



# RJC Human Rights Exchange - Training

Executing Human Rights Due Diligence  
in Jewellery Business Relationships

**Sandra Atler**

*25<sup>th</sup> November 2014*



# Agenda

Welcome:

- Maria Mursell, *Training Coordinator, RJC*  
- Training Responsible Jewellery -

Training (60 mins):

- Sandra Adler, *Independent Consultant, Business & Human Rights*

Q&A (30 mins):

- Questions from participants to be sent to ‘**Training Responsible Jewellery**’ using the **chat function** throughout training

*RJC*

# Human Rights in the Jewellery Value Chain

Sandra Adler

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*Advisor on Business and Human Rights*

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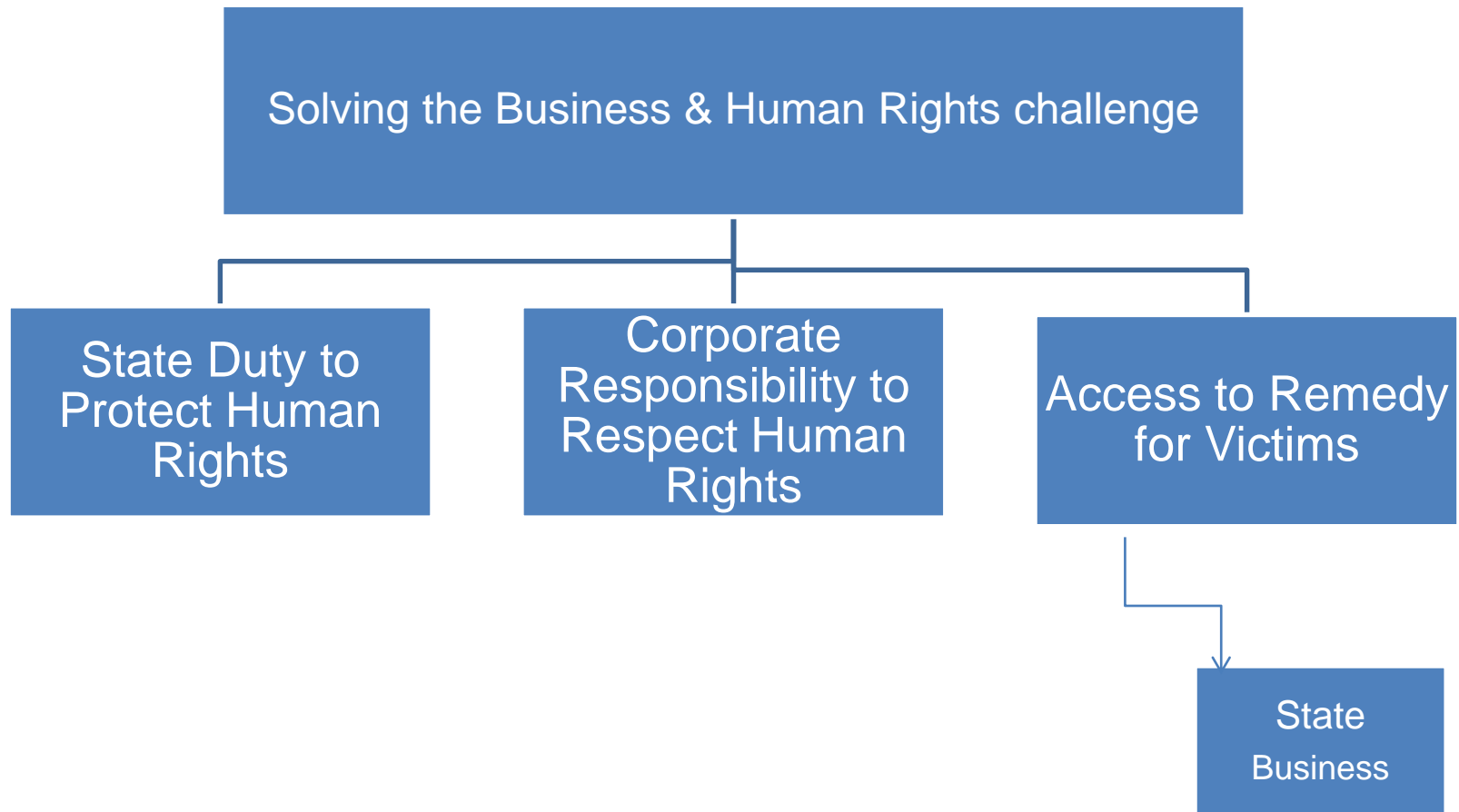
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# Today

