**Speech by Professor Elżbieta Karska**

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***Improving the Business and Human Rights relationship:***

***What role can due diligence and a values-centred approach play?***

**High-Level Annual Venice Conference on the Global State of Human Rights**

**organized by the European Parliament and the Global Campus of Human Rights**

**Venice, 16 July 2021**

Ladies and Gentlemen,

It is my pleasure and honour to join you for this first High-Level Annual Venice Conference on the Global State of Human Rights.

The unanimous endorsement of the Guiding Principles on Business and Human Rights by the United Nations Human Rights Council in 2011 represented a watershed moment in efforts to tackle adverse impacts on people resulting from globalization and business activity in all sectors. The Guiding Principles (UNGPs) provided, for the first time, a globally recognized and authoritative framework for the respective duties and responsibilities of Governments and business enterprises to prevent and address such negative impacts. The Guiding Principles clarify that all business enterprises have a responsibility to respect human rights, independent of the state, and that in order to do so they are required to exercise human rights due diligence to identify, prevent, mitigate and account for how they address their human rights impact.

Since 2011, corporate human rights due diligence has become a norm of expected conduct that is increasingly reflected in policy frameworks at global, regional, national and corporate levels. As the UN Working Group on Business and Human Rights - which I represent - has stated, there has been significant progress over the first decade since the endorsement of the Guiding Principles and more companies in all regions are establishing due diligence policies. Yet actual implementation by companies and States is still generally poor. The good news, however, is that we have seen that due diligence in practice is possible. The fundamental challenge going forward is to speed up and scale-up efforts, build on the good practices that exist and to address remaining gaps and challenges. These conclusions emerge from the Working Group-led project “UNGPs10+/NextDecadeBHR” that was launched in 2020 and culminated with the presentation to the 47th session of the Human Rights Council on 28 June of the WG’s report on the first ten years of implementation of the UNGPs. Later this year, the Working Group will release an implementation roadmap on the UNGPs for use i by governments and businesses in the next decade.

The key findings of this stocktaking exercise in relation to human rights due diligence practice of the last decade highlight that voluntary approaches alone are not enough. The bright side of the story is that mandatory measures are now on the rise. We are seeing due diligence legislation coming in from the EU, Germany, Netherlands, and Norway in addition to that already in place in France. Progress is also under way in Finland, Mexico, Sweden, Switzerland and the United Kingdom as well. But these positive developments are patchy at best, and they need to be followed with greater attention to ensure meaningful due diligence is aligned with the requirements of the Guiding Principles. At the UN level, progress is under way towards a legally binding instrument.

The EU is showing leadership in addressing many gaps. EU-level expectations helped drive national action plans to implement the UNGPs and is driving a mandatory human rights due diligence “wave” to foster responsible business and investment that respects people and the planet. The EU is also well positioned to play a constructive role in addressing policy coherence gaps at multi-lateral levels, across regions and also in global arenas.

The Working Group welcomes the EU’s commitment to new mandatory human rights due diligence legislation in 2021 and supported its development process in October 2020 with a set of recommendations. During its last annual UN Forum on business and human rights in November 2020, the Working Group held a multistakeholder discussion on the EU’s proposal during which various stakeholders endorsed the proposed legislation.

There is now a strong evidence base that voluntary measures alone are not getting the world where it needs to be.

Equally, the last decade of implementation has demonstrated that legal measures are essential but will not alone be able to ensure business respect for human rights. This is why the Guiding Principles call for States to consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights. But the General Principles also recognize the potential and the need for efforts by the multiple actors, beyond States, that frame policies and practices that shape business conduct. It is essential to avoid a “tick box” due diligence approach or offering only empty promises instead of effective remedies for victims when harm occurs.

As part of a value centred approach to due diligence, we also need to learn from others and build upon what works. Listening to those who confront the consequences of unprincipled business practice every day, such as human rights defenders, indigenous peoples, individuals, and communities is the first ingredient in creating change. If effective due diligence is carried out, impacts can either be prevented or mitigated before escalating into serious harm, or can be remediated before damage becomes irreparable. Together we should reinforce the key message that respect for human rights is possible and will make a major contribution to realizing sustainable development. The Working Group and others have emphasised this connection and have argued that the most significant contribution most business enterprises can make towards sustainable development is to prevent and address adverse impacts on human rights through effective human rights due diligence.

And last but not least, allow me to mention a final important lesson learned from the last 10 years of due diligence practices: that States should not assume that businesses prefer, or benefit from, State inaction. An increasing number of business voices support mandatory human rights due diligence measures. Such measures provide legal certainty, a more level playing field, increased leverage within value chains, and better integrated risk management - and all of this benefits businesses.

In short, the focus has shifted from ‘*whether to’* to ‘*how to’* make mandatory human rights due diligence requirements effective. And this is why we are all here, to discuss the *how.*

Thank you for your attention.