



Business & Human Rights
Resource Centre

In the line of fire

INCREASED LEGAL PROTECTION NEEDED AS ATTACKS AGAINST
BUSINESS & HUMAN RIGHTS DEFENDERS MOUNT IN 2020

MARCH 2021

2020 in review

2020 was marked by the COVID-19 pandemic, and the significant harm to health and livelihoods it has caused across the globe. Instead of serving as a rallying cry to better protect those worst affected, the economic fallout of the global health crisis was cited by many countries and companies as a reason to [weaken](#) environmental and social regulation and increase extractive projects. This resulted in even more attacks on communities and human rights defenders (HRDs).

Many governments misused the health crisis to further curtail civil and political rights, resulting in a serious deterioration in democracy worldwide. [According to the Economist's Democracy Index 2020](#) "Democracy was dealt a major blow in 2020. Almost 70% of countries...recorded a decline in their overall score." The pandemic led to further pressure on worker representatives in countries with restrictive laws on freedom of association and weak labour protections, as well as increased attacks ranging from targeted dismissals¹ to arbitrary detentions and killings.

Despite these heightened challenges and risks, HRDs focused on business-related activities continued their vital work to push for rights-respecting business practices – from advocating for stronger health and safety measures in the workplace to protect workers from COVID-19, to using collective protection strategies to protect their communities, environment, and lands from extractive activities, to promoting a just recovery after the pandemic.

A few business actors are beginning to recognise the important work of HRDs and are introducing [policies](#) and processes to identify, prevent, mitigate, and account for risks to HRDs. While these steps are welcome, our data clearly shows that voluntary corporate initiatives still fall short of ensuring respect for human rights and stopping business-related harms against HRDs. One vital opportunity to help stop these harms is mandatory human rights and environmental due diligence (mHREDD) legislation in the EU, to be introduced by the [European Commission in 2021](#). Mandatory HREDD should require companies headquartered in the EU to continually assess, address and mitigate risks to HRDs in their supply chains, including by making accessible and safe consultation with HRDs mandatory at all stages of the due diligence process. Similar legislation currently being contemplated in [other countries](#) should follow suit.

Key findings

In 2020, the Business & Human Rights Resource Centre tracked 604 attacks against HRDs focused on business-related activities. As in 2019, agribusiness and mining are the sectors associated with the most attacks, with 138 cases related to mining and 147 cases related to agribusiness in 2020.² HRDs affected are often members of local communities or grassroots organisations, including Indigenous peoples, who are engaged in human rights or environmental defence. In many incidents (210 cases), these groups were allegedly not sufficiently consulted prior to the start of a project or had not given their free, prior and informed consent. In some cases, companies allegedly tried to influence community decision-making about projects by promising benefits to some members over others, sowing division within communities, and leading to distrust. More than one in five attacks were against women HRDs, several of which included specific gender dimensions, including sexual violence, threats to children, and attacks on honour and reputation. In addition, both individual HRDs and collectives experienced attacks, including at least 46 attacks on collective property and offices, and attacks aimed to weaken [collective protection](#).

OUR RESEARCH FOUND THAT IN 2020:



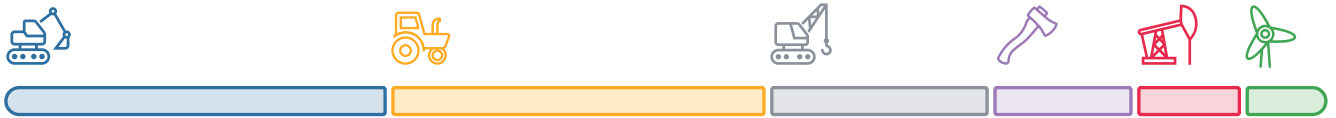
were recorded on defenders working on **business-related human rights issues** in 2020, up from **572 attacks in 2019**.



(**210 cases**) stemmed from **lack of consultation** or the failure to secure free, prior and informed consent of affected communities.



(**270 cases**) of the attacks were related to peaceful **protests against business** activities.

