

**CONCEPT NOTE**

**WORKSHOP ON ENHANCING COOPERATION BETWEEN THE UNITED NATIONS AND REGIONAL MECHANISMS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, WITH A FOCUS ON BUSINESS AND HUMAN RIGHTS**

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| **OBJECTIVE** | To explore innovative and collaborative methods to enhance cooperation between regional human rights mechanisms and international human rights mechanisms with the aim of developing concrete proposals for cooperation in the field of business and human rights. |
| **PARTICIPANTS** | Experts from United Nations human rights mechanisms including current and former members of human rights treaty bodies and special procedure mandate-holders, representatives of regional and sub-regional human rights mechanisms, national human rights institutions, non-governmental organizations, Member States, and government representatives. |
| **VENUE** | Room XXVI, Palais des Nations, Geneva |
| **DATE** | * 1. October 2022 |

1. **BACKGROUND**

In recognition of the vital role played by regional and sub-regional human rights mechanisms in promoting and protecting human rights, the Human Rights Council (HRC) since 2007 has been requesting OHCHR to bring together international and regional human rights mechanisms (RHRMs) to exchange views on good practices and lessons learned with a view to enhancing cooperation between them[[1]](#footnote-1).

Subsequent to these resolutions, the previous workshops discussed:

1. Good practices, added value and challenges for RHRMs (2008);
2. Strengthening cooperation between the UN and regional arrangements to overcome obstacles to human rights promotion and protection at the regional level (2010);
3. Strengthening cooperation on information sharing, joint activities and following up to recommendations from United Nations and regional human rights mechanisms with special focus on prevention of torture, women’s rights and children’s rights (2012);
4. Strengthening cooperation on economic social and cultural rights (2014);
5. Enhancing cooperation between United Nations and regional human rights mechanisms, human rights defenders and civil society organizations (2016); and
6. Enhancing cooperation between regional mechanisms and the United Nations with the aim of combating racism, racial discrimination, xenophobia and related intolerance and in the implementation and commitment in the Durban Declaration and Program of Action (2019).

In January 2020, the High Commissioner for Human Rights submitted to the HRC, a report containing a summary of the discussions held at the 2019 workshop. The HRC took note of the contents of the report and encouraged the regional arrangements for promotion and protection of human rights and other organizations to continue to enhance their cooperation. The HRC also requested the High Commissioner to hold the next workshop in 2022, to take stock of developments since the workshop held in 2019 and include a thematic discussion on the role of regional arrangements in the field of business and human rights[[2]](#footnote-2).

In preparation to this international workshop, a regional consultation was held virtually on 23 March 2022, jointly by the European Union, OHCHR, and European Union’s Fundamental Rights Agency. OHCHR in collaboration with ASEAN’s Inter-governmental Commission on Human Rights (AICHR) held another virtual regional consultation on 19-20 July 2022 and in collaboration with the Inter-American Commission on Human Rights, a consultation was held virtually on the 27 July 2022. The virtual consultations offered the participants the opportunity to attend the events remotely and to contribute to the discussions. At the same time, OHCHR benefitted from the realities on the ground as well as the specific challenges and opportunities in preventing and addressing business related human rights abuses in the regions. The Consultations also provided an opportunity to discuss specific thematic areas related to business and human rights relevant to each region, and to formulate recommendations on thematic areas for discussion at the global workshop in October.

1. **SPECIFIC OBJECTIVES**
2. To take stock of developments since the workshop held in 2019.
3. To share experiences, good practices, and challenges on the role of regional arrangements in the field of business and human rights.
4. To review progress and assess implementation of both international and regional business and human rights standards, including the UN Guiding Principles on Business and Human Rights (UNGPs) endorsed by the Human Rights Council[[3]](#footnote-3).
5. To exchange good practices and challenges at the national/regional/international levels. Discuss solutions and remedies to address the challenges and risks individuals and communities are facing.
6. To identify innovative and collaborative ways of cooperation among regional human rights mechanisms, United Nations human rights mechanisms, civil society, academia, and national institutions.
7. **METHODOLOGY**

1. **Participants**

The Workshop will bring together participants from regional and sub-regional human rights mechanisms, representatives from the United Nations human rights system, national human rights institutions, civil society, academia and member States.

1. **Format**

Panel discussions will be held for 2 days followed by interactive discussions. A moderator will facilitate the discussions and will be assisted by rapporteurs.

1. **Topics**

The world is today grappling with major global challenges, such as war, violence and conflicts, climate change, environmental degradation, bio-diversity loss, food insecurity, and growing inequalities and discrimination besides the impacts of the COVID 19 pandemic on an unprecedented scale. The business sector, including large transnational corporations, play an influential role in society and the economy. Their operations have the potential to positively impact society and drive sustainable development. However, at the same time, business activities can negatively impact human rights and the environment. As the authoritative global framework for preventing and addressing adverse business-related human rights impacts, the UNGPs are a foundational tool for addressing these major collective challenges. It is of utmost importance to scale up the efforts by all stakeholders including States, regional mechanisms, and businesses to effectively implement the Protect, Respect and Remedy framework enshrined in the UNGPs. The UNGPs provide a blueprint for transformative change and outline what is needed in practice: States must protect human rights, business should respect human rights, and victims need access to effective remedy.

