

"Business and human rights – towards a decade of global implementation"

Key messages from the UNGPs10+/NextDecadeBHR project launch and first global multi-stakeholder consultation (7 July 2020)

UN Working Group on Business and Human Rights



Supported by







Background: UNGPs10+/NextDecadeBHR

June 2021 marks the tenth anniversary of the <u>unanimous endorsement</u> by the United Nations Human Rights Council of the <u>United Nations Guiding Principles on Business and Human Rights</u> (UNGPs). A major step forward in efforts to prevent and address business-related human rights abuse, they provide a global authoritative framework for State duties and business responsibilities to achieve the UNGPs' vision of "tangible results for affected individuals and communities, and thereby also contributing to a socially sustainable globalization."

As part of its mandate to promote the UNGPs, the <u>UN Working Group on Business and Human Rights</u> is undertaking a project to chart a course for a decade of action on business and human rights. Also known as UNGPs10+/NextDecadeBHR, this effort, informed by wide-ranging stakeholder consultations, will take stock of achievements to date, assess existing gaps and challenges, and, most importantly, *develop an ambitious vision and roadmap for implementing the UNGPs more widely and more broadly between now and 2030*.

The project is supported by the Government of Germany – including in the context of Germany's presidency of the Council of the European Union during the second half of 2020 – and the Government of Switzerland and <u>other partners</u>. The global consultation process to develop the roadmap involves collaboration with OHCHR and UNDP as well as a range of other partners. To inform the stocktaking and roadmap development, all interested parties have been invited to have their say through the global process for providing inputs.

This process will feed directly into the two main outputs of the project:

- A report to the Human Rights Council in June 2021 to provide a baseline, vision and ambition for the next phase, by assessing progress to date, highlighting existing boundary-pushing practices, documenting impediments to wider and deeper action, and considering how to leverage more robust policy action for transformational change towards 2030 and beyond.
- A Roadmap for the Next Decade, informed by multi-stakeholder inputs, setting out an implementation strategy with goals and targets for States, business enterprises and associations, international organizations and other actors, to be launched at a dedicated event marking the tenth anniversary of the UNGPs.

About the launch event and this report

The event on 7 July 2020 marked the official launch of the UNGPs10+/NextdecadeBHR project. This virtual conference was convened by the UN Working Group. The German Federal Foreign Office cohosted the event as impulse for its "Business and Human Rights" agenda during its EU Council Presidency 2020. It was livestreamed, with 2,100 registered participants from all regions of the world. These included, among others, academics, business representatives, civil society and union representatives, government officials, and representatives of international organizations.

The launch served as the first global multi-stakeholder consultation to inform "UNGPs10+/NextdecadeBHR", bringing together acknowledged and committed key agents, partners and stakeholders from all continents. This note provides a highlight of some key messages from the launch. A video recording of the full event is available online.

The event offered a virtual global multi-stakeholder platform to discuss motivations and expectations for the project. The launch (as well as the project overall) also aimed at connecting the UNGPs with



responses to the ongoing COVID-19 crisis as well as to longer-term threats to sustainable development, including the climate emergency.

Key messages from the UNGPs10+ launch

Why UNGPs10+?

"We are at a turning point and inflection point for the future we want. Is it a future of closed borders, armed conflict, rising inequality, climate crisis, pandemics, and discrimination? Or is it a path of resilience, inclusion, justice, peace, and prosperity?

As we reflect, there are two key commitments made by States that are fundamental. Both recognize that responsible business is a key part of the solution. The first is the 17 Sustainable Development Goals that set forth the aspirations we have for people and planet. The second is the UN Guiding Principles on Business and Human Rights – brought to life by the UN Human Rights Council in 2011, and the universally accepted framework for how to realize corporate respect for human rights.

