.weforum.org/agenda/2019/12/why-we-need-the-davos-manifesto-for-better-kind-of-capitalism/</a> <a href="https://shiftproject.org/tax-abuse-as-a-business-and-human-rights-issue/">https://shiftproject.org/tax-abuse-as-a-business-and-human-rights-issue/</a> <a href="https://undocs.org/en/A/74/198">https://undocs.org/en/A/74/198</a> <a href="https://dig.watch/resources/are-states-making-progress-un-guiding-principles-business-and-human-rights-challenges">https://dig.watch/resources/are-states-making-progress-un-guiding-principles-business-and-human-rights-challenges</a></p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Greater attention by companies to human rights would be catalysed by establishing as a norm a practice of annual corporate self-assessments submitted to the WGBHR. Business human rights standards would gain even greater priority if a BHR review mechanism were established in Geneva. It would make a difference to have mandatory reporting and review of how companies are meeting their obligations. In the same vein, state reports on their fulfilment of UNGPs and subsequent monitoring would also be desirable. The draft legally binding UN treaty on transnational corporations and other business enterprises with respect to human rights under negotiation since 2018 would also be a major catalyst of progress in this area, if concluded. The treaty should include recognition of the connection between anti-corruption and human rights and of the need to establish due diligence with regard to human rights, environment and anti-corruption as part of a holistic approach to responsible business conduct. It should also provide for access to remedy for grand corruption offences, namely for large-scale corruption schemes involving high level officials that result in gross misappropriation of public resources or gross violations of human rights. Another target should be set regarding the number of companies that publicly state their commitment to human rights, to incorporating human rights into corporate compliance and due diligence systems and to monitoring and intervening with actionable goals for a more sustainable business operation throughout their supply chains.</p>

These public commitments should also include information on whose human rights they cover and how (well) the commitments and plans on more responsible business conduct are disseminated (media channels, internal/company, external stakeholders such as business partners, agents, investment funds, customers etc.) If UN human rights bodies do not have the capacity to monitor companies' and governments' implementation of the Guiding Principles, a broad NGO coalition, with representatives from the anti-corruption/governance, human rights, environment, gender and diversity-focussed NGOs should undertake a voluntary review exercise and monitor on a regular basis, sharing the results with public. Through such a voluntary review, leading governments and companies would also be presented as success stories and guidance for the others. Through national NGO partners, such a coalition could help access information on various national contexts and deep dive into the performances of governments and companies in their local contexts. In this regard, the Shift Project, as a centre of expertise on the UNGPs has already produced multiple reports and analyses based on publicly available information from world's largest corporations using an easy-to-follow set of questions based on the Guiding Principles . Civil society and NGOs should consider collaborating with Shift Project in expanding this database and review mechanism. A measurable target to aim for would be about 100 multinationals and 20 governments' performances vis-à-vis the UNGPs over a 2-year piloting period followed by a collated report from the various national and international NGOs to be shared with all stakeholders. As part of this process, the NGO monitors would assess cases of adverse human rights impacts by country, who was the main actor that caused this impact, how and how many times did the host government/company respond or mitigate. Finally, strengthened partnerships between business, governments, international organisations and civil society, including local/national human rights organisations will be crucial in monitoring and driving the business, human rights and anti-corruption agendas in the next decade. More specifically, this can be achieved through: • Raising awareness and building advocacy strategies on the obligations and responsibilities of governments and corporations on the adverse impacts of business corruption on human rights and fair competition; • Advocating for innovative multi-stakeholder solutions in tackling business corruption and addressing human rights implications, including the tools such as "Integrity Pacts"; • Documenting and reporting on cases of human rights abuses, which frequently stem from corruption . Multi-stakeholder groups, with "clear commitments and accountability" would also pave the way for more robust policy influence at high-level . A measurable target here would be the number of new multi-stakeholder partnerships initiated in the next 5 years with various representatives of governments, businesses and civil society to discuss and improve implementation of UNGPs and how it can further contribute to the SDG agenda. References used for Question 5 are listed as follows: <https://www.ungpreporting.org/framework-guidance/> TI submission to UN Working Group on the call for inputs for "Connecting business, human rights and anti-corruption agendas":

	<a href="https://www.ohchr.org/EN/Issues/Business/Pages/2020Survey.aspx">https://www.ohchr.org/EN/Issues/Business/Pages/2020Survey.aspx</a> <a href="https://shiftproject.org/where-were-at-taking-stock-of-progress-on-business-and-human-rights/">https://shiftproject.org/where-were-at-taking-stock-of-progress-on-business-and-human-rights/</a>
--	---

Survey response	
Organization	UNICEF Netherlands
Stakeholder category	Civil society organization
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This submission has been coordinated and aligned with other members of the Work: No Child's Business Alliance (Save the Children NL and Stop Child Labour Coalition)
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>A. In the Netherlands an interesting development has taken place since 2014, when the Dutch government decided to set up sector-based multistakeholder-initiatives promoting International Responsible Business Conduct, so-called IRBC Agreements, or Covenants (website SER). Businesses in high-risk sectors worked together with CSOs, trade unions and the government to implement due diligence in line with the UNGPs. Over the last few years many discussions and debates have taken place on the effectiveness of these covenants. We would like to refer to the evaluation report (KIT), in which we recognize our own experiences. Also we would like to refer to the report of MSI Integrity Not Fit for Purpose.</p> <p>B. The Dutch government has provided funding for projects on the implementation of the UNGPs by companies. This is positive. We note that public funding will also be needed in the future to set up public private partnerships to tackle (business-related) adverse impacts on human rights and the environment, and develop more systemic and longer-term interventions that address root causes at scale. C. The UN Global Compact, Unicef and Save the Children joined forces, which resulted in 2012 in the publication of the Children's Rights and Business Principles (CRBPs). The CRBPs offer a child rights lens to the UNGPs. They provide a comprehensive overview of potential children's rights impacts by businesses, recognize the need for an explicit child rights perspective, and guide companies on how to prevent and address risks to children's rights. Relevant links: <a href="https://www.imvoconvenanten.nl/en">https://www.imvoconvenanten.nl/en</a> <a href="https://www.kit.nl/wp-">https://www.kit.nl/wp-</a></p>

	<p>content/uploads/2020/07/KIT-2020-Evaluation-of-RBC-agreements-FINAL.pdf <a href="https://www.msi-integrity.org/not-fit-for-purpose/">https://www.msi-integrity.org/not-fit-for-purpose/</a></p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>A. We see a gap in governmental legislation and enforcement mechanisms. The experiences of the last years have shown that voluntary measures alone are not sufficient, despite some front runners companies that adhere to the UNGPs. The CRBPs need to be fully integrated in this legislation. B. Foremost we have noticed a lack of prioritization of children’s rights by companies within their due diligence. Businesses don’t seem to have yet a full understanding of children’s rights and are not able to analyze potential risks through a children’s rights perspective or lens. There is hardly any knowledge of the CRBPs. If children’s rights are prioritized, it is mainly child labour. C. In many cases businesses seem to see their responsibility in relation to the first tier, and not beyond. This could be due to a lack of full understanding of the UNGPs or because of not knowing how to act; especially for larger companies it could also be part of a lack of willingness to use their leverage towards suppliers and sub-suppliers. D. International trade, free trade and investment policies of governments are not aligned with governments’ duty to protect human rights and the environment. Coherence of public policies is lacking, whereby priority is given to the growth of international trade and the interests of the private sector despite the larger impacts on people and planet. See also (Olivier de Schutter). E. Governments should lead by example. Public procurement regulations and policies often, at least in the Netherlands, mention social and environmental criteria, but are not yet decisive. In most cases final decisions are based on the lowest price (MVO Platform). F. Despite reports of the EU Fundamental Rights Agency and the concrete recommendations given in those reports (<a href="#">link</a>) the Dutch government has so far not improved the access to remedy for victims of business-related human rights. Access to remedy thereby remains a weak pillar of the UNGPs. Laws and policies should ensure that children have access to remedy, taking into account the long-life impact that business-related violations may have. Relevant links: <a href="http://www.undocs.org/A/75/181/REV.1">http://www.undocs.org/A/75/181/REV.1</a> <a href="https://www.mvoplatform.nl/en/human-rights-not-guaranteed-by-dutch-procurement-practices/">https://www.mvoplatform.nl/en/human-rights-not-guaranteed-by-dutch-procurement-practices/</a> <a href="https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-opinion-01-2017-business-human-rights_en.pdf">https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-opinion-01-2017-business-human-rights_en.pdf</a> <a href="https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-business-human-rights_en.pdf">https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-business-human-rights_en.pdf</a></p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>A. Collaborations between companies, CSOs, trade unions, local stakeholders and government have proven to be positive to implement the UNGPs. Trust between the different partners is a key determinant (driver) in such multi-stakeholder initiatives. B. Capacity within companies and highest management commitments. Implementation of the UNGPs needs to be integrated in the management systems of companies. It should not be treated as an isolated exercise. C. Scope: fuller realization of UNGPs requires that all companies, regardless of sector and size, conduct HRDD. Defining what compliance could mean for companies of different sizes would certainly help achieve fuller realization of</p>

	<p>the UNGPs. D. UNGPs and HRDD frameworks, as currently designed and implemented, do not guarantee that issues such as living wages, living incomes, fair purchasing practices will be adequately addressed, nor systemic issues such as unequal power relations, land tenure security and environmental damage. Living wages and living incomes should be explicitly mentioned in HRDD legislation, and in any HRDD guidance, as internationally recognized human rights and as fundamental to the achievement of other priority human rights. (link to study) E. Informal sector: Generally, for children and their families, the less formalized the business environment, the greater the risk of adverse business impacts. Any policy measure regarding responsible business conduct must address the informal workforce, which often makes up a majority in global supply chains, if some of the most vulnerable workers and their families are to be reached. (see, for example, Unicef policy paper) E. Complex human rights violations, like child labour, call for a strong emphasis on preventing harm by addressing root causes. Current CLMRS approaches are too much focused on monitoring and remediation, and not so much on prevention. F. Supporting national development objectives in host states should be prioritised over audit and compliance-based approaches, which tend to focus on reducing risks to companies themselves rather than stakeholders affected by their activities. Relevant links: <a href="https://fairtrade-advocacy.org/wp-content/uploads/2020/06/UoG-HRDD-Full-Report-60pp-FINAL-SECURED.pdf">https://fairtrade-advocacy.org/wp-content/uploads/2020/06/UoG-HRDD-Full-Report-60pp-FINAL-SECURED.pdf</a> <a href="https://media.business-humanrights.org/media/documents/UNICEF_summary_report_on_EU_BHR_open_expert_discussion.pdf">https://media.business-humanrights.org/media/documents/UNICEF_summary_report_on_EU_BHR_open_expert_discussion.pdf</a></p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>The large majority of current business models are based on maximum profit making, whereby production is outsourced to lower income countries and to countries with a lack of (enforcement of) protective environmental or labour/safety regulations. These can no longer be considered sustainable. A new mindset is needed, in which economic and sustainability goals need to be fully integrated in a company's vision and mission. This is likely to be one of the most systemic challenges for the near future and for UNGP's 10+.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>A. Despite all efforts by many key actors and stakeholders within the field of business and human rights the state of play of implementation of the UNGPs by companies is not satisfactory and progress is slow. An acceleration is needed, which can be achieved with a national and / or international mandatory due diligence regulation. B. Complementary to this regulation governments need to support companies, CSOs and trade unions to collaborate in (sector-based) multistakeholder platforms and public private partnerships to realize the implementation of the UNGPs and building of concrete projects to prevent or mitigate the negative impacts on the ground. C. Study the impact of HRDD frameworks in the informal sector / smallholder context, and how to involve businesses in prevention of complex human rights violations (rather than monitoring and remediation). Develop guidance for business accordingly.</p>

Survey response	
Organization	Fundación ONCE
Stakeholder category	Civil society organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>According to the World Health Organization (WHO), over one billion people in the world live with a disability and by 2050, this number is expected to reach two billion. During the last 10 years, important steps have been taken to include disability and accessibility as part of the corporate social responsibility (CSR), diversity, sustainability, business &amp; human rights, and non-financial reporting agendas. Considering UNGPs aim at achieving tangible results for affected individuals and communities through standards and good practices and thereby also contributing to a socially sustainable globalization, steps taken in the field of people with disabilities contribute to the progress of their implementation. •</p> <p>2030 Agenda for Sustainable Development explicitly recognized people with disabilities as a vulnerable group of population. Different SDGs also explicitly refer to people with disabilities, such as SDG 8 on Decent Work and Economic Growth, SDG 10 on Reduced inequalities or SDG 11 on Sustainable Cities and Communities (with a specific mention of accessibility). Also, SDG 4 on Quality Education and SDG 17 on Partnerships for the Goals refer to people with disabilities. Indeed, as regards people with disabilities, the 2030 Agenda integrates de human rights approach of the 2006 UN Convention on the Rights of Persons with Disabilities (UNCRPD), ratified by more than 180 countries in the world. •</p> <p>In the context of business and human rights, the OECD Guidelines for Multinational Enterprises, updated in 2011, include disability. Other reference institutions have underlined the link between business, human rights and disability, as is the case of the 2017 “Guide for business on the rights of persons with disabilities” by ILO and Global Compact. •</p> <p>Furthermore, more and more disability is recognized as an element of diversity, and people with disabilities as a source of talent, growth, innovation and market opportunities. The potential of inclusive businesses is being increasingly identified by companies, institutions and thematic initiatives around the world. Relevant international examples are the ILO Global Business and Disability Network (ILO GBDN), the Valuable 500 initiative and Disability Hub Europe in the EU, an initiative led by Fundación ONCE with the co-funding of the European Social Fund (ESF). At national level, there are other examples, such as the Inserta Responsible Forum in Spain, the UK Business and Disability Forum, the Austrian Disability Business Forum, the UnternehmensForum in Germany, or the Come CloSeR to Disability Task Force in Poland. •</p>

	<p>We underline the potential of the 360° approach to business and disability, a concept created within Disability Hub Europe, where people with disabilities are seen as stakeholders from a wide perspective, valuing their roles as employees, consumers (including their families seeking for accessible products and services), providers, employers, investors and part of the community in which a company operates. • Finally, international frameworks acknowledged such as Global Reporting Initiative-GRI have highlighted the importance of the disability dimension in non-financial and sustainability reporting. An example is the Guide on “Disability in Sustainability Reporting” (published by GRI and Fundación ONCE in the framework of Disability Hub Europe, with specific guidance and indicators related to business and disability). Moreover, there are a series of milestones to be highlighted in the context of the EU, such as: • The EU non-discrimination legislation (Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation), the EU Treaty (article 10), the EU Charter of Fundamental Rights (article 21 and 26) and the European Pillar of Social Rights, all recognizing disability, as well as specific regulation such as the European Accessibility Act • In the context of business and human rights, European Commission (EC) instruments such as the Sector Guides for implementing the UNGPs as well as the Guide for SME “My business and human rights” both include disability. Also, various references to disability are included in the 2015 EC staff working document on implementing the UNGPs. • The European Disability Strategy 2010-2020 setting objectives and actions for the implementation of the EU disability policy, including employment and accessibility, in process of re-elaboration into a new European Disability Rights Agenda in line with the UNCRPD. • On its side, the renewed EU Strategy 2011-14 for Corporate Social Responsibility explicitly recognized, for the first time, disability as part of the CSR agenda. The disability dimension in CSR has been further reinforced in the European Parliament resolutions of 6 February 2013 on CSR. • Following current Directive 2014/95/EU on disclosure of non-financial and diversity information, the EC guidelines on non-financial reporting adopted in June 2017 contain specific and various references to people with disabilities in relation to employee and board diversity, accessibility of products and services, and human rights, including examples of key performance indicators. • Lastly, the European Action Plan on Human Rights and Democracy Plan 2020-2024 marks the EU's commitment to play a more relevant role in the promotion and defense of human rights and democracy, and it refers specifically to people with disabilities, in relation to many areas, including accessibility to infrastructure, transport and ICT as well and employment, aspects very much related to business.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>UNGP on Business and Human rights consider different vulnerable groups such as people with disabilities for which concrete actions are needed. Despite the steps taken regarding people with disabilities in the implementation of the UNGPs, data shows that they still find themselves in a vulnerable situation. In this sense, efforts are still needed to ensure human rights of people with disabilities are fully respected, also in the context of business. Data below reflect the</p>

