

# The 8<sup>th</sup> United Nations Forum on Business and Human Rights

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GICJ Report

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Geneva International Centre *for* Justice

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# The 8<sup>th</sup> United Nations Forum on Business and Human Rights

The 8<sup>th</sup> United Nations Forum on Business and Human Rights took place in Geneva from 25 to 27 November 2019. In three day, 70 meetings took place under this year's theme, "Time to act: Governments as catalysts for business respect for human rights".

Since 2012 the Forum is organised by the Working Group on Business and Human Rights, in accordance of the Human Rights Council resolution 17/4 of July 2011, which created both the Working Group and the Forum.<sup>1</sup> The mandate of the Working Group has been extended for three more years by Human Rights Council resolution 35/7 of June 2017.<sup>2</sup>

The aim of the Forum is to bring together governments, business and civil society to share good practices and ideas in order to facilitates the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs). The three pillars of the UNGPs are:

1. "Protect": The State duty to protect against human rights abuses,
2. "Respect": The corporate responsibility to respect human rights, and
3. "Remedy": The need for access to effective remedy.

A key message from the 7<sup>th</sup> Forum was that "governments must step up their action and leadership."<sup>3</sup>, which lead to this year's theme on the need for actions from States.

GICJ attended 30 meetings of the Forum, and one side event. During these, and under the guidance of the three UNGPs' pillars, panellists looked at the role of governments and businesses in the access to remedies, the fight against corruption and for accountability, as well as the impact on businesses on peace, climate change and so on.

The programme of the Forum, including concept notes of meetings and panellists' short biographies, may be found [here](#).

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<sup>1</sup> Human Rights Council resolution 17/4, *Human rights and transnational corporations and other business enterprises* (6 July 2011).

<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/71/PDF/G1114471.pdf?OpenElement>

<sup>2</sup> Human Rights Council resolution 35/7, *Business and human rights: mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises* (22 June 2017).

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/191/47/PDF/G1719147.pdf?OpenElement>

<sup>3</sup> UN Forum on Business and Human Rights.

<https://www.ohchr.org/EN/Issues/Business/Forum/Pages/2019ForumBHR.aspx>

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## Opening plenary

The opening plenary started with a video message from the UN Secretary-General António Guterres, stating the importance of the forum on Business and Human Rights and the UN Guiding Principles on Business and Human Rights guidelines to prevent, address, and remedy human rights abuses committed in business operations. He further mentioned the persistent inequalities and the climate crisis, noting it was time for cooperation to step up efforts to adopt and promote responsible business practices and advance sustainable development goals. He concluded by saying that dialogue and partnership with all sectors, including governments, civil society, and organizations are crucial.

Michelle Bachelet, the UN High Commissioner for Human Rights, took the floor, saying that we need action by States to pass or uphold legislation that meets international human rights and labor standards, which protects workers and affected communities, including effective policies, regulation, economic incentives, guidance, and the promotion of dialogue among relevant actors.

She noted that although more and more companies are recognizing their corporate responsibility to respect human rights, we are still seeing unprincipled business practices, which continue to generate preventable human suffering, impede inclusive and sustainable development, and fuel inequalities.

Ms. Bachelet also highlighted the attacks and killings of human rights defenders, online hate speech, harassment, the use of mass surveillance by governments, businesses, and other private actors that intensify discrimination and violate the right to privacy, as well as a wide range of other rights. She called for more robust responses from governments, with policies that incorporate a duty to protect the full range of human rights.

She ended by stressing without businesses and responsible investors, it will be, quite simply, impossible to achieve the promise of the 2030 Agenda. She stated that cooperation could lead to the eradication of poverty, while investments in social, economic, and political inclusion would ensure that no one is left behind. She emphasized to both States and businesses to place respect for human rights at the heart of their joint action.

Then, Ms. Vesna Batistić Kos, the Vice-President of the Human Rights Council, mentioned the rising inequality compounded by the activities of transnational companies and other businesses. She further said that there is a gap in addressing human rights violations by business activities and the importance of the development of legally binding instrument in this regard.

Ms. Kos outlined that we must identify specific challenges related to inequality, and work to create more complementarity on different initiatives, address the issue of tax regimes, and serve as an accountability mechanism for SDGs implementation.

She emphasized the need to take decisive and concrete action and that under international human rights law, States have an obligation to protect people against human rights abuses by business enterprises. The Guiding Principles clarify that to implement this duty, States should consider a "smart mix" of measures – national and international, mandatory and voluntary – to foster business respect for human rights.

She reiterated that States, who are the primary actors responsible to uphold human rights, have the primary responsibility to deliver sustainable development for all. Ms. Kos ended by stating the need to close the governance gap between corporate impacts and the capacity of society to manage such impacts. She noted that as governments, we must do our part to regulate, guide and hold business

accountable and businesses must respect human rights, people, and the planet, as well as not undermine sustainable development.

Next, the Chairperson of the Working Group on Business and Human Rights Ms. Elżbieta Karska started her presentation on a positive note, stating that we are witnessing some progressive legal and policy developments, such as anti-slavery legislation adopted in some jurisdictions, the duty of vigilance law in France which has set the example for similar initiatives elsewhere, the working tide for mandatory human rights due diligence in Europe, Thailand recently becoming the first country in Asia to issue a stand-alone national action plan, and the momentum in parts of Asia, with similar processes in several countries.

She further mentioned two countries of Latin America that have developed action plans, with more underway, and Kenya as the first country to publish a national action plan in that region. However, while these examples are positive, she urged many more countries to follow this lead.

Ms. Karska noted the reality is that people in all regions continue to suffer from business-related harms, often on a large-scale and with irreversible damage. Discrimination remains as entrenched in the economy as it is in society at large, amplifying the risks of labor rights violations. Migrants are at particular risk of exploitation, as well as gender inequality being another key risk factor – putting girls and women at higher risk.

She concluded by saying that governments should use their leverage as economic actors to lead by example. This includes integrating human rights due diligence into the operations of State-owned enterprises, trade and investment promotion, and public procurement. As governments pursue the Sustainable Development Agenda and seek to engage the private sector, it is critical to ensure that partnership activities are based on respect for human rights.

Finally, regarding “stepping up government leadership: from commitments to action,” the Swedish Minister for Trade Anna Hallberg shared some examples of what the government has been doing:

- Global Deal partnership: a multi-stakeholder partnership hosted by the OECD in collaboration with ILO to promote the potential of enhanced social dialogue.
- Fight against corruption and bribery: key to sustainable development and the fulfillment of the Agenda 2030. In the Swedish Government’s Drive for Democracy, an initiative aimed at responding to recent threats and challenges to democracy and fighting corruption is an important component.
- Swedish National Action Plan: launched in 2015, and followed-up in 2018 with a report on recommendations. Now, Sweden is taking the National Action Plan one step further by launching a Swedish Platform for International Sustainable Business.
- The government will soon launch the new Export and Investment Strategy. When they devised this strategy, it was clear that Sustainable Business would have to be at its absolute core.

Ms. Hallberg concluded by saying that their ambitions to boost exports, trade and investments will only bear fruit if they go along with their efforts to achieve the United Nations Sustainable Development Goals of Agenda 2030.

## Steps taken at the international level

Gender guidance for the UN Guiding Principles on Business and Human Rights:  
From paper to practice

The event opened with the moderator, Surya Deva, who introduced the Working Group's report to the Human Rights Council on gender perspective to the UNGP's.

Anna Louise Pentland, the Deputy Director at Global Affairs Canada, emphasized how violence against women and girls in the workplace is a serious human rights issue that undermines efforts in gender equality. She noted that existing human rights instruments must be updated to reflect the realities of this gender violence in the changing culture of the workplace. In this regard, she referenced Canada's progress for women rights, such as passing legislation to ensure equal pay and encouraging diversity on company boards.

Caludio Avruj, the Secretary of Human Rights and Cultural Pluralism of Argentina discussed Argentina's drafting of its first National Action Plan for business and human rights. The draft placed strong emphasis on gender commitment, encouraged responsible business behavior that takes into account a positive gender focus, and the gender perspective for all fields.

Sara Seck, Associate Professor at Dalhousie University, discussed this issue through an environmental and climate justice perspective. She noted that the 2018 framework principles on human rights and environment contain state duties for ensuring a sustainable environment, with non-discrimination as a crosscutting theme. She emphasized, however, that women and the indigenous community remain most vulnerable to climate change.

Anant Ahuja, Head of Organizational Development at Shahi Exports, discussed the role of his apparel company in India for female employment. He stated that although India has one of the lowest rates of female employment, women constitute a high percentage of the labor force in the apparel industry. He suggested that using a gender lens when drafting policies can eliminate discrimination and the importance of studying barriers to women's upward mobility in the workplace.

Neel Gammelgard, Private Sector Advisor to the Danish Family Planning Association, discussed her focus on sexual reproductive health rights. She noted that women working in labor industries are often young and in unpaid positions, causing women's issues to be insufficiently prioritized and forcing many women to exit the workplace after marriage.

