



# 2ND UN PACIFIC FORUM ON BUSINESS AND HUMAN RIGHTS

22 - 24 NOVEMBER 2021 | SUVA, FIJI, AND ONLINE

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# ACRONYMS

<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>EHRD</b>	Environmental Human Rights Defenders
<b>FPIC</b>	Free, Prior and Informed Consent
<b>HRDD</b>	Human Rights Due Diligence
<b>MHRDD</b>	Mandatory Human Rights Due Diligence
<b>NHRI</b>	National Human Rights Institution
<b>PNG</b>	Papua New Guinea
<b>TSF</b>	Tailing Storage Facilities
<b>UNGPs</b>	The United Nations Guiding Principles on Business and Human Rights
<b>UNDRIP</b>	The United Nations Declaration on the Rights of Indigenous Peoples
<b>VPSHR</b>	The Voluntary Principles on Security and Human Rights



# EXECUTIVE SUMMARY

The United Nations Guiding Principles on Business and Human Rights (UNGPs) provide the authoritative global framework for the respective duties and responsibilities of States and business enterprises to prevent and address business-related human rights abuses. They also offer a blueprint for how business respect for human rights can support the implementation of the Sustainable Development Goals (SDGs) in line with international human rights standards and what effective remedies are available when negative consequences of business activities lead to human rights violations.

To continue the discussions on the challenges and identify new opportunities to promote responsible and sustainable business conduct in the Pacific, on 22 to 24 November 2021, the Office the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for the Pacific and the United Nations Working Group on Business and Human Rights (UNWG) organized the Second UN Pacific Forum on Business and Human Rights (BHR). Building upon the momentum of the first edition held in December 2020 as well as the 2019 United Nations Forum on Business and Human Rights (2019 UN Forum), this second forum sought to highlight key business and human rights issues as well as identify opportunities for effective implementation of the UNGPs in the region.

The 2021 UN Pacific Forum highlighted how the global pandemic exacerbated pre-existing challenges in addressing adverse human rights impacts of business activities in the Pacific Region, especially those related to extractive industries, fishing, and infrastructure projects. Individuals and communities across the Pacific are still experiencing loss of livelihood, forced displacement, environmental degradation, labour rights abuses, intimidation of human rights defenders, the loss of traditional knowledge and biodiversity, increased risks of community conflicts, and gender-based violence. Moreover, the Pacific region is disproportionately affected by the climate crisis, which directly and indirectly threatens the effective enjoyment of a range of human rights. Individuals and communities continue to face significant barriers in seeking effective remedies and holding the involved businesses accountable for human rights abuses, making it difficult to implement the UNGPs and the 2030 Agenda in Pacific countries.

Throughout onsite and hybrid discussions, experts, human rights defenders, and other participants raised various recommendations for local, national, and regional policies and fields of actions, such as the need for alliances among stakeholders to empower and protect human rights defenders working on BHR issues, awareness-raising on the role played by corporations in human rights violations, measures taken by



businesses to implement their responsibilities, enhancing the work of independent national human rights institutions in monitoring BHR compliance, and the need for governments to prioritize human rights, the environment, and action against climate change so that economic development is sustainable. It was announced that the New Zealand Human Rights Commission would be working with government and other stakeholders on the first National Action Plan on BHR in the Pacific.

For the first time this year, the Forum was conducted in a hybrid manner that allowed for more engagement between experts and affected stakeholders. The innovative dialogue methodology involved a day of national capacity building and in-person discussions in four country hubs that in turn highlighted specific topics informing the subsequent two online days of the Forum.



# CAPACITY BUILDING NATIONAL HUBS

**MODERATOR:** Mr. Surya Deva, Chair of the UN Working Group on Business and Human Rights

**FOCUS OF THE SESSION:** Inclusive governance

On 22 November, capacity building (in a closed session) of national hubs took place in 4 countries: Fiji, Vanuatu, Papua New Guinea, and Solomon Islands.



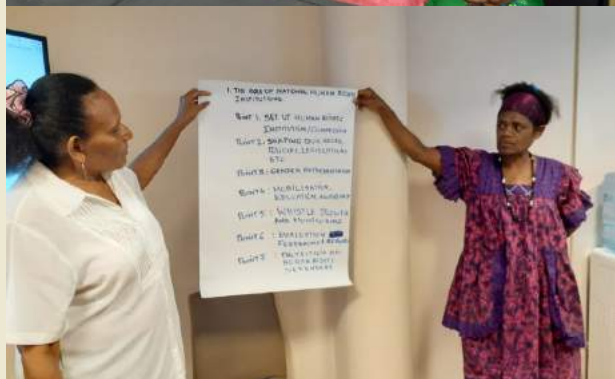
## Fiji Hub

### Dr. Mosmi Bhim

Lecturer, Applied Social Science Program, Fiji National University (Civil Society Representative)

Dr. Bhim presented three challenges that were discussed during the capacity-building session:

- Lack of visibility of human rights violations and human rights awareness in general, especially among those employed in the informal sectors.
- Lack of gender-responsive policymaking. This oversight extends to the LGBTI populations and persons with disabilities.
- Need for an appropriate raise of minimum wage.



## Vanuatu Hub

### Dr. Andrina KL Thomas

Chief Executive Officer, Vanuatu Investment Promotion Authority

Dr. Thomas emphasized the importance of gender equality and inclusion. She acknowledged the work of human rights defenders and noted the need for their protection. It is important to ensure that there is systematic and regular training on the need for good governance, providing awareness on business and human rights issues.