	<p>current situation of people with disabilities in the EU (as for 2018): • 23.7% of persons with disabilities (aged 16 to 64) were at risk of financial poverty vs. 15.3% of persons without disabilities. • Only 20.5% of persons with some or severe activity limitation (aged 16 years or over) had a very good or good self-perceived health vs 84.1% of persons without disabilities. • Only 29.4% of persons with disabilities (aged 30 to 34) received tertiary education vs. 43.8% of people without disabilities. • 11.4% of people with disabilities (aged 16 or over) declared the inability to keep their home adequately warm vs. 6.6% of those without disabilities. • 2.9% of people with disabilities (aged 16 or over) had no bath or shower in their dwelling vs. 1.8% of people without disabilities. • The employment rate for people with disabilities (aged 20 to 64) was 50.8% vs. 75% for people without disabilities. • The activity rate of persons with disabilities (aged 20 to 64) was 62.4% vs. 82.2% for persons without disabilities. • 14% of people with disabilities (aged 16 or over) were experiencing crime, violence or vandalism in their home area vs.10.7% of people without disabilities. For more information and sources please check: <a href="https://disabilityhub.eu/sites/disabilityhub/files/sdg_anniversary_23092020.pdf">https://disabilityhub.eu/sites/disabilityhub/files/sdg_anniversary_23092020.pdf</a> Although global data is not available for many issues related to people with disabilities, it is expected that the inequalities are even deeper, considering that around 80% of persons with disabilities live in developing countries.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Considering UNGPs aim at achieving tangible results for affected individuals and communities and the actual situation of people with disabilities seen in the previous question, the inclusion of people with disabilities should be a priority to be addressed to achieve fuller realization of the UNGPs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and</p>	<p>Regarding people with disabilities some recommendations would be: • A more clear and visible link to disability in relation to business and human rights should be made to enrich the progress on UNGPs, including specific material, awareness raising and capacity building. • Disaggregated data on disability is essential, also regarding business and human rights. The disaggregation is key to ensure the commitment “no one is left behind”, to follow up the progress and to reveal the main priority areas of discrimination which need to be addressed. The disaggregated data for vulnerable</p>

measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	group will help to identify all kind of discrimination (e.g. children with disabilities, refugees with disabilities) and to achieve a meaningful progress in terms of business and human rights. • People with disabilities and representative organisations of persons with disabilities should be actively involved in actions and strategies related to business and human rights and future developments.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	Guide "Disability in Sustainability Reporting" (2019) by GRI and Fundación ONCE: <a href="https://disabilityhub.eu/sites/disabilityhub/files/gri_disability_reporting_0.pdf">https://disabilityhub.eu/sites/disabilityhub/files/gri_disability_reporting_0.pdf</a> "Making the Future of Work inclusive of persons with disabilities" (2019) by ILO and Fundación ONCE: <a href="https://www.ilo.org/global/topics/disability-and-work/WCMS_729457/lang--en/index.htm">https://www.ilo.org/global/topics/disability-and-work/WCMS_729457/lang--en/index.htm</a> Initiative "Disability Hub Europe", led by Fundación ONCE with the co-funding of the European Social Fund, aimed at working on the binomial Disability and Sustainability in line with the 2030 Agenda and the SDG (partners: ILO, GRI, CSR Europe, European Disability Forum, L'Oréal, Dow): <a href="https://disabilityhub.eu/">https://disabilityhub.eu/</a>

### Multi-stakeholder initiatives

Survey response	
Organization	AIM-Progress
Stakeholder category	Multi-stakeholder initiative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs)	This has been collated with input from our Human Rights steering group. See <a href="http://aim-progress.com">aim-progress.com</a> for further details

<p>from members; or inputs from consultation):</p>	
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>a. The number of Human Rights policies in place across A-P member organisations  b. Contribution to development of supporting legislation by country  c. Awareness raising of issues and public commitments to address these  d. Associated engagement with stakeholders e.g. Oxfam to support more focussed action  e. Some large and leading multi-national corporations adopting the UNGPs and aligning to its requirements in terms of policies, processes  f. Leading MNCs incorporating responsible sourcing requirements and auditing  g. Growing legislation in countries of global north  h. NAPs in countries of global north, and emergence of few countries in the global south adopting or in process of adopting NAPs  i. AIM-P revamping its organizational strategy aligning with the UNGPs  j. Increasing capability building about the UNGPs within MNCs and their supply chain actors</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>a. The language is too complex and “legalistic” - HR activity needs explaining in simpler terms e.g. “People”, instead of “rightsholders”  b. Differentiation of UNGPs driven action from other normal business activity to show what has been missing. Understood this varies by country, industry sector etc, but there are some general themes such as a “worker voice” and the broad “access to remedy” element which is lacking  c. Integration into local legal frameworks and subsequent enforcement by governments  d. Understanding and constructive engagement by civil society.  e. Leadership by Government in driving multi stakeholder platforms to address systemic issues in global supply chains. E.g. modern slavery which spans countries  f. Consistent targets, measurement and tracking processes for all involved, similar to the SDGs and clearer explanation of the alignment to the SDGs  g. Lack of policy coherence at all levels (vertical and horizontal coherence required) and need to get out of a siloed approach by all actors.  h. Lack of coherence in guidance documents and tools developed by different actors. Creates confusion on the ground on what is to be implemented  i. NAPs primarily being adopted in Global North and very little progress in global South where much of the systemic issues lie  j. Lack of adoption of UNGPs by local businesses and SMEs. Much of the progress seen in leading MNCs only  k. Lack of UNGPs implementation in MNC’s downstream supply chains  l. Lack of understanding from governments, civil society organizations and media on the complexity of implementing the UNGPs and human rights due diligence in value chains by MNCs</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities</p>	<p>a. Engagement by Governments, with specific commitments for action and progress tracking mechanisms  b. Incorporation of UNGPs in public procurement  c. Understanding of what is required by business and making a strong commercial business case, over and above simple legal compliance i.e. the benefit of investing in people!  d. Need to</p>

that need to be addressed to achieve fuller realization of the UNGPs?	drive constructive engagement by all actors. The next decade needs to be focussed on de-mystifying and simplifying B&HR, action orientation, getting out of siloed approach to issues, looking at collaborative partnerships focussed on work on the ground
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	a. Clear, relevant, measurable targets (both short and long term) b. Acceleration of supporting local legislation c. Government enforcement of legislations, policies and regulations d. Wider adoption by local Business (presently, it's the large MNCs which are implementing UNGPs )
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?	a. Mandating of reporting, similar to the UK Modern Slavery Act, with ultimately board responsibility. There needs to be coherence in the various regulatory and reporting requirements across countries so that it is simple for companies operating in multiple jurisdictions to follow without adding excessive administrative burdens. b. Integration of human capital elements into corporate business performance management and reporting c. Meaningful targets and agreements, similar to COP ones on Environment d. Developing human rights due diligence effectiveness indicators to guide businesses on implementation on the basis of continuous improvement

Survey response	
Organization	Fair Wear Foundation
Stakeholder category	Multi-stakeholder initiative
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses,	Human rights due diligence as a term is widely accepted and considered a common language worldwide. Most regulations, civil society requests, and labels refer to these standards. Human Rights Due diligence did not exist in this context prior to the launch of the UNGP. Today, most people working on these topics know what due diligence is. In the garment and footwear industry progress has been made, in so far as these guidelines, which have remedy as an integral part of HRDD, are the standard reference point for all human rights issues and goals. The success of

<p>international organizations, civil society organizations, etc.) that can be built on?</p>	<p>the UNGP is related to its naming/clarification of roles and responsibilities for each type of organization and government, whereas the OECD due diligence guidance focuses on the role of companies. While many unions, NGOs and MSIs used the UNGPs as a basis for training, practical advice, and support and for developing tools and instruments to achieve these goals. In addition, The UNGPs has succeeded in creating the basics for a level playing field, what measures should be in place, who takes up which role, and states clearly that brands bear responsibilities for human rights issues in their supply chain.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Implementation of the UNGPs' has largely been through (patchwork) voluntary regulatory frameworks, whereas Professor Ruggie preferred a Smart mix which would have included legislation. The current framework has brought limited success, with some early adapters and slow movers, but there are still many free-riders. It has not provided the required level playing field through which all actors would actively engage on responsible business conduct. The Covid-19 pandemic has shown the weak foundations on which the guiding principles were based with many countries and enterprises relinquishing responsibilities at the first sight of trouble. There is also a significant governance gap. Production countries, faced with their own challenges, lack the capacity to implement the guiding principles by taking up their own role to protect human rights. On the other hand, large multinational firms, whose impactful trans-national activities cannot be captured through local actions, do not feel represented in the global governance structures whether at the UN or ILO. There is stagnation, a governance gap where national and intranational legislation is concerned, and an accountability gap that has led to a proliferation of audits, tools, and interventions without clear empirical evidence to understand effectiveness. The guiding principles led to the update of the OECD guidelines, but a lack of recognition of the important of NCP meant limited effectiveness. And though, it is clear through the UNGP what the responsibilities of companies are, it is less clear how that translates into action especially remediation. Most importantly, progress on UNGPs has yet to yield a substantial impact on the ground.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Obstacle: The UNGPs made the 'what' clear, in the sense that it defined HRDD, but left the 'how' blank. There are numerous interpretations as to the how, with the OECD guidelines being a more detailed and more practical guide. There is a gap between the strategic goals &amp; understanding of the UNGPs and the operational effect. There is a lack of legal implementation, a lack of recognition of key stakeholders such as rating companies and investors. Obstacle: Company C-suite level decision makers often make big statements without necessarily considering the operational aspects which creates a gap between vision and execution. But that approach can be understood as for 99% of companies, the focus is on shareholder value, which is often considered to conflict with responsible business conduct. Obstacle: The role of financial institutions (banks, investors, lenders etc) is underestimated as well as the</p>

	<p>indirect risks. High-risk industries are hugely influenced by banking investment, as are the people ‘on the ground.’ The UNGPs need to bring investors and banks ‘into the fold.’ Though there is growth in responsible banking, many still reward unsavoury business practices, with risk considered predominantly from a financial perspective and only sometimes from a reputational one. Banks must begin to assess brands and supply chains differently. At the same time Investors have an opportunity to influence the companies they finance to promote better supply chain practices to secure long-term value. Both investors and banks are a part of the supply chain. Drivers: There is a global framework for human rights, to serve as a reference. Enterprises see the advantage of following these guidelines in their business, global north as well as south have a clear set of definitions on which to act. Information Do companies act on the right information? The role of audits has been overstated – while they may provide (sometimes good quality) information, they are a tool and only that. Companies must find better ways to sources good quality actionable data that can be used to work on meaningful prevention and remediation.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Those with little power have difficulties to make those with power responsible. There is a lack of social security in many production countries. We need to strengthen and protect social partners (NGOs, trade unions) to fortify labour rights and its implementation for workers. There is a need to improve grievance mechanisms. Local mechanisms, that are safe and affordable are necessary. When the supply chains as they function now, have as undesired consequence that workers cannot easily organize and take up their role of monitoring human rights collectively, and employers do not have the opportunity to have all costs related to human rights implementation into their prices, possibilities for social partners to discuss and act upon improving working conditions are limited. Social dialogue should be supported/facilitated to tackle the systemic challenges. In general workers should have the possibility to raise their voice, to indicate they are faced with problems. They should have access to a channel to address their concerns. Non judicial grievance mechanisms can play a role, to tap into the influence of brands at the other end of the supply chain. But, currently there is a wide variety of non-judicial grievance mechanisms, which makes the area fragmented, less accessible and less predictable, and not clear how it relates to judicial mechanisms and how the different systems can support or complement each other. Global framework for HRDD (including legislation), more stakeholder involvement, governments in production countries need to (be enabled to) consider more than just their competitiveness, The world needs to start paying the full price for their products, the fact that the bigger economies do not participate (US, China), other priorities in many countries (poverty, sickness, force majeure)</p>

<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Based on the work done over the last five years as part of Strategy Partnership with two Dutch unions, Fair Wear can propose several concrete items that deal with the obstacles mentioned above. In summary, more emphasis on the effects of purchasing and sourcing practices, their impact across the supply chain, how they complicate the emergence and growth of social dialogue, and how, when carried out correctly, they can be used to positively influence the adherence to rights. Further developments could include.</p> <ul style="list-style-type: none"> <li>• Capacity building. Target-tailored training and innovative training methodology enhance results. Joint capacity building between trade unions and management lays fruitful ground for future negotiations. This is found to be vital in all three thematic areas.</li> <li>• Ensure that countries (particularly supplier countries) do not just focus on new legislation but also effectively enforce existing ones.</li> <li>• Local multi-stakeholder platforms for building trust and joining forces have proved to be powerful in influencing governments both formally and informally.</li> <li>• Collaboration on a combined complaints mechanism at factory level make the entire value chain aware of bad practices and enable a systematic approach to solve them</li> <li>• Make clear the importance of paying living wages</li> </ul>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Social Dialogue in the 21st Century – a collaboration by Cornell University's New Conversation's Project (NCP) and the Strategic Partnership for Supply Chain Transformation – aims to develop a strategic action plan for developing effective industrial relations in global garment supply chains. To do so, the project has conducted a root-cause analysis of major barriers to social dialogue in ten target countries. Ten reports, one for each of the project's target countries, mapped the relevant stakeholders, assessed their capacities, motivations, and interactions, examined current initiatives, and identified cases of success or failure.</p> <p>Responsible purchasing practices While business practices are often the root cause of poor labour conditions, HRDD is not commonly integrated into brands' business conduct; it is often limited to the general context in a specific production country and does not include evaluating the impact business conduct has on labour conditions in factories nor takes purchasing practices into account. Improving purchasing practices should be at the centre of HRDD efforts. Fair Wear has developed practical guidance around this topic (namely guidance on living wages, indicators around purchasing in its Brand Performance Check methodology and costing calculators that allow businesses and trade unions to factor the cost of human rights compliance into product prices). Fair Wear is also working with other sector organizations to align on a common framework for responsible purchasing practices in the garment industry. Notably, there are currently on-going efforts driven by suppliers (IAF/STAR in collaboration with the OECD) to define a buyer's code for responsible purchasing, which could become an important tool in specifying desired roles and practices. There has been a lot of work done since the UNGPs were developed so it is crucial to learn from the experiences and scale the tools that have provided success. To that end, the UNGP must also provide access to these tools to ensure all stakeholders,</p>

	especially workers and their representatives (those often with the least power) are aware of their existence and functionalities.
--	---

Survey response	
Organization	Women's Rights and Mining
Stakeholder category	Multi-stakeholder initiative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	Women's Rights and Mining is a collaborative effort of NGOs, researchers and government organisations to secure commitments from key stakeholders in the mining sector to address key gender concerns; <a href="https://womenandmining.org/">https://womenandmining.org/</a>
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	Remarkably, a significant number of large (and to an extent medium) sized publicly-listed mining companies now have human rights policies, and many refer to alignment with the UNGP in sustainability policies and reporting frameworks. To varying degrees, this is sometimes accompanied by explicit commitments towards gender equality, particularly with respect to women's participation in the workforce. Grievance and whistleblower mechanisms have also become the norm, providing at least some mechanism for redress, the efficacy of which likely varies. Most industry standards and guidelines (IRMA, RMI, MAC Towards Sustainable Mining, ICMM's Mining Principles, etc.) refer to explicit responsibilities concerning human rights and a broad range of rights issues (e.g. indigenous rights, land rights, labour rights, etc) - such frameworks provide the basis for company commitments to sustainability and require members/signatories to transparently disclose performance and make continuous improvements towards related issues. Considerable promise is held in the growing expectations of markets that finance the sector with respect to the Environmental, Social and Governance (ESG) performance of mining companies. Companies which fail to effectively address human rights risks are viewed as being a higher risk investment and can face greater difficulty obtaining financing. At present, highest priority issues receiving greatest attention relate to indigenous rights, environmental rights (in particular, waste and water management, biodiversity and climate change), community rights (engagement and consultative approaches, distribution of benefits) while labour rights (workforce safety and

	<p>health) has been at the top of the list for a few decades. Gender outcomes, particularly with respect to workforce composition is gaining prominence and some gains have been made. Increasingly, governments similarly prioritize human rights in minerals sector policy, however, this is yet to translate to institutional, legal and regulatory frameworks governing the sector. CSOs and donor-supported projects in the minerals sector place high levels of importance on human rights, in some cases focusing on specific rights issues (e.g. indigenous rights, access to information, women’s rights) or human rights more holistically. For artisanal and small scale mining, in particular, the role of these actors and projects is critical to future progress with respect to human rights.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>In all cases cited below (and even with respect to comparative progress), the gendered nature of human rights is typically invisible. For example, recognition of different challenges facing women and men concerning access to information, freedom of expression and other facets of consultative processes (among other issues identified herein) need greater attention. Similarly, the capacity of women and men (and age, race, socio-economic status and other groups therein) to seek redress for a range of human rights abuses (e.g. related to SGBV, environmental injustice, compensation practices, discrimination in hiring practices) is differential, yet these differences are rarely adequately addressed. Translating top-level policy commitments to human rights (and women’s rights therein) to mining operations at a community and country level continues to be elusive. At operations level, numerous human rights issues persist, with well documented cases including but not limited to multiple forms of SGBV in the workforce and mining-affected communities, discriminatory labour practices, degradation of cultural sites and serious impacts on environmental resources, among others. Although ownership at company leadership levels is crucial, in many cases well-meaning policy objectives are slow to trickle down to mine sites and affected communities. Despite progress of some companies, performance is extremely varied. Expectations and scrutiny of many privately financed and some state-owned companies is sometimes believed to be far lower than larger (and particularly public) entities. Concerns persist with state-owned mining companies including with respect to resettlement and compensation processes, protection of environmental rights, indigenous rights and other issues, each of which carries an additional weight of gender dimensions of the distribution of impacts and benefits. With respect to other state agencies in the sector, the growth of minerals police forces, particularly in Africa, is of great concern. Major human rights abuses have been reported, including various forms of sexual and gender-based violence (SGBV), ranging from the most violent and horrific (e.g. rape, physical assault) to more insidious forms (e.g. extortion, exploitation, sexual or physical harassment, sexual corruption). Relative impunity of state-owned or associated agencies continues to be a challenge in many jurisdictions. Particularly with respect to sector regulation and enforcement, mining ministries seem to have taken few steps to recognize their role as duty bearers while</p>