Sunila Awasthi, an Indian corporate lawyer, discussed how laws have contributed to the normalization of conversations on women harassment in the workplace and led to significant changes for women. She stated that the success of these legislations should serve as a model for other regions with ongoing workplace sexual harassment issues.

Meinrad Burer, Head of Research for Responsible Mining Foundation focused on the question of how companies can make their workplace safer for women workers. He stated that companies can respect the right of women workers by providing safety equipment designed for women and ensure that women are not subject to sexual harassment.

The session then opened up for interaction from the audience, with questions such as how to ensure the rights of indigenous women in the workplace, partnerships with civil society, and creating an intersectionality approach for marginalized women.

Anniken Enersen, the Minister-Counselor Human Rights for the Mission of Norway, offered practical advice on the gender aspect of business industries, such as offering flexible parental leave, getting women to join all industry sectors, and encouraging women to be present in all levels of business operations.

Francesca Manta, the Human Rights Manager at BSR, discussed the challenges to gender responsive due diligence. She discussed her recently published report, which details guidance on how to assess adverse impact of global supply chains on women by collecting data on a broad set of indicators.

Norka Ortiz, a member of the Wayuu indigenous community of Colombia, discussed the challenges faced by the Colombian indigenous people. She stated that governments should not be absent from dialogue with businesses and rural communities, and the right to earth, land, and health should be respected by these businesses throughout the process.

Gina Barbieri, a Compliance Advisor to the World Bank Group, discussed the gender responsive assessment of complaints. She noted that these complaints highlight the fact that projects and activities have different impact on women, such as sexual harassment and gender-based violence.

Sorcha MacLeod, Associate Professor at University of Copenhagen, discussed her recent published report noting the male-dominated nature of the private military and security sector. She noted that sexual harassment against women is common, particularly during armed conflict, post-conflict, and transitional environments. She recommended that governments should require gender due diligence and address gender-specific needs for all sectors.

Anna Triponel, External Human Rights Advisor for Firmenich, discussed the organization's decision to place gender diversity and inclusivity at the heart of its business model. She noted measures undertaken by the company, such as trainings for gender and ethnic bias for managers and recruiters and installing gender-neutral parental leave to recognize all family models.

The last speaker, Harpreet Kaur, a Business and Human Rights Specialist at the UNDP Asia Regional Hub office in Bangkok, commended the gender guidance report by the Working Group, stating it represented a turning point for the integration of human rights of women and girls in UN guiding principles. She noted there is a current backlash against human rights defenders and activists for women rights. She stated that the UNDP will continue to improve and strengthen women's rights.

The session concluded with the launch and distribution of copies of the booklet for business and human rights.

## Update on the process to elaborate a legally binding instrument

This meeting was aimed to discuss about the legally binding instrument (LBI) the Working Group is working on. The panelists were: Emilio Izquierdo, Ambassador of the Permanent Mission of Ecuador; Richard Meeran; Surya Deva, UN Working Group (WG) on Business and Human Rights; Humberto Cantu Rivera, Business and Human Rights Institute from the University of Monterrey.

Based on UN Guiding Principles on Business and Human Rights, the panelists exposed the basis of the LBI and the revised draft published in July 2019. They expressed the need for companies to strengthen their commitment toward Pilar 2 on due diligence. Also, according to Surya Deva the LBI must go beyond the UNGP and not be a simple copy paste of it. He also exposed the necessity of a fourth Pilar were civil society and human rights defenders (HRD) are included. Regarding Pilar 3, panelists agreed that countries are not taking it seriously as no real steps toward remedy had been taken.



## States and business enterprises listening to the UN Working Group? A cross-country assessment by civil society organisations

Ms. C. Zúñiga, Human Rights and Amazonia Program Specialist, Derecho, Ambiente y Recursos Naturales (DAR), said that Peru is developing a national plan on business and human rights since 2008 that contemplates the implementation of international standards. It must be approved in 2020 and encompass the participation of state organizations, private sector, international cooperation, companies and academia.

A state team works with the Working Group on several issues, particularly the rights of indigenous people. Several NGOs developed a project called the “Barómetro Indígena” (indigenous barometer) to monitor the violations of indigenous peoples' human rights by mining companies.

Ms. Ivette Gonzalez, Strategic Engagement Senior Associate, PODER (México), mentioned that the visit of the Working Group to Mexico in 2016 was carried out with a broad participation of civil society. Recommendations were made, but the State did not too much to fulfil them. In fact, in some regions such as Guajaca and Sonora the situation has worsened.

Civil society organisations in Mexico work with many other international organizations such as the Danish Institute of Human Rights and OXFAM to monitor human rights violated by companies and to observe the development of public policies in order to implement the UNGPs.

Mr. J. Ferreira, Political Coordinator, ADERE – Articulação dos Empregados Rurais do Estado de Minas Gerais (Brazil), expressed his concern about slave labour in Brazil, particularly in the coffee sector. Brazil has been implementing policies for the elimination of slave labour for several decades, however, the current government carries out policies against the working class.

The State must regulate and monitor the actions of companies so that they do not incur modern slavery, people can earn a fair salary and cover their basic needs.

## Actions that need to be taken by the State

### The use of private military and security companies in migrant detention centres

The panellists for this meeting were Lilian Bobea, member of the Working Group on the use of mercenaries; Abdel Aziz Muhamat, human rights advocate; Brynn O'Brien, executive director of the Australasian Centre for Corporate Responsibility; Alejandra Ortiz Diaz, Mexican lawyer; Bridget Armond, clinical professor of law at the Centre for International Human Rights of Northwestern University's Northwestern Pritzker School of Law; Jelena Aparac, member of the Working Group on the use of mercenaries; Michael Flynn, executive director of Global Detention Project; and Nessma Bashi, independent legal advocate.

This panel of seven speakers recalled the precarious and difficult situation migrants and asylum seekers are in when they reach their country of destination, and their disbelief when they are put in migrant detention centre. In these centres, they do not get proper access to food, water and sanitation, health services, and are subjected to mistreatments.

They explained that the security, and sometimes the whole management of migration detention centres, is put in the hands of private security companies. This created a profitable system for these



companies, as they are well-paid by the government often through no-bid contract, and have the means to lobby for a government even more permissive for them, which causes human rights concerns.

The panellists stated that these companies are often composed of former military personnel, without any formation in dealing with traumatised population, leading to more infringement upon the asylum seeker or migrant's rights.

They raised several examples, including the Australian detention centres in Christmas Island and in Manu Island (Papua New Guinea), the Greek Moria refugee camp in Lesbos, an IOM-led camp in Bosnia, and the US Detention centre for migrant children unaccompanied in Miami. In these camps and centres, flagrant human rights violations have been flagged. Abdel Aziz Muhamat has been detained in the Christmas and Manu Island for 6-years, he shared a story of humiliation and violence.

They called for more powerful pieces of legislation that clearly states which activities can be delegated to private security companies, and for civil society to advocate against the criminalisation of migrants and of the people helping them.

## Do companies prefer State action or inaction when it comes to promoting business respect for human rights – Stories from the frontline of businesses calling for action

The panellists for this meeting were: Chloe Poynton, co-founder and principal of Article One; Venessa Zimmerman, CEO of Pillar Two; Tytti Nahi, advocacy manager of Fairtrade Finland; Tony Khaw, director of Corporate social responsibility, NXP semiconductors; Mary Thuo, CEO and founder of Cityspace Trends Services (Kenya); Peter Hall, adviser on business and human rights / responsible business conduct, at the International Organisation of Employers; Shubha Sekhar, director human rights: Eurasia and North Africa, at The Coca-Cola Company; Elizabeth Wilde, deputy head of mission of the Australian Permanent Mission to the UN; and Inés Elvira Andrade, director of standards and corporate responsibility of Cerrejón - Minería Responsable.

The meeting started by the recall of UNGP principle 3 "States should not assume that businesses invariably prefer, or benefit from, State inaction, and they should consider a smart mix of measures ... to foster business respect for human rights.", as well as the aim, in this meeting, to give the businesses' perspective of this issue.

The panellists explained that many companies have expressed their view that government is not investing or acting enough on business and human rights, and gave example of companies moving forwards to enhance the respect of human rights, even though legislation in the country may be lacking.

Even if a company is moving ahead towards the respect of human rights, having new pieces of legislation that regulate these improvements can impact the discussion. Especially, it can ease the application of the company's regulations within supply chains and marginal businesses by bringing a greater spotlight on the issue and clarity on the expectations.

They explained that good laws should be flexible and adaptable to arising situations and concerns, instead of having to promulgate a new law. They also expressed the need for proper consultation

with stakeholders and transparency while preparing regulations as well as an effective implementation process. Through consultations, businesses can make the link between the people and the government and explain the consequences that human rights policies can have in different sectors. They recalled the primary responsibility of State to protect NGOs, civil society and enterprises in addition to promoting a better participation process to resolve arising issues.

