

30.11.2020

## **ECCJ Submission to the call for inputs on "Business and human rights: towards a decade of global implementation" – UNGP+10**

**1. Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?**

In the past decade, the UNGPs have inspired various instruments to operationalize the three pillars **"Protect, Respect and Remedy"**, globally recognized as an authoritative framework for the respective duties and responsibilities of Governments and business enterprises **to prevent, address and remedy adverse impacts of business activities**. International standards such as the [ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#); due diligence practical frameworks such as the [OECD Due Diligence Guidance for Responsible Business Conduct](#); the 2018 report of the [UN working group on business and Human Rights to the UN General Assembly](#); and a number of sectoral and gender guidelines, rankings, benchmarks<sup>i</sup>, company policies and reporting frameworks<sup>ii</sup>, all build upon the Principles and their compliance. The [second revised draft of the UN Treaty on business and human rights](#) is also more closely aligned with the UNGPs making it the **major international effort to legislate binding rules based on the Principles**.

At regional level, notably the **EU has committed to a legislative proposal on human rights and environmental due diligence in 2021**<sup>iii</sup> after a recent European Commission study on due diligence requirements through the supply chain recognized that voluntary measures have proved to be vastly insufficient to significantly change the way companies manage their social, environmental and governance impacts and that urgent legislation is needed to improve access to justice for victims of corporate-related human rights abuses and environmental damage<sup>iv</sup>. Specifically related to pillar three, the **European Parliament published a study on Access to legal remedies for victims of corporate human rights abuses in third countries**.<sup>v</sup> The Parliament is also currently preparing a **legislative opinion** to feed into the Commission's legislative proposal next year. Whilst the European Commission has not yet developed a long-awaited EU Action Plan on Business and Human Rights, that would provide a systematic and coherent approach to the UNGPs' implementation in the EU, there are indications such a plan may be on the agenda soon, with the upcoming legislation on mandatory human rights and environmental due diligence as its centre piece.

**The, over 24 National Action Plans**<sup>vi</sup> **that have been launched** (and many more in development) are an important tool to push governments to do a robust assessment of the gaps, identify options and initiate concrete measures to fulfil their duties and can be monitored against the UNGPs. However, the inadequacy and voluntary character of the measures taken in the plans demonstrate that more decisive action towards legislation at national level is necessary.

**Moreover, several European countries and non-European countries**<sup>vii</sup>, **have adopted or started to**

consider legislation that embeds elements of Human Rights Due Diligence (HRDD) into law to prevent human rights and environmental impacts throughout their global business operations<sup>viii</sup>.

**Broader support from the business community**<sup>ix</sup> also reflect a growing recognition of the UNGPs as a means to help business implement their responsibility to respect human rights. There is evidence that public debates on the topic and the adoption of laws, such as the French Duty of Vigilance, have already triggered a **change in companies' perception of the relevance of taking the human and environmental impacts of their operations into account.**

ECCJ frequently updates a document collecting an **updated list of key policy and legislative developments in the field of mandatory HRDD and parent company liability** that show the emergent trend towards binding legislation at EU and Member State level<sup>x</sup>.

With caution, as there is a very long way to go, perhaps the most progress has been done around the **legitimization and universalization of human rights due diligence as the foundation for the regulation of business conduct**, which enables companies to put their responsibility to respect human rights into practice. The OHCHR has detailed that binding **HRDD legislation can provide clarity with respect to companies' duties, create a level playing field, give human rights due diligence clear legal force and enhance access to remedy for victims** of corporate misconduct<sup>xi</sup>. Legislation in this field has evolved significantly, from transparency laws that require companies to disclose their due diligence efforts<sup>xii</sup>, followed by laws imposing a duty to implement full HRDD procedures, to what are now called the "third generation" of laws<sup>xiii</sup>, in which this **substantive HRDD obligation is coupled with corporate civil liability for harm caused in breach of a company's due diligence obligations**. While increasing corporate transparency have paved the way to a more coherent and balanced legal framework, **only the third generation of HRDD laws can meaningfully address the pressing governance gaps** that will be mentioned in the following section.

