

The UN Guiding Principles on Business and Human Rights

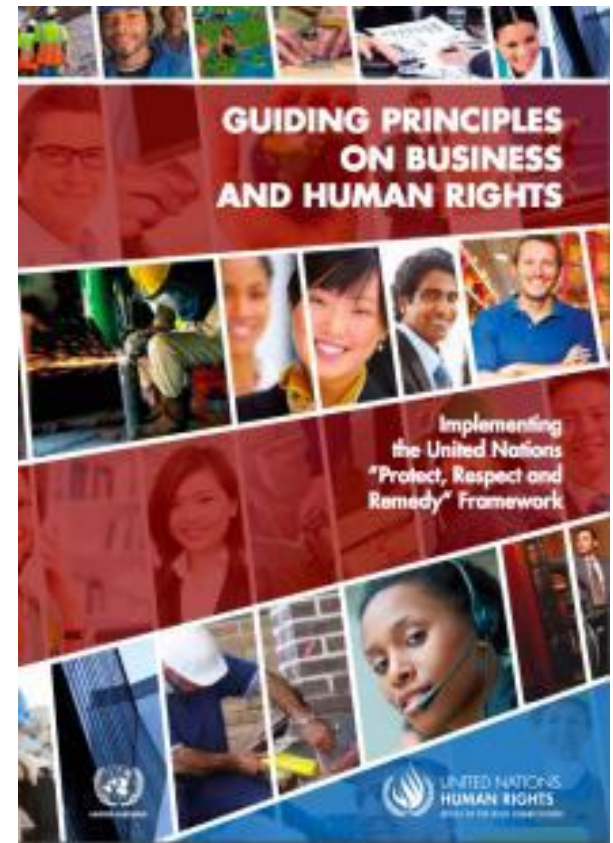
Shift

Putting Principles into Practice

Anna Triponel, Project Associate | January 2016

The UN Guiding Principles:

What is Expected of
Companies?



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About Shift

- Leading center of expertise on the UN Guiding Principles on Business and Human Rights
- Team that was centrally involved in shaping and writing the UN Guiding Principles
- Helping governments, businesses and lawyers put the UN Guiding Principles into practice
- Chaired by Professor John Ruggie

www.shiftproject.org

1) What is the baseline?

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Evolving definition of CSR

- Not: “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a **voluntary** basis”
- Is: “the **responsibility** of enterprises for their **impacts** on society” (2011 EU CSR strategy)

