

**Tozzini
Freire.**
ADVOGADOS



**Business &
Human Rights**

**Advances and Perspectives
since the UN Guiding Principles
on Business and Human Rights**

2011

- The UN Human Rights Council endorsed the Guiding Principles on Business and Human Rights;
- The UN Human Rights Council established the Working Group on Business and Human Rights;
- Updated of the OECD Guidelines for Multinational Enterprises;
- Launch of the How to Develop a Human Rights Policy Guide for Business by the UN Office of the High Commissioner for Human Rights (OHCHR), updated in 2015;

2012

- Update of the International Finance Corporation (IFC) Sustainability Performance Standard;
- New version of ABNT NBR 16001 on Social Responsibility;
- Launching by the UN Working Group of the Interpretive Guide on the Corporate Responsibility to Respect Human Rights;

2014

- Launch of the FAQ about the Guiding Principles on Business and Human Rights by the UN Working Group;
- Launch of OHCHR Accountability and Remedy Project;

2015

- Launch of the Principles for Responsible Contracts: Integrating the Management of Human Rights Risks into State-Investor Contract Negotiations - Guide for Negotiators by the UN Working Group;
- Launch of the UN Guiding Principles Reporting Framework by Shift and Mazars;

2016

- Launch of the OECD-FAO Guidance for Responsible Agricultural Supply Chain;
- Launch of the 3rd ed. of the OECD Due Diligence Guidance for Responsible Supply Chain of Minerals from Conflict-Affected and High-Risk Areas;

2017

- Update of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;
- Launch of the OECD Responsible Business Conduct for Institutional Investors Report;
- Launch of OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector;
- Launch of OECD Due Diligence Guidance for Responsible Supply Chain in the Garment and Footwear Sector;
- Launch of OECD Practical Actions for Companies to Identify and Address the Worst Forms of Child Labor in Mineral Supply Chains Report;

2018

- OECD Due Diligence Guidance for Responsible Business Conduct;
- UNICEF Child Safeguarding Toolkit for Business;

2019

- OECD Due Diligence for Responsible Corporate Lending and Securities Underwriting;
- Launch of the CERALC Project (Responsible Business Conduct in Latin America and the Caribbean), a joint initiative between OHCHR, ILO, OECD, and the European Union;
- Launch of the B-Tech Project by OHCHR;
- Launch of the Report "Ending Child Labor, Forced Labor and Trafficking in Persons in Global Production Chains" by ILO, OECD, IOM, and UNICEF.

2020

- Launch of the Equator Principles - EP4: a reference for the financial sector to identify, assess and manage social and environmental risks in projects;
- Launch of the Key Messages on Human Rights, Climate Change and Business by OHCHR;

2021

- Release by the UN Working Group of the "UNGP at 10: taking stock of the first decade";
- Launching by the Working Group of the "UNGPs 10+: A Roadmap for the next decade of business and Human Rights" Report.

10 Years

of the UN Guiding Principles on Business and Human Rights



Listen to our Podcast episode with Prof. Surya Deva



"I think one key challenge that we see is that, although multiple states and businesses are making the commitment to implement the UN Guiding Principles on paper, the practices are very different. So, **there is always this gap between paper, what business are saying, what governments are saying they will do and what they are actually doing.** I think this is a major challenge." (Prof. Surya Deva for TozziniFreire's Podcast, January 2022)



Prof. Surya Deva

Brazilian Guidelines on Business and Human Rights

- Decree No. 9,751/2018 - National Guidance on Business and Human Rights;
- Resolution No. 5/2020 from the National Council on Human Rights - National Guidelines for a Public Policy on Human Rights and Business.

NORMS ABOUT MANDATORY HUMAN RIGHTS DUE DILIGENCE

2010

- California Transparency in Supply Chains Act;

2012

- U.S. Dodd-Frank Act on Conflict Minerals;

2014

- Singapore Prevention of Human Trafficking Act;
- European Union Directive No. 2014/95/EU on Non-Financial Reporting;

2015

- UK Modern Slavery Act;
- Revision of the U.S. Tariff Act of 1930 prohibiting the importation of goods produced in foreign countries from prison labor, slave labor, and child labor;
- U.S. Federal Acquisition Act Against Human Trafficking;

2017

- Law 2017-399 - French Corporate Duty of Vigilance Law;
- Germany's Corporate Social Responsibility Directive Implementation Act;
- European Union (EU) Regulation No. 2017/821 on Conflict Minerals;

2018

- Australia's Modern Slavery Act;
- Switzerland's Legislation on Non-Financial Information Reporting for "Large Companies with Public Interest";
- Draft Zero of the UN Binding Treaty on Business and Human Rights - Still being negotiated (has updated versions from 2019, 2020, and 2021);

2019

- European Union (EU) Regulation No. 2019/2088 on sustainability-related disclosures in the financial services sector;
- Dutch Child Labour Due Diligence Act;

2020

- European Union (EU) Regulation No. 2020/852 - Taxonomy on Sustainable Investment;

2021

- European Parliament Resolution with a recommendation to the European Commission on Corporate Due Diligence and Corporate Accountability;
- German Law on Corporate Due Diligence in Supply Chains;
- California Law - SB 62/2021 - Turns garment companies to be held liable for labor violations committed by their suppliers;
- Norway's Transparency Act (LOV-2021-06-18-99);

NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS

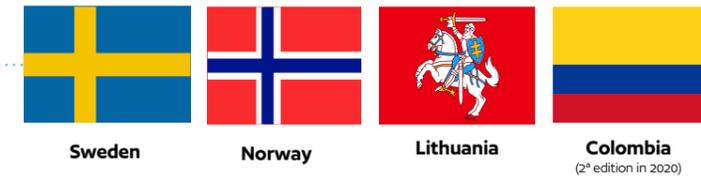
2013



2014



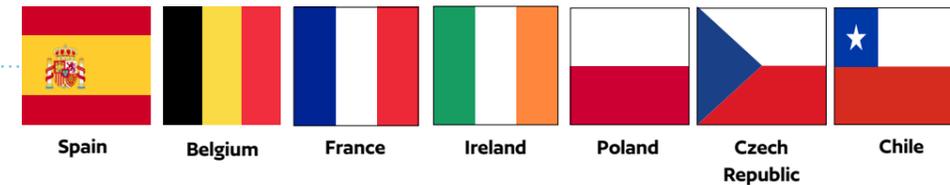
2015



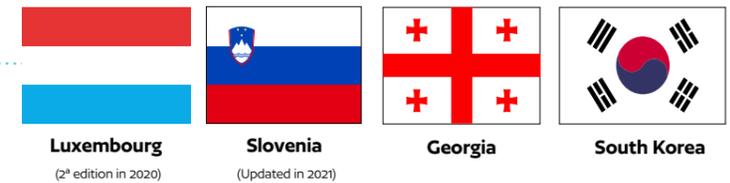
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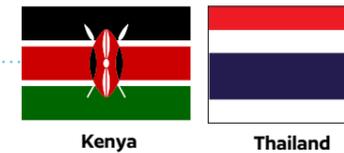
2017



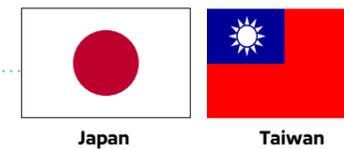
2018



2019



2020



2021





**Roadmap
for the Next
10 Years
of UN Guiding Principles**

“So, they should take human rights due diligence very seriously, they should consult all stakeholders, civil society groups, human rights defenders, and come up with a plan, and disclosure strategies. They should do meaningful and good disclosure. That would be useful not only for consumers, but also for investors, everyone in society.”

(Prof. Surya Deva for TozziniFreire’s Podcast, January 2022)

AREAS OF ACTION PROPOSED BY THE ROADMAP

In 2021, with the 10th anniversary of the Guiding Principles, the United Nations Working Group on Business and Human Rights published a report outlining a roadmap with trends for the next 10 years.

Below are some of the main points:

Action Area 1:

Guiding Principles as a compass to address global challenges

- The Guiding Principles are an integral and fundamental part of building strategies to combat climate change, to implement the Sustainable Development Goals (SDGs), and address the challenges posed by new technologies.
- Progressive integration between the Guiding Principles and the ESG agenda (Environmental, Social and Governance), with the inclusion of respect for Human Rights in the Social - “S” - aspect, as well as in the other dimensions of ESG as a whole.
- Collective action through alliances among stakeholders is fundamental in the search for solutions to systematic challenges such as race and gender discrimination, abuses in the workplace, and in the context of investments that affect communities.
- Alignment and coherence between the Guiding Principles and other existing standards on Business and Human Rights, such as the OECD Guidelines for Multinational Enterprises, the ILO’s Tripartite Declaration of Principles on Multinational Enterprises and Social Policy, among others that have been developed or are in the process of being developed.

Action Area 2:

States' duty to protect human rights

- States should develop National Action Plans on Business and Human Rights, considering a “smart mix” composed of national, international, binding, and voluntary measures.

Action Area 3:

Corporate responsibility to respect Human Rights

- Businesses must translate their commitments into action.
- Businesses should implement Human Rights Due Diligence processes following the Guiding Principles, including in contexts where there are no mandatory due diligence laws.

Action Area 4:

Access to remedy

- “All roads to remedy” approach.
- Access to effective compensation through a remediation ecosystem involves both judicial and non-judicial (administrative, political, etc.) mechanisms.

Action Area 5:

Greater and better stakeholder engagement

- Corporate and state strategies for identifying and responding to response to human rights risks and impacts should consider the active participation of stakeholders as partners, including affected communities, civil society, human rights advocates, investors, etc.

Action Area 6:

Use of leverage mechanisms

- The Financial Market is a key sector to leverage respect for Human Rights by companies through the integration of the Guiding Principles with the “Social” aspect of the ESG.
- Progressive establishment of Human Rights requirements for receiving funds from investors in alignment with the ESG agenda.
- Key role of technical professionals - such as law firms, auditing firms, and consulting firms – guiding for leveraging respect for Human Rights by companies.

Action Area 7:

More efficient monitoring mechanisms

- Increased efficiency in monitoring the implementation of the Guiding Principles by the States, monitoring the submission of laws and policies, including National Action Plans.
- Focus on the outcome of the policies and actions monitoring and on the effectiveness of the measures implemented to prevent and address human rights impacts.
- Use of benchmarking, rankings, and reports, in line with the Guiding Principles, combined with the realization of Human Rights Due Diligence processes, in expanding efforts to measure what has been achieved.

Action Area 8:

Greater and improved framework for international cooperation and support for the implementation of the Guiding Principles

- Integration of the Guiding Principles into the UN system, through their use by special rapporteurships and treaty bodies.
- Increased investment in capacity building of companies and stakeholders.
- Creation of an ecosystem of accountability, establishing a Race to the top versus Race to the bottom dynamic.