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UN Guiding Principles at 10
Business and human rights: towards a decade of global implementation

Background note by
the UN Working Group on Business and Human Rights

UN Guiding Principles: scope and vision

The unanimous endorsement of the *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* by the UN Human Rights Council in June 2011 represented a watershed moment in efforts to address adverse impacts on people resulting from business activities in all sectors. For the first time there was a globally recognized and authoritative framework for the respective duties and responsibilities of Governments and business enterprises to prevent and address such impacts. The Guiding Principles outlined the steps to take in order to meet existing State obligations and normative standards for business, set out under three pillars:

- The State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication;
- The corporate responsibility to respect human rights, which means to avoid infringing on the rights of others and to address adverse impacts with which a business is involved, by adopting appropriate policies, exercising human rights due diligence and enabling remediation of harms that occur; and
- The need for access to effective remedy for rights-holders when abuse has occurred, through both judicial and non-judicial grievance mechanisms.

The Guiding Principles emerged from the realization, expressed by then UN Secretary-General Kofi Annan at the World Economic Forum in 1999, that unless globalization has strong social pillars it will be fragile, and that if we cannot make globalization work for all, in the end it will work for no-one. Developed through an open process over several years, consultations involved a wide range of stakeholders to address and overcome longstanding adversarial positions and to base the Guiding Principles on both existing challenges and emerging practices, with a view to their comprehensive implementation.

Grounded in international human rights and labour standards, the Guiding Principles put people at the centre of the framework for how business – covering both large and small as well as private and State-owned enterprises in all sectors – should be conducted. The overall objective of preventing and addressing business-related human rights harm reflected the imperative of achieving "tangible results for affected individuals and communities, and thereby also contributing to a socially sustainable globalization", as underlined in the introduction to the Guiding Principles.

Uptake to date

Since the endorsement by the Human Rights Council in 2011, the Guiding Principles and the "Protect, Respect and Remedy" pillars have become a common reference point for all stakeholders and have seen relatively wide uptake by public and private sector actors e.g. within policy and regulatory frameworks.

Key parts of the "Protect, Respect and Remedy" Framework, upon which the Guiding Principles are based, have been integrated in other policy frameworks for responsible business, such as the OECD Guidelines for Multinational Enterprises and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the ILO. The Guiding Principles have also been a reference for commitments made by the G20, G7 and the European Union. They have been reflected in government regulation and policy frameworks, such as national action plans on business and human rights, and emerging legislation introducing corporate human rights due diligence requirements. Among business enterprises, a small but growing number of both large and smaller corporations in different sectors have issued policy statements expressing their commitment to respect human rights in line with the Guiding Principles. A growing number of investors and financial institutions are also starting to ask enterprises how they manage their human rights risks, supported by benchmarking initiatives, rankings and tools. Among international business lawyers, there is a growing recognition that they should advise corporate clients to conduct human rights due diligence. In the world of sports, some major organizations have adopted the Guiding Principles' concept of human rights due diligence in their policy frameworks.

Gaps

Yet, while progress is noticeable, a lot more remains to be done to achieve the vision of globalization that works for all and deliver on the central promise of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals of leaving no one behind.

Mounting data suggest that the majority of governments and business enterprises around the world have not yet begun, or seriously engaged in, the journey prescribed by the Guiding Principles almost 10 years after they were endorsed by UN member States. Too few States, business enterprises, financial institutions and international organizations have taken meaningful steps to effectively translate the Guiding Principles into practice. In too many cases, commitments and measures are lacking altogether, or commitments are not followed up on, or are accompanied by measures that are either piecemeal or ineffective. The overall picture is a world of too many governments and businesses pursuing development without implementing the necessary and accepted safeguards for people and planet. In the private sector, beyond the leaders and pioneers, large sections of mainstream business remain unaware of their responsibility to respect human rights, and laggards are unwilling to change practice – even when lack of commitment and action is documented in publicly accessible benchmarks and rankings.

Consequently, a permissive environment remains that enables business-related human rights abuse to take place without adequate corporate accountability and effective remedy for victims. A case in point concerns the alarming situation for human rights defenders around the world who are being targeted, and sometimes killed, for their work. This ranges from indigenous and other community representatives speaking up against the environmental impacts of business activity, to worker and trade union representatives calling for respect for core labour rights, and civil society organizations raising concerns about corporate-related human rights abuse. In other words, rights-holders affected

by, or vulnerable to, business-related human rights abuse around the world remain at risk, harmful practices continue to be widespread without adequate prevention, remediation and accountability, and human rights abusers frequently operate with impunity.