1. Introductory remarks
2. Recap important principles
3. Human Rights Due Diligence – implications & novelties for the Jewellery Value Chain
4. Walkthrough Human Rights Due Diligence – step by step in the Jewellery Value Chain
5. 6 questions to ask & 5 places to begin
6. Questions & Answers – from you

# RECAP IMPORTANT PRINCIPLES

# What do the UNGPs say?



# UN Guiding Principles on Business and Human Rights

- Public International Law
- Break through
- Global consensus – (State / Business / CSOs)
- Uptake since 2011
  
- Applies to States
- Applies to all business enterprises

# Crucial Actors

- State
- Business
- Civil society



# The Corporate Responsibility to Respect Human Rights

**Do no harm**



**Do good**

# UNGP 13

The responsibility to respect human rights requires that business enterprises:

- (a) **Avoid causing or contributing** to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek 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.

# Which Human Rights?

## Universally recognized:

### International Bill of Human Rights

- Universal Declaration of Human Rights
- International Covenants on
  - Civil & Political Rights
  - Economic, Social and Cultural Rights

### ILO Fundamental Principles and Rights at Work

- Right to Organize & Collective Bargaining & Freedom of Association
- Child Labor
- Forced Labor
- Discrimination

## Additionally, as relevant

- Rights of individuals belonging to specific groups or populations requiring particular attention:
  - Women
  - Children
  - Persons with disabilities
  - Migrant workers and their families
  - Minorities
  - Indigenous peoples
- International Humanitarian Law

