

November 2016

Business and Human Rights – Cooperation between Mexico and Denmark

**Conciencia México-Dinamarca and the Latin America
Business Forum at CBS**

Agenda

1. Welcome & Introduction to Business and Human Rights in Mexico –Challenges and Opportunities

2. Presentation

H.E. José Ignacio Madrazo Bolívar, Ambassador of Mexico in Denmark

3. Collaboration on Mexican national programme on business and human rights

Paloma Munoz Quick, Human Rights & Business Advisor, Latin America, Focal Point, DIHR

4. Q&A

Conciencia México- Dinamarca

Latin America Business Forum at CBS

Mexico

- **Population**
- **Natural Resources**
- **Geographical Location**
- **International Agreements**
- **Indigenous people**
- **Mega-projects (e.g. mining)**
- **Employees abuses - Human trafficking**
- **Global Agreement Mexico-European Union (2000)**

Mexico and the European Union

- Economic Partnership, Political Coordination and Cooperation Agreement with the European Union (EU), the “Global Agreement”, which took effect in **2000**.
- Article 39 of the “Global Agreement” establishes cooperation, promotion of human rights and democratic principles. Declaring “The Parties may carry out joint projects in order to strengthen cooperation between their respective electoral bodies as well as between other bodies responsible for **monitoring and encouraging the observation of human rights**” (Official Journal of the European Communities, 2000, p. L 276/52).

Memorandum of Understanding (MoU)
signed in April 2016 between *Mexico* and
the *Danish Institute for Human Rights* to
develop Mexico's **National Action Plan on**
Business and Human Rights

United Nations Guiding Principles on Business and Human Rights

Pilar I: State duty to protect

Pilar II: Corporate responsibility to respect

Pilar III: Access to remedy

First official visit by UN expert group on Business and Human Rights (August 29-September 7, 2016)



Pavel Sulyandziga and Dante Pesce,
United Nations Working Group, during
the presentation of their preliminary
report

Presentation

**H.E. José Ignacio Madrazo Bolívar
Ambassador of Mexico in Denmark**

COLLABORATION ON MEXICAN NATIONAL PROGRAMME ON BUSINESS AND HUMAN RIGHTS

Paloma Muñoz Quick
Danish Institute for Human Rights

AGENDA

- Introduction and background
- National Action Plans on Business and Human Rights
- National Programme on Business and Human Rights Mexico
- Challenges and opportunities

THE DANISH INSTITUTE FOR HUMAN RIGHTS



DANISH INSTITUTE FOR HUMAN RIGHTS

- National Human Rights Institution of Denmark
- National and international mandate
- 100 + employees, in more than 30 countries
- Mandate to work with states and companies to provide expertise on human rights
- Business and Human Rights since 1999
- Development and Human Rights since 2014:
 - Business and human rights
 - Sustainable development
 - Corporate engagement

DANISH INSTITUTE FOR HUMAN RIGHTS IN LATIN AMERICA



- In Latin America since 2015
- Technical support for National Action Plans in Chile, Colombia, México
- Other projects in Argentina, Brazil, Peru, Nicaragua and Dominican Republic
- Strategic collaboration with UNICEF LAC and OHCHR South America

DANISH INSTITUTE FOR HUMAN RIGHTS IN MEXICO



- Mexico since 2015 to support implementation of UN Guiding Principles on Business and Human Rights
- DIHR and Foreign Minister of Mexico sign MoU with Ministry of Interior of Mexico (SEGOB) during Presidential visit in April 2016
- Tri-partite agreement: SEGOB, Swiss Foreign Ministry and DIHR



Activities

- Support development and implementation of National Programme on Business and Human Rights to implement UN Guiding Principles on Business and Human Rights
- Produce Human Rights and Business Country Guide
- E-learning and trainings
- Workshops with federal public administration, multi-stakeholder working group
- Forum for business
- Support for consultations incl. Indigenous peoples

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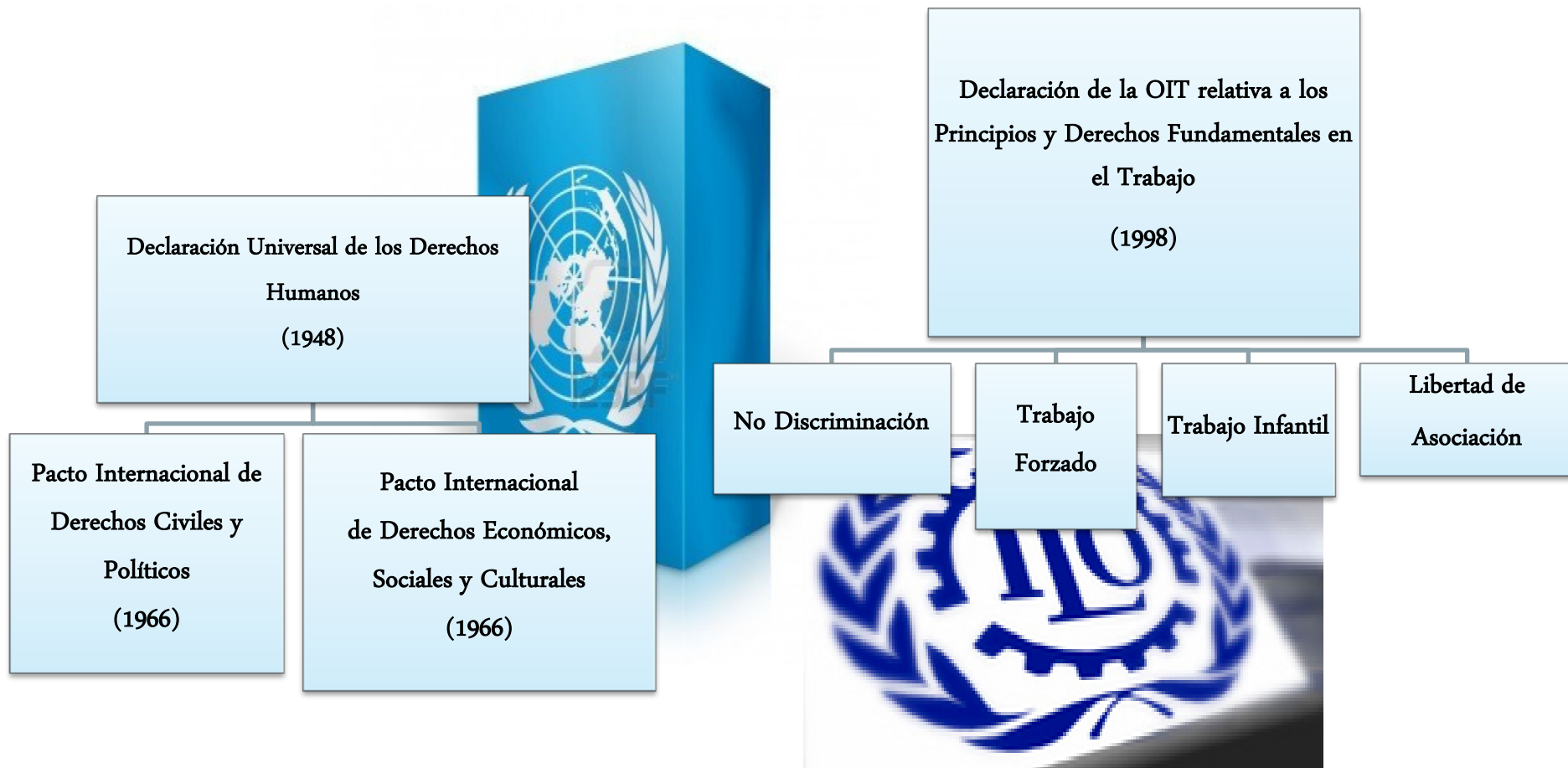
UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

