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**Human Rights Council**

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Panel discussion on the tenth anniversary of the Guiding  
Principles on Business and Human Rights**

**Conference room paper**

*Summary*

The present paper provides a summary of the panel discussion on the tenth anniversary of the Guiding Principles on Business and Human Rights. The discussion was held on 29 June 2021 during the forty-seventh session of the Human Rights Council.

## I. Introduction

1. Following decades of attempts to develop a consensus around how business enterprises fit within the international human rights system, in 2005, the Commission on Human Rights requested the Secretary-General of the United Nations to appoint a Special Representative with a mandate to, among other tasks, identify and clarify standards of corporate responsibility and accountability with regard to human rights. This sparked a six-year process resulting in (1) the development of the “Protect, Respect, Remedy” framework outlining the respective duties and responsibilities of States and business enterprises as regards preventing and addressing adverse human rights impacts involving business activities, and (2) the Guiding Principles on Business and Human Rights, which was developed to operationalize that framework.

2. On 16 June 2011, the Human Rights Council unanimously endorsed the Guiding Principles in resolution 17/4, and the Guiding Principles were also welcomed by a wide range of other stakeholders. Since, the Guiding Principles have become the authoritative global framework for business and human rights, providing a globally agreed-upon standard and an authoritative baseline for what States and businesses should do to respectively protect and respect the full range of human rights across all business contexts.

3. In resolution 44/15, the Human Rights Council decided to hold a panel discussion during its forty-seventh session to commemorate the tenth anniversary of the Guiding Principles. That panel was held on 29 June 2021.

4. The objectives of the panel discussion were to take stock of progress made over the first ten years since the endorsement of the Guiding Principles on Business and Human Rights and to discuss possible further steps to improve their future implementation by all stakeholders.

5. The panel was chaired by President of the Human Rights Council, Nazhat Shameem Khan. Opening statements were delivered by High Commissioner for Human Rights, Michelle Bachelet, and former Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, John Ruggie. Following the opening statements, four panellists made presentations: Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on Business and Human Rights), Dante Pesce; General Secretary of the International Trade Union Confederation, Sharan Burrow; First Vice Chair of the International Chamber of Commerce, María Fernanda Garza; and Global Director of Indigenous Peoples Rights International, Joan Carling. After the presentations, there was an interactive dialogue composed of two segments, with each segment consisting of interventions from 12 States or observers, 1 national human rights institution and 2 non-governmental organizations. Finally, the panellists responded to questions posed during the dialogue and provided concluding remarks.<sup>1</sup>

## II. Opening statements

6. In her opening statement, the High Commissioner for Human Rights noted that the Guiding Principles on Business and Human Rights set out an authoritative, pragmatic and effective framework for realising positive contributions to human rights through the prevention and mitigation of risks to people. She shared how her office supported the practical implementation of the Guiding Principles through, for instance, the Accountability and Remedy Project, which was devoted to enhancing the effectiveness of remedial mechanisms so that victims could better assert their rights.<sup>2</sup> Additionally, her B-Tech Project had been demonstrating the utility of the Guiding Principles in addressing the unique challenges of the digital space.<sup>3</sup> Further, the High Commissioner highlighted her office’s role

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<sup>1</sup> Further background on the panel and its speakers is available at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/47session/Pages/Panel-discussions.aspx>.

<sup>2</sup> [www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx).

<sup>3</sup> [www.ohchr.org/EN/Issues/Business/Pages/B-TechProject.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/B-TechProject.aspx).

in supporting the Working Group on Business and Human Rights in making the Annual Forum on Business and Human Rights the largest global gathering on the subject.

7. The High Commissioner underlined that it should not be assumed that business invariably prefer, or benefit from, State inaction, and that States should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights. She welcomed efforts at developing such a smart mix, for instance through national action plans on business and human rights and through efforts to develop mandatory standards for human rights due diligence aligned with the Guiding Principles. She also mentioned the work of the intergovernmental working group to develop an international legally binding instrument on business and human rights. Additionally, she welcomed the action taken by many companies and business organizations to meet their responsibilities under the Guiding Principles, to push forward the business and human rights agenda, and to support the Working Group’s UNGPs 10+ project.<sup>4</sup> The High Commissioner also emphasized the vital role played by civil society, trade unions and national human rights institutions in advocating for the effective implementation of the Guiding Principles by both States and business.