Regarding the companies' fear of being criticised for speaking out on one issue and not another one, the panellists explained that the issues to speak out depends on individual company politics, the country it is located in and what the stakeholder's expectations are. Finally, they mentioned that companies must use due diligence to assess possible risks and act on the matter.

## Scaling up respect for human rights in public investments: learning from government investment funds

The event began with an opening remark by Eva Grambye, the Head of International Division and Deputy Executive Director of Danish Institute of Human Rights. She noted the recent trend of human rights responsibilities becoming increasingly connected to institutional investors, one of the main driving elements being the Sustainable Development Goals agenda. The event continued with inputs from key players in the field of government investment funds for their reflection and experience on the subject.

Johan H. Andresen, Chair of the Council of Ethics, discussed the inner workings of the Council of Ethics and its focus on promoting good practices. He emphasized newly arising issues due to technology, with the right to privacy becoming a large source of concern. He then continued discussing the Council of Ethics largely focusing on companies where the risks are the highest by conducting a series of company surveys.

John Howchin, the Secretary General of the Swedish Council on Ethics for the AP Funds, discussed the Swedish Council's aim of engaging with investors and companies, emphasizing Sweden's good track record of sustainability and human rights. He noted that access to companies has changed over the years with more proactive dialogue on environment sustainability and human rights.

Bettina Reinboth, the Head of Social Issues for the Principles for Responsible Investment, highlighted certain points from previous speakers, such as the concept of long-term rights and capital for institutional investors and the changing relationship between companies and investors. She mentioned the necessity of information and data collection to create meaningful impact, noting the shift towards investors understanding that any investment has both positive and negative impacts.

Martin Buttle, the Head of Good Work at Shareaction, continued this discussion by raising the question of whether the field of human rights is changing fast enough. He stated that pension funds have the leverage and influence necessary to impact the field and the necessity of a solution that is more systematic and proactive, rather than reactive, when dealing with companies who violate human rights standards.

Ms. Grambye then asked the panelist of speakers if they could enhance the global mandate to become more proactive and speed up actions. Mr. Andresen discussed the possibility of creating an overarching standard or ranking of companies, which was supported by Mr. Buttle. Ms. Reinboth, however, expressed concern over the risk of reporting for the sake of reporting, rather than with the aim of creating meaningful change.

There were several questions from the audience, such as companies addressing the new problems associated with technology, how National Action Plans can take a more proactive action approach, what good practices are employed by mining companies, the additional challenges present in developing countries, and how to work and engage with unions.

The event ended with Ms. Grambye thanking the panelist of judges for their input and insight, and the audience for participating in a meaningful discussion.

## Protecting and respecting human rights in the future of work.

To tackle the issue of the future of work, the panel included a wide variety of speakers: Maysa Zorob, Corporate Legal Accountability Manager, Business & Human Rights Resource Centre; Jeffrey Vogt, Legal Director, Solidarity Center; Ruwan Subasinghe, Legal Director, International Transport Workers' Federation (ITF); Marlese Von Broemdsen, Law Director, Women in Informal Employment: Globalizing and Organizing (WIEGO); and Janine Berg, Senior Economist, Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK), International Labour Organization (ILO).

As a start, a panellist raised the example of the recent contestations and protests from Uber drivers, which raised questions about what is considered work and who is considered a worker. Then, the panellists, professionals who work on workers' rights, discussed the position of informal workers and how they could and should be entitled to the same rights as traditional "worker".

With this aim, they mentioned that in many labour codes around the world, people's entitlement to certain rights depends on your classification as a "worker". Thus, legislations should be modified to broaden the scope of protection to cover every type of work and give all types of workers the same rights, especially regarding the right to collective bargaining and freedom of association, and the same protection. They explained that informal workers are 50% less likely to be unionised, because it is often prohibited under competition laws, stating that such laws were designed to protect the consumers but are now used by big companies to prevent workers from bargaining. In this regard, they raised the example of a lawsuit filed by Uber drivers in Seattle which ultimately granted them the right to bargain collectively. Moreover, in Australia if an independent worker earns less than a certain amount of money, the law considers that no competition issue can arise. And in Norway in 2019, a first collective agreement with food delivery services was created. Thus, certain ways to get around competition laws already exist, and more creativity is needed to get the workers the protection they should be entitled to.

They explained that employers often try to redefine employment contracts by subcontracting or misclassifying workers. Plus, they mentioned that platforms as Uber and Lyft engage in disinformation campaigns towards their "employees" by stating that if they become "employees" in the sense of the law, they will lose flexibility. Or, the law does not require that, Uber could exercise more control over them but there is no obligation. Platforms do not have to be this way and could work in a more transparent manner. Several cases in France, the US (Dynamex case), in the Netherlands (Deliveroo) found an employment relationship even though it was not recognised in a contract. These actions are essential to reverse the misclassification of workers and grant them protection.

The panellists stated that the future of work debate should transcend the boundary that exists between employees and independent contractors. An idea was raised that the "employer contract" should be replaced by "employer relation", a relationship that will not be a contractual one. In this

regard, they raised the example of the Unorganised Workers' Social Security Act (in India) which sets up a fund in a particular sector where all corporations have to pay social security contribution to the fund and where all workers are registered as workers but don't have to prove an employment relationship with a specific employer.

To end the meeting, they raised the importance of campaigns to explain their rights to workers.

## Cooperation between governments and businesses

### Plenary: Helping States promote responsible business – towards greater coherence at the multilateral level?

Ms. Bachelet began saying to look the ways to help states to fulfil international standards through UNGPs and due diligence by state entities and other entities. The UNGPs call new measures in national and international efforts. Also, she highlighted that cooperation between UN agencies and states is a key issue on business and human rights.

Mr. D. Ryder, Director-General of the International Labour Organization (ILO), said that the agenda of the ILO in regards to business and individual capacities was to follow the rules of the labour market. ILO is working with states in this way, to encourage them and individual companies to act responsibly.

He also mentioned that the ILO is making efforts to help individual states fighting child labour, human trafficking and modern slavery. In the ILO Centenary Declaration for the Future of Work the member states have expressed the intention to work stronger on the issues above and also settled up a cooperation system for systemic implementation.

Ms. A. Okai, UNDP Assistant Administrator and Director of the Crisis Bureau, highlighted the importance of the private sector fulfil 2030 agenda which is recognised by UNGP. Progress with business is important as well as the work of companies. In the last 3 years, the UN helped Asian initiatives to lead national plans on human rights and business. According to her it is important to:

1. Plan responses
2. National human rights institutions are crucial to taking responsibility, accountability and preventing human rights violations in business.
3. Protect human rights defenders.
4. Ensure the participation of people in national initiatives.
5. Encourage national leaders to defend human rights.

Ms. C. Gornitzka, Assistant Secretary-General and UNICEF Deputy Executive Director, mentioned that new challenges for humanity related to child rights and business are growing - such as climate change. She called to follow recommendations in the General comment No. 16 of the UN Committee on the Rights of the Child on State obligations regarding the impact of the business sector on children's rights.

Ms. C. Kaufmann, Chair of the OECD Working Party on Responsible Business Conduct, Organisation for Economic Co-operation and Development (OECD), highlighted the notion of responsibility of business on state policies. The UNGPs and due diligence are important, because it's a call to governments to take a certain role and continue with it.

She also highlighted the importance of training, monitoring the process of implementation of the UNGPs, review the legal framework and clearly mention human rights in international standards.

### Catalytic public-private partnerships: Working with governments to drive business respect for human rights in the cocoa sector.

Child labour and forced labour in the cocoa sector in West Africa were the main subjects of discussion. The panellists also offered their views on the international efforts in Côte d'Ivoire and Ghana regarding the promotion of human rights due diligence in the cocoa supply chain.

Ms. Karvar, from the International Labour Organisation (ILO), drew attention to the significance of sustainable development agenda, NGOs within the industry and social responsibility of the companies operating within the cocoa industry. She shared her experience of working with multi-national businesses and the importance of collaboration and knowledge sharing. Ms. Karvar pointed out that France focuses on preventive mechanisms, effective reporting and the involvement of producers in the process. Moreover, she also emphasised the role of education and advocacy.

Ms. Mahin, the Human Rights Lead from Mondeléz International, focused on the concept of sustainability and how it needs to be incorporated into all global supply chains. She identified Europe as being the world's biggest cocoa consuming market and that as such it ought to be regulated. All actors in the cocoa sector should play their role in the market's regulation and collaboration. In addition, she discussed the application of due diligence and governmental responsibility.

Mr. Fountain, the Managing Director of Voice Network, identified the causes of child/forced labour: poverty together with the lack of transparency and accountability. Mr. Wys, a Senior Manager from Nestlé, added that an increased focus on due diligence, better monitoring systems based on sound data and updated laws are needed to end child labour. Mr. N'Guettia from the Ministry of Labour of Côte d'Ivoire contributed to the discussion by sharing the changes that he has witnessed in the region. He discussed important factors such as awareness raising, due diligence, ratification of many UN's Conventions, social protections and respect for the rule of law.

