

► The evolving legal framework on corporate sustainability : risks, challenges and opportunities

Sarah Gondy

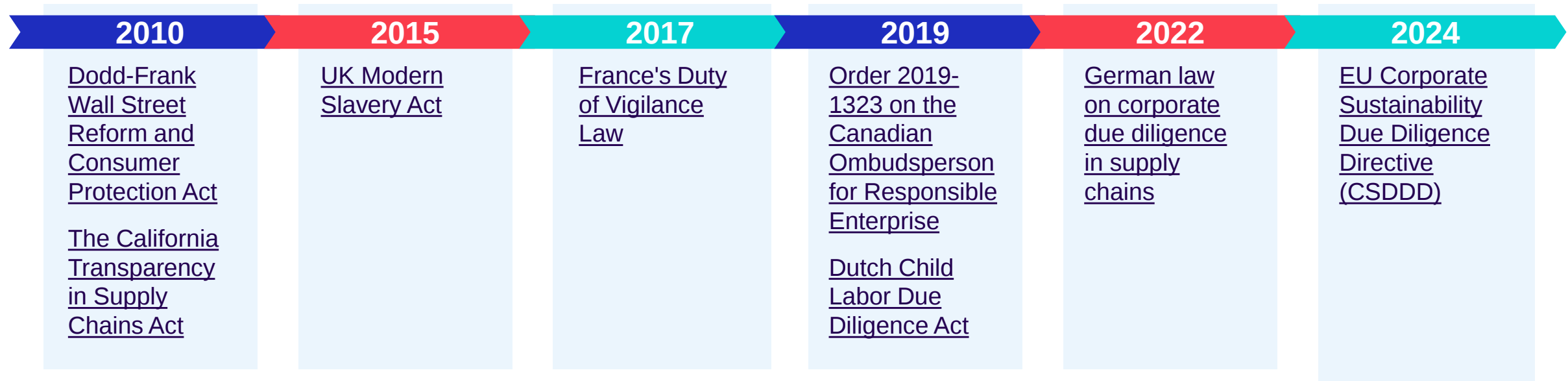
Project Manager Human Rights Due Diligence for Decent Work

Multinational Enterprises and Responsible Business Conduct Unit (MULTI/RBC), ILO



Human Rights Due Diligence – a dynamic agenda:

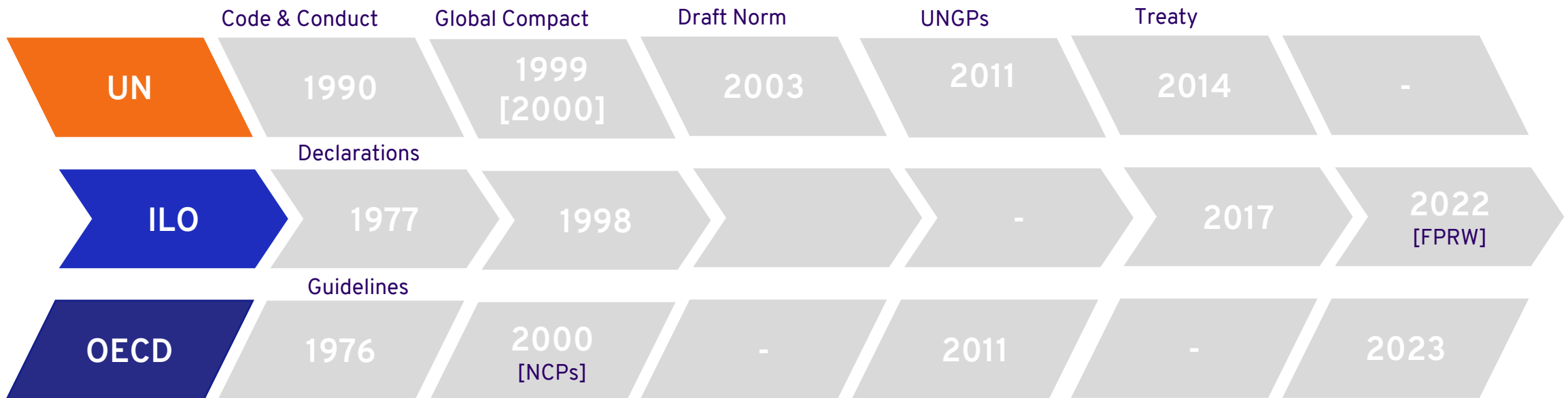
Increased number of legislations (mandatory due diligence)