8. Lastly, the High Commissioner insisted that many more governments and companies must begin or step up their efforts. She noted the many reports of human rights abuse and highlighted how crises such as the COVID-19 pandemic had further exposed and exacerbated the inequalities and vulnerabilities that were endemic to many business models. Although the challenges and contexts in which the Guiding Principles were applied had been constantly evolving, the High Commissioner reaffirmed that the Guiding Principles framework remained as valid as ever and would continue to guide us in the right direction.

9. The former Special Representative, John Ruggie, who developed the Guiding Principles, stressed that the Guiding Principles were the only authoritative guidance the Human Rights Council had endorsed for States and businesses on their respective obligations and responsibilities in relation to business and human rights. He noted that the uptake of the Guiding Principles had been relatively swift and widespread. In several jurisdictions, legislatures had incorporated elements of the Guiding Principles into hard law standards, and they had been referenced in national and regional court decisions. Such swift uptake was the likely result of the process behind developing the Guiding Principles. Many multi-stakeholder consultations around the world, meetings with different stakeholder groups, and pilot projects led to widespread consensus by the time the Guiding Principles were presented to the Council.

10. Focusing on the corporate responsibility to respect human rights, Mr. Ruggie highlighted four features that appealed to governments, businesses and civil society. First, the Guiding Principles differentiated clearly between the human rights obligations of governments and the responsibilities of business. Second, they established that the basic responsibility of business was to respect human rights, irrespective of what governments did. Third, the Guiding Principles provided business with the conceptual tools and practical guidance that enabled them to know and show that they respect human rights. Fourth, the Guiding Principles elaborated the concept of human rights due diligence, which was a management tool for businesses to assess and address the human rights risks of their operations and business relationships. Mr. Ruggie stressed the importance of human rights due diligence, noting that it appealed to business because it gave them a method to manage risks; it appealed to governments because it provided a specific policy measure to encourage or require companies to respect human rights; and it satisfied the needs of rights holders because properly-conducted human rights due diligence would reduce the incidence of harmful conduct.

11. Finally, Mr. Ruggie highlighted that progress in the field had been reinforced by the rise in environmental, social and governance investing, as the “social” factors were all about business and human rights. While he noted that these developments had not fixed all global challenges in this field, the Guiding Principles provided a strong foundation to build upon when addressing business and human rights issues.

<sup>4</sup> [www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRsnext10.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRsnext10.aspx).

### III. Summary of the panel discussion

#### A. Contributions of panellists

12. The Chair of the Working Group on Business and Human Rights, Dante Pesce, noted that he had recently presented a report to the Human Rights Council that took stock of the first ten years of implementation of the Guiding Principles.<sup>5</sup> According to that report, the Guiding Principles had contributed to significant progress towards promoting human rights in a business context. They had notably provided a common platform for action that did not exist before 2011 and had contributed to the broad institutional uptake of the concept of corporate human rights due diligence.

13. Recalling the governance gaps that allowed for business-related human rights abuse across all sectors and regions, he drew attention to key points for government action. First, governments must design smart and effective policy and regulatory measures that not only create level playing fields, but lead to better outcomes for people affected by business. Second, to drive impact, governments must increase efforts to address policy coherence gaps across government functions and roles. Third, as policy coherence at the multilateral level remains a key challenge, governments should integrate the Guiding Principles throughout the United Nations system, including across development, peacebuilding and environment strategies. Further, Mr. Pesce underlined the importance of engaging with rights holders when developing laws and regulation as well as protecting their rights when they are at risk of adverse impacts. He highlighted how the Guiding Principles provided a strategic framework and blueprint for States and business to respond to collective challenges. Finally, he announced that the Working Group would release a roadmap for the next decade, which would rest on the common platform provided by the Guiding Principles.<sup>6</sup>

14. The General Secretary of the International Trade Union Confederation, Sharan Burrow, noted the deterioration of respect for human rights worldwide, as was documented in her organization's annual Global Rights Index.<sup>7</sup> Such context underscored the fundamental role of the Guiding Principles. In her view, unless there was a move from voluntary to mandatory standards, in which the rule of law was implemented and violations sanctioned, then exploitation would continue. Although many major multinational companies lacked transparency in their supply chains, many others were trying to enact positive change, notably by conducting due diligence and working in partnership with trade unions. Ms. Burrow advocated for putting in place practical steps for due diligence and grievance procedures at every level.