**Papua New Guinea Hub**

**Mr. Jerry Kende**

Human Rights Defender

Mr. Kende noted that state officials do not sufficiently promote business opportunities for the citizens of Papua New Guinea, resulting in limited access to markets for locals.

**Papua New Guinea Hub**

**Mr. Karath Mal Waka**

Chairman, Human Rights Inter-Pacific Association

Mr. Mal Waka shared that he has been advocating for the people in Porgera Mine. He noted that the judiciary system in PNG still allows investors to take advantage of the local people.



**Solomon Islands Hub**

**Mr. Solomon Yeo**

Campaign Director, Pacific Islands Students Fighting Climate Change

Mr. Yeo presented the consequences of poor governance in business, especially ones stemming from the extractive industries in Solomon Islands. There is inadequate law enforcement in the extractive sector, which encourages various human rights abuses and heightens the risks of environmental degradation, child abuse, and human trafficking. Mr. Yeo also shared that the contributing factor to human rights abuses is the lack of safeguard and protection policies especially for women and girls in businesses.



# OPENING PLENARY

## MODERATOR:

Ms. Heike Alefsen  
Regional Representative for the Pacific, Office of the  
UN High Commissioner for Human Rights

## FOCUS OF THE SESSION:

- > Redefining businesses
- > Sectoral collaboration

### Ms. Heike Alefsen

Regional Representative for the Pacific,  
Office of the UN High Commissioner for  
Human Rights

Ms. Alefsen noted that the global pandemic has had a devastating impact on the economies, societies and families throughout the Pacific, combined with the effects of the climate crisis. Responsible business must be at the core of the responses to these challenges. The Pacific remains the only region in the world to not yet have a State committed to developing a National Action Plan on Business and Human Rights. The UN encourages them to take action in this regard.

“ **In the Pacific, we stand at a crossroads in terms of how we build back , or forward, better. It can only be done by protecting people’s lives and protecting their livelihoods. Whilst Governments grapple with the continuing health emergency, we must equally deal with the economic and social effects, to avoid discrimination against individuals and groups. It is only through taking a human rights-based approach that involves everyone, including businesses, participating in open, transparent, and accountable responses.** ”

– Ms. Heike Alefsen

### Mr. Surya Deva

Chair, UN Working Group on Business and  
Human Rights

Mr. Deva noted a key lesson learned from the Covid-19 crisis: governance challenges such as poverty, inequality, conflicts or climate change need to be dealt with in an innovative way.

Mr. Deva remarked how the UNGPs in Business and Human Rights had provided a pathway to create an inclusive and sustainable society. The UNGPs are also shaping laws and policies in different parts of the world, enabling national action plans to be adopted.

Mr. Deva presented four aspects of the challenges which still need to be addressed:

1. the gap in the commitments that governments and companies make on paper and their practices,
2. governments’ efforts to put economic development first, before human rights, environment or climate change
3. limited access to remedy and corporate accountability and
4. lack of space for civil society, organizations and human rights defenders to work with the governments and businesses.



**Dr. Filimon Manoni**

Deputy Secretary-General, Pacific Islands Forum Secretariat (PIFS)

Dr. Manoni noted that the UN Guiding Principles on Business and Human Rights provides the global framework for governments and businesses to take the necessary steps to prevent, mitigate and address business-related human rights abuses. To ensure that the strategy is inclusive, it is important for both national and regional levels to commit to meeting global Human Rights and other international legal obligations.

**“ It is a timely reminder that, fundamentally, irrespective of crises and misadventures, human rights principles remain our moral compass, and this should remind us of our humanity, the glimmer of hope and light, which will take us all on an inclusive embracing road. ”**

- Dr. Filimon Manoni

**Mr. Jaap van Hierden**

Resident Coordinator, UN Micronesia covering FSM, Kiribati, RMI, Nauru and Palau

Mr. Van Hierden noted that the climate crisis represents the most significant threat to human rights worldwide, particularly for Pacific nations. He emphasized that the rights of the people of the Pacific are intrinsically linked to the social, economic and ecological balance of the region as the people's culture, tradition and livelihoods are interlinked with the natural world. The UNGPs were developed to provide an authoritative global framework to prevent and address negative human rights impacts

related to business. National Action Plans on business and human rights across the Pacific region should be a pivotal instrument supporting the implementation of the UNGPs on business and human rights.

**Mr. Kameli Batiweti**

Chief Executive Officer, Fiji Commerce and Employers Federation (FCEF)

Mr. Batiweti emphasized that businesses should not be entities merely meant to maximize profit for stakeholders. He also outlined that businesses have human rights responsibilities that are independent of what the state requires, therefore they ought to uphold responsible business policies and good governance practices. Businesses should address modern day slavery by partnering only with suppliers who are compliant with requirements.

**Ms. Emeline Siale Ilolahia**

Executive Director, Pacific Islands Association of Non-Government Organizations (PIANGO)

Ms. Ilolahia made observations on how people see business and human rights and stressed that states should ensure businesses uphold and practice the UN business and human rights principles. Ilolahia shared the journey she has taken with partners in business and human rights training, particularly for human rights defenders. There is a need to understand the different instruments within the UN system; they can be used to demand accountability of business practices. Ms. Ilolahia highlighted that the capacity of civil society and human rights defenders should be recognized, and access to remedy would enable civil society to continue its effort.