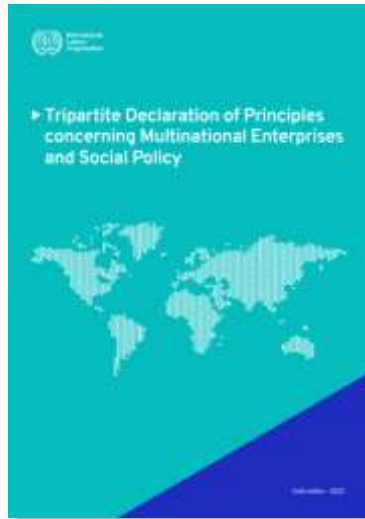
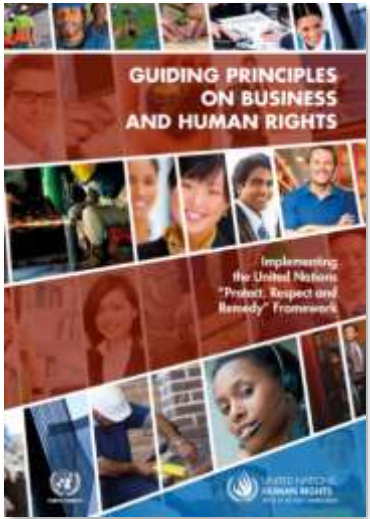
Increased number of voluntary private and public initiatives

Taking place within well established international frameworks

- Several international organisations have taken initiatives to develop and adopt global standards for business (including their human rights responsibilities) since the early 1970s.



Three main international standards



UN Guiding Principles on Business and Human Rights – Three pillars

UN Guiding Principles on Business and Human Rights (2011)

The State duty to protect against human rights abuses by businesses: smart mix of measures (Policies, Regulation, Adjudication)

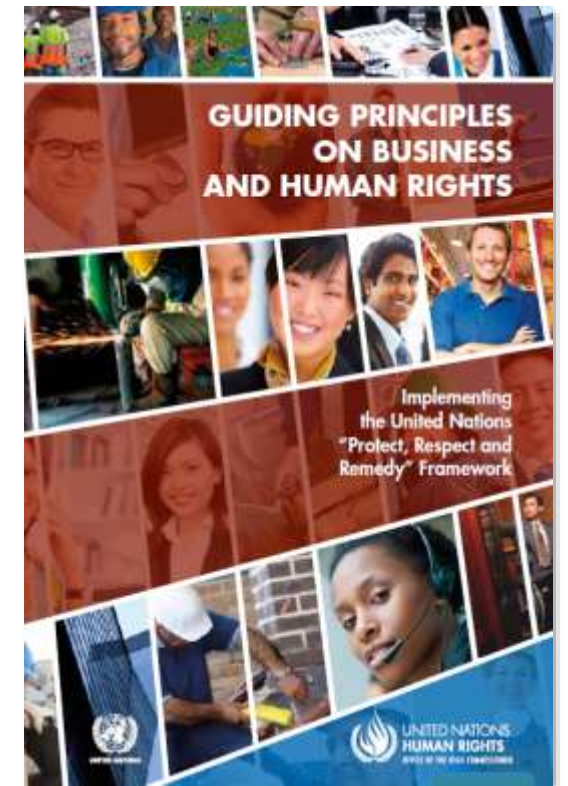
Protect

The corporate responsibility to respect human rights : act with due diligence to avoid infringements and address adverse impacts on human rights

Respect

Access to effective remedy for victims through judicial and non-judicial grievance mechanisms