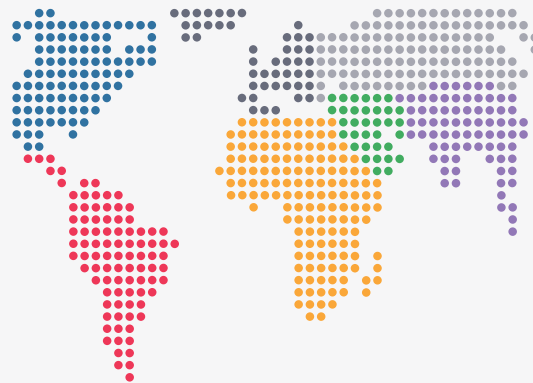


As in 2019, agribusiness and mining are the sectors most related to attacks, with **140 cases related to mining** and **137 cases related to agribusiness** in 2020. Other sectors are **construction (80 cases)**, **logging & lumber (51 cases)**, **oil, gas & coal (38 cases)** and **renewable energy (30 cases)**.

In at least **80 cases**, COVID-19 was a key factor

41 cases involved attacks which had a digital element or took place online

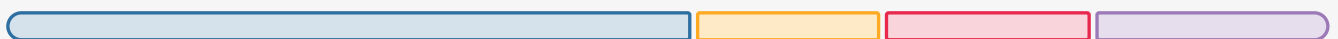
1 in 5 attacks were recorded against women HRDs



| | |
|-------------------------|------------|
| Latin America | 194 |
| Asia-Pacific | 173 |
| Eastern Europe & Russia | 129 |
| Africa | 79 |
| North America | 14 |
| Middle East | 12 |
| Western Europe | 3 |



The most common type of attack continued to be **judicial harassment (334 cases)**, such as arbitrary detentions and lawsuits, including criminal lawsuits allegedly based on trumped up charges, which shows the prominent use of this tactic to intimidate and silence HRDs. This was followed by **intimidation & death threats (143 cases)**, **killings (71 cases)**, **beatings & violence (34 cases)** and **disappearances & abductions (9 cases)**.



316 cases attacks were allegedly perpetrated by state agents

85 cases organized crime

95 cases alleged cases direct links to companies

108 cases illegal economy or other drivers

Impact of COVID-19 on HRDs

Since the start of the COVID-19 pandemic, attacks against HRDs have continued unabated. In fact, many HRDs have faced [greater risks](#) as some governments have misused the situation to further curtail the right to participate in public decision-making and have deployed state forces to repress peaceful protests.

In at least 80 cases, COVID-19 was the key factor in attacks on HRDs or the focus of HRDs' activities. In the majority of these cases, state agents were behind the attacks. This included arresting workers and union representatives calling for stronger safety measures and disbanding protests against business operations that allegedly violated pandemic regulations. Despite limitations on in person organising due to the pandemic, HRDs have continued to provide crucial expertise about what actions are needed to stop and remedy harms. Many HRDs have acted as "[canaries in the coalmine](#)" by monitoring companies' supply chains, denouncing human rights abuses, and advocating for responsible business practices.



Brazil

Workers from the meat company JBS in Forquilha and Nova Veneza opposed JBS' decision to keep production lines running without adequate protection against the spread of the coronavirus. On 19 March 2020, a labour court in Forquilha agreed to the local union's demand to close the plants due to the hazardous conditions, but the ordinance was withdrawn on 23 March after pressure from the company.³ When workers at both meat processing plants protested on the same day, they were violently attacked by the civil and military police, allegedly under JBS command. Tear gas was fired at the workers and [Celio Elias](#), former President and current adviser to the union, was arrested. BHRRC invited JBS to respond to the allegations. JBS [responded](#), strongly condemning any type of violence.

Across Southeast Asia, workers have faced mass layoffs and experienced unpaid wages as retail corporations in the United States and Europe have cancelled orders or insisted on discounts during the COVID-19 pandemic.



Photo by Andrew TS / Twitter

Myanmar

More than 200 union members of factories Very impressive Prospects (ViP) 1 and 2 were fired in August 2020 after asking the factory to implement protections for workers against the coronavirus. The President of the Federation of Garment Workers Myanmar (FGWM) at the ViP 2 factory in Yangon, [Bo Bo Nyein](#), who led protests asking for workers reinstatement, was stabbed by individuals reportedly hired by the factory. CCM Hockey, Evil Bikes, Pivot Cycles, Mizuno and Wilson Sporting Goods are publicly named as buyers from the ViP 1 and 2 factories. Labour groups say that despite months of direct outreach from the unions, the brands have refused to act. BHRRC invited the companies to respond to the allegations; several [responded](#).