# MANDATORY HUMAN RIGHTS DUE DILIGENCE: IMPLICATIONS FOR KEY PACIFIC CHALLENGES

**MODERATOR:**

Ms. Anita Ramasastry  
Member of the UN Working Group on Business and Human Rights

**FOCUS OF THE SESSION:**

- > Legislating diligence
- > Overcoming challenges

**Mr. Tevita Naikasowalu**

Human, Ecological and Indigenous Rights defender, Fiji

Mr. Naikasowalu highlighted that Mandatory Human Rights Due Diligence (MHRDD) is a necessary tool to ensure that corporations respect human rights, in line with the UNGPs. MHRDD must be included in legislation and policies so that environmental effects can be mitigated in the future. He noted that the question has to be “who suffers the most?” Bringing MHRDD to companies, governments, and organizations would help with the advocacy. Mr. Naikasowalu concluded his remark by demonstrating through two examples how the environmental impacts of the mining industry are swift and destructive:

1. Mr. Naikasowalu noted that the mining activities in the region affected the Dawasamu river's ecosystem, impacting the capacity of the citizens from the nearby Vorovo village to fish in it.
2. Mr. Naikasowalu also highlighted how fluid from the gravel extraction created mud over the reefs that chased the dolphins away, which represents an important source of tourism in Fiji.

**Ms. Dawn Anderson**

Economic Justice Lead, Oxfam in the Pacific

Ms. Anderson noted that a challenging aspect of free prior and informed consent (FPIC) was how the term indigenous is or is not applied and whether the country supports the UN Declaration on the Rights of Indigenous Peoples. She highlighted that contextualizing and localizing the understanding of an international instrument contributes to a number of victories and successes at the local or constitutional court level in realizing indigenous rights. The provincial forestry cooperative was able to bring deregulation of a certain part of the forestry value chain by applying FPIC, bringing together various stake-holders across the value chain. Examples showed that human rights due diligence brings transparency and accountability to spaces that are traditionally fraught.



**Mr. Francesco Ponzoni**

Programme Manager (Civil Society, Gender, Human Rights, Health), Delegation of the European Union for the Pacific

Mr. Ponzoni provided an insight on the establishment of MHRDD regimes by the EU as a leading player. Companies wanting to access the EU internal market, including those established outside the EU, would have to prove that they comply with environmental and human rights due diligence obligations. The EU also proposed two regulations on 17 November 2021 that would require companies to prove that their global supply chain is not contributing to deforestation. The European Commission pledged 1 billion Euros to facilitate the protection, restoration, and sustainable management of forests in partner countries for the benefit of people, climate and environment.

and the public, it was noted that FPIC is still not part of many national legislative processes but should be recognized. Civil society actors have started to look at the right processes that they could use to effectively advocate for, e.g. around resettlement processes. It was about how to mobilize, represent and inform all of the players in the value chain. There is still a gap in terms of MHRDD. To improve community involvement, having a network of people, e.g. the Justice and Peace Integrity of Creation, helped the community stay connected to the other regions and work on common issues.

**Q&A**

In the ensuing discussion, in response to questions about how to bring about principles in practice when a country has not yet subscribed to international standards, and what should be required in terms of consultations with indigenous communities



A discussion at the Solomon Hub



# THE ROLE OF NHRIS IN BUSINESS AND HUMAN RIGHTS - SHARING OF EXPERIENCES, CHALLENGES AND GOOD PRACTICES

## MODERATOR:

**Mr. Kieren Fitzpatrick**

Director, Asia Pacific Forum (APF) of National Human Rights Institutions

## FOCUS OF THE SESSION:

- > Redefining NHRIs
- > Mobilizing NHRIs

## SESSION ORGANIZED BY:

Asia Pacific Forum on National Human Rights Institutions



**Mr. Kieren Fitzpatrick**

Director, Asia Pacific Forum (APF) of National Human Rights Institutions

Mr. Fitzpatrick framed the discussion by outlining that NHRIs occupy a unique position as an interface among civil society actors, governments, the private sector, the international community, independent institutions established by the state. The moderator posed two questions: 'what are the pathways that NHRIs can facilitate access to remedy for business?' and 'what are the key lessons the panelists have learned or insights they have gained from their work?'

**Ms. Saunoamaali'i Karanina Sumeo**

Equal Employment Opportunities Commissioner, New Zealand Human Rights Commission

Ms. Sumeo shared an example relating to public advocacy for businesses to recognize the ethnic pay gap. She also noted that the Covid-19 pandemic is a challenge in terms of competing rights. There are industries where the government mandates vaccines although everybody has the right to equal opportunity to work and to an adequate standard of living.



A participant from the Fiji Hub



**Ms. Loukinikini Vili**

Director of Human Rights, Office of the Ombudsman/National Human Rights Institution of Samoa

Ms. Vili shared that in 2013, the mandate of the Office of the Ombudsman was extended to include the protection and promotion of human rights and investigating complaints. She pointed out that the new human rights complaints mandate is new to the Office of the Ombudsman therefore building capacity is essential to gain more understanding of business and human rights to better address the issues. She mentioned that there is confusion among the public regarding the roles of the Office of the Ombudsman, and it is important for the NHRIs to continue building the capacities around these new issues, coming together and sharing best practices.