Remedy



UN Guiding Principles on Business and Human Rights

UN Guiding Principles on Business and Human Rights (2011)

The State duty to protect against human rights abuses by businesses: smart mix of measures (Policies, Regulation, Adjudication)

Protect

The corporate responsibility to respect human rights : act with due diligence to avoid infringements and address adverse impacts on human rights

Respect

Access to effective remedy for victims through judicial and non-judicial grievance mechanisms

Remedy

- a) A policy commitment to meet their responsibility to respect human rights;
- b) A **human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;**
- c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

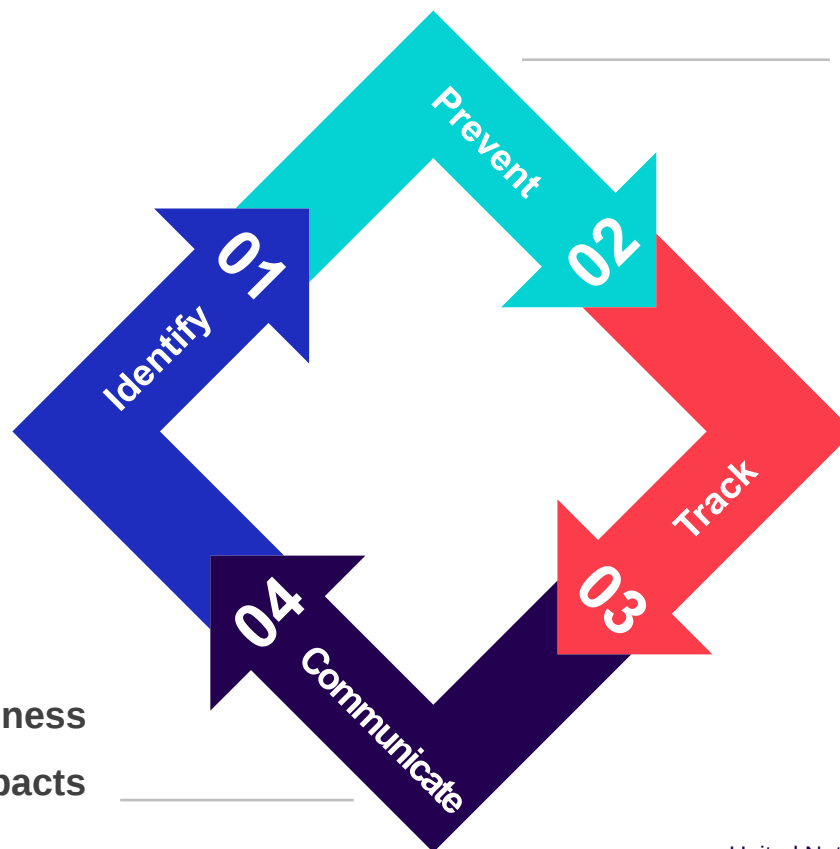
Guiding Principles on Business and Human Rights, Paragraph 15

The due diligence process

Identify and assess adverse impacts

- 1) Draw on expertise
- 2) Involve **meaningful consultation** with potentially affected groups and other relevant stakeholders

Communicate how the business enterprises addresses those impacts



Prevent and mitigate adverse impacts and take appropriate action

Track the effectiveness of actions taken



United Nations Guiding Principles on Business and Human Rights, Paragraph 17

► The ILO, International labour standards and corporate sustainability

ILO mandate: Promote opportunities for men and women to obtain decent and productive work in conditions of freedom, equity, security, dignity



► Established by:
The International Labour Organization
(ILO) since 1919

Types of Standards

Legally binding
international treaties,
Can be ratified by
member states

**Conventions/
Protocols**

Non-binding
guidelines

Recommendations

Fundamental Principles and Rights at Work



The effective abolition of
child labour



The elimination of all forms
of forced or compulsory
labour



The elimination of
discrimination in respect of
employment and occupation



Freedom of association and
the effective recognition of
the right to collective
bargaining

