

*Business and Human Rights as the Backbone of Sustainable Development and Resilient Recovery*

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Assistant Secretary General Okai, Excellencies, Distinguished Delegates and Participants,

My thanks to UNDP for this invitation and for their partnership in connecting the sustainable development and business and human rights agendas on the ground.

It is my great privilege to address you today at this important annual UNDP meeting focusing on the rule of law and human rights as part of the future we want. I am a professor who runs a graduate program in the law of sustainable international development, so I am a firm believer in Agenda 2030. Call me an SDG Evangelist. I am equally passionate about business and human rights and as chair of the UN Working Group on Business and Human Rights, I hope to convert each of you to this cause.

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, recovery, inclusion, peace, and prosperity

As we reflect today there are two key commitments made by States that are relevant to this discourse – and both should be equally important to the future we want

The first is the Sustainable Development Goals which is a pillar of UNDP's work. Through its 17 goals, it sets forth the aspirations we have for people and the planet. At times, this can seem at odds with the way in which governments have been approaching issues in terms of ensuring that those who are the most vulnerable are lifted up and not held down as we move forward in the 21<sup>st</sup> century.

SDG 17 also invites business to the table as a partner in the quest for a better planet. The SDGs recognize the power of partnership and also that in many cases, national governments cannot solve problems alone – they need the support of civil society and the private sector to identify needs and develop solutions.

The second UN framework is the UN Guiding Principles for Business and Human Rights – brought to life by the UN Human Rights Council and now the universally accepted framework on how to promote corporate respect for human rights

In a minute, I will explain the key concepts set forth in the UN Guiding Principles, but I first wanted to emphasize a key point about why the development community needs to consider human rights as an integral part of its expectations for business.

For many of us working in the field of economic development, we start with the baseline that business activity and economic development are good for an economy – business and investment help economies grow and helps individuals lift themselves out of poverty.

But even businesses that may seem to be forces for good, also can be causes of harm. The SDGs seek to harness business as a force for good – but the UN Guiding Principles provide us with another guidepost and essential ingredient – focusing on ensuring that businesses also identify the harms they cause or are connected to, and take steps to prevent and then to mitigate or remedy those harms.

For example, a company that sells and manufactures disposable masks may be contributing to public good by ensuring a stable supply of masks in a given country. At the same time, the company might also be contributing to harm if it is sourcing from factories where workers are subject to forced labor.

The UN Guiding Principles ask us to look the negative impacts of business conduct and asks business to respect human rights and to actively prevent harm. Thus, the Guiding Principles are about a shift in all our mindsets – we are asking businesses

to think not only about risks to the company and its assets when it makes decisions – but to think about risks and harms to people from its business operations.

As we look at 10 years of the UN Guiding Principles and 5 years of the SDGs we need to ask about their continued relevance in the decade to come. We will reach 2030 very soon. We need all the tools in our toolkit, and I want to ensure that development experts embrace the Guiding Principles as a key tool alongside the SDGs.

***Explain the UN Guiding Principle and the protect, respect and remedy formwork – I will turn briefly to slides here***

The UN Guiding Principles are a framework known as the Protect Respect and Remedy Framework – consisting of 3 pillars.

Pillar I: State Duty to Protect – focuses on the duty of States to fulfill their key role in protecting individuals from human rights abuses by using legislation, incentives and policy tools to ensure that companies respect human rights in their business operations. This can include as appropriate regulation of companies when they operate overseas – for example via supply chains or in investment activity in another country via a subsidiary – building a dam or operating a mine.

The second pillar the business responsibility to respect homes in on the role of business. It asks business to benchmark their obligations globally to people not by local laws alone – which can often leave individuals in weak rule of law zones without protections – instead they should measure their conduct against international human rights treaties including core labor standards. The mantra of the Guiding Principles is ***do no harm***. The UN Guiding Principles ask companies to use something called human rights due diligence to identify the impacts of their business operations on people and to then prevent, mitigate and remedy them – it asks them to KNOW and SHOW their negative human rights impacts and to fix them.

The UN Guiding Principles are a foundational tool – the framework aims at prevention of harm and ensures that when we try and achieve the SDGs that business comes to the table as a responsible partner. It is not enough for a business to do good. If a business builds a school in a community but is also a large scale polluter – its negative impact may far outweigh its contributions to economic development.

As the UN Working Group has previously stated in its 10 key messages on the UN Guiding Principles and the SDGs – It is often by identifying and mitigating harm businesses make valuable contributions towards realizing the SDGs.

For example, if a business identifies racial discrimination in the workplace and rectifies this, it contributes towards the achievement of SDG 10 of reducing inequalities. Similarly helping to end bonded labor contributes to SDG Goal 8 focusing on decent work. Thus, there is a tangible SDG benefit to the UN Guiding Principles. By doing no harm companies are also doing tremendous good.