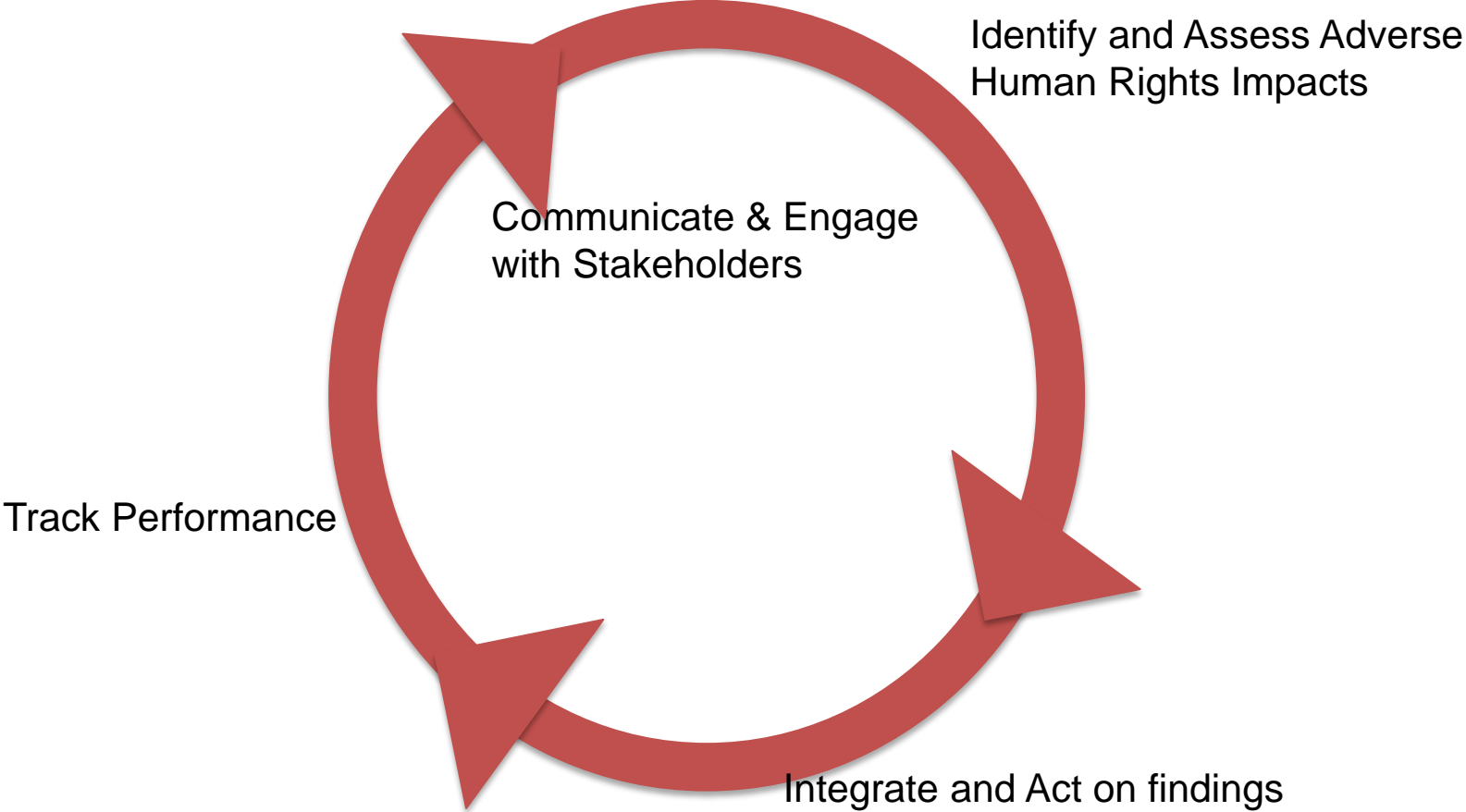
# The Business Responsibility

- Prevent
- Address / Mitigate
- Remedy
- Account

‘Know and show’ in practice:

- 1. Policy, embed, train
- 2. Ongoing human rights due diligence
- 3. Remediation & Grievance Mechanism

# Ongoing Human Rights Due Diligence



# “The relevant context...”

... to a company:

... to the critical NGO / the affected stakeholder:

*Risks to people vs Risk to business*

# **IMPLICATIONS FOR JEWELLERY VALUE CHAIN**

# What does this mean for the Jewellery Value Chain?

1. All actors are concerned – suppliers and customers.
2. Everything to gain.
3. Novelty: looking at ‘all relationships’
4. Novelty: understand your connection to the harm
5. Novelty: Using leverage over business partner



Example:

## Problematic Platinum

*The responsibility of Swedish companies in South Africa*

by Swedwatch, 2014

[http://www.swedwatch.org/sites/default/files/problematic\\_platinum\\_web\\_0.pdf](http://www.swedwatch.org/sites/default/files/problematic_platinum_web_0.pdf)

# How does HRDD apply in customer relationships?

1. Relatively new
2. Gaining support
3. Not knowing how to respond – can not be an argument

# What does this mean for the Jewellery Value Chain?

1. All actors are concerned – suppliers and customers.
2. Everything to gain.
3. Novelty: looking at ‘all relationships’
4. Novelty: understand your connection to the harm
5. Novelty: Using leverage over business partner

# Quotes from Swedwatch report

*(p 5)*

*All of investigated Swedish companies in this report have failed in their responsibility to implement continual human rights due diligence, in accordance with the UN Guiding Principles. All companies state that information is not communicated externally due to commercial confidentiality. This is also a failure, as the UN Guiding Principles require companies to communicate enough information to stakeholders so that they are able to evaluate results and further development.*

*(p 5)*

*A responsible company cannot passively stand on the sidelines; it must engage itself actively in the issue. In order to achieve change, cooperation is needed between all actors in the value chain. The Swedish companies should demonstrate how risks for the adverse impact on human rights in the mining industry can be managed and mitigated.*

[http://www.swedwatch.org/sites/default/files/problematic\\_platinum\\_web\\_0.pdf](http://www.swedwatch.org/sites/default/files/problematic_platinum_web_0.pdf)

# What does this mean for the Jewellery Value Chain?

1. All actors are concerned – suppliers and customers.
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Task:

Besides supply chain, what other business relationships can you think of in your field of work / the part of the jewellery value chain that you are most familiar with?

# What does this mean for the Jewellery Value Chain?

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# UNGP 18

*In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:*

- A. Draw on internal and/or independent external human rights expertise*
- B. Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.*

# “All human rights”

UNGP 12. The responsibility of business enterprises to respect human rights refers 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 International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

# UNGP 17

In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing **actual and potential** human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be **ongoing**, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

# UNGP 24

*Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response will make them irremediable.*

- *Scope*
- *Scale*
- *Irremediability*

# **HOW IS MY COMPANY RELATED TO THE IMPACT?**

# UNGP 13

The responsibility to respect human rights requires that business enterprises:

- (a) **Avoid causing or contributing** to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek 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.

# Extent of Responsibility

	Prevent / Avoid	Cease	Mitigate	Remediate	Use Leverage
Cause	X	X	X	X	
Contribute	X	X	X	X	X
Linked to	X		X		X

# Artisanal and Small Scale Mining

The use of child labor by ASMs, is it a situation of contribution, or linked to?

Explain the link.

Security provider uses force on ASM trespassing on mine concession area, causing them bodily injury – is this a situation of ‘contribution’ or ‘linked to’?

Explain the link.



# **RESPONDING TO THE NEGATIVE IMPACT**

# UNGP 19

In order to prevent and mitigate human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

(a) Effective integration requires that:

- (i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;
- (ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.

(b) Appropriate action will vary according to:

- (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
- (ii) The extent of its leverage in addressing the adverse impact.

