

# Reviewing Trends in Mandatory Human Rights Due diligence



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# Human Rights Due Diligence in UNGPs | Overview

**UNGPs Principle 17:** “In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed”

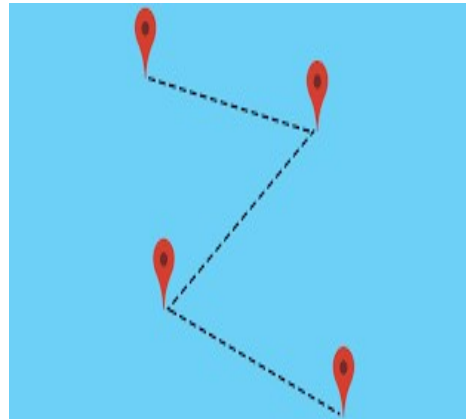
**Principle 18:  
Identify**



**Principle 19:  
Prevent**



**Principle 20:  
Track**



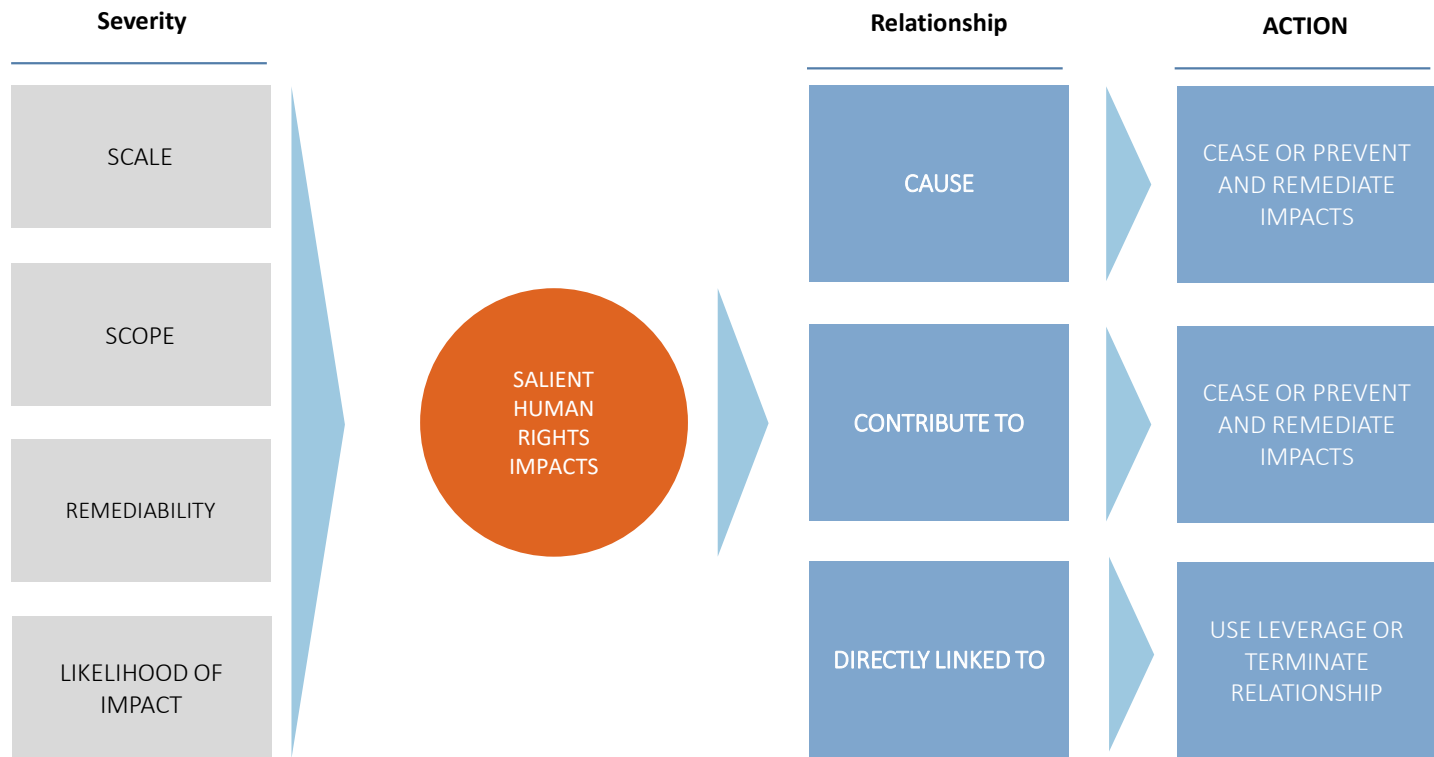
**Principle 21:  
Communicate**



# Scope of Responsibility under the UNGPs

SALIENCY IS BASED ON RISK  
TO HUMAN RIGHTS

RELATIONSHIP TO THE  
IMPACT DETERMINES  
APPROPRIATE RESPONSE



# Scope of Responsibility under the UNGPs

RELATIONSHIP	DEFINITION
CAUSED	A business CAUSES a human rights impact when its activities (including omissions) materially increase the risk of the specific impact which occurred and would be sufficient, in and of themselves, to result in that impact.
CONTRIBUTED TO	A business CONTRIBUTES to a human rights impact when its activities (including omissions) materially increase the risk of the specific impact even if they would not be sufficient, in and of themselves, to result in that impact.
DIRECTLY LINKED TO	A business is LINKED to a human rights impact when it has established a relationship for mutual commercial benefit with a state or non-state entity, and in performing activities within the scope of that relationship, the entity materially increases the risk of the impact.