Latin American members
of the Human Rights Council
in 2011: Argentina, Brasil,
Chile, Cuba, Ecuador,
Guatemala, México y
Uruguay



2011
UN Guiding Principles
on Business and
Human Rights

UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS



Y más (universales y regionales)... basados en los principios de no discriminación, universalidad, participación y rendición de cuentas.

“No tendremos seguridad sin desarrollo, no tendremos desarrollo sin seguridad, y no vamos a tener ninguno de los dos sin el respeto de los derechos humanos.”

Kofi Annan, anterior Secretario-General de la ONU

- Los derechos humanos atraviesen la Agenda 2030 para el Desarrollo Sostenible, sus 17 objetivos y 169 metas, con objetivo final de **“no dejar a nadie atrás”**
- El elemento empresarial es transversal en la Agenda 2030. Algunos ejemplos de cómo aparece:

Referencia explícita a los Principios Rectores sobre empresas y derechos humanos y los estándares laborales de la OIT

Objetivo 8: Promover el crecimiento económico sostenido, inclusivo y sostenible, el empleo pleno y productivo y *el trabajo decente* para todos.

“La actividad empresarial, la inversión y la innovación como motores importantes de la productividad, *crecimiento económico **inclusivo** y generación de trabajo.*” (párr. 67)

Meta 17.17: Tiene una meta específica sobre “fomentar y promover la constitución de alianzas eficaces en las esferas pública, *público-privada y de la sociedad civil*”

➔ Nivel nacional: coherencia de políticas (derechos humanos, desarrollo, sostenibilidad, inversión, compras...)

PRINCIPIOS RECTORES DE LA ONU SOBRE EMPRESAS Y DERECHOS HUMANOS:

PILARES EN PRACTICA

Key components

- Includes all States
- Includes all companies
- Includes all human rights (international and regional systems)
- Not a legal obligation, but elaborates on the consequences of existing obligations and practices for States and business
- Human rights cannot be compensated: doing right in one sphere cannot compensate for negative impacts in another sphere.