## 2. Where do gaps and challenges remain? What has not worked to date?

### 2.a Lack of effective prevention and remedy

The **prevention of human rights and environmental impacts** linked to global business operations, and the need to address the multiples **obstacles faced by victims of corporate abuse to access remedy** remain major gaps. National Action Plans (NAPs) for instance, though a positive trend towards greater policy coherence in this area, are plagued by major substantial shortcomings as identified by ECCJ's assessment in 2017, which remain pertinent to contemporary versions<sup>xiv</sup>:

- NAPs are overly vague and mainly **focused on describing past government's actions and policies**, thereby hindering adequate stakeholder monitoring of the NAP's implementation and the capacity of the plan to ensure a systemic and effective approach to business and human rights.
- Most action plans **fail to sufficiently explore regulatory options** to prevent corporate-related human rights abuses and ensure access to remedy.
- The majority of assessed NAPs are primarily **focused on a voluntary approach to the corporate responsibility to respect human rights**. Most action points focus on actions involving awareness-raising, training, research, and other voluntary measures.

- This **insufficient approach to the state regulatory capacity** presents a major hurdle to addressing the persistent governance gaps in dealing with business human rights and environmental impacts. However, the NAPs' assessment also reflects a general situation of **asymmetry with respect to government regulation of businesses'** rights to conduct their operations, and of companies' duties to respect human and environmental rights throughout their global operations. Companies enjoy a vast array of rights and benefits in the form of government promotion to business activities while generally lacking the adequate mechanisms to ensure that promoted business activities do not harm human rights.
- Focus on non-judicial mechanisms obscures consideration of **domestic barriers to judicial remedy for victims** of business-related human rights abuses which occur at home and abroad.<sup>xv</sup>

## 2.b The need to include environmental impacts of business operations

The UNGPs also have a major general gap in terms of content. They **failed to provide for a clear inclusion of environmental impacts and environmental standards part of the Principles**. Climate and environmental concerns, being one of the most imminent collective challenges of our time, carry their own respective weight and significance. Corrective action can be taken in the implementation phases of the UNGPs by recognizing environmental aspects' overriding strategic political priority in international cooperation for institutions and Parties to the United Nations Framework Convention on Climate Change and promoting compliance with multilateral environmental agreements.

## 2.c The need for more emphasis on the binding elements of the “smart mix”

**Effective implementation and enforcement** of most of the instruments born out of the UNGPs has also been a challenge. The “smart mix” principle established in the UNGPs, **requires states to act through “effective policies, legislation, regulations and adjudications”** to meet their duty to protect against human rights abuse by third parties. National and international, mandatory, and voluntary measures are recommended to foster business respect for human rights. The time has come for the **Third Pillar of the UNGPs on access to justice** to take a more predominant role. **Legal consequences** should be attached to businesses failure to act with due care and take all reasonable measures that could have prevented the harm. **Civil, administrative, and criminal liability** will not only be a tool for **accountability when harm has occurred** but will also serve as a deterrent, increasing efforts toward the prevention of harm. The vast majority of countries lack a coherent legal framework that clarifies companies' duties with respect to their human rights and environmental impacts throughout global business operations and supply chains. As consequence, victims of business-related harm face insurmountable obstacles to seek remedy in the country where powerful and influential parent companies are domiciled.

The UNGPs in their current form lack **ambition to endemically change business behaviour**. **The notion that negative impacts on human rights and the environment can be externalized costs for the communities, workers and nature**, so long as profit and shareholder value increases, remains the default vocation of business after almost 10 years of the adoption of the UNGPs. The guidelines have not been effective in incentivizing an organic change in the mainstream business model. A **coherent**

**implementation<sup>xvi</sup>** of the UNGPs demands legislation that holds companies accountable, governments' commitment to regulate corporate human rights obligations and a coherent variety of regulatory tools<sup>xvii</sup>. These three elements are key **to ensure that business act with due diligence with regards to a range of policy goals, while integrating considerations that are not purely short-term or profit-oriented into their decision-making processes.**

## **2.d The need for a focus on the financial sector**

**Financial-sector compliance remains limited:** Increasing attention to Environmental, Social and Governance (ESG) issues among investors has not yet yielded a significant shift towards sustainable investment and **the use their leverage to detect and prevent adverse human rights impacts that they contribute to directly** (i.e. a pension fund investing in an agribusiness involved in land grabs or that systematically produce from farms using child labour<sup>xviii</sup>) or indirectly (i.e. funding infrastructure projects that displace indigenous populations<sup>xix</sup> or companies with known harmful environmental impacts<sup>xx</sup>).