# Human Rights Due Diligence

- Consider ALL human rights
- Consider own operations as well as products, services, and business relationships
- Use external and/or internal human rights experts
- Meaningful consultation with rights holders
- Address and integrate findings
- Report on progress
- Prioritize only if you must



# Company Response on Human Rights

Businesses across industries have begun to implement programs to understand and manage human rights impacts.

## Human Rights Policies

- Committed to respect human rights through a policy or statement

## Governance

- Established internal governance mechanisms

## Impact Assessments

- Conducted human rights due diligence

## Public Reporting

- Report commitments and progress on human rights through CSR reports and standalone issue reports



# Impact Assessment

Strategy and  
Policy

Impact  
Assessment

Engagement and  
Collaboration

Integration

Monitoring and  
Reporting

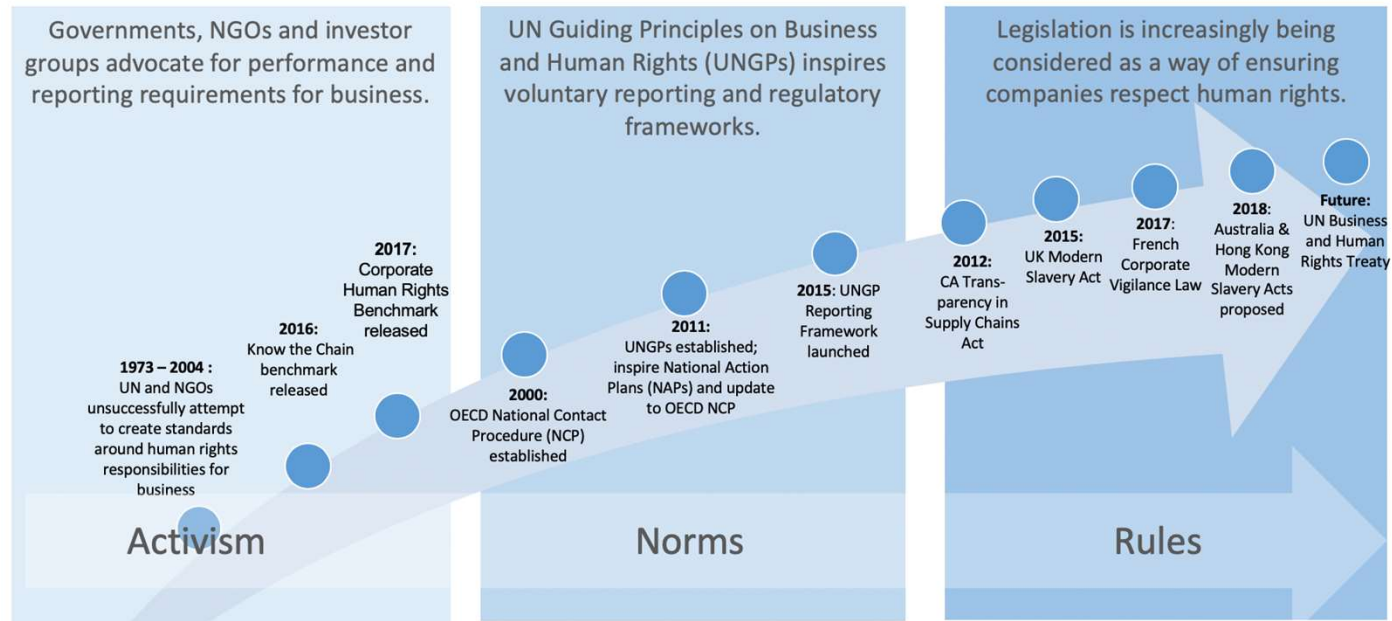
## Purpose

- Identify
- Inform
- Develop
- Increase

## What Companies Do

- Corporate-wide human rights impact mapping
- Human rights impact assessments (HRIAs)
- Execute country-risk analysis