PILLAR 1: STATE DUTY TO PROTECT



PILLAR 1: DUTY TO PROTECT

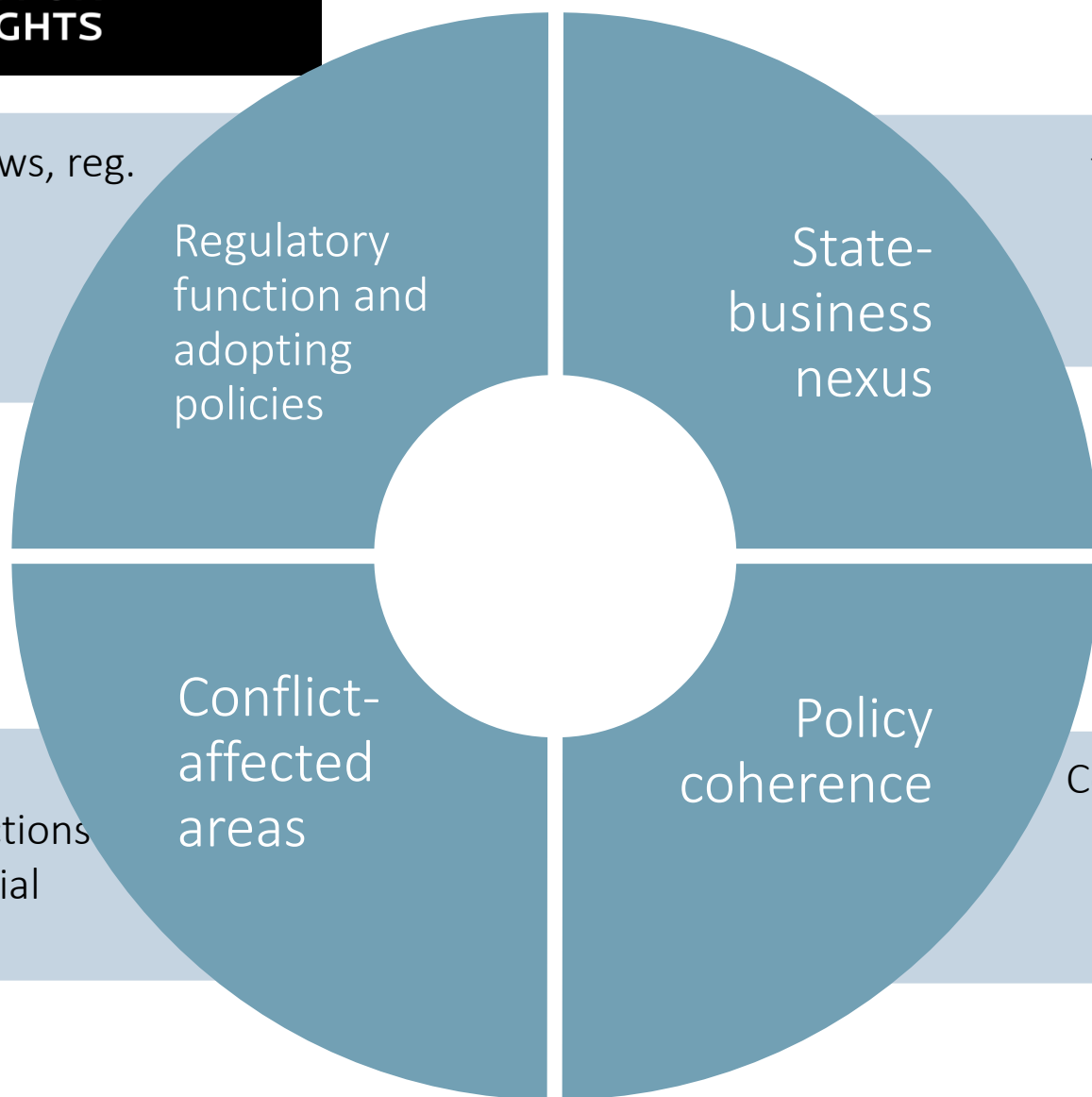
PILAR I

PILAR II

PILAR III

- ✓ States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
- ✓ States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

PILLAR 1: 4 PUBLIC POLICY SPHERES





PILLAR 2:
CORPORATE RESPONSIBILITY TO RESPECT



PILLAR 2: CORPORATE RESPONSIBILITY TO RESPECT

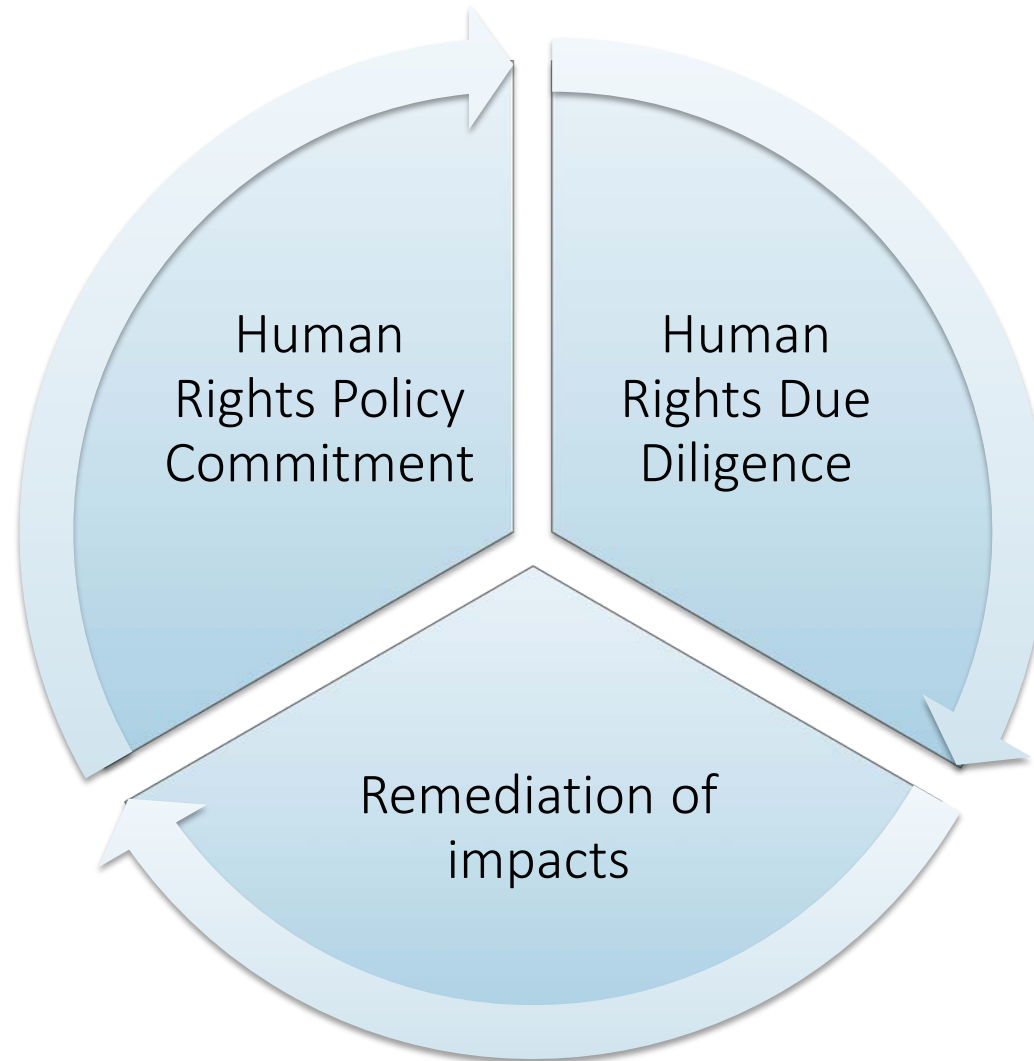
PILLAR I

PILLAR II

PILLAR III

- ✓ Do no harm: Avoid causing/contributing to abuses
- ✓ Prevent/mitigate negative human rights impacts by suppliers or other business partners
- ✓ Address real and potential impacts

PILLAR 2: CORPORATE RESPONSIBILITY TO RESPECT



PILLAR 2: CORPORATE RESPONSIBILITY TO RESPECT

PILLAR I

PILAR II

PILAR III

Companies should express their commitment to respect by adopting a human rights policy

- Approved at the highest level
- Informed by experts
- Establish human rights expectations around personnel, partners, and others associated to the business
- It is public and should be communicated internally and externally
- Reflected in the operational policies and necessary to integrate into the entire company

PILLAR 2: CORPORATE RESPONSIBILITY TO RESPECT

Due Diligence

PILAR I

PILAR II

PILAR III

All the measures a company should take to identify, prevent, and respond to negative human rights impacts:

1. Impact assessment
2. Integrate findings
3. Tracking effectiveness measures
4. Communicating impacts



PILLAR 3

ACCESS TO REMEDY



PILLAR 3: ACCESS TO REMEDY

PILLAR I

PILAR II

PILAR III

As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy

Operational level grievance mechanisms

- Helplines
- Community engagement
- Etc.

PILLAR 3: ACCESS TO REMEDY

PILLAR I

PILAR II

PILAR III

1. State-based judicial mechanisms
2. State-based non-judicial mechanisms
 - Ministries
 - NHRI
 - NCP OECD
3. Non- state based mechanisms
 - Informal justice
 - Operational level
 - Inter-American Commission on Human Rights
 - IFC Ombudsman
 - Voluntary Principles on Security and Human Rights and other multi-stakeholder initiatives

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NATIONAL PROGRAMME ON
BUSINESS AND HUMAN RIGHTS
MEXICO

WHY NAP?

