# Protect, Respect, Regenerate: Facilitating the UNGPs on the Ground

*15 years of the UNGPs experienced from the practice of facilitating relationships between communities and companies. An assessment of impact and proposals for the road ahead.*

This essay is part of [Shift's series] marking the 15th anniversary of the UN Guiding Principles on Business and Human Rights.

**By Pablo Lumerman***

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## 1. Introduction

The endorsement of the *UN Guiding Principles on Business and Human Rights* by the UN Human Rights Council on 16 June 2011 [1] was welcome news for academics and practitioners. The framework has influenced corporate and public governance, expanding avenues for restorative justice in socio-environmental disputes. For me, it introduced a new cornerstone for my practice as a mediator in disputes between community, business, and government actors over land and natural resources across Latin America.

Fifteen years on from their adoption, the UNGPs have not merely retained their relevance — they have become an indispensable framework for navigating complexity in conflict practice. Given the intensified conflict dynamics in which the world finds itself today, this framework is especially valued by those of us who work as mediators and facilitators of preventive and restorative relationships between companies and communities. Its most underestimated contribution is its function as a *lingua franca*: enabling a conversation about "what is right" and "how do we make it right" between actors who, before the UNGPs existed, lacked a shared vocabulary.

This essay offers two reflections: on the benefits of the UNGPs for mediation and facilitation practice, and on the challenges that will define their future relevance in the context of the environmental crisis and the current state of international relations.

## 2. The Evolution of Practice and the Impact of the Guiding Principles

[1] United Nations. (2011). Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework. Human Rights Council, 17th session. A/HRC/17/31. Unanimously endorsed on 16 June 2011 by HRC Resolution 17/4. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

## 2.1 From Consensus Building to Rights-Based Mediation

I was trained at Fundación Cambio Democrático, an Argentine NGO applying collaborative facilitation to public policy and the *Mutual Gains Approach*.[2] Despite its merits, critiques noted that consensus-building can perpetuate a rights-violating *status quo* by ignoring differences in class, ethnicity, and historical asymmetries, undermining process design.

These critics made it unambiguously clear that an explicit human rights lens was the missing ingredient. Such a lens would supply essential criteria for assessing situations of conflict, violence and harm and illuminate the restorative and access-to-justice dimension that mediation processes are capable of providing. Peacebuilding scholar practitioners such as Johan Galtung, John Paul Lederach and Edy Kaufman[3] identified this tension between mediation and human rights activism and charted the path of "peace with justice" or, more simply, conflict transformation. A rights-based approach with inclusive dialogue-based practices to company-community conflict resolution has been proposed by an increasing number of scholars and practitioners as the way to "curb the institutional barriers that disincentivize businesses and communities from engaging in long-term, value-creating negotiations, as well as the sustainable use of natural resources" (Hernandez et al., 2026)[4]. The quality of training and capacity-building standards with this approach has improved considerably, with growing sectoral and geographic reach.[5]

## 2.2 The UNGPs: Elevating Standards in Company-Community Facilitation

[2]Susskind, L. & Cruikshank, J. (1987). Breaking the Impasse. Basic Books; Fisher, R., Ury, W. & Patton, B. (1991). Getting to Yes: Negotiating Agreement Without Giving In. Penguin. Training at the Consensus Building Institute (MIT/Harvard) grounded the Mutual Gains Approach.

[3]Lederach, J. P. (1997). Building Peace: Sustainable Reconciliation in Divided Societies. USIP Press;

Kaufman, E., Campos, S. & Valaskakis, G. G. (Eds.). (2007). Breaking Ice: Negotiation and Mediation in Armed Conflicts in Latin America.