Regional and international initiatives attempting to address these gaps<sup>xxi</sup> in coherence with the UNGP include the European Commission action plan on sustainable finance<sup>xxii</sup>, the proposal for a regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU)2016/2341<sup>xxiii</sup> - which will require institutional investors and asset managers to disclose on how they integrate ESG factors in their risk processes-, the Non-Financial Reporting Directive<sup>xxiv</sup> under revision, the Equator Principles<sup>xxv</sup>, UNEP FI Human Rights Guidance Tool for the Financial Sector<sup>xxvi</sup>, the Thun Group of Banks<sup>xxvii</sup> and the Dutch Banking Sector Agreement<sup>xxviii</sup>. **However, these are, again, voluntary instruments and in some cases have been used to rather attempt to misconstruing the Guiding Principles<sup>xxix</sup>** in a corporate and investment banking context as criticized by Professor John Ruggie<sup>xxx</sup>. Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises, as the ones published by the OECD in 2019<sup>xxxi</sup> explain what due diligence for responsible business conduct entails and provide practical considerations for banks at each step of the due diligence process can constitute a good basis for legislation to be integrated nationally as part of the NAPs or internationally in provisions within the European legislative proposal on mandatory human rights and environmental due diligence or the ongoing UN Treaty on Business and Human Rights.

## **2.e The need for increased action on pillar I**

To date, there has been hardly any progress regarding States' trade and investment policies as well as the state-business-nexus, notably in public procurement and support schemes for export and foreign investment.

Current trade rules prioritize global over local and regional trade, often to the detriment of local producers and their basic rights. The agricultural sector is a clear example, the food sovereignty in many producing countries is highly compromised as their reliance on food imports in a context of highly volatile prices in international markets increases<sup>xxxii</sup>. Instead of improving the resilience of these countries, by for instance prioritizing people's right to food sovereignty, current trade rules tend to increase their vulnerability<sup>xxxiii</sup>. This has become even more obvious in the current Covid-19 crisis regardless of the sector.

The power imbalance is stark, on one hand, foreign investors are granted privileged access to

Investor Disputed Settlement Mechanism (ISDS) and compensation for public measures that limit expected profits from investment, even if these public measures aim for the respect, protection and fulfilment of human rights, to limit greenhouse gas emissions or to protect the environment. Investment chapters do not only protect investors from expropriation but also from alleged indirect expropriation and a frustration of their so called “legitimate expectations” while Sustainability Impact Assessments for trade agreements are conducted often too late to shape the debate about the agreement’s possible impacts. On the other hand, trade and investment agreements lack binding human rights and environmental due diligence obligations for the same corporations and the State parties of the agreements<sup>xxxiv</sup>. States duties to protect human rights in the context of business and human rights as established in the UNGPs have been under threat by States’ trade and investment policies.

The 2014 public procurement directives of the EU allow for the consideration of human rights aspects; however, they leave this up to the discretion of states and procurers. Export credit agencies (ECAs) coordinate their human rights policies within the OECD export credit group. According to the [OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence](#) (the “Common Approaches”)<sup>xxxv</sup> ECAs only assess human rights impacts of a small portion of the projects they support and are free to support companies even when they have been involved in human rights abuses in the past. EU Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits<sup>xxxvi</sup> requires the EU Commission to report annually on Member State ECAs’ compliance with the Union’s objectives. Despite the European Parliament’s repeated requests to the Commission, it still has not even developed an adequate methodology to do so, as the European Ombudsman confirmed in Dec 2018<sup>xxxvii</sup>.

### **3. What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?**

**Corporate capture preventing the development of mandatory rules:** Data sets suggest that business lobby, in the European Parliament for instance represents well over 60 per cent of all EU lobbyists, the case is similar for the Commission, while the Council remains a black box with an even lesser extent of transparency<sup>xxxviii</sup>. Corporate lobbies pushing back initiatives to regulate business activities substantially out-number those representing other interests i.e. NGOs, trade unions, academics, victims, and consumers. So-called “Better Regulation” Agendas and one-in-one-out-rules do not adequately take the benefits of regulations for societies and the environment into account.