**Mr. Ashwin Raj**

Director, Human Rights and Anti-Discrimination Commission (Fiji)

Mr. Raj commented that since the UNGPs are non-binding, the role of NHRIs is absolutely fundamental because of their ability to afford remedy, facilitating access to justice. This is particularly true for people who are unable to access remedies when the private sector has not expressed commitment to upholding human rights. He shared an example of how foreign migrant workers who are not citizens of the states in which they work had no access to justice despite having the rights. Mr. Raj cautioned that the real challenge is how to sustainably keep businesses on the path of human rights rather than framing the issue as a philanthropic exercise.

**Prof. Justine Nolan**

Director, Australian Institute for Human Rights

Prof. Nolan shared how NHRIs may work with each other and with external stakeholders. She noted the importance of NHRIs working with outside organizations such as research and advocacy institutions to strengthen their capacity and broaden their outreach to stakeholders, which results in the ability to develop training for others. She commented that maintaining that level of independence for NHRIs is important and they should be powerful advocates for trying to find an effective remedy for business and human rights issues within their jurisdiction.

“

**Poverty is not inevitable...we want a social movement from our Pacific peoples here to help them realize their worth.**

”

– Ms. Saunoamaali'i Karanina Sumeo

**Q&A**

Participants discussed some of the ways NHRIs can collaborate with each other to address business and human rights related issues, and noted that a common issue among countries in this region is labor mobility, and that a coordinating mechanism with diplomatic missions and other stakeholders could be tried.



# CLIMATE CHANGE, THE ENVIRONMENT AND REACHING NET ZERO - REALIZING THE RIGHT TO A HEALTHY ENVIRONMENT

## MODERATOR:

**Dr. Georgina Lloyd**

Regional Coordinator (Asia and the Pacific) of Environmental Law and Governance, UNEP

## FOCUS OF THE SESSION:

- > Upholding rights
- > Shifting goals

## SESSION ORGANIZED BY:

United Nations Environment Programme (UNEP)



## Mr. Lavetanalagi Seru

Climate Justice Activist, Pacific Islands Climate Action Network/Alliance for Future Generations - Fiji

In the urgent transition to green, safe, and low carbon economies, Mr. Seru urged the private sector and businesses to play a fundamental role as much as the consumers, workers and the communities purchase and benefit from these businesses. He pointed out that the UNGPs are useful as an instrument to hold states and businesses accountable by defining concrete actionable steps for governments and companies to meet the respective duties and responsibilities to prevent human rights abuses.

## Ms. Noelene Nabulivou

Executive Director, Political Advisor  
Diverse Voices and Action for Equality (DIVA)

Ms. Nabulivou clarified that work on human rights or justice includes all aspects: ecological, social, and economic. Businesses should not only have human rights policies but also need to consider the environmental impact of pollution that they create and how businesses impact all groups of people including LGBTI communities.

“ We've got to be talking and working together outside our silos, even in spaces where we're not sure how to do those difficult conversations.

– Ms. Noelene Nabulivou”

## Ms. Jacki Johnson

Advisor, Climate and Sustainability  
Insurance Australia Group (IAG)

Ms. Johnson noted that stakeholders are realizing that short-term profit does not mean long-term value of a company or society. At IAG, the focus is on the purpose of the company, delivering value not only to the shareholders but to all stakeholders. The strategic decision-making is then filtered through this lens and governance practices continuously improved to ensure a stronger delivery. The four goals of decent work and economic growth, innovation and infrastructure, sustainable cities and communities, and climate action help galvanize decision-making at a strategic level and align with the purpose of making the world a safer place.



## Q&A

In the discussion about mechanisms or tools needed for businesses to ensure they operate in a way that protects the environment, addresses the climate, pollution and nature crisis, it was noted that there should be more transparency and accountability. It takes trust and understanding of perspectives and being honest, and being held to account. Reporting and common standards are going to be critical to hold companies to account and move to integration of sustainability. There is also a need for legislation, making companies account for how they make money. It was emphasized that governments play an important role in enforcing responsible business practice. Cross-sectoral conversation, for example, between business, government, and environmental movements or social movements,

needs to happen so that businesses are aware of different perspectives directly from people who actually work on the ground on those issues.



Participants from the Fiji Hub



# RESOURCE EXTRACTION AND CLIMATE CHANGE IN THE PACIFIC: DOUBLE EXPOSURE

## MODERATOR:

**Associate Professor Nick Bainton**  
Principal Research Fellow  
Centre for Social Responsibility in  
Mining, The University of Queensland,  
Australia

## FOCUS OF THE SESSION:

- > Uncovering gaps
- > Establishing accountability

## SESSION ORGANIZED BY:

Associate Professor Nick Bainton,  
Centre for Social Responsibility in  
Mining, The University of Queensland



## Assoc. Prof. Nick Bainton

Principal Research Fellow at Centre for Social Responsibility in Mining, Sustainable Minerals Institute, The University of Queensland

Assoc. Prof. Bainton set the scene by introducing the concept of double exposure, which refers to the fact that certain regions, sectors, ecosystems and social groups like those found in the Pacific are simultaneously confronted by the consequences of climate change and economic globalization. He noted that there is a need for a global energy transition away from fossil fuels to urgently address climate change. Some of these green energy actions require metals and minerals that are found in the Pacific, and it is expected that the global demand for these minerals will increase the pressure to approve new mining operations or extend existing ones in the region.

