

NEXT DECADE | 10+



**BUSINESS AND
HUMAN RIGHTS**
UN GUIDING PRINCIPLES

**Opening Keynote Address: UN Global Compact Network Australia
Dialogue on Business and Human Rights
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Greetings from Seattle! It is my great privilege to be able to join you for the 2020 Australian Dialogue on Business and Human Rights. My sincere thanks to Global Compact Network Australia for the invitation.

We are currently experiencing a time of great challenge for all of us. I commend you for taking time today to exchange ideas on how we can build back better and overcome current challenges, using responsible business conduct and the UN Global Compact 10 Principles as our compass. My remarks will focus on why business and human rights matters during a pandemic and how a commitment to responsible business conduct can help us rebuild our economies and ensure a sustainable future.

This is what I want to share with you today: We are at a turning point. We must decide the future we want. Is it a future of closed borders, armed conflict, rising inequalities and pandemics? Or, is it a path of resilience, recovery, inclusion, peace and prosperity? The Sustainable Development Goals, which the Global Compact strongly supports, calls upon businesses to partner with civil society and governments as forces for good - to achieve peace, prosperity and sustainability. Yet, even businesses that may seem to be forces for good, can also cause harm.

The Sustainable Development Goals seek to harness businesses as forces for good, rightly so. The United Nations Guiding Principles on Business and Human Rights provide us with another lens, another guidepost with essential ingredients focused on ensuring that businesses identify the harms they cause, take steps to prevent, and then mitigate or remedy those harms. For example, a company that sells and manufacturers disposable masks during this pandemic may be contributing to the public good by ensuring a stable supply of masks in a given country. At the same time, that company might also be contributing to harm, if it is sourcing from factories where workers are subject to forced labor or lack proper safety precautions. The UN Guiding Principles ask us to look at the negative impact of business conduct and ask businesses to respect human rights and actively prevent harm. That is what the UN Guiding Principles are about - a shift in our mindsets. You are asking businesses to think, not only about risks to the company

and its assets when making decisions, but to also think about risks in harm to people from its business operations.

Now, we will reach 2030 very soon. We need to utilize all the tools in our toolkit. Especially now, as we tackle a global public health emergency that has battered our economy and shut down our trading system. This current crisis has exposed the real and daily risks to essential workers; those making our masks, caring for our loved ones, delivering our packages, picking our crops, and processing our food. You won't have an economy that works unless we respect and ensure the safety of those who are working for us to keep our economy open. The mantra of the UN Guiding Principles is, *do no harm*. The UN Guiding Principles ask companies to use human rights due diligence. That is, to identify the impacts of their business operations on people and then to prevent, mitigate and remedy them. The UN Guiding Principles ask companies to know and show their negative human rights impacts and to fix them.

As the UN Working Group on Business and Human Rights has previously stated, supported by the UN Global Compact 10 Principles, it is often by identifying and mitigating harm that businesses make the most valuable contributions towards the Sustainable Development Goals. For example, if a business identifies racial discrimination in the workplace and rectifies this, it contributes towards the achievement of SDG 10, reducing inequalities. Similarly, helping to negate bonded labor contributes to SDG 8, focusing on decent work. The Australian Modern Slavery Act also emphasizes the need for human rights due diligence through its reporting requirements. Reporting entities, including businesses, are asked to outline the steps taken to address modern slavery risk, including through human rights due diligence and remediation. Companies are asked to assess the effectiveness of those actions. Clearly, there is already a due diligence or guiding principles approach in key Australian legislation. There is also tangible SDG benefit to the UN Guiding Principles. By doing no harm, companies are also doing tremendous good. The Australian Modern Slavery Act, similarly, has the potential to help companies to do no harm and also do tremendous good.

The UN Guiding Principles are a tool for prevention of crisis as well for the emergence of sustainable and resilient business models. Using the concept of human rights due diligence allows businesses to future proof their decision-making, allowing them to identify and anticipate the harms to people in order to engage in sound business planning. This has been highlighted starkly during the COVID-19 pandemic. Governments may not always be ready to move quickly in a crisis, to regulate or change standards that apply to a broad range of businesses. If companies wait to implement key health and safety measures until there is governmental regulation, essential workers, like those in factories or meat processing plants, will fall ill and possibly die. This will be because businesses did not proactively identify the impacts on their workers, but instead waited for governments to act. Business has the tool in the UN Guiding Principles, to identify harms that are specific to their own operations and to decide how to remedy those harms without waiting for the government to tell them how. An individual plant, for example, can identify needed safety measures for public health emergency without waiting for the government to develop an industry standard. This saves lives and it is also sound business planning. Those factories and plants that take precautions early can keep operating safely, with decreased rather than heightened risk of outbreaks.

