



**Working Group on the issue of human rights and transnational corporations
and other business enterprises**

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**Asian Regional Forum on Business and Human Rights
Opening statement by Dante Pesce,
Chairperson of the UN Working Group on Business and Human Rights
19 April 2016**

Your Excellency Assistant Foreign Minister,
Excellencies,
Ladies and Gentlemen,

It is a great honour for me, as Chairperson of the UN Working Group on Business and Human Rights to welcome you at the first Asian Regional Forum on Business and Human Rights that we have convened in collaboration with the Office of the UN High Commissioner for Human Rights.

It is the first time the UN convenes such a large and diverse gathering of stakeholders from across the Asia-Pacific to discuss how to prevent and address business-related human rights impacts. I would also like to express our appreciation to the Government of Qatar for their support to the organization of the event and for their hospitality.

It is a great pleasure to extend a warm welcome to our distinguished speakers, panel moderators and forum rapporteurs, to representatives of Governments from the region and beyond, representatives of the UN, international and regional organizations, national human rights institutions, representatives of indigenous peoples, trade unions, business associations, companies, non-governmental organizations, academics and other experts. It is an honour for me – both personally and on behalf of the Working Group – to welcome directly affected community members who are participating in the event.

We all need to listen to diverse and critical voices, and try to understand obstacles and challenges to overcome them. These two days provide a great opportunity to do so.

This Regional Forum follows on from the global annual UN Forum that is held in Geneva. The annual Forum, to be held for the fifth time in November this year, has already become the largest global forum for dialogue on business and human rights. It also follows on from previous regional fora convened by the Working Group in Africa and in Latin America and the Caribbean.

The main aim is to promote dissemination and implementation of the UN Guiding Principles on Business and Human Rights, which were endorsed by UN Member States in 2011 as the authoritative global standard to prevent and manage the risk of business-related human rights harm.

This Forum is an opportunity to jointly identify how Governments and companies in Asia can meet their respective duties and responsibilities to prevent and address business-related human rights impacts – and ways to ensure effective remedy when harm occurs.

Almost five years since they were endorsed by the Human Rights Council, the Guiding Principles have been integrated into other key international frameworks and initiatives for responsible and sustainable business. These include the OECD Guidelines for Multinational Enterprises, GRI G4, ISO26000, and “Trade for All” - the European Commission’s trade and investment strategy.

The Guiding Principles have been endorsed by regional bodies, including ASEAN. An important milestone was last year’s Declaration on the 2030 Agenda for Sustainable Development – as well as the Addis Ababa Action Agenda. Both explicitly cited the Guiding Principles and the need to protect rights in the context of private sector action to solve global development challenges.

The 2030 Agenda has several references to the need for the business sector to play an active role in implementing the SDGs. 47% of the targets are directly related to human rights. Paragraph 67 makes specific reference to the Guiding Principles and underlines that such a role must be balanced with adequate oversight and accountability.

The new global sustainable development agenda therefore recognizes that the Guiding Principles provide a framework for accountability for the involvement of business in meeting the SDGs.

Importantly, the Guiding Principles show what is expected of companies to ensure they contribute, rather than undermine, the sustainable development goals. A range of business organisations have expressed support for the role of the Guiding Principles in this context.

The Working Group sees human rights as central to the implementation of the 2030 Agenda and is eager to work with the UN Regional Economic Commissions, UNDP and other UN partners on this.

At the State level, more national action plans are being developed, triggering fresh opportunities for different stakeholders to engage with their Governments on business and human rights. The G7 leaders’ declaration in 2015 with its specific chapter on “Responsible Supply Chains” gave further political force to the importance of States developing “substantive” action plans and the private sector implementing human rights due diligence.

We have also seen movement towards targeted Government policies and regulation that reflects important elements of the Guiding Principles. Anti-slavery and anti-trafficking regulation in some jurisdictions imposes stricter reporting requirements on companies.

Non-financial reporting is also a growing regulatory reality in Asia, including in India, Malaysia, Singapore and Thailand.

The Guiding Principles have also been a game-changer for leaders in the business community. For example, a 2015 survey by the Economist Intelligence Unit highlighted that there is an increasing number of companies in all regions taking the corporate responsibility to respect human rights seriously.

Commitment to respect human rights is having implications for internal governance mechanisms, building of new awareness and capacity of hundreds of managers and decision-makers, human rights due diligence in a widening set of operations, contexts and business relationships.

Investors are also increasingly demanding businesses show they respect human rights, for example, Robecosam, an investment specialist in sustainability investing, asks companies whether they systematically identify and manage their human rights risks across the value chain and with their business partners. Critically they use the Guiding Principles as the basis to determine this. The Dow Jones Sustainability Indexes are based on Robecosam analysis.

As we will hear more about in this forum, including from Professor John Ruggie, there is increasing pressure and guidance for sports governing bodies too, to use their influence on host countries and companies active in staging mega sporting events to prevent human rights harm. If commitments to implement the Guiding Principles by sporting bodies are done well, this could potentially be a game-changer.