“ **Our concern...is that the global solutions to climate change will amplify already existing pressures in the Pacific.** ”

- Assoc. Prof. Nick Bainton

## Ms. Robyn James

Gender and Equity Advisor (Asia Pacific), The Nature Conservancy

&

## Ms. Krista Jacob

Mines Officer, Ministry of Mines, Solomon Islands

Ms. Jacob noted that distances between the Solomon Islands are significant. When poor management meets extreme weather due to climate change, results have disastrous outcomes for the population of Solomon Islands. The high level of discretion in decision making and few checks and balances make it hard to hold officials and leaders accountable. This created disadvantages for the Solomon Islands government in terms of tax and economic benefit. Ms. Jacob reported that recently a redirection policy has been suggested by the current government, to bridge the gap in the existing policy to stop direct shipment of bauxite and have it processed in-country rather than overseas. Ms. James highlighted that NGOs have stepped up to equip communities with the information and understanding when companies ask them to sign documents or agreements. Legal support plays a crucial role in helping marginalized communities to hold unlawful practices and companies accountable.



**Dr. John Burton**

Principal Research Fellow, Centre for Social Responsibility in Mining, The University of Queensland, Australia

Dr. Burton commented that it would be an enormous work of collaboration among like-minded parties to make the corporate sector realize that they should start taking human rights issues seriously. Dr. Burton noted that states can commit to human rights but may still not take action. He noted that the UN Declaration on the Rights of Indigenous Peoples is one of the key instruments that has brought about changes in how consent procedures are approached. Since many of the Pacific countries have not supported the UNDRIP, it is very difficult for small island nations to insist or to tell companies to pursue human rights due diligence. Dr. Burton noted that the price of certain minerals has increased significantly therefore it is expected that a wave of mineral exploration is to follow.

**Q&A**

In the discussion, it was explored how the human rights approach could help prevent an industry in the making, particularly deep-sea mining. A just transition framework can force stakeholders to ask about the different justice dimensions that might accompany the particular set of activities, which is going to be different from what is known about land-based mining. Participants encouraged consideration of the different rights holders and what kinds of rights might be affected by those deep-sea mining activities. It was also noted that gold mining seems to have a significant impact across the Pacific. In response to a question as to whether clean energy transition was driving demand for gold, it was argued that the gold price is mainly driven by instability in the world economy, which drives gold prices up.



Participants following the Forum from PNG





# PRIORITIZING GENDER EQUITY, DIVERSITY, AND INCLUSION

## MODERATOR:

**Ms. Sandra Bernklau**

Representative, UN Women Fiji  
Multi-Country Office

## FOCUS OF THE SESSION:

- > Gender empowerment
- > Acknowledging diversity

## SESSION ORGANIZED BY:

United Nations Entity for Gender Equality  
and the Empowerment of Women (UN  
Women)



## Ms. Sandra Bernklau

Representative, UN Women Fiji Multi-Country  
Office

Ms. Bernklau presented three concepts that link with business and human rights, which are gender diversity, equity, and inclusion. Sometimes women are also limited by social norms that place women at home. Action is not only needed at the private level but national boards and national leadership should make sure that diversity, equality and inclusion happen in businesses as well as in government, i.e. in all leadership spaces.

## Ms. Sachiko Soro

Director, VOU Dance Company

Ms. Soro shared her personal journey, highlighting the example of her mother, who had always been hard working and supportive of her, and pointed out that it is essential for women to be presented in positions of leadership and for men encouraged to share the care work at home, which often falls on women.

## Ms. Maria Ronna Luna Pastorizo-Sekiguchi

Founder and Director, The Greenhouse Studio

Ms. Pastorizo-Sekiguchi emphasized that innovative and creative solutions come from diverse groups of people. She noted that regardless of the gender-based skepticism, the quality of work is what matters and people come to understand that over time. When they

can independently organize their personal lives according to their needs, it can also include child care and helping with household responsibilities for both male and female employees.

## Dr. Akanisi Kedrayate

Teacher and Teacher Trainer, The University  
of the South Pacific

Dr. Kedrayate stressed balance, recognizing the cultural differences, and living with the norm. She emphasized that to be inclusive, men need to join in the movement.

## Q&A

In the discussion, the role of the labour movement in securing women's rights and employment conditions, for example, maternity leave in the Pacific, was referred to, e.g. the Fiji Islands Dance Association was created with the support of ILO. The initial consultation involved 22 dance companies that represent thousands of people working in the dance sector in Fiji. Panelists shared experience working with women with disabilities, noting that the UN is working on the disability scorecard to make sure that its business and operations are accessible. Among dancers with disabilities, learning disabilities such as dyslexia are the most common.



# LABOUR LAW, SOCIAL DIALOGUE AND HUMAN RIGHTS IN THE PACIFIC

## MODERATOR:

### Mr. Robert Vaughan

Human Rights Officer, Regional Office for the Pacific, Office of the UN High Commissioner for Human Rights

## FOCUS OF THE SESSION:

- > Rethinking labour
- > Responsible commerce

## SESSION ORGANIZED BY:

International Labour Organization (ILO)



### Mr. Matthew Coghlan

Financial Sector Engagement Manager, Walk Free

Mr. Coghlan presented findings from the 2020 Murky Waters report that brought together research on modern slavery in the Pacific region, which is occurring in the region's at-risk sectors such as fishing and domestic work as well as with at-risk populations, namely women, children, and migrant workers. Mr. Coghlan stated that reasons for these occurrences followed similar patterns to global drivers of vulnerability with certain drivers being more prevalent to the region, such as inward and outward migration, effects of natural disasters and COVID-19, as well as weak governance and discrimination and abuse of women and children.