15. She stated that the orthodoxy of seeing just wages and fundamental rights as being in opposition to productivity and growth was a myth. Governments must legislate and international institutions must reinvest in human and labour rights, as well as environmental standards. Going forward, due diligence should be made mandatory (and where it was mandated, strengthened), workers should be able to be represented according to their choice, and steps must be taken to ensure grievance procedures at all levels to ensure remedy.

16. The First Vice Chair of the International Chamber of Commerce, María Fernanda Garza, noted their involvement in the development of the Guiding Principles, along with States, business and civil society, and their continued support for the framework. She shared how her organization had supported its members implement the Guiding Principles, for instance through convening regional and thematic consultations and through an initiative to share best practices and discuss challenges and opportunities among member companies. Further, she noted her organization's contribution to the UNGPs 10+ Project and expressed her willingness to help implement the forthcoming roadmap.

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<sup>5</sup> <https://undocs.org/A/HRC/47/39>.

<sup>6</sup> The roadmap was released on 29 November 2021 and is available at [www.ohchr.org/Documents/Issues/Business/WG/ungps10plusroadmap.pdf](http://www.ohchr.org/Documents/Issues/Business/WG/ungps10plusroadmap.pdf).

<sup>7</sup> The 2021 Global Rights Index was released on 30 June 2021 and is available at [www.globalrightsindex.org/en/2021](http://www.globalrightsindex.org/en/2021).

17. Ms. Garza also discussed her organization's work with governments, for instance with regard to national action plans on business and human rights. The Guiding Principles called for a smart mix of measures, and she emphasized that this mix of voluntary and regulatory initiatives must be developed in an internationally consistent manner, and must deliver policy coherence and a level playing field for all companies. Recalling that a number of leading businesses had supported mandatory due diligence measures, she raised the concerns of other companies, in particular small and medium-sized enterprises, regarding the potential burden of additional regulatory requirements and the extent of liability resulting from such regimes. She advocated for greater business engagement in shaping future legislative measures, sharing global best practice, and providing support for small and medium-sized enterprises. Further, Ms. Garza reaffirmed the commitment of the International Chamber of Commerce to the Guiding Principles, and underlined the opportunity for the organization – in the spirit of their centenary declaration – to lead initiatives to promote their implementation.<sup>8</sup> Lastly, she called on the private sector, governments and civil society to work together to take the implementation of the Guiding Principles to the next level.

18. In her remarks, the Global Director of Indigenous Peoples Rights International, Joan Carling, noted the adverse impacts of business operations on indigenous peoples and stressed the role of the Guiding Principles in providing additional tools and mechanisms for the respect and protection of indigenous peoples' rights. She highlighted how Guiding Principles implementation had led to the development of human rights due diligence policies and guidelines which incorporated the need to obtain the free, prior and informed consent of indigenous peoples. Such policies and guidelines had been adopted by financial institutions and businesses in a range of sectors. Ms. Carling emphasized that it was crucial and urgent for these business actors to move from policy to implementation and set good practices to make positive changes on the ground in the next decade of implementation of the Guiding Principles.

19. Ms. Carling noted various national, regional and international developments that could increase protections of indigenous communities. For instance, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean was expected to improve access to justice for many indigenous communities. She also noted the discussions around mandatory human rights due diligence at the European Union level, as well as those regarding the treaty process at the United Nations level. Regarding the national level, she highlighted how indigenous peoples had been recognized in several legal reforms and national action plans on business and human rights.

20. Ms. Carling highlighted the obstacles faced in the implementation of the Guiding Principles, such as the lack of recognition of indigenous peoples and the fact that many indigenous peoples were unaware of their rights. Further, despite persistent and alarming violations of the rights of indigenous peoples, there were hardly any effective mechanisms for remedy, and those defending their rights were often subject to serious retaliation. She urged for such barriers to be addressed in the next decade of Guiding Principles implementation. Specifically, she called for legal recognition and protection by States of indigenous peoples' rights to lands, territories, resources, cultural integrity and self-determination. Further, there should be support for processes that facilitate free, prior and informed consent. The establishment of effective mechanisms for indigenous peoples' meaningful participation and inclusion in those processes that affect them was imperative, and effective mechanisms for access to remedy and justice should be given priority to strengthen the accountability of States and business.