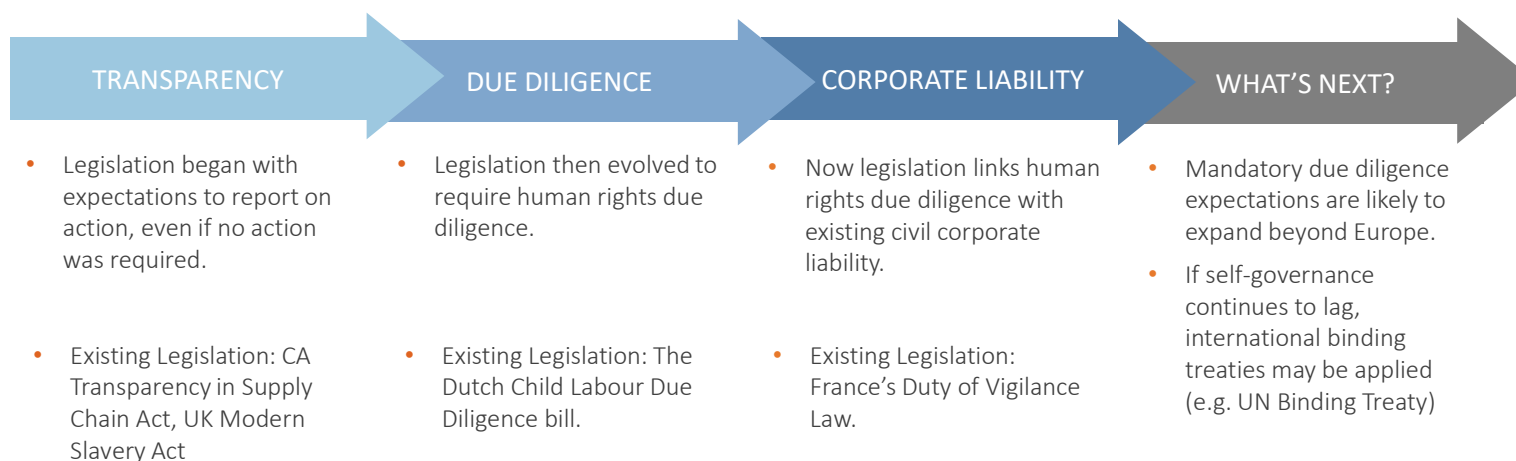
# Business and Human Rights Norms Are Hardening