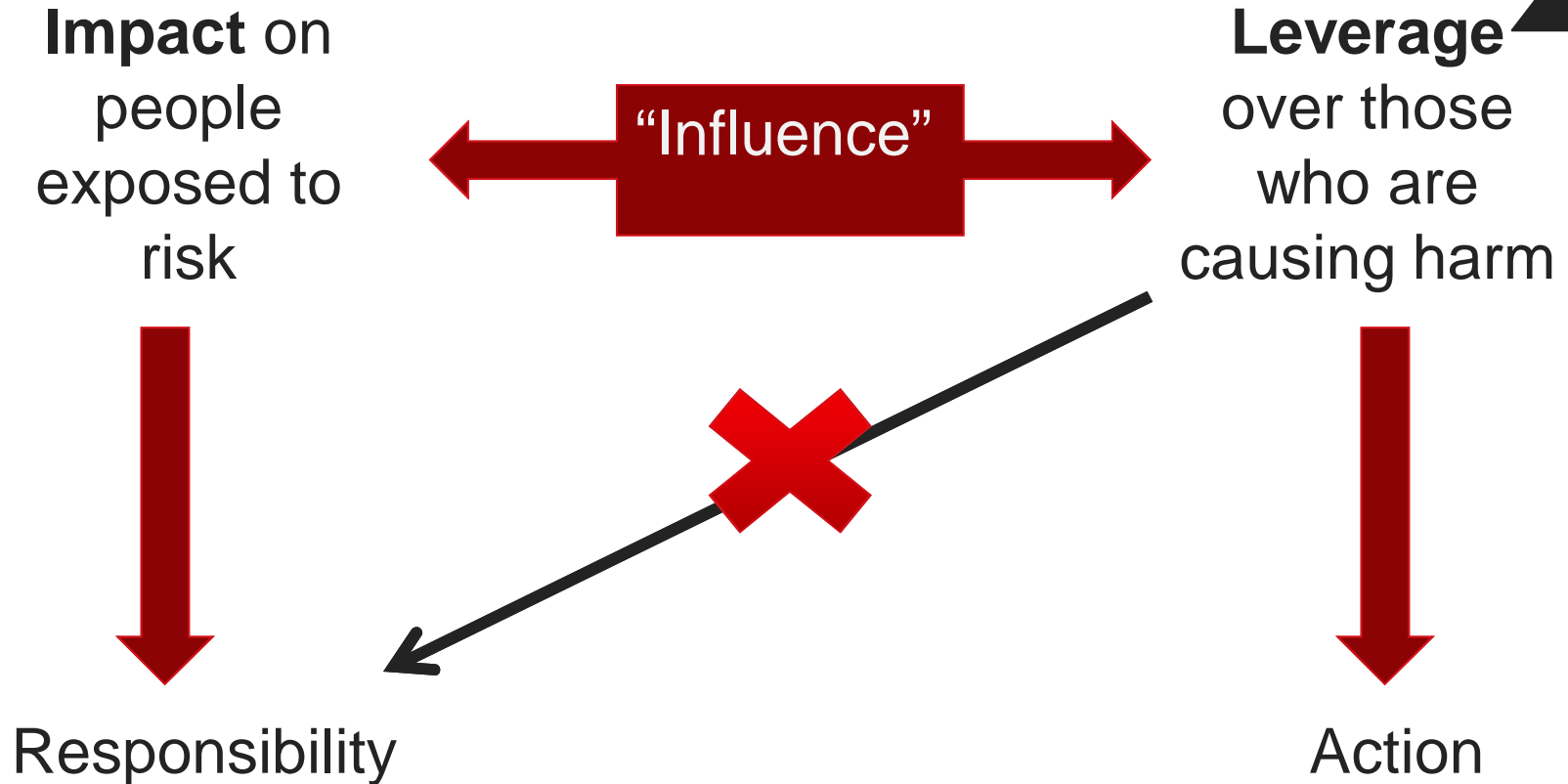


Human rights impacts

- Responsibility to respect
- Respect =
 - **Avoid infringing** on the human rights of others &
 - **Address** adverse human rights **impacts** with which they are involved
- Not about sphere of influence



Clarifying the Scope of Responsibility



"Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all people and all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms:"