[4] Mara Isabel Hernández Estrada, Nicole Altamirano Bahena, Jose Fernando Gómez, David Fairman; Integrating Rights- and Dialogue-Based Approaches to Business–Community Negotiations in Complex Environments: The Case of Mining in Latin America. *Negotiation Journal* 2026; 42 134–169.Integrating Rights- and Dialogue-Based Approaches to Business–Community Negotiations in Complex Environments: The Case of Mining in Latin America1

[5] This expanding "choreography of knowledges" on human rights-based company-community engagement facilitation capacity building experience inherently weaves in rigorous sector-specific standards. These include the institutionalized environmental and social safeguards of global lenders like the World Bank Environmental and Social Framework (ESF), the IDB's regional application of its Environmental and Social Policy Framework (ESPF), and parallel capacity-building architectures across other Independent Accountability Mechanisms (IAMs). These multilateral frameworks serve to upscale skills across their dedicated mediator rosters, institutional management bodies, and corporate borrowers alike. For instance, the Latin American Programme on Prevention, Negotiation and Resolution of Conflicts between Companies, the State and Communities, jointly delivered by Liquen Consulting, Diálogica, Universidad Iberoamericana (Mexico) and Universidad Alberto Hurtado (Chile)—a joint postgraduate training program by the Universidad Iberoamericana (IBERO), exemplifies this regional maturity across its five editions. The program successfully institutionalizes complex, rights-compatible methodologies. A precise operational reflection of this trend is the benchmarking work commissioned by CAF (Development Bank of Latin America and the Caribbean), notably the official Guide to support the design and implementation of a Grievance and Complaint Mechanism (GCM) at the project level for CAF operations Lumerman, P., & Yañez Aguilar, S. (2025) which provides a rights-aligned playbook for systemic redress on complex infrastructure footprints .This systemic evolution is backed by an increasing body of empirical market data, such as the extensive case studies compiled in the recent Shift Report on Community Engagement, Nature and Financial Materiality, which documents over 1,200 instances across which the quality of rights-compliant community engagement was shown to be highly predictive of operational disruptions, regulatory interventions, and acute macro-financial risks. This maturation is further evidenced by how regional practice aligns with global formal instruments, notably The Hague Rules on Business and Human Rights Arbitration, which explicitly integrate robust provisions for mediation and collaborative settlement within the context of ongoing arbitral proceedings, treating the principles of culturally appropriate intervention as an essential standard of action.

In the 1990s and 2000s, multinational corporations were often seen to be fuelling local conflicts with communities.[6] Accountability struggled against weak institutions, barriers to cross-border justice, and private capture of public policy. The UN Commission on Human Rights (the predecessor to today's Human Rights Council) reached a turning point: while an international tribunal for corporate crimes was unachievable, the value of a framework for understanding corporate responsibilities regarding human rights was clear. This led to the creation of the mandate for a Special Representative of the UN Secretary-General on Business and Human Rights, to which Professor John Ruggie was appointed in 2005. Six years later, John Ruggie's proposal of a set of Guiding Principles on Business and Human Rights amounted to a *soft law* regime grounded in international human rights standards.[7] It was approved in 2011, establishing the global reference standard for the field.

At the policy level, the UNGPs proved their usefulness and efficacy for those working between corporations, communities, and the State apparatus. They built state capacity to protect human rights, including by providing more space and motivation to collaborate in improving sectoral guidance and regulations; to include the matter of business and human rights in judicial remedies; and for managing relations between state conflict resolution mechanisms and private arbitration bodies. In parallel, clear demand emerged—from companies, investors, lenders, and insurers—for assistance in conducting human rights due diligence on operational impacts, with external pressures progressively strengthening the incentives to do so. For facilitators above all, this framework proved crucial in establishing the conditions and objective criteria necessary for addressing emerging conflicts through a remedial lens. Its normative architecture and the language used — which integrates business perspectives with local community perspectives — gave facilitators more capacity for active listening, and consensus-building propositions for the design of a grievance mechanism or in the mediation of a dispute.

