United Nations
Global Compact

# RIGHT TO A HEALTHY ENVIRONMENT

## HUMAN RIGHTS DUE DILIGENCE: A PRACTICIAL GUIDE FOR BUSINESS

Partners in Transformation
Helpdesk Business and Human Rights

Verisk Maplecroft

# CONTENTS

## FOREWORD from the United Nations Global Compact

In July 2022, the United Nations General Assembly took a historic step, recognizing the human right to a clean, healthy and sustainable environment. This landmark resolution affirmed what many have long understood: the health of our planet and the health of its people are inextricably linked. Today, we face a triple planetary crisis: climate change, pollution and biodiversity loss. This crisis poses an existential threat to humanity and serious risks to people's health, livelihoods and future prospects, undermining the very foundations of our societies.

The reality is that environmental harm is not just an environmental issue; it is a human rights issue. It disproportionately affects those who are least able to bear them — vulnerable groups, including Indigenous Peoples, children, older persons, persons with disabilities and women and girls. Companies that take early, meaningful steps to prevent and address environmental risks are not only helping safeguard ecosystems and communities' rights to a healthy environment, they are also building resilience, trust and long-term value.

The UN Global Compact calls on companies everywhere to align their strategies and operations with the Ten Principles of the UN Global Compact, which include commitments to human rights and environmental responsibility. By embracing these principles and implementing the guidance offered in this resource, businesses can play a vital role in protecting and promoting the right to a healthy environment.

Developed in collaboration with the German Government's Helpdesk on Business and Human Rights and Verisk Maplecroft, this guide offers insights on different industries and operating contexts and actionable due diligence steps to help businesses integrate environmental stewardship into their human rights practices.

I urge all companies, large or small, in all industries and localities, to explore this valuable resource and take concrete steps to embed continuous human rights and environmental due diligence into their operations. Companies that prioritize environmental sustainability and respect for human rights are better positioned for long-term success in a rapidly changing world.

Let us work together to build a future where both people and the planet thrive.

Sanda Ojiambo

Assistant Secretary-General and CEO
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# INTRODUCTION

Humanity is facing a triple planetary crisis of climate change, pollution and biodiversity loss. This crisis underpins a link between human rights and the environment in which environmental degradation may violate the rights of individuals or groups. In July 2022, the United Nations General Assembly recognized this connection by establishing that a clean, healthy and sustainability environment is a human right.

Global climate change, air pollution, soil degradation, water, soil and noise pollution, loss of biodiversity as well as deforestation stems from business-driven economic activities. Consequently, businesses have a key responsibility to protect the right to a healthy environment. To do this, businesses should play a central role in preventing and mitigating their environmental harms, to limit the negative implications on human rights.

Under the United Nations "Protect, Respect and Remedy" framework, it is the duty of national Governments to protect people within their territory and/or jurisdiction against human rights abuses committed by third parties, including businesses. At the same time, businesses are expected to respect human rights — by not infringing the human rights of others (directly or indirectly). Both States and businesses are also expected to enable access to effective remedy (both judicial and non-judicial) for victims of human rights violations where they do occur.

The United Nations' Guiding Principles on Business and Human Rights (UNGPs) reflect the 'gold standard' for corporate human rights due diligence. It outlines the ways in which business should identify, prevent, mitigate, remedy, measure and report adverse human rights impacts of their own activities, or those of their business relationships. Whilst the UNGPs do not explicitly mention the environment, with the recognition of the right to a healthy environment, human rights due diligence should include this right in their human rights due diligence considerations.

As the global authoritative standard on business conduct in relation to human rights, the UNGPs offer high-level guidance on how businesses can operationalize their obligations under the "Protect, Respect, Remedy" framework[1]. Unanimously endorsed by the UN Human Rights Council in 2011, the UNGPs set expectations of States and companies about how to prevent and address negative impacts on human rights by business. The dilemma for responsible businesses is how to respect human rights in practice, particularly where they face complex social, political and economic contexts or situations that do not have easy straightforward solutions.

This practical guide seeks to provide companies with background on the right to a healthy environment and guidance on embedding this right into UNGP-aligned human rights due diligence processes.

It provides an overview of the context within which the right to a clean, healthy and sustainable environment sits. The guidance also provides an indication of the current standing definition of the right and the legal frameworks implementing it, both internationally and nationally. It then seeks to understand the contextual and industry-specific risk factors of this right. The main body of this document provides companies with practical due diligence steps for the right to a healthy environment.

# OVERVIEW

## What is the Right to a Clean, Healthy and Sustainable Environment?

For the full enjoyment of human rights, a clean, healthy and sustainable environment is vital. This right seeks to hold States and companies accountable for environmental harm, which threatens the full enjoyment of human rights. The right to a healthy environment does not have a universally agreed definition but is understood to protect an individuals' rights to inter alia clean air; a safe and stable climate; access to safe water and adequate sanitation; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; and healthy biodiversity and ecosystems. In line with the UNGPs, all businesses have a responsibility to respect the human right to a healthy environment through the implementation of continual human rights due diligence.

This right also includes certain procedural elements designed to enable access to information and participatory decision-making, provide redress for harm and secure the free exercise of these rights. Although these elements only relate to State obligations, companies should consider them when engaging with stakeholders.

## Connection between human rights and the environment

The environment and human rights are inherently interlinked. All humans depend on the environment in which we live, work, play and study. 24 per cent of all global deaths are related to the environment, specifically the WHO attributes 37 per cent of heat-related deaths to human-induced climate change. Environmental impacts may include climate change, air pollution, soil degradation, water, soil and noise pollution, loss of biodiversity as well as deforestation. They may be caused, for example, by unsafe use of hazardous substances, harmful emissions, unsustainable land use and production and disposal of waste. Such impacts are threatening people's lives, health, housing, standards of living, food, security and livelihoods i.e. their human rights. A clean, healthy and sustainable environment is not only a precondition for human life but also for the enjoyment of these and other human rights including civil and political rights. As environmental degradation increases, so do the threats to the enjoyment of all human rights. The environmental crisis disproportionately impacts the world's most marginalized communities, including women, children, Indigenous populations and ethnic minorities, older persons, people with disabilities, People of Colour and people living in poverty. Ensuring a clean, healthy and sustainable environment is essential to the enjoyment of human rights and the exercise of human rights contributes to more effective environmental protection.

# TRIPLE PLANETARY CRISIS

The progressive greening of human rights and the subsequent environmental cases being filed against private companies and States, is symptomatic of the ongoing "triple planetary crisis". This crisis is comprised of three intersecting environmental issues, which impact the rights of people, particularly those in vulnerable conditions: pollution, climate change and biodiversity loss. Each of these issues have their own root causes and effects and therefore require different approaches to resolve. However, they all need to be resolved to achieve a healthy and sustainable future.

**Climate change:** This is considered the greatest threat to humanity. It involves long-term changes to the planet's climate, including rising temperatures and more volatile weather patterns, caused by human activities. The consequences of climate change include rising sea levels, melting polar ice caps, increasing intensity and severity of natural disasters, such as droughts, fires, floods or storms and changes to climatic cycles which restrict biodiversity. All of these consequences can impact the enjoyment of human rights.

**Pollution:** Over-production, inappropriate disposal, unsustainable product-design and insufficient recycling are generating high levels of pollution and waste, affecting the health of humans and ecosystems. With emissions from factories, cars, cooking, aviation and heating degrading air quality, air pollution is one of the global leading environmental causes of illness and premature deaths. Other forms of pollution can include plastic and microplastic pollution, and pollution contaminating water sources through chemical dumps or leaks. This can risk the health of people, thus restricting their rights to health or life.

**Biodiversity loss:** There are considered to be three levels of biodiversity: genetic diversity, species diversity and ecosystem diversity. All three levels of biodiversity are experiencing a decline in the face of the global biodiversity crisis. Pollution, climate change, the over-exploitation of resources, changes in land use (such as urbanization, deforestation and intensive mono-culture farming) and the introduction of invasive species are all contributing to biodiversity loss. This crisis restricts access to food as losing key species reduces the health and fertility of soil and produces lower crop yields, as well as depleting fish species. Furthermore, the natural pollution filtration systems in our water sources, such as sand, oysters, charcoal and minerals, are decreasing with biodiversity loss. Biodiversity loss gives rise to disease and infection – restricting access to clean water. Climate change, in particular, is also contributing to species extinction, with at least 10,967 species on the IUCN Red List of Threatened Species due to global warming and threats to habitats.

The triple planetary crisis augments the issues vulnerable groups are already facing:

- Pre-existing gender discrimination against women is reinforced as women and girls are excluded from participating in environmental decision-making, making the policies less responsive to the damage and therefore less effective in protecting communities;
- The health of women, children, older persons, persons with disabilities and people living in poverty is deteriorating due to environmental degradation. Women in particular are more vulnerable to many pollutants because of the thinner skin, smaller weight, higher body fat and hormonal disruptions and
- The traditional indigenous lands and resources upon which communities depend on for their survival are destroyed.

Addressing this crisis will require a variety of solutions and the involvement of different perspectives. By protecting the right to a healthy environment, businesses can start to prevent, correct and remediate the human rights consequences of this triple planetary crisis.

## WHAT IS THE DILEMMA?

The dilemma for responsible business is how to pursue profitable activities without undermining the rights of people to a healthy environment. This challenge is compounded as some business operations are inherently destructive of the environment and operate in countries with poor legislative enforcement for people and/or the environment. Companies will need to consider how to sufficiently limit environmental damage and improve environmental conditions within their business scope to effectively protect the rights of people affected by their own activities or throughout their value chains. Assessing the type of damage a company may cause to the environment and how this may undermine a person's human dignity and wellbeing (at the core of all human rights) will be crucial for a company to continue operating with a social licence and pursue profits.

For instance, resource extraction can cause a wide radius of environmental damage (see Environmental Impact of Businesses below for a more detailed discussion on types of environmental damage) throughout the operations and value chains of a company. Where the damage is high-impact, it is likely to infringe the core human rights, such as the right to life or health.

The impacts of environmental damage on rightsholders are often not isolated to the area in which the damage occurred and societies are increasingly recognizing the extraterritorial reach of human rights in relation to environmental damages. For example, persistent organic pollutants (such as PFAS) are known to migrate over long distances so that harmful effects can occur far away from the initial source of pollution.

## Environmental Impact of Businesses

The operations, practices, sourcing activities and products of businesses can cause or contribute to environmental harm. This might include destruction of land and habitats, pollution, emissions, waste generation, deforestation and other forms of change of land use. The environmental impacts can affect communities and economies by disrupting people's livelihoods and creating huge costs for States.

Key impacts include:

- **Global warming and climate change:** 57 companies have been directly linked to 80 per cent of the world's global fossil fuel emissions since 2016 - when these fossil fuels are burned, they release large amounts of the greenhouse gas carbon dioxide ($CO_2$) into the air, which traps heat into our atmosphere and causes global warming. These 57 companies are exclusively oil, gas, coal and cement companies, which by their very nature produce emissions. However, nearly every business contributes to global warming by burning fuels to heat offices and warehouses or releasing harmful gases via the distribution and delivery of goods. Furthermore, a major part of emissions is attributed to energy production for private households, as well as industrial processes. Accelerated global warming risks melting ice caps, rising sea levels, extreme weather events, biodiversity loss and species extinction. These can all have devastating effects on communities.

- **Deforestation:** 1.3 million square kilometers of global forests have been lost since 1990 due to deforestation for commercial agriculture and other land uses. Vast areas of forest are burned and cleared to make space for crops and livestock for commodities like soy, cattle, oil palm, wood, cocoa, coffee and natural rubber. According to Greenpeace, agribusiness is the leading driver of deforestation, as well as mining and urban construction/infrastructure. Deforestation destroys the rainforest habitats of animals and indigenous communities and increases greenhouse gases, which were stored in the rainforests. Furthermore, these commodity crops tend to be monocultures, which degrade the soil and reduce biodiversity.