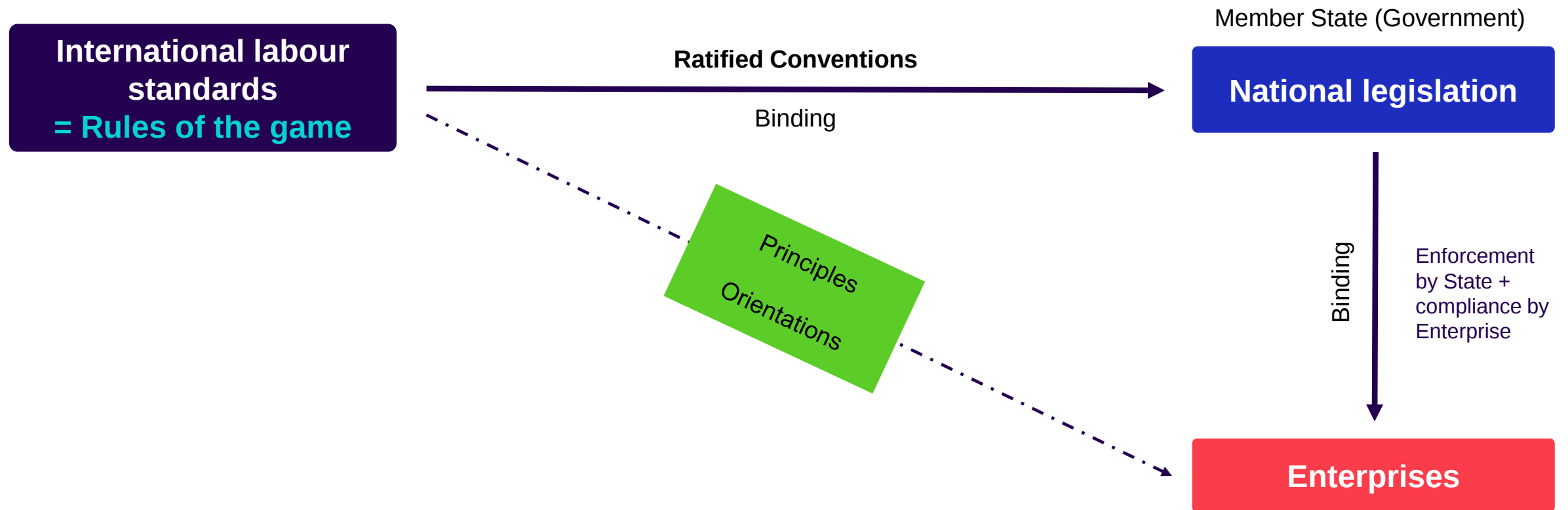


A safe and healthy
working environment

Derived from ILO Conventions and Recommendations, obligations for ILO Member States even if not ratified.