Grounded in international human rights and labour standards, their three pillars tell us what is needed: States must protect human rights, business should respect human rights, and when harms occur, victims need access to remedy. ... In the lead-off to the 10th anniversary of the Guiding Principles in June next year, we are undertaking this new project to: take stock of the first ten years of implementation; and design a roadmap for action in the decade toward 2030. Our goal is to help unleash the full potential of the Guiding Principles, to support our collective efforts to achieve the future we want." Anita Ramasastry, Chairperson, UN Working Group on Business and Human Rights

"Ten years after their adoption, the UN Guiding Principles remain a benchmark. They promise to pave our way from a shareholder to a stakeholder economy. Today, as we work our way out of this crisis, it is time to turn that promise into reality." Niels Annen, Minister of State at the Federal Foreign Office, Germany

"The Working Group's project is forward-looking. So are the UNGPs. They embody two core strategic concepts that are as relevant today as they were in 2011 when the Human Rights Council endorsed them unanimously. The first is leveraging opportunities to drive human rights considerations into everyday decisions by businesses and governments. The second is the need for a smart mix of measures, national and international, voluntary and mandatory, in order to achieve that aim." John Ruggie, author of the UNGPs

Why is UNGPs10+ timely in the current context?

"Today, there is near-universal consensus on the need to build back better from the worst pandemic in a century, and for many countries possibly the worst recession since the Great Depression. Building back better must not become a slogan for some technical fix. It should serve as a call for a fundamental rethink of how things are done, one which puts people at the center rather than treating them as a factor of production." John Ruggie, author of the UNGPs

"This is not the time to turn away from ambitious environmental, social or human rights obligations and goals. I believe, on the contrary: Sustainable production and better risk management are the only ways out of this crisis – and our best insurance against future shocks. ... Protecting these vulnerable



people is more than just an economic necessity to avoid further lockdowns. Their situation is a wake-up call to build a more respectful model of economic cooperation. Short-sighted efficiency cannot be the center of this new economic model we want. We therefore fully support the new project on business and human rights that we are launching today." Niels Annen, Minister of State at the Federal Foreign Office, Germany

"We need to build a new model that is more equal, just, sustainable and resilient. ... The UN Guiding Principles on Business and Human Rights are the first globally recognised and authoritative framework for preventing and addressing adverse human rights impacts resulting from business activities. We also need to focus strongly on the environmental challenges--climate change, deforestation, biodiversity loss... [These challenges] are often closely linked with human rights and we need to tackle them together." Didier Reynders, European Commissioner for Justice

"The pandemic has highlighted deep and disturbing inequalities in every society. It is simply not acceptable to go back to the way things were. ... we need to build forward better, reflecting the fact that there is no perfect world that we can go back to. We need a new social contract and new partners and alliances for development based on the sustainable development goals and the call for strengthened and institutions to underpin peaceful and inclusive societies. ... the UN Guiding Principles can steer governments and businesses into a sustainable and human rights-based social and economic recovery from the pandemic." Peggy Hicks, Director, Thematic Engagement, Special Procedures and Right to Development Division, Office of the UN High Commissioner for Human Rights

Mourad Wahba, Associate Administrator of UNDP, highlighted that at least 100 million people that have fallen back into poverty in the current crisis. In the confusion caused by the crisis, the greatest victims have been vulnerable and disadvantaged groups. He pointed to the temptation for shortcuts that ignore basic human rights principles is very strong in restoring economic viability and warned governments and businesses have to be firm in resisting this temptation.

Nnimmo Bassey, Nigerian human rights defender, climate change activist and poet, noted that the COVID-19 pandemic has offered a cover for further exploitation of workers and communities.

Krystyna Marty, State Secretary, Federal Department of Foreign Affairs, Switzerland, highlighted the relevance of the UNGPs for addressing other current challenges as well. Including in relation to the future of work, with the crucial need of ensuring respect for the rights of self-employed workers in the "gig economy" and workers affected by the disruption of an increasingly technology-driven economy, through automation and artificial intelligence. She also emphasized that the urgent need to transition from fossil energy to a low-carbon economy will require new solutions to protect decent jobs and social rights, where the UNGPs provide the authoritative reference point for companies when it comes to respecting human rights in any specific economic context.