Commentary, para 4:

*Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm.*

# USE OF LEVERAGE

# Questions to ask

1. What kind of leverage do I have?
2. How can I increase my leverage?
3. Ok, I have leverage – now what do I do with it?

# Questions

- What is the change I want to see?
- How important is the business relationship to me?
- How severe is the impact to the stakeholder?
- How can I use my leverage, to mitigate the impact?
- What can I do to increase my leverage?
  - Alone or in partnership with e.g. a peer
- At what point do I consider all options to be exhausted?
  - Consequences of leaving or remaining; for me & for the stakeholder?

*See further; OHCHR: The Corporate Responsibility to Respect Human Rights, an Interpretative Guide, 2012. Available at [www.ohchr.org](http://www.ohchr.org)*

## Questions to ask

*Useful & interesting report:*

*Shift, Using Leverage in Business Relationships to Reduce Human Rights Risks, New York, 2013.*

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# Ask & Begin

## Six Questions to Ask:

1. Have we mapped all business relationships?
2. Which business departments manage these business relationships?
3. Which are our most rigorous due diligence systems (and why are they most rigorous)?
4. Based on what criteria do we prioritize our efforts to manage risks?
5. Which are our “blind spots” (issues & processes)?
6. What types of leverage do we have with our business partners (think outside the box)?

## Five places to begin:

1. **Right where you stand:** how are your accountabilities or your engagements internally or externally relevant to today’s conversation? Probably you now have lots of thoughts – write them down.
2. **Begin looking at your existing due diligence processes and management systems.** Identify strengths, and then gaps.
3. **Get together** with all the departments you have identified – and talk about the ‘requirement to manage all business relationships’ – what are our obvious strengths or weaknesses?
4. **Talk to a stakeholder** that is critical of you (or read their reports)
5. **Talk to your industry association** or peer about this ‘evolving area’: or the Responsible Jewellery Council.



# Useful resources

- Responsible Jewellery Council Human Rights Resources:  
<http://www.responsiblejewellery.com/rjc-certification/human-rights/>
- Business & Human Rights Resource Center - Jewellery section:  
<http://business-humanrights.org/en/sectors/consumer-productsretail/jewellery>
- Industry organizations / associations e.g. ICMM - Human Rights Section:  
<http://www.icmm.com/page/14809/human-rights-in-the-mining-and-metals-industry-overview-management-approach-and-issues>
- OHCHR: The Corporate Responsibility to Respect Human Rights, an Interpretative Guide, 2012. Available at [www.ohchr.org](http://www.ohchr.org)
- Swedwatch Report: Problematic Platinum:  
[http://www.swedwatch.org/sites/default/files/problematic\\_platinum\\_web\\_0.pdf](http://www.swedwatch.org/sites/default/files/problematic_platinum_web_0.pdf)
- Shift, “Using Leverage in Business Relationships to Reduce Human Rights Risks”. New York, 2013. Available at [www.shiftproject.org](http://www.shiftproject.org)

# QUESTIONS & ANSWERS

## Take-aways

- Understanding the difference – ‘contribution’ & ‘linked to’
- Reviewing existing approaches (how do we prioritize efforts, engage with business partners)
- Capacity, resources, training
- Management of existing vs new business partners
- Identifying major risks (partner / country / operating context / business activity / etc)
- Defining the change you want to see
- Leverage – existing, using, increasing
- When is ‘End of the game’ & which consequences does it have?

# Thank you.

<http://www.responsiblejewellery.com/topic-experts/>

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# RESPONSIBLE SUPPLY CHAINS AND HUMAN RIGHTS (PROVISIONS 5-12)

## 6 *Human Rights*

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- 6.1 Members shall respect Human Rights and observe the UN Guiding Principles on Business and Human Rights in ways appropriate to their size and circumstances, including as a minimum:
- A policy commitment to respect Human Rights;
  - A Human Rights due diligence process that seeks to identify, prevent, mitigate and account for how they address their impacts on Human Rights;
  - Where Members identify that they have caused or contributed to adverse Human Rights impacts, they shall provide for or cooperate in legitimate processes to enable the remediation of those impacts.
- 6.2 Members, if operating in, or sourcing Diamonds, Gold or Platinum Group Metals directly from, a Conflict-Affected Area, shall use the Human Rights due diligence process to assess the heightened Risks of adverse Human Rights impacts.



# (COP 6) HUMAN RIGHTS

## A Definitions and applicability

**Human rights** are universal rights and freedoms regarded as belonging to all people without discrimination based on internationally recognised standards. At a minimum, the RJC understands human rights to mean those rights articulated in the International Bill of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work and Applicable Law.