ARTICLE 1 **RIGHT TO EQUALITY**

ARTICLE 2 **FREEDOM FROM DISCRIMINATION**

ARTICLE 3 **RIGHT TO LIFE, LIBERTY AND PERSONAL SECURITY**

ARTICLE 4 **FREEDOM FROM SLAVERY**

ARTICLE 5 **FREEDOM FROM TORTURE AND DEGRADING TREATMENT**

ARTICLE 6 **RIGHT TO RECOGNITION AS A PERSON BEFORE THE LAW**

ARTICLE 7 **RIGHT TO EQUALITY BEFORE THE LAW**

ARTICLE 8 **RIGHT TO REMEDY BY COMPETENT TRIBUNAL**

ARTICLE 9 **FREEDOM FROM ARBITRARY ARREST AND EXILE**

ARTICLE 10 **RIGHT TO A FAIR PUBLIC HEARING**

ARTICLE 11 **RIGHT TO BE CONSIDERED INNOCENT UNTIL PROVEN GUILTY**

ARTICLE 12 **FREEDOM FROM INTERFERENCE WITH PRIVACY, FAMILY, HOME AND CORRESPONDENCE**

ARTICLE 13 **RIGHT TO FREE MOVEMENT IN AND OUT OF THE COUNTRY**

ARTICLE 14 **RIGHT TO ASYLUM FROM PERSECUTION IN OTHER COUNTRIES**

ARTICLE 15 **RIGHT TO A NATIONALITY AND FREEDOM TO CHANGE IT**

ARTICLE 16 **RIGHT TO MARRIAGE AND FAMILY**

ARTICLE 17 **RIGHT TO OWN PROPERTY**

ARTICLE 18 **FREEDOM OF BELIEF AND RELIGION**

ARTICLE 19 **FREEDOM OF OPINION AND INFORMATION**

ARTICLE 20 **RIGHT TO PEACEFUL ASSEMBLY AND FREEDOM OF ASSOCIATION**

ARTICLE 21 **RIGHT TO PARTICIPATE IN GOVERNMENT AND IN FREE ELECTIONS**

ARTICLE 22 **RIGHT TO SOCIAL SECURITY**

ARTICLE 23 **RIGHT TO FAVORABLE WORK AND TO JOIN TRADE UNIONS**

ARTICLE 24 **RIGHT TO REST AND LEISURE**

ARTICLE 25 **RIGHT TO AN ADEQUATE STANDARD OF LIVING**

ARTICLE 26 **RIGHT TO EDUCATION**

ARTICLE 27 **RIGHT TO PARTICIPATE IN THE CULTURAL LIFE OF THE COMMUNITY**

ARTICLE 28 **RIGHT TO A SOCIAL AND INTERNATIONAL ORDER IN WHICH HUMAN RIGHTS CAN BE REALIZED**

ARTICLE 29 **COMMUNITY DUTIES ESSENTIAL TO FREE AND FULL DEVELOPMENT**

ARTICLE 30 **FREEDOM FROM STATE AND PERSONAL INTERFERENCE IN THE ABOVE RIGHTS**

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Qatar 2022: Construction firms accused amid building boom

By Sue Lloyd-Roberts
BBC Newsnight, Qatar

8 December 2014 | Business

Naturalist and com...
while protesting against the...
rainforests and abusing human rig...

From The Economist...
...and

2) How is responsibility determined?

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Fact Pattern A

- A company owns a finished product facility in the UK
- The factory is found to have had some health and safety lapses and several workers suffered injuries
- What is the responsibility of the company?

Mode of Involvement: Cause

If a company	Then it should...	AND...
Causes an impact	Mitigate / prevent the impact	Remediate the harm

Fact Pattern B

- Company A has hired security to help protect its palm oil plantations
- Surrounding communities are angry at the effect of haze on their health and are organizing a protest. The company hires additional security guards from another security company at the last minute
- The protest takes place. The newly hired security guards resort to force and three villagers are killed
- What is the responsibility of company A?

Mode of Involvement: Contribution*

If a company	Then it should...	AND...	AND...
Contributes to an impact	Mitigate / prevent the impact	Use its leverage with other responsible parties to mitigate / prevent the impact; and increase its leverage as necessary	Contribute to remediating the harm

* *depending on the facts*

Fact Pattern C

- Accessories company purchases scarves from a supplier in Italy
- The company, to distinguish its products from a competitor's newly released line, makes a significant late change to the order without changing the delivery time or price
- The supplier outsources some of the work to a factory that relies on migrant workers who are subjected to excessive overtime and poor working conditions
- What is the responsibility of the accessories company?

Mode of Involvement: Contribution

If a company	Then it should...	AND...	AND...
Contributes to an impact	Mitigate / prevent the impact	Use its leverage with other responsible parties to mitigate / prevent the impact; and increase its leverage as necessary	Contribute to remediating the harm