EU Commissioner Reynders further highlighted that the crisis has revealed the weaknesses of all businesses and global supply chains. Companies that prioritize people and planet and society at large have done better during this crisis and will do better during the economic recovery.

What are the key remaining gaps and challenges?

Joseph Wilde-Ramsing, Senior Researcher at SOMO and Coordinator of OECD Watch, emphasized that for civil society and many groups working with affected stakeholders in the Global South, the



assessment is that we have had a decade of UNGPs without implementation. He stressed we need to change this quickly and make the next ten years the decade in which we stop saying one thing and doing another.

Mauricio Lazala, Deputy Director & Head of Europe Office of the Business & Human Rights Resource Centre, stressed that there is a growing number of attacks on human rights defenders, averaging more than one per day over the last year. This reflects a large power gap between people and companies that needs to be bridged in order to fulfil the third pillar of the UNGPs, the need for access to remedy for those harmed by business-related activity.

Fernanda Hopenhaym, Co-executive director, PODER, and Chair of the board, ESCR-Net, reiterated the challenges posed by power imbalances and corporate impunity, and that the current crisis has reinforced prevailing inequalities and systemic injustice, and exposed corporate abuse of labour rights and corporate capture in the form of lobbying to protect profit over people's health and even people's lives.

Sharan Burrow, Secretary-General of the International Trade Union Confederation, highlighted the risks faced by workers in informal sectors and the growing trend against democratization. The result has been limited rule of law and social protections for labour, which is put into sharp relief by the COVID-19 crisis.

Victor van Vuuren, Director, Enterprises Department, ILO, highlighted in particular the plight of SMEs and their need for support, noting that this is a common issue for building a global alliance on responsible business and human rights with all international and national actors.

Sanda Ojiambo, Executive Director of the United Nations Global Compact, underlined that many companies have not yet moved past the policy-setting stage to implementation, due diligence or access to remedy – as a result there is a gap between aspirations and actions that needs to be bridged.

Jeanette von Wolfersdorff, Director of the Chilean Commission for Transparency, Quality and the Impact of Public Expenditure, and former Director of the Santiago Securities Exchange, highlighted the role of data in making ESG work, and that we currently do not have nearly enough meaningful transparency around companies' human rights impacts and performance. This is a challenge for investors to make informed decisions about human rights risks in their activities. She also noted that investors are not yet asking enough questions about ESG issues and that we need more and better non-financial information from enterprises and investors alike.

What achievements and opportunities can be built on to speed and scale up UNGPs implementation?

"[The Guiding Principles'] unanimous endorsement by member states in 2011 established a globally agreed standard for governments and business enterprises to embed respect for human rights in a business context. Since then the Guiding Principles have inspired policy developments and new approaches in different regions and by different actors. However, much more is needed. The key now is to build on these efforts to place respect for human rights at the centre of how all business is done. We need to focus first on the most vulnerable." Peggy Hicks, Director, Thematic Engagement, Special Procedures and Right to Development Division, Office of the UN High Commissioner for Human Rights



Christine Kaufmann, Chairperson of the OECD Working Party on Responsible Business Conduct, emphasized the progress achieved in aligning internationally agreed standards (though cautioning against the risk that they must not be diluted or replaced by diluted policies and regulations). She noted the contribution of OECD national contact points (NCP) toward the third pillar of the UNGPs – access to remedy – as most NCP cases have involved complaints of human rights abuse. While noting the shortcomings, she observed that a third of NCP cases have resulted in a policy change at the company level.

"In short, we are surrounded by opportunities to drive human rights considerations into every-day decisions by business and governments: building back better, the corporate purpose debate, and ESG investing. Let's seize them." John Ruggie, author of the UNGPs

What is needed in order to unleash the full potential of the UNGPs in the coming decade?