The Commission’s DG GROW in particular tends to favour industry lobby groups when they complain that regulations, they dislike are ‘violations’ of their rights as investors, ‘regulatory barriers to development’ or supposed ‘discrimination’. It is known that DG GROW gave privileged treatment<sup>xxxix</sup> to industry lobby groups BusinessEurope, EuroCommerce, and EuroChambres in the drafting of the now withdrawn *Services Notifications Procedure Directive*<sup>xl</sup>. This clash between corporate-friendly Single Market rules versus States’ duty to regulate in the public interest is growing as regulatory space is carved out by NGOs, Trade Unions, Consumer groups and victims of corporate abuse calling States into account to fulfil their obligations under the First Pillar.

**Corporate impunity and lack of access to judicial remedy:** Cases like the German garment giant KiK after a factory fire in Pakistan, the mining company Vale after two tailings dams collapses in Mariana and Brumadinho in Brazil or the Royal Dutch Shell after decades of contamination in the Niger Delta, among many others, remain emblematic for the long-lasting legal battles between the communities affected and the parent companies and their subsidiaries<sup>xli</sup>. While communities’ social and financial resources are depleted, corporations often continue to generate profit without major disturbances,

exemplifying the power imbalances that make enforcement of the third pillar so urgent. It is imperative that the third generation of mandatory due diligence laws marries the obligations under the second pillar with broad corporate liability that in turn is enforceable by courts providing justice for victims. According to a European Parliament report on '[Access to legal remedies for victims of corporate human rights abuses in third countries](#)', out of the 35 cases on which the study focused, only three resulted in a final judicial decision finding the defendant company liable. Out of the 20 civil law proceedings brought against companies, in only 2 compensation was granted by the court. Unaccounted consequences of business misconduct include:

- The **human and environmental cost being** externalized to the communities where these businesses operate
- **Forced labour in global supply chains** generating \$150 billion in profit according to the ILO<sup>xlii</sup>.
- Global deforestation increasing of 77% in 2020<sup>xliii</sup>.
- The **killing of 304 human and environmental defenders** protecting their lands from corporate exploitation in the year 2019 alone<sup>xliiv</sup>.
- **Over a thousand textile workers killed or seriously injured in factory disasters** (fires, collapses), many of them girls<sup>xliv</sup>.

Despite the last decade's development of relevant frameworks and guidelines, there has been little improvement for victims hoping to access justice. Indeed, it might be getting more, not less, difficult for them to do so. **Existing venues for extraterritorial claims are closing**<sup>xlvi</sup>, governments of countries where multinationals are headquartered **do not provide sufficient access to judicial remedy**<sup>xlvii</sup> for their companies' abuses abroad while **legal harassment is increasing** of those working to hold businesses accountable for human rights abuse.

On the latter, two **judicial strategies are becoming a wide trend among multinationals using legal action against human rights defenders** to prevent public scrutiny about their activities: **Strategic Lawsuit Against Public Participation (SLAPP) and the use of Investor State Dispute Settlement (ISDS)**. SLAPP are lawsuits intending to censor, intimidate, and silence right-holders by burdening them with the cost of a legal defence until they abandon their claim. They come in the form of defamation lawsuits not necessarily aimed at succeeding but at **a) undermining the legitimacy of existing criticism, b) creating a chilling effect on future criticism, and c) draining the resources of dissenters**<sup>xlviii</sup>. Investors have a privileged position when it comes judicial strategies to avoid a court decision that confirms corporate liability for human rights abuses, **or prevent the adoption of legislation or investigations that could adversely impact a company's investments**, they use the ISDS system to avoid the adoption of more stringent legislation or to put pressure on states to drop criminal investigations<sup>xlix</sup>. Even in exceptional situations such as the COVID-19 crisis, this system is seen as an opportunity for business to challenge emergency measures in order to defend their profits<sup>l</sup>. **Companies abusive use of judicial processes** in order to delay and complicate proceedings and withhold attention from the substance of the case represses legal challenges and vocal criticism, two of the few means to achieve corporate accountability