### 2.3 Impact in Practice: Analysis, Design, Facilitation and Evaluation

The UNGPs shifted community-company relations facilitation from ad hoc reputation management strategy toward a model focusing on institutional arrangements for de-risking investments by earlier inclusion of affected communities and other stakeholders, and the remedy of harm. This ensures *mutual gains* remain compatible with rights. The UNGPs improved the practices of facilitators when they do diagnosis, when they design collaborative processes, when they facilitate dialogue and consensus building and finally when they conduct an impact evaluation of the collaborative process and its results.

**Conflict Analysis**: The UNGPs enable facilitators to assess the gravity of a conflict by mapping the cumulative human rights impact across the operational lifecycle, incorporating a differentiated lens with respect to gender, traditional and indigenous peoples and children, and approaching the parties by identifying not only their interests but also the rights at stake and the harms done. The central challenge is to ensure that this approach does not remain at the level of formality, but is translated into the design of grievance mechanisms or

[6]This decades saw a sharp increase in socio-environmental conflicts such as Shell's operations in Nigeria involving the Ogoni people and environmental degradation in the Niger Delt, Occidental Petroleum's (Oxy) project and its relation with civil war in Arauca Colombia, the international dispute over Botnia's pulp mill between Uruguay and Argentina leading to to transnational protest movement from argentina local civil society Pascua ,Barrick Gold's binational gold mining project in the Andes questioned with grievances over glacier and water protection in Chile and Argentina and Newmont's Conga project in Peru on community resistance over water usage

[7]Ruggie, J. G. (2013). Just Business: Multinational Corporations and Human Rights. Norton. See also Ruggie, J. G. (2011). Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, A/HRC/17/31. https://johnruggie.scholars.harvard.edu

collaborative processes. A failure to do so produces a loss of trust, with consequences for the mechanism's operators and the company.

**Process Design**: The UNGPs have helped practitioners to design agendas and processes that could be trusted, credible, and fair for all the involved parties. They provided criteria for process design that established a code for good process governance.[8] The UNGPs established, for instance, that if a grievance mechanism aims to be credible, fair, and trusted, it must be easily accessible to everyone while keeping procedures clear, predictable, and transparent. Such designs can address power asymmetries that might otherwise undermine the effectiveness and rights-compatibility of the process, thereby motivating meaningful engagement and commitment from all actors, creating an enabling environment for the emergence of the *enlightened self-interest of parties involved*.

**Dialogue Facilitation**: The UNGPs deepen the capacity for active listening, reaching beneath positional stances to the interests and needs that lie behind them, and build confidence among all parties that the process is oriented toward outcomes in which rights are genuinely respected.

**Impact Evaluation**: The UNGPs provide facilitation teams with performance indicators that go beyond procedural satisfaction. The measure of a successful dialogue is not just that parties agreed, but that the agreement translated into concrete changes embedded in corporate policy and practice: for example, a new forest management plan, a revised supply-chain policy, the restoration of affected ecosystem services. The underlying question is always the same — are the rights at stake more fully respected than before, and have the conditions that produced the harm been structurally addressed?

## 3. The Disruption of the International Order and Nature as a New Dimension

### 3.1 Gap Between Commitment and Change

Today's polycrisis - a concept described first by Edgar Morin and, more recently, by Adam Tooze - encompasses high economic inequality, climate change, proliferating armed conflicts involving major powers, and the growing threats of unregulated artificial intelligence. And yet the UN Guiding Principles, far from withering, remain a living framework: despite geopolitical volatility, the UN Guiding Principles have influenced public policy and the operational standards of development banks. Their integration into institutional frameworks remains an evolving, albeit uneven, process. Concurrently, the case for rigorous due diligence is strengthening; companies are increasingly recognizing that the financial costs of poorly managed socio-environmental conflict are not merely an abstraction, but a material business risk. The Guiding Principles have demonstrated a capacity to absorb setbacks and geopolitical polarization without losing their normative force.