National Action Plans are a standard tool to implement the UN guiding Principles on Business and Human Rights, which enable governments too coordinate and prioritize internally

The purposes of a NAP include:

- Compare the actions taken by a state with international human rights standards
- Identify the impacts of business in practice
- Identify marginalized and at risk groups
- Create awareness and mobilization within the state
- Carry out consultations with external stakeholders to identify priorities and recommendations for consideration
- Establish achievable objectives
- Strengthen national institutions
- Give clarity to business on their responsibilities
- Incentives companies to implement due diligence

NAPS GUIDANCE - PROCESS

- Government ownership
- Base on UNGPs
- Clear TOR + timeline
- Resources
- Participation
- Transparency
- Monitoring and reporting framework
- National baseline assessment (NBA)

NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS

A Toolkit for the Development, Implementation, and Review of
State Commitments to Business and Human Rights Frameworks



NAPS GUIDANCE - CONTENT

- Full scope of UNGPs
- Territory and jurisdiction
- Action points - SMART (Specific, measurable, achievable, relevant, and time-bound)
- Clear priorities and tasking
- Regulatory mix

NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS

A Toolkit for the Development, Implementation, and Review of
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WHO IS NAPing?

Final NAPs:

- The United Kingdom
- The Netherlands
- Denmark
- Finland
- Lithuania
- Sweden
- Norway
- Colombia

Draft NAPs:

- Italy
- Spain



Who has started NAPing?

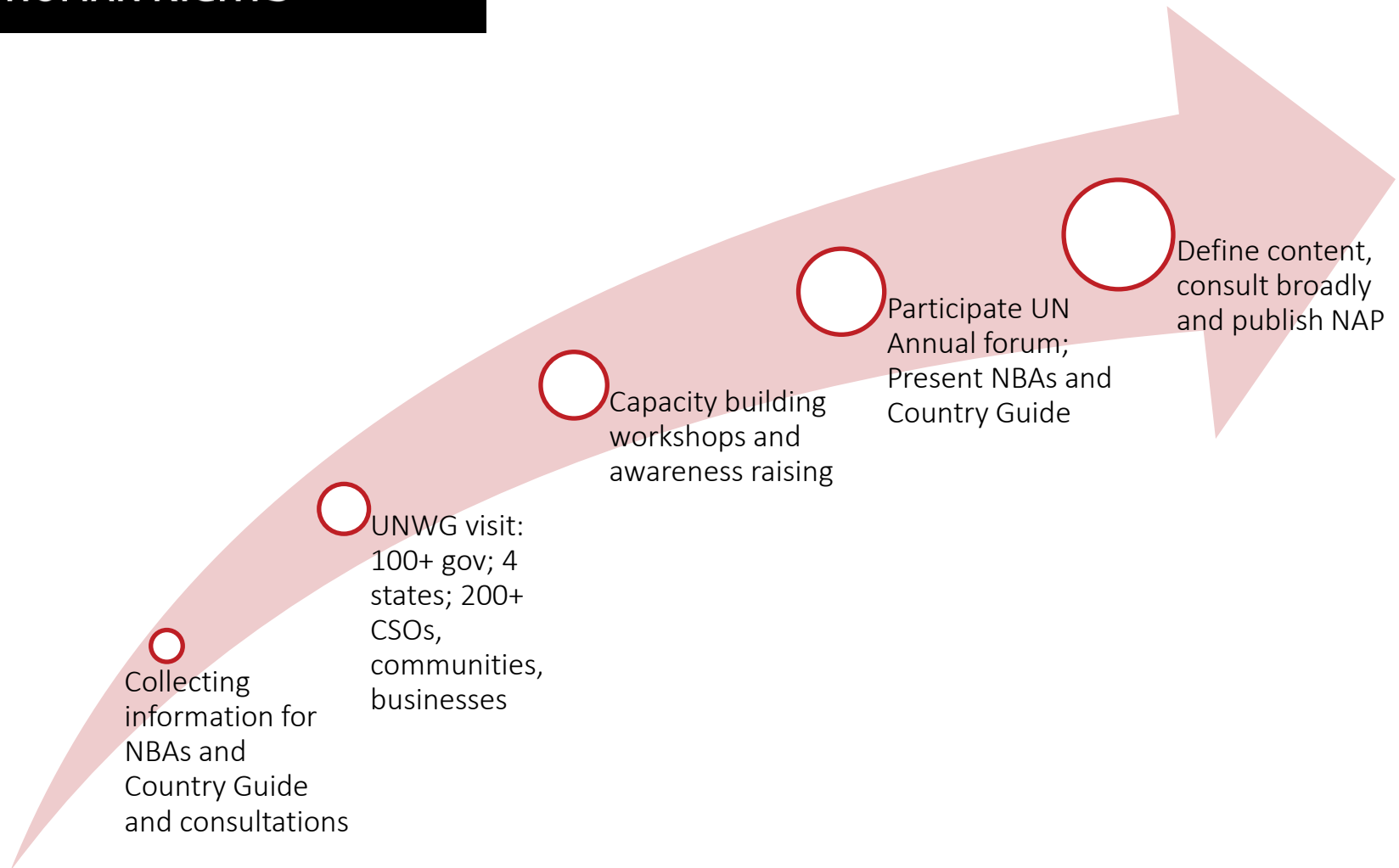


WHY A MEXICO NAP?