"A smart mix of measures would begin with consideration of the kind of mandatory human rights due diligence Commissioner Reynders has just described. It would link the due diligence provisions to the revision of the non-financial disclosure requirements the EU is also undertaking – it makes good sense for the two to reinforce one another. In turn, this means that the materiality construct in the reporting requirement recognizes potentially high impact risks that are emergent but not yet imminent, which is the case for climate change and certain human rights harms. Furthermore, a smart mix would include drawing on these initiatives to promote greater consistency among ESG standards, for which everyone is clamoring but no authoritative entity is providing. ... Our fragile world is in desperate need of systemic change. Unconnected fragments here and there will not achieve the outcomes we need." John Ruggie, author of the UNGPs

"Business activities that harm people and the planet need to be checked by strong frameworks for accountability and governance. States must show leadership through legislation and policies to protect workers and communities at home and abroad through international human rights and labour standards. ... Human rights defenders speaking up against harm caused by business activity also need to be protected and when people's rights are affected, there needs to be a swift and appropriate remedy. ... Human rights due diligence that considers risks to the most vulnerable across the value chain needs to become standard business practice. We need to rapidly move to provide broader implementation of the three pillars of the UN Guiding Principles, protect, respect and remedy. Business respect for human rights must be the norm, not the exception." Peggy Hicks, Director, Thematic Engagement, Special Procedures and Right to Development Division, Office of the UN High Commissioner for Human Rights

"There's only one pathway for us: it's mandated due diligence if we're going to build recovery, and we must indicate upfront that indeed business as usual is not acceptable." Sharan Burrow, Secretary-General, International Trade Union Confederation

"The time has come to put in place mandatory human rights due diligence, and this is very much underway." Heidi Hautala, Member of the European Parliament; Chair of the European Parliament Working Group on Responsible Business Conduct

There was broad agreement about the need for governments to step up. **Jens Frølich Holte, State Secretary of the Norwegian Ministry of Foreign Affairs**, commented that "Governments need to lead further on the implementation of the business and human rights agenda, especially on an intergovernmental level. … Many governments have not yet taken action on the UNGPs, and in the



lead-up to the 2030 SDGs this is more important than ever to achieve sustainable development."

Silvia Lara Povedano, Vice Minister of the Presidency, Costa Rica, pointed to the need to strengthen the narrative of how human rights become a key driver for economic recovery and success, and placing national action plans on business and human rights more firmly at the centre of economic recovery plans, as they currently tend to be placed on the margins of economic policy and decision-making.

"Finding a way to advance both human rights and sustainable competitiveness is a challenge for every government. ... Indications we have so far suggest that the time has come to shift gears into a balanced, but mandatory approach. An approach that protects human rights but which also protects those enterprises, which suffer from standards dumping and unfair competition." Niels Annen, Minister of State at the Federal Foreign Office, Germany

"From the UN Working Group side we have been pushing policy coherence as a must need. We need to interconnect policies, we need to make them work together to be more effective and to reach farther. A deeper part of policy coherence is the state as an economic actor and leading by example: state-owned enterprises, investment facilitation, trade policies and of course public procurement. Actually, public procurement is one of the best shortcuts if you want to have impact because it's also the largest supply chain in any given country of the world. It's a state supply chain so it's also an opportunity for states to live up to their own expectations and lead by example, and it's the acid test of political will." Dante Pesce, Vice-Chair UNWG and UNGPs10+ project lead

Joseph Wilde-Ramsing, Senior Researcher at SOMO and Coordinator of OECD Watch called for key provisions and concepts in the UNGPs to be made mandatory to address the implementation gap, stressing the need for parent company liability, at the national level, regional level, and at the UN level with the binding treaty.

Didier Reynders, European Commissioner for Justice emphasized the need to tackle short-term financial performance and unregulated supply chains. He highlighted that the EU will address these inter-linked issues by seeking to clarify that directors' duties include balancing the interests of stakeholders, including the environment, workers and other affected people, with those of shareholders and encouraging companies to adopt science-based targets and mandating human rights and environmental due diligence at the EU-level to create a level playing field and to give companies the incentive to engage in transformative change.

Mthunzi Mdwaba, Vice-President of the International Organisation of Employers, noted that the business and human rights agenda cannot only be EU- or U.S.-centric. The fastest growing economies are in Africa and Asia, where the challenges and opportunities may diverge from those faced by governments in Europe and North America. The perspectives of actors from these regions need to be adequately reflected in the business and human rights movement.