	<p>carrying out their mandates. The obligation to protect, respect and fulfill human rights (and related access to remedy) is typically deferred in both policy and practice to non-mining institutions and legislation (e.g. related to social welfare). Artisanal and small-scale miners, a significant proportion of which are women, can be both victims of and/or perpetrators of a range of human rights abuses. While extensive research and work aims to document and address these issues, it is important to recognize that many efforts to “protect” what are perceived to be women’s interests can actually undermine their individual autonomy and generate a host of negative impacts. One example includes laws in DRC and Rwanda that prohibit all pregnant women from working in mines (irrespective of their role) resulted in expulsion of pregnant women from mines. Implications on the health and wellbeing of these women and their families were dire and, in some cases, such policies have been extended to women who may be pregnant and elderly women.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>The lack of robust data collection and analytics has impeded understanding of whether or not we are advancing human rights and the SDGs and where and how we need to course correct to improve progress towards these aims and, in particular, women’s economic empowerment and gender equality. Data generated by larger companies in reporting sustainability and/or ESG performance has tremendous value. Unlocking the value of this data to directly benefit the owners of that data (the communities themselves) and effectively invest in structural change would help inform the realization of human rights and gender equality. Information is still largely anecdotal and more about stories re-women’s participation and leadership and less about proof of actual behavioural change and the dismantling of structural barriers (i.e. power). This is now measurable in artisanal and small-scale mining (ASM). We should be prioritizing this ‘knowing’ to do better and to achieve SDG 5.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Pervasive gender inequalities in many countries, communities and companies continues to generate or reinforce power imbalances resulting in differential outcomes for women and girls compared to men and boys. Resulting impacts tend to restrict women’s and girl’s access to skills, education and training; impede their freedom to participate and influence decisions that concern them; relegate the majority to lowest-paying, lowest-ranking jobs and rendering their work largely invisible; and ultimately increase their vulnerability to insecurity, ill health, sexual and gender-based violence (SGBV) and other dimensions of poverty.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those</p>	<p>Within the context of the mining sector, the gendered aspects of human rights must be explicitly captured within the following actions and strategies: • Integration of SGBV and other labour-related human rights within human resource systems of private and public institutions, including with respect to: — Recruitment, hiring and promotion</p>

<p>obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>→ Codes of conduct and their enforcement (e.g. disciplinary actions) → Grievance and whistleblower mechanisms (and related access to justice) → Performance monitoring frameworks of individuals, operations/units and organizations (importantly, including those engaged in human resources) requiring increased accountability for the above. • Integration of gender equality and human rights within minerals policy as well as mining laws and regulations. Entry points are wide-ranging, for example from explicit requirements for undertaking and reporting on community engagement processes to access to information and training from government to forms of redress and access to justice in the case of human rights violations to laws prescribing forms of ASM organizations which reinforce pervasive power inequalities. • Increased visibility of gender within sectoral frameworks and guidelines (including those put forward by private sector organizations, e.g. ICMM) with respect to the gendered nature of human rights expectations of companies. • Increased pressure on donors, CSOs, governments and those implementing projects to support fulfillment of human rights within artisanal and small-scale mining (ASM). In particular, efforts are needed to ensure the gendered nature of outcomes of proposed policies, strategies and actions are adequately considered (including projects related to technical assistance, organization of miners, legalization of ASM, among others).</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Women's Rights and Mining: <a href="http://www.womenandmining.org">www.womenandmining.org</a> A range of resources, toolkits, reports and documents on women's rights, gender equality and the minerals sector. IMPACT's Toolkit: Gender Impact Assessments for Projects and Policies Related to Artisanal and Small-Scale Mining. (to be launched December 2020. See <a href="http://www.impacttransform.org">www.impacttransform.org</a>) Funded by Global Affairs Canada, the toolkit offers 14 strategic tools, including a Gender Impact Matrix and Gender Equality Continuum, and details seven key steps—from data collection to power mapping—to achieving a comprehensive Gender Impact Assessment for ASM-related initiatives. GIZ study: Sexual and Gender-Based Violence in the Mining Sector in Africa: Evidence and reflections from the DRC, South Africa, Tanzania &amp; Uganda <a href="https://womenandmining.org/wp-content/uploads/2020/09/Sexual-Gender-based-Violence-in-the-Mining-Sector-in-Africa.pdf">https://womenandmining.org/wp-content/uploads/2020/09/Sexual-Gender-based-Violence-in-the-Mining-Sector-in-Africa.pdf</a></p>

Survey response	
Organization	Ethical Trade Norway (sisterorganisation of Ethical Trading Initiative - ETI)

Stakeholder category	Multi-stakeholder initiative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This is only a brief input on next step of the UNGPs 2.0.
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>Ethical Trade Norway is a member based organization and resource center for sustainable trade. Our aim is to promote responsible business conduct in supply chains so that trade helps to secure human rights, workers rights, society and environment. Since we are a multistakeholder initiative we have members from business, civil society, trade unions. employers organisations as well as public sector members from Norway. For almost 19 years members had to comply to our ethical code of conduct. In 2019, however, this changed. All our business members, as part of their membership obligations, must carry out mandatory due diligence on human rights, climate/ environment and corruption risks. The reporting must be done annually and is publicly available on our web-page. The online reporting was done for the first time in 2019 and our reporting framework builds on the UNGPs and the OECDs guidelines for conducting responsible business conduct. We have made a basic level on due diligence consisting of 11 objective criteria. If members fail to meet the basic level, they do not fulfill the membership obligations and can be excluded from Ethical Trade Norway. We have made four levels of progress, and members can become leading in responsible business conduct. The criteria for the next levels is in the making. We would gladly share our experience on mandatory reporting on the UNGPs with the Working Group. As for the public sector in Norway progress on the UNGPs has been made. We have the law on public procurement that requires public procurers to ask for due diligence on human rights if the procurement is classified as high risk. It is still early days but the law, and the guidance that we have made together with the Directorate for Financial Management on ethical contract terms for public procurers is another example of progress of the UNGPs and something to built on. Lastly, business needs guidance and it must be as practical and best practice based as possible. Multistakeholder membership organisations as Ethical Trade Norway is well suited to give such practical guidance both to business and the public sector. (<a href="https://etiskhandel.no/kom-i-gang/bedrift/">https://etiskhandel.no/kom-i-gang/bedrift/</a>) (<a href="https://etiskhandel.no/kom-i-gang/offentlig-virksomhet/">https://etiskhandel.no/kom-i-gang/offentlig-virksomhet/</a>)</p>

<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>We need more acceptance on the practical implementation of the UNGPs. More practical guidance is needed as well as for business as for the public sector. The Smart Mix as not yet materialised with volunteer and mandatory measures. Ethical Trade Norway was member of the government appointed expert commission who made a draft law on mandatory human rights due diligence since voluntarism is no longer suffice in order to respect fundamental human rights and the environment (  <a href="https://www.regjeringen.no/contentassets/6b4a42400f3341958e0b62d40f484371/ethics-information-committee--part-i.pdf">https://www.regjeringen.no/contentassets/6b4a42400f3341958e0b62d40f484371/ethics-information-committee--part-i.pdf</a>)</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>More resources is need to implement National Action Plans, more resources to organisations who help business and public sector with guidance and practical tools. The governments should in their own procurement and state owned enterprises implement the UNGPs.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Poverty is the root cause and main challenge that needs to be addressed. Decent jobs and respect for workers rights should be at the core of all business and governments.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Government is an obstacle but can also as serve as a good example if they follow the UNGPs in their own procurement and state owned enterprises.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>We in Ethical Trade Norway can share our experience on our new reporting tool and basic level of mandatory human rights due diligence as well as 20 years of practical guidance for business. There are so many reporting standards and tools, but few comply fully with the UNGPs and the OECDs guidelines on Responsible Business Conduct. We should strive for one global standard and thus make it easier for business to comply with the UNGPs. And last but not least, we cannot reach the SDGs with out the UNGPs!</p>

Survey response	
Organization	Alliance for Integrity
Stakeholder category	Multi-stakeholder initiative
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	The inputs for this submission were build up in a consultation with different stakeholder worldwide that are part of Alliance for Integrity
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	There are two areas in which progress has taken place towards implementation of the UN Guiding Principles (UNGPs): improved whistle-blower protection and development of an understanding for the need for corporate compliance in the supply chain. In the second area, progress has especially taken place to bring the challenges of small and medium enterprises (SMEs) to the compliance discussion. There is an increased expectation, recognition and awareness that the respect for human rights should be a corporate value.
2. Where do gaps and challenges remain? What has not worked to date?	So far, only few companies implement human rights due diligence, as a study of the European Union has shown. One reason for that is the perception that human rights is a stigmatised topic in the corporate world, which most employees fear discussing about because of the big negative repercussions that discovering human rights violations can have. It is also a topic that has various dimensions and people have different understandings of it. Especially for SMEs this is a challenge as it is hard to identify how to apply the UNGPs in practical situations. This perception has contributed to a lack of alignment and lack of use of the synergies between the already more developed anticorruption practices with the protection of human rights. In this regard, companies, especially SMEs, still perceive due diligence as a too complex and expensive process that is only implementable by large companies.

<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>The realisation of the UNGPs requires a dialogue between the public and private sector. This means that national anticorruption strategies need to take into account the input from private sector actors and there should be less disruption between regulation and non-binding recommendations. Some of our private sector partners have especially shared how having a legal framework that is properly enforced can be an incentive for companies to implement concrete measures. This can be achieved through an alignment of the anticorruption and human rights agenda: corporate social responsibility needs to be enlarged to also account for how companies indirectly profit from corruption and human rights abuses. To implement that, companies need to develop a practical understanding of what human rights in the corporate world mean and need to integrate it in existing corporate processes, such as compliance and integrity programmes, so that they are not seen as a separate area. This should be coupled by more platforms and forums that foster exchange between companies and sectors, such as those provided by the Alliance for Integrity, so that companies can share their experiences with one another and best practices on how to most efficiently deal with human rights risks can be discussed and promoted. Furthermore, one challenge is the large number of business partners that companies deal with, which hinders their ability to properly monitor their complete network of suppliers. This means that the UNGPs have to be applied not only for large companies, but also for SMEs, so that the respect for human rights is ensured across supply chains.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Unfortunately, human rights violations still remain mostly unpunished or undisclosed. This creates a challenge for companies that want to act more in accordance with the UNGPs as well as for enforcement agencies as there is a widespread belief that minding human rights is not as important. As there is a high correlation between human rights violations and corruption, the anticorruption agenda provides an interesting opportunity by not only working as an example of how to integrate human rights in corporate responsibility, but also because on its own anticorruption is required to make sure that development with the protection of human rights is achieved. Thus, mainstreaming anticorruption and enlarging its scope to include human rights is necessary. Special attention should be given in this process to SMEs, as they are an important component in supply chains and economic activity, and they require additional support for implementing human rights and anticorruption standards and prescriptions. Supporting them towards achieving sustainable development that respects human rights requires once more a dialogue between the public and private sector so that the correct incentives are in place.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those</p>	<p>Lessons can be learned from anticorruption compliance approaches and can be applied to the field of human rights. Creating spaces for exchanges between companies on their implementation experiences as well as between different stakeholders, such as the public and private sector and civil society, can be a good way to leverage the</p>

<p>obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>expertise that already exists in the field and to share it with other companies and stakeholders. This requires that companies who already have human rights as an important part of their integrity programmes share best practices and support awareness raising for the importance and benefits of this business process. It is also important that businesses recognise the impact and responsibility that they have within their supply chains. This requires destigmatizing the topic of human rights in the corporate world and making it accessible for all actors in an economy, including SMEs. This can be done by taking a practical approach to capacity-building, such as providing trainings on the topic for the whole company (which can be integrated in already existent anticorruption trainings), and generating a practical understanding of human rights for business activity. In this regard, we see our role, as a multi-stakeholder initiative, as being to promote awareness for the topic and especially for the connection between anticorruption and human rights by sharing experiences of partners within our network and by fostering collective action. Hence, our role is to support businesses in this process by providing the forum for interaction and exchange and supporting collective action to adapt and implement the current existing tools that are available, such as our anticorruption training, guides or by making the SDGs and the UNGPs more understandable for other stakeholders, especially SMEs. However, as legal sanctions are still the main driver for ethical corporate behaviour, according to the OECD, the implementation of regulation to include human rights as part of corporate responsibility is also a relevant aspect to be considered e.g. by strengthening the NAPs.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>It is especially relevant to integrate the anticorruption and human rights approaches. The experience has shown that it is more meaningful and also easier for companies to understand the human rights agenda and the UNGPs if these are integrated with the anticorruption approach, which has already been developed and mainstreamed in companies for a longer time. Lessons can be learnt from the anticorruption experience for the human rights approach. Especially combining anticorruption and human rights due diligence can have several benefits for companies. It is a way to systemically address corporate responsibilities: addressing issues related to human rights contributes to improving anticorruption efforts and vice versa. A coordinated approach also leads to efficiency gains by saving time and money with joint capacities and by reducing information collection efforts. It also avoids duplicate structures and employee fatigue, as corporate integrity is seen as one concept that embraces both topics. It might also be easier to address human rights if they are integrated in existing corporate compliance systems, which have been already established. The result of a coordinated approach is reduced overall risk of reputational and financial exposure, which contributes to corporate sustainability and profitability.</p>

## Business and industry organizations

Survey response	
Organization	IPIECA
Stakeholder category	Business association, industry group
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This submission incorporates the inputs from members companies in response to the survey.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>The UNGPs call for companies to “know and show” respect for human rights through due diligence. Despite the progress set out above, IPIECA member companies are constantly reviewing and improving human rights due diligence implementation and sharing experiences with other members. As human rights management is complex and involves multiple functions, human rights is still not always fully understood inside companies. For example, human rights may still be viewed as primarily the responsibility of the social/sustainability, procurement, or security teams. Health and safety, environment, human resources, ethics and compliance, and legal disciplines all share a role in respecting human rights. In addition, human rights professionals in companies are occasionally still asked to justify their proposals by explaining whether and how respecting human rights is ‘good for business’. This is not the case for health and safety or legal compliance, where it is established that sound and compliant practices are not an option but an imperative, regardless of whether they are ‘good for business’. Human rights are on a journey to a similar place, where companies see UNGPs-aligned practices as the norm. Improving the situation in supply chains is a key aspect of delivering the UNGPs worldwide. Despite the oil and gas industry’s considerable strides on responsible procurement in the past decade, progress is a continuing long-term need, particularly on long, complex supply chains with multiple sub-contractors and suppliers in countries where labour rights are not fully understood and may frequently be infringed. Governments and SMEs (small and medium sized enterprises) need to supplement and support actions by companies at the top of the supply chain. While external stakeholders expect the larger, higher-profile companies in all industries to set an example, the human rights performance of these large businesses’ supply chains depends on the actions of thousands of SMEs down the whole supply chain. External expectations on these</p>

smaller companies may be less demanding than those on global companies; but on a global scale, their impacts on the daily conditions of millions of workers and communities are significant. Their performance can also create material risks to other companies in the value chain. There are several possible reasons why smaller companies may find it difficult to fulfil their human rights responsibilities. For example; a lack of capacity (for example, lack of personnel with the expertise to identify and manage human rights issues, or financial constraints); low internal awareness of the UNGPs; and occasionally respect for human rights is viewed as a 'nice to have' rather than a 'must do', with lower priority than other topics, because health and safety, technical and commercial obstacles or community opposition often have more immediate and quantifiable consequences. In addition, suppliers and partners in some countries may be operating in a legal environment where there are fewer human rights obligations. This could be because governments may have supported the creation of the UNGPs, but their national policy, legislation and enforcement mechanisms may not yet fully reflect their 'protect' role and companies' 'respect' role. Among the reasons for this may be that some geographies and industrial sectors are still not fully engaged in debate and efforts on the implementation of the UNGPs, particularly in supply chains. Broadening the effort to engage with these countries and industrial sectors is an important step to increase human rights awareness and fulfil the aims of the UNGPs framework. Governance is an important factor in making progress. Governments may face considerable domestic challenges and are not always able to fulfil their primary duty to protect human rights. In addition to limited or unenforced human rights-related legislation, a government and its citizens may be at odds over a proposed development; there may be a legacy of generalised civil and political conflict; or the government may not be able to fully control the army, security forces, police, judiciary and other government departments. Corruption, poverty, limited education opportunities and impediments to open public debate can also enable or hide human rights infringements and hinder government efforts. There is increasing concern about the pressures restricting 'civic space' for public consultation and freedom of speech, which reduces government accountability and threatens democratic processes. Where these challenges make it hard for governments to fulfil their primary UNGPs duty to protect human rights, it can be difficult for companies to implement practices to identify and address potential human rights risks. For example, if the government stipulates that state security personnel must protect company sites, but these personnel infringe the rights of peacefully protesting local residents, and the courts are unable to provide proper recourse to remedy, companies can find it hard to improve the situation. Even concerted business action on human rights cannot – and should not – close all governance gaps. For business actions to be effective and sustainable, government support is key, including effective protection of human rights, regulation of business activity and recourse to remedy through the courts. It is also important to note that in some locations people are not aware of their rights. They may not understand when their rights are infringed or how to claim them. When specific