Another encouraging development is the emergence of reporting tools such as the UN Guiding Principles Reporting Framework, as well as the increasing number of ranking indices, such as the Corporate Human Rights Benchmark and others attracting attention among stakeholders, including investors.

Still, we need to urgently scale up emerging good practice inspired by the Guiding Principles. Yesterday, Linda Kromjong, Secretary General of IOE asked us to “copy with pride”.

The governance and protection gaps that led to the development of the Guiding Principles in the first place – and to the establishment of the Inter-Governmental Working Group to elaborate a binding instrument in this field – remain. The key concern is that business-related human rights abuses continue to occur with impunity.

Access to remedy is one of the three pillars of the Guiding Principles. Yet, victims are still struggling to access an effective remedy when they have suffered harm. Some of the emblematic cases of business-related human rights harm are from the Asian region. To cite a few:

- 30 years after the Bhopal tragedy many victims have still not seen redress;

- compensation claims for victims of Rana Plaza are still pending;
- access to remedy remains particularly elusive for indigenous communities, migrant workers trapped in slavery-like conditions, small-scale farmers, and human rights defenders.

Progress on both judicial and non-judicial remedy remains elusive with limited progress.

With regard to non-judicial remedy, the picture is at best mixed.

A major concern is the growing clampdown on the brave human rights defenders and trade unions leaders who raise concerns about the impacts on workers, communities and the environment of government and corporate abuse of power. This is sadly well documented in relation to many Asian countries.

What's more, awareness, capacity and incentives to push this agenda forward are still sorely lacking. The majority of Governments are not yet actively or comprehensively implementing the Guiding Principles. Policy challenges remain around governance and policy coherence.

On the business side, while awareness is spreading and a growing number of pioneering companies are taking serious steps to implement the Guiding Principles, the majority of the world's companies do not have a human rights policy, let alone any form of human rights due diligence process.

Even among the companies that report on human rights (using the GRI guidelines for instance) the picture is at best mixed – a new study from GRI shows that only 17% of those reports that say that human rights is a material issue, admit to causing negative impacts and explain how the company is taking responsibility for them.

The need for speeding and scaling up implementation is obvious and the case for Asian Governments and business to step up action should be even more compelling given Asia's continued rise in the global economy.

The Guiding Principles present an opportunity to ensure that business operations and economic development projects do not undermine human rights – and by extension, the social sustainability of Asia's economic miracle.

I would like to highlight two entry points that the Working Group consider a priority. Both are related to the need for Governments to close governance gaps related to managing business-related human rights risks:

- First, a key consideration is the role of the State as an economic actor. This is the focus of the Working Group's forthcoming annual report to the UN Human Rights Council.

- The State is not only a regulator of business conduct, it is also a shaper of business practices - an owner, an investor, an insurer, and a procurer. All these roles provide States with unique opportunities to prevent adverse corporate-related human rights impacts.
- At the core are policy coherence and the need for the State to lead by example. There are significant expectations for States to 'get their own house in order.' This does not mean that States should ask less of private businesses.
- The Guiding Principles require the full respect of human rights by all enterprises, irrespective of ownership and structure.
- But as States work towards that goal, they should examine their own practices – whether with respect to State-owned enterprises, export credit agencies, or sovereign wealth funds, or in their procurement activities.
- This will only strengthen the legitimacy of States' regulations and expectations towards private businesses. This issue is of relevance to all States, including in Asia where "State capitalism" has played an important role in the region's development.
- Second, the Working Group is advocating for national action plans on business and human rights. This is a key tool for strengthening policy coherence and speeding up implementation.
- We are pleased to see the promising progress led by national human rights institutions already underway in some countries in this region, including Indonesia, Malaysia, the Philippines and the Republic of Korea.
- The Working Group is encouraging all Asian Governments to take steps to initiate open, multi-stakeholder processes to develop action plans to implement the UN Guiding Principles.
- The Working Group has issued guidance for States on the process and content of national action plans which was informed by consultations in Asia carried out by the Asian Business and Rule of Law initiative.

Distinguished Forum participants,

Our agenda for these two days reflects both the challenges this region is facing as well as areas where there is opportunity for progress. It will examine some of the most pressing business-related human rights issues in the region.

But it will also look at opportunities presented by, for example, corporate human rights reporting, the role that national human rights institutions can play, national action plans, other regulatory and policy innovations, as well as sector-wide and multi-stakeholder approaches to human rights due diligence.

Lastly, a practical note on how all these discussions will feed into the closing plenary. We have the advantage of having four expert rapporteurs, who will follow all Regional Forum sessions and report back on key takeaways in the closing plenary tomorrow.

This will also inform the Working Group's report to the UN Member States at the Human Rights Council in June this year in terms of actions for Asian Governments and business to take.

Ladies and Gentlemen,

We see this event as a big opportunity for advancing the business and human rights agenda in Asia. We are grateful to all of you for contributing and look forward to fruitful discussions.

Thank you.