Mr. Fountain also added that although many changes have happened since 2006, there are still a lot of problems. For example, legal protections forbidding child/forced labour are not yet mandatory, there is a serious lack of transparency and accountability as well as a very ineffective infrastructure. He finished the discussion by stating that a real societal change happens over decades and thus there is more focus needed on long term goals.

### Finance against slavery: How government action and public-private partnerships can work to end modern slavery and human trafficking

The event opened with remarks from James Cockayne, Director of the United Nations University Center for Policy Research, who stated that there are currently 40.3 million people estimated by the ILO to be in modern slavery. He discussed modern slavery and child labor as market failures and the results of mispricing of labor in which the externalities and costs are imposed on victims and society as a whole. He concluded by stating the financial sector is the lever that can move the market and is key to systematic change in these issues since the financial sector has leverage over businesses through investments.

James Kofi Annan, founder of Challenging Heights, discussed his own personal experience as a former banker and stated the financial industry is financing trafficking without knowledge by perpetrating funds towards trafficking.

Leonardo Sakamoto, who is on the Board of Trustees for the United Nations Trust Fund on Contemporary Forms of Slavery, discussed Brazil's focus on the financial sector's connection to modern slavery. He noted Brazil's database of a list of companies and employers suspected of using forced labor or trafficking.

Namit Agarwal, member of the UN Working Group on Business and Human Rights, discussed the issue of modern slavery being common in India. She stated that there is progressive framework on responsible work conduct, but limited ability to make significant change.

Fiona Reynolds discussed her experience as the former chair of the Financial Sector Commission in which she particularly focused on the banking and investment community with the aim to strengthen anti-money laundering laws. She emphasized that although the finance sector alone cannot solve the issue of modern slavery, the issue cannot be solved without the finance sector. Ms. Cockayne furthered this sentiment by discussing the Survivor Inclusion Initiative, an effort with twelve banks and six survivors to facilitate access to basic bank accounts for survivors of slavery and trafficking.

Anita Ramasastry, another member of the UN Working Group on Business and Human Rights, discussed the role of governments in addressing market failures, citing how governments have been encouraging due diligence more in recent years.

Bryce Hutchesson, the Ambassador for People Smuggling and Human Trafficking for the Australia, emphasized Australia's commitment towards supporting implementation of anti-trafficking recommendations and emphasized the necessity of effective partnerships when combating modern slavery.

Mr. Cockayne asked the panelists how survivors and civil society play a role in anti-trafficking measures. Mr. Agarwal discussed the role of civil society in holding companies accountable and emphasized the necessity of the financial sector and stakeholders to work closely with survivors. Mr. Annan echoed this sentiment by stating it is both a duty and responsibility to defend survivors and ensure they are being empowered to share their stories.

There were several questions from the audience, such as how to initiate accountability for the financial sector in countries that do not acknowledge modern slavery as an issue.

The event closed with Mr. Cockayne thanking both the panelist of speakers and the audience for attending the session.

## Combatting internet shutdowns, social media taxes, and censorship

This session looked at the unique ways in which governments are using internet shutdowns, taxes on social media, and censorship laws to attack freedom of expression. Due to the methods governments are employing to limit speech, telecommunication and social media industries are often caught in the middle of potential widespread violation of freedom of expression.

Ms. Taye explained that an internet shutdown can be defined as an intentional disruption of internet or electronic communications, rendering them inaccessible or effectively unusable, for a specific

population or within a location, often to exert control over the flow of information. They include blocks of social media platforms, and are also referred to as “blackouts,” “kill switches,” or “network disruptions”.

Then, Ms. Okkonen said that from a company’s perspective, when a government makes a request of an internet shutdown and this request is legal, the company must comply and proceed with it, otherwise it means that they are not complying with the national law. For Vodafone, its priority is compliance with the law. She encouraged states to be more transparent when requesting these kinds of actions and work closer to civil society, in order to tackle the threat to the right to freedom of expression, privacy, and association.

Mr. Stephens outlined that governments should carefully measure the cost of shutdowns, which is massive, as well as identify the social and economic harms on their people. Countries should always be transparent in terms of national security and public imperative, the duration of the shutdown, and acknowledge its causes and consequences, including social pressure. In parallel, it should try to live up to the standards with respect to the rights to freedom of expression and association.

Next, Mr. Warofka mentioned that Facebook’s philosophy is not to gain users, but to facilitate expression and hear people. He highlighted that Facebook has noticed a broader decline in internet freedom: 33 out of 65 countries prohibit access to internet. He further said that when Facebook receives requests to censor pieces of contents, the company has a high formal treatment, in order to properly respond to the governments, through an in-depth legal analysis of the national law and its accordance with the international human rights instruments. He concluded by saying that governments should recognize the serious consequences of disrupting network access and content censorship, and see shutdowns through a human rights and development lens, not solely through a political or security lens.

Mr. Jaekel raised an issue on how difficult it is to comply with local legislation when the legislation presents some provisions that are not completely aligned with international human rights frameworks. In this case of “conflict of laws,” in his opinion, companies should demand transparency to the government, as countries allege that international instruments are not a binding legislation in their territories. He further mentioned that mandatory human rights due diligence legislation would be helpful.

Finally, the speakers agreed that any restrictions on information online service in times of emergency should be thoroughly defined, subject to prior judicial approval, and reserved for exceptional circumstances. The economic and human rights harms of network shutdowns reinforce each other, and are of particular concern in developing countries, emerging and fragile democracies, and jurisdictions with weak rule of law.

They ended by saying that clear, precise, and transparent legal frameworks regarding government authority to restrict communications do not exist in all states, and provisions for adequate, independent oversight are often absent. They recommended governments to be transparent with their citizens about the government’s role in shutting down or restricting networks and services, and the legal justifications for any restrictions. ICT companies, from mobile network operators to social media companies, should cooperate with each other and with experts across academia, governments, international institutions, civil society, and the media to raise awareness of the serious, long-term social and economic impacts of these disruptions. Stakeholders should work to inform public debate and encourage human rights-based laws and policies.



## Prevention of human rights violations

### Prevention is better than cure: exploring best strategies by States to prevent attacks on human rights defenders

The meeting started with the 2019 Human Rights and Business Award, delivered to Al-Haq organization, represented by Shawan Jabarin. The objective was to discuss the best strategies for States to prevent any kind of reprisal on human rights defenders (HRD). For that purpose, eleven panelists were divided in three panels to discuss the issue from different perspectives:

1. Michel Frost, Special Rapporteur on the situation of HRD; Marianne Hagen, from the Ministry of foreign affairs of Norway; Joel Frijhoff, responsible sourcing and trading at Vattenfall; Anita Ramasastry, from the UN Working Group on Business and Human Rights.

In this panel, some general reflections about the current attacks to HRD were exposed by the panelists. They expressed their commitment with the issue and put an emphasis on the following: dialogue, due diligence, access to remedy for HRD victims of attacks or reprisals.

2. Mark Fodor, from Defenders in Development campaign, Development Finance Institutions and human rights; Veronica Cabe, from the Coal Free Bataan Movement; Arantxa Villanueva, from MICI (Independent Consultation and Investigation Mechanism of the Inter-American Development Bank).

The second panel focused on specific examples of anti-reprisal requirements for development finance. The role of the banks in the issue of HRD was emphasized, and the example of the “tool-box” for accountability mechanisms was exposed by the representative of the Inter-American Development Bank.

3. Luisa Rios, environmental defender, indigenous people’s representative; Carlos Briceño, Permanent Mission of Peru; Alfredo Okenve, civil society representative from Publish What you Pay; Hannah Clayton, International Council on Mining and Metals.

Last panel was about specific examples of response strategies by States when HRD suffered attacks despite prevention. The indigenous representative exposed the case of Peru and drew attention to the little concern shown by the government to protect the HRD. The Peruvian delegate from the Permanent Mission exposed therefore several mechanisms the government implemented in order to protect the HRD, and the National Action Plan (NAP) they are developing. Finally, Okenve exposed its personal experience where the government failed to protect him and a firm helped him getting out of prison.

## Human rights due diligence: trends and challenges

During this meeting, the panellists discussed what progress has been made in regard to the respect of human rights due diligence in businesses, and the role the State within the process. The panel was composed of Tyler Gillard, head of sector projects of the OECD Responsible Business Conduct Unit; Dante Pesce, member of the UN Working Group on business and human rights; Margaret Wachenfeld, board director of Corporate Human Rights Benchmark; Christy Hoffman, general secretary of UNI Global Union; Danielle Essink, director active ownership of Robeco; Caroline Broder, business and human rights advisor at Oxfam America; and Teresa Fogelberg, chair Transparency Benchmark at Netherlands Ministry Economic Affairs.

They said that when preparing their national action plans on business and human rights, the governments could start with the collection of data on what the companies are doing, instead on what the government does. They mentioned that some companies and investors expect

governments to make the human rights due diligence process mandatory in order to move forwards, and also expect the European Union to take actions. Giving the NGO point of view, a panellist raised that a clear legal responsibility is needed for companies, and it must be included in the legislation, as well as adequate sanctions and remedies for victims.