	<p>developments are being planned, it is important that both government and companies consider whether the affected people understand what their rights are and how these could be affected; and if not, how to provide them with this information and with the means to advocate for the protection and respect of their rights.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The UNGPs call for companies to “know and show” respect for human rights through due diligence. Despite the progress set out above, IPIECA member companies are constantly reviewing and improving human rights due diligence implementation and sharing experiences with other members. As human rights management is complex and involves multiple functions, human rights is still not always fully understood inside companies. For example, human rights may still be viewed as primarily the responsibility of the social/sustainability, procurement, or security teams. Health and safety, environment, human resources, ethics and compliance, and legal disciplines all share a role in respecting human rights. In addition, human rights professionals in companies are occasionally still asked to justify their proposals by explaining whether and how respecting human rights is ‘good for business’. This is not the case for health and safety or legal compliance, where it is established that sound and compliant practices are not an option but an imperative, regardless of whether they are ‘good for business’. Human rights are on a journey to a similar place, where companies see UNGPs-aligned practices as the norm. Improving the situation in supply chains is a key aspect of delivering the UNGPs worldwide. Despite the oil and gas industry’s considerable strides on responsible procurement in the past decade, progress is a continuing long-term need, particularly on long, complex supply chains with multiple sub-contractors and suppliers in countries where labour rights are not fully understood and may frequently be infringed. Governments and SMEs (small and medium sized enterprises) need to supplement and support actions by companies at the top of the supply chain. While external stakeholders expect the larger, higher-profile companies in all industries to set an example, the human rights performance of these large businesses’ supply chains depends on the actions of thousands of SMEs down the whole supply chain. External expectations on these smaller companies may be less demanding than those on global companies; but on a global scale, their impacts on the daily conditions of millions of workers and communities are significant. Their performance can also create material risks to other companies in the value chain. There are several possible reasons why smaller companies may find it difficult to fulfil their human rights responsibilities. For example; a lack of capacity (for example, lack of personnel with the expertise to identify and manage human rights issues, or financial constraints); low internal awareness of the UNGPs; and occasionally respect for human rights is viewed as a ‘nice to have’ rather than a ‘must do’, with lower priority than other topics, because health and safety, technical and commercial obstacles or community opposition often have more immediate and quantifiable consequences. In addition, suppliers and partners in some countries may be operating in a legal environment where there are fewer human rights obligations. This could be because</p>

governments may have supported the creation of the UNGPs, but their national policy, legislation and enforcement mechanisms may not yet fully reflect their 'protect' role and companies' 'respect' role. Among the reasons for this may be that some geographies and industrial sectors are still not fully engaged in debate and efforts on the implementation of the UNGPs, particularly in supply chains. Broadening the effort to engage with these countries and industrial sectors is an important step to increase human rights awareness and fulfil the aims of the UNGPs framework. Governance is an important factor in making progress. Governments may face considerable domestic challenges and are not always able to fulfil their primary duty to protect human rights. In addition to limited or unenforced human rights-related legislation, a government and its citizens may be at odds over a proposed development; there may be a legacy of generalised civil and political conflict; or the government may not be able to fully control the army, security forces, police, judiciary and other government departments. Corruption, poverty, limited education opportunities and impediments to open public debate can also enable or hide human rights infringements and hinder government efforts. There is increasing concern about the pressures restricting 'civic space' for public consultation and freedom of speech, which reduces government accountability and threatens democratic processes. Where these challenges make it hard for governments to fulfil their primary UNGPs duty to protect human rights, it can be difficult for companies to implement practices to identify and address potential human rights risks. For example, if the government stipulates that state security personnel must protect company sites, but these personnel infringe the rights of peacefully protesting local residents, and the courts are unable to provide proper recourse to remedy, companies can find it hard to improve the situation. Even concerted business action on human rights cannot – and should not – close all governance gaps. For business actions to be effective and sustainable, government support is key, including effective protection of human rights, regulation of business activity and recourse to remedy through the courts. It is also important to note that in some locations people are not aware of their rights. They may not understand when their rights are infringed or how to claim them. When specific developments are being planned, it is important that both government and companies consider whether the affected people understand what their rights are and how these could be affected; and if not, how to provide them with this information and with the means to advocate for the protection and respect of their rights.

3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs? Within companies, human rights due diligence (HRDD) is not yet always formally required by their management systems. Integration into management system requirements is important, so that HRDD is seen internally as the norm rather than a voluntary act of goodwill that can play against competitiveness and efficiency. Ingraining HRDD into management systems also helps apply high-level commitments in human rights policies or codes of conduct consistently across the company, and it promotes thoroughness in HRDD regardless of what legislation or governance

	<p>is in place where the company operates. An emerging challenge is that while most companies have well-established impact assessment processes and are integrating human rights into them, these processes can be quite lengthy, as they are adapted to the long lifecycles of oil and gas projects. Lower-carbon projects often have a much shorter lifecycle, meaning a reduced time for impact assessment processes. Companies will need to adapt their current processes to be nimbler while maintaining thoroughness. As an example, companies that are devoting increasing amounts of investment capital to lower-carbon energy may decide that it is desirable to incorporate or leverage current human rights practices into the specific corporate governance and strategy processes that govern these investments. Government requirements for human rights impact assessment and other aspects of HRDD are not always keeping pace with the increases in the number of lower-carbon energy projects. This is important because the potential human rights impacts of such projects may vary from those associated with oil and gas projects, and lower-carbon projects may need further clarity on what is expected of them. Among some governments, a continuing obstacle is difficulty in creating and implementing National Action Plans (NAPs). It would be helpful if the development of NAPs could be done in consultation with business and civil society, so that all parties know what legislative changes are being considered or likely over the next decade and can plan for them. Consultation about NAPs can also improve trust between actors and raise human rights awareness among businesses. A number of multilateral institutions have created human rights standards. The development of human rights standards has been valuable in many respects, but there is a limit to the number of standards that companies, particularly SMEs, can follow and report on. Further proliferation of differing human rights standards could be an obstacle. Additionally, it is important to allow for flexibility: in some cases it is more effective and efficient to incorporate human rights into environmental, social, health and safety requirements and processes, as this can leverage existing mechanisms and promote a holistic, comprehensive and efficient approach. Regarding the UNGPs themselves, further discussion would be helpful on the topic of companies and their ‘contribution’ to human rights impacts. This is a complex area. As a purely theoretical example, the human rights infringements of state security forces around company sites could be viewed as a company contribution to human rights abuse; but the presence and conduct of government-mandated state security personnel is a governance matter for governments to manage. The extractive industries, through the Voluntary Principles on Security and Human Rights, took a leading role in developing approaches to this specific and challenging issue.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed</p>	<p>Within companies, human rights due diligence (HRDD) is not yet always formally required by their management systems. Integration into management system requirements is important, so that HRDD is seen internally as the norm rather than a voluntary act of goodwill that can play against competitiveness and efficiency. Ingraining HRDD into</p>

<p>to achieve fuller realization of the UNGPs?</p>	<p>management systems also helps apply high-level commitments in human rights policies or codes of conduct consistently across the company, and it promotes thoroughness in HRDD regardless of what legislation or governance is in place where the company operates. An emerging challenge is that while most companies have well-established impact assessment processes and are integrating human rights into them, these processes can be quite lengthy, as they are adapted to the long lifecycles of oil and gas projects. Lower-carbon projects often have a much shorter lifecycle, meaning a reduced time for impact assessment processes. Companies will need to adapt their current processes to be nimbler while maintaining thoroughness. As an example, companies that are devoting increasing amounts of investment capital to lower-carbon energy may decide that it is desirable to incorporate or leverage current human rights practices into the specific corporate governance and strategy processes that govern these investments. Government requirements for human rights impact assessment and other aspects of HRDD are not always keeping pace with the increases in the number of lower-carbon energy projects. This is important because the potential human rights impacts of such projects may vary from those associated with oil and gas projects, and lower-carbon projects may need further clarity on what is expected of them. Among some governments, a continuing obstacle is difficulty in creating and implementing National Action Plans (NAPs). It would be helpful if the development of NAPs could be done in consultation with business and civil society, so that all parties know what legislative changes are being considered or likely over the next decade and can plan for them. Consultation about NAPs can also improve trust between actors and raise human rights awareness among businesses. A number of multilateral institutions have created human rights standards. The development of human rights standards has been valuable in many respects, but there is a limit to the number of standards that companies, particularly SMEs, can follow and report on. Further proliferation of differing human rights standards could be an obstacle. Additionally, it is important to allow for flexibility: in some cases it is more effective and efficient to incorporate human rights into environmental, social, health and safety requirements and processes, as this can leverage existing mechanisms and promote a holistic, comprehensive and efficient approach. Regarding the UNGPs themselves, further discussion would be helpful on the topic of companies and their 'contribution' to human rights impacts. This is a complex area. As a purely theoretical example, the human rights infringements of state security forces around company sites could be viewed as a company contribution to human rights abuse; but the presence and conduct of government-mandated state security personnel is a governance matter for governments to manage. The extractive industries, through the Voluntary Principles on Security and Human Rights, took a leading role in developing approaches to this specific and challenging issue.</p>
--	---

<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Businesses can contribute to sustainable development with respect for human rights by implementing the business responsibility measures called for in the UNGPs framework. Governments have the primary duty of delivering protection for human rights as they institute sustainable development. However, as discussed earlier, some governments may encounter governance challenges in fulfilling their primary duty to protect human rights. An important factor in delivering human rights-compatible sustainable development is a governance framework of appropriate human rights legislation, and effective enforcement. Additionally, it should provide support and education to organisations who are expected to implement it ethically and transparently, including government-controlled entities such as army, police and inspectorates for health and safety and labour rights. It is also important for state-owned companies to be subject to the same human rights laws, enforcement, and standards of reporting transparently as private companies. Corruption is an important additional contributor to human rights abuse. Many governments are taking action to address it, and this will support improvements in both governments' and businesses' human rights performance. Where governments are unable to wholly fulfil their primary duty to protect human rights, businesses can struggle to respect human rights as called for in the UNGPs framework. However, there is evidence to show that in countries where the government implements coherent, evidence-based policy, well-designed and effectively-enforced legislation, administrative support and use of the state's convening power, human rights infringements are less frequent and less severe (although constant monitoring is still a necessity). Such an environment encourages businesses to implement effective human rights management processes or practices. Lastly, going back to the topic of 'contributing to human rights impacts' as mentioned in the section above, further debate on this concept would be helpful in the context of structural challenges. This concept becomes very complicated when conflated with the larger, systemic societal issues such as climate change, gender inequality and corruption. Such issues have complex causes and effects, but these should not conflate governments' duty to protect and companies' duty to respect.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of</p>	<p>It is important for oil and gas companies to continue raising human rights awareness among the various internal functions and business units that contribute to their overall human rights performance. This applies both to independent and state-owned companies. It is also advisable that they continue developing data collection and performance reporting, to track their management of human rights and monitor performance as they do with health and safety. For example, investors want data to help them assess whether companies' actions to improve human rights performance are well-directed, effective, and cost-effective. Measuring performance can help companies to identify what improvements to make. However, experience shows that it can be challenging to create and populate human rights performance metrics that are not just about processes but are outcome-based and leading (rather than</p>

<p>meeting the UNGPs' expectations over the coming years?</p>	<p>lagging). To help the oil and gas industry further develop its human rights performance measurement and reporting, the revised Sustainability reporting guidance published in spring 2020 by IPIECA, API and IOGP includes additional human rights reporting indicators. Over time these indicators can be reviewed and further developed as appropriate. Another area which companies could develop further is acting together in particular geographies (on non-competitive matters) to further human rights. For example, there could be opportunities to collaborate on methods of assessing and educating companies in the local supply chain. In this way local companies could receive consistent messages about what their oil and gas customers expect of them regarding human rights, and they could provide similar data to all customers. On certain topics there could also be opportunities for companies to approach governments as a group to suggest collaboration for everyone's benefit, for example on outreach to the local business community about what standards and expertise the oil and gas industry expects in its supply chain. The oil and gas sector could also consider additional outreach and collaboration, for example with the OHCHR and other UN bodies, and with other sectors. This would enable it to explain the work it has done on human rights to date, share its learnings, and learn from other sectors. Regarding plans for human rights legislation, it is helpful for all parties if governments and regional institutions develop these in a holistic way to prevent unintended consequences. For example, legislation to increase company directors' criminal liability should avoid the unintended consequence of discouraging companies from improving public reporting of their human rights performance. Additionally, at the drafting stage it is important to review whether a new regulation will be practically possible for companies to apply on the ground. Clear and targeted regulation can avoid creating excessive administrative burden or conflicts of interests that companies, particularly SMEs with limited resources, would find hard to manage. Harmonisation of legislative approaches between different governments – and between different regional law-making institutions - can promote an overall improvement in human rights performance. Convergence of required standards has several advantages: it creates a level playing field for companies; it reduces the effort of demonstrating compliance to the differing legal requirements of multiple jurisdictions; and it can incentivise those governments that have not yet incorporated the UNGPs into their regulations to do so. The convening and influencing role of multilateral organisations is also key. These organisations are a valuable source of human rights knowledge and expertise, and they can add further value by continuing to advocate for and support international progress in all geographies on both protecting and respecting human rights. Conversely, a fractured approach among these organisations could slow down overall progress. The roles of the UN and other multilateral institutions are also beneficial for fostering trust between the various actors. Low trust between business and relevant NGOs, between government and business, or between NGOs and government can hinder collaboration. Improving mutual trust, fostering mutually supportive efforts and exchanging learnings and good practices could be one of the game-changers in improving human rights performance. Collaboration can help to</p>
---	--

	fulfil not only the objectives of the UNGPs but also the Sustainable Development Goals, and this will ultimately benefit rightsholders. As an example of collaboration, there is room for further joint efforts between government, businesses, and NGOs to educate and support SMEs to respect human rights.
6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	IPIECA's publications are based on the realities of the industry's operating contexts and provide practical guidance for companies to design and implement their human rights activities. Through IPIECA, our members have collaborated to operationalize the UN Guiding Principles by developing guidance on human rights due diligence, impact assessments, grievance mechanisms, responsible security, engagement with Indigenous Peoples, and company and supply chain labour rights, as well as a human rights training tool, to help the industry advance its human rights performance. For a summary of IPIECA's external publications on human rights to date – please view the factsheet ( <a href="https://www.ipieca.org/media/4995/hr_fact_sheet_2019_update_v4.pdf">https://www.ipieca.org/media/4995/hr_fact_sheet_2019_update_v4.pdf</a> ) or visit our website for further information ( <a href="https://www.ipieca.org/">https://www.ipieca.org/</a> ). IPIECA is in the process of updating its 2012 guidance on Human rights due diligence process, which we aim to launch at the start of 2021. The next phase of work will focus on developing contractor training for labour rights, and work on an industry definition for the 'just transition' to a global low-carbon economy including human rights aspects.

Survey response	
Organization	UN Global Compact Network Spain
Stakeholder category	Business organization
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society	UN Global Compact Network Spain has been working for companies to implement the Guiding Principles since the approval of these Principles in 2011. Over the years we have verified that more and more Spanish companies are committed to respecting human rights, as indicates Guiding Principle 16 on "Political Commitment". According to our study "Comunicando el Progreso 2019" ( <a href="https://www.pactomundial.org/wp-content/uploads/2020/01/Comunicando-el-Progreso-2019____.pdf">https://www.pactomundial.org/wp-content/uploads/2020/01/Comunicando-el-Progreso-2019____.pdf</a> ), in a survey to 268 Spanish companies from Global Compact, 85% of them stated that they have policies and/or practices related to human rights. This report also evaluated the performance of companies of the IBEX35 (main Spanish stock index) in the field of human rights,

<p>organizations, etc.) that can be built on?</p>	<p>highlighting that 66% of these companies have a specific Human Rights policy. It also highlights that more and more companies include practices related to this area. UN Global Compact Network Spain has a repository of good practices with 911 good practices from Spanish companies aligned with the SDGs and the Principles of Global Compact. 384 of these practices are related to human rights (42%). Source: "Plataforma Comparte" (<a href="https://compactlink.pactomundial.org/plataforma-buenas-practicas-COMparte">https://compactlink.pactomundial.org/plataforma-buenas-practicas-COMparte</a>)</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>We can focus on two challenges: 1. All of our studies show that, although many companies are already committed to respecting human rights (Guiding Principle 16), very few of them take actions to identify, evaluate and mitigate their impacts in this area (Guiding Principles 17- 22). In our publication "Contribución de las empresas españolas a la Estrategia de Desarrollo Sostenible 2030" (<a href="https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf">https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf</a>) we show the conclusions of a business survey, in collaboration with the Spanish government, which was answered by more than 1,900 Spanish companies. According to this survey, despite the fact that 25% of companies declare that they have a human rights policy, only 8% of them evaluate its impact in this area. And if we consider only the data of large companies, with more than 250 workers, the percentage is also low. While 47% of large companies have a human rights policy, only 23% are conducting impact assessments in this area. 2. The second challenge focuses on the assessment of human rights risks within the supply chain, being one of the main tasks to comply with Principle 2 of UN Global Compact. According to our report "Comunicando el Progreso 2019" (<a href="https://www.pactomundial.org/wp-content/uploads/2020/01/Comunicando-el-Progreso-2019___.pdf">https://www.pactomundial.org/wp-content/uploads/2020/01/Comunicando-el-Progreso-2019___.pdf</a>), 63% of IBEX 35 companies evaluate their suppliers on human rights, but among Spanish companies from Global Compact this percentage drops to 13%. Also our publication " Contribución de las empresas españolas a la Estrategia de Desarrollo Sostenible 2030" (<a href="https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf">https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf</a>) shows that working with the supply chain is also a field to improve, since only 30% of the companies surveyed have a code of conduct for suppliers and only 20% carry out evaluations of suppliers on human rights.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>The main obstacle identified among Spanish companies, especially among SMEs, has been the difficulty of implementing this framework in business strategy. This is reflected in our report " Contribución de las empresas españolas a la Estrategia de Desarrollo Sostenible" (<a href="https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf">https://go.pardot.com/l/867062/2020-11-13/4gwx4/867062/1605269511HuwhnenM/Informe_Consulta_empresa_Estrategia_2030__Pacto_Mundial.pdf</a> ). For the preparation of this report, a series of workshops were carried out with large companies, SMEs and experts in</p>