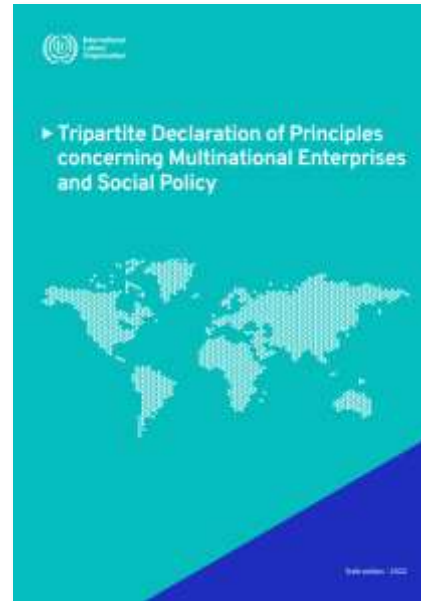
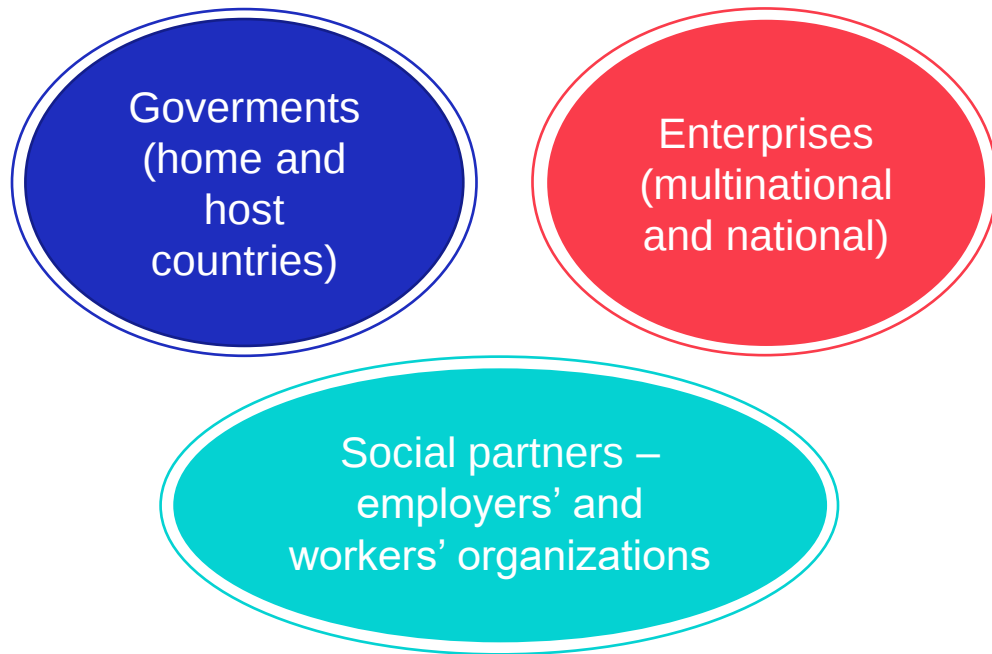
► ilo.org

Human Rights and International labour standards - Relationship to enterprises



► The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)

Principles addressed to



Supports dialogue at various levels

- Between government and social partners (social dialogue)
- Within the enterprises between management and workers (industrial relations)
- Between government, social partners and multinational enterprises (tripartite plus dialogue)
- Between home and host countries of multinational enterprises (cross-border social dialogue)

The MNE Declaration - recommendations in 5 areas

General policies

- ▶ Fundamental Principles and Rights at Work
- ▶ Due diligence
- ▶ Consultations between host and home country

Employment

- ▶ Employment promotion
- ▶ Formalization
- ▶ Social security
- ▶ Forced labour and child labour
- ▶ Equality of opportunity and treatment
- ▶ Security of employment

Training

- ▶ National policies for vocational training and guidance, closely linked with employment
- ▶ Training and lifelong learning opportunities

Conditions of work and life

- ▶ Wages, benefits and conditions of work
- ▶ Safety and health

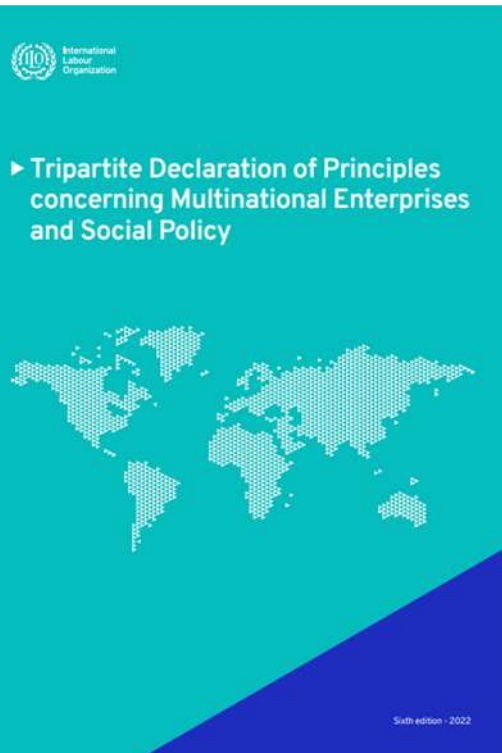
Industrial relations

- ▶ Freedom of association and collective bargaining
- ▶ Consultation
- ▶ Access to remedy and grievances
- ▶ Settlement of industrial disputes