They stated that in terms of expected outcomes, some progress has been made with the new government policies, the enforcement of existing legislations and by starting to adopt certain legal requirements in supply chains and middle markets. Nevertheless, there is still a long way to go regarding the mitigation of risks on the ground and the engagement with stakeholders. The engagement must be done in a meaningful way with a long-term aim, and by providing the tools for the communities to participate. A core element of due diligence should be to make sure it gets actually implemented. For example, when abuses or issues are reported within a company, it has to start a corrective action plan that must be implemented soon after.

Giving the governmental point of view, a representative of the Dutch ministry of foreign affairs explained that the concept of due diligence should be looked at in terms of a social contract between the government, the private sector and citizens and that, instead of doing the thing right, governments should do the right things. Then, she stated that even though only 20 countries have a national action plan on business and human rights, the impact of these action plans is felt more broadly due to the interrelation of businesses. Finally, she raised the fact that, in the Netherlands, the ministry ranks individual companies according to benchmarks that are known, through a transparent process.

Transparency is a key human rights principle and companies should be communicating their actions. Nevertheless, the panellists explained that companies are often very reluctant to publicly disclose risks as well as any information relating to human rights due diligence, even when they are actually taking steps to improve the situation. Thus, there must be clear guidance on reporting and the government must review the assessment documents produced by companies and see if they comply with the law and provide adequate answers to risks and issues. They raised the concern that companies will stop engaging in high-risks sectors by fear of criticisms on their reports. However, acting on and reporting due diligence is useful for businesses as judges look for good practices when a case is raised before them.

Another key issue raised during this meeting is the value of human rights due diligence for the market, as the standards are going up but the prices are negotiated down. If no one is willing to pay, no progress will be made on human rights. Finally, they claimed that it is important that companies look at the risks posed to people, not the risks to their companies' activities.

## Accountability and remedy

### Corporate accountability: Lessons from recent legal cases

This meeting focused on the importance of not only of "access to" remedies but also on the outcome. Panellists included Dan Leader, partner at Leight Day layers; Jennifer Zerk, legal consultant at OHCHR Accountability and Remedy Project; Sandra Cossart, executive director at Sherpa; and Sor Rattanamanee Polkla, executive coordinator at Community Resources Centre. They explained that the national action plans adopted so far do not deal with the issue of remedies.

The panellists gave several examples of litigations and remedies within the framework of business violations of human rights. One example showed that UK courts decided not to apply a restrictive approach to company liability and that the parent company's responsibility can be engaged if it has taken actions that prove its involvement with the other company. In the case "Sherpa and ActionAid France against Samsung", the investigating judge decided that an ethical code of conduct is considered as advertising and can therefore be used as the basis for a false-advertising claim.

Then, the example of the French law on the duty of vigilance was raised, which established new obligations for certain companies to create and publish a vigilance plan and create liability. This law provides better access to justice and relies on human rights due diligence, however letting the burden of proof on the claimant.

Regarding the argument that companies often raise, that they cannot provide help concerning human rights issues, especially when these happened in supply chains, one panellist stated that companies find a solution in no time when a technical issue arises in the supply chain to get their product ready, and thus they could do the same when human rights issues takes place.

Finally, they explained that human rights due diligence is a duty, not an option for companies. They raised the importance of litigation as the ultimate sanction to represent victims, as in the case of mitigation the direct victim often does not get compensation.

## What does accountability and remedy look like in the case of adverse human rights impact from digital technologies?

Since 2014, the OHCHR has been focusing on the UNGPs third pillar on the access to remedy, and recently launched the B-Tech project to examine some core challenges on human rights and technology, and to apply the link with the UNGPs. These two projects coming together lead the access to remedy when human rights abuses arise in the tech sector.

Sarah Joseph, Director of the Castan Centre for Human Rights Law, explained that technologies can act in unpredictable ways, observing the fact that when Mark Zuckerberg was named the person of the year by the Times in 2010, no one could predict that Facebook would play a facilitating role in the Myanmar genocide.

Nikolaj Christian Borreschmidt, advisor to the Danish tech ambassador, while discussing the significance of multi-stakeholders' engagement, mentioned that the State decided to make tech diplomacy a priority and created teams in the Silicon Valley and other tech markets. These teams help the government understand tech development and prepare the society to deal with these changes. They also act as watchdogs to ensure the tech companies are held accountable.

Theo Jaekel, Corporate Responsibility Expert - Business and Human Rights, at Ericsson raised the issue of the end user's utilisation of the technological product and the problems that can arise when many steps and suppliers exist between the first company and the end user. He asked what the company's role can be in providing the remedy, and what the role of the government is.

Rebecca MacKinnon, director at Ranking Digital Rights and Laura Okkonen, Senior Human Rights Manager at Vodafone, stated that the government should do better in implementing or creating laws as, in the absence of a legal framework, it is quite difficult to ask companies to provide remedies. Lene Wendland, chief of the business and human rights unit at the OHCHR, reminded that

the State's responsibility to protect applies even though no national laws are implemented or in place.

Finally, in regards to the support that business can bring to individuals in accessing remedies, Laura O'Brien, Policy and Advocacy Fellow at Access Now explained how they provide legal assistance, how they can help with internet access for human rights defenders that have been denied their rights, and to encourage multi-stakeholder dialogue.

Information: The Special Rapporteur on the right to privacy will soon release a report on data.

## Claiming accountability through peer review of national action plans: A simulation

The event opened with moderator Elin Wronzcki introducing the panelist of speakers. Kent Wilska, Commercial Counselor of the Ministry of Foreign Affairs for Finland, discussed Finland's UNGP National Action Plan (NAP), which was adopted in September 2014 and the fourth NAP in the world. He emphasized challenges faced prior to publishing the NAP, such as not having prior plans to learn from. During the NAP process, he noted that the most important takeaway was what due diligence means in practice for civil society.

Maryann Njau, Senior Deputy Solicitor General for the Office of the Attorney General and Department of Justice in Kenya, raised a few issues with Finland's NAP, such as how stakeholders were identified, how the working group reached different stakeholders, and how information was disseminated to stakeholders to ensure effective contribution. Mr. Wilska responded to these questions by noting the many consultation mechanisms employed by Finland for civil society and companies. He mentioned both formal and informal consultation discussions that were held with different groups.

Denisse Cufre, Coordinator for Public Policy for the Human Rights Secretariat in Argentina, raised several more questions. She asked whether integrity and risk analysis of human rights for corporations were governed by the state, if due diligence is mandatory or state-promoted, funding of international corporations for development, and what the implementing mechanisms for NAP's are. Mr. Wilska responded with the voluntary approach for due diligence undertaken by the Finnish government, guiding principles and due diligence practices recommended for companies receiving state financing, and public procurement guidelines published by the government.

Christopher Patz, Co-Director and Policy Officer at the European Coalition for Corporate Justice, offered the civil society perspective by discussing his evaluation of Finland's NAP process. He commended Finland's debate on what is human rights due diligence in practice and stated that Finland is exceeding EU requirements and has the potential to promote higher standards for harmonization. He then asked if there is a national human rights institute within Finland and suggested the Finnish government conduct a peer review with the German government as a means to highlight business and human rights. Mr. Wilska thanked Mr. Patz for his comments and acknowledged that the access to remedy has been difficult.

Ms. Wronzcki then conducted a series of surveys for the audience. These surveys showed that the majority of the participants believed that an international peer review could improve NAP's, civil society should be the most involved during the peer review, and the national human rights institution should host the peer review.

The event then shifted back to the panelist speakers.

Anais Schill, advisor to the National Consultative Commission on Human Rights in France discussed the methodology behind periodic reporting for evaluating France's NAP and identification of stakeholders. She stated that the evaluation report for France's NAP would be published in June 2020.

Frouke Boele, Manager for Latin America and the Caribbean at the OECD Center for Responsible Business Conduct, stated that 21 out of the 22 existing NAP's adhere to OECD guidelines. She discussed the OECD's peer reviews of NAP's to identify strengths and weaknesses, along with the methodology and challenges to the process.

Mona M'Bikay, Director of UPR Info, discussed the Universal Periodic Review process and noted that many countries have developed a national human rights institution and/or NAP due to the process.

Mr. Wilska closed the event by offering a suggestion to the international community that although the NAP creation process can become difficult and politicized, it is necessary to first get started on creating the plan and facing obstacles as they come.

## Access to remedy for indigenous people: barriers and opportunities

This meeting was about the access to remedy for Indigenous People around the world. There were four panelists whose objectives were either to explain their specific cases, denounce a personal situation or present their project in order to achieve a better access to legal assistance, justice and remedy for indigenous people. Three of the panelists were representatives of their own indigenous communities in Kenya, Peru and the Philippines.

The first one, Mali Ole Kaunga, denounced the Lake Turkana Wind Power Station project which is settling in indigenous territories. The local indigenous community is asking for legal assistance but the one available for such cases is 300km away from them. He emphasized that, there are huge inequalities when it comes to access to justice between indigenous peoples and big companies, and that the problem is not with green energy, but with the way the project is imposed on the communities living there.