	<p>sustainable development (with a total of 85 companies and 25 participating experts). When asked in these workshops about the implementation of human rights and the framework of the Guiding Principles, the SMEs that participated in the workshops considered that they do not have or do not know if they could have sufficient resources to properly manage this area, indicating that it is a very complex framework, when it comes to putting the statement into practice. Both small companies and self-employed workers as well as large ones agree that it is an unknown area from social responsibility. Also in these workshops, training in this area was demanded, as well as information regarding opportunities that, according to large companies, go through the reduction of certain costs, the reduction of complaints or social controversies, or access to financing. In this sense, the work carried out by the UN Global Compact in recent years was recognized, since an expert approach is required to comply with the framework of the Guiding Principles.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>One of the most important challenges in achieving sustainable development based on respect for human rights is to ensure that companies connect the human rights framework with the 2030 Agenda. The Guiding Principles on Business and Human Rights and the Sustainable Development Goals should be two connected and shared frameworks. The publication of UN Global Compact Network Spain " Empresas y derechos humanos: acciones y casos de éxito en el marco de la Agenda 2030" (<a href="https://www.pactomundial.org/wp-content/uploads/2019/11/Empresas-y-human-rights.pdf">https://www.pactomundial.org/wp-content/uploads/2019/11/Empresas-y-human-rights.pdf</a>) highlights the link between these two frameworks. The challenges that are detected in human rights through the Guiding Principles give companies the opportunity to identify areas of contribution, so mitigating impacts on human rights can be a central axis in a corporate strategy to contribute to the Agenda 2030. And vice versa, by contributing to the SDGs, we can have a positive impact on human rights. Given the importance of these two frameworks for companies, the Spanish Network has carried out numerous actions to make the Spanish business sector aware of the need to integrate the Guiding Principles and the SDGs into their business strategy. For example, we annually hold courses and workshops related to human rights and SDGs, as well as different events and publications.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of</p>	<p>- Firstly, the importance of human rights and the Guiding Principles in companies must continue to be made visible. Companies, organizations and institutions must be aware of the opportunity that this framework offers to us and continue promoting human rights so that business sector understands this area as a priority. - The work of companies must be promoted to move from commitment to action within the framework of the Guiding Principles. Although many companies already have a firm commitment to respect human rights, according to reports from the Spanish Network, few companies carry out a due diligence process, a fundamental aspect for working in this area. Setting</p>

meeting the UNGPs' expectations over the coming years?	quantifiable objectives related to the Guiding Principles can be a major driver in meeting this challenge. - And finally, the connections between the Guiding Principles and the Sustainable Development Goals must be strengthened. Both frameworks are critical for businesses and should be a priority for all types of organizations. The mitigation of impacts on human rights must be the central axis of a corporate strategy to contribute to the 2030 Agenda.
--	--

### Consultancies

Survey response	
Organization	Pillar Two
Stakeholder category	Consultancy
Region	Australia / New Zealand
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>There are a number of areas where significant progress has been made over the past decade on the implementation of the UNGPs. Ten years ago, internal corporate discussions about human rights were very nascent, with few companies acknowledging that human rights were relevant to their business activities. There has been significant growth in business understanding of human rights and increasing acceptance of the corporate responsibility to respect human rights as well as the UNGPs as the leading global standard on the 'how to' in this regard. Most major multinational companies now have a policy commitment to respect human rights, with many referencing the UNGPs. These companies are working internally to develop policies and practices to implement these commitments. A number of leading companies are starting to develop maturity around their salient issues and working to address more complex challenges. This includes starting to measure the effectiveness of their human rights policies and processes. Increasing collaboration between the public and private sector in various jurisdictions has also been promising. For example, the introduction of the Australian Modern Slavery Act and the submissions by businesses in the process supporting the legislation showed a real desire for collaborative approaches to implementing the UNGPs. There are also examples of innovative and constructive engagement between business and civil society in both assessing risks and addressing adverse impacts on the ground, particularly as businesses understand that complex issues are often difficult for them to address on their own. The growing number of National Action Plans also demonstrates good progress and an opportunity to further drive business awareness, understanding and action.</p>

<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>A key challenge is that the UNGPs are often still viewed as voluntary or best practice and only relevant for large multinationals, rather than being a minimum standard that is applicable to all businesses regardless of size. We still see challenges in building acceptance of a responsibility to respect human rights by many smaller locally-focused businesses in jurisdictions such as Australia, based on a perception that human rights is an offshore issue or one that only larger companies have the resources to address. The language of human rights can be powerful, but often still remains a barrier to building engagement, acceptance and understanding. There are also still many occasions when businesses need to be convinced of a 'business case' before committing to action. There are also a number of laggard companies that will not take action until it is legislated, and many governments have not shown interest in taking steps in that regard. Accordingly, more is needed to promote uptake of the UNGPs across different business sectors and sizes and to support businesses as they implement the UNGPs. There is a key role for governments in this space. It has been positive to see the UN Working Group focusing on different regions, including the Asia Pacific and Eastern Europe, and while government engagement has increased in recent years, there is still a long way to go to develop policy coherence in different jurisdictions. Access to remedy is a key area that is still lacking in understanding and implementation. In particular, from a company perspective, there is a real need to build on the recommendations from the Office of the High Commissioner for Human Rights' Accountability and Remedy Project recommendations and start to develop better company grievance mechanisms that are assessed based on the UNGPs effectiveness criteria. It can also be the case that companies are establishing grievance mechanisms but have not made a firm commitment to provide remediation if they identify that they have caused or contributed to harm, and are not always taking meaningful steps to learn if they have caused or contributed to harm when allegations are made.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>There needs to be greater understanding and buy-in from boards, the executive and senior management levels of business to drive wholesale corporate commitment to and implementation of the responsibility to respect human rights. Too often, human rights departments and teams are under-resourced and siloed within a company, with human rights seen as a single issue, when in fact it is an umbrella term likely to touch many parts of the business. Awareness and education is required across all roles of businesses (e.g. business and executive education; director education; legal education). Commitment and action from more governments is also needed, both in terms of 'carrots and sticks'. Clear signals are needed from governments that they expect companies to implement the UNGPs, with support and guidance available, and incentives such as through public procurement opportunities for companies demonstrating action. Too often there is also a lack of consequences for companies involved in adverse human rights</p>

	<p>impacts, even when they are severe. There also need to be effective enforcement and accountability mechanisms including through legislative mechanisms.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>A sustainable development model based on respect for human rights will require universal application of the UNGPs and a smart mix of measures at the local level to support businesses. While this can occur to some extent through multinational companies operating under a higher legal and ethical standard globally, systemic and structural change will require a level of consensus across global governments and communities. The Sustainable Development Goals provide a significant opportunity, but pressure needs to be kept on governments to keep them in focus. Human rights need to be explicitly incorporated into all development and sustainability focused action – whether that’s climate change action, health policy, aid and poverty reduction measures, or social inclusion efforts. In the coming decade there will be numerous business models that face new and evolving human rights risks in their operations, with recent commentary focusing in particular on the applications of artificial intelligence, and business activities that impact climate change. It is important that international actors seek to understand these challenges as they evolve.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>While the UNGPs themselves do not prescribe particular quantifiable goals or benchmarks for businesses, there remain various methods for tracking progress on implementing the UNGPs. For example, for multinational companies, the Corporate Human Rights Benchmark provides an example of how this can be done effectively using publicly reported information by companies. There is an opportunity to localise this sort of benchmark to capture more companies, including smaller national companies from a broader range of sectors. It is crucial though that relevant actors such as investors continue to build momentum from these tools, which means showing companies that they are watching and are interested in these benchmarks, and that there may be real consequences from failure to perform. Another concrete local measure of progress is the number of companies reporting under Modern Slavery or other supply chain transparency legislation, for example in the United Kingdom, California and Australia. The Australian context provides a good example in its specific requirement for companies to report on how they are measuring their own progress. As these legislative frameworks remain in place for a longer period of time, and with the movement towards mandatory human rights due diligence in Europe and other jurisdictions, a measurable track record of progress will be possible which will assist in identifying concrete areas of change and potential remaining gaps.</p>

6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	The UNGPs were relied on by many companies in responding to COVID-19 (see Pillar Two's resources page here: <a href="https://www.pillar-two.com/featured-insights/2020/3/31/managing-human-rights-risks-during-and-after-covid-19-what-resources-are-out-there-for-businesses">https://www.pillar-two.com/featured-insights/2020/3/31/managing-human-rights-risks-during-and-after-covid-19-what-resources-are-out-there-for-businesses</a> ), demonstrating the usefulness of the UNGPs for companies in responding to emergency situations. There is a significant opportunity to develop more UNGP-aligned resources for companies on responding to emergencies and other challenging and novel situations.
---	--

Survey response	
Organization	focusright ltd.
Stakeholder category	Consultancy
Region	Western Europe
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	- NAPs - Legislative initiatives (FR, NL, DE, CH, EU) - Certification tackling environmental and social aspects at the same time - Rising consumer awareness - Implementation of HRDD by companies according to internationally agreed guidance (level playing field)
2. Where do gaps and challenges remain? What has not worked to date?	- Going beyond commitments: 1) businesses often lack in implementing effective HRDD and 2) states are slow in bringing clear, coordinated requirements & liability regarding businesses - Focus on sustainability still very much centred on the E of ESG (businesses, consumers) - Still no systematic approach of the S of ESG in line with the UNGPs
3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed	- High complexity of the topic and lack of concrete, practical guidance for companies (e.g. on how to systematically assess human rights risks and impacts) - Lack of understanding what human rights really mean for business - Clear, coordinated requirements & liability regarding businesses - Lack of incentives ensuring businesses that it is worth to

to achieve fuller realization of the UNGPs?	“invest” in HRDD and that they will not imply competitive disadvantages - Clarity for consumers that paying a higher price for more ethical products has a real positive effect on the ground (up-stream value chain) and is no mere greenwashing exercise to increase margins for businesses (downstream) - Variety of initiatives and standards: lack of alignment with UNGPs makes it difficult for companies to understand how different initiatives can be used systematically in their HRDD
4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?	- Focus on low prices / procurement practices - Lack of integration of real costs (product prices, business activity) - Fighting corruption - Transparency in corporate taxes
5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?	- Provide hands-on, easy to use tools on doing HRDD with concrete, practical guidance for companies (e.g. on how to systematically assess human rights risks and impacts) to improve understanding what human rights really mean for business - Better align the variety of initiatives and standards (between each other and with UNGPs) so that companies can better understand how different initiatives can be used systematically in their HRDD - Provide hands-on, easy to use tool on assessing HRDD efforts for customers (B2B and B2C): Easy accessible information for customers (companies and consumers) to quickly check the quality of existing company efforts when deciding on business partners / buying a product (e.g. an easy to use tool that merges existing indicators such as certificates (that align with UNGPs / social and environmental issues), benchmarking (e.g. CHR), company responses on Business & Human Rights Resource Centre, company human rights commitments & progress reports etc.)

## Academia

Survey response	
Organization	BHRE (Business, Human Rights and Environment Research Group)
Stakeholder category	Academia

Region	Western Europe
Type of submission	I am submitting on behalf of my organization.
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>A recent development which seems promising regarding the implementation of the UNGPs in the UK is the Environment Bill 2019-2021 which was introduced by the UK government and is currently making its way through the various stages in the House of Commons. The Bill (relating exclusively to England and Wales) seeks to improve the natural environment (through the provision of targets, plans and policies on waste and resource efficiency, air quality, water, biodiversity, regulation of chemicals and recall of products that fail to meet environmental standards) and legislate for the creation of an 'Office for Environment Protection'. Although the Bill in its current draft (06/03/2020: <a href="https://publications.parliament.uk/pa/bills/cbill/58-01/0009/Enviro%20Compare.pdf">https://publications.parliament.uk/pa/bills/cbill/58-01/0009/Enviro%20Compare.pdf</a>) seems to lack any provision concerning mandatory human rights due diligence of corporate entities with regard to their environmental impacts a proposed amendment seems promising. This proposed amendment is a new clause which would confer on the Secretary of State an obligation within six months of the passing of the Act to publish a draft bill on mandatory environmental and human rights due diligence which imposes a duty on specific commercial, financial and public sector persons... (Please see the Amendment Paper of the Public Bill Committee 19th November 2020 at NC5: <a href="https://publications.parliament.uk/pa/bills/cbill/58-01/0009/amend/environment_day_pbc_1118.pdf">https://publications.parliament.uk/pa/bills/cbill/58-01/0009/amend/environment_day_pbc_1118.pdf</a>) This is a welcomed development towards the end of the first decade, particularly with the increasing need for state-led response to climate change, which shall mark the first step towards climate action by businesses.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>There are a number of gaps and challenges which remain in UNGPs implementation. One which we will focus on in this submission is the lack of response to the climate crisis, particularly in the corporate context. The serious and imminent risk posed by climate change, not only to individuals and communities' rights but to their very livelihood, is well established. Despite this, there appears to have been little focus in the implementation of the UNGPs on climate change; this is apparent when considered in light of that fact that climate change is facilitated by our current economic model, the foundations of which are based heavily on the extraction of fossil fuels. Statistics from 2019 detail that almost two thirds (63.3%) of the worlds electricity had been sourced from fossil</p>

	<p>fuels (See Hannah Ritchie, ‘Electricity Mix’: <a href="https://ourworldindata.org/electricity-mix">https://ourworldindata.org/electricity-mix</a>). Furthermore, there seems to be little movement away from this economic model which relies heavily on the extraction of fossil fuels; although G20 members adopted a decision in 2009 to phase out fossil fuel-subsidies gradually, no country has committed fully to phasing these out by a specific year (see UNEP, ‘Emissions Gap Report 2019 p. 31, Table 4.1). Debates on climate change action have often led to the liability of carbon majors, particularly in holding them accountable for their contribution to climate change. However, as noted repeatedly during the UN Forum on Business and Human Rights 2020, this path of action is not a sustainable option (as noted Roberto Cadiz, Commissioner for the Philippines Commission for Human Rights mentioned during the 2020 UN Forum on Business and Human Rights) where our global economic model continue to fuel the existence of these corporate actors. If there is a demand for fossil-fuel energy, then carbon majors will continue to exist in order to satisfy this demand. Discussions on the implementation of the UNGPs over the next decade must focus on change led by both state and businesses to reform our economic model to one which relies on clean energy to the benefit of both people and planet.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>We recognise that mandatory human rights (and environmental) due diligence, corporate liability and access to remedy to be among the key obstacles and priorities which need to be addressed in order to achieve fuller realisation of the UNGPs. Human rights due diligence marks an essential tool in the fight towards the protection of human rights against corporate interference in addition to corporate respect for human rights (See European Coalition for Corporate Justice (ECCJ) and Corporate Responsibility (CORE) Coalition, ‘Debating mandatory Human Rights Due Diligence legislation – A Reality Check’ 2020: <a href="https://media.business-humanrights.org/media/documents/debating-mhrdd-legislation---a-reality-check.pdf">https://media.business-humanrights.org/media/documents/debating-mhrdd-legislation---a-reality-check.pdf</a>). Although there have certainly been movement in the area of corporate liability for human rights harm—for example, in the UK, the corporate veil which had traditionally protected parent companies from liability as a shareholder of their subsidiary (for the human rights harms perpetuated by the subsidiary) has been circumvented through a parent company duty of care under tort law (see Andrew Sanger, ‘Crossing the Corporate Veil: The Duty of Care Owed by a Parent to the Employees of its Subsidiary’ (2012) 71(3) The Cambridge Law Journal 478; See also Dominic Liswaniso Lungowe and others v Vedanta [2016] EWHC 975 (TCC))—this still remains an area which continues to operate as an obstacle to access to remedy for victims of corporate human rights abuse. This leads</p>

	<p>the final obstacle/priority which needs to be addressed in order to achieve fuller realisation of the UNGPs: access to an effective remedy. Access to remedy is one of pillars on which the UNGPs are built and remains an incredibly important avenue which must be explored in more depth to ensure that victims of corporate human rights abuse obtain, on the ground, justice for the harm they have suffered as a result of corporate activities.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Gender remains a structural challenge which needs to be tackled. Patriarchal and Heteronormative norms are deeply embedded into every facet of society (as has been comprehensively established by queer and feminist theory such as the works of Judith Butler, Adrienne Rich, Monique Wittig and Michael Warner) and continue to facilitate human rights abuses against individuals on the basis of gender and sexuality (as noted by Victor Madrigal-Borloz, the Independent Expert on the protection against violence and discrimination based on sexual orientation and gender identity' in his report to the United Nations General Assembly on 12 July 2018 (UN Doc A/73/152)). States and businesses must be able recognise these norms, how they operate within their structures and how to respond to these (as has been addressed in the Working Group's Gender Report and the three step-framework).</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Firstly, States need to legislate on mandatory human rights due diligence and corporate liability within their jurisdictions. Secondly, development of new forms of remedy for victims of corporate human rights abuses, particularly in emerging areas of concern such as climate change. For example, David Birchall proposes a trust-fund for victims of large scale human rights impacts in 'Irremediable impacts and unaccountable contributors: the possibility of a trust fund for victims to remedy large-scale human rights impacts' (2019) 25(3) Australian Journal of Human Rights 428</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>Sustainable public procurement is increasingly an issue considered by states (in line with SDG 12.7) and we would welcome the UNWG to consider providing guidance for a stronger anchoring of the issue in the UNGPs framework.</p>