Fact Pattern D

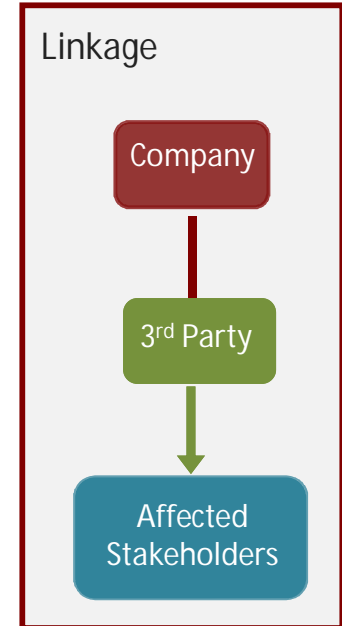
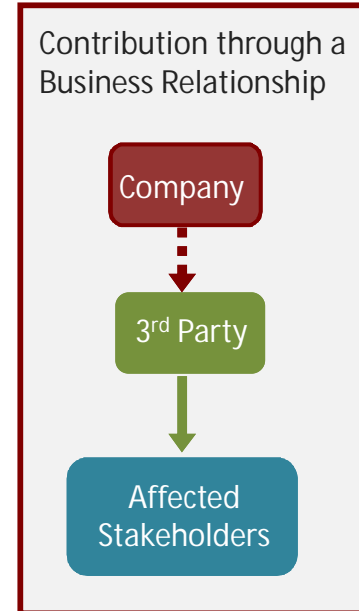
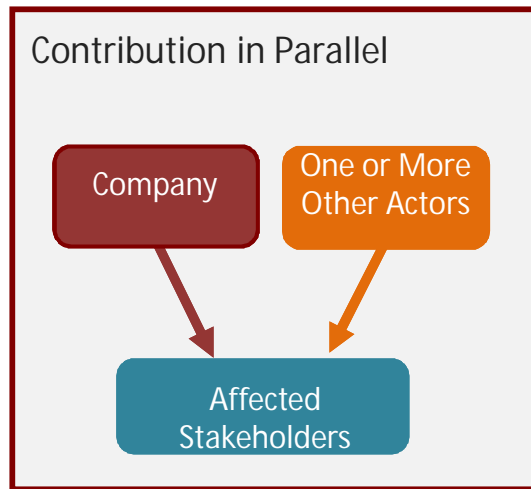
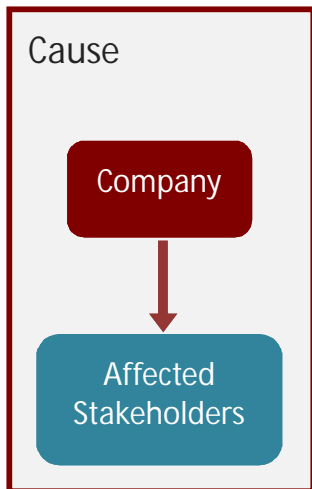
- A supermarket is selling salads that are produced in Spain
- A local NGO claims that the salads are being picked by workers that are subject to labor abuses, including bonded labor
- What is the responsibility of the supermarket?

Mode of Involvement: Linkage*

If a company's	Then it should...	AND?
Operations, products or services are directly linked to an impact	Use its leverage with other responsible parties to seek to mitigate / prevent the impact; and increase leverage as necessary	<i>There is no responsibility to remedy the harm under the UNGPs though companies may choose to do so for other reasons.</i>

* *depending on the facts*

Cause, Contribution, Linkage



Differentiated Actions

If a company ...	Then it should...	AND...	AND...
Causes an impact	Mitigate / prevent the impact		Remediate the harm
Contributes to an impact	Mitigate / prevent the impact	Use its leverage with other responsible parties to mitigate / prevent the impact; and increase its leverage as necessary	Contribute to remediating the harm
Has its operations, products or services directly linked to an impact		Use its leverage with other responsible parties to seek to mitigate / prevent the impact; and increase its leverage as necessary	<i>No responsibility to remedy but company may choose to do so</i>

3) What can my company do to prevent impacts?

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How can companies know and show?

**Policy Commitment
and Embedding**

Human Rights Due Diligence

**Remedy and Grievance
Mechanisms**

Human Rights Due Diligence



Inputs to identification

1. Existing business processes

- Supplier audits, grievance mechanisms, crisis management/ critical incident processes, etc.

2. Cross-functional conversations

- Purchasing, Logistics, Legal, Ethical Sourcing, CSR, HR, Public Relations, etc.

3. Stakeholder engagement

- HQ-level relationships (formal and informal); Site level engagement with directly affected stakeholders