The second speaker, Miguel Guimaraes, representative of the Shipibo Conibo community, denounced the deforestation of their indigenous ancestral territory for palm tree farming. He claimed that they have been asking for years to have an effective territorial delineation in order to have legal ownership on their ancestral lands.

Mandja Bayang, from the Philippines, exposed that her country is quite different as it is the only one in Asia which recognizes indigenous people's rights in the Constitution. However, she denounced cases of corruption within the indigenous people's commission, which makes them fear an ineffective protection from the State.

Last panelist, Jennifer Zerk, from the OHCHR, presented a project for better access to remedy for human rights defenders, and in this case, indigenous peoples. For that purpose, she exposed five key problems:

1. Weakness of remedy mechanisms due to poor knowledge about the people it is meant for.
2. Poor knowledge on what really means Free Prior and Informed Consent (FPIC).
3. Ineffective and inapplicable remedy solutions.

4. Incomplete legal system and too much bureaucracy.
5. Failure to deal with the risks of reprisals and intimidation.

## The impact of corruption on human rights and the role of businesses

### Corruption: The business and human rights dimension

The session started off by Ms. Lyckman, a representative from the Swedish ministry of foreign affairs, addressing the idea of businesses working against corruption, sustainable development and transparency. Swedish companies have a long history of active Corporate Responsibility (CPR) and Sweden is often perceived as a pioneer within the field. The first anticorruption initiative in Sweden was established in 1923. She identified three major areas to focus on when dealing with corruption: transparency, democratic development and gender equality. She also mentioned that high levels of corruption discourage international investment, slow down social development and harbour poverty. Moreover, Ms. Lyckman also highlighted the fact that it is mostly women who bear negative consequences of corruption and recognised the connection between corruption and gender inequality. In addition, she also acknowledged that states and businesses must create a partnership and learn to trust each other.

Next, Ms. Schiavi, the Deputy Director of the International Chamber of Commerce, suggested that business, governments and civil society need to work together and, in addition, that international business monitoring committees need to be established. He further stated that corruption flourishes in the regions with weak rule of law, poverty and that marginalised groups suffering the most. He also emphasised the importance of due diligence process in supply chains and the notion of compulsory compliance.

Ms. Lonean, from Transparency International (TI), proceeded with adding another important dimension into the mix: the civil society. She drew attention to creating an environment of trust and bringing in public procurement. Ms. Lonean also mentioned TI's project of monitoring several countries on the issue of corruption, private property rights, public- private partnerships and local legal means of fighting corruption. In addition, Ms. Lonean stressed the importance of developing effective whistleblowing policies and integrity tools in business.

Mr. Taylor, the Director of Global Witness, established the connection between environmental destruction and human rights abuses. He noted that when "money is followed" often a questionable connection between government and companies appears. Furthermore, Mr. Taylor stated that often the main problem lies within companies themselves, their lack of transparency and the issue of "gate keepers".

Ms. Van Wouderberg, the Executive Director of Rights and Accountability in Development, acknowledged the difficulties in receiving recognition for victims. It often lies within the corporate veil, differences in jurisdictions as well as approaches to human rights. She challenged the common perception of victims being companies or governments – the act of corruption has often a knock-on effect on individual workers and their families. Additionally, Ms. Van Wouderberg mentioned a case of marginalized worker being made redundant, losing his health insurance and as a consequence not being able to pay for his child's hospital treatment. Moreover, the fines received for corruption often go to the state rather than the affected individuals. In the UK on average less than 14 percent money received in fines goes back to the countries where the act of corruption occurred and none back to the actual victims.

## How business can leverage anti-corruption practices to advance respect for human rights

The session began with the introduction of the moderator Kylie Porter, the Executive Director of the Global Compact Network Australia, who introduced the panelist of speakers.

Hanna Machinska, Deputy of Polish Ombudsman, emphasized that the battle against corruption must not be lost, stating that institutions play a decisive role in combating corruption. Ms. Porter furthered this statement by noting 91% of surveyed companies have human rights and anti-corruption policies in place, but less than 40% conduct risk assessments.

Jean-Michel Scuitto, Director of Ethics and Anti-Corruption GSE, shared a story of working with a North African company that was later charged with corruption.

Raphael Lafeta, Executive Director of Institutional Relations and Sustainability, discussed how his company, MRV Engenharia, offers constant training and ethics workshops to combat corruption. He additionally discussed due diligence mechanisms to identify risks when working with third parties.

Raffaele Cutrignelli, head of Audit and Compliance Officer at Enel Americas, discussed his organization's UN Global Compact commitment and human rights policies.

Anahita Thomas, partner and head of Baker and McKenzie, emphasized the importance of making trainings more practical and incorporating values that companies care about.

Ms. Porter asked Ms. Thomas how legal developments at the national and international level with modern slavery laws have influenced the way companies tackle the intersection of human rights and anti-corruption. Ms. Thomas discussed the existence of extraterritorial laws that are anti-bribery and corruption (ABC) compliance. However, she noted that it is far limited in the human rights sense and although human rights laws may exist, they are not stringent enough.

Ms. Porter then asked Mr. Cutrignelli about the challenges of putting global views into practice in which he answered with the suggestion of defining a global standard inspired by best practices and requirements on anti-corruption.

Ms. Porter asked Mr. Lafeta about his priorities for anti-corruption within MRV and asked Mr. Scuitto on his priorities since he is part of a smaller company. Both Mr. Lafeta and Mr. Scuitto answered that they prioritize creating policies that progress integrity and due diligence. Satrio Anindito, the Program Manager for Global Compact Network Indonesia, discussed his work on anti-corruption and transparency for Indonesian companies.

The floor then opened up for questions from the audience, who asked about whether investors ask about corruption and engagement with civil society.

The event ended with closing remarks from Lise Kingo, CEO and Executive Director of UN Global Compact, who emphasized the link between anti-corruption and human rights, and its importance to businesses. She stated that corruption significantly contributes to human rights violations and companies that fail to address corruption neglect the rights of stakeholders. She highlighted that corruption is one of the biggest impediments to the Global Development Agenda, and stressed human rights and peace as founding pillars of the UN. She ended with stating that human rights and anti-corruption must be anchored as key business priorities.



## The impact of businesses on the environment

### Addressing environmental harms – the business and human rights connection

This meeting was about environmental human rights and related responsibilities of the business sector. It counted with presence of panelist from several backgrounds: David Boyd, SR on Human Rights and the Environment; Andrew Slight, PepsiCo; Indianara Ramires Machado, Guarani Kaiowa indigenous youth representative; Michael Ineichen, International Service for Human Rights; Stephanie Venuti, Organisation for Economic Co-operation and Development (OECD).

Several issues were raised, among them, the panelists exposed the specific cases of their community or institution they represented. Indianara Ramires Machado for example, talked about the case of Brazil and how the country failed to implement effective Free Prior and Informed Consent mechanisms and put special emphasis on the importance of dialogue in this kind of processes. Overall, all the panelists supported the important role human rights defenders have in the fulfilment of the SDGs, as these serve as conceptual framework and common language to achieve effective protection of environmental human rights. The issue of moral responsibility of the firms was raised, and how it should be better considered. Michael Ineichen also put forward the fact that sometimes the risk of inaction is greater than the risk of action for the firms, as it can result in the paralysis of the economic activity, and therefore, a loss of money.

### Addressing climate change: The business and human rights connexion

The session explored what businesses should do to prevent climate harms and how states should support this goal by adopting appropriate policies and legal regulation. It also reviewed various judicial and non-judicial mechanisms employed in recent years to hold corporations accountable for climate change-related human rights harms.

Mr. Deva started his presentation saying that climate change is the most serious threat facing humanity, and that urgent action is needed to limit greenhouse gas emissions and address climate-related risks. Climate change is one of the priorities of the working group. The group has been working closely with all the stakeholders and it needs to be addressed and discussed around the globe. He further stressed that development usually comes first in discussions and decisions which is, then followed by climate mitigation. According to Mr. Deva, this is not the way to prevent and tackle climate harms. Mr. Deva ended by noting governments must create incentives & disincentives, include and integrate climate change solutions in trade, public procurement, states, and policy companies. He also expects coherence from the corporate sector, that all the companies and investors must come together in order to tackle the negative impacts of climate change on people's lives and human rights.

Ms. Tebar-Less said that the OECD Guidelines for Multinational Enterprises are the most comprehensive government-backed instrument on responsible business conduct, representing international consensus on the responsibility of companies regarding impacts on people and the planet – including climate change. She emphasized that one of the key expectations reflected in the Guidelines is that companies should contribute to sustainable development, avoid causing or contributing to adverse impacts, and seek to prevent or mitigate adverse impacts linked to their operations, products, or services to which they are directly linked by a business relationship. She

concluded by stating the pressure on companies to deal with climate change will continue growing and so will the expectation that they use readily available tools to address their impacts on climate.