On the occasion of the 10th anniversary of the UNGPs in 2021, the Working Group on the issue of human rights and transnational corporations and other business enterprises (the Working Group on Business and Human Rights) took stock of the developments in the implementation by States and businesses of the UNGPs in the last decade and submitted a report to the HRC[[4]](#footnote-4). The report acknowledges the positive momentum generated in implementing the UNGPs, identifies challenges and remaining gaps as well as the areas where the pace of implementation by States, businesses and other relevant actors needs to urgently increase over the next decade.

In recent years, there has been a strong push to move from voluntary towards mandatory initiatives that envisage obligations for businesses to address their adverse human rights and environmental impacts. Mandatory human rights due diligence legislation has been adopted or is in development in various European countries. Moreover, the European Commission recently published a proposal for a Directive on Corporate Sustainability Due Diligence. Similarly, a number of member States are passing or implementing legislation that prevents the import of goods produced with forced labor. Although none of these standards, policies and legislations may be perfect, they reflect the progressive evolution of responsible business concepts into more stringent norms.

OHCHR has engaged in many activities to facilitate the practical implementation of the UNGPs. Its Accountability and Remedy Project has explored how to strengthen implementation of the access to remedy pillar of the UNGPs, providing guidance to States, business, and other relevant stakeholders on how to enhance the effectiveness of remedial systems in cases of corporate abuse. Its [B-Tech Project](https://www.ohchr.org/en/business-and-human-rights/b-tech-project) aims to ensure respect for human rights in the development, deployment and use of digital technologies through the uptake and implementation of the Guiding Principles. However, despite these advances, OHCHR and the Working Group on Business and Human Rights continue to document and receive, credible allegations of serious human rights abuses connected to business activities in all parts of the world. A lot remains to be done in translating human rights standards into effective human rights protection.

**Cooperation and Partnerships** are an integral component of the UNGPs. While the UNGPs recognize that States must protect against, prevent, investigate, punish, and redress human rights abuses involving business enterprises, they also recognize the corporate responsibility to respect human rights. The active involvement of international, regional, and local civil society organizations, State-based institutions, and relevant stakeholders such as affected individuals and communities, trade unions, environmentalists, and human rights defenders is a key element to build and reflect on the three-pillar structure of the “Protect, Respect and Remedy” framework of the Guiding Principles. Meaningful engagement and dialogue and consensual strategies help achieve effective protection through international, regional, and national cooperation, and the implementation of an effective international legal framework. Therefore, the participation of a wide variety of actors is essential and vital in monitoring State and business practice.

Each panel discussion will seek to have balanced representation of relevant stakeholder views in the discussion.

**Agenda Items:**

* + - 1. **Taking stock of developments in cooperation between United Nations and regional human rights mechanisms since 2019.** Discussions could focus on the following issues: What progress has been made in implementing the recommendations of the 2019 workshop? What were the challenges and implementation gaps? What are the key lessons learnt? What joint activities/initiatives have RHRMs, and the UN conducted recently?
      2. **Guiding principles on business and human rights: lessons learnt, best practices, challenges and implementation gaps.** The Panel will take stock of implementation of international and regional normative frameworks, mechanisms, and strategies for promotion and protection of human rights in relation to business enterprises and how United Nations and regional human rights mechanisms cooperate to prevent, mitigate, and remediate adverse human rights impacts involving business enterprises especially on the face of challenges posed by COVID- 19 Pandemic and the urgency of building back better. Participants will elaborate on the normative and policy frameworks; role of established mechanisms such as the special procedures and universal periodic review mechanisms of the HRC; trends such as the move towards mandatory human rights due diligence; ongoing negotiation in the [intergovernmental working group established by the Human Rights Council to elaborate a legally binding instrument on business and human rights](https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc)[[5]](#footnote-5), and existing formal relationships between the UN and regional mechanisms, such as established platforms for regular consultations. Participants will also share strategies to engage with business enterprises and other stakeholders.
      3. **The role of regional human rights mechanisms in contributing to accountability and remedy for business related human rights abuses.** The right to remedy is a core tenet of the international human rights system, and the need for victims to have access to effective remedy is also recognized in the UNGPs. A range of different remedial mechanisms can be relevant to address business-related human rights abuse, and OHCHR’s Accountability and Remedy Project[[6]](#footnote-6) has unpacked the ways in which such mechanisms, individually and collectively, can make a positive contribution to remedying such abuse. The Guiding Principles recognize the role of regional and international human rights bodies in access to remedy, noting how some have “dealt with the failure of a State to meet its duty to protect against human rights abuse by business enterprises” (UNGP 28, Commentary). Since the release of the Guiding Principles in 2011, there have been many developments regarding the roles of regional human rights mechanisms in contributing to remedy in business and human rights cases. This session will explore developments in this area, specifically regarding:
* The extent to which regional human rights mechanisms address cases involving business and human rights issues;
* The challenges rights-holders face when seeking remedy for business-related human rights abuse through regional human rights mechanisms;
* Whether regional human rights mechanisms rely upon or are influenced by the UNGPs in their decision-making;
* The different ways in which regional human rights mechanisms can contribute to accountability and remedy in such cases and
* Opportunities for enhanced cooperation between the UN, RHRMs and NHRIs in enhancing accountability and access to remedy for business related human rights abuses
  + - 1. **Cooperation to mitigate the negative effects of adverse human rights impacts by businesses, on people and communities at heightened risk such as indigenous people, minorities or, migrants, and to adopt a gender and age sensitive approach:** Participants will share information on specific human rights risks and business-related abuses faced by groups at heightened risk, as well as gender and age specific impacts. They will also exchange good practices regarding existing legislation, public policies, and programs to promote the agency of these groups, implement protection safeguards, and ensure that their voices, needs and wishes would inform all interventions. In this regard, participants will share initiatives to address the root causes of the challenges they face in society, including pre-existing discrimination, inequality and harmful stereotypes. These interventions include improving the educational level, living, and working conditions of these people so that their socio-economic capacity is built up to enable them to assert and claim human rights. Participants may discuss specific recommendations to mainstream a gender and age sensitive perspective in all interventions and promote the agency and protection of groups in a vulnerable situation, such as indigenous people, minorities, migrants, older persons and others who can find themselves in a more vulnerable situation when businesses are involved.