- **Natural hazard disasters:** There were a total of 399 natural hazard disasters in 2023, affecting 93.1 million people and resulting in 86,473 fatalities. Such disasters included extreme weather events like floods, fires and droughts and other natural disasters like earthquakes. The intensity and frequency of natural disasters is increasing as surface temperatures rise due to emissions. Therefore, whilst these natural disasters cannot be wholly attributed to a single company or State, it is clear that businesses are contributing to such damage through their emissions.

- **Water pollution:** In 2021, it is estimated that 802,486 people died worldwide due to unsafe water sources. Between March 2020 and March 2021, one single British water company was responsible for 94 pollution incidents per 10,000 kilometers of sewer. Meanwhile, in the US, over 50 per cent of rivers are polluted. Whilst many environmental disasters cause water pollution, it can also stem from companies leaking toxic waste, raw sewage or chemicals into the water.

- **Air pollution:** According to the World Health Organisation, there were 6.7 million deaths in 2019 due to exposure to air pollution. A whole range of business operations are contributing to increased concentrations of pollutants in the air, both outside and inside buildings, which can have short- and long-term adverse health effects. For example, the agricultural sector is a main emitter of air pollutants, such as methane and ammonia. Further, global household cleaning and personal care products are a large source of volatile organic compounds.

# TWO MAJOR ENVIRONMENTAL DISASTERS

## Niger Delta: The Most Polluted Area in the World

Since commercial oil operations began by Shell in 1958, it is estimated that 13 million barrels of crude oil have been spilled into the Niger Delta due to over 7,000 oil spill incidents. These oil spills have contaminated the local water sources and soil of approximately 1,500 communities. Soil fertility and crop yields were reduced as a result of the pollution, and heavy metals were found to have accumulated in the surviving food crops like cassava and pumpkin. Such polluted crops, oil-covered fish and dirty drinking water has meant locals are unable to access clean food or water for fear of disease and their livelihoods, closely connected to the land, have been destroyed.

## Bhopal Disaster: The Worst Industrial Disaster in History

The Bhopal disaster of 1984, considered the worst industrial disaster in history, saw a gas leak from a pesticide factory in Bhopal, India kill an estimated 3,800 people immediately, according to the local government, and an estimated 8,000 more died within two weeks of the disaster. It is reported that about 500,000 were affected by the disaster. Investigations found that the plant's substandard operating and safety procedures caused the disaster, as well as considerable understaffing. Thousands of premature deaths, PTSD, health issues (including respiratory problems, eye irritation and blindness, increased chromosomal abnormalities) and significantly increased morbidity rates were all connected to the accident. The chemical leak contaminated the surrounding soil and groundwater, making the water undrinkable and poisoning crops and fish. This contamination continues to expose over 20,000 people living near the factory to roughly 350 tonnes of toxic chemicals today, contributing to other health issues, including cancers, birth defects, fevers, headaches and constant fatigue.

The above impacts are only a snapshot of the types of environmental impacts businesses may cause or contribute to. More details on industry-specific environmental impacts can be found in the Industry-Specific Risk Factors section below. Companies should consider the full range of possible environmental impacts their operations or value chain may be attributed to.

## Impacts on Businesses

Businesses can be impacted by the violation of the right to a healthy environment in their operations and supply chains in multiple ways:

- **Reputational and brand risk:** Negative campaigns by non-governmental organizations, consumers, trade unions and other stakeholders against companies can result in reduced sales and brand erosion. As the connection between the environment and human rights is becoming ever-more important for society, poor reputation can harm employee retention and make a company less attractive to potential employees. Environmental non-governmental organisations (NGOs) are increasingly placing companies under the microscope and publicly highlighting the environmental damage companies have caused. For example, Greenpeace and Client Earth have widely criticized oil and gas companies for their environmental impacts.

- **Legal risk:** Legal claims are increasingly brought against companies for breaching the right to a healthy environment, which usually involve significant damages and fines and can result in imprisonment in some countries. Claimants are increasingly successful, with claims in different jurisdictions against parent companies or buying companies further up the supply chains. For example, a decision in the UK Supreme Court confirmed that an environmental claim brought by over 1,800 Zambian villagers against Vedanta (a UK-based parent company) and its Zambian subsidiary KCM for discharging waste from the Nchanga copper mine and polluting local waterways can proceed to trial. There are also two cases pending in the German courts which will be decided later in 2024: Lliuya v RWE in which a Peruvian farmer is seeking damages from Germany's largest electricity producer for knowingly contributing to climate change through their greenhouse gas emissions; and the many claims against TÜV Süd for the dam in Brumadinho, one of which has claims estimated at €400 million.

- **Operational risk:** The physical environment in which companies operate is likely to change overtime as climate events occur and natural resources run low. The natural resources businesses depend upon will be harder to acquire or might be destroyed, resulting in disruption. For example, land degradation and water scarcity may reduce access to the resources required to manufacture or process a product. Soil degradation may lead to smaller yields which in turn may result in less or more expensive raw materials, such as cotton or other agricultural products. Air pollution is also bad for business as around 1.2 billion workdays are lost globally each year due to employee illness caused by breathing in polluted air.

- **Financial risk:** Operational and legal risks can develop into financial risks if fines are owed and disruptions to production arise from shortages of supplies or interruptions in production. High financial risks can also occur when companies face obligations to remediate environmental damages and rights abuses that they have caused.

## CLIMATE AND ENVIRONMENTAL LITIGATION

As communities begin to feel the full effects of climate change, they are turning to courts to help tackle the climate crisis, by seeking to hold governments and corporations accountable for the slow progress made. The number of climate change cases being brought before courts has more than doubled since 2017, and many of these cases are beginning to also encompass the right to a healthy environment. Between 2017 and 2022, legal actions were brought before 65 different bodies, including international, regional and national courts, tribunals and special procedures of the UN. These climate litigation cases often rely upon internationally and nationally recognized human rights to demonstrate strong links between climate change and human rights violations.

However, cases of environmental damage impacting people's health have been common in courts worldwide for much longer. There have been numerous litigation cases involving water or soil pollution; one of the most famous was the Trafigura case, in which more than 100,000 people sought medical assistance for headaches, skin irritations and breathing issues, when a cargo ship dumped toxic waste into the Côte d'Ivoire. Meanwhile in the DuPont chemical dumping case people working and living in Parkersburg West Virginia suffered illnesses, including cancer, due to PFOA pollution in their local water supply. Many of the first litigation cases were private litigation between companies and individuals/communities settled outside of court, based on domestic tort rules.

That said, courts have increasingly heard cases relating to the violation of the right to health due to pollution over the past couple of decades. For example, in 2021 a group of girls from the Sucumbíos and Orellana provinces brought the Ecuadorian Government to court claiming the practice of gas flaring violated their rights to health, water, food sovereignty and a healthy, ecologically balanced environment under the Constitution. The Court ruled in favour of the girls. More recently, in April 2024, an Iraqi father has started legal action against oil company BP claiming the toxic emissions from BP's gas flaring caused his son's fatal leukemia. It will be an important case for harmful emissions from a major carbon contributor.

Climate litigation meanwhile is increasingly using a range of rights, including the right to private and family life. There are a number of databases containing summaries of global case law relating to human rights and climate change, such as the Climate Rights Database and the Climate Case Chart database. Whilst many of these cases are against States, a growing number of them are bringing corporations to court for their part in climate change. In 2019, a Dutch court found the oil and gas company Shell to be in violation of the Paris Agreement and ordered it to reduce its carbon dioxide emissions by 45 per cent by 2030 — the first time a private company was found to have a duty under the Paris Agreement and the first time the UNGP's were directly applied to civil claims.

In April 2024, the European Court of Human Rights ruled in favour of the association of the Swiss Senior Women for Climate Protection against Switzerland. The ECtHR decided that Switzerland was violating the human rights of the older women, including their right to health and private life, by not taking necessary steps to combat global warming. It affirmed the rights-based link between the negative effects of climate events, such as intense heat waves, on Swiss senior women and Switzerland's climate protection measures.

With the advent of climate litigation, cases involving the right to a healthy environment have now begun. On 22nd March 2024, Peruvian communities won their case in the Inter-American Court of Human Rights where it was ruled industrial pollution from Le Oroya Metallurgical Complex in Peru violated their right to a healthy environment. The Court concluded that the failure to prevent extensive pollution violated a number of rights covered by the right to a healthy environment, including the right to clean air and water, as well as other rights to life, health, physical and mental integrity, dignity and the rights of the child.

**Companies need to be aware of these cases and ensure they consider how to protect the right to a healthy environment throughout their operations and value chain.**

## Impacts on People

**Environmental impacts caused by business operations could impact rights-holders in the following ways:**

- **Health:** Air, water, or land pollution and noise emissions impact peoples' health, as they can cause severe illnesses such as polio, cholera or other gastrointestinal diseases, cancer or respiratory diseases. It also contributes to food and water insecurity and scarcity, and decreases the quality of the food and water available – increasing hunger and dehydration. There are specific groups of people for whom the health effects are particularly strong, such as women, girls, children, older persons, persons living on or below the poverty line and persons with disabilities. For example, women and children in low-income countries tend to perform the bulk of domestic tasks and spend a lot of their time in kitchens with higher rates of exposure to particular matter and other pollutants emitted by stoves and open fires. Furthermore, global warming directly impacts human health, for example by increasing the severity and frequency of respiratory and heart diseases, pest-related diseases like Malaria, Lyme disease and the West Nile Virus, water- and food-related illnesses, as well as injuries and deaths, including those due to extreme weather events. The overall distribution of tropical diseases is also affected by climate change as rising temperatures spread disease vectors, like mosquitoes, to areas where they did not previously occur.
- **Peace and security:** Greenhouse gas emissions are accelerating climate change, which impacts communities' livelihoods, drives climate migration and displacement, and sparks resource conflicts. Global warming above 1.5°C risks further sea level rise, extreme weather and biodiversity loss (which includes species extinction). All of these environmental impacts increase food and resource scarcity, as well as worsening health, standards of living and poverty.
- **Indigenous populations:** Land inhabited by Indigenous Peoples contains 80 per cent of the world's remaining biodiversity, yet much of their land is at risk of being the subject of commercial interests. Resource extraction can impede Indigenous populations' access to resources, such as water or land, or to areas of cultural and spiritual significance. Indigenous populations are also more vulnerable to the impacts of climate change, and environmental destruction, with biodiversity loss increasing the risks of food insecurity. Furthermore, the Free, Prior and Informed Consent (FPIC) of indigenous communities is often overlooked, meaning they are not consulted during the planning and preparation phases of projects – increasing the likelihood of the projects damaging the environment. Where environmental impacts do arise, their access to justice is also considerably limited due to discrimination, under-representation or complexity of judicial systems.
- **Marginalized communities:** Black, Indigenous, and People of Colour (BIPOCs) are considered to be frequently marginalized communities who experience higher rates of environmental damage and pollution. Environmental racism relates to the disproportionate burden of environmental hazards placed on BIPOCs, where BIPOCs are often in closer proximity to polluting facilities like waste dumps, gas pipelines and power stations or major infrastructure such as highways. Living so close to this pollution exposes BIPOCs to higher rates of harmful pollutants, impacting their water sources and clean sanitation, and often leading to greater risk of serious health problems, such as respiratory problems like asthma or lung conditions, heart attacks or cancer.
- **Healthy food:** Due to the widespread use of agrochemical products, land destruction by companies and climate change, there is an increasing scarcity of healthy and sustainably produced food. This means communities, particularly those in poor urban areas and countries of the Global South, are struggling to access nutritionally dense foods for themselves or their families.