Next, Ms. O'Brien warned the audience that Australia, for instance, is on the edge. She gave examples of some situations occurring in Australia, such as the Australian Prime Minister threatening NGOs, koala extinction, and Australia's lack of policy on the preservation and protection of the Great Barrier Reef against pollution committed by companies and industries. Generally speaking, Ms. O'Brien stated that climate change has been significantly reducing surface water and groundwater resources in most dry subtropical regions, thus intensifying competition for water among agriculture, ecosystems, settlements, industry, and energy production, while affecting regional water, energy, and food security. It also increases the frequency of droughts in dry areas. She ended by stressing people are on the move, since this is a recipe for a human rights disaster and that companies are not preventing or mitigating climate harms as they do not respect human rights.

Ms. Khan noted that for climate justice, the truth is that governments and the fossil fuel industry bear the real responsibility for this crisis, since they have known for decades what they need to do to get us out of it. She then highlighted that governments cannot escape legal responsibility for the decades of promises that they have made to address climate change. Ms. Khan mentioned that cases demanding more ambitious climate action have been filed against governments in Europe, North America, Latin America, Africa, and Asia-Pacific. According to her, a recent tally concluded that climate change-related lawsuits have been filed in at least 28 countries, and they are being initiated by groups including young people, women, farmers, families, migrants, students, and organizations working for environmental and social justice.

Mr. Da Silva presented an example of accountability mechanism on climate change, such as the Independent Redress Mechanism (IRM) of the Green Climate Fund (GCF). He explained that IRM addresses complaints by people who believe they are negatively affected or may be affected by projects or programs funded by the GCF. He then outlined that compliance processes are undertaken only when a project or program of the GCF has potentially not complied with GCF's policies and procedures, and these include environmental and social safeguards.

To wrap up the session, it was reiterated that all business enterprises have a responsibility to prevent and address negative impact on the environment. Although neither the UN Guiding Principles on Business and Human Rights nor the OECD Guidelines for Multinational Enterprises explicitly mention climate change, it is widely accepted that the business responsibility to respect human rights and environmental rights includes the responsibility to identify, prevent, mitigate, and account for climate change. However, what this responsibility means in practice for corporate human rights due diligence, as well as for state duty to protect against human rights abuses by businesses, require further and effective elaboration and commitment.

## Human rights abuses in supply chains

### Discount workers – a fight for justice in global supply chains (film)

The documentary addresses the quest for judicial remedy of Pakistani rights' holders affected by the Ali Enterprise factory fire that killed 259 workers, revealing the barriers faced and the lasting impacts of the tragedy. The film follows one of the affected families in Pakistan, their dealings with the Pakistani justice system and their fight for justice in Germany when suing KIK, the German fashion chain for which they were making clothes at Ali Enterprise factory. Yet, the case was dismissed on

the grounds of being submitted too late after the incident occurred and thus the statute of limitations had expired. The case highlighted the issues of global supply chains, due diligence, burden of proof and the lack of transparency.

The panellists elaborated further on the problems brought up by the film. Mr. Plank, Head of Business and Human Rights from the Federal Office in Germany, discussed how due diligence is currently implemented by German manufactures with international subsidiaries. She stated that currently the commitments made by companies to respect human rights are only voluntary. However, Mr. Plank also explained that the current German Government has made an agreement on implementing the National Action Plan on Business and Human Rights. The government has committed itself to legislative measures if by 2020 fewer than 50 percent of German companies with more than 500 employees have not introduced effective human rights due diligence process.

Mr. Patz, Film Co-director and Policy Officer at European Coalition for Corporate Justice, outlined his experience of the dreadful conditions in the manufacture factories, the use child labour and the extremely low pay of the factory workers. Furthermore, he discussed the painfully slow pace of Pakistani courts, the issue of environmental due diligence and the high amount of pressure that otherwise united communities are put under during court proceedings. Mr. Patz also stated that the act of business reporting does not change companies' behaviours in decision making; it's just beneficial for investors. In general, ethical companies have to compete against those that rely on forced labour and thus, to create a system of fairness, all German companies should abide by the same standards.

## Transparency and beyond: Taking shock of legislative approaches to eradicating modern slavery in global supply chains

Modern slavery is highly present in global supply chains, generating profits over 150 billion USD each year. Until very recently, most legal systems have focused on creating mandatory disclosure regimes. To tackle the issue, the UK introduced the Modern Slavery Act in 2015, which was followed by the Australian government introducing a similar legislation on its territory: the Australian Modern Slavery Act 2018. The panel discussed the lessons learned from the legislative initiatives, challenges and future efforts.

Ms. Crates, the Prevention Lead from the UK's Independent Anti-Slavery Commissioner, explained that the government and the society need to focus on what is happening within individual companies and that legal requirements ought to be mandatory. If not a very few companies will actually comply. She further discussed the necessity of transparency in the process.

Ms. Shavin, the Director of Global Initiative on Human Rights, argued for stronger internal dialogues with colleagues, better collaboration among sectors, identification of modern slavery risks and greater education.

Ms. Van Breen proposed several questions regarding legal statements. She questioned the content of statements and how long the statements concerned should remain in companies' websites. She shared her concerns related to the lack of commitment with only 25 percent of businesses complying with the procedures and also the fact that they often are more concerned with self-preservation. Ms. Van Breen then concluded with the notion of utilizing a wider customer base and civil society to engage with companies in order to make them to enforce the laws.

Mr. Gadelha, a Deputy in the Brazilian Congress, expressed his worries about the current presidency indirectly encourages child labour and contributes to worsening general labour conditions.

Mr. Kwok from the Hong Kong Legislative Council said that the new antislavery measures in Hong Kong are based on the UK Modern Slavery Act. Hong Kong based companies are now obliged to report to the national stock exchange to discuss what antislavery measures they have taken. He thanked the UK and Australian governments for passing the legislations.

## Protection of children

### Building a child labour free MICA industry: The role of government, business, NGOs and communities

Through discussing a variety of case studies, the session provided valuable insight into the process of eliminating child labour in MICA mining in India. The session was introduced by discussing the notion of child labour and the role of individual governments, NGOs and the civil society in the process. The MICA is a group of minerals used in many major industries including the beauty industry, car industry, automotive industry and construction. The first speaker, Mr. Ansari, shared his experiences as a child labourer himself. He described his experience of working in mines as deep as 300 feet, in 45 degrees temperatures surrounded by sharp rocks. He also explained how he was able to leave the mines with the help of certain NGO and finish his schooling in one of the children's rehabilitation centres.

David Hircock discussed the concept of "Child-friendly Villages". He gave details on how he set up the first Child-friendly village based on the local needs in 2005 and how they concept has been successfully replicated elsewhere in India. He highlighted the importance of child safety as well as the key role of education and cooperation of the whole community. Mr. Mishra talked about the importance of meeting the 2030 sustainable development goals within the MICA industry. In addition, he also emphasised the significance of creating child protection mechanisms, increasing peoples' participation in the democratic process and the governance. Ms. Fremont elaborated on the consequences the MICA industry including economic exploitation as well as health and safety issues and environmental impacts. She shared her vision of creating a responsible and sustainable MICA industry by 2022. The program pillars proposed included responsible workplace standards, community empowerment and legal frameworks. Mr. Ekka discussed the legal framework introduced by the Indian government to tackle the issue. Mr. Baral concluded the discussion by elaborating on the role of NGOS in the process and his personal experience as a child labourer.

### Children's rights and business – protecting children and fostering responsible business

This panel discussion showcased catalyzing examples of government policy successes that bring scale to priority business actions, which affect children's rights and those of their families. Business and human rights impact assessments increasingly demonstrate the need to look at children's rights not as a separate issue, but as part of interlinkages and dependencies.

Ms. Gornitska started her presentation saying that UNICEF wants to see more governments playing a visible leadership role in convening the State, business, and civil society around addressing business

social impact in ways that make children's rights explicit. She further emphasized that the abuse of children's rights today is unacceptable on its own terms, limiting and damaging our future society, as well as our collective goal of achieving the SDGs. She concluded by stating we must aim for scale by seeing States taking leadership, individually and collectively, and working together with business, multilaterals, and civil society to make this happen.

Next, Mr. Kombo took the floor sharing that in Tanzania, several children go fishing or to tourism hotspots rather than going to school. He stated that children willingly want to engage in the labor. He outlined that it is estimated that each child makes U\$25 per day by catching fish and selling to major hotels, as they usually feed family of 11 people. Mr. Kombo further said that it has been difficult to implement legislation against child labor and national action plans in this regard, because if they disengage children from labor, due to the economic scenario in Tanzania, another grave issue would likely emerge: poverty.

Nevertheless, in cooperation with UNICEF, the speaker said that the Tanzanian government has decided to conduct a study to understand and eradicate the roots causes of child labor in its territory. Through this partnership, they have started to incentivize children to go to school by implementing extra-curricular activities, including planting vegetables and fruits, tea and coffee breaks, and providing free school uniforms and materials. Additionally, the government has implemented a special programme to equally educate their parents, in order to create awareness of the risks of child labor.