Most dangerous regions and countries

As in 2019, the majority of attacks were concentrated in **Latin America** (194 attacks), followed by **Asia-Pacific** (173 attacks) and **Eastern Europe & Russia** (129 attacks). Many of the same countries have continued to be the most dangerous for HRDs over the past five years, including the **Philippines, Mexico, Honduras, Colombia, Guatemala, Peru, Brazil** and **India**. In addition, in 2020, cases rose in **Russia** (70 cases), **Belarus** (39 cases), **Indonesia** (24 cases) and **Uganda** (30 cases). Attacks on HRDs working on business-related human issues also took place in countries that do not often feature in our database, such as [Madagascar](#), [Solomon Islands](#) and [Costa Rica](#).

Types and circumstances of attacks against HRDs

As in 2019, the most common type of attack – more than half of all cases (334) – was judicial harassment. This included arbitrary detentions and lawsuits allegedly based on trumped up charges, which shows the prominent use of this tactic to frighten and silence HRDs. This was followed by intimidation and death threats (143 cases) and killings (71 cases). In at least 73 cases, death threats, arbitrary detentions, beatings, and killings followed as retaliation after the person or their organisation had complained to the authorities about a business project. It is particularly concerning that this repeatedly happened in countries that have enacted specific legislation for the protection of human rights and/or [environmental defenders](#), such as in Colombia, Peru, Mexico, Brazil and Honduras. In most of the cases we documented, HRDs experienced prolonged or ongoing threats and attacks. As well-documented by [others](#), HRDs rarely experience one-off attacks but are instead often targets of escalating campaigns of intimidation that include defamation, threats, attempted bribes, beatings and judicial harassment.

In at least 270 of the recorded cases, attacks were linked to **peaceful protests** demanding rights-respecting business practices, such as providing proper safety measures to protect workers from contracting COVID-19. Union leaders were often singled out for their role in organising protests. In Cambodia, more than 1,000 workers were fired in January 2020 for striking after the W&D garment factory declined to pay seniority bonuses. In February 2020, the Deputy President of the Coalition of Cambodian Apparel Workers Democratic Union's (CCAWDU) at W&D, Mr. [Soeung Pros](#), was beaten and seriously injured outside the factory by three masked men on a motorbike. To date, no one has been arrested or charged for the attack. The Cambodian Labor Confederation considers the assault an act of retaliation for Pros' role in organising protests. In Belarus, Mr. [Anatoly Bokun](#), co-chairman of the strike committee at potash producer Belaruskali, was arrested five times throughout 2020 after calling on workers to start a "[work-to-rule](#)" action. Several other union leaders were also beaten, arrested or interrogated. This is part of a broader pattern of attacks against workers and independent union members, allegedly [facilitated by lack of corporate action](#) in support of freedom of expression and association, including by European companies with interests in Belarus.

Digital dimension of attacks

In at least 41 cases, attacks were associated with the digital sphere. The attack was either related to the online activity of the HRD (e.g. the use of cybercrime laws to criminalise posts on social media) or it took place online in response to HRDs' activities (e.g. smear campaigns on social media). These digital attacks often turned into acts of physical violence and other forms of harassment, and some had a clear gender dimension. While HRDs of all genders experience similar types of attacks, women often face additional gender-specific threats and violence, including stigmatisation, higher levels of sexual violence, and a greater incidence of threats against their family members.⁴



[Yulia Slivko](#), a worker at a construction firm in Belarus, began receiving anonymous threats after she was elected chairperson of her company's strike committee. On 20 August 2020, someone called her from an unknown number and said:

“If you don't keep your mouth shut, keep in mind: your son's out and about on the street. Anything could happen.”

Yulia was later invited for a “conversation” at a local police station and received a call from someone who said they were a social worker and threatened to put her son on a register for socially vulnerable persons. She sent her son away to protect him. On 22 August, several channels on the messaging service Telegram alleged that Yulia was engaged in prostitution and that she paid money to workers for participating in strikes. These channels also published Yulia and her son's phone numbers. On 1 September, she was interrogated by the police again. She was fired the same month.

How companies were connected to attacks against HRDs

Companies can cause, contribute to, or be directly linked to actions that undermine the rights of HRDs. Investors can be connected to these impacts through their investments in such companies. Moreover, as [Swedwatch](#) explained: “Given the degree of influence exercised by business actors in many parts of the world, including in the political sphere, their silence when HRDs are targeted or repressive laws are enacted may be taken as a sign of approval of such measures”. This includes cases when [public security forces](#), including police and the army, take actions in companies' areas of operations that are not consistent with the protection of human rights.

