

INVESTORS, ESG AND HUMAN RIGHTS (A/HRC/56/55)



Background and focus



As part of its mandate to promote the United Nations Guiding Principles on Business and Human Rights (“the UNGPs”), the United Nations Working Group on Business and Human Rights (“the Working Group”) examined the use by investors of environmental, social and governance (ESG) and sustainability approaches around the world. It particularly considered the alignment of these approaches with the UNGPs.

The Working Group had already recognized the vital role of the financial sector in the implementation of the UNGPs. In its stocktaking exercise in 2021, the Working Group had also acknowledged that “a key challenge is that most financial

actors fail to connect human rights standards and processes with ESG criteria and investment practices because of a prevailing lack of understanding in the sector that social criteria, and many environmental and governance indicators, reflect human rights issues”.¹ The Working Group thus seeks, through this report, to achieve three things: first, to raise awareness of the practices of investors and their responsibilities to respect human rights; second, to clarify the baseline responsibilities of investors under the UNGPs and how ESG and sustainability approaches can align with the UNGPs; and, third, to provide recommendations.

¹ A/HRC/47/39/Add.1, para 46, and A/HRC/47/39/Add.2.

Highlights

Key findings from the report include:

- 1 ESG and sustainability approaches vary widely across different investors, investment strategies and asset classes. These approaches lack uniform definitions and are not linked to any specific global standards, leading to risks of green- and human rights- washing
- 2 Through regulation, consistent and robust standards would help bridge silos between E, S and G criteria and ensure that human rights considerations are applied across all of them
- 3 A double materiality approach, combining two main concepts of materiality – financial materiality and impact materiality – could ensure that adverse human rights impacts on people are identified, prevented, mitigated and accounted for, in alignment with the UNGPs
- 4 Existing ESG rating methodologies lack transparency and consistency, and do not include sufficient human rights data. Investors need decision-useful data from investees on human rights and on their alignment with the UNGPs across each of the E, S and G criteria
- 5 Investors must place risks for people and the planet at the centre of their decision-making to fulfil their responsibility to respect human rights. This could be done by, for example, embedding human rights into their policies and strategies, undertaking ongoing human rights due diligence, and remediating adverse human rights impacts they cause or to which they contribute or are directly linked, including by exercising their leverage
- 6 The Working Group notes the need for a collaborative effort between investors, investees, States and rightsholders to achieve meaningful access to remedies, to ensure appropriate stakeholder consultation and to contribute to more just and accountable frameworks that ensure the protection of and respect for human rights in relation to investment activities
- 7 Finally, the Working Group recognizes that investors can deliver on their responsibility to respect human rights in different ways, depending on the type of investor, asset class, and investment strategies



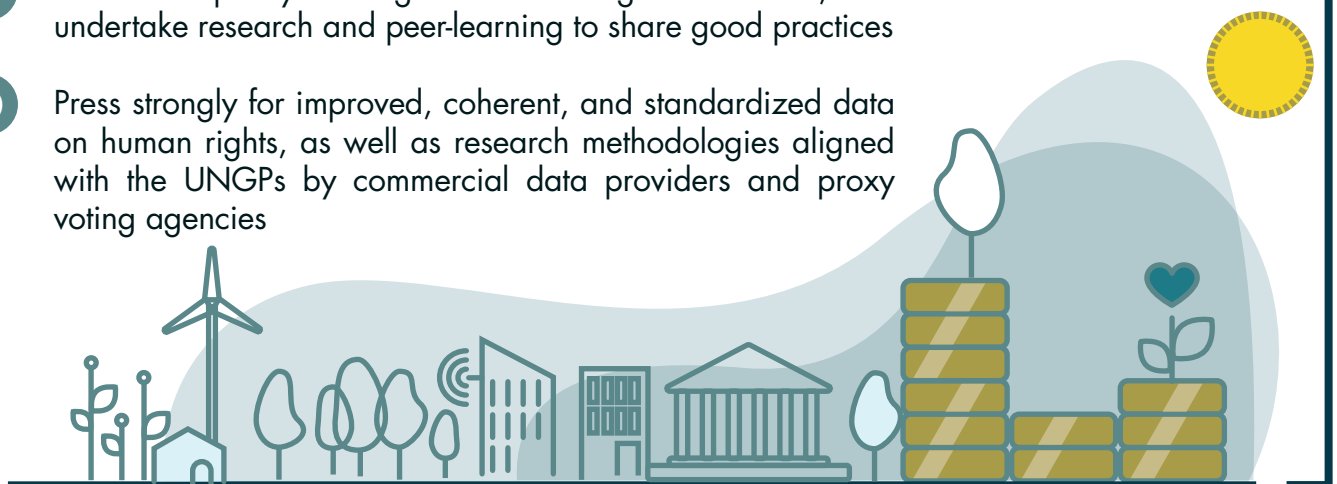
Key recommendations to States

- 1 Strengthen and develop regulation and legislation on ESG and sustainability approaches
- 2 Achieve policy coherence on ESG and sustainability criteria, including by clarifying definitions of ESG and sustainability that are aligned with the UNGPs and international human rights law
- 3 Develop and support the implementation of ESG and sustainability investment approaches which account for human rights
- 4 Establish robust enforcement mechanisms, including by having legal frameworks which require human rights due diligence for investees and requiring investors to investigate and report on the actions of investees
- 5 Ensure access to effective remedies for affected rightsholders