In some situations, companies that embraced the UN Guiding Principles and adopted human rights due diligence, knew what steps to take early in the crisis. For one pharmaceutical company, this included not cancelling its supplier contracts immediately due to the COVID-19 recession. Thereby, avoiding the mass devastation which can occur in developing economies that are so dependent on particular industries as their lifelines. That same company also took a measured approach to staff layoffs. The company paused to consider options for furloughs, and balanced layoffs to avoid impacting the most vulnerable workers who had no savings or safety net. One responsible business advisory group came up with a rapid response due diligence tool to help companies more quickly assess the impacts the pandemic may create. For example, for some employees, the issue of childcare was not an impact when children were in school. Now, given the need for employers to work remotely with children at their side, lack of childcare may well impact a new set of workers. New tools have helped companies to identify impacts that were different or absent in the pre-pandemic workplace. This is not to say that businesses won't have tough choices in the recovery process. Rather, the idea is that those that had thought about the issue of impacts to people are better equipped to make quick and informed decisions. Being predictive and proactive, by using human rights impact assessments, allow companies to stay ahead of the curve.

The Australian Border Forces published guidance on coronavirus and modern slavery. This information sheet provides guidance for entities about how to reduce the risk of vulnerable workers in their operations and supply chains becoming more exposed to modern slavery as a result of the coronavirus. As the guidance notes, the Australian Border Force encourages entities to consider how the impacts of COVID-19 may increase the vulnerability of workers in their global operations and supply chains to modern slavery, including in Australia. Factory shutdowns, order cancellations, workforce reductions and sudden changes to supply chain structures can disproportionately affect some workers and increase their exposure to modern slavery in other forms of exploitation. The guidance provides practical recommendations that focus on the impact of the pandemic on workers. For example, where practicable, a company should maintain supplier relationships, including honoring current contracts where possible and recognizing that purchasing practices such as short production windows and last-minute or short-term orders may increase modern slavery risks for workers. The guidance suggests that entities engage with suppliers to consider options to support vulnerable workers. These options may include; paying for completed work and extending orders over time to help ensure ongoing cash-flow for suppliers or avoiding varying contracts unreasonably or seeking discounts from suppliers. It is excellent that there is guidance on good practice being developed and disseminated that related to the UN Guiding Principles to some extent.

Unfortunately, there are also many examples of companies who are ill equipped for the human rights impacts brought to life during this pandemic. For example, Australia and other multinational companies have not checked their suppliers as thoroughly as they ought to. Particularly, those that were supplying essential items like face masks and hand sanitizers into our markets. I won't dwell on the examples of poor practice, but just to say that the UN Guiding Principles help companies to develop mindsets and processes that allow them to be proactive, instead of reactive, in a way that will help them recover responsibly.

It will certainly take a multi-stakeholder approach to effectively address modern slavery risks and supply chains, as well as larger human rights concerns arising from the pandemic. I note that the Australian Border Force in its practical guidance to the private sector recognizes that the key value in multi-stakeholder collaboration, which I hope is a lesson to all of us. They encourage collaboration with suppliers, workers, business peers, investors, civil society and peak bodies to identify best-practice approaches to protect and support vulnerable workers in global operations and supply chains.

As I conclude, I want to emphasize that the UN Guiding Principles are about to celebrate their 10th anniversary. As the pandemic has shown, the UN Guiding Principles are still a vital tool for ensuring that business can work in partnership with civil society to identify human rights impacts and to address them before a major crisis hits and if a major crisis hit. Businesses who have begun to ask the right questions will be well positioned to keep their businesses operating. Those businesses will also have the trust and goodwill of civil society workers and others who are going to be on the front lines of identifying harms to people. As I say repeatedly, masks may be disposable, but workers are not. Thank you for your time, I look forward to the discussion and questions to follow.