Implement objective 4.4 of the National Human Rights Programme (or Plan):
Promote human rights and gender in private sector, as well as in the policies and activities of the National Human Rights Programme by developing a National Programme on Business and Human Rights

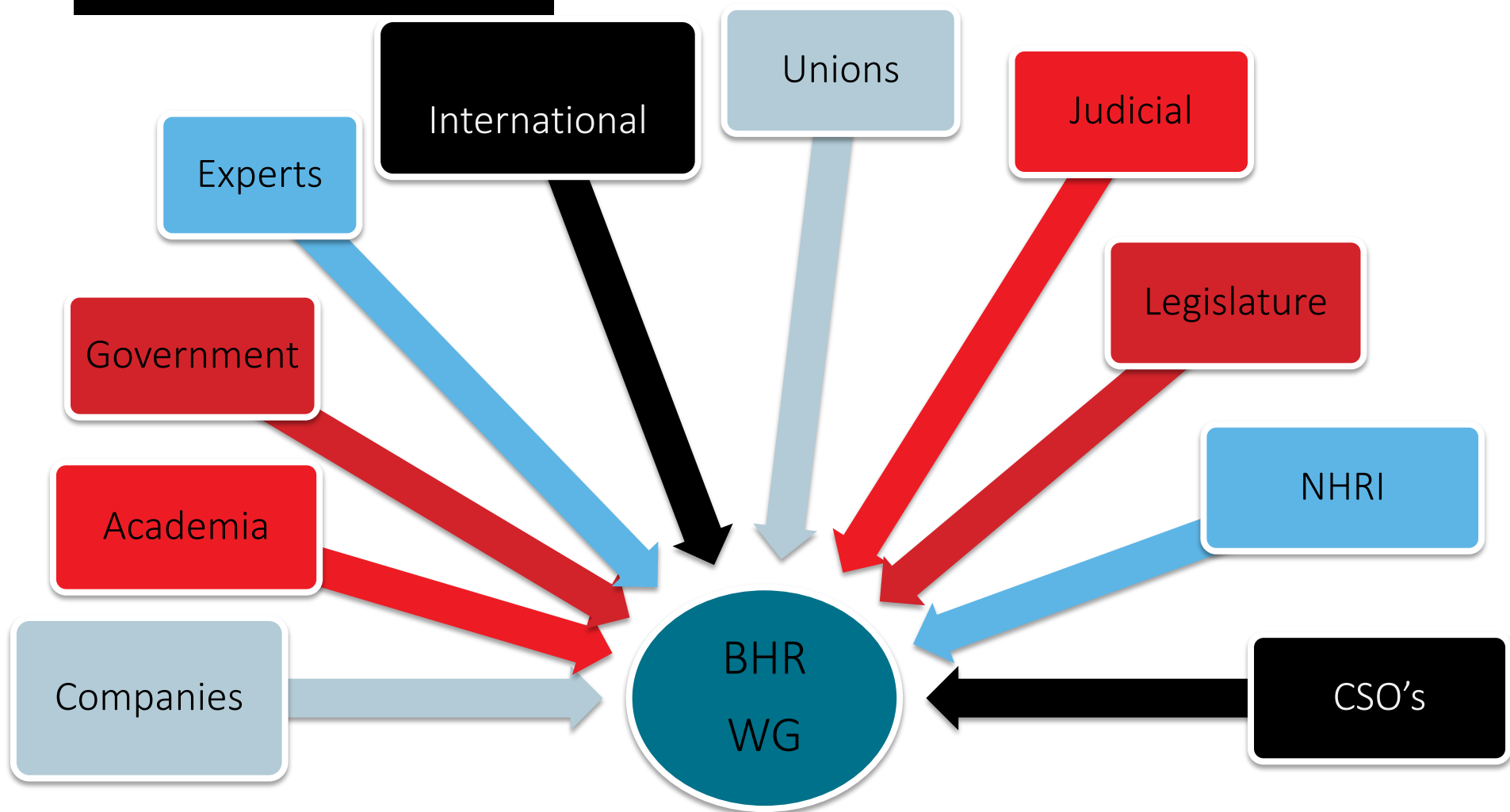
- Strengthen the mechanisms to guarantee respect for human rights by business
- Promote the dissemination of human rights and their inclusion in their principles, codes of conducts and policies
- Boost human rights focus in corporate social responsibility
- Support companies in understanding their human rights obligations