So, the UN Working Group sees the UN Guiding Principles as an integral part of Agenda 2030. Governments should only invite responsible business to the table – those that identify the harms of their business operations and address them.

Are the UN Guiding Principles still relevant for the next decade? My answer is a resounding YES.

The UN Guiding Principles helped us achieve much in the past decade – in some countries governments are requiring greater oversight and regulation of responsible business activity and asking businesses to engage in human rights diligence – identifying human rights abuses in global supply chains, trying to end forced labor, and ensuring that workers are protected in factories be they in the global south or the north.

In other countries, we see National Action Plans on business and human rights, development through multistakeholder processes. These national action plans are like social contracts – where labor unions, business, civil society and government come together to develop a plan and agenda for forward looking responsible business conduct. UNDP has been an active partner in developing such plans in Asia, for example and the UN Working Group has been active with the OECD and the ILO in Latin America.

Some countries have created new mechanisms to provide access to remedy for victims of corporate human right abuses. An example of this is the new Canadian Ombudsperson for Responsible Enterprise which will address human rights abuses connected to Canadian businesses in the extractive and apparel sectors that occur overseas.

There is now a treaty process underway at the UN Human Rights Council for a new legally binding instrument focused on business and human rights led by Ecuador. These different pathways – national action plans, treaty processes, new remedy mechanisms are outgrowths of the UN Guiding Principles – it is a tree that has many branches which is what is meant to happen.

Second, the UN Guiding Principles are a tool for prevention of crises and for the emergence of sustainable and resilient business models. Using the concept of human rights due diligence, business can future proof their decision making - identify and anticipate the harms to people in order to engage in sound business planning.

An example is the pandemic – Governments may not always be ready to move quickly in a crisis to regulate or change standards. If companies wait to implement key health and safety measures until there is regulation – workers in factories or meat processing plants will fall ill and possibly die because business did not proactively identify the impacts on their workers but instead waited for government to act. Business has the tool in the UN Guiding Principles to identify harms and to decide how to remedy them without waiting for government to tell them how.

In some situations, however companies that have embraced the UN Guiding Principles and adopted human rights due diligence, knew what steps to take during the crisis. For one pharmaceutical company, this included not cancelling its supplier contracts immediately due to the COVID-19 recession, thereby avoiding the mass devastation which can occur in developing economies so dependent on particular industries for their lifelines. That same company also took a measured approach to staff layoffs and took a pause to consider options for furloughs and balanced layoffs and salary reductions to avoid impacting the most vulnerable workers who have no savings or safety net.

This is not to say that businesses won't have tough choices in the recovery process – Rather, the idea is those that had thought about the issue of impacts to people are better equipped to make more informed decisions.

Third, the UN Guiding principles are a utility or general purpose tool that is well suited for new problems and scenarios – as with any tool it must be sharpened, adapted to new situations.

Now we are asking to about how climate related measures do or don't impact human rights. We are examining how issues of racial discrimination in employment have led to persistent inequality highlighted by the Black Lives Matter movement or how the images of black persons on major consumer products from skin lightening cream to American rice and maple syrup have led to persistent negative stereotyping.

We are addressing how new deployments of technology such as facial recognition and artificial intelligence can be done in a rights respecting manner. The Guiding Principles allowed governments and business to consider human rights impacts before technologies are developed and brought to market, when contracts are signed with governments, and when technologies are deployed. At each step we can use human rights to make better decisions and to prevent harms

Fourth, members of the business community and other leaders have called for a new form of business – the World Economic Forum has asked us all to contribute to a “great reset”. The Business Roundtable, a major business association in the US has committed to a new purpose for the corporation which is about creating long term value and it has affirmed the “essential role corporations can play in improving our society when CEOs are truly committed to meeting the needs of all stakeholders – including investors, employees, communities, suppliers and customers”.

The great reset also involves a shift in the way in which States also engage. The Secretary General in his call to action noted that “[l]ooking ahead, we need to build back better. Everything we do during and after this crisis must be with a strong focus on building more equal, inclusive and sustainable economies and societies that are more resilient in the face of pandemics, climate change, and the many other global challenges we face.”

Please join me in adding the UN Guiding Principles to your resilience toolkit.

As I conclude, I am pleased to also announce that the UN Working Group with partnership from Germany, UNDP and others will be launching a project focusing on the next 10 years of the UN Guiding Principles. This will involve a high level launch on July 7, and we look forward to working with UNDP as we engage with stakeholders globally to draw up a roadmap of how the UN Guiding Principles will be critical to addressing emerging challenges around the globe.

I also congratulate UNDP on its own launch of its global BHR initiative and look forward to our partnership in the year ahead.