- **Green transition:** Efforts to use sustainable or renewable resources are increasing — by their very nature these seek to ensure a healthy environment, but can often have detrimental environmental impacts of their own, which affect rightsholders. For example the creation of polysilicon for solar panels produces hazardous by-products, such as silicon tetrachloride and hydrofluoric acid, which, if inappropriately discharged into the surrounding soil and water systems, can have harmful health effects on local communities. Forced labour has also been found in polysilicon factories and solar panel supply chains. Furthermore, improper planning for the use of solar panels on land may restrict a community's access to food or restrict an indigenous community's rights.
- **Future generations:** Sustainable development seeks to meet the needs of the present generations without compromising the needs of future generations. Future generations are at risk due to the triple planetary crisis with extreme temperatures and weather events, such as flooding or droughts, leaving future generations with less land for crops, destroying homes and cutting access to clean water; whilst air pollution increases health problems in future generations. Furthermore, rising sea levels will force those living on small islands to leave their homes and puts their lives at risk.

The above list is not exclusive and impacts are increasingly far-reaching.

**Environmental damage has the potential to impact a range of individual's and communities' rights including but not limited to:**

- **Right to a healthy environment:** There are many variations on the right to a healthy environment, such as the right to a clean environment, the right to a clean and healthy environment or the right to a sustainable and healthy environment. This right is interconnected with other health-focused human rights and is a precondition to human rights. Even though the right to a healthy environment is not included in any binding resolution, it is recognized by over 150 States already. Furthermore, the right to a healthy environment seeks to ensure clean and balanced ecosystems, stable climates and a rich biodiversity. Biodiversity and habitat loss can harm the rights of individuals, particularly vulnerable groups like women, children, older persons and persons with disabilities as risks of food insecurity or poor access to clean water rise — thus increasing their health risks.
- **Right to life** (UDHR, Article 3, ICCPR, Article 6): Everyone has the right to life. At its most extreme, environmental damage can directly or indirectly cause fatalities. Deaths may occur as a direct result of a natural or climate disaster like a flood or an oil spill, but they may also occur due to secondary effects of environmental destruction — for instance, air pollution may increase the likelihood of respiratory illnesses but fatalities are one step removed from the immediate damage.
- **Right to health** (UDHR, Article 25, ICESCR, Article 12): All individuals are entitled to a universal standard of physical and mental health. The right to health is closely related to and dependent upon the realization of other human rights. The practical enjoyment of the right to health depends on safe drinking water, safe food, healthy working and environmental conditions and adequate nutrition. The right to health can be compromised by environmental damage, both in the working environment and outside, which can affect many of the underlying determinants. For example, a person's health may be restricted by a company unsafely disposing of waste into a community's local water sources.
- **Right to an adequate standard of living** (UDHR, Article 25, ICESCR, Article 11): These provisions guarantee the rights of all individuals to adequate housing, food, water, clothing and the continuous improvement of living conditions. It is intrinsically linked to the right to health and the right to a healthy environment. The destruction of homes or an inability to access safe water and food can be direct results of climate disasters, industrial disasters and pollution.
- **Right to water and sanitation** (ICESCR, Article 11): Individuals are entitled to quality, available, acceptable, accessible and affordable water and sanitation. Water pollution from chemical run off, land modifications and increases in natural disasters like droughts have significantly reduced the access people have to water and sanitation.
- **Right to food** (UDHR, Article 25, ICESCR, Article 11): Everyone has the right to sufficient amounts of food for themselves and their family. The effects of climate change, such as extreme weather fluctuations or floods, are affecting crops and livestock production and increasing food insecurity. Vulnerable communities in areas already at risk of food insecurity are most likely to be impacted as they face further decreasing crop yields, and declines in agroforestry and fisheries. Furthermore, the use of toxic agrochemical products deteriorates soils, reduces yields and leads to contamination of food.

## The Global Goals

The Global Goals are built on the preservation and restoration of natural resources and ecosystems and tackling climate change to ensure environmental protection. In this way, the protection of the right to a healthy environment is intrinsically connected to many of the targets of the Global Goal. The following Global Goals targets relate to the right to a healthy environment:


"End hunger, achieve food security and improved nutrition and promote sustainable agriculture"


"Ensure healthy lives and promote well-being for all at all ages"


"Ensure availability and sustainable management of water and sanitation for all"


"Ensure access to affordable, reliable, sustainable and modern energy for all"


"Ensure sustainable consumption and production patterns"


"Take urgent action to combat climate change and its impacts"


"Conserve and sustainably use the oceans, seas and marine resources for sustainable development"


"Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt & reverse land degradation and halt biodiversity loss"

Although only some of the Global Goals relate directly to the right to a healthy environment, progress on these targets will help advance other goals.

# DEFINTION AND LEGAL INSTRUMENTS

## Definition

All people have the right to a clean, healthy, and sustainable environment. This right has been in consideration since 1972 when the Stockholm Declaration on the Human Environment declared that people have "the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being".

The right to a healthy environment endorses the (near) global recognition of the link between environmental harm and human rights. Regional and national case law has argued that many human rights, including the right to life, health, property and water depend on a healthy environment to be upheld. Even though there is no universally agreed definition and no universally applicable threshold for a safe, clean, healthy and sustainable environment, it is understood to encompass the following elements:

- A safe and stable climate;
- Clean air;
- Access to safe and sufficient water and sanitation;
- Healthy and sustainably produced food;
- Non-toxic environments in which to live, work, play and study and
- Healthy ecosystems and biodiversity.

It is important to note that this list is not exhaustive. It is also generally accepted that the right to a healthy environment applies to both present and future generations and is a specific right to ensuring people have a clean, healthy and sustainable environment to live in.

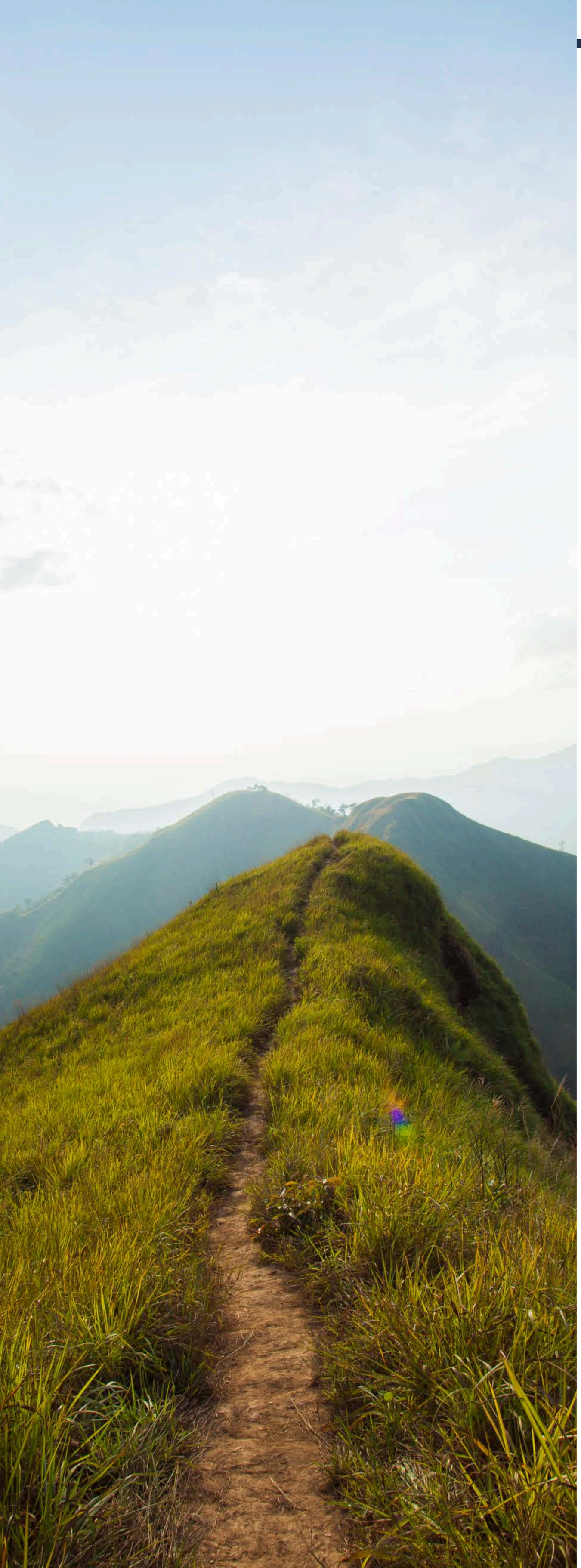
## Legal Instruments

Since the adoption of the Stockholm Declaration on the Human Environment, the right to a healthy environment has been appearing in national constitutions, regional legislation and policy documents. This right was legally recognized in more than 80 per cent of UN Member States before the UN General Assembly recognized it in 2022.

### UN Resolution

In July 2022, the UN General Assembly adopted a landmark resolution recognizing the human right to a healthy environment. This is the first international formal text to recognize this right. However, it is important to note that this resolution is not a legally binding resolution and calls upon States to implement regional and domestic legislation.

**Please visit this page for more detail on the definition of the right to a healthy environment and its relevant legal instruments.**



## Recognizing Rights of Nature

Many States, particularly those in the Global South, are increasingly recognizing the rights of Nature as a legal person through their constitutions, legislation and judicial enactments. They aim to provide legal protection for the ecosystems — including animals, plants and mountains, and recognize them as more than simply property. For example, it was ruled that the Colombian Amazon can be a subject of rights, and the Whanganui River, the Te Urewera Forest, and Mount Taranaki were granted legal personhood as they are considered particularly important to the Māori people. This means that States have a duty to protect, conserve, maintain and, where necessary, restore these recognized ecosystems. Many indigenous communities already consider nature to be a separate entity which requires protection.

Companies operating in these protected natural environments should consider nature as a rightsholder when undertaking their human rights impact assessments. It requires the consideration of nature as a 'silent stakeholder' in the protection of human rights. In practice, companies' duties towards the recognized rights of nature and what rights this recognition entails remain unclear but will inevitably become a growing part of ensuring the right to a healthy environment.

# CONTEXTUAL RISK FACTORS

## Key Risk Factors

Environmental damage caused by corporate activities can often arise to such an extent that it impacts human rights. First and foremost, companies have a responsibility to take responsibility for their own environmental and human rights impacts. There are certain risk factors that increase the likelihood of environmental damage caused by corporate activites being severe enough to impact human rights.

Key risk factors include:

- Climate change and climate-related disasters increase the risks of displacement, poverty, food and water insecurity and disease. This makes it far more likely for peoples' rights to life, home, health, property and the self-determination of indigenous people to be restricted.
- Lack of access to justice due to poorly funded or corrupt judiciaries. This prevents affected victims from accessing remedy when environmental damage has occurred. This restricts the procedural rights of individuals and prevents the possibility of redress and to those impacted by the environmental damage.
- Poorly enforced domestic environmental laws allow companies to operate with impunity. This increases the likelihood and severity of violations, placing the rights of impacted people at greater risk. Poor enforcement often relates to corruption and companies may use poor governance structures to economically benefit from not having to abide by environmental (and other) laws.
- Few environmental protections permit companies to damage the environment to such an extent that it restricts peoples' human rights. For example, Bangladesh does not require the assurance that factories and mines are not harming the health of people or the planet.
- Resource rich areas open the door for some Governments or administrations to provide resource extraction licenses to companies to drive the economy. Such administrators are likely to prioritise their economy over the environment, and by extension the rights of local communities. This increases the risk of environmental damage as companies can operate with greater impunity, particularly as resource extraction often leads to severe environmental damage. Lack of proper consultation, consideration of local communities, and free prior and informed consent of Indigenous Peoples creates additional risks to their right to a healthy environment.
- Poverty exacerbates the effects communities feel from environmental damage. For example, a poor, rural community whose local water source is polluted by toxic wastewater will be unlikely to have the funds to fix the damage, may not have access to local healthcare to resolve any resulting health issues, and may have challenges accessing necessary legal protections or representation. Furthermore, such a community relies more heavily on their local water source for cooking, cleaning and even potentially their income, such as fishing and agriculture.
- Conflict increases the chances of a violation of the right to a healthy environment as conflict itself can damage the environment by consuming vast amounts of local resources, destroying land, creating increased emissions in localized areas and polluting the environment — sometimes irreversibly. Communities in conflict zones therefore face a higher risk of their rights being restricted.