New challenges

At the turn of the decade (even before the ongoing COVID-19 pandemic, with its dire public health impacts and spiraling economic downturn leading to catastrophic consequences in several sectors and harming vulnerable workers in all economies), other mega-trends and emerging risks were adding to the challenges to human rights and the possibility of creating a sustainable future for all. The climate change and ecological emergencies; expanding inequalities; challenges of fragility, conflict and violence across regions; nationalism; continued discrimination against women and girls; protection gaps for indigenous peoples, minorities, migrants and other groups at particular risk, including children, people with disabilities, and LGBTI people; pervasive corruption; shrinking civic space, attacks on human rights defenders and unabated impunity for human rights abuses; and the rapid deployment of new technologies where the human rights consequences are still unknown, were all major causes of concern.

As highlighted by the current public health and economic crisis, the role of the State in protecting vulnerable workers and other rights-holders negatively affected by economic forces is *critical and irreplaceable*. Action taken by responsible business actors to respect human rights and avoid adverse impacts on their own workers and others in their value chain is equally vital – and a minimum expectation of business independently of how States perform even if this cannot replace State leadership and action to meet international human rights obligations.

The ongoing crisis also highlights that returning to business-as-usual will render the world ill-prepared for the next crisis, be it another pandemic or public health disaster, or an ecological crisis. It clearly demonstrates the need for a sustainable pathway with prevention of adverse impacts on people and planet at the core of a new approach. The pandemic will eventually pass, and the recovery presents an opportunity for taking a different pathway. States and societies will have an opportunity to make choices that might reshape the way that business and markets operate. This includes the potential to reshape the way in which international supply chains work. One positive legacy of the crisis might be a stronger focus on ESG and supply chain resilience, with an expanded notion of what is meant by "essential workers" and "essential commodities/services". This window of opportunity to shape a better future needs to be seized soberly, enthusiastically and vigorously.

Going forward, both the role of the State in protecting human rights and the role of business in respecting human rights need to be at the center of addressing key global challenges. Such challenges may be amplified by irresponsible business practice and weak governance. The absence of responsible business conduct and good governance may also heighten the risk of business becoming involved in human rights abuses that are often intricately connected to structural global challenges. Government action and responsible business conduct based on the Guiding Principles, which in turn are based on existing international human rights and labour standards – together with multilateral and multi-stakeholder collaboration – are key to developing transformational solutions and partnerships. As Sustainable Development Goal 17 speaks of revitalizing global partnerships for sustainable development, including public-private partnerships, it is absolutely critical that partnership activities involving the business sector are based on respect for human rights.

Moreover, business and human rights issues cannot be seen in isolation from the wider rule of law and institution-building efforts based on international human rights standards, which highlights the importance and role of actors such as national human rights institutions, civil society organizations and human rights defenders, as well as open, inclusive multi-stakeholder dialogue in developing effective and lasting solutions. Key ingredients for lasting solutions – which effective multi-stakeholder engagement can help reinforce – involve trust, transparency and accountability. Wider and deeper implementation of the Guiding Principles can also reinforce efforts to realize Sustainable Development Goal 16's aim of promoting just, peaceful and inclusive societies.

Opportunities

The good news is that the first step has been achieved in that the Guiding Principles provide a globally agreed standard and baseline for what governments and businesses need to do to embed respect for human rights in a business context. They clarify the legal and policy implications of States' existing international human rights obligations and the implications for business of existing standards and practices. As such, they are a transformational tool that can be applied across the many areas and agendas that deal with the fundamental question of the role of business in society and how to make business work for a sustainable future for all. Moreover, change *is* possible, as witnessed by leading practices by companies, investor organizations and public sector organizations that are maximizing the potential of the Guiding Principles.