OVERVIEW: MEXICO PROCESS

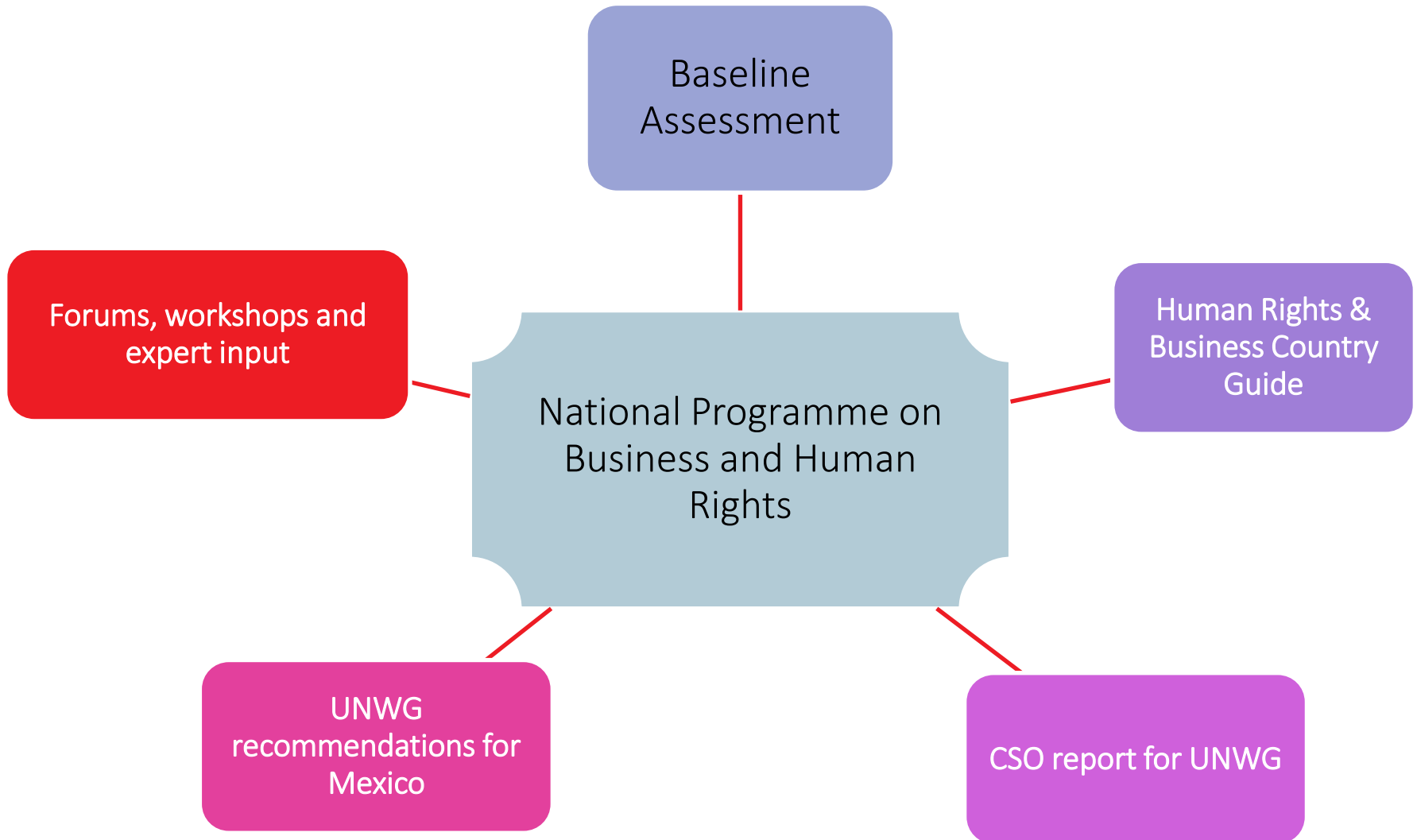


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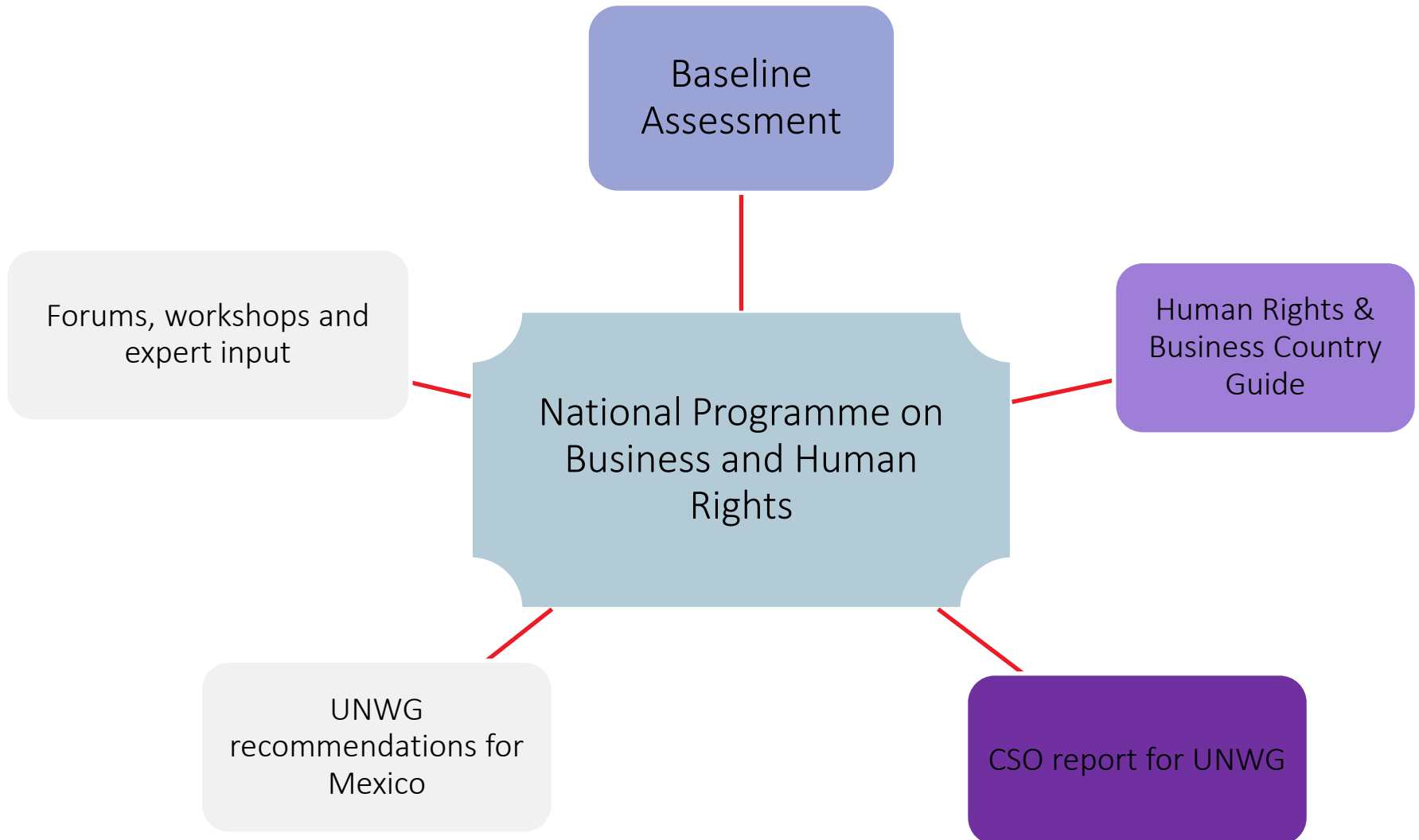
MUTLI-STAKEHOLDER WORKING GROUP



KEY INPUTS TO PROCESS



KEY INPUTS TO PROCESS



THE DANISH
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NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS

*A Toolkit for the Development, Implementation, and Review of
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NATIONAL BASELINE ASSESSMENT OF MEXICO





National Baseline Assessment

- UNGPs implementation – coverage and gaps
- Full scope of UNGPs
- Qualitative and quantitative information
- Indicators - tracking performance

NATIONAL BASELINE ASSESSMENTS

National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitment to Business and Human Rights

Two baselines:

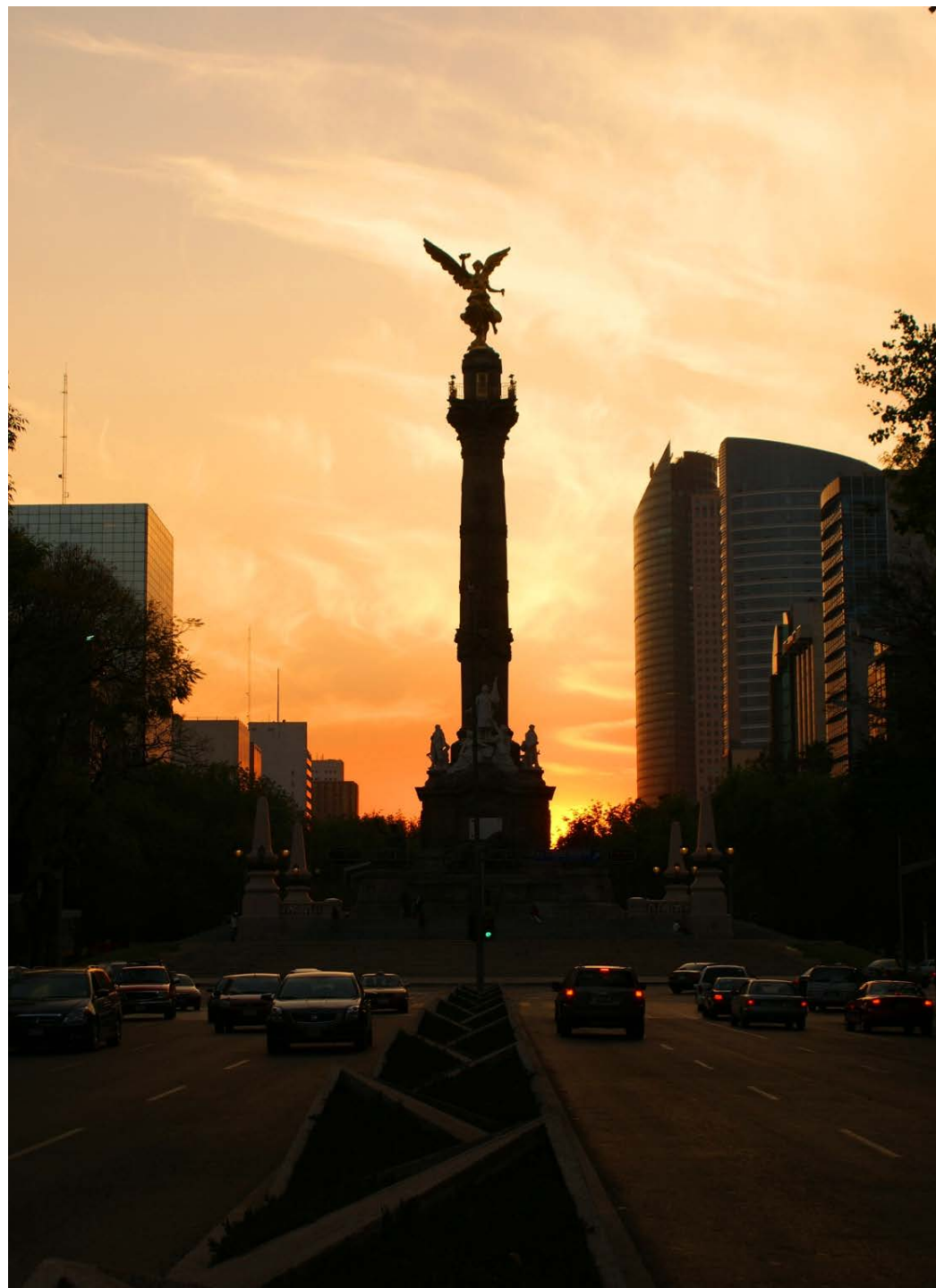
- Civil society focal Group led by Mexican CSO Poder and comprised of 11 organizations. Support from International Corporate Accountability Roundtable
- Unicef Children's rights

Activities:

- Three regional civil society discussions across the country
- convening of one large civil society discussion, bringing together representatives of the various regional groups.
- CSO focal group developed a National Baseline Assessments (NBA) of current implementation of business and human rights frameworks in Mexico
- Using the data gathered through the NBA, key recommendations and priority areas in relation to the content of NAP
- Children's Rights National Baseline Assessment by Unicef and recommendations

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HUMAN RIGHTS AND BUSINESS COUNTRY GUIDE MEXICO





Rights holders at risk in the workplace and in the community



Child labour



Forced labour



Occupational Health and Safety



Trade Unions



Working Conditions



Environment



Land and Property



Revenue Sharing and Transparency



Security and Conflict

Access to Remedy

- International mechanisms
 - IFC Ombudsman
 - National Contact Points, OECD
 - Global Compact
 - Voluntary Principles Security and Human Rights
 - Fair Labor Association
 - Home state mechanisms
- National Mechanisms
 - National Courts
 - Work Tribunals
 - Ministries
 - National Human Rights Institutions
 - Informal justice mechanisms
 - Operational level grievance mechanisms

HUMAN RIGHTS AND BUSINESS COUNTRY GUIDE

Sectors

Human rights impacts of key sectors of the economy

*Special summary of relevant sectors:
extractive industries, energy, agriculture*

Additional sectors

Regions

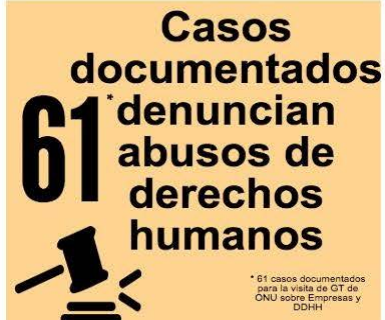
Human rights impacts that are specific to certain regions or administrative zones. Differentiated from national context.

- Guerrero, Michoacan Oaxaca, Sonora, etc

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CIVIL SOCIETY REPORT TO UN WORKING GROUP ON BUSINESS AND HUMAN RIGHTS

México: Empresas y Derechos Humanos



STRENGTHS

- High-level commitment
- Participation of all stakeholder groups
- National level dialogue between stakeholders and build trust
- Strong civil society empowered to influence public policy process and content
- Awareness raising across all federal public administration
- Expert technical advice
- UN Working Group visit
- European embassies
- +/- Federal structure
- Covers all 3 pillars of UNGPs
- Linkages to 2030 Sustainable Development Agenda

CHALLENGES

- Lack of trust between all stakeholder groups
- Human rights as a concept in society (culture of human rights)
- Size of Mexico
- Indigenous peoples
- +/- Transparency
- +/- Federal structure
- Corporate capture
- Conflict-affected areas
- Policy coherence in design (and implementation)
- Resources

CONCLUSION

- Unprecedented process in Mexico
- There are numerous challenges
- Participation is key to the credibility and success of NAP
- Independent implementation, monitoring and reporting of NAP is necessary
- Expanding the concept of human rights in society

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THANK YOU!

Danish Institute for Human Rights

<http://www.humanrights.dk/>

in Latin America

<https://www.facebook.com/DDHH.Emresas.LatAm>

First official visit by UN expert group on Business and Human Rights (August 29-September 7, 2016)



Pavel Sulyandziga and Dante Pesce, United Nations Working Group, during the presentation of their preliminary report

Cases serious violations and abuses of human rights by the State and companies from different sectors, and a lack of access to remediation for victims.