Fernanda Hopenhaym, Co-executive director, PODER, and Chair of the board, ESCR-Net also stressed the critical importance of involving civil society, human rights defenders, social movements and affected stakeholders from all regions of the world, and that their voices are heard in shaping the business and human rights agenda for the next decade, playing as an important role as states and businesses. In terms of priorities for the agenda, she stressed that access to justice for victims must be guaranteed and called for an end to corporate impunity. She highlighted the need to strengthen the capacities of states to meet their duties in guaranteeing human rights and engaging directly with affected communities and human rights defenders, as well as the need to engage institutional



investors, "because it's not only business as usual that is unacceptable, but investment as usual is also unacceptable. I think movements like black lives matters, feminist movements, environmental movements addressing the climate crisis, workers' rights movements and communities defending the rights on the frontline are the ones that are showing and leading the way."

"If we are to change this reality on the ground through the implementation of the UN Guiding Principles on Business and Human Rights, the bad legacy of business operations in indigenous territories need to stop. ... Enough of harassment and extrajudicial killings of land and environmental defenders." Joan Carling, Co-convener of the Indigenous Peoples Major Group for Sustainable Development. She further underlined that indigenous peoples and human rights defenders are critical actors to ensure we protect our environment and create a just climate transition. To do this, we must ensure that the perspectives of these vulnerable populations are actively sought out and integrated as we move ahead into the next decade of the UNGPs.

"Joan and Nnimmo reminded us of the very important concept of free, prior and informed consent, which is more often not respected than respected. That also brings the issue about the smart mix the UN Guiding Principles refer to and the need to have a smart mix of voluntary and mandatory measures in order to advance the field of business and human rights. ... we must move quicker and more decisively towards a real smart mix of measures if we are to achieve the ambition of the UN. ... we won't achieve success if we operate in silos and alone. In civil society we depend on the action and cooperation of a lot of allies and partners from human rights NGOs to environmental NGOs, labour rights groups, women's rights groups, children's rights, groups development NGOs, etc. We also need media, philanthropy and academics that can add immense value and leverage to our efforts. And of course, we need all governments and businesses, from the smallest business to the largest business in the world. International institutions and multilateral organizations are also needed to be pushing in the same direction." Mauricio Lazala, Deputy Director & Head of Europe Office of the Business & Human Rights Resource Centre

"If we want to achieve the project goals by 2030, we will still need considerably more CEO leadership and courage. Bottom lines are clearly suffering at the moment for sure, but there are opportunities here and now for increasing leverage to good effect instead of cutting risk management budgets. Unfortunately, what we're seeing is that too many sustainability budgets are being cast in the rush to preserve the bottom line, but there are some huge opportunities here which companies need to seize upon. We also need to devote considerable time in the coming years to remedy... Most companies and organizations after nine years of the UNGPs are hardly off the starting blocks on providing remedy to people negatively impacted by their activities and operations, and this needs to be an area of greater focus in years to come. Governments need to make greater use of their convening powers with companies domiciled in their countries. They need to set out very clearly their expectations of business, big and small, multinationals and SMEs, and what good UNGPs performance looks like both in their home country and through their embassies and trade missions. We all know that there are competing agendas and very tight budgets, but if we're serious about making this UNGPs10+ project work well and wish to speed up implementation, then governments need to fund these efforts and those leading the work appropriately." Ron Popper, CEO, Global Business Initiative on Human Rights

Conclusion

"What has become very clear: we need mandatory due diligence rules and standards. We could gather a lot of voluntary experience in the last years, but we also had to find out that this was not



really successful. Not successful for the people on the ground but also not sufficiently rewarding for businesses who were trying to live up to the standard... the roadmap is very much needed, and it's very much needed that we come up with due diligence initiatives and frameworks." Bärbel Kofler, Commissioner for Human Rights Policy of the German Federal Government