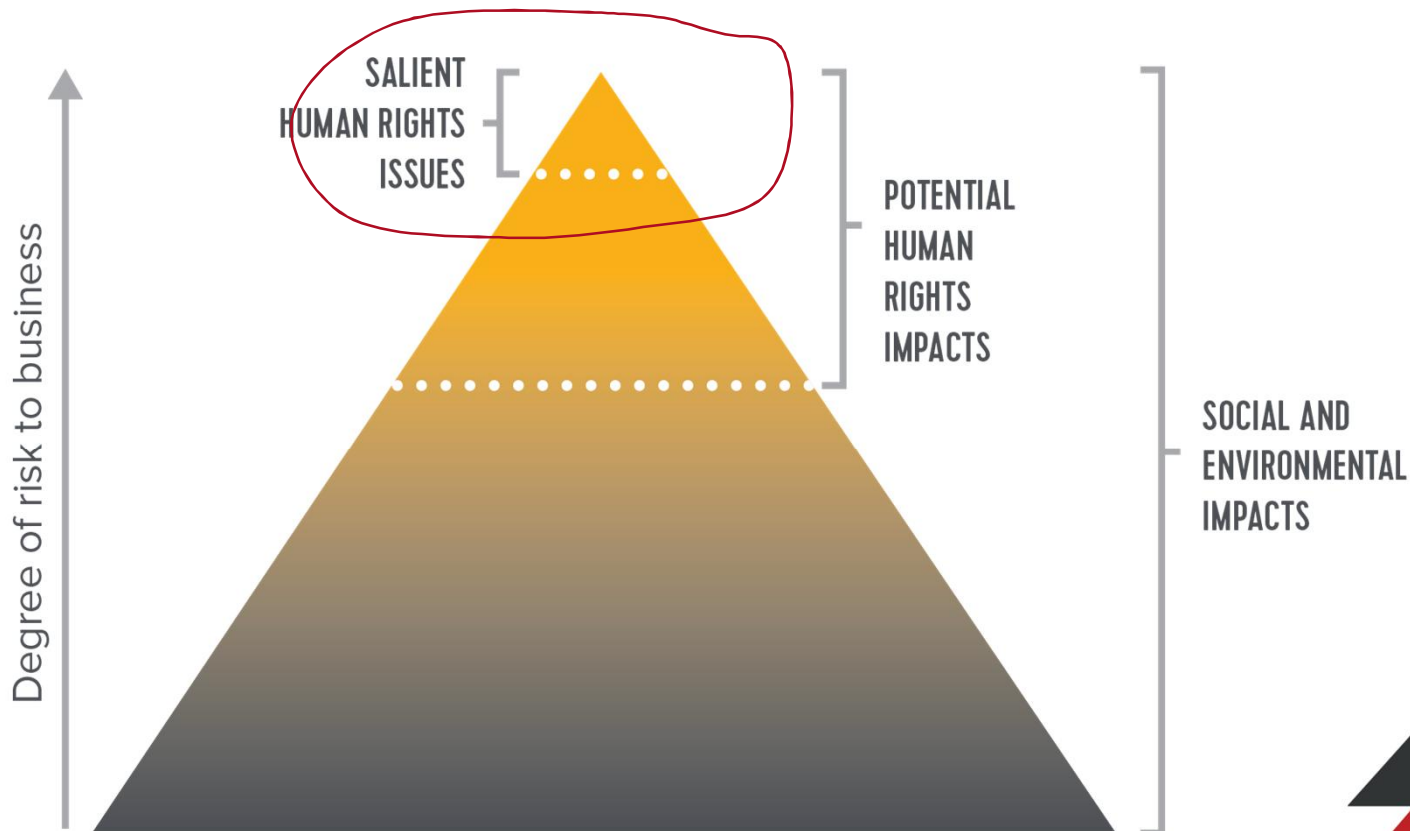
4. Other sources

- Media reports; Industry analysis; Peer companies

SALIENT

HUMAN RIGHTS ISSUES

The human rights at risk of the most severe negative impacts through the company's operations and value chain.



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Human Rights Due Diligence



Build and
exercise
LEVERAGE

What is the Role of Leverage?

Objective:

Influence an actor within the company's value chain...

- that is causing or contributing to an impact
- to change their behavior,

in order to prevent, mitigate or remedy an impact linked to the business.

Building and Using Leverage

Ask a series of questions:

- Do I have leverage to mitigate the risk?
- Can I increase it through my own actions?
- Can I increase it through another entity?
- Can I increase it through collaborative action?
- Can I leave the relationship without additional harm to human rights?
- If I stay, can I explain the decision, taking into account the severity of the impact?

Examples of Leverage

- Traditional commercial leverage
- Broader business relationship (eg, capacity-building)
- Leverage together with business peers
- Leverage through bilateral engagement with other actors (eg, government, NGO, international organization)
- Leverage through multi-stakeholder collaboration

4) What is the role of the state?