Based on available information, in 95 cases in 2020, sources point to alleged direct links between companies and the incidents.⁵ Such cases included filing strategic lawsuits against public participation, instructing private security guards to use violence against protestors or tolerating it, directly threatening workers due to their organising activity, and engaging in stigmatisation of HRDs via the media. In one example, in March 2020, the former Goldman Environmental Prize winner Mr. Ouch Leng and three other environmental defenders were detained by private security guards of Think Biotech Co. while collecting evidence on alleged illegal logging activities. A few months later, two other activists were reportedly [threatened](#) by Think Biotech security guards.



Leng Ouch
(from personal archive)

In most of the cases we documented (401), HRDs who were critical of company operations were targeted by actors not directly associated with companies. In 316 of these cases, attacks were perpetrated by state agents and were denounced by civil society and in many cases, by regional and international courts, the United Nations and National Human Rights Institutions. In 85 cases, organised crime or other violent actors were the perpetrators of attacks on HRDs critical of business operations or investments.⁶ They carried out kidnappings, killings, violence and death threats against HRDs.

In cases where there are no apparent direct links between companies, and the attacks, businesses are expected to [proactively use their leverage](#) to promote respect for HRDs and civic freedoms, even when they are not causing, contributing to, or linked to the impacts at hand.⁷ Companies and investors should be aware that critics of their business or industry can be at risk and, in consultation with civil society groups and HRDs, broaden their contextual risk assessments to include the full range of risks to HRDs. This includes a review of the drivers of these risks and the track record of the state and industry in relation to HRDs.⁸



Voluntary corporate action in support of HRDs

When labour rights defender [Jorge Acosta](#), a union leader organising workers in Ecuador's banana plantations, was criminalised for his work, European companies took action. In June 2019, companies sourcing bananas from Ecuador – Axfood, Coop, Everfresh, Greenfood, Martin & Servera and Menigo – released a [joint statement](#) to the Ecuadorian government in support of Acosta, encouraged by [Swedwatch](#) and others. In February 2020, when Jorge was newly [charged and arrested](#), these same companies, along with Unil AS and Fairtrade Sweden, said:

“...In his role as a human rights defender, Mr Acosta is entitled to the right to seek, obtain, receive and hold information relating to human rights... As companies that are dependent on global supply chains we are committed to respecting human rights in all parts of our operations. We rely on... defenders... to be able to speak freely, and without fear of retaliation or reprisal, about challenges in the supply chains... We do hope that the Ecuadorian courts of justice and the Government will act to ensure that Mr Acosta will not be subject to any unfair treatment.”

On 22 September 2020, four of these companies, alongside civil society and a representative of the office of the UN Special Rapporteur on Human Rights Defenders, arrived to attend Jorge's virtual trial, however the person who accused him did not appear in court and consequently the case was dropped.

Looking forward:

The importance of addressing risks to HRDs through mandatory Human Rights and Environmental Due Diligence

In 2020, attacks on HRDs associated with European companies, either through their operations or in their supply chains, happened across the globe. Most of the attacks in 2020 associated with European companies took place in Cambodia, Indonesia, the Philippines, Mexico, and Uganda. Seventy two percent of these attacks were instances of judicial harassment. Three out of five (60 percent) of these cases were related to agribusiness companies more than a third to the oil and gas sector and one in four to the apparel sector. In most of these cases, violence and judicial harassment targeted land rights defenders and people protesting for a living wage and against worker dismissals, including related to COVID-19.

Many attacks on HRDs were also related to non-European companies that are in the supply chains of European companies. European multinational corporations should proactively investigate links to any companies related to attacks on HRDs as part of their human rights due diligence process to mitigate and prevent potential and existing risks. As part of drafting mHREDD legislation, the European Commission should undertake a comprehensive analysis of harms to HRDs related to European companies, in close consultation with HRDs and organisations supporting them. Below are two examples which show how risks to HRDs are taking place in the supply chains or operations of major European companies.