## **B. Interactive discussion**

21. During the interactive discussion, interventions were made by representatives of the following Member and Observer States and United Nations entities: Argentina, Azerbaijan (on behalf of the Non-Aligned Movement), Bahrain (on behalf of the Gulf Cooperation Council), Bangladesh, Brazil, Cameroon (on behalf of the African Group), Chile (on behalf of Argentina, Brazil, Chile, Colombia and Costa Rica), Ecuador, the European Union,

<sup>8</sup> See <https://iccwbo.org/content/uploads/sites/3/2019/05/icc-centenary-declaration.pdf>.

Germany, Honduras, Iran (Islamic Republic of), Ireland, Libya, Mongolia, the Netherlands, Norway (on behalf of a cross-regional group of 55 States), Peru, Portugal, the Russian Federation, Sweden, Thailand, Uganda, and the United Nations Development Programme.

22. Representatives of the following national human rights institutions and non-governmental organizations also spoke: Cairo Institute for Human Rights Studies (on behalf of a group of organizations), National Human Rights Council of Morocco, Friends World Committee for Consultation, the German Institute for Human Rights (on behalf of the business and human rights working group of the Global Alliance of National Human Rights Institutions), International Federation for Human Rights Leagues (on behalf of a number of organisations), and International Service for Human Rights.

23. Due to a lack of time, statements were not delivered by the following Member and Observer States and United Nations entities: Armenia, Belgium, Canada, China, Denmark, Egypt, Finland, France, India, Iraq, Italy, Japan, Luxembourg, the Marshall Islands, Mexico, Nepal, Niger, Norway, Oman, Pakistan, Senegal, Spain, the State of Palestine, Switzerland, the United Kingdom of Great Britain and Northern Ireland, United Nations Children's Fund, United Nations Entity for Gender Equality and the Empowerment of Women, the United States of America, and Venezuela (Bolivarian Republic of).

24. For the same reason, statements were not delivered by the following national human rights institutions and non-governmental organizations: Chinese Association for International Understanding; the Commission on Human Rights of the Republic of the Philippines; the Consortium for Street Children; Ecumenical Federation of Constantinopolitans; ESCR-Net – International Network for Economic, Social and Cultural Rights, Inc.; Institute for NGO Research; International Commission of Jurists; International Organization of Employers; and Ordem dos Advogados do Brasil Conselho Federal.<sup>9</sup>

25. Many speakers noted that the endorsement of the Guiding Principles by the Human Rights Council was a landmark achievement, which clarified the responsibilities of States and businesses with respect to human rights and which provided a framework to prevent and address business-related human rights abuse. Delegations reaffirmed their commitment to the Guiding Principles, pledged to increase their efforts in implementing them, and urged others to take an active part in that regard.

26. Many speakers discussed the different ways in which the Guiding Principles had been or could be reflected in laws and policies. Speakers highlighted the importance of adopting a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights. One key element of such a smart mix included national action plans on business and human rights, and many delegations shared that they had developed or were in the process of developing or updating such a plan. Delegations also discussed legal developments, such as those regarding mandatory human rights due diligence and the United Nations process to develop a legally binding instrument on business and human rights. Several speakers welcomed and signalled their support for these developments. Additionally, the key role of national human rights institutions in these processes was highlighted.

27. Despite these developments, speakers highlighted a number of challenges that continued to exist with respect to the business and human rights agenda. It was recalled that civic space had been shrinking and there had been increasing attacks on human rights and environmental defenders. Pervasive gender and racial discrimination persisted, as did corporate capture. The impacts of unsustainable business activities on the environment and climate change continued to be a pressing human rights challenge. Further, the lack of accountability and access to effective remedy was highlighted as a particularly troublesome reality across all regions. It was noted that there should be increased attention paid to such challenges in certain industries going forward, such as the technology industry and the defence sector.

<sup>9</sup> Copies of those statements shared with the Secretariat are available at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/47session/Pages/Statements.aspx?SessionId=43&MeetingDate=29/06/2021%2000%3a00%3a00>.