## Vulnerable Groups

The UN Resolution for the Right to a Healthy Environment specifically mentions the following vulnerable groups to be considered:

- **Indigenous and traditional communities** face increased pressure from Governments and companies seeking to exploit resources on their ancestral lands. These lands are materially and culturally significant to these communities and their connection to the land is intrinsically linked to their rights. Such communities are frequently marginalized from decision-making processes — thus restricting their procedural rights under the right to a healthy environment and risking the violation of their substantive rights. Furthermore, indigenous communities are more vulnerable and less resilient towards adverse environmental impacts because they are disproportionately affected by poverty, discrimination and marginalization. They are therefore at greater risk of carrying out dangerous work or being in precarious employment.
- **Children** are uniquely vulnerable to environmental pressures. Their mental and physical health can be disproportionately impacted by pollution as their bodies, immune systems and organs are still developing, for example suffering from malnourishment and stunted growth; this can also impact a child's further development. Children are also more susceptible to vector-borne and infectious diseases, increased by rising temperatures and changing rainfall patterns. Furthermore, legally employed youth workers face health risks from polluted working environments;
- **Older Persons** are at increased risk of harm due to climate change and air pollution. Diseases, heat stress (both exposure to extreme heat and cold), and the increasing intensity and frequency of disasters all impact their physical and mental health of older persons. Age discrimination means older persons are often neglected in policy decisions and programmes meant to address the effects of the triple planetary crisis. They are also more vulnerable to toxins, as their thinner skin increases the risk of dermal contact poisoning.
- **Persons with disabilities** suffer from disproportionately higher rates of diseases and mortality due to climate change. They are also frequently overlooked during the development of climate-related emergency actions, for example people who are deaf may not be able to hear warning alerts. Exposure to air pollution puts persons with disabilities at greater risk of further health issues, who already face difficulty accessing healthcare.
- **Women and girls** are often more susceptible to environmental impacts as in most households they have poorer access to food, water and healthcare due to gender discrimination. They also face stronger effects of pollution and toxins due to biological factors, such as thinner skin, smaller weight, smaller percentage of muscle mass and different effects of endocrine disrupting chemicals. Furthermore, where water sources are polluted, they have to travel further and are deprived of educational and economic opportunities. This exposes them to increased risks of gender-based violence, as climate change exacerbates existing conflicts, inequalities and vulnerabilities.

**Environmental defenders** also face excessive abuse and often find their rights to life, liberty, freedom and prohibition of torture, inhumane and degrading treatment violated by businesses and security guards. Such violations include arbitrary arrest, torture, inhumane and degrading treatment, other forms of mental and physical abuse and manslaughter/murder. In some cases, companies may collude with State security forces or paramilitary organizations.

**For further details, please visit the Business and Human Rights Navigator's Right to a Healthy Environment Issue.**

# INDUSTRY-SPECIFIC RISK FACTORS

Whilst restrictions on the right to a healthy environment are present in many industries, from the transport industry to the technology and construction industries, the following industries present particularly significant levels of risk. To identify potential risks to the right to a healthy environment for other industries, companies can access the CSR Risk Check.

## Agriculture

Agriculture, especially convention large-scale farming, can have harmful impacts on the environment and on neighbouring communities. Agriculture and aquaculture is often carried out with agrochemicals, such as chemical fertilizers and pesticides. Agriculture's contribution to biodiversity loss, water overconsumption, soil degradation and greenhouse gas emissions continues to place the right to a healthy environment at considerable risk.

Agriculture-specific risk factors include the following:

- **Biodiversity and habitat loss:** 86 per cent of global species at risk of extinction can be attributed to agriculture. It is the largest threat to biodiversity loss and the majority of this loss is driven by the clearing of lands for agriculture through the use of damaging techniques and deforestation. Our farming and agricultural practices are accelerating biodiversity loss, including the decline in the abundance and diversity of pollinating insects. For example, in 2017, researchers demonstrated that the biomass of flying insects in selected protected areas in Germany has decreased by more than 75 per cent since 2017. Such biodiversity loss leads to greater food insecurity and risks the livelihoods and health of communities. Furthermore, many products are toxic to crucial pollinators, such as bees, leading to their decline. This risks the loss of plant species due to inadequate numbers of pollinators, which in turn endangers ecosystems as a whole.

- **Agrochemical Pollution:** Farmers are increasingly turning to the use of chemical fertilizers and pesticides (which include fungicides and herbicides) to increase crop yields. There are approximately 11,000 farmer and farmworker deaths due to pesticide poisoning every year, the majority in the Global South. The widespread and prolonged use of such chemicals further pollutes the soil, causing damage to the produce grown and risks the health of animals and people. Furthermore, during the spraying, chemicals are often picked up by the wind drifting onto nearby surfaces, including plants, insects or water sources. Agrochemical products may cause acute and delayed negative health effects, including irritation of the skin, reproductive problems, birth defects and cancer. Agrochemical products are further linked to land degradation, potentially increasing food insecurity. The rights of communities to biodiversity and healthy food systems are more likely to be adversely affected and the dietary security of populations will suffer.

- **Subsidies:** Local farmers are increasingly receiving subsidies, in part as a result of global economic insecurities and political decisions to incentivize farmers to adopt certain practices. The UN has reported that nearly 90 per cent of the yearly $540bn in global farming subsidies are "harmful", by distorting export and import tariffs, including price incentives for specific livestock and crops and providing subsidies for fertilizers and pesticides. The largest producers of greenhouse gas emissions, particularly meat, eggs and dairy producers, receive the largest proportion of subsidies; whilst subsidies for farmers in lower-income countries are often used for chemical fertilizers and pesticides.

These subsidies promote the overconsumption of meat, dairy and eggs in wealthy countries and the overconsumption of low-nutrition foods in poorer countries — decreasing the health of the global population.

- **Deforestation:** According to the Rainforest Alliance, agriculture accounts for 80 per cent of deforestation. 420 million hectares of forest has been lost to agriculture since 1990 — the equivalent of six times the size of Texas. Deforestation contributes to greenhouse gas emissions. Tropical deforestation is considered to account for 20 per cent of all greenhouse gas emissions. The majority of deforested land is used as cropland or for commodities like soy or wheat to feed livestock. In 2019, a study found that landslide susceptibility is higher and more longer lasting in areas where forests have been cleared, increasing the risk of natural disasters — and the risk to life and health.

- **Water consumption:** Agricultural production consumes excessive amounts of water, approximately 69 per cent of the earth's fresh water is consumed by the agricultural sector, and degrades water quality – subsequently damaging global water systems. Agriculture irrigation is the largest use of water, accounting for 70 per cent of global water use, where intensive pumping of groundwater for irrigation depletes aquifers, creating negative environmental damage. In addition, as discussed above, agrochemicals contribute to water pollution through livestock effluents and excessive fertilizer and pesticide run-off and a high percentage of external inputs.

- **Emissions:** Livestock emissions and animal waste are the main agricultural sources of greenhouse gas emissions, including methane — a byproduct of cattle. Methane, in particular, is a hazardous air pollutant, causing 1 million premature deaths every year. Many farming practices, including the use of fuel-powered machinery and the burning of fields, also contribute significantly to greenhouse gas emissions, with the livestock sector accounting for 18 per cent of all greenhouse gas productions worldwide. These emissions make habitats hostile and exacerbate climate change damage. Additionally, land cleared for agricultural production contributes to climate change, with the carbon stored in forests released when cut or burned.

## Mining and the Extractives Industry

The mining and extractives industry has historically caused massive environmental damage, violating the rights of local communities who live close to the industrial activity. The environment is frequently damaged by mining and extractive sites to such an extent that this impacts human rights. The direct adverse environmental impacts of this sector include pollution, biodiversity loss and a shortage of drinking water sources due to mine de-watering, whilst climate change effects are more indirect but just as harmful as the extractives sector contributes half of the world's greenhouse gas emissions contributing significantly to climate change.

Extractives-specific risk factors include the following:

- **Water and soil contamination:** Without proper management, fracking and other mining activities, such as de-watering, contaminate groundwater and can release toxic substances into the water and soil. Communities surrounding extractive sites are vulnerable to health issues from exposure to polluted water or soil, including cancers and aggravated asthma. Soil contamination also makes it difficult for communities to grow healthy crops.

- **Water usage:** Refineries consume considerable amounts of water, often straining already-stressed local resources. Such consumption depletes aquifers, increasing water stress and affecting fragile ecosystems.

- **Waste:** Mines and refineries generate large quantities of wastewater (often toxic) and solid waste difficult to dispose of and flares release hazardous gas and other toxins into the atmosphere. All of this waste can have a significant effect on peoples' health. For example, gas flaring has been linked to increased rates of leukemia and birth defects.

- **Waste storage:** Effluents and waste from mining is often stored in pond-like structures called tailings. These can become poisonous and toxic, can poison nearby soil or waterways through a process called 'seepage' and can in some cases become flammable, presenting a fire risk. Tailings (leftover materials from ore-processing) can also 'leak', causing the toxic effluent to seep into local water sources and soil. This toxic sludge damages nearby land and communities, sometimes to catastrophic effect, such as in the Vale dam and the TÜV Süd retention basin dam in Brumadinho. This can have devastating impacts on the local food and water sources, as well as local ecosystems.

- **Air pollution:** Dust and particles released from mining can cause long-term respiratory diseases if they are inhaled by workers or local communities. Common respiratory diseases from mining include bronchitis, silicosis and pneumoconiosis. The greenhouse gases connected to the extractive industry also exacerbate climate change.

- **Noise pollution:** Exposure to loud noises, such as mining machinery, falling rocks and explosions, can result in hearing disorders for workers or local communities, including hearing impairment, hearing loss and conditions like tinnitus, as well as chronic stress. These noises can also have a detrimental impact on ecosystems.

## Consumer Goods

Consumer goods are considered any goods purchased by the end-user, with no intention of being used later to produce other goods. These can include clothing, white goods like kitchen appliances, electronics such as phones, computers and E-bikes (powered by lithium-ion batteries), food and vehicles.

Health and environmental degradation is considered the 'foundation of cheap consumer goods'. Consumer goods are environmentally heavy, using up natural resources to produce the good, make the packaging and transport the materials and goods. The production processes often use huge amounts of water and produce a large proportion of the world's emissions. For example, the food and fast-moving consumer goods industries produce over one-third of the world's greenhouse gas emissions. The materials used in production, the products themselves and the packaging also often end up in the natural environment, particularly in land-fills and the ocean, contributing to habitat and biodiversity destruction and pollution.

That said, by 2035, EU Member States must reduce the amount of municipal waste sent to landfills to 10 per cent or less of the total amount of municipal waste generated.

Consumer goods-specific risk factors include the following:

- **Chemicals:** Many consumer products, including personal care products, cleaning supplies and products used in workplace settings, such as lubricants or sealants contain substances that can potentially harm human health and the environment. Researchers in the US have found that over 100 types of consumer products contain at least one, and often multiple, chemicals linked to health issues, including cancers, developmental problems and reproductive issues. Many of these products were used by workers, such as professional cleaners, seamstresses, tanners, hairdressers, nail technicians, auto-mechanics and workers in plastic factories who were exposed to higher levels of chemicals than regular consumers and faced greater health risks. Furthermore, vulnerable groups, such as women, children, older people and people with disabilities are especially susceptible to health risks of these chemicals.

- **Short-trend cycle:** The fashion industry's trend cycles are becoming shorter — fast fashion. This contributes to a range of environmental impacts, including requiring huge amounts of resources and producing waste (see bullet point below). The fashion industry is responsible for 10 per cent of global $CO_2$ emissions as clothes containing synthetic fibres are often made from fossil fuel-derived plastics to make them cheaply and quickly enough to keep up with the short trends. Additionally, microplastics are more likely to pollute soil and the sea, destroying ecosystems and further risking people's health; microplastics can harm animals and humans by bio-accumulation: the accumulation of pollutants in organisms, either through dermal/respiratory resorption from the surrounding medium or across food chains (bio-magnification).