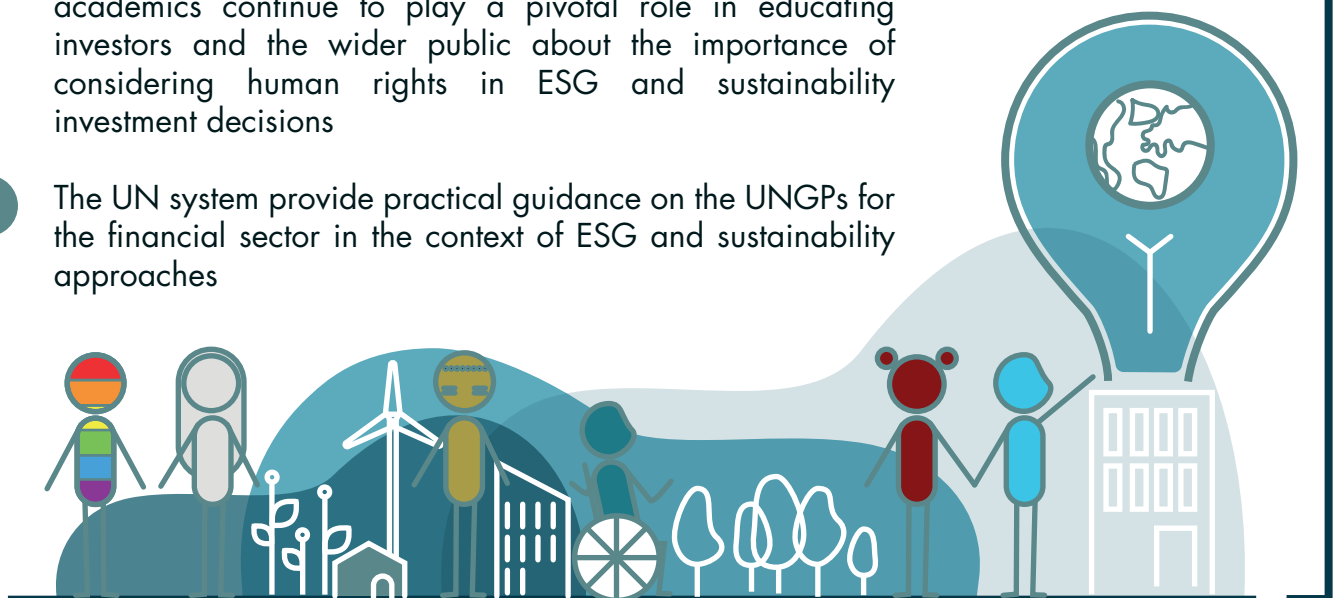
Key recommendations to Investors

- 1 Embed human rights in their ESG and sustainability policies and strategies, with senior level oversight
- 2 Identify and assess the actual and potential human rights impacts of investees prior to investing and on an ongoing basis once invested, and track the effectiveness of human rights due diligence efforts
- 3 Prioritize meaningful stakeholder engagement
- 4 Ensure that heightened human rights due diligence is undertaken for investments in conflict-affected areas and high-risk sectors
- 5 Use leverage over investees to ensure respect for human rights
- 6 Divest responsibly, in alignment with the UNGPs, when leverage cannot change investee practices
- 7 Promote and enable access to remedy for affected rightsholders
- 8 Ensure better articulation of the interconnected nature of E, S and G criteria so that human rights considerations are integrated across all three criteria in investment strategies
- 9 Invest in capacity-building and human rights education, and undertake research and peer-learning to share good practices
- 10 Press strongly for improved, coherent, and standardized data on human rights, as well as research methodologies aligned with the UNGPs by commercial data providers and proxy voting agencies



Key recommendations to Other Actors

- 1 All businesses disclose their implementation of their responsibility to respect human rights under the UNGPs
- 2 Commercial data providers, proxy voting agencies, and other data actors provide clear and transparent methodologies on human rights performance, and improve the quality of their human rights data, including by collaborating with human rights experts, CSOs, and rightsholders
- 3 ESG and sustainability indexes develop methodologies and criteria to ensure alignment with the UNGPs
- 4 Professional advisors provide advice to investors on the need for alignment of investor ESG and sustainability approaches with the UNGPs
- 5 CSOs, trade unions and affected rightsholders continue to provide human rights impact data on ESG and sustainability
- 6 CSOs, trade unions, international organizations and academics continue to play a pivotal role in educating investors and the wider public about the importance of considering human rights in ESG and sustainability investment decisions
- 7 The UN system provide practical guidance on the UNGPs for the financial sector in the context of ESG and sustainability approaches



The Working Group on the issue of human rights and transnational corporations and other business enterprises (known as the Working Group on Business and Human Rights) is mandated by the Human Rights Council to promote worldwide dissemination and implementation of the Guiding Principles on Business and Human Rights (resolutions 17/4, 26/22, 35/7, 44/15, and 53/3). The Working Group is composed of five independent experts of balanced geographical representation, and it is part of what is known as the Special Procedures of the Human Rights Council. Special Procedures mandate holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. The experts are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.



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