Ms. van Selm then stated that since 2014, the Dutch government has been active in developing semi-voluntary, sector-based agreements on how to address risks relating to international responsible business conduct. In May 2019, the government has implemented the "Child Labour Due Diligence bill," which provides the introduction of a duty to care to prevent the delivery of goods and services that come through child labor. She explained that the bill asks companies to declare that they are taking the necessary steps to prevent child labor. If, after a complaint and subsequent review of the policy, it appears that a company has insufficiently complied with its obligations, an administrative fine may be imposed. She ended by saying directors of companies that have been fined multiple times can be prosecuted.

Ms. Sabater and Mr. Coleman spoke about the "New Child Rights and Security Handbook." They explained that this companion guide helps governments and companies to improve the protection of children's rights within security arrangements and reduce security-related human rights abuses of children and young people, particularly at and around mining, oil, and gas operations sites overseas. They further emphasized that improving the well-being of children around the world requires robust and holistic approaches, meaning that we have to be prepared to work with security sector actors, multinational business leaders, humanitarians, and local populations collectively.

Finally, the speakers and the audience raised the importance of all business corporations to consider:

- Meeting their responsibility to respect children's rights and commit to supporting the human rights of children
- Ensuring the protection and safety of children in all business activities and facilities
- Using marketing and advertising that respect and support children's rights
- Respecting and supporting children's rights in relation to the environment and to land acquisition and use
- Respecting and supporting children's rights in security arrangements
- Reinforcing community and government efforts to protect and fulfill children's rights.

## The impact of businesses in conflict situations and high risks sectors

### Addressing business-related human rights impacts in conflict and post-conflict contexts to build sustainable peace

Ms. Van den Berg, a Senior Policy Officer at the Dutch Ministry of Foreign Affairs opened the discussion by outlining the importance of peace for international business. She spoke about a case of political uprising in Ethiopia where Dutch farms suffered severe damages as a result of local uprising caused by political dissatisfaction. Ms. Van den Berg also elaborated on taking necessary steps to understand the causes of conflict including analysis, drivers of conflict, previous engagement, different components and environment as well as preventing actual violent extremism.

Mr. Chenais, a Policy Advisor at the Swiss Federal Department of Foreign Affairs, argued that investors in general always face challenges in foreign environment. They need to focus on mitigating risks to protect their investments. This include a good understanding of risks, cooperation with local businesses, protection of vulnerable groups, getting involved in peace building and supporting effective local practice.

Mr. Kumar from UNDP explored the notion of creating partnerships with the communities of combatants and working with the private sector to prevent future problems. He acknowledged that enterprises should be run and developed by local communities to ensure that everybody profits from the investments. Mr. Kular further added that business and public partnership are usually the most effective, yet also stressed that the whole process has to be genuine.

Ms. Househam, Human Rights Director from the Telenor Group, emphasized that operating in a stable and secure environment is crucial for any business. She discussed the ideas of institutional capacity building, supporting legal framework and corruption awareness rising. In addition, Ms. Houseman also highlighted the importance of transparency and engagement within local and international communities. To conclude, she reaffirmed that Western companies should abide by the same standards abroad as in their country of origin.

### Regulating businesses in context of conflict and occupation: What more is needed?

Conflicts are complex and cyclic where each stage of them poses different risks to human rights. The role of companies and their activities can exacerbate and institutionalize impacts on human rights. While business violations are well documented, preventing, stopping them and punishing damages is often difficult.

Experiences in Colombia, Liberia, Palestine, and Syria highlight the importance of regulating companies' operations during conflict and post-conflict scenarios, and how these tasks represent a challenge for societies. However, the implementation of the UNGPs in war areas is a cornerstone of the prevention of war crimes.

Many examples of lawsuits of business responsible of human rights violations are available, including in the finance sector. In order to prevent international crimes from being committed and thus

perpetuate conflicts, states and companies must prevent criminals' and illegal groups' access to international investments.

Likewise, good access to justice for victims of human rights violations by companies must be guaranteed and all victims must receive reparation. Colombian legal framework, transitional justice institutions, the ratification of the Rome Statute and the jurisdiction of the Interamerican Court of Human Rights represent a good practice to cooperate with the investigation of IHL and human rights violations.

## Responsible use of artificial intelligence and biometric tools in high risk sectors? Implication of “Protect, Respect and Remedy” for military and security sector actors

During this meeting, Chloe Poynton, Co-Founder of Article One and Marlena Wisniak, Partnerships Manager, Civil Society and Human Right, at the Partnership on AI, addressed the issue of artificial intelligence; ; Jonathan Andrew, Research Fellow at the Geneva Academy and Krisztina Huszti-Orban, Research fellow & Senior legal advisor to the UN Special Rapporteur on counter-terrorism and human rights focused on biometric tools. Maya Brehm, Advisor and Geneva Representative at Article 36, moderated the meeting.

On artificial intelligence (AI), the panellists discussed the heavy burden it can cast on human rights, including freedom of expression, association, and the rights to life, liberty and security. They also claimed that AI exacerbates existing injustice and inequalities. The use of AI can lead to identification without consent, targeting of people who then apply self-censure and undermine the work of journalists, human rights defenders and political dissidents. They raised the importance for companies to respect human rights due diligence and the UNGPs while developing and selling AI. They explained that AI technology can be made for certain use but that the companies need to be aware of possible misuses of their product and act to avoid such misuses. For example, companies could, before selling a product, see if the State is involved in an unauthorised armed conflict, if it has ratified certain conventions on banned weapons, if evidences show the weapon will be used in violation of international humanitarian law and so on.

On biometric tools and how they are used in the context of countering terrorism, the panellists explained that such tools evolved as a shift happened in terms of capabilities. Biometric tools can be used to determine certain aspects of behaviours, for example to analyse people's movements to see if they carry certain explosives as this changes the way they walk. This has been used in the situation of armed conflict, but it raises concerns regarding non-discrimination of people that are less mobile and can be flagged because of their movements. They further stated that UN resolution 2396 of 2017 imposes binding obligations to establish advanced passengers' information to identify terrorists. However, many member States do not have basic data on protection laws and policies to frame the implementation of this resolution.

The panellists raised the necessity to have data protection laws, especially in the context of counterterrorism, and the need to have a universally agreed definition of terrorism. They further raised the importance of following human right due diligence at all steps of the creation, selling, and with regard to the end user's possible use of the technology. Finally, they explained that the UNPGs focus on vulnerable groups and aim to ensure that not only the average person, but also vulnerable persons, are not harmed or impacted



Information: The Special Rapporteur on counterterrorism is in the process of developing a guiding principle on the compliance of the use of biometric tools to collect and use data in the context of countering terrorism and calls for information and reports from businesses and civil society organisations.

## Side event - A business and Human Rights approach to arms export: Responsibilities and accountability

Despite being a high-risk sector, the defense industry has so far escaped scrutiny in relation to its responsibilities under the UN Guiding Principles on Business and Human Rights (UNGPs). Regardless of human rights violations or international humanitarian law, arms are exported to states engaged in armed conflict with governmental authorization. This represents not only a violation of the UNGPs but it also contributes to the suffering of many communities around the world.

The panel included Dr Tara van Ho, from the University of Essex, who presented how governments currently comply with their duty to protect in the framework of arms exports.

Patrick Wilcken, researcher Arms Control, Security Trade and Human Rights at Amnesty International, talked about Amnesty's research on the human rights policies and practices of leading companies operating in the defense sector. In addition, he discussed recommendations for human rights due diligence by the defense sector.

Christian Schliemann, legal advisor at ECCHR, analysed ECCHR and FES's recent study on arms trade, due diligence, accountability and the need for legislative reform, including access to remedy in administrative and criminal courts for arms exports.

## Regional views

### Advancing the business and human rights agenda in the Middle East

Ms. A. Ramasastry, Member, UN Working Group on Business and Human Rights, mentioned that economic development in the region is over 2% and must be accompanied by respect for human rights in order to fight against sectarianism, restriction of freedom of expression and other challenges in the region.

Mr. M. Qadri, Executive Director Equidem Research and Consulting, mentioned that the industrial revolution and the Gulf Cooperation Council (GCC) generated a dramatic change in the region and therefore many challenges are to be overcome. Almost all countries in the world have problems to fulfil their international obligations in regard to the rights of migrant workers, particularly Qatar and other countries where most of the population is foreign.

Ms. A. Hindawi, Jordan & Lebanon Programme Manager, Business and Human Rights Resource Centre, also said that one of the main problems in the region in relation to business and human rights is the respect for the rights of migrant workers and refugees in all sectors, particularly in the construction where ethnic recruitment practices stand out.

Ms. N. Fulbrook-Kagwe, Executive, CDC Group plc, mentioned that her organization believes that education of companies is important, so they did workshops in several countries, particularly in North Africa. She considers that the main problems in migration and business contexts are

experienced by people without legal documents. She expressed concern about the regional practices of recruitment based on gender and ethnicity. In addition, she also discussed the impact of the Arab Spring and political changes in the region in regard to human rights.



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