- **Waste dumping:** Global waste exports from Europe or the United States to the Global South are increasing, with 1.7 million tonnes of textile exported outside the EU, primarily to Africa and Asia, in 2019. Plastic packaging of consumer goods, which often either cannot be or is not properly recycled is also dumped. Countries in the Global South are unable to ensure proper waste management, creating huge landfills or polluting waterways. Attempts to burn dumped garments also frequently pollute the air. Additionally, many consumer goods (often electronic goods containing chemicals and/or hazardous materials) are not properly disposed of. These goods can leak toxic effluents into the ground, damaging the water and soil — impacting local communities and environments.

- **Transportation:** In the current globalized world, companies source from different places across the world to ensure lower costs of sourcing and production. The export of these goods produces large amounts of emissions through shipping and freight transportation. For example, in 2020 the shipping and return of consumer goods accounted for 37 per cent of global greenhouse gas emissions.

- **E-Commerce:** Shopping attitudes have changed, with consumers preferring to order online and expect them to be delivered as soon as possible (with the advent of 'same day' or 'next day' delivery). Not only is the water consumption of data centres storing online shopping catalogues massive, but the packaging of such goods has also increased. The forest conservation group Canopy found that 3 billion trees are pulped every year to produce the 241 million tonnes of shipping cartons needed to transport goods ordered online. Furthermore, packaging waste generated from online shopping is mostly non-recyclable as it mostly consists of mixed materials, and often primarily plastic with the Chinese e-commerce industry producing 221.5 million kilograms of plastic packaging waste in 2019, and the United States producing 212.7 million kilograms.

- **Low skilled labourers:** Low-skilled labourers and people working in the informal sector are likely to have restricted fundamental labour rights. They are thus more vulnerable towards environment-related risks and damages. These population groups are also less resilient as they have fewer resources with which to take precautionary or evasion measures.

## Renewable Energy Sector

As the world seeks to reduce its environmental footprint by moving away from fossil fuels, its focus is turning to alternative renewable energy sources. This would result in less greenhouse gas emissions, reduce climate change and air pollution impacts and better protect the people and planet. Wind, solar, nuclear and hydrogen energy are all considered alternatives to fossil fuels. Despite the benefits of renewable energies, their manufacturing, construction and maintenance is associated with environmental adverse impacts.

Renewable energy-specific risk factors include the following:

- **Critical metals and minerals:** There is a surging demand for critical minerals, like copper, cobalt, polysilicon, aluminium, iron and lithium, to drive the green energy transition. The mining and refining of these minerals can heavily damage the environment, and local communities are often impacted by various types of pollution. Extracting critical minerals is highly land and water intensive. Noise, air and water pollution, soil degradation, deforestation, biodiversity loss and water scarcity all disrupt a persons' ability to live and work healthily and safely in an area. Refining metals and minerals consumes a lot of energy.
    - **Cobalt mining:** Cobalt is used to power rechargeable batteries, found in smartphones, electric vehicles and computers. It has therefore become a particularly critical mineral. However, the mining of cobalt is dangerous, child labour is frequently used, and it is resource-heavy – air and water pollution are considerable. The toxic dust from mining cobalt contaminates children and adults working in the mines and local communities surrounding the mines. Mining processes also contaminate water-sources with toxic effluents, and deforestation is vast. Children's health is particularly at risk for those child labourers in the mines, who frequently work without personal protective equipment of health and safety instructions. Health issues of cobalt include asthma and other respiratory issues, heat, thyroid, liver and kidney problems and fibrosis.

- **Land use:** Some renewable energy sources can use less land than fossil fuels, such as solar panels which can be installed on existing structures, and wind turbines can be built on agricultural land without destroying crops. However, without proper environmental management, land use, such as solar power developments, can excessively damage the local environment and disrupt biodiversity. Land has to be cleared and graded, appropriate drainage channels built, and erosion is highly likely before renewable energy infrastructure can be built. For example, solar panels are often built on farmland without consideration for the local biodiversity or food needs; whilst wind turbines can negatively impact the environment in which bats and certain bird species live and offshore wind farms can increases ocean noise, affecting the behaviours of fish and other sea creatures — disrupting the ocean ecosystems.

- **Water scarcity from lithium extraction:** Lithium-based batteries are crucial for the renewable energy transition, but lithium mining is water intensive. Lithium is commonly mined in areas already facing water stress, such as Chile, Argentina and Bolivia (known as the Lithium Triangle), but lithium extraction depletes groundwater and increases water scarcity. This places communities at risk of being unable to access clean drinking water or water for crops. Meanwhile in Europe, Serbia is set to become one of the main lithium producing countries and companies should consider the risk of water scarcity here.

## JUST TRANSITION

As climate change drives long-term shifts in the planet's weather patterns and temperatures, destroying healthy environments and pushing people into more vulnerable situations, massive changes to the way our economies are built are required. This means transitioning to renewable energies and promoting sustainable economies and societies to reduce carbon emissions to below 1.5°C above pre-industrial levels, in such a way that does not leave anyone behind – this is the basic concept of a just transition.

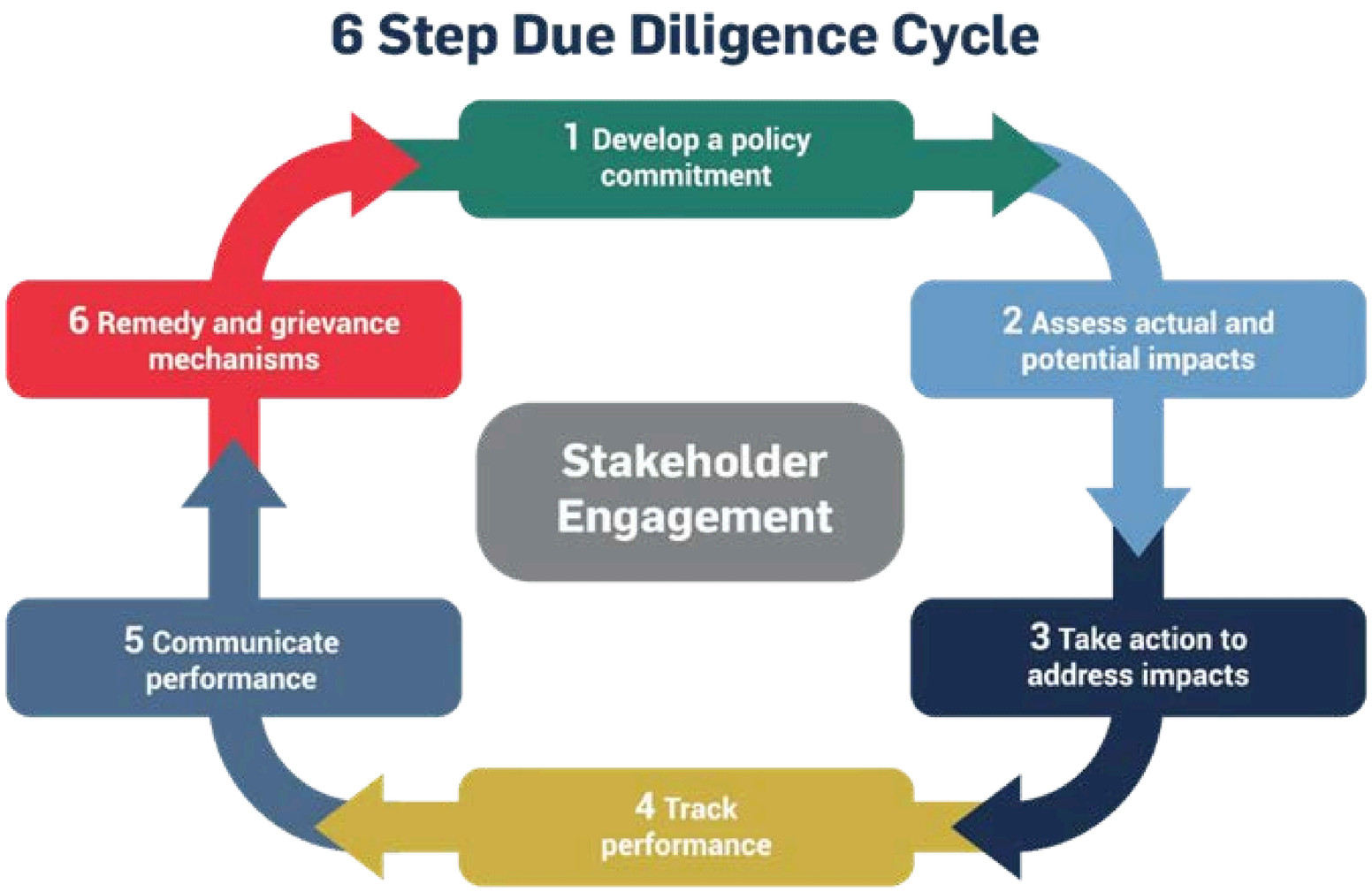
States need to develop approaches to decarbonisation that ensure they can meet their climate obligations without excluding or preventing countries of the Global South from entering trade markets and better develop own economies to provide better futures for their people. Inclusive dialogue between States, NGOs, indigenous and vulnerable communities, the general public and companies and other enterprises is crucial to reflect the needs and priorities of all society. As part of the just transition, support should be given to countries of the Global South to develop their productive capacities and clean technology in an environmentally-focussed way. International financial cooperation which takes into account the historical responsibilities of States of the Global North for climate change should be scaled up to foster resilience-building and sustainable financing and infrastructure. In short, countries of the Global South who bear the brunt of the effects of climate change should not be left behind in the global effort to reduce climate change, especially since the countries of the Global North are the greatest contributors of climate change.

In practice, this means the transition strategies of States (and by extension companies) should respect human rights, promote sustainable development, create decent work and quality jobs and eradicate poverty. Companies seeking to transition to low-carbon creation and use, should consider how such a transition may impact the rights of communities and individuals, in particular in relation to the right to a healthy environment. However, the ways in which these metals and minerals are mined and refined can be detrimental to the environment if not appropriately managed, and can impact the rights of local people. One such example is the copper mines in the Democratic Republic of Congo where exploitation of local water sources impacts the health of communities who use that water for fishing and drinking.

## DUE DILIGENCE CONSIDERATIONS

This section outlines the due diligence steps[1] that companies can take to prevent environmental damage from impacting individuals in their operations and supply chains. The described due diligence steps are aligned with the UNGPs. Further information on the UNGPs is provided in the 'Key Human Rights Due Diligence Frameworks' section below and in the Introduction.

While the below steps provide guidance on protecting the right to a healthy environment, it is generally more resource-efficient for companies to 'streamline' their human rights and environmental due diligence processes by also identifying and addressing other relevant human rights issues (e.g. forced labour, discrimination, freedom of association) and environmental issues (e.g. water pollution, biodiversity loss) at the same time.




Additionally, the SME Compass offers guidance on the overall human rights due diligence process by taking businesses through five key due diligence phases. The SME Compass has been developed in particular to address the needs of SMEs but is freely available and can be used by other companies as well. The tool, available in English and German, is a joint project by the German Government's Helpdesk on Business & Human Rights and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

The Business and Human Rights Navigator is looking for practical examples of how companies have carried out due diligence on the right to a healthy environment. Please contact us at contact@maplecroft.com if you'd like to feature on the site.

The United Nations Development Programme has produced a Practical Tool for Business on Human Rights Due Diligence and the Environment. This provides useful guidance on this issue, particularly how to include the rightsholder perspective into environmental due diligence.

[1] Disclaimer: There is little business-specific guidance on how to protect this right throughout companies' value chains and businesses should do their best to identify and respond to environmental impacts using a rightsholder perspective. This means considering how an environmental impact may restrict the rights of rightsholders, even where those rightsholders are not directly linked to the impact, and engaging with particularly vulnerable rightsholders, who often feel the disproportionate effect of the adverse impacts of environmental degradation.