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The 'Protect, Respect and Remedy' Framework

**State Duty to
Protect**

**Corporate
Responsibility
to Respect**

**Access to
Effective
Remedy**

National Action Plans

Danish National Action Plan

– Implementation of the
UN Guiding Principles on
Business and Human Rights



Action plan for business
and human rights



Utenriksdepartementet

Næringsliv og menneskerettigheter

Nasjonal handlingsplan for oppfølging av FNs veiledende prinsipper



National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights

Publications of the Ministry of Employment
and the Economy
Competitiveness
4B/2014

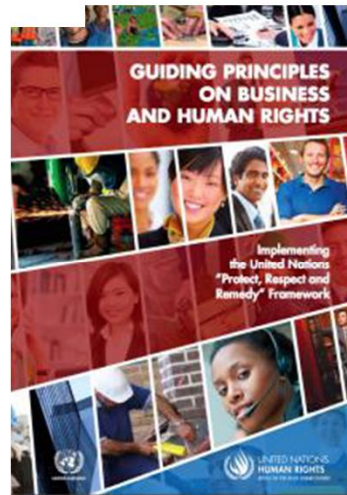


TVÖ- JÄRLINDBÄNSMINISTERIO
ARBETS- OCH NÄRINGSMINISTERIET
MINISTRY OF EMPLOYMENT AND THE ECONOMY

Convergence around UNGPs



OECD Guidelines
for Multinational Enterprises



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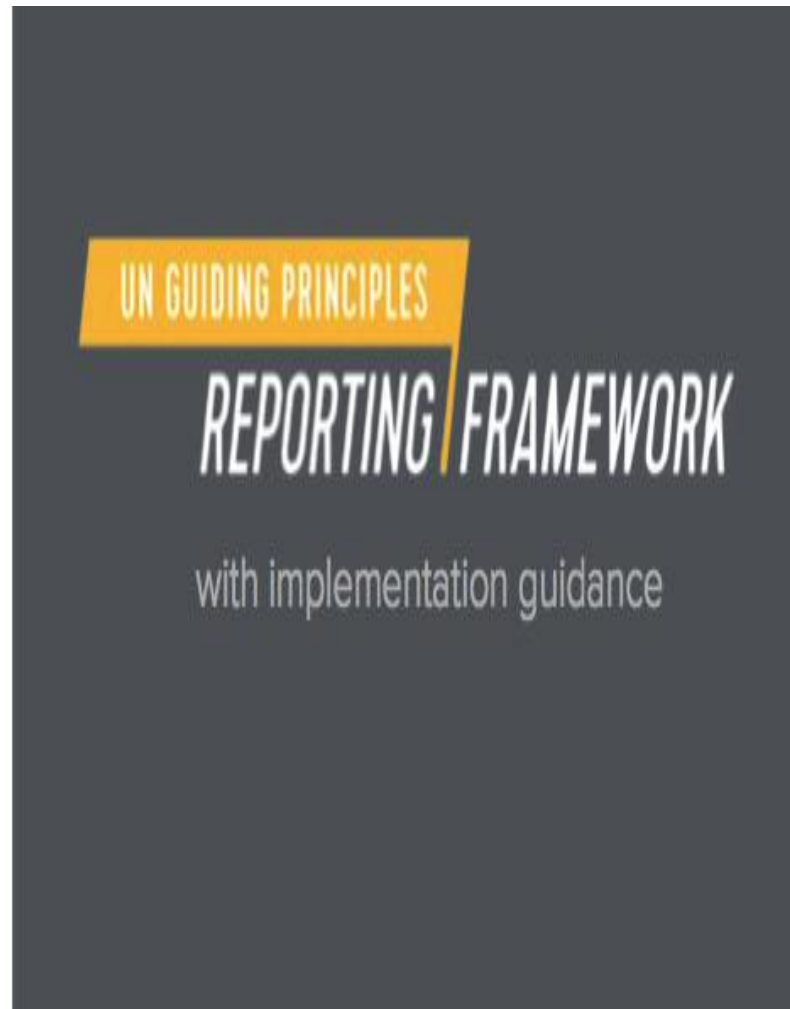
EU Non-Financial Reporting Directive

- Applicable to large public-interest entities
- Management report to include information on **respect for human rights** (policies, main risks and outcomes)
- To also include information on the **due diligence processes** implemented



*The first comprehensive
framework for
companies to report on
how they respect human
rights*

www.ungpreporting.org



The logo for Shift, featuring the word "Shift" in a bold, italicized sans-serif font. The letters "S", "h", "i", and "f" are white, while the letters "t" and "t" are red. The logo is set against a dark grey background that is part of a larger graphic element consisting of a dark grey triangle pointing right and a red triangle pointing left, meeting at a diagonal line.

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