Going forward, the challenge is to scale up these emerging approaches and leverage wider, more robust policy action and incentives. A key goal is to make the Guiding Principles work across the new decade's key agendas for sustainable and responsible business, namely rebuilding a sustainable and more resilient post-COVID-19 global economy; realizing the Sustainable Development Goals (noting the relevance of SDG 16 and SDG 17); realizing the Secretary-General's 2020 Call to Action on Human Rights; achieving a just transition to a green economy by 2050; addressing the growing inequalities and injustices of which the most vulnerable are bearing the brunt; making rapid technological change work for all people; and recalibrating the business-society balance. This endeavour needs to be supported by a strategy to implement the Guiding Principles, with a clear mapping of concrete goals and targets against which progress along the three pillars of "Protect, Respect and Remedy" can be tracked and assessed. A critical element is to move towards global knowledge and implementation of the Guiding Principles.

The tenth anniversary of the Guiding Principles in 2021 provides an opportunity to articulate a vision and roadmap for a decade of implementation that more fully explores the transformational potential of the Guiding Principles, with a view to creating positive impacts for rights holders and sustainable development for all. That is the essence of the new project led by the UN Working Group on Business and Human Rights titled "***Business and human rights: towards a decade of global implementation***".

Existing work informing the roadmap development

The project will build on recent years' multi-stakeholder dialogues in the context of regional consultations and forums[1] (including in collaboration with UNDP) and the annual UN Forum on Business and Human Rights, as well as existing and forthcoming work by the Working Group. The

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[1] See the most recent examples:
https://www.ohchr.org/EN/Issues/Business/Pages/SouthAsiaRegionalForum.aspx;
https://www.ohchr.org/Documents/Issues/Business/Conceptual-Note-4ta-Consulta_ENG.pdf.

Working Group's thematic work addresses several topics that need to be more fully considered for the vision of the Guiding Principles to be realized during the next decade and beyond. This includes the need to:

- embed the "Protect, Respect and Remedy" pillars in the context of engaging the private sector to realize the SDGs;
- strengthen access to effective remedy for victims of business-related human rights abuse, which should be a key priority for operationalizing the State duty to protect and corporate responsibility to respect human rights, and which will eventually also contribute positively to preventing future adverse impacts on human rights;
- make corporate human rights due diligence part of normal business practice, by scaling up emerging good business and investor practice, and through more comprehensive regulations;
- integrate the Guiding Principles into the policy and practice of the various economic actors owned or controlled by the State;
- develop and incentivize more responsible business and investor practice in conflict and post-conflict situations, and uniformly apply the Guiding Principles in contexts characterized by fragility, conflict and violence;
- integrate gender-responsive measures in State and business policy and action, to respond to the unique experiences of women and girls as well as the structural discrimination or barriers that they face;
- recognize the key role of human rights defenders in supporting a sustainable future for all and ensure corresponding action by States and business enterprises to safeguard defenders who raise concerns about business-related human rights impacts;
- harness the potential of trade and investment agreements to promote business respect for human rights;
- apply the Guiding Principles in the context of climate change mitigation efforts as well as in the transition to a greener economy.

The project will also build on work by the Office of the UN High Commissioner for Human Rights (OHCHR) on accountability and access to remedy, and business and human rights issues in the technology space.

Multi-stakeholder approach

Given the scope of the Guiding Principles – applying to all States and all business enterprises in all sectors, and covering the full spectrum of internationally recognized human rights and core labour standards – and their grounding in a "polycentric" governance approach, it will be vital that the way forward is inclusive and covers wide ground. The process aims to tap the potential of supranational action that spurs and accompanies national efforts. It will also emphasize multi-stakeholder dialogue and cooperation, which has been a key tenet of the UN business and human rights mandate since the beginning of the process to develop the Guiding Principles and continued by the Working Group and the annual UN Forum on Business and Human Rights.

The process to develop a roadmap for the next ten years towards 2030 will build on this commitment to multi-stakeholder consultation.

It will be carried out in close collaboration and dialogue with OHCHR and UNDP and other partners such as UN Global Compact, UNICEF, ILO, and the OECD. The Working Group will continue to work

with a range of organizations from civil society, business, trade unions, human rights defenders, indigenous peoples' networks, other UN experts and mechanisms, the EU and other regional organizations and seek to expand dialogue with new actors across sectors and regions. Dialogue with governments – covering both home and host State dimensions – and with national human rights institutions – in collaboration with the Global Alliance of National Human Rights Institutions (GANHRI) – will form key components of the consultation process.

How to get involved

All interested parties will be invited to take part in an online survey and submit written inputs that may be posted on the website dedicated to the initiative.

Key material will also be disseminated in collaboration with the Business and Human Rights Resource Centre.

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