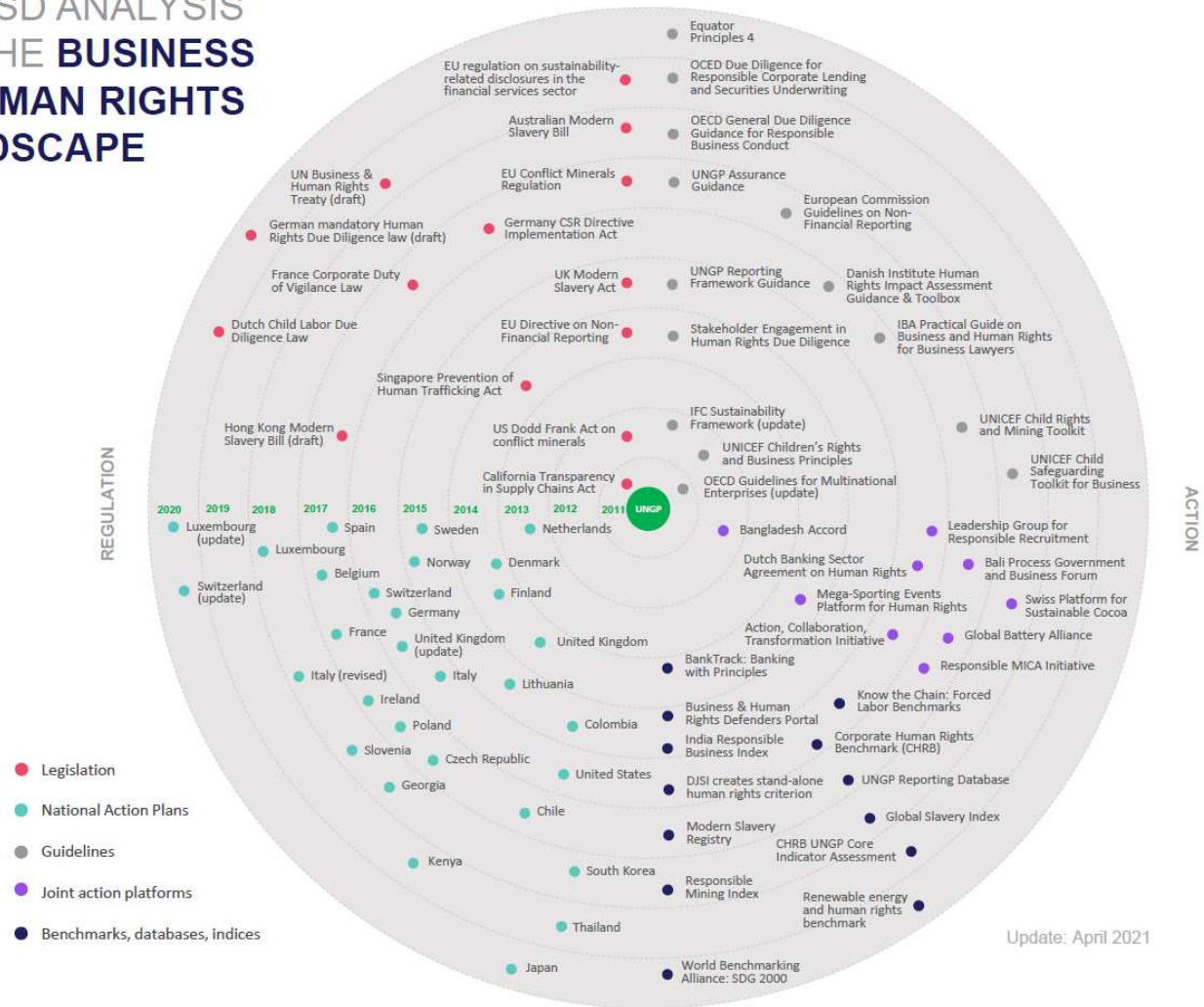


# Business and Human Rights Norms Are Hardening

Legislation on business and human rights has evolved from transparency to corporate liability. Legislation is likely to expand geographically and increase in stringency.



# WBCSD ANALYSIS OF THE **BUSINESS & HUMAN RIGHTS LANDSCAPE**



# French Corporate Duty of Vigilance Law

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## Scope

- French HQ companies with 5000 employees, or those with an office in France that employ a minimum of 10,000

**Companies in scope of the law are required to establish, publish and implement a vigilance plan on an annual basis. This vigilance plan must include:**

- Appropriate measures to identify, prevent and mitigate risks to human rights and the environment
- A means to assess the situations of supply chains, subsidiaries or subcontractors in relation to risk mapping
- A collection method for actual and potential risks, and planned actions to mitigate risks and prevent violations
- Monitoring to assess the efficiency of implemented measures
- If companies fail to publish or implement a vigilance plan, any concerned parties can turn to relevant jurisdiction for action, in which case the company has a three-month period to meet their obligation. After this time period, companies could be subject to a fine of up to 10 million euros.



# French Corporate Duty of Vigilance Law Gaps

- Burden of Proof
- Implementation
- Thresholds
- Soft law to hard law
- “Paper-based” exercise, or mere reporting
- No transparency on coverage of suppliers and sub-contractors
- Only applies to Tier 1
- No measurement for plans effectiveness
- Whistleblowing and alert mechanisms are often also not described

# EU Proposal for Corporate Sustainability Due Diligence

## Scope and Gaps

- EU companies with 500+ employees and turnover of €150 million
- Prevent human rights and environmental abuses in supply chains, by carrying out 'due diligence'.
- Higher risk industries (agriculture and fashion), with 250+ employees and turnover of €40 million
- Non-EU companies in the market that exceed these turnover thresholds
- SMEs are exempt
- Only applies to less than 0.2% of EU companies
- Liability for harms committed at home or abroad by their subsidiaries, contractors and suppliers
- Victims can file lawsuits before EU courts.
- By adding clauses in contracts with suppliers could offload verification process to third parties thus only being liable for first tier
- Parallel legislative processes are advancing in different countries across Europe with the potential to fill in the gaps of the Commission's proposal



# Let's continue the conversation!

Post questions and comments via chat in the IAIA22 platform.



## #iaia22

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