What can undermine the UNGPs is not their framework but its application in this very volatile context: while the number of good practices is growing, too often, implementation amounts to minimal compliance as determined at corporate level, rather than a genuine reckoning with companies' dependencies on people and nature at operational level. A pattern repeats itself — officials who deny a conflict exists, companies that hollow out participation, communities

[8] See also OHCHR, Access to Remedy in Cases of Business-Related Human Rights Abuse: An Interpretive Guide, which explains the criteria set out in the UNGPs — legitimacy, accessibility, predictability, rights-compatibility, equity, transparency and dialogue-based engagement — that non-judicial grievance mechanisms should meet.

exhausted by dialogue that leads nowhere near their rights. Impeccable headquarters policies, same old ground-level logic.

I propose four levers that can help us maintain practical progress in the face of today's headwinds:

**1 — The convergent self-enlightened interest argument.** The actor who rejects human rights as ideology may accept them as risk management. Prolonged conflicts, revoked social licences, stranded assets, costly litigation: when ethics and interests align, the playing field changes.[9]

**2 — The global value-chain transmission standard.** ISSB, TNFD, ESRS and other reporting standards, as well as sectorial certification and socio-environmental safeguards, are increasingly adopted by lenders and investors as requirements they expect exporting companies to meet regardless of what their local governments say. The same globalisation that can be used to erode rights can also be the vector that can facilitate their protection and respect.[10]

**3 — Anchoring in emerging legislation.** The European **Corporate Sustainability Due Diligence Directive (CSDDD)**, the EU-Mercosur agreement and its Trade and Sustainable Development chapter, which explicitly promotes Responsible Business Conduct and due diligence across global supply chains — along with ILO Convention 169, The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Escazú Agreement[11], create legal obligations and spaces for enforceability that civil society, indigenous peoples and facilitators can activate in every dialogue process, not only in litigation.

**4 —Cross-scale coalitions.** In a world coming apart at its seams, resilience is forged collaboratively at both local and global levels. It happens where companies open genuine remedial dialogue; through a B Corp movement of over 10,700 certified businesses across 100+ countries verified against social and environmental performance standards; and when facilitators build the connective tissue between companies and communities, creating the conditions for them to meet as partners in conversation.

### 3.2 Nature, Communities and Financial Risk: The Convergence That Changes the Game

[9]Davis, R. & Franks, D. M. (2014). Costs of Company-Community Conflict in the Extractive Sector. Corporate Social Responsibility Initiative Report No. 66, Harvard Kennedy School. Drawing on 45 confidential interviews and 50 public cases, the study quantifies the costs — delayed production, lost productivity, damaged reputation, among others — that companies incur from unmanaged conflict with local communities. See also Shift's advocacy, with the B Team and the World Benchmarking Alliance, for the ISSB to adopt a standard on human rights and social issues (Rees, C., 2023), arguing that the financial materiality of human rights-related risk is now evidenced through litigation, regulation and operational disruption.

[10] The Escazu Agreement *Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean is the first regional environmental agreement in Latin America and the Caribbean and the only treaty to emerge from the Rio+20 Conference provides concrete instruments for accountability by guaranteeing rights of access to information, public participation, and justice in environmental matters. These mechanisms empower civil society and indigenous peoples to demand transparency and remedy in business operations, turning procedural rights into practical tools for holding actors accountable.

[11]The underlying architecture — the EU-Mercosur agreement's Trade and Sustainable Development chapter, ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Escazú Agreement (see note 11) — remains formally in force and can be activated both in dialogue processes and litigation.

A recently published report by Shift on the financial materiality of effective company engagement with Indigenous Peoples and communities regarding impacts and dependencies on nature[12] establishes the evidence base for something that those of us working in company-community facilitation have experienced empirically. The study documents that in 68 percent of the 1,200 cases analysed there was a clear relationship between engagement with communities and financial performance. Failing to engage in meaningful ways that respect the human rights of Indigenous Peoples and local communities is not merely an ethical failure: it is a material risk. Several of the cases that informed this report emerged from Liquen Consulting's own practice.[13]

Yet this evidence highlights a critical gap: the UNGPs are often applied without recognizing that a company's dependencies on people and nature are inextricable. Practitioners must design interventions that enable parties to address these intertwined dependencies—braiding them together into a unified strategy rather than treating them as separate, competing agendas. One conclusion from Shift's report is that caring for nature, respecting human rights and reducing financial risk are interdependent. They are the three faces of the same triangle of viability for any project or company operating in a living territory.