Speakers will identify best practices, challenges, and lessons learned from each mechanism in relation to specific groups and how cooperation between all mechanisms and organizations could be enhanced and better results achieved.

* + - 1. **Business and human rights in key areas such as the technology sector and conflict affected regions.**
* **Technology:** New digital technologies such as cloud computing, artificial intelligence, facial recognition, and the Internet of Things have brought along positive changes in the lives of most people on the planet. At the same time, there are also credible reports, including at times from tech companies themselves, about cases of large-scale abuses, including in relation to privacy, exacerbating ethnic conflict and dissemination of hate speech, undermining democratic processes, enhancing State surveillance, putting children at risk, and online violence against women and LGBTI persons. The presentations and discussions in this session will be informed by the **OHCHR** [B-Tech Project](https://www.ohchr.org/en/business-and-human-rights/b-tech-project) which will contribute to addressing the urgent need to find principled and pragmatic ways to prevent and address human rights harms connected with the development of digital technologies and their use by corporate, government and non-governmental actors, including individual users. The panel discussion will also throw light on the relevant activities of the regional mechanisms and other stakeholders in this sphere. For example, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) Working Group on Children’s Rights and Business has recently adopted a resolution on ‘Protection and promotion of Children’s rights in the digital sphere’.
* **Conflict affected regions.** A report submitted to the General Assembly by the Working Group on Business and Human Rights states that over the last decade, the number of civil wars has almost tripled, with a six-fold increase in related deaths – peaking in 2016 with 53 countries experiencing conflict. According to the report, quite often, a conflict-sensitive approach that considers the risks posed to people is lacking, with business activities as a result contributing to or becoming linked to human rights abuses including through their business relationship with armed non-State actors. Even companies with the best of intentions operating in countries in conflict may face specific challenges in ensuring respect for human rights, including in conducting heightened human rights due diligence.

The discussions in this session will be around pragmatic approaches as to how the regional mechanisms can step into such conflict-ridden States, support the stakeholders including the business sector and ensure responsible business conduct. Best practices will be shared, and concrete recommendations made for the way forward.

* + - 1. **A way forward: recommendations to strengthen cooperation between United Nations and regional human rights mechanisms on business and human rights.**

1. **EXPECTED OUTCOME**

A report on recommendations for further cooperation among all human rights mechanisms will be presented to Member States at the 52nd regular session of the Human Rights Council in February 2023.

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1. See the following UN Resolutions and Decisions: A/HRC/RES/6/20 of 28 September 2007; A/HRC/RES/12/15 of 1 October 2009; A/HRC/RES/18/14 of 29 September 2011; A/HRC/RES/24/19 of 27 September 2013; HRC/RES/30/3 of 1 October 2015; HRC/RES/34/17 of 11 April 2017; HRC/RES/43/17 of 1 July 2020. [↑](#footnote-ref-1)
2. HRC/RES/43/17 of 1 July 2020. [↑](#footnote-ref-2)
3. <https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf> [↑](#footnote-ref-3)
4. <https://undocs.org/A/HRC/47/39> [↑](#footnote-ref-4)
5. <https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc> [↑](#footnote-ref-5)
6. https://www.ohchr.org/en/business/ohchr-accountability-and-remedy-project [↑](#footnote-ref-6)