**Key Human Rights Due Diligence Frameworks**

Several human rights frameworks describe the due diligence steps that businesses should ideally implement to address human rights issues. The primary framework is the UNGPs. Launched in 2011, the UNGPs offer guidance on how to implement the United Nations "Protect, Respect and Remedy" Framework, which establishes the respective responsibilities of Governments and businesses — and where they intersect.

Whilst the UNGPs do not specifically integrate environmental sustainability considerations, the need to address human rights and environmental harm in an integrated way is increasingly recognized in legislation, such as in the Corporate Sustainability Due Diligence Directive (CSDDD). Businesses should use these principles as a starting point for addressing the impacts their activities have on the environment.

The UNGPs set out how companies, in meeting their responsibility to respect human rights, should put in place due diligence and other related policies and processes, which include:

- A publicly available policy setting out the company's commitment to respect human rights;
- Assessment of any actual or potential adverse human rights impacts with which the company may be involved across its entire value chain;
- Integration of the findings from their impact assessments into relevant internal functions/processes — and the taking of effective action to manage the same;
- Tracking of the effectiveness of the company's management actions;
- Reporting on how the company is addressing its actual or potential adverse impacts and
- Prevention and remediation of adverse impacts, limited to impacts the company has caused or contributed to.

In all the steps, engaging with potentially affected rightsholders is crucial to the human rights due diligence process. Understanding how rightsholders have been affected and working with them to find effective and meaningful solutions before, during and after an impact will allow companies to better protect rightsholders.

The steps outlined below follow the UNGPs framework and can be considered a useful guide for companies on implementing human rights due diligence processes.

The OECD Guidelines on Multinational Enterprises further define the elements of responsible business conduct, including human rights. These have been relaunched to also cover the environment.

# 1. POLICY COMMITMENT

### UNGP Requirements

As per the UNGPs, a human rights policy should be:

- "Approved at the most senior level" of the company;
- "Informed by relevant internal and/or external expertise";
- Specific about company's "human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services";
- "Publicly available and communicated internally and externally to all personnel, business partners and other relevant parties" and
- "Reflected in operational policies and procedures necessary to embed it throughout the business".

Companies should consider adopting policy commitments that set out to protect the right to a healthy environment. Most companies have yet to produce human rights policies, which include the specific right to a healthy environment, and instead adopt separate human rights and environmental policies, or they have sustainability policies, which do not necessarily cover commitments to the protection of the right to a healthy environment.

Aldi South Group has integrated its human rights and environmental due diligence into one policy and considers a range of environmental issues from a human rights perspective, such as deforestation and land rights. This does not go so far as to explicitly cover the right to a healthy environment, but does seek to bridge the gap between adverse environmental impacts and human rights. Financial institutions are also increasingly committing to the protection of human rights from environmental damage in their policy documents. ING's Environmental and Social Risk Framework commits to actively managing 'social and environmental risks associated with its business engagements'. Whilst it does not seek to identify the social impact of environmental risks, it does assess community health and safety from the perspective of environmental damage.

In practice, developing such a policy might include actions such as:

- Integrating the main issues identified in the impact assessment (see Step 2 below for further details) to ensure only the relevant environmental and human rights issues are included;
- Revisiting human rights commitments to encompass the right to a healthy environment and link to its environmental or climate policies;
- Appropriately coordinating internal human rights and environmental governance frameworks to ensure this right is embedded throughout the business;
- Outlining how a company intends to prevent and address adverse impacts on the environment which may violate a person's rights enshrined within the right to a healthy environment;
- Effectively engaging with rightsholders, including employees, suppliers, employees of suppliers and communities, to support in the development of the policy and commitments and
- Ensuring board commitment and tone from the top will help maintain this right as a priority.

## RIGHTSHOLDER PERSPECTIVES

The protection of the right to a healthy environment is reliant upon States and companies understanding the ways in which their environmental damage impacts rightsholders. Embedding a rightsholder perspective means companies need to consider the perspectives of rightsholders throughout their human rights and environmental due diligence process and allow them to guide the trajectory of their human rights and environmental approach. Companies cannot fully understand their impacts upon people and the environment, without engaging with those people who experience the impacts. This type of effort shifts the approach away from quantitative, detached and ineffective due diligence, to one which allows open-dialogue between the company and the rightsholders and embeds human rights and environmental protection into their operations. Community-based Environmental Monitoring (CBEM) is emerging as a methodology to include local and indigenous people in decision-making processes and in the assessment of long-term adverse impacts resulting from a company's activities.

When assessing the impact of a company's operations and value chains, companies should assess the impact on rightsholders, rather than the reputational, operational or financial impact upon the company itself. Engaging directly with rightsholders, through consultations, working groups, NGO-facilitated discussions, surveys and workshops, companies can better identify exactly what impacts they are having on human rights and the environment. Often a company's perception of how it is impacting human rights can be very different from the reality experienced by the rightsholders. It is particularly crucial for the right to a healthy environment to understand the ways in which environmental damage may restrict a person's rights. Incorporating rightsholder perspectives also allows for more effective preventive and remedial measures that actually benefit the impacted persons and communities.

The development of due diligence procedures also requires consideration of rightsholder perspectives, including during the drafting of human rights and environmental policies and grievance mechanisms. This helps ensure the whole procedure considers human rights and the environment in a way that is relevant to the rightsholders and that the grievance mechanism is built in such a way that it is accessible to all potentially affected persons.

# 2. ASSESS POTENTIAL AND ACTUAL IMPACTS

### UNGP Requirements

The UNGPs note that impact assessments:

- Will vary in complexity depending on "the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations";
- Should cover impacts that the company may "cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships";
- Should involve "meaningful consultation with potentially affected groups and other relevant stakeholders" in addition to other sources of information such as audits and
- Should be ongoing.

Impact assessments should look at both actual and potential impacts, i.e. impacts that have already manifested or could manifest. This contrasts to a risk assessment that would only look at potential impacts and may not satisfy all of the above criteria.

### HUMAN RIGHTS IMPACT ASSESSMENTS

Human rights impact assessments are usually broken down into two parts: potential and actual.

- **Potential Impact Assessment:** A potential impact assessment seeks to identify the size of the potential footprint (i.e. adverse impact) the company could be having on rightsholders. For example, a logging company operating in Brazil inherently risks adversely impacting the rights of indigenous communities, but it does not mean that it actually is. Potential risks should be prevented by taking the appropriate preventive measures.

- **Actual Impact Assessment:** An actual impact assessment analyses exactly what impacts the company is actually having on rightsholders. For example, a logging company operating in Brazil may actually already be impacted the rights of indigenous communities by land-grabbing or excessive violence by security forces. Actual risks have already arisen and need to be brought to an end or mitigated by corrective or remedial measures.

### Assessing Violations of the Right to a Healthy Environment

The right to a healthy environment requires further analysis than a standard human rights impact assessment, which should first assess adverse environmental impacts. Companies are expected to have an embedded process, which recognizes the connection between human rights and environmental impacts and an inherent and actual understanding of both their human rights and environmental impacts of all activities in their value chains. Embedding environmental considerations into a human rights due diligence procedure requires a company to first understand the adverse environmental impacts of its entire operations and that of its value chain. It can then begin to assess whether these adverse environmental impacts are restricting any human rights.

Companies should undertake an assessment of their actual and potential impacts on the various rights interconnected with the right to a healthy environment, prioritizing the most severe and likely adverse environmental impacts of their own business activities and their relationships with third parties, including business partners.

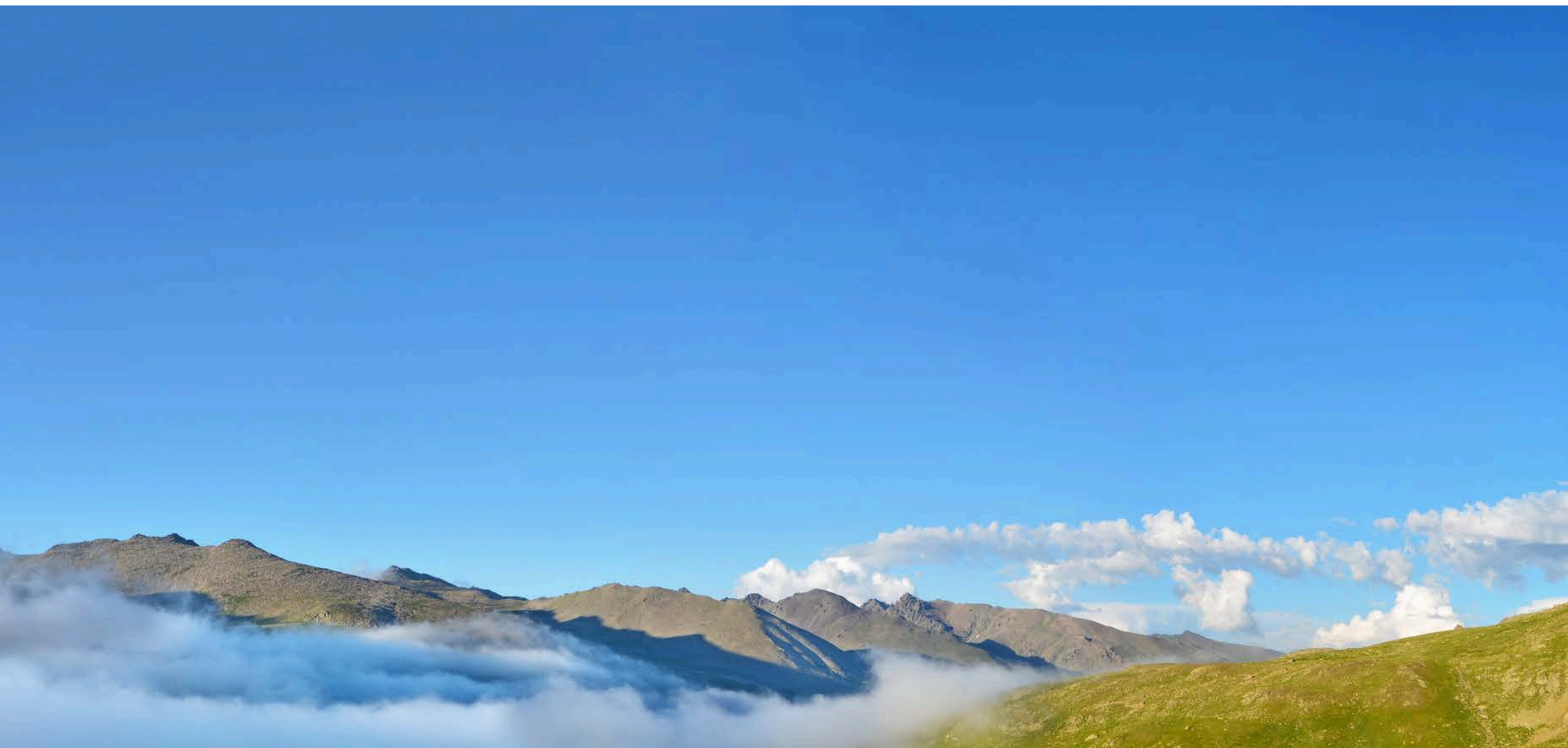
Please see Essential Component 01 - 'Identify and Assess' on page 27 of the UNDP's Practical Tool on Business Human Rights Due Diligence and Environment for detailed guidance on identifying impacts.