Challenges –National Action Plans on Business and Human Rights

1. Protection of the Human Rights Defenders
2. Leading by Example
Public Official & Organizations
3. Fragile Institutions
Impunity
4. Firms stronger than Institutions
5. Consult and consent

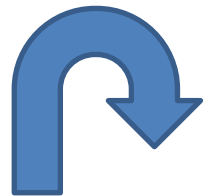
Questions & Comments

Reflections

First official visit by UN expert group on Business and Human Rights (August 29-September 7, 2016)

Most frequently violated rights are:

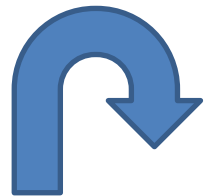
- Land and territory (32 cases)
- Access to information (28 cases)
- Healthy environment (22 cases)



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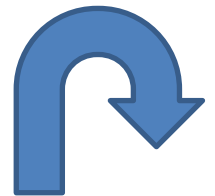
Sectors where most abuses were documented were:

- mining (11 cases),
- hydrocarbons (9),
- energy (8), construction (8) and
- industrial agriculture (6).



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More than 50% of cases of intimidation and threats against opponents of business projects were documented.



Challenges –National Action Plans on Business and Human Rights

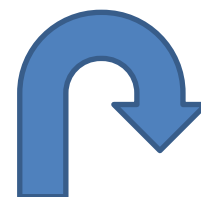
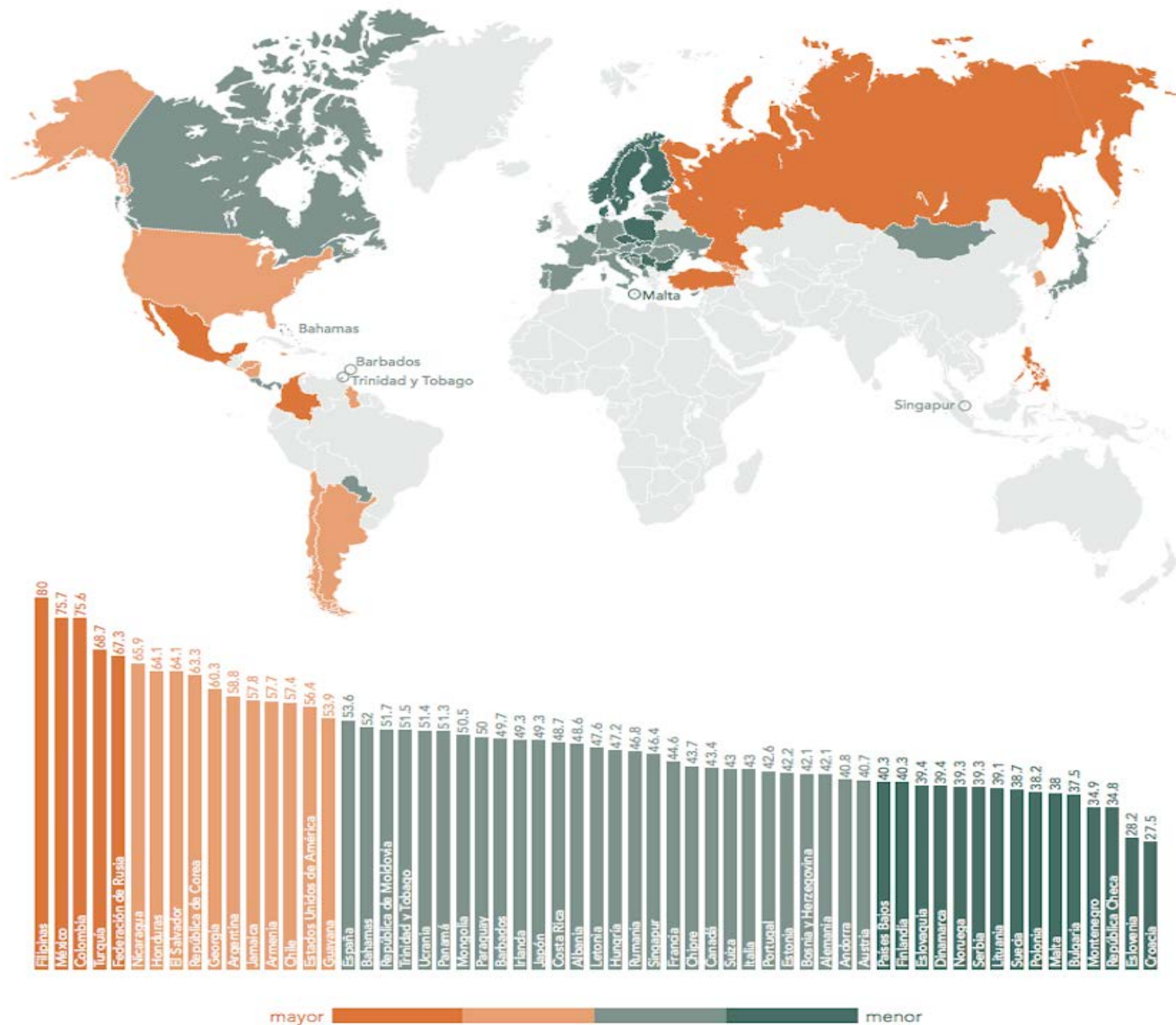
Leading by Example

State -based judicial mechanisms

Principle 26: States should take appropriate steps to ensure the **effectiveness of domestic judicial mechanisms** when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a **denial of access to remedy**.



Mapa 1 Índice Global de Impunidad (IGI) 2016



Case: Toluca-Naucalpan Highway

Project: Construction of the highway Toluca-Naucalpan, approved by State and Federal authorities

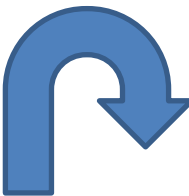
Builder of the project: Grupo Higa

Community affected: Otomi-Mexica indigenous community

Problematic: Community opposed to a compulsory purchase order issue in October 2012 without any prior consultation

Huma Rights Abuse: Destruction of houses by the State police (11 April 2016)

UN Working Group: “Grupo Higa, builders of the project, never responded to the UN Working Group to their request for an interview”



Business and Human Rights in Mexico – Challenges and Opportunities

Mexico: Business and Human Rights