Fyffes, headquartered in Ireland

[Moises Sánchez](#), the Secretary General of the Fyffes local union, the Honduran Union of Agro-industrial Workers, was accused of alleged usurpation of private land to build a community access road, a crime punishable with 30 years in prison. Fyffes is an international fruit company based in Ireland. Moises is a resident of La Permuta, a small village in Choluteca Department. In 2018, La Permuta's village assembly voted to build a road because there had been no road access and residents had to cross rivers to get to the closest city. The mayor of the municipality agreed and offered land that he said was public land. In 2020, nearly two years later, a private landowner came forward saying the land was hers and pressed charges for "criminal usurpation." Over several years, this landowner has leased other properties she owns to Fyffes. Hundreds of locals voted for the road-building project, but Moises was the only one criminalised. The criminal charges, which were eventually dropped, allegedly appeared to be in retaliation for his labour union activity on Fyffes's melon farms. Attacks on Moises are not new: in 2017, he was [brutally attacked](#) by four unidentified assailants, and the International Trade Union Confederation says he is a "[documented victim of anti-union violence](#)". Fyffes [responded](#) to BHRRC's invitation to comment.



Total, headquartered in France

On 15 September 2020, journalists [Venex Watebawa](#) and [Joshua Mutale](#), with Environment Media Network (WEMNET) Uganda, were arrested in Hoima on their way to attend a radio talk show. During the show, the two defenders were supposed to discuss the risks and dangers of sugar cane growing projects in the Bugoma forest and oil activities in critical biodiversity areas. They were expected to call for participation in peaceful protests to end the destruction of the Bugoma forest that were planned for 16 and 17 September 2020. Some human rights organisations [report](#) that the defenders were also going to express concerns about alleged irregularities in the government's environmental and social impact assessments of oil projects.

One day later, [seven defenders](#) were also arrested while staging a peaceful protest at the police station in order to negotiate the release of Mr. Watebawa and Mr. Mutale. These arrests are part of a [series of attacks](#) on land and environmental defenders in Uganda who are protesting agribusiness and extractive projects, as underlined, among others, by a [report](#) recently published by FIDH and FHRI. Some of the largest and most advanced oil projects in the region include the Tilenga, Kingfisher and EACOP oil projects, operated by Total, CNOOC and, previously, Tullow Oil. Earlier in 2020, Total had issued a [statement](#) recognising the importance of protecting human rights defenders and not contributing to attacks or physical and legal threats against those who exercise their human rights to freedom of expression, peaceful protest or assembly. Following the arrest of the HRDs, Total was alerted by a non-governmental organization and said that it took immediate action, as explained in this [response](#). CNOOC [did not respond](#) to BHRRC's invitation to comment on these cases.

Recommendations for EU mHREDD legislation

A mandatory duty for companies to respect human rights and the environment is a vital step in preventing and reducing attacks against HRDs by mandating meaningful human rights due diligence and increasing accountability for harm. It also has the potential to address some of the drivers of attacks by requiring safe and informed consultation with affected communities and HRDs prior to commencing business operations. This would increase protections for HRDs and strengthen the early warning function of company due diligence. We recommend the following points be included in EU mHREDD legislation, and as actions for companies to take in the absence of legislation, to protect the rights, lives, and safety of HRDs.

These recommendations are aligned with those developed by Front Line Defenders, Global Witness, International Federation for Human Rights (FIDH), Indigenous Peoples Rights International (IPRI), and others working to address risks to HRDs related to business activities.