Survey response	
Organization	Max Planck Institute for Comparative Public Law and International Law
Stakeholder category	Academia
Region	Western Europe
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	Input from the Max Planck Group on Business and Human Rights, Max Planck Institute for Comparative Public Law and International Law, <a href="https://www.mpil.de/en/pub/research/areas/human-rights/max-planck-group-on-business.cfm">https://www.mpil.de/en/pub/research/areas/human-rights/max-planck-group-on-business.cfm</a>
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>The UNGPs build a crucial normative point of reference for a great variety of stakeholders, including states, international organizations, civil society and business actors. They establish concepts and yardsticks that build a basis for further developments. Legislative developments and litigation At the forefront of current developments is the adoption of domestic legislation establishing reporting obligations and/or due diligence requirements, drawing on the UNGPs' three-pillar structure and other concepts put forward in the UNGPs. Laws have been adopted in the UK, France, and the Netherlands and are under debate in Germany, Switzerland, and the European Union. These initiatives try to alleviate harm caused by the operations of transnational companies, hence addressing the second UNGP pillar. They also provide for remedies in case of harm caused, thus addressing the third pillar of the UNGPs. Furthermore, the last decade has seen a rise in human rights corporate litigation outside US and Anglo-Saxon jurisdictions. Such forms of litigation often render judicial rulings with extraterritorial reach and/or effect (adjudicative extraterritorial jurisdiction). The rise of legislative instruments also strengthens the liability of holding corporations for human rights abuses committed by their subsidiaries and/or suppliers abroad. They may even have extraterritorial reach and/or effects (normative extraterritorial jurisdiction). These mutually beneficial developments have mainly taken place in continental European jurisdictions and at EU level. Corporate and policy engagement Corporate engagement with human rights appears to have increased, with many companies now expressing their commitment to the UNGPs, adopting human rights policies, and integrating human rights in their codes of conduct and their social and environmental policies and procedures. Many have adopted operational-level grievance mechanisms which are in line, at least on paper, with the UNGPs' third pillar. More and more companies are establishing human rights due diligence processes and integrating human rights in corporate risk assessments, in line with the UNGPs' second pillar. The UNGPs have also contributed to</p>

	<p>greater policy coherence as other international standards for responsible business conduct have also started using the UNGPs as a point of reference, notably the OECD Guidelines for Multinational Enterprises. Increased societal scrutiny Awareness of consumers in capital-exporting states has risen significantly, in part thanks to the framing of cases of corporate misconduct as adverse human rights impacts. On the whole, the issue area of business and human rights has attracted more political and societal attention. We now understand better where and when business self-regulation is not enough and have good reasons for binding legislation as part of a ‘smart mix’ of measures.</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>The main gaps and challenges involve a lack of (binding) regulation, implementation and remedy and the risk that businesses will pay mere lip service to human rights and the UNGPs. Access to remedy and justice for victims Whereas the prevention aspect of the UNGPs has been engaged with extensively by states and businesses, their responsibility to provide access to remedies (the UNGPs’ third pillar) has been neglected. Victims of corporate human rights abuse continue to experience significant obstacles to achieving access to remedy and access to justice. With respect to access to a legal remedy, victims face a myriad of hurdles. These include factual and financial barriers, such as high litigation costs and lack of legal aid, as well as the fact that the burden of proof typically lies with the victims. Fact-finding abroad is very expensive. NGOs have so far helped out, as for example in the case of the Peruvian peasant who has filed a suit against RWE, but this might not be a solution for all cases. The barriers also include legal/doctrinal ones, such as the principle of separate legal entities (and the doctrine of limited liability), the statute of limitations, the applicability of ‘foreign law’ due to conflict of laws/private international law, as well as the lack of legally binding obligations under domestic law in home states. Finally, legal proceedings in host states are often likely to prove ineffective. Even if victims can reach a judgment in their favor, it will typically not be enforceable within the jurisdictions where the corporation at issue is domiciled. Creating effective remedies or consolidating existing ones, on the one hand, is crucial as a means to help victims obtain redress and to ‘empower’ in a broader sense. On the other hand, it is key to hold corporations to account in an effective way and to provide stronger incentives to proactively take action to comply with due diligence/human rights. As a middle-ground, the OECD contact points serve as a good example of an instrument that may help victims to get a remedy if companies have not complied with their OECD Guidelines’ due diligence obligations which are consistent with the UNGPs. In some cases, companies have agreed to compensate victims of human rights abuses for their losses. What makes the national contact points attractive is their mandate to “hear cases” where transnational corporations have allegedly failed to abide by their due diligence obligations. As opposed to courts, the national contact points have a lower admissibility threshold and the procedures are not costly for victims. Although the contact points do not have the competence to make binding statements, they help concretize standards of adequate business conduct. These statements are referred to in national laws which makes them effective</p>

on the ground. Furthermore, they might contribute to the development of customary international law. That being said, it seems a viable option to try to improve the visibility and the effectiveness of this already existing instrument.

Transitional justice Major gaps and challenges continue to exist with respect to the role of private actors in situations of conflict and during political transitions. A specific gap exists with regard to rules and standards for private actors on how to cooperate with states or international organizations in the sensitive contexts of transitions or when transitions are yet to come. This relates not only to corporations which have been involved in human rights violations and are ready to take responsibility, but also to private entities which are actively engaged as donors or assistants to transitional justice, namely in investigations, prosecutions, truth-seeking, and reparations. The UNGPs overlook scenarios in which a state itself violates rules of international law and therefore is not particularly interested in what businesses are doing on its territory. They also omit the regulation of the behavior of private actors, who, instead of states, decide to stand for human rights and comply with international law even when they are not obliged by a home or host state to do so. Although Ruggie spoke about the possibilities of obliging a corporation to refrain from aiding and abetting any other actor involved in a violation of rights, including governments, these ideas have not found their place in the final draft of the UNGPs so as the standards which would regulate the 'voluntary' private involvement in addressing these human rights violations. The current trend of the private sector's engagement in transitional justice shows that neither states nor international organizations can do much to scrutinize businesses that are willing to espouse criminal trials, truth commissions, reparation programs, or institutional reforms. This might be disturbing because the private sector takes over the function of a state to repair harm done to victims, find the truth, and sometimes even punish perpetrators (one of the examples are Grievance Mechanisms established by the UNGPs, which are very often operated in violation of procedural rights and fair trial standards). And this 'private decision-making' of where and how to interfere in public functions, especially as sensitive as transitions from violent conflict or authoritarian regimes, is not regulated by international law. It might sound like a very positive development that a private actor is committed to supporting victims and governments in transition by offering them money, expertise, or technical assistance. Yet, the role of private actors in the enforcement of international law by administering justice or designing reparation programs is not necessarily positive. Transitional justice laws, soft or hard, were not created for private actors, which means there are no standards or rules to guide a private entity through the process. Standards for private interference should be established at the international level, preferably in the framework of the UNGPs. For further reading on the interconnections between transitional justice, corporate accountability, and BHR, see Julia Emtseva, *Philanthrocapitalism, transitional justice and the need for accountability* (2020), <https://www.justiceinfo.net/en/oxford-partnership/45639-philanthrocapitalism-transitional-justice-need-accountability.html>; UN Working Group on Business and Human Rights consultation with States, Project on business in

conflict and post-conflict contexts

[https://www.ohchr.org/Documents/Issues/Business/Session22/CN\\_22sessionConflict\\_project.pdf](https://www.ohchr.org/Documents/Issues/Business/Session22/CN_22sessionConflict_project.pdf); Irene Pietropaoli Business, Human Rights and Transitional Justice (Routledge 2020), Sabine Michalowski Corporate Accountability in the Context of Transitional Justice (Routledge 2013), Leigh Payne et al. Transitional Justice and Corporate Accountability from Below (CUP 2020). Gap between policy commitments and corporate practice With respect to the uptake of the UNGPs by business, a principal implementation gap is that too often, businesses which seek to engage with the UNGPs and integrate human rights due diligence in their processes continue to view human rights due diligence through the lens of corporate risk management. Human rights due diligence should focus on the rights of others, not risks to business operations and reputation. Businesses typically engage with the language and practices of the UNGPs, and human rights more generally, in a way that is in line with 'business as usual', rather than reflecting a substantive transformation in business approach or ethos 'beyond the bottom line'. This raises the question to what extent it will be possible to achieve improvements in business conduct with respect to human rights when there is no clear 'business case' for doing so, or where respecting human rights may clash with profit maximization. Furthermore, as the concepts the UNGPs introduce become increasingly accepted and mainstreamed among business, the risk that corporate expressions of commitment to the UNGPs will form mere cosmetic endorsements increases. In line with this, as the establishing of human rights due diligence processes becomes a more common 'good practice' among business actors, there is a risk that such processes will be created as an end in themselves, rather than in order to change and improve business practices. The corporate action that should follow from policy commitments and the establishment of ethical processes should not be an afterthought. Normative clarity Another remaining challenge is the normative clarity of the UNGPs. This particularly concerns the notion of "due diligence". This notion is central in the general structure of the UNGPs, and has been key to reach consensus and involve major economic actors around them. This is particularly true for Anglo-Saxon business actors, which are used to the application of the concept by US courts, generally favorable to business entities. It is indeed a flexible notion and, despite the attempts to clarify UNGP nos. 18 and 19, its contours remain uncertain. Unsurprisingly, some authors (e.g. K. Martin-Chenut, *Droits de l'homme et responsabilité des entreprises: les 'Principes Directeurs des Nations Unies*, in G. Giudicelli-S. Manacorda (a cura di), *Responsabilité pénale des personnes morales: perspectives européennes et internationales*, LGDJ, 2013, p. 229, spec. pp. 243-244) have criticized the adoption of the due diligence standard, suggesting that it must be integrated with the concept of "sphere of influence" (sphère d'influence), used in the Global Compact, in the OECD Guidelines and in the ISO 26000, which defines it as the "range/extent of political, contractual, economic or other relationships through which an organisation [...] has the ability to affect the decisions or activities of individuals or organisations". Regarding the national laws that seek to impose due diligence obligations on transnational corporations, some deficits remain. Particularly, it has

	<p>become apparent that a core problem are the uncertainties that remain with respect to the obligations that are imposed on companies. For, the protection of human rights standards is considered to be too broad and also conflating obligations by businesses and by states. It is considered to be important that businesses know exactly which obligations they have, for otherwise laws would fail to comply with core rule of law standards. States do not want to develop these standards themselves, as they fear that this would interfere with other countries' sovereign rights. Hence, it would be helpful if specific protective standards were developed at the international level. National laws could then refer to these standards when imposing the obligation on corporations to avert adverse human rights impacts in their supply chains. The ILO core labor standards are one example of such more specific standard-setting on the international plane. Furthermore, such regulations seem to be critical under international trade law, as they possibly disturb the non-discriminatory free market among states, particularly to the detriment of states in the Global South. Accordingly, an imperialist critique could be levelled against such regulations. Hence, it would be important to identify strategies that could alleviate negative economic effects. BHR and the internet Concerning the first pillar, states have troubles getting a grip on big internet companies. In Germany, the Network Enforcement Act has been implemented to oblige social media companies to erase hate speech. This has led to many deletions of content and to ensuing lawsuits in practice. This reveals that there is a need for regulation. However, this law only regulates a small part of possible human rights abuses that can take place in social media domains. It does not regulate, e.g., what happens if internet companies interfere with freedom of expression when deleting comments. Moreover, no laws have yet been enacted, that regulate the use of data by social media/internet companies. One stumbling block here is that it is unclear when and in how far a state has jurisdiction to regulate these issues. This calls for solution finding on the international plane. Tax Gaps remain with respect to transnational or harmonized business taxation and combating illegitimate tax havens. Some domestic tax policies lead to losses of income needed by governments to pursue proper human rights and environmental policies.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Motivations for human rights performance The human rights performance of states, business actors and other actors should build an important yardstick for their power and legitimacy. This would establish a stronger incentive to push for human rights regulation as a component of self-interest. Yet, this would require reformation and steps beyond the human rights regime, including major UN organs. New legal requirements will often be met with refusal by companies and will likely result in an inefficient box-ticking-approach fueled by (big) consulting firms. Such an approach is not likely to change a company's overall attitude to business and human rights. It is necessary to have board members with human rights (or CSR) expertise who will ensure a thorough treatment of these issues (including the company's Human Rights Policy) and a critical reading of CSR reports and who can counterbalance shareholders' short term financial</p>

	<p>expectations. This can be facilitated by nudging companies to establish sustainability committees on their boards or to appoint Chief Sustainability Officers. Principle 16 should include this aspect. If the relevant expertise is not present on boards, companies will perceive ‘human rights’ as being part of the corporate reputation management. Conflict of laws One major obstacle to the effective implementation of the UNGPs lies in the multi-jurisdictional nature of the economic processes they aim to govern. From a legal point of view, this obstacle relates to issues of international private law (conflict-of-laws), and has clearly emerged in the context of direct civil liability litigation before European courts. Indeed, Reg. 44/2001/EC and today Reg. 1215/2012/EU (“Bruxelles I”) give civil courts of EU Member States jurisdiction to hear tort claims against corporate defendants incorporated or otherwise located in the EU (see arts. 4(1), 7, and 63), but according to arts. 4 ff. of Reg. 2007/864/EC the substantive law to be applied in tort lawsuits is normally the lex loci delicti, with ensuing effects of normative dumping. Major examples are Akpan and others v. Royal Dutch Shell, District Court of The Hague, C/09/337050 / HA ZA 09-1580, 20 January 2013; and more recently Jabir and others v. KiK Textilien und Non-Food GmbH, Landgericht Dortmund, 7 O 95/15, 10 January 2019. This combination of international private law norms undermines the effectiveness of human rights in business activities based on vast and transnational value chains (see in the literature L. Enneking, The Future of Foreign Direct Liability? Exploring the International Relevance of the Dutch Shell Nigeria Case, 1 Utrecht L. Rev. 1 (2014), 44; N. Bueno, Corporate Liability for Violations of the Human Right to Just Conditions of Work in Extraterritorial Operations, 5 Int’l J. Hum Rts., (2017), 565, spec. 576-577).</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>Externalization of harm International business is often able to externalize the harm it causes with respect to the human rights of workers and other affected people, as well as its environmental harm. The line between the legitimate use of a competitive advantage and the issue of unfair externalization of harm is sometimes fine, and needs to be better defined. The so-far vague concepts of ‘human rights dumping’ and ‘environmental dumping’ may be useful in this regard, but they need to be sharpened in order to add to the debate. Addressing corporate harm externalization will ultimately require binding, worldwide, harmonized standards, either directly enshrined in international instruments or through the adaptation of domestic laws. Such standards would need to be more fine-tuned than human rights, and more adapted to the corporate activity. The role of political and law-making elites Members of the political and law-making elites in capital-receiving countries who disregard public welfare in their country need to be persuaded that more social policies and laws, more environmental regulation, more adequate and transparent taxation is warranted and also in their own long-term interest. In line with this, international anti-corruption instruments need to be strengthened. Law-making actors in capital-exporting states need to be persuaded to push the regulatory agenda, which in turn requires pressure from citizens and civil society. The public-private dichotomy Another crucial challenge</p>

	<p>lies in the question to which extent private companies can be responsible for human rights in the public international human rights system, without simply equalizing the two realms - and without confounding state duties with business duties. One solution is to situate business enterprises between and beyond the dual constellation of public (state) and private (non-state). An extensive scholarship in political science, philosophy, law and economics is dedicated to carving out this hybrid role. As early as 1953, renowned economist Howard R. Bowen fuels the discussion about business responsibility, emphasizing their role for the public interest and the public well-being. He stipulates: "We can support freedom and private control of enterprise only if it is conducive to the general welfare."  <a href="https://www.uipress.uiowa.edu/books/9781609381967/the-social-responsibilities-of-the-businessman">https://www.uipress.uiowa.edu/books/9781609381967/the-social-responsibilities-of-the-businessman</a>). Building on this scholarship, business enterprises can be said to assume a hybrid role beyond the public and the private. Business actors exhibit public as well as private dimensions, for example when contributing to the public well-being while pursuing their self-interest. What is more, they boast characteristics that transcend this duality at the outset. A case in point is their participation in global governance, in self-governance, and their legitimacy to do so. This legitimacy and authority exceeds that of private actors by far: it is not private. At the same time, due to lacking mechanisms of democratic accountability (among other reasons), it does not simply mirror state legitimacy and authority: it is not public. Rather, it is hybrid, transcending the dual relation between public and private. See: Janne Mende (2020) : Business authority in global governance: Beyond public and private, WZB Discussion Paper, No. SP IV 2020-103, Wissenschaftszentrum Berlin für Sozialforschung (WZB) (<a href="https://www.econstor.eu/handle/10419/218731">https://www.econstor.eu/handle/10419/218731</a>).</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>Given the multi-jurisdictional nature of their activities, defining and regulating the human rights responsibilities of business actors requires a regulatory approach which integrates domestic law, international public law and international private law instruments. From this perspective, initiatives such as the "Binding Treaty" promoted by the UN Human Rights Council starting from 2014 should not be seen as alternatives to the UNGPs, but rather as complementary to their effective implementation. Mechanisms of effective accountability will for the foreseeable future rely on domestic legal systems. Both the UNGP and the current draft of the UN's Binding Instrument foresee a central role for the domestic level. Yet, considering the many obstacles to effective remedies, domestic legal systems need to adopt more effective, concise, and concerted measures to address this accountability gap. For home states, that chiefly means establishing when and to what extent corporations have binding 'human rights' duties under domestic law when acting on a transnational level and to create corresponding remedial mechanisms for victims of abuses of both non-judicial and judicial nature. Adopting legislation such as the French loi de vigilance can be a first step in this direction. The hybrid role of business companies between and beyond the public and the private provides a starting point for the development of a hybrid responsibility for human rights. Of course, this comes with challenges</p>