### Dr. Ingrid Landau

Lecturer in the Department of Business Law and Taxation, Monash Business School

Dr. Ingrid Landau elaborated on the connection between human rights due diligence and labour rights, looking particularly at the emerging challenges in this area as these rights are central to expectation from businesses and at a minimum, businesses should protect international recognized human rights as laid out in the International Bill of Rights and ILO's Declaration on Fundamental

Principles and Rights of Work. There is a tendency of companies to selectively apply human rights they will focus their due diligence on, and distance themselves from the consultation and participation process throughout the four stages of human rights due diligence.

### Mr. Colin Fenwick

Decent Work and International Labour Standards Specialist, ILO

Mr. Fenwick spoke on the importance of the legal environment, noting modern slavery law as an attempt to ensure that corporations take responsibility for what happens in their offshore operations. As UNGPs are voluntary and the uptake of human rights due diligence has been patchy, Mr. Fenwick noted the vitality of governance systems to which governments have the obligation to provide an enabling environment for businesses and ensure that there are properly functioning systems to access justice. He highlighted ILO's unique role in engaging the constituents and institutions and relevant ILO instruments regarding business and human rights.



## Q&A

In the discussions about how indigenous people with weak judiciary systems in their countries participate in the international legal mechanisms to obtain justice and address human rights violations, it was noted that companies may claim to conduct human rights due diligence but not give up control to shape what human rights due diligence or remediation mechanism look like. There should be more concern about the quality and legitimacy of the human rights due diligence process. In a situation where there are no independent trade unions, companies should still note the importance of consultation with stakeholders. The human rights due diligence process can be framed as a form of stakeholder consultation, but businesses can also rely on other resources than trade unions to find out information. The importance of recognizing ILO mechanisms was noted so that they can be used to pursue and raise concerns on the international level about restrictions imposed by law on freedom of association. The international trade union movement can leverage and continue to raise concerns about restrictions of freedom of assembly and non-compliance with international standards. It was noted that ILO can provide support to migrant workers or seasonal workers who are based specifically in the Pacific region and are often trapped in exploitative conditions, raising awareness about worker's rights, providing better facilities to migrant workers, and providing them with helpful resources. The adoption of the ILO General



A discussion at the Fiji Hub

Principles and Operational Guidelines for Fair Recruitment provides guidance on what states can and should do in terms of regulating labour agencies engaged in the business of facilitating migration for work.



# HUMAN RIGHTS DEFENDERS: ACCESS TO REMEDY AND SOLIDARITY

## MODERATOR:

**Mr. Patrick Earle**

Executive Director

Diplomacy Training Program (DTP)

## FOCUS OF THE SESSION:

> Engaging defenders

> Removing barriers

## SESSION ORGANIZED BY:

Diplomacy Training Program (DTP)



## Ms. Louchrisha Hussain

Chief Executive Officer, Citizens' Constitutional Forum (CCF)

Ms. Hussain emphasized major challenges human rights organizations and defenders have to overcome: the lack of resources and capacity makes monitoring human right violations very challenging. This prevents citizens from demanding businesses to be held accountable when human rights violations take place. The lack of support or encouragement for collective action, combined with mistrust in institutions, often forces human rights defenders, individuals, and communities to move on without ever reporting these violations. She emphasized the need for people to be made aware of their rights and the existence of local and international institutions that they can reach out to in order to protect those rights and demand action.

## Ms. Anita Ramasastry

Member, UN Working Group on Business and Human Rights

Ms. Ramasastry emphasized the job of human rights defenders is one that requires many different skills given the challenges they have to face, such as being perceived as troublemakers as well as the lack of support from local authorities.

She addressed the following challenges:

1. How to change the way companies engage with human rights defenders and the people they represent so that businesses see them as allies.
2. How to deal with the barriers to remedy at a company level since nowadays the road to remedy is uneasy and unclear, and even somehow perceived as asking for something special.
3. How to prevent companies and governments from abusing the legal system to silence the defenders, e.g. through strategic lawsuit against public participation (SLAPP).

Ms. Ramasastry concluded by noting how the UNGPs can be used as a tool to provide guidance to states and companies to think about the potential risks and harms to human rights defenders, providing remedy procedures that are specifically tailored to address these concerns.



## DISCUSSION

National hubs were asked to share their experiences of barriers to remedy and how to prevent companies from abusing the systems.

### Vanuatu Hub

The hub highlighted that Vanuatu has its own traditional customs and values regarding women and gender equality. The hub asked whether there may be a possibility to incorporate the traditional and local cultural practices into business practices so that the Vanuatu population does not see gender equality as a foreign concept. Indigenous people who do not have access to information and international affairs still continue their traditional ways of life. There may be a possibility of conducting research to explore how businesses can include some of the traditional principles because the traditional trading practices are human-centred and climate-friendly.

### Papua New Guinea Hub

The hub emphasized that it is crucial to build a safe space and dialogue for human rights defenders. The hub also shared about the effect that mining pollution has on the environment, degrading water systems and killing marine animals. The government should have qualified environmental scientists to evaluate and assess environmental impact from business operations and conduct regular visits.

