

# **The 10th session of the Expert Mechanism on the Right to Development**

## **Item 5 of the Provisional Agenda**

### **Implementation of the mandate and programme of work –**

#### **Focused thematic discussion and interactive dialogue**

Palais des Nations, Room XXI, Geneva

## **Business and the Right to Development**

Monday 28 October 2024, 15:00 PM to 16:30 PM

### **Concept Note**

**Presented by Bonny Ibhawoh**

#### **Introduction**

The intersection of business operations and human rights is a critical area of focus in international law and policy. The Ninth Session of the Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with respect to Human Rights ([A/HRC/55/59](#)) highlighted the need for thematic consultations on the draft Legally Binding Instrument (LBI) on Business. This instrument, much like the draft Covenant on the Right to Development, represents a significant shift from non-binding guiding principles to enforceable international legal standards. As the Special Rapporteur on the Right to Development has emphasized, businesses play a dual role in both advancing and potentially hindering development. Businesses contribute to development by constructing housing, building infrastructure, offering financial services, creating employment, enhancing vocational skills, developing medicines and vaccines, providing internet services, and ensuring access to essential public services. However, business activities can also have detrimental effects, such as tax evasion, promoting unhealthy products, exploiting migrant workers, causing environmental damage, or displacing Indigenous Peoples through development projects. The challenge lies in maximizing the positive contributions of businesses while mitigating their negative impacts on the right to development.

#### **Purpose**

A Legally Binding Instrument on Business, following the Guiding Principles on Business and Human Rights endorsed by the Human Rights Council in 2011, aims to address this challenge. The Guiding Principles define the duties of States and the responsibilities of businesses to protect, respect, and remedy human rights abuses related to business activities. They are grounded in the recognition of existing obligations of States to respect, protect, and fulfill human rights and fundamental freedoms, the role of businesses as specialized organs of society that must comply with applicable laws and respect human rights, and the necessity of ensuring appropriate and effective remedies for breaches of rights and obligations. To meet these responsibilities, businesses are expected to conduct ongoing human rights due diligence, enabling them to identify, prevent, mitigate, and account for how they respect human rights. This panel discussion explores the intricate links between the Right to Development and the proposed Legally Binding Instrument on Business.

#### **Guiding questions**

1. How can the Legally Binding Instrument on Business be structured to effectively balance the promotion of business activities and the protection of the right to development?

2. What mechanisms can be put in place to ensure that businesses conduct meaningful and effective human rights due diligence?
3. In what ways can States be held accountable for their duty to protect human rights in the context of business activities that have transnational implications for the right to development?
4. How can the international community support businesses in contributing positively to the right to development while minimizing adverse impacts, particularly in vulnerable and marginalized communities?

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