28. Some speakers raised how the COVID-19 pandemic cast light on many systemic problems, as well as exacerbated inequalities throughout global supply chains. Some delegations highlighted the relevance of the Guiding Principles, and human rights due diligence in particular, as a means to ensure an equitable and inclusive post-COVID recovery.

29. To address the numerous challenges, speakers referred to several areas to focus on in the next decade of Guiding Principles implementation. Speakers highlighted the importance of capacity building, for instance through the sharing of best practices, peer-to-peer learning and knowledge sharing, and the development of guidance. It was noted that small and medium-sized enterprises, in particular, could benefit from increased technical and financial assistance. Additionally, several delegations emphasized the importance of policy coherence, at the national and international levels, and the development of hard law to complement the Guiding Principles.

30. Many called for a meaningful global partnership involving States, business, civil society and all other relevant parties. As they provided an international reference on business and human rights, it was noted that the Guiding Principles could help facilitate such joint action and collaboration. Several speakers highlighted that, over the past decade, the Working Group on Business and Human Rights had been key in bringing different stakeholders together from around the world, and in maintaining momentum on the implementation of the Guiding Principles.

### **C. Responses and concluding remarks**

31. Dante Pesce highlighted that all interventions recognized the utility of the Guiding Principles. Although there were different views regarding whether to be optimistic or pessimistic as to the state of business and human rights, we were lining up on the same side of history, which was very important when looking into the next decade of implementation.

32. Mr. Pesce noted that, for the next decade, the implementation gaps must be addressed. In his view, what should be focused on was: ensuring that human rights due diligence was not a check box exercise, addressing power imbalances that existed within societies, upholding right holders' participation in policy making and business practices, addressing the capacity gap, challenging business models and ensuring greater accountability. The lack of policy coherence at the global and national levels remained a big problem. Governments must lead by example and develop a smart mix of law and policy that actually works, that takes into account small and medium-sized enterprises and the informal economy, and that is not tainted by corruption and corporate capture. Despite the challenges that existed, he noted that the Guiding Principles provided a framework that enjoyed consensus and that could help raise the collective ambition of all stakeholders.

33. Sharan Burrow also noted that no speaker's intervention opposed the Guiding Principles; rather they enjoyed wide and positive support among many different actors. What would be crucial going forward was ensuring policy coherence from governments across all levels, internationally and nationally. We should strive for coherence throughout all relevant international organizations, United Nations bodies and in national legislation. Such coherence could, in turn, enable business to be more transparent, commit to robust human rights due diligence exercises, develop grievance procedures and enhance monitoring of healthy supply chains with respect to rights and environmental standards. She highlighted the unprecedented levels of anger, despair and inequality, which could lead to a lack of trust in governments and institutions. However, she stated that we could better ensure shared prosperity based on human rights if we worked together to find the core of coherence and develop laws based on the Guiding Principles.

34. María Fernanda Garza emphasized that the Guiding Principles represented a transformational roadmap to a future where all human beings and corporations could thrive and prosper. She urged all governments to develop robust national action plans on business and human rights, and to engage with all stakeholders, including businesses, when doing so. She noted key challenges regarding ensuring that new practices translated into improved human rights performance, and enabling all businesses to embed respect for human rights throughout their operations. In concluding, Ms. Garza encouraged the United Nations and its

Member States to enhance the efficacy of follow-up mechanisms under the Guiding Principles to allow for enhanced sharing of best practices and to catalyse collaborative approaches to enduring challenges.

35. Joan Carling stated that there was strong support to increase implementation of the Guiding Principles, and while progress had been made, gaps remained and needed to be addressed. She called for increased protection of human rights and environment defenders, as well as other rights holders, such as indigenous peoples, small farmers and other workers. There was a need to transform business as usual towards equitable and sustainable use of resources for the people. Further, unless States and business were held accountable with respect to human rights, the objectives of the Guiding Principles would not be achieved, nor would we achieve sustainable development for all. Going forward, there would be a need to increase capacity building, particularly regarding the rights of indigenous peoples, as these rights were often misunderstood by business and had not been adequately protected by States' legal frameworks. Lastly, Ms. Carling expressed her support for a legally binding instrument, for mandatory human rights due diligence, and for a transformation of the prevailing economic model, which had been unsustainable.

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