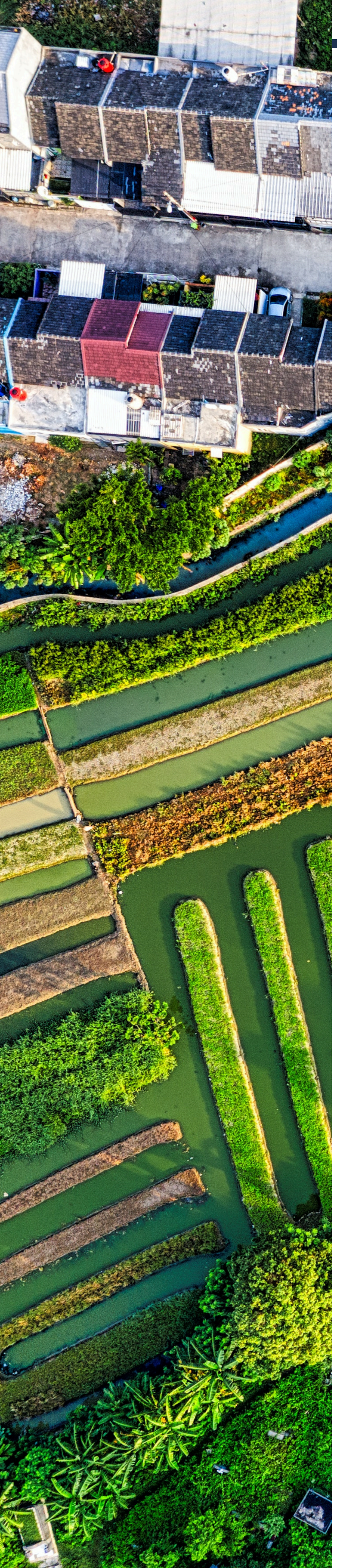
**2 Important Points to Remember:**

1. Rightsholder approach: The UNGPs take a rightsholder approach to impact assessments. Accordingly, risks and impacts are those on rightsholders, not on companies; the impact upon the rightsholder is the focus. Engagement with rightsholders throughout the process is therefore crucial.

2. Whole value chain: Companies need to evaluate both the upstream and downstream value chain and its impacts. Due diligence should cover the material sourcing and production, transport, storage, distribution, use and disposal — the whole life cycle of the product. Upstream encompasses the process of getting the materials needed to produce the product to the manufacturer; downstream includes the steps to moving the products from the manufacturer to the end user. Environmental impacts might exist in the whole value chain throughout the whole lifecycle of a product.

The suggested process outlined below therefore seeks to align with the UNGPs by effectively assessing adverse environmental impacts from a rightsholder perspective. The process follows some of the steps of an environmental impact assessment rooted in environmental management processes such as ISO14001 or EMAS, with an extra step of considering how such environmental impacts may affect rightsholders. Such assessments are typically required for particular projects, such as planning permission for certain types of projects under domestic law, certain investors requiring environmental impact assessments or change of land use in certain contexts under domestic law.





# 1 ASSESSING ADVERSE ENVIRONMENTAL IMPACTS

A company needs to have a solid understanding of the adverse environmental impacts of its operations and supply chain before it can assess the extent to which these impacts may have violated human rights. To do so, a company should assess its environmental context and footprint.

## 1.1 Potential Impact Assessment - What is the environmental context of your business?

Companies could start by identifying the environmental context within which their own activities and value chains operate. This helps to understand the broader environmental conditions, which the company may be part of. Accordingly, a company should look at a range of facets of its activities and value chains to see how and to what extent the environment is impacted more generally. For example, a company may have suppliers operating in the Democratic Republic of Congo where water quality is particularly low, with poor sanitation systems, and frequent pollution of water systems.

## 1.2 Actual Impact Assessment - What is your environmental footprint?

Once a company understands its environmental context, it can better identify its actual environmental impact. Companies are expected to create knowledge on what materials, semi-finished products and extraction/production steps are necessary for the materials/semi-finished products/products they receive.

The assessment should consider how the company's environmental context affects its environmental footprint. For example, a textile supplier operating in Pakistan may produce a lot of toxic waste from the dyeing chemicals used for garments, which is likely to contribute to the environmental damage already occurring in Pakistan.

**The Right to a Healthy Environment issue on the Business and Human Rights Navigator provides more detail on the guiding questions can help companies better understand their value chains with respect to potential and actual environmental risks and range of assessment methods and data sources companies can use to support them in understanding their operations and value chains.**

## Addressing data and information gaps

Companies frequently face major challenges in identifying the full range of environmental impacts due to the limited availability and low quality of relevant data. For example, if a tier 4 supplier's emissions on a production site are not properly monitored, how can a company find out the environmental damage caused by those harmful emissions and by extension, the human rights impacts of such damage?

There are a range of ways a company can seek to address data gaps:

- The European Sustainability Reporting Standards allow companies to work with estimates as a useful guide;
- Local stakeholder consultations (e.g. with local nature conservation NGOs);
- Community-based environmental monitoring;
- Introduction of on-site environmental monitoring schemes by the company;
- Audits;
- Remote sensing solutions for environmental monitoring and
- Product and country specific reports and studies.

# 2 PRIORITIZATION

Once a company understands its environmental risks, it needs to consider whether the identified environmental damage by the company's operations or supply chain might have an adverse impact on human rights and upon whom. A company may operate in a number of countries and/or have complex value chains and limited resources, which restricts their ability to address all the impacts at once. Therefore, prioritization allows a company to address the most severe and most likely human rights impacts of environmental damage first and with more resources. During this prioritization process, companies should consider both the potential and actual impacts on human rights of environmental damage.

When prioritizing, companies should consider:

- **Severity**: To effectively evaluate the severity of a potential or actual impact, companies should consider:
    - Scope: How many people are impacted by the impact;
    - Scale: The extent of the impact to the rightsholder and
    - Remediability: How easy it is to restore those impacted to the position they were in before the impact.
- **Likelihood**

For example, an impact may cause one death, which cannot be remediated versus another impact which causes illness to 200 people but can be remedied with time.

In assessing severity, companies should also consider how large of an area was affected by the environmental impact, as an indicator to the scale and scope of the impact. Shift's Explanatory Note on the Concept of prioritization provides more details on how to determine whether prioritization is necessary and the severity of an impact.

## 2.1 Potential Human Rights Impacts

When assessing potential human rights risk, a company should consider the locations and industries of the activities it is assessing, as well as the size of the company. This helps a company build a better picture of the potential risk within its operations and/or supply chain. Potential risk assessments tend to use quantitative data.

Companies should have an awareness of the inherent risk to human rights when environmental damage occurs. Companies should assess:

- **Severity:** Using scale, scope and remediability to build a picture of the severity of a potential human rights impact due to environmental damage. Understanding the location and industry of the environmental damage will help assess the severity of the potential impact on human rights. Severity has priority over likelihood, meaning that companies must address severe risks even when they are not very likely.

- **Likelihood:** A company should understand the likelihood of an impact actually arising.
- **Timescale:** Companies should consider whether the environmental impact is violate a human right now or whether it may violate a human right in the future. This may help in prioritization, but it is important for companies to note that longitudinal effects can occur over a large time scale, and do not necessarily make a human rights impact less severe or urgent to address.

There are a range of sources companies can use to identify potential impacts, such as:

- US Department of State reports, including the Trafficking in Persons (TIP) Report or the Country Reports on Human Rights Practices
- Media reports
- Reports from non-governmental organizations, for example Freedom House, WWF, Greenpeace, or other local human rights or environmental NGOs who have an understanding of the situation 'on the ground'.
- Status of countries' ratification to UN treaties

## 2.2 Actual Human Rights Impacts

Once a company has a solid overview of its risks, it should then identify and assess the actual impact of its environmental damage on human rights. It should do this by engaging with a range of stakeholders to understand exactly what is happening on the ground. A company should then consider the severity of the actual impact to better prioritise the impacts most affecting rightsholders.

The type of data reviewed to understand actual impacts differs considerably from the potential impacts:

- Complaints raised under a grievance mechanism
- Incident reports
- Adverse media reports
- Audits and Supplier Assessment Questionnaires (SAQs)
- On-the-ground reconnaissance
- Direct consultation of rightsholders
- Government documents (including, for example, land registry records)
- Engagement with local civil society stakeholders and, if relevant, other businesses operating in the area

Companies should consider both the potential and actual impacts on human rights of environmental damage. It should be noted though that severity takes priority over likelihood and it is only necessary to consider likelihood when assessing potential impacts, as actual impacts have already arisen.

This prioritization process creates a list of a business's most salient risks to/impacts on the right to a healthy environment.

## 3. INTEGRATE AND TAKE ACTION TO ADDRESS IMPACTS

### UNGP Requirements

As per the UNGPs, effective integration requires that:

- "Responsibility for addressing [human rights] impacts is assigned to the appropriate level and function within the business enterprise" (e.g. senior leadership, executive and board level) and
- "Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts".

The actions and systems that a company will need to apply will vary depending on the outcomes of its impact assessment. Any actions should take into account (and try to address) risk factors and root causes of the environmental damage based on the environmental impacts which are at risk of the most severe negative impacts to human rights (i.e. the salient human rights risks).

Once a company understands its most salient risks, it is required, under the UNGPs, to address those impacts. However, prior to this, the UNGPs emphasize that appropriate action will vary according to a company's level of causation, and the extent of its leverage, as well as the likelihood and severity of the impact, in addressing the adverse impact. As such, the following elements should be considered when prioritizing which measures to take to address adverse impacts found:

- **Degree of Involvement:** The UNGPs require companies to address and remediate human rights impacts they have caused or contributed to. This means companies should consider whether they have caused, contributed to or are directly linked to an impact that may restrict a human right. Companies should also consider whether the impact itself (i.e. the environmental damage) is causing or contributing to a restriction of this right. For further details, please visit the **Right to a Healthy Environment issue** on the Business and Human Rights Navigator.

- **Leverage:** A company's ability to address an impact it has caused or contributed to will depend on its leverage over a supplier. Leverage usually refers to the "ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact." Companies can exercise their leverage over their business relationships through traditional commercial leverage, broader business leverage, collective leverage through bilateral engagement, action with other business partners and multi-stakeholder collaborations.

- **Effectiveness:** Companies should tailor the actions they take to the particular issue which is causing the impact to ensure they are effective at addressing that impact, meaning the measures make it possible that the impact is prevented, mitigated or remediated. For example, training in relation to the environment will very likely not be effective when the problem is insufficient technical equipment.

- **Rightsholder engagement:** Engaging with rightsholders during the development of action plans to address impacts will not only ensure the effectiveness of the measures, but also prevent conflicting environmental and social objectives from arising. For example, without meaningful engagement with communities, a company's efforts to restore nature may restrict indigenous peoples' rights to traditional land or cultural/spiritual practices.

**Preventing, correcting and remediating environmental damage:** Companies should first seek to prevent and correct/remediate the underlying environmental damage. Suggestions of appropriate measures include:

- Modernisation of old industrial facilities
- Establishing of adequate management systems for chemicals, industrial waste, emissions.
- Establishing a monitoring system for industry emissions into the air, water, soil
- Applying best available techniques to reduce harmful emissions

Further measures can be found on the Business and Human Rights Navigator's Right to a Healthy Environment issue on the Business and Human Rights Navigator.

**Preventing, correcting and remediating human rights impact of environmental damage:** Suggestions of practical approaches companies can take to prevent or mitigate the restriction of the right to a healthy environment include:

- **Training:** One of the most common actions undertaken by companies is training of company employees and suppliers, which may cover the salient human rights risks, reference to relevant international standards and reporting lines, and could be updated in-line with new developments in relation to this right. Targeted training programmes for the environmental teams on how to engage with rightsholders will be crucial to addressing impacts. Training sessions can be delivered in a range of forms, such as online videos, e-learnings, in-person sessions or supplier round-tables. Training should also be offered in a language most applicable to those taking it to ensure accessibility. Businesses, however, should be mindful that training alone will not solve the problem. Taking action on specific environmental impacts may require local community engagement so that the most sustainable and effective solutions to address these impacts can be found.
- **Enhancing alignment and collaboration** between the purchasing team, the sustainability team, responsible sourcing experts or the environmental team inside the buying company.
- **Corrective Action Plans:** Where impacts are identified, Corrective Action Plans (CAPs) should be developed (jointly with the supplier if necessary), setting out clear targets and milestones for improvement. Progress should then be tracked regularly to ensure CAP completion. This plan needs to be developed and agreed upon through engagement with impacted rightsholders and effective monitoring might include ensuring the participation in and validation of the company's managing procedures and scientific environmental analysis.
- **Collaboration in the value chain:** All measures in relation to business partners require collaboration. Companies should therefore seek to enhance collaboration with their business partners in their efforts to prevent or address human rights impacts through:
  - Responsible contracting
  - Shared responsibility
  - Change of purchasing practices
  - Responsible exit

To learn more about the actions a company could take to address environmental impacts, please visit the Business and Human Rights Navigator's Right to a Healthy Environment Issue.