Pressure on natural resources is intensifying due to climate change, wildfires, and droughts, as well as demand for critical minerals for the energy transition in territories inhabited by indigenous and other communities require appropriate forms of engagement. Regulations and standards are pushing increasingly towards a more integrated understanding of impacts on nature and people, for example through the Kunming-Montreal framework, TNFD, CSRD, and even China's new societies law.[14]

What is missing is the more practical synthesis: implementation of the UNGPs that is more capable of building consensus because it explicitly integrates nature as a subject of consideration together with human rights. A dialogue process can be more fruitful if it is based in the preservation of the life-support system that sustains all parties' existence.

## Conclusion

Fifteen years after their endorsement, the UNGPs remain both relevant and useful and have brought considerable change.[15] From the Global South to the Global North, a sustainability officer from a company's headquarters, an Indigenous authority from an affected community, a government regulator, and an environmental activist can all recognize in the language of the

[12]Shift. (2026). Nature, Communities and Materiality: Evidence on the Financial Materiality of Nature-Related Social Risks. Shift Project. https://shiftproject.org/resource/nature-communities-and-materiality

[13]Lumerman, P., Frei, G. & Ronco, J. (2026). Regenerative facilitation practice cases: JMAC/Lof Campo Maripe, Arauco/Misiones, Somuncurá/Chipauquil, Statkraft/Antu Meliquina, Arrayanes Forest/Kolumämüll, Islote Lobos National Park. Contributions to the Shift Project/ISSB/TNFD evidence process. Unpublished. Liquen Consulting S.R.L. https://www.liquen.com.ar

[14]Kunming-Montreal Global Biodiversity Framework. CBD/COP/15/L.25 (CBD, 2022). https://www.cbd.int/gbf; TNFD. Recommendations of the Taskforce on Nature-related Financial Disclosures, v1.0 (2023). https://tnfd.global; ISSB: IFRS S1 & S2 (IFRS Foundation, 2023). https://www.ifrs.org/issb; CSRD: Regulation (EU) 2022/2464; CS3D: Directive (EU) 2024/1760; EUDR: Regulation (EU) 2023/1115; Company Law of the People's Republic of China, revised 2023, in force from 1 July 2024.

[15]Working Group on Business and Human Rights, Guiding Principles on Business and Human Rights at 10: Taking Stock of the First Decade (A/HRC/47/39, 2021). The report cites worker-driven social responsibility initiatives — the Fair Food Program among them — as a model whose participatory design and monitoring structure helps avoid the trust and effectiveness limitations common to company-designed grievance mechanisms, and notes the same approach might be extended to community-driven mechanisms.

UNGPs a common ground for negotiation. This shared vocabulary helps them transcend the trenches where parties often get stuck seeking to impose terms on one another.

What the next fifteen years demand is fidelity to that foundation and the courage to evolve it — toward a dialogue-based, depolarizing and regenerative approach through which States enforce due diligence obligations that account for human and ecological interdependence, and companies adopt early, genuine dialogue not as reputation management, but as the precondition for operating in living territories. Dialogue facilitation that transcends mere economic remedies — that aims to heal human relationships and restore damaged ecosystems — operates on a deeper premise: that peace is not the absence of conflict, but the active presence of shared vitality. In this light, socio-environmental issues are no longer a matter of ethics alone. They are a strategic consideration that cuts to the heart of operational continuity and financial viability.

The Guiding Principles on Business and Human Rights remain a compass. When the landscape shifts and the winds blow in favour of collective folly, they still point toward economic development grounded in peace, justice and regeneration. The bearing holds.