### Solomon Islands Hub

The hub noted that Solomon Islands already has laws in place to protect human rights in the business sector but enforcement and monitoring systems are still weak. Laws would soon be under revision so there is an opportunity for a better system in the future.

### Speakers

Ms. Ramasastry acknowledged the frustration that human rights defenders have regarding the difficulties to access remedies. She also agreed that tradition and cultural business practice may provide alternative business models. Since remedies are difficult to access, there is a need to think about prevention and changing the way business is done.

Ms. Hussai noted that self care and solidarity are indispensable for human rights defenders and advocates.

“**The fight is far from being over... remedies are not going to come overnight. It is going to be a long struggle but it is important (that) all of us take care of ourselves...and reach out to the different networks that you have.**”

- Ms. Louchrisha Hussain



# SAFEGUARDING HUMAN RIGHTS THROUGH AN INCLUSIVE DIGITAL ECONOMY

## MODERATOR:

**Ms. Zoe Victoria Tate**

Regional Technical Specialist  
Ecosystem and Incubation  
United Nations Capital Development  
Fund (UNCDF)

## FOCUS OF THE SESSION:

- > Developing technology
- > Protecting rights

## SESSION ORGANIZED BY:

United Nations Capital Development  
Fund (UNCDF) & the Australian  
Human Rights Commission (AHRC)



## Ms. Zoe Paleologos

Senior Policy Adviser, Australian Human  
Rights Commission

Ms. Paleologos shared some of the key findings of their report on human rights and technology, which focused on identifying and addressing the risks to human rights by artificial intelligence and other emerging new technologies in Australia. She emphasized the need for countries to develop strategies to use future technologies for the benefit of people, and that these strategies should include elements such as the incorporation of international human rights standards to ensure protection of human rights with accountability and grievance mechanisms, the promotion of human rights training and education, and the inclusion of measures and policy development to monitor new technologies.

## Ms. Harpreet Kaur

Business & Human Rights Specialist, UNDP in  
Asia and the Pacific

Ms. Kaur explained how UNDP not only provides technical advice to support governments and other state based institutions on the development of national action plans on business, but also promotes corporate human rights policies due diligence process remediation to ensure the enjoyment

of human rights across all business sectors. She highlighted the development of a toolkit for governments and businesses to make Smart Cities compatible with business and human rights through alignment with the UNGPs.

## Q&A

Opportunities and risks of Artificial Intelligence (AI) or other emerging technologies to hinder or to help financial access and financial inclusion were discussed, noting that not everyone has internet access due to their financial situation. When AI or emerging technologies are being discussed, some are discriminated against and not taken into account due to structural inequality. The new technologies could potentially deepen the existing inequality since the financial status is the determinant of access to these technologies. Ways to ensure diversity and inclusion include quotas or reserved seats to ensure the participation of diverse stakeholders in government, and based on research findings and experience by stakeholders, teams and leadership where there is great diversity and inclusive dynamics are the ones that have reported positive inclusive and accessible outcomes. It is advisable to promote inclusiveness and diversity in leadership teams and in design teams.



# CLOSING PLENARY

## MODERATOR:

Mr. Surya Deva  
Chair, UN Working Group on  
Business and Human Rights

## FOCUS OF THE SESSION:

- > Looking ahead
- > Next steps



## Ms. Vanessa Zimmerman

Chief Executive Officer, Pillar Two

Ms. Zimmerman noted progress: more companies are starting to acknowledge their responsibility to respect human rights and are putting in place a variety of practical tools such as creating their own human rights policies, making human rights part of their mandates, and providing training on human rights for employees, suppliers and partners. She also highlighted progress in the implementation of new laws to protect human rights, such as the Modern Slavery Act of Australia and the mandatory human rights due diligence for companies in Europe, and how this progress opens the possibility for more consistency across jurisdictions and for the playing field to be levelled.

## Mr. Livio Sarandrea

Chief Adviser and Manager, Business and Human Rights in Asia, UNDP Asia-Pacific

Mr. Sarandrea shared, based on his experience of business and human rights in the South and East Asia regions, that knowledge is a stepping stone towards action, and that there should be continuous investments in raising awareness among stakeholders. Second, he added that this knowledge must convert into the will to change - especially among leaders. Third, he expressed that there must be enough capacity (i.e. actors

and resources) to sustain any momentum achieved. Lastly, he confirmed that UNDP will invest in the business and human rights agenda of some Pacific countries from 2022 to 2023.

## Mr. Jonathan Curr

New Zealand High Commissioner to Fiji, New Zealand Ministry of Foreign Affairs & Trade (MFAT)

Mr. Curr described the New Zealand government as leading by the principles of partnership, protection and participation in the pursuit of better human rights in the Pacific region. He acknowledged that, although many businesses in the Pacific are already taking care of their workers and customers, illegal corporate practices continue to exist and their impact on human rights are not discussed at the forefront. Thus, he shared that the New Zealand government aims to create a national action plan on business and human rights, which can help raise awareness among companies regarding the social responsibilities they have towards their stakeholders.