Source:

- *United Nations Human Rights – What are Human Rights?*  
[www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx](http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx)

The **Human Rights** section of the COP is applicable to all Members.

## B Issue background

Human rights are relevant to all businesses, regardless of size, sector or country of operation. The kinds of rights which are regarded as human rights include:

- Social, cultural and economic rights – such as the right to participate in cultural activities, the right to food, the right to clean drinking water and sanitation, and the right to education;
- Labour rights – such as the right to freedom of association and effective recognition of the right to collective bargaining, and freedom from forced labor, child labour and discrimination;
- Civil and political rights – such as the right to life and liberty, freedom of expression, and equality before the law.

While some of these human rights might sound abstract from a business perspective, they are often the underlying rationale for a company's policies and procedures. For example, a company's health and safety procedures may not use 'human rights' language, but in effect respects employees' right to life, the right to just and favourable conditions of work and the right to health. A company policy on child labour in effect respects the right to protection of the child and the right to education.

### SMALL BUSINESS

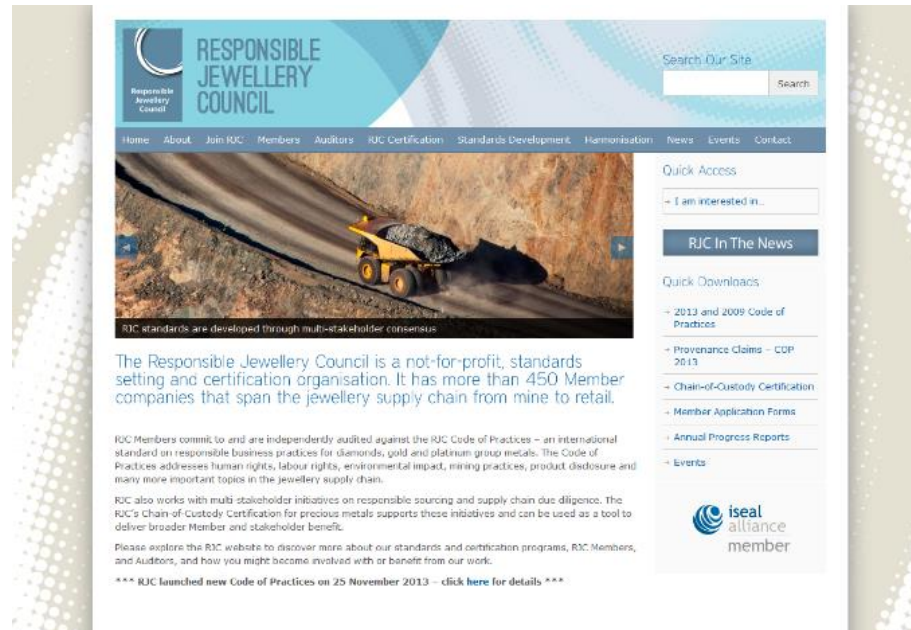
Even small businesses have a responsibility to respect human rights. However the way small businesses approach this responsibility will vary according to their size, sector, operational context and structure, as well as the risks of creating adverse human rights impacts. Smaller enterprises often have more informal processes and management structures than larger companies, so their policies and processes for respecting human rights can usually be more informal. But where smaller enterprises have severe human rights impacts, this will require corresponding measures irrespective of the size of the business.

Source: *UN Guiding Principles on Business and Human Rights - Principle 14*



## Thank you for your attention!

Any questions please contact: [training@responsiblejewellery.com](mailto:training@responsiblejewellery.com)  
or visit our website at <http://www.responsiblejewellery.com/>



The screenshot shows the homepage of the Responsible Jewellery Council website. The header features the RJC logo and a search bar. The main navigation menu includes Home, About, Join RJC, Members, Auditors, RJC Certification, Standards Development, Harmonisation, News, Events, and Contact. The main content area features a large image of a yellow mining truck on a dirt road, with the text "RJC standards are developed through multi-stakeholder consensus" below it. A paragraph describes the RJC as a not-for-profit, standards setting and certification organisation with over 450 member companies. Below this, there is a section for RJC Members, their commitment to the RJC Code of Practices, and the RJC's Chain of Custody Certification. A footer note states: "\*\*\* RJC launched new Code of Practices on 25 November 2013 - click here for details \*\*\*". On the right side, there is a "Quick Access" section with a search bar, a "RJC In The News" button, and a "Quick Downloads" section listing various documents like the 2013 and 2009 Code of Practices, Provenance Claims - COP 2013, Chain-of-Custody Certification, Member Application Forms, Annual Progress Reports, and Events. At the bottom right, there is a logo for "iseal alliance member".