ILO instruments and Business and Human Rights

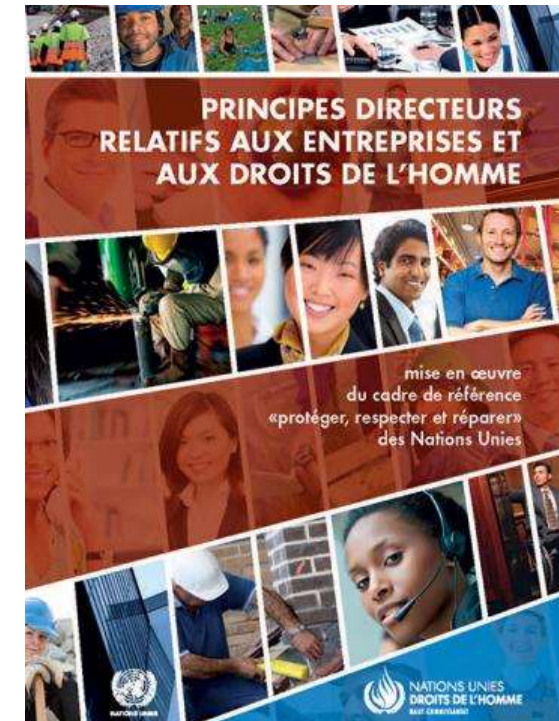
The labour dimension of HRDD

HRDD encompasses internationally recognized human rights at work including ILO fundamental principles and rights at work, the free choice of employment, the right to just and favourable conditions of work, the right to social security or the right to rest and leisure.



The MNE Declaration is mentioned in the 2008 UN “Protect, Respect and Remedy” Framework as a prominent example of a unique instrument that enshrines the corporate responsibility to respect human rights. Since 2017 the MNE Declaration itself makes reference to the UNGPs.

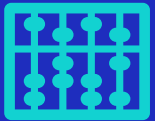
The UNGPs call on businesses to respect internationally recognized human rights “understood, at a minimum, those contained in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work” (paragraph 12)



Ensuring coherence with international standards is key



► **Shared understanding:** Coherence with the substantive elements of international standards can help bolster the impact and effectiveness of legal frameworks on corporate sustainability



► **Global level of playing-field:** Coherence with international standards can support provide legal clarity to business and reduce costs for companies seeking to comply with different HRDD laws and initiatives



► **Building strategic partnerships :** Coherence with international standards can facilitate capacity building, sharing of experience, and collaboration.