**Mr. Paul Wilson**

Australian Deputy High Commissioner to Fiji,  
Department of Foreign Affairs and Trade  
(DFAT)

Mr. Wilson acknowledged that the Modern Slavery Act of 2018 in Australia set a model for how the world could regulate the operations of businesses and their impact on human rights - specifically, requiring companies to annually report on their business activities and assess if there are any modern slavery risks. He further discussed that the law enabled Australian companies to dialogue with suppliers and consumers about the need for responsible corporate practices. Finally, he stressed the importance of peak bodies (i.e. trade associations with allied interests) in working with the government to promote global commerce that respects human rights.

**Ambassador Nazhat Shameem Khan (by video)**

President, Human Rights Council

Ambassador Khan expressed that the Pacific region is committed to implementing the United Nations' Guiding Principles on Business and Human Rights. She acknowledged how important it is to envision what the future of businesses looks like after COVID-19, and that Pacific states should develop national action plans in order to build inclusive and sustainable economies. Another crucial element to be addressed in the business and human rights agenda is climate change. She advised that everyone in the civic sector - including the marginalized - must be consulted in the development of policies for responsible business.

**Ms. Sagufta Salma Janif**

Executive Director, The Fusion Hub

Ms. Janif observed that the youth are doing business differently because they have developed social consciousness. She shared that in her experiences of going through accelerator programs and entrepreneurship courses, she saw that human rights and social impact were missing from the curriculum. Hence, through the development of her social enterprise, she implemented capacity-building programs that enabled business owners to learn how to create goods and services that were profitable while providing fairness and equity to their communities. She expressed the desire for more conversations about human rights to happen in the spaces of youth and entrepreneurship.

**Concluding remarks**

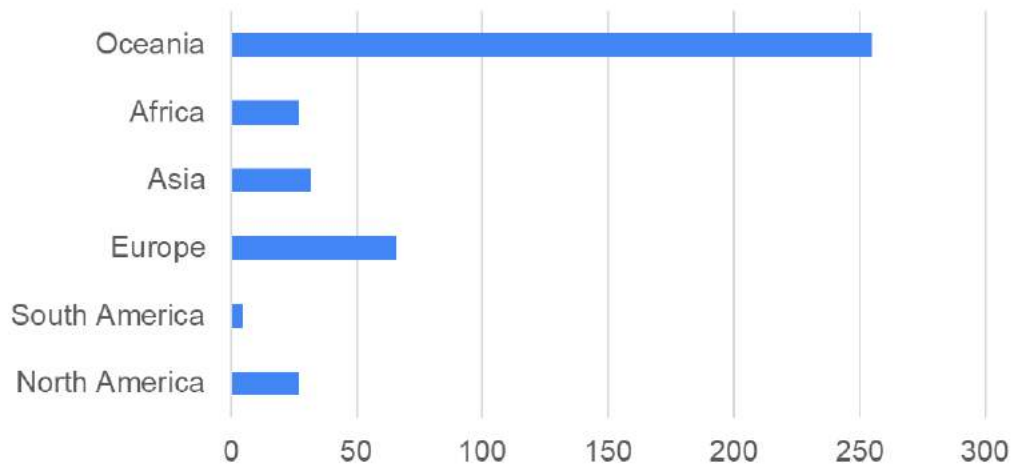
The moderator called for the UN to continue the work on BHR in the Pacific. OHCHR's Regional Representative, Ms. Heike Alefsen, reaffirmed that OHCHR stands ready to support member states and encourages them in taking more action to respect human rights principles in business. OHCHR plans to continue working with all stakeholders, including the UN Working Group, including on national action plans and on empowerment of human rights defenders and other stakeholders. Mr. Deva encouraged all stakeholders to invest their efforts in the islands of Fiji, Papua New Guinea and Samoa. Mr. Curr and Mr. Wilson felt positive about beginning conversations between their governments and Pacific islands. Other panelists agreed that businesses, civil society activists, human rights defenders, national human rights institutions, youth and UN actors including UNDP should be involved.



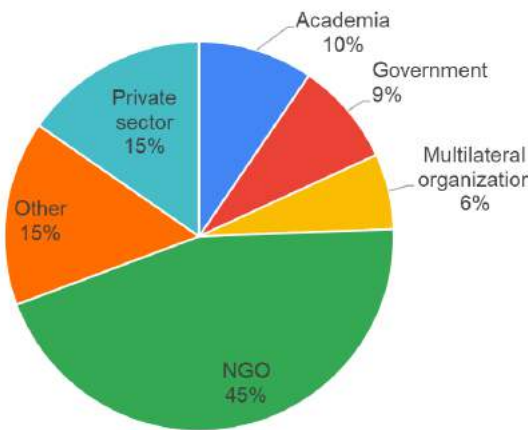


# ANALYTICS

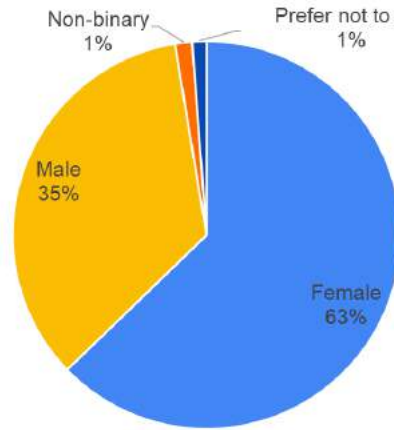
Breakdown of participants by region



Breakdown of participants per industry



Breakdown of participants by gender





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# 2ND UN PACIFIC FORUM ON BUSINESS AND HUMAN RIGHTS

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