- ✉ The legislation and accompanying guidance should clearly explain how HRDs are to be identified, accounting for the marginalisation of different HRDs and ensuring that collectives are also understood as HRDs, referring to the UN Declaration on Human Rights Defenders, United Nations Declaration on the Rights of Indigenous Peoples, and ILO 169.
- ✉ Companies should be required to have a policy commitment that refers to the importance of HRDs, mentions specific risks to defenders, and makes a commitment to [zero tolerance](#) for attacks and reprisals against HRDs throughout their operations and supply chains and to being part of creating a safe and enabling environment for HRDs.
- ✉ Companies and investors should be required to assess existing and potential human rights risks and impacts on HRDs prior to the beginning of a project, investing, or sourcing and at regular intervals throughout the project. This should include contextual risk assessments. They should also be required to disclose their plans for addressing these risks.
- ✉ Consultation with stakeholders and HRDs must become mandatory, and companies must engage in effective, accessible, safe, gender-sensitive, and transparent consultation, including with people or groups with critical or opposing views. The EU due diligence duty needs to require companies to actively engage, consult and involve rightsholders and HRDs at all stages in the due diligence process and remediation, and address possible risks and reprisals, arising from their participation in such consultations, or in any other aspect of the company's due diligence process. Companies should be required to comply with Indigenous peoples' right to free, prior and informed consent and not pursue a project if such consent is not given.
- ✉ The material scope of the EU legislation should include robust safeguards for HRDs and whistle-blowers who speak out against business-related abuse, as well as strong requirements for companies to identify, mitigate and remediate attacks against HRDs in consultation with them.
- ✉ Legislation should provide for access to remedy for victims of human rights and environmental harms located in and outside of the EU, including in cases where HRDs faced reprisals due to denouncing these harms. Legislation should provide for civil liability provisions, including reversed burden of proof, and judicial remedies in the EU member states where companies are headquartered.
- ✉ Companies with operations or supply chains in sectors or contexts with higher risks of conflict, organised crime, corruption and/or restrictions on civic freedoms should be required to take additional steps proportionate to those risks. The risk assessment methodologies should be developed in consultation with civil society in those countries and reviewed on a regular basis.

Conclusion

During 2020 and 2021 to date, the COVID-19 pandemic caused significant negative impacts on communities and economies across the globe. The global community has an unprecedented opportunity to rebuild in a way that prioritises environmental protection, human rights, and long-term sustainability, including the safety of the very people devising and championing rights-respecting solutions. Mandatory human rights and environmental due diligence in the EU is a key opportunity to ensure that European companies respect human rights and prevent attacks on HRDs throughout their operations, supply chains, and investments. Given the nature and scale of attacks that HRDs advocating for responsible business practices continue to face and their critical work to create more just, rights-respecting societies, this increased legal protection is vital.

This briefing was authored by Andrea Pelliconi, Ana Zbona & Christen Dobson, Business & Human Rights Resource Centre.

We are grateful to the individuals and organizations that provided feedback or input on this briefing: Business & Human Rights Resource Centre's regional researchers and other staff members, Front line Defenders, International Federation for Human Rights – FIDH, Global Witness, and the defenders, whose cases are mentioned in the report.

For more information, visit:

[Human Rights Defenders & Civic Freedoms Big Issue Portal](#)

Endnotes

- 1 Please note that targeted dismissals are not currently covered by the HRDs database.
- 2 Please note some attacks in our database are related to more than one sector.
- 3 The company claimed that poultry processing is essential for supplying protein to the Brazilian population, but at least 80 percent of what JBS produces in Santa Catarina is for export, according to [The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations](#).
- 4 OHCHR, [Women Human Rights Defenders](#), 2020.
- 5 Please note this number does not include dismissals of unionists and workers for unionising, which are currently not included in our database, but are a prominent type of attack. More about this in our Union busting briefing [here](#).
- 6 In the rest of the cases, the perpetrators and drivers of the attack were either multiple, unclear or attacks on defenders were related to the illegal economy (including illegal logging, mining and other forms of extractive activities). In these cases, defenders were trying to stop illegal economic activities. BHRRC considers that this kind of mining or logging, even if illegal, are relevant to the business and human rights discussion. This is because they respond to the interests of a specific economic sector, since minerals and timber extracted without a license eventually enter the legal economy and they are transformed and commercialized by legally constituted companies.
- 7 This is in line with relevant reports and guidance: [SR on HRDs report](#), [Swedwatch's report](#), [Safeguarding defenders report](#), [Voluntary Principles on Security and Human Rights \(VPSHR\)](#), etc. For example: VPSHR state companies are “*expected to record and report any credible allegations of human rights abuses by public security in their areas of operations to appropriate host government authorities, and where appropriate, urge investigations and that action be taken to prevent any recurrence. Companies should also actively monitor the status of investigations and press for their proper resolution*”. Moreover, The UN Guiding Principles on business and human rights (UNGPs) say companies should “[s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.” They also [expect](#) companies to learn from failures and blind spots, and to push the envelope about what’s possible through innovative approaches and collaborations to increase the company’s leverage to try to prevent harms, especially when confronted with systemic human rights abuses that they cannot fix alone.
- 8 Including limits to civic space and public participation, the right to protest, and laws or other restrictions limiting online spaces, and in particular state and industry practices with regard to addressing oppositional views to business operations. More information can be found in Global Witness’ report [Responsible Sourcing](#).