	<p>and questions. It needs to define which companies shall resume which responsibility, and to what extent. It has to address the broad spectrum between transnational companies and small or medium-sized companies, as well as the relation between international law and state jurisdiction. Then again, these questions are to be dealt with in any form of business responsibility for human rights. The hybrid model offers the major advantage of keeping up the difference between companies and states, while at the same time acknowledging the magnitude of business power and legitimacy. It takes into account business agency, power and legitimacy beyond the private sphere, without indiscriminately integrating those roles into the public. This includes the necessity of developing binding instruments for business enterprises.</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>The business and human rights agenda should be more closely interlinked with environmental issues, including the role of business in climate change, land use and deforestation, and animal welfare (as part of a One Health approach, see UN Environment Programme and International Livestock Research Institute (lead author Delia Grace Randolph), Preventing the Next Pandemic: Zoonotic diseases and how to break the chain of transmission (Nairobi, Kenya 2020)). The project should also monitor the effects of the COVID-19 pandemic on BHR - both in general (see inter alia UNDP: Covid 19 Rapid Self-Assessment for businesses, <a href="https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human-rights-due-diligence-and-covid-19-rapid-self-assessment-for-business.html">https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human-rights-due-diligence-and-covid-19-rapid-self-assessment-for-business.html</a>) and in particular with regard to supply chains. Here, the pandemic reaffirmed the urgency to make supply chains more sustainable. In the textile industry, for instance, corporations canceled orders (that had already been produced) on short notice. As a result, contractors in host states laid off big parts of their work force or stopped to pay them (see Mark Anner, "Abandoned? The Impact of COVID-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains", 27.3.2020; and <a href="https://www.workersrights.org/issues/covid-19/tracker">https://www.workersrights.org/issues/covid-19/tracker</a>).</p>

Survey response	
Organization	University of Minnesota Human Rights Center
Stakeholder category	Academia

Region	North America
Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):	This contribution is based off an extended research project that will be presented in a forthcoming academic article, currently under review.
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>One of the most important developments in the BHR agenda has been the recent efforts to greatly deepen and expand the understanding and incorporation of the gendered dimensions of the business and human rights framework. We have studied one related development, the 2017 Standards of Conduct on Tackling Discrimination against LGBTI People. The Standards were issued by the Office of High Commissioner on Human Rights to advise corporations on their role and responsibilities in terms of combatting intersection between business activities and human rights violations on the basis of Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC). The Standards are explicitly grounded in existing international human rights law and the UNGPs. Specifically, the Standards offer a rich analysis of how Pillar 2 of the Guiding Principles on the corporate responsibility to respect applies to the human rights of LGBTI people. We believe the Standards represent a promising strand of work that fosters a tailoring of the UNGPs toward protecting marginalized groups that are especially vulnerable to adverse business-related human rights impacts and for whom business allyship is increasingly proclaimed. An important advance is that the Standards call on businesses to take steps to combat stigma against LGBTI persons and human rights violations and abuses by other actors, including States and social institutions. This aspect of the Standards, particularly Standard 5 on acting in the public sphere, exploring the positive dimensions of the corporate responsibility to respect, represents an important development in the “business and human rights” space. More frequently claimed in corporate social responsibility circles, it is important for the human rights community to build on the scope and parameters of these dimensions from a human rights lens. If grounded in the international human rights framework, this “positive” BHR agenda could be a powerful development in advancing businesses as agents of change.</p>
2. Where do gaps and challenges remain? What has not worked to date?	<p>Although the Standards look at Pillar 2 as applied to LGBTI persons, a robust engagement by the BHR framework with dimensions of sexual orientation, gender identity and expression, and sex characteristics remains a critical gap. In this, it is imperative to analyze workplace related abuses and discrimination, but also business-related human rights impacts inflicted in the community. By definition, business-related harms in the workplace affect a particular sub-group—namely those who</p>

	<p>are formally employed, or seek to be employed, by a private enterprise. Harms include discrimination in recruitment, hiring, retention, promotion, pay, and benefits; as well as discriminatory conditions including lack of accommodations, harassment, and gender-based violence. Given the diversity under the LGBTI umbrella, workplace concerns of more privileged groups may overshadow rights violations of particularly marginalized and vulnerable LGBTI workers. Systematic exclusion from the formal sector, on top of rejection from familial and community structures, leads LGBTI persons, and especially trans persons, to be overrepresented in the informal sector. A major gap has been the adverse business-related human rights impacts suffered disparately or differentially along lines of SOGIESC. LGBTI people have been the target of certain harmful business activities because of their SOGIESC, such as conversion ‘therapy’ or the intentional targeting of tobacco marketing campaigns to the LGBTI community. Private actors may be implicated in patterns of violence, discrimination, and inequality when these have a role in providing and administering key public services and functions such as education, health, housing, water and sanitation, and detention. Discrimination in consumer goods and services is another flashpoint. Given these important impacts, the SOGIESC gap in the BHR framework is concerning. The Standards represent an important step, but they do not encompass the breadth of engagement required. The Human Rights Council adopted the very first resolution launching the SOGI agenda 10 years ago, the very day after adopting the UN Guiding Principles and establishing the mandate of the Working Group. However, the LGBTI human rights agenda and the UNGPs have evolved almost entirely separately over the past decade. Though the LGBTI Standards of Conduct signaled groundbreaking progress, more must be done to operationalize the Standards through the UNGP framework and embed SOGIESC in Pillars 1 and 3 as well.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>The human rights elements which undergird the Standards by design have been largely overshadowed by the predominance of a corporate social responsibility (CSR) approach to their roll out and implementation. This is a key obstacle for a fuller realization of the UNGPs in relation to LGBTI persons because the Standards have become largely untethered from the human rights framework and focused more on positive actions – business as allies – and invisibilizing adverse and discriminatory business-related impacts. In large part, our research has found that the Standards have been ignored by the broader UNGP architecture and have been advanced almost exclusively by business-led or dominated groups such as the World Economic Forum and the Partnership for Global LGBTI Equality. Though these institutions have successfully promulgated the Standards and achieved significant buy-in from the world’s largest corporations, the Standards’ explicit human rights foundation and connection to the UNGPs has not been emphasized. The Standards have been promulgated through a “corporate social responsibility” discourse that under-emphasizes the connection to the UNGPs and disconnects business obligations from human rights language. The impact of this trend is an overemphasis on voluntary measures by business to act as a visible and global ally, and an absence of consideration of the inclusion and promotion of the most marginalized groups and harms committed more broadly. Because the Standards are the one explicit and authoritative link</p>

	<p>between the BHR agenda and SOGIESC, this failure greatly limits the realization of the UNGPs in regard to SOGIESC populations. We believe it would be very valuable for the Working Group to take on a leadership role in establishing norms and insights related to BHR and SOGIESC, in addition and separate from the momentum and processes driven by the Partnership for LGBTI Equality. This is important especially to reach States and local and national civil society organizations. Despite the delay and contentious recognition of the rights of SOGIESC minorities in the international system, engagement in international human rights mechanisms has been an important and powerful mobilizing tool, catalyzing links between elite international LGBTI organizations and small, otherwise unconnected grassroots LGBTI organizations.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>We see the need to insist on human rights language, practices, frameworks, and institutions and to resist ceding these to spaces to frameworks where accountability is less clear and marginal groups and civil society are not guaranteed access or voice. The long-standing systemic invisibility of LGBTI persons and SOGIESC as a lens must be intentional overcome. Priority should be given to expanding a “SOGIESC lens” analysis to supplement the “gender lens” advanced by the Working Group recently. The GPs should be understood as a coherent whole and the Working Group should leverage the momentum around the Standards (outside the human rights community) to develop and operationalize a SOGIESC lens in the state duty to protect.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?</p>	<p>National and international considerations of the States’ duty to protect and to guarantee access to remedy in the BHR framework have not incorporated a cross-cutting consideration of the differential and disparate harms based on sexual orientation and gender identity. Governments should leverage the Standards to include SOGIESC more forcefully in National Action Plans. The human rights system should prioritize advancing accountability measures that incorporate SOGIESC in a robust way. To allow the Standards to stall as a mechanism for expressions of support without accessible benchmarks or mechanisms to promote the critical review of those expressions is a problem, for the reasons stated above. Currently, businesses get the benefit of affiliating their brand with human rights, LGBTI equality, and the UN, without any requirement or expectation. Building off other examples in the international human rights framework, the Standards should be a jumping off point for a platform to articulate, measure, and share the LGBTI human rights practices of the world’s businesses. An oversight framework would allow for the complexity of identifying both positive and negative actions. For example, several companies in the US, for example Pfizer and AT&amp;T, are known for visible support to the LGBT community but at the same time have come under recent criticism for donations to openly anti-LGBT political candidates (<a href="https://www.nytimes.com/2019/07/02/opinion/lgbt-rights-pride-corporations.html">https://www.nytimes.com/2019/07/02/opinion/lgbt-rights-pride-corporations.html</a>). Robust accountability mechanisms could standardize and contextualize these actions to better support good practice and better monitor potential harms.</p>

6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?	It is worth investigating whether organized civil society engaged in LGBTI human rights advocacy at the national and international levels are engaging in the UNGPs 10+ project. If there are representatives, do they represent diverse regions and approaches? If they are completely absent, why is that? And who is speaking for them in their absence?
---	---

Survey response	
Organization	Human Rights Clinic - Pontifical Catholic University of Parana - Brazil
Stakeholder category	Academia
Region	Latin America and the Caribbean (LAC)
1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?	<p>In the last decade, some progress has been made in the implementation of the principles by the government, such as: the edition of an executive decree named the National Guidelines on Business and Human Rights; the initiative to build a report on the State's compliance with the UPRs' recommendation regarding BHR; the study and follow-up of measures on the subject by public agencies, such as the working group of Business and Human Rights of the Federal Prosecutor's Office of Citizen's Rights; the initiative of the implementation of a 'Term of commitment' for companies that are possible human rights defenders (Ordinance 288/2018 Ministry of Human Rights); the creation of a Code of Conduct for the Ministry of Human Rights' suppliers (Ordinance 350/2018 Ministry of Human Rights); and, also, the publication, in Portuguese, of the OECD Due Diligence Guidance for Responsible Business. In 2019, in response to the 2015 visit conducted by the UN Working Group, the Government held a public consultation, through the National Secretariat for Global Protection (SNPG) at the Ministry of Women, Family and Human Rights and in partnership with the United Nations Development Program (UNDP). However, the final report has not yet been released. Together, the aforementioned measures would be used, by the government, as a sign of some improvement in its commitment regarding business and human rights. Regarding measures taken by corporations, most of them will be carried out by the local Global Compact net. Some companies do report due diligence mechanisms, but the depth of them is still to be assessed. Civil Society though, is very active and monitors the implementation of the recommendations made by the Working Group after its county visit in 2015. There are many cases of contribution regarding modern slavery, LGBTi rights, rights of child, gender and race issues, indigenous people and native communities, all made by civil society which will be explored in the future report.</p>

<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Despite recent legislation at the federal level, and the existence of several regulations that provide training or further expand on the subject, or even opportunities for business's commitment in the protection of human rights; and also the existence of multiple agencies and stakeholders actively acting in the investigation and search for solutions to better adapt the reality of the country to the principles, the fact is that the UNGPs application is still weak. It seems that there is still strong resistance to the implementation of a dialogue among stakeholders, and this is probably the realm where most efforts should fall. Moreover, although corporate volunteering has some effect, its implementation still seems timid, and despite some level of corporate participation, ignorance and disinterest about the impacts of companies on human rights - and the ways to mitigate them - remain; not only do companies in general ignore the risks and impacts of their activities on the supply chain, but they seem to have little interest in taking action to solve them, especially when too demanding or complex.</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>In order to establish the main obstacles, it was decided to divide them among the three pillars: States, companies and mechanisms to access reparation . Regarding the duty to protect, among the main obstacles to the full realization of the UNGP's, there is the absence of a favorable political context for discussing State's proposals involving BHR within a government known by the numerous retreats on human rights issues. It is only one symptom that despite the UNWG calls for the creation of a National Action Plan, civil society has refused to engage in this discussion. Regarding the responsibility to respect, low adherence of the business sector to the UNGPs, especially with regard to the adoption of due diligence in human rights, is the greatest obstacle to the full realization of the OPs. This is due to the fact that there is no compulsory measures demanding specific conducts from companies. The voluntariness in adhering to the UNGPs, added to the absence of specific regulation on HRDD, not only makes implementation optional, but also prevents any requirement that companies publish objective reports that indicate the existence and content of HRDD programs. The UNWG 2015 Report, indicated recommendations to private companies and business associations to establish methodologies and tools to assess companies' adherence to the UNGPs and binding international and national obligations on companies and human rights. However, no significant changes have yet been seen in this regard and a recent study (2019) by the Human Rights and Business Clinic of Fundação Getúlio Vargas (FGV/CeDHE) with the 30 largest companies in operation in the country concluded that less than 20% of actions indicated by companies as such, were really related to risk control and human rights impacts (SCABIN, F.; HOJAIJ, T.B., 2019). As for the obstacles to effective access to justice and, consequently, effective redress in cases of human rights violations by corporations, there are a few things worth mentioning. The judicial system can be very slow, especially when used by powerful corporations that have access to strong law firms. This often ends up with impunity. The same system suffers with the low technical training of magistrates on the subject. Although entering the legal career of judges in Brazil requires approval in a public contest, the issue involving corporations as human rights</p>

	<p>violators in the course of business practice is not a recurring situation, and it is urgent to hold forums, lectures, congresses and events in partnership with the academic community in order to overcome this deficit in order to improve judicial performance. Another highly relevant obstacle in relation to the Brazilian reality concerns the heterogeneity of traditional and indigenous peoples whose peculiarities and differences are not structurally contemplated in judicial decisions, which turns effective reparation difficult. With regard to the main drivers for the full realization of the UNGPs, Brazil's notorious desire to join the OECD must be highlighted. Since OECD does foster responsible business conduct this might be a venue to create more specific agendas involving business and human rights.</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>A major challenge for the full realization of sustainable development in Brazil is its income inequality. According to the latest World Bank data of the Gini Index (<a href="https://data.worldbank.org/indicator/SI.POV.GINI?locations=BR">https://data.worldbank.org/indicator/SI.POV.GINI?locations=BR</a>), Brazil is among the ten most unequal countries and is the most populated country among those: the richest five percent have the same income as the remaining ninety five percent, according to Oxfam. This income inequality produces a structural inequality that hinders the fulfillment of sustainable development goals. Oxfam's data shows, for example, that Brazil is still decades away from wage equality. In the current pace of progress, women will earn the same as men only in 2047; afro-descendants will receive the same wage only in 2089. Another challenge that needs to be addressed is people's distrust in government, particularly when compared to other institutions. According to the Edelman's 2020 Trust Barometer, only 37% of Brazilians said they trusted their government, a value that is below the global average. On another hand, 64% of Brazilians trust corporations, a number above global average. In this context, it is also worth noting that Brazil's regulatory capacity has been falling in the last four years (World Justice Project's Rule of Law Index). Added to the fact that people trust more corporations, it is a challenge to foster advances when the same government that should tame corporations is the one losing its ability to do so.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs'</p>	<p>A major challenge for the full realization of sustainable development in Brazil is its income inequality. According to the latest World Bank data of the Gini Index (<a href="https://data.worldbank.org/indicator/SI.POV.GINI?locations=BR">https://data.worldbank.org/indicator/SI.POV.GINI?locations=BR</a>), Brazil is among the ten most unequal countries and is the most populated country among those: the richest five percent have the same income as the remaining ninety five percent, according to Oxfam. This income inequality produces a structural inequality that hinders the fulfillment of sustainable development goals. Oxfam's data shows, for example, that Brazil is still decades away from wage equality. In the current pace of progress, women will earn the same as men only in 2047; afro-descendants will receive the same wage only in 2089. Another challenge that needs to be addressed is people's distrust in government, particularly when compared to other institutions. According to the Edelman's 2020 Trust Barometer, only 37% of Brazilians said they trusted their government, a value that is below the global average. On another hand, 64% of Brazilians trust</p>

<p>expectations over the coming years?</p>	<p>corporations, a number above global average. In this context, it is also worth noting that Brazil's regulatory capacity has been falling in the last four years (World Justice Project's Rule of Law Index). Added to the fact that people trust more corporations, it is a challenge to foster advances when the same government that should tame corporations is the one losing its ability to do so.</p>
--	--

<p style="text-align: center;"><b>Survey response</b></p>	
<p>Organization</p>	<p>CNR-IRISS</p>
<p>Stakeholder category</p>	<p>Academia</p>
<p>Region</p>	<p>Western Europe</p>
<p>Additional information about your submission (e.g. collection of inputs from members; or inputs from consultation):</p>	<p>Inputs and analyses submitted are part of the research project on CO.RE. Corporate Human Rights and Environmental Due Diligence and the Promotion of Corporate Responsibility</p>
<p>1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?</p>	<p>Introduction: UNGPs have become the most important standard in the Business and Human Rights arena. Unanimously endorsed by the UN Human Rights Council, they have been widely acknowledged and by States, companies, international institutions, the civil society, Non-governmental organizations, individuals, and human rights defenders, as well. Several points disclose how the UNGPs have contributing in advancing the debate in this field area when compared with previous experiences of regulating internationally corporate conduct. UNGPs have been impacted on the practice of States, of International Organizations, of the human rights monitoring bodies, and of course on the business practice. In particular main areas of progress may be listed as follows: 1) As far as the broader debate on human rights is concerned: UNGPs have contributed in moving the discourse on business and human rights into business relationships. This dynamic has advanced far and fast due to a mix of regulatory developments that are driving human rights due diligence through global supply chains. Moreover, institutional investors are recognizing that they themselves are exposed where they invest in companies that have severe human rights impacts; 2) UNGPs have also contributed to realize an unprecedented level of alignment as far as international instruments on business human rights. The adoption of UNGPS has led be to the update of</p>

the OECD Guidelines for Multinational Enterprises, which saw the addition of a whole new chapter focused on human rights in the business context, including the human rights due diligence recommendations. Other standards object of alignment with the UNGPs include but are not limited to: the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability (IFC, 2012); the International Standards Organisation (ISO) ISO 26000 social responsibility standard (human rights chapter) (ISO, ISO 26000 – Social Responsibility). 3) The UNGPs have made a strong business case to companies to ensure they manage human rights risks: Companies have started to acknowledge that proactively managing human rights issues is beneficial from enhanced reputation, increased business opportunities and reduced exposure to risk. While those that don't can suffer real value destruction. 4) UNGPs have contributed to increase the awareness among consumers of business and human rights issues. 5) UNGPs have increased States commitment towards protecting human rights within the business activities of corporate actors. States, indeed, have started to incorporate UNGPs in their national public policies (e.g. the adoption of National Actions Plans, ), they have inspired new regulatory instruments at national or regional level (e.g. the EU new Public Procurement Directive (2014/24/EU, see also infra), or in their instruments for international cooperation, (see as for instance the role of Export Credit Agencies: e.g. Sweden Action Plan for business and human rights). 6) UNGPs have also increased private sector commitment to human rights protection. Companies have started to incorporate UNGPs in their policy statements, in their governance processes or in their codes of conduct paving the way for a shared vision as far as the contribution of the private sector to the society and the respect and enhancement of human rights worldwide. 7) UNGPs have been a push factor for domestic legislation developments occurring in several States (e.g. the 2015 UK's Modern Slavery Act, the 2017 French Corporate Duty of Vigilance Law; the 2019 Dutch Child Labor Due Diligence Act). 8) UNGPs have contributed to enhancing the level of transparency as far as the social and environmental impact of business operations (e.g. the Directive 2014/95/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups). 9) UNGPs have also influenced the practice and case-law of international and regional level human rights bodies: The UNGPs have paved the way for the development of the BHR debate at the regional level within the EU, the Council of Europe (CoE) and the Organization of American States (OAS) all undertaking concrete measures to support the UNGPs' implementation. See as for instance the 2014 CoE Declaration on the UNGPs; 2016, CoE Committee of Ministers Recommendation CM/Rec (2016) on human rights and business. Also, the Organization of American States (OAS) adopted a resolution in 2012 encouraging OAS member states to 'promote

