

Closing Plenary, 4th UN Forum on Business and Human Rights, Geneva. 18 November 2015

Deepening and broadening implementation of the UN “Protect, Respect and Remedy” Framework

Debbie Stothard, Coordinator Altsean-Burma and Secretary-General FIDH.

Thank you for inviting me to speak again at the closing plenary.

Two years ago, I spoke about the need for teeth and testicles to push forward on the Guiding Principles, and I am amazed that the Working Group has been focusing a lot on teeth in their interventions and speeches this year, so we are moving forward!

I was asked to speak about cost-effective ways of deepening and broadening implementation of the (Protect, Respect and Remedy) Framework. And I have a very simple answer: States need to do their job, which has been their key responsibility all this time, even before the Guiding Principles were drafted: States need to live up to their duty to protect the human rights of people!

It is no accident that is the first principle - it is the prerequisite that ensures businesses uphold their responsibility to respect, and that victims have access to remedy. Since prevention is better than cure, the state's willingness to protect human rights is paramount. I realize this is common sense to most, but you'll be surprised how many millions of dollars are being spent to help states and businesses avoid common sense.

As we move forwards to the fifth anniversary of the adoption of the Guiding Principles, it is an inspiration to me that communities affected by violations have been able to step up their mobilization for corporate accountability and their efforts to move on with the Guiding Principles, despite all odds.

Some governments and businesses have helped. Yet in too many cases, community efforts are being undermined and threatened by states and companies. Indigenous people and community representatives from Cambodia, Honduras, Nigeria, Brazil, India, Palestine, Ecuador have presented evidence during this Forum about this. They tell us we need to be more courageous, creative and much more committed in ensuring what we stand for at this Forum becomes a reality.

Some have shared that seeking remedy made them a target for violence. My friend Alfred Brownell from Liberia activated a remedy process of the oil palm industry. Instead of remedy for the community, Alfred and his colleagues almost became victims of an atrocity.

Besides worrying about protection while seeking access to remedy, we also have to worry about what happens after: Two months ago in Guatemala, indigenous activist Rigoberto Lima Choc was murdered only one day after the court granted his community temporary relief (for the ecocide of Pasión River) by directing an oil palm company to suspend operations.

Last Friday, as we were packing to come here, Colombian human rights defender Daniel Abril, known for his work to protect communities and natural resources, was killed by paramilitaries.

Last year, the Observatory for the Protection of Human Rights Defenders reported on 43 assassinations of land rights defenders and 123 cases where defenders were judicially harassed. **In 95 % of these cases, the perpetrators went unpunished.**

These assassinations take place with impunity in an environment where the state has harassed and criminalized those who seek remedy. Yet the same states claim they are powerless to protect people

and instead point fingers at big business, who in turn, tell us that they are simply following domestic law.

What if the domestic law is racist, oppressive and clashes with international human rights standards?

In Burma/Myanmar, where Aung San Suu Kyi's party won by a landslide in an election 10 days ago, the parliament enacted laws that criminalize interfaith marriage and allow arbitrary imposition of birth restrictions on minorities. What's the connection to business? The Rohingya minority targeted by these laws, stripped of citizenship in their own country, are being pushed out of resource-rich lands without any hope of protection or remedy.

If we really want to see change implemented in Burma/Myanmar, and in other countries around the world going through transition, we need to get real about our obligations to ensure that states fulfill their duty to protect, so that business can respect.

It is in the collective interests of states, business and civil society to work together to ensure that recalcitrant states behave. So, it's been encouraging to see that the rhetoric around a treaty has shifted slightly, and there seems to be growing realization that a treaty and the Guiding Principles are mutually reinforcing.

I know there have been states that say "we are not going to have a National Action Plan because we are waiting for a treaty". Let's not give in to illusions - they never planned, they are not interested and they don't intend to commit - and I think that's why we really need to do what it takes, and you'll be surprised (that) working together can ensure peer pressure makes all the difference for these states.

As Europe grapples with the ongoing crisis, we also need to be alert and pro-active on ensuring that the stateless, migrants and refugees have access to protection and remedy, especially in situations where businesses are contracted to supply services, goods, or contracted to detain and confine.

In Australia, the state has outsourced immigration detention to private companies, creating a situation where women and children are continually subjected to severe abuse. Australia's system has been found by the United Nations to violate the prohibition on arbitrary detention **eight times**, but yet companies still contract to it and enjoy profits and the protection of the state.

So we still have a lot of work to do to ensure coherence at the state level. States need to implement their own laws to protect rights; and to regulate where necessary, to close accountability gaps.

For trade and investment agreements, what we are hearing from panels is that States must conduct REAL human rights impact assessments before, during and after, which have the active involvement of affected communities. States must ensure that rights are protected both at home and abroad, especially when it comes to the safety of human rights defenders and indigenous peoples. And of course, it always helps to have National Action Plans with teeth and legs to go the distance.

I was very moved when Margaret Jungk acknowledged Ken Saro Wiwa at the opening plenary yesterday. Many of us are here because of his sacrifice and the sacrifice of the thousands after him, who stood up for their communities' rights. I hope next year, we will see how the progress achieved so far has led to enduring results for these communities.

Thank you!