ILO support on human rights due diligence

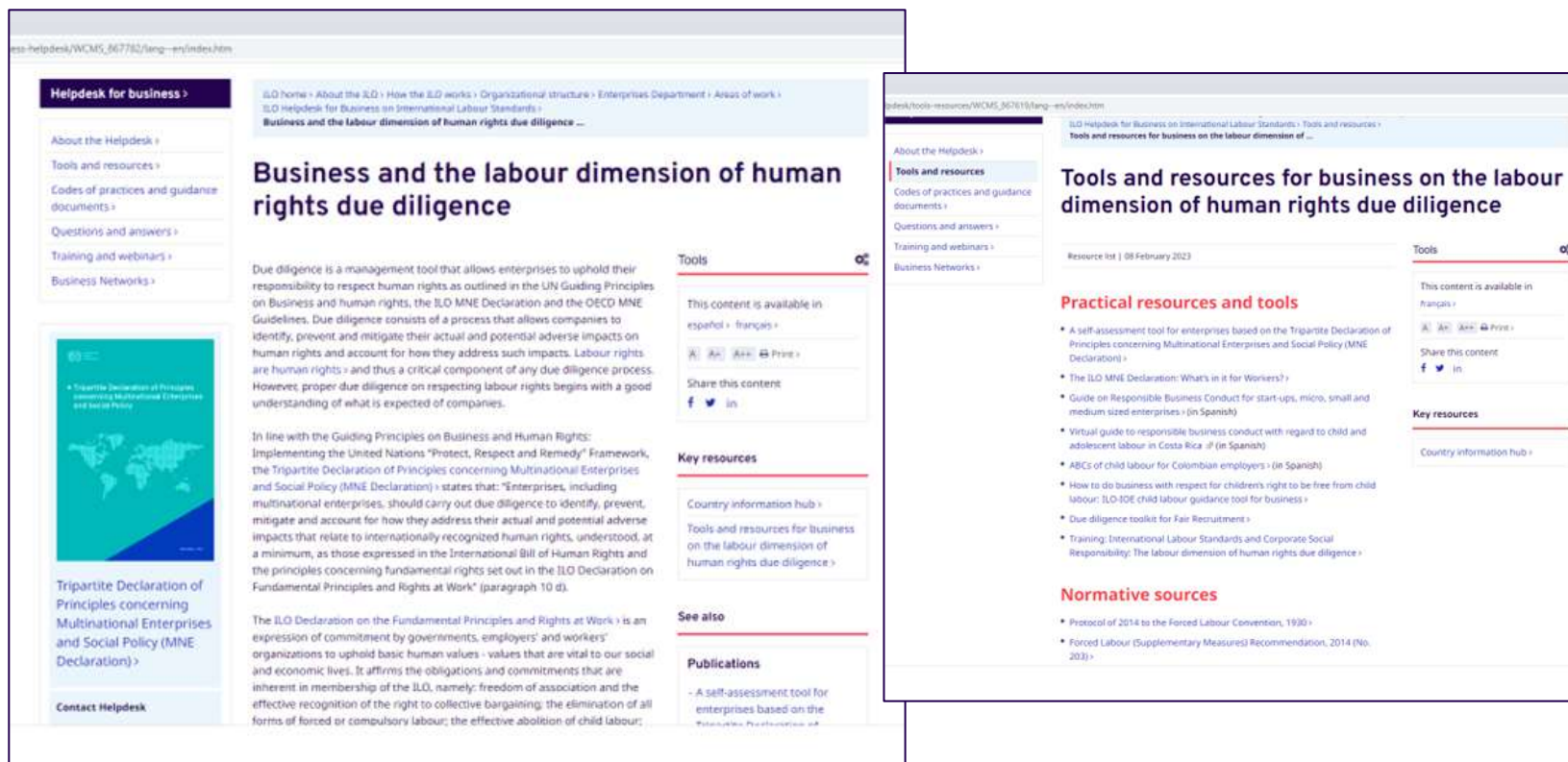
ILO Helpdesk for Business on international labour standards

ILO Helpdesk for business

www.ilo.org/business
assistance@ilo.org

ILO strategy on decent work in supply chains (2023):

«ILO will strengthen the ILO Helpdesk to provide technical advice and products to assist companies, and workers' and employers' organizations, to support human rights due diligence efforts, in line with the UN Guiding Principles and the MNE Declaration, including by providing information on the outcomes of ILO supervisory procedures and country data and information on decent work in supply chains.»



The screenshot displays the ILO Helpdesk for Business website. The main heading is "Business and the labour dimension of human rights due diligence". Below this, there is a paragraph explaining that due diligence is a management tool that allows enterprises to uphold their responsibility to respect human rights as outlined in the UN Guiding Principles on Business and human rights, the ILO MNE Declaration and the OECD MNE Guidelines. It states that due diligence consists of a process that allows companies to identify, prevent and mitigate their actual and potential adverse impacts on human rights and account for how they address such impacts. Labour rights are human rights and thus a critical component of any due diligence process. However, proper due diligence on respecting labour rights begins with a good understanding of what is expected of companies.

Below the paragraph, there is a section titled "In line with the Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) states that: 'Enterprises, including multinational enterprises, should carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate to internationally recognized human rights, understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work' (paragraph 10 d)."