	<p>corporate social responsibility programs and initiatives among the private sector, the community and other stakeholders'; to 'promote among businesses operating in or from their countries the use of applicable corporate social responsibility initiatives, tools, and best practices', including the UN Guiding Principles on Business and Human Rights, and to 'encourage dialogue between legislative bodies and the private sector on the subject of corporate social responsibility' (OAS, 2012). The resolution adopted in June 2014 (OAS, 2014), was strongly supportive of the UNGPs and triggered the creation of measures to promote and implement them, including exchanges of information and sharing of best practices.). In the same vein the IACHR Case of the Kaliña and Lokono Peoples vs. Suriname, IACHR, 2016 is the first judgment from an international Court on human rights who "takes note" of the UNGPs among the principles and standard existing in this field area. UNGPs have also led developments of EU law: this is testified by the adoption of Directive UE 2014/95/UE on disclosure on non-financial information; Regulation (UE) 2017/82 on conflict mineral; Regulation (EU) 2016/679 on General Data Protection. In the same vein The proposed European Union (EU) Directive on mandatory human rights and environmental due diligence has the potential accelerate significantly the implementation of HRDD and in general of the UNGPs around the globe. Finally UNGPs have led Eu institutions to amend the EU definition of Corporate social responsibility (CSR) by incorporating UNGPs second Pillar's human rights due diligence (see the 2011 EC Communication "A renewed EU strategy 2011-14 for Corporate Social Responsibility")</p>
<p>2. Where do gaps and challenges remain? What has not worked to date?</p>	<p>Introduction: Despite their general acknowledgment and despite the progress they have contributed to from the point of view of the negative impact on human rights of corporate operations, UNGPs still experience a limited and jeopardized level of implementation. In particular main gaps may be listed as follows: 1) Incomplete implementation of the UNGPs through National Action Plans: only a limited number of governments have brought forward National Action Plans (NAPs): as today only 25 NAPs have been adopted worldwide. 2) Weakness of National Action Plans: while some states have released NAPs, these last too often lack teeth. Main area of concern is, for instance, the absence in the majority of NAPs of concrete measure to assure the access to remedies for victims of human rights abuses. Thus, the adoption of a NAP should define a standalone objective different from other incentive-based policies to improve corporate conduct. The drafting process should also be based on an accurate assessment of the applicable international and national rules in the concerned State, so to rendering NAPs 'responsive' to the specificities of each national context. Even when robust NAPs have been adopted, too often the necessary policy coherence has been not used and applied by interested States in order to achieve the</p>

required harmonization of domestic policies. 3) States should strengthen their legal frameworks and ensuring the enforcement of the rule of law in fulfilling the duty to protect human rights that they bear by virtue of international human rights law. A crucial point is the setting up of national human rights institution (NHRIs) with competence over business and human rights issues or the enlargement of their competence where NHRI have already been established. 4) Legislative asymmetry: while some States have adopted legislations tackling business and human rights issues, other States still remain inactive or prefer to leave the area to self-restraint and voluntarist approach of private sectors actors. However, if the approach to business and human rights remains confined to the promotion of voluntary and business-driven CSR traditional approaches, accountability gaps will remain unfilled with several concerns from the perspective of the access to justice and of the justiciability of rights violated under corporate activities. 5) Legal barriers for victims: include issues of jurisdiction (e.g. forum non conveniens); applicable law; extraterritoriality issues; inconsistency in case-law of domestic tribunals; application of narrow approaches in application of law paving the way for interpretations giving priority to other obligations rather than those stemming from human rights norms. 6) From business action perspective, gaps in relation to implementation of the UNGPs is twofold: (a) new business practices should be translated into improved human rights performance; and (b) all businesses – regardless of size, sector or location – should embed respect for human rights throughout their operations. Indeed, the majority of worldwide companies has not yet moved from the policy-setting stage to the operationalization stage of corporate due diligence and corporate remedies. From this side preventive approach to human rights abuses in the framework of corporate activities still remains scanty and inadequate: To be effective, human rights due diligence is necessary even going beyond a mechanical or superficial tick-box approach. Generally speaking, much more commitment has to be demonstrated by the vast majority of the private sector for an effective change in their business practices. In addition, challenges to be addressed in respect to business include: the necessity to fight impunity of businesses in conflict and post conflict areas; the need to address business and human rights issues connected to corruption and to the informal economy; the clarification of what it is expected from businesses and putting into place actions to build necessary local awareness; establishment of a harmonized framework in order to level the playing field across sectors and supply chains, raise the bar of minimum business conduct, maximize the efforts of all those involved (from duty bearers such as governments and businesses to right holders such as workers) and streamline approaches; assuring the continuous engagement with suppliers and business partners to build capacity and to strengthen transparency should continue to be pursued; joining forces with local resources on the

	<p>ground should also be explored to more thoroughly assess a company’s impact on local communities; stimulating cross-sectorial best practice sharing and interaction, since supply chain issues are not always sector-specific; relying on robust building capacity to improve governance and law enforcement locally (without the local dimension, there is a risk that the process towards more responsible and sustainable supply chains might fail: UN could provide a platform for educational outreach activities). 7) No adequate inclusion of vulnerable categories into business and human rights discourse. Under UNGPs due diligence requires proactive meaningful engagement with all individuals negatively affected by corporate conduct, taking into account the different issues and rights at stake. Similarly, no adequate protection of human rights defenders is assured. 8) Growing inequalities among societies (e.g. the digital divide is widening, affecting access to education, access to basic services is in decline, freedom of expression is constantly threatened, the unemployment rate is growing hitting particularly vulnerable groups, such as migrant workers.)</p>
<p>3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?</p>	<p>Introduction: From a general perspective, the misalignment between the capacity of global private sector to affect worldwide human rights protection and the capacity of society to address this negative impact on human right of corporate activities remains the most important obstacle and “the” priority for any future policy Agenda. Turning to specific obstacles to address and prioritize, they may be listed as follow: 1) Addressing States lack of resources: Some countries experience lack of resources, both financial and human, not only to be able to develop necessary policies and regulations, but also to ensure their effective implementation, enforcement and monitoring. 2) Addressing the common narrative against the setting forth of global regulatory agenda on business and human rights: i.e. the fear of deterring foreign investments with detriment effects especially for developing States. 3) Addressing legal and political restraints stemming from multilateral investment legal regime as well as from international free trade legal regime (Free Trade Agreements, Bilateral Investment Treaties or agreements developed within the World Trade Organization’s system). Normative interactions between these legal systems and human rights law legal system originate competing duties and commitments and give rise to conflicting obligations for States. 4) Addressing obstacles to full implementation of human rights State obligations. States remain the primary duty bearers with the duty to respect, protect, and fulfil human rights, including the right to self-determination, the right to a healthy environment, and workers’ rights. In order to achieve this result priority should be afforded to the positive outcome of the OEIGWG negotiations on a Treaty on business and human rights. 5) Encouraging laggard States to develop National Action Plans and</p>

the other States to revise and periodically adjust their NAPs. Most of the current NAPs fall short in concretely advancing effective protection of rights. Unsatisfactory progress on business performance and disclosure, calling into question the effectiveness of measures taken so far (see supra) 6) Addressing gaps in corporate accountability and ensuring legal liability for human rights abuses including by the establishment of legislations on mandatory HRDD; assuring that this legislation apply human rights due diligence to the global supply chains system (see infra). 7) Addressing the difficulties in allocating responsibility throughout the supply chains: Global supply chains are highly complex webs of business and trading relationships spread across numerous countries, drawing upon human and other resources that come from diverse regions with varying cultures, standards and government regulations. While business has an obligation to make efforts, it is unrealistic to expect companies by themselves to solve these complicated issues. Many companies have hundreds of customers and thousands of suppliers, and suppliers typically provide services to more than one industry sector. Many of the issues and conditions that lead to human rights abuses result from deep-rooted and underlying developmental challenges as well as lack of adequate human rights implementation from governments. These are all obstacles that need to be addressed to further drive implementation of the UNGPs. Encouraging and enabling governments to uphold their duty to “Protect Human Rights” aligned with the UNGPs is crucial. 8) From the perspective of the access to remedies for the victims, it is essential to address the disproportionate burden of proof placed on victims and subsequent barriers in access effective avenues for remedy: here the necessity exists for a regulatory agenda aimed at reversing this burden of proof on a mandatory basis in order to guarantee remedial avenues for affected people in the context of strong power information imbalances. Future Agenda should also deal with the allocation of responsibilities for human rights and environmental large-scale impact from corporate activities: here a proposal might consists in establishing Trust Funds for Victims created under States authority, or under international mechanisms, and financed with taxes or fines payed by corporate actors (see TFV models such as the Int.al Criminal Court’s TFV; the Warsaw International Mechanism for Loss and Damage associated to Climate Change, among the others). Closing such overall gaps in access to remedies is pivotal for the future UNGPs+10 Agenda. 9) Addressing climate crisis issues while respecting human rights: Transitioning to a low-carbon, climate-resilient society at a time in which the nature of work itself is undergoing profound transformations requires new forms of collaboration between governments, companies and individuals. 10) Future Agenda should also address disruptive changes stemming from new technologies changes. Big data, new form of surveillance and the development of Artificial intelligence technology have all the potential to affect revolutionary changes in

	<p>the world in the next decade. This should induce policy-makers to consider the UNGPs as the basis and the benchmark for the development of such new technologies respectful of internationally recognized human rights 11) Transforming corporate culture (see section 5 infra);</p>
<p>4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?</p>	<p>There are two major structural challenges to be addressed. The first one concerns the contemporary structure of the global economic order; the second one relates to the structure of the contemporary international human rights legal system. 1) As far as the first one is concerned, the challenge resides in the need to address inequalities and vulnerabilities discriminating States and peoples worldwide and to systemically change consumption and production patterns. These inequalities, rooted in the very same neoliberal economic model (with its emphasis on unregulated markets, on maximizing shareholder value on the capital accumulation and on the concentration of market power into the hands of a few), constitute a significant impeding factor of human rights protection and respect. Addressing this challenge requires efforts by States, International Institutions, etc. aimed at reorganizing contemporary economic model as well as its production processes and reconfiguring economic models and of supply chains mechanisms in a socially and environmentally responsible way. 2) As far as the second one is concerned, there are two future challenges at the very least. The first challenge, is the need for remodeling the international human rights legal system by allowing that at the victim's requests international human rights monitoring bodies might supervise and monitor and adjudicate private sector's conducts from a human rights perspective. This might happen by amending the international human rights legal system through the adoption of a global treaty on business and human rights establishing jurisdictional, or quasi-jurisdictional, competence for corporate human rights abuses over worldwide companies. The second challenge resides in going beyond those interpretation of the scope of application of human rights treaties and impeding extraterritorial application of the state positive duty to protect. If the idea of the extraterritorial application of human rights norms of UN treaties has already reached a sufficient degree of acknowledgment within the UN treaty-based bodies mechanism, it appears that the same may not be said in respect to some important regional human rights courts such as the ECtHR.</p>
<p>5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for</p>	<p>Multiple answers may be given to this question. Just to highlight the most important: 1) Moving remedy beyond the rhetoric: address judicial remedy issues meaningfully at national and international legal systems. Accountability shall be placed at the center of the debate and of the future Agenda. 2) Changing the corporate culture as far as human rights, the environment, the development: respect for human rights</p>

<p>key actors in terms of meeting the UNGPs' expectations over the coming years?</p>	<p>should sit at the heart of any company's strategy for how it will contribute to the SDGs. The UNGPs shall not be seen just as a "do no harm" standard as this overlooks the SDGs' potential to drive positive change for hundreds of millions of the poorest and most marginalized people. Corporate capacity building, training and education of corporate management should be placed at the heart of any process of change of worldwide corporate culture 3) Point sub 2) involves a general revision of educational and academic paths. It is necessary educating the future generations of business leaders to sustainability, responsible conduct, human rights respect and protection. This may only be realized by changing worldwide academic curricula currently still focused on the idea of the necessity the profit maximization for the benefit of shareholders even despite the negative impact on the society. BHRs studies should be integrated in training curricula in higher education institutions and in the regular educational path of managers and business leaders. Knowledge of UNGPs and their provisions should be disseminated to business actors, to business management and to employees through several channels and means. Translation of UNGPs in national languages should be promoted in order to support such capacity building process at national level (see the Italian translation performed under CNR project CORE available at <a href="https://www.iriss.cnr.it/wp-content/uploads/2016/09/principi-guida-su-imprese-e-diritti-umani-con-commentario.pdf">https://www.iriss.cnr.it/wp-content/uploads/2016/09/principi-guida-su-imprese-e-diritti-umani-con-commentario.pdf</a>).</p>
<p>6. Is there other information relevant to the UNGPs 10+ project that you'd like to share?</p>	<p>The WG Project might join forces with research bodies already performing research on business and human rights and UNGPs. This might happen on a regional basis as for instance, involving research bodies on specific territories that might bridge the work of WG to the local context (as far as CNR-IRISS research activities, see the Project CO.RE. Corporate Human Rights and Environmental Due Diligence and the Promotion of Corporate Responsibility available at <a href="https://www.iriss.cnr.it/en/projects/corporate-human-rights-and-environmental-due-diligence-e-la-promozione-della-corporate-responsibility/">https://www.iriss.cnr.it/en/projects/corporate-human-rights-and-environmental-due-diligence-e-la-promozione-della-corporate-responsibility/</a>) Publications and materials M. Fasciglione, "Implementing 'Responsible Business Conduct' Approaches Under the UN Guiding Principles on Business and Human Rights at the time of COVID-19: Remarks from Europe and Beyond", in European Papers, 2020, (available at <a href="https://www.europeanpapers.eu/it/europeanforum/implementing-responsible-business-conduct-under-un-guiding-principles">https://www.europeanpapers.eu/it/europeanforum/implementing-responsible-business-conduct-under-un-guiding-principles</a>) M. Fasciglione, "A Binding Instrument on Business and Human Rights as a Source of International Obligations for Private Companies: Utopia or Reality?", in Legal Sources in Business and Human Rights, M. Buscemi, N. Lazzerini, L. Magi, D. Russo (eds.), Brill, 2020. M. Fasciglione, "An International Mechanism of Accountability for Adjudicating Corporate Violations of Human Rights? Problems and Perspectives", in Judicial Power in a Globalized World. Liber Amicorum Vincent De Gaetano,</p>

P. Pinto de Albuquerque, K. Wojtyczek (eds.), Springer, 2019 M. Fasciglione, "Enforcing the State Duty to Protect under the UN Guiding Principles on Business and Human Rights: Strasbourg views", in Business and Human Rights in Europe: International Law Challenges, A. Bonfanti (ed.), Routledge, 2019, pp. 37-47 M. Fasciglione, "Another Step on the Road? Remarks on the Zero Draft Treaty on Business and Human Rights", in Diritti umani e diritto internazionale, 2018 M. Fasciglione, "The Enforcement of Corporate Human Rights Due Diligence: From the UN Guiding Principles on Business and Human Rights to the EU Countries Legal Systems", in Human Rights and International Legal Discourse, 2016-1 AA.VV., "Improving Paths To Business Accountability For Human Rights Abuses In The Global Supply Chain: A Legal Guide", University of Essex, Business and Human Rights Project, December 2017, available at: <https://www1.essex.ac.uk/ebhr/documents/Improving-Paths-to-Accountability-for-Human%20Rights-Abuses-in-the-Global-Supply-chains-A-Legal-Guide.pdf> F. Brigante, D. Figueroa Prado, M. Kapron, E. Mangenje, "Business and Human Rights: Engendering Human Rights Due Diligence – A Legal Analysis", University of Essex, Human Rights Clinic Centre, November 2017, available at: <https://corporate-responsibility.org/wp-content/uploads/2017/11/Essex-Human-Rights-Clinic-Report-Business-and-Human-Rights-Engendering-Human-Rights-Due-Diligence-A-Legal-Analysis.pdf>