"The fact that we're actually having this conversation is something good in itself; and try to build into the future a strategy that is way more ambitious, that will get us from pioneer level, to normalizing, to mainstreaming in all dimensions possible." Dante Pesce, Vice-Chair UNWG and UNGPs10+ project lead



Annex 1: Agenda

7 July, 2020 (virtual launch)

Welcome remarks

- Anita Ramasastry, Chairperson, UN Working Group on Business and Human Rights
- Niels Annen, Minister of State at the Federal Foreign Office, Germany¹

Opening remarks

- Didier Reynders, European Commissioner for Justice
- John Ruggie, former UN Secretary-General's Special Representative for Business and Human Rights; Berthold Beitz Professor in Human Rights and International Affairs at Harvard's Kennedy School of Government²

Remarks by UN Project Partners

- Peggy Hicks, Director, Thematic Engagement, Special Procedures and Right to Development Division, Office of the UN High Commissioner for Human Rights
- Mourad Wahba, Associate Administrator a.i., UNDP

Government perspectives

- Jens Frølich Holte, State Secretary, Ministry of Foreign Affairs, Norway
- Silvia Lara Povedano, Vice Minister of the Presidency, Costa Rica
- Krystyna Marty, State Secretary, Federal Department of Foreign Affairs, Switzerland
- Stefano Sannino, Deputy Secretary General for Economic and Global Issues, European External Action Service

Introducing the UNGPs10+/NextdecadeBHR project

Conversation with UN Working Group Chair Anita Ramasastry and Vice-chair Dante Pesce Conducted by Christopher Schuller, independent business and human rights expert

Reflections on UNGPs10+ and reinforcing coherence

- Sharan Burrow, Secretary-General, International Trade Union Confederation
- Mthunzi Mdwaba, Vice-President, International Organisation of Employers
- Sanda Ojiambo, Executive Director, United Nations Global Compact
- Christine Kaufmann, Chairperson, Working Party on Responsible Business Conduct, OECD
- Josep Wilde-Ramsing, Senior Researcher, SOMO; Coordinator OECD Watch
- Victor van Vuuren, Director, Enterprises Department, ILO

Moderator: Lene Wendland, Chief, Business and Human Rights, Office of the UN High Commissioner for Human Rights (OHCHR)

Perspectives and expectations from the ground

- Joan Carling, Co-convenor of the Indigenous Peoples Major Group for Sustainable Development
- Nnimmo Bassey, Defender of victims of climate change, Nigerian activist and poet

Moderator: Mauricio Lazala, Deputy Director & Head of Europe Office, Business & Human Rights Resource Centre

The road ahead: how to scale action to move business respect for human rights from aspiration to action?

- Heidi Hautala, Member of the European Parliament; Chair of the European Parliament Working Group on Responsible Business Conduct
- Fiona Reynolds, CEO, Principles for Responsible Investment
- Jeanette von Wolfersdorff, Director of Commission for Transparency, Quality and the Impact of Public Expenditure, Chile; former Director of the Santiago Securities Exchange

¹ Copy of full remarks: https://www.auswaertiges-amt.de/en/newsroom/news/annen-wirtschaft-menschenrechte/2365948

² Copy of full remarks: https://shiftproject.org/john-ruggie-remarks-decade-global-implementation/



- Liang Xiaohui, Chief Researcher, Office for Social Responsibility, China National Textile and Apparel Council; Adjunct Professor, Peking University Law School
- Fernanda Hopenhaym, Co-executive director, PODER (Latin America); Chair of the board, ESCR-Net
- Ron Popper, CEO, Global Business Initiative on Human Rights

Moderator: Salil Tripathi, Senior Advisor, Global Issues, Institute for Human Rights and Business

Answers, take-aways and next steps

Virtual Q&A with the Working Group Chair and Vice-chair

Closing remarks by the co-host

• Bärbel Kofler, Commissioner for Human Rights Policy of the German Federal Government



Annex 2: UNGPs10+ partners and supporters

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UN Working Group on Business and Human Rights - www.ohchr.org/UNGPsBizHRsnext10

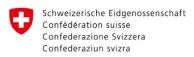
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