The bottom section of the page is titled "The ILO Declaration on the Fundamental Principles and Rights at Work" and is an expression of commitment by governments, employers' and workers' organizations to uphold basic human values - values that are vital to our social and economic lives. It affirms the obligations and commitments that are inherent in membership of the ILO, namely: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour;

On the right side of the page, there is a sidebar with the following sections:

- Tools**: This content is available in [español](#) > [français](#) >. [A](#) [Aa](#) [Aaa](#) [Print](#) >. [Share this content](#) [f](#) [t](#) [in](#)
- Key resources**:
 - [Country information hub >](#)
 - [Tools and resources for business on the labour dimension of human rights due diligence >](#)
- See also**
- Publications**:
 - [A self-assessment tool for enterprises based on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy \(MNE Declaration\) >](#)

On the left side of the page, there is a sidebar with the following sections:

- Helpdesk for business >**
- [About the Helpdesk >](#)
- [Tools and resources >](#)
- [Codes of practices and guidance documents >](#)
- [Questions and answers >](#)
- [Training and webinars >](#)
- [Business Networks >](#)

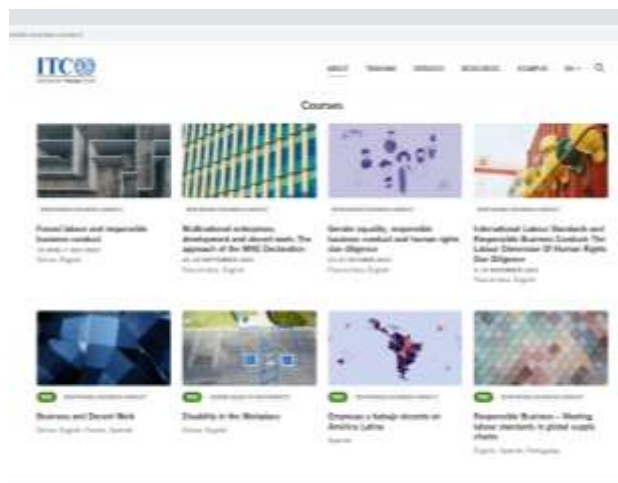
At the bottom of the left sidebar, there is a section titled "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) >" and a "Contact Helpdesk" button.

On the right side of the page, there is a sidebar with the following sections:

- Tools and resources for business on the labour dimension of human rights due diligence**
- Resource list** | 08 February 2023
- Practical resources and tools**:
 - [A self-assessment tool for enterprises based on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy \(MNE Declaration\) >](#)
 - [The ILO MNE Declaration: What's in it for Workers? >](#)
 - [Guide on Responsible Business Conduct for start-ups, micro, small and medium sized enterprises > \(in Spanish\)](#)
 - [Virtual guide to responsible business conduct with regard to child and adolescent labour in Costa Rica > \(in Spanish\)](#)
 - [ABCs of child labour for Colombian employers > \(in Spanish\)](#)
 - [How to do business with respect for children's right to be free from child labour: ILO-IOE child labour guidance tool for business >](#)
 - [Due diligence toolkit for Fair Recruitment >](#)
 - [Training: International Labour Standards and Corporate Social Responsibility: The labour dimension of human rights due diligence >](#)
- Normative sources**:
 - [Protocol of 2014 to the Forced Labour Convention, 1930 >](#)
 - [Forced Labour \(Supplementary Measures\) Recommendation, 2014 \(No. 203\) >](#)
- Key resources**:
 - [Country information hub >](#)

ILO support on human rights due diligence

International Training Center of ILO - <https://www.itcilo.org/topics/responsible-business-conduct>



Technical Assistance and Development Cooperation projects – e.g. Human Rights Due Diligence in Support of Decent Work: <https://www.ilo.org/projects-and-partnerships/projects/human-rights-due-diligence-support-decent-work-hrdd4dw>



► Thank you!

More information can be found on the website:
ilo.org/mnedeclaration