Please also see Essential Component 02 - 'Act' on page 55 of the UNDP's Practical Tool on Business Human Rights Due Diligence and Environment for further guidance on addressing impacts.

# 4. TRACK PERFORMANCE

## UNGP Requirements

As per the UNGPs, tracking should:

- “Be based on appropriate qualitative and quantitative indicators” and
- “Draw on feedback from both internal and external sources, including affected stakeholders” (e.g. through grievance mechanisms).

Businesses should regularly review their approach to preventing, correcting and remediating environmental damage and human rights impacts to see if it is effective and serves the rightsholders involved. Section A.4 of the OECD Due Diligence Guidance provides details on the type of information, which should be tracked, and how to effectively track and implement the results.

Key Performance Indicators (KPIs) are an important tool for tracking performance. Companies should set appropriate qualitative and quantitative indicators and SMART targets designed to track both the efforts to reduce an environmental impact and the extent to which the impact is restricting human rights. Setting SMART targets helps objectively track performance. SMART targets are those that are: specific, measurable, attainable, resourced and time-bound. Such targets should integrate impacted rightsholder and stakeholder views. A range of inputs will be necessary to produce a full picture of whether KPIs and targets are being met:

- Assessment data like using staff questionnaires to measure the learning outcomes achieved during training sessions – this helps companies understand the effectiveness of a training.

- Data from grievance mechanisms to understand the number and frequency of, as well as the type and severity of incidents.

- Stakeholder engagement to proactively track the effectiveness of a company’s efforts to identify, prevent and remediate any new impacts is crucial. Such engagement can include non-governmental organizations, environmental NGOs and other types of NGOs, workers’ organizations, law enforcement authorities, environmental authorities and labour inspectorates. Stakeholders provide useful ‘on the ground’ insights into the impacts occurring and the measures designed to address them, particularly as they are often the ones the impacts are affecting.

- Audits, surveys or social/environmental monitoring are common ways to check performance. Such methods can be undertaken internally by the company or a third party contracted by the company. A common approach or first step taken by companies is to issue self-assessment questionnaires (SAQs) to suppliers, requesting information and evidence on their environmental protection procedures, such as how they handle their wastewater to ensure it doesn’t feed into the local river. Standards like ISO14001 require such SAQs, which may be particularly relevant when the supplier is ISO14001 certified. The audit results should be considered an indicator to be recorded and monitored as part of the SMART targets set. These types of monitoring should always be combined with stakeholder engagement to prevent unreliable results.

Please see Essential Component 03 - ‘Track’ on page 86 of the UNDP’s Practical Tool on Business Human Rights Due Diligence and Environment for further guidance on tracking the effectiveness of actions.

## Shortcomings of SAQs and audits

Although both SAQs and audits should always be used as an additional and equal resources, both tools have limitations in their ability to uncover hidden violations, particularly the human impact of environmental damage. Audits only provide a snapshot of the situation at the particular time and date they are conducted, they are not indicative of the situation on the ground throughout the year. Further, the inhibitive costs of audits means companies often prefer not to have oversight of their operations or suppliers.

Where they are conducted, they are almost always announced — therefore, suppliers may try to disguise the actual conditions in their facility on the day of the audit. Such measures may range from cleaning up the facility over forging payroll accounting to bussing fake-workers to the facility to pretend they work there when asked by the auditor about the working conditions. Unannounced audits somewhat mitigate this problem but even these are not always effective at identifying violations given that an auditor tends to spend only limited time on-site.

Auditors are also susceptible to fraud, especially when the company being audited is also paying the auditor. This reduces the reliability of the audit results.

Furthermore, the 'worker-voice' is also often overlooked, due to language barriers or workers are only interviewed with their manager present, meaning workers are not able to speak out about any environmental damage or human rights impact. Environmental damage also often happens further up supply chains, whereas audits generally only cover own operations and 'Tier 1' suppliers. However, it is important to note that other actors in the supply chain might have been audited by someone else or for another reason (such as to obtain an ISO14001 or EMAS certification); where the results of these are available they can help provide information that can be used for risk assessments and performance tracking purposes.

# 5. COMMUNICATE PERFORMANCE

## UNGP Requirements

As per the UNGPs, regular communications of performance should:

- "Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences";
- "Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved" and
- "Not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality".

Companies are expected to communicate their performance on protecting the right to a healthy environment, both internally and externally.

**Internal:** Companies should communicate the relevant information to impacted rightsholders about how they are taking action to address the environmental damage. Such communication should be timely, culturally sensitive and in an accessible manner. Companies may choose to communicate through a range of formats: in-person meetings, online dialogues, consultation with affected stakeholders, websites and informational brochures.

**External:** Companies are expected to communicate their performance on protecting the right to a healthy environment in a formal public report. The CSRD requires in scope companies to report on the environmental and social impacts of their activities, companies could use this report to detail their efforts to maintain a healthy environment. Conversely, an update on progress on implementing the right to a healthy environment can be included in a broader sustainability report, or in an annual Communication on Progress which seeks to implement the Ten Principles of the UN Global Compact. Additionally, other forms of communication should include in-person meetings, online dialogues and consultation with affected rightsholders.

Please see Essential Component 04 - 'Communicate' on page 102 of the UNDP's Practical Tool on Business Human Rights Due Diligence and Environment for further guidance on communicating the actions taken to address impacts.

# 6. REMEDY AND GRIEVANCE MECHANISMS

## UNGP Requirements

As per the UNGPs, remedy and grievance mechanisms should include the following considerations:

- "Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes" and
- "Operational-level grievance mechanisms for those potentially impacted by the business enterprise's activities can be one effective means of enabling remediation when they meet certain core criteria."

Grievance mechanisms play an important role in helping to remediate human rights impacts of environmental damage in operations and supply chains. They allow for input and feedback from individuals who may highlight issues that have not been identified or by providing input on how to effectively respond to an issue. Grievance mechanisms help build trust and understanding of issues between companies and communities (indigenous, local and further-afield). They also provide an early warning system to identify and address concerns of communities before escalation is required.

Grievance mechanisms should be:

- Created and implemented with input from the affected groups they are intended to help, as well as other stakeholders;
- Available in multiple formats and languages to accommodate rightsholders' needs;
- Accessible by anyone;
- Transparent and predictable with a clearly defined process and
- Anonymous and confidential to protect the safety and well-being of the complainant to ensure a victim does not fear repercussions for coming forward.

These mechanisms should feed into the risk identification and management process, with remediation a key focus of the grievance mechanism. It is important that responsibility is allocated for the monitoring of the grievance mechanism, and that an independent body or committee is set up to oversee and handle the complaints.

**Remediating** the violations of the right to a healthy environment can be difficult and should be handled sensitively, as the harm caused to the victim(s) and the environment could be significant. It is advisable that businesses have a remediation plan included in their human resources policies and procedures, which can guide responsible employees in remediating the situation in an effective and appropriate way.

The inclusion of affected communities in the design of grievance mechanisms and in the remediation process is crucial to ensure the effectiveness of the grievance mechanisms and any subsequent remediation measures. Not only does this mean ensuring that grievance mechanisms are accessible to all affected peoples, including women, children, older persons, BPOCs, indigenous peoples and persons with disabilities, but it also means seeking their input on how complaints should be made and communicated.

Collaboration with third parties and environmental initiatives will be important for effective remediation. Companies should build and sustain strategic partners and collaborative action with third party stakeholders/initiatives to meet their human rights commitments around the right to a healthy environment (e.g. other companies, trade unions, Government agencies, civil society organizations).

## THE BUSINESS AND HUMAN RIGHTS NAVIGATOR

The Business & Human Rights Navigator (BHR Navigator) guides companies around the world to better understand and address human rights impacts in their operations and supply chains. The BHR Navigator is informed by and aligned with the Ten Principles of the UN Global Compact and the UNGPs.

The aim of the BHR Navigator is to enhance companies' understanding of how the UNGPs can be understood and implemented in practical terms, with particular reference to some of the most common human rights topics for business. It seeks to help businesses better understand the most common human rights issues that they may come into contact with — either through their own operations or their supply chain — and the integration of the human rights due diligence mechanism to manage risks. Users can access in-depth analysis of key human rights issues, due diligence recommendations, as well as case studies illustrating how other businesses have responsibly addressed human rights impacts. This includes the following due diligence steps outlined in the UNGPs:

- Policy development
- Impact assessment
- Integration/actions to address impacts
- Performance tracking
- Communication of performance
- Remediation and grievance mechanisms

Explore the issues and associated practical examples so that your company is better equipped to manage its direct and indirect human rights risks. Each issue includes:

- An overview of the human rights issue
- Risk factors for key industries
- Due diligence suggestions
- Practical examples
- Additional recommended resources

The BHR Navigator is produced by the United Nations Global Compact in collaboration with the German Government's Helpdesk on Business & Human Rights and Verisk Maplecroft. It is funded by the German Government's Helpdesk on Business & Human Rights. Global Compact Network Germany advised the project as a conceptual partner.

The resources were developed in coordination with UN Human Rights (OHCHR). The International Labour Office (ILO) provided technical support on the principles of international labour standards as they concern company operations. The Navigator was further supported by a Global Compact Country Network subgroup consisting of: Australia, Brazil, Canada, Georgia, Japan, Nigeria, Spain and the United Kingdom.
The BHR Navigator builds on work previously carried out on the Human Rights and Business Dilemmas Forum, which was developed by the UN Global Compact in collaboration with Verisk Maplecroft and funded by the GE Foundation.

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## United Nations Global Compact

As a special initiative of the UN Secretary-General, the United Nations Global Compact is a call to companies everywhere to align their operations and strategies with The Ten Principles of the UN Global Compact in the areas of human rights, labour, environment and anti-corruption. Our ambition is to accelerate and scale the global collective impact of business by upholding the The Ten Principles of the UN Global Compact and delivering the Sustainable Development Goals through accountable companies and ecosystems that enable change. With more than 20,000 companies based in over 160 countries and more than 60 Global Compact Country Networks, the UN Global Compact is the world's largest corporate sustainability initiative — one Global Compact uniting business for a better world.
For more information, follow @globalcompact on social media and visit our website at unglobalcompact.org.

## Helpdesk on Business & Human Rights

The Helpdesk on Business & Human Rights is a free support service of the German Federal Government. We advise companies of all sizes individually, confidentially and free of charge on the topic of human rights due diligence. Our experienced advisors serve as a point of contact for initial advice and referrals and help you to integrate environmental and social standards along your supply and value chain. Our services also include tailor-made training, different event formats, project support and free online tools.
The Helpdesk is situated within the Agency for Business and Economic Development (AWE) and financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). The executing agency of the Helpdesk on Business & Human Rights is DEG Impulse gGmbH, a subsidiary of Deutsche Investitions- und Entwicklungsgesellschaft mbH (DEG), with support of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).
For more information, follow "Helpdesk Wirtschaft und Menschenrechte" on LinkedIn and visit our website at www.helpdeskwimr.com.

## Verisk Maplecroft

As organizations strive to understand and adapt to a fast-changing world, Verisk Maplecroft empowers them to put the environment, human rights and political risk at the heart of their decision-making. We do this by providing unparalleled intelligence on sustainability, resilience and ESG – stitching together these disparate issues into an interconnected global view, built upon objective insight and data. By thinking 'big picture' we capture what matters most to our partners; making positive outcomes possible in a time of change; helping people, business and societies become stronger; creating value with values. Verisk Maplecroft is a Verisk business (Nasdaq:VRSK). For more information, follow @MaplecroftRisk on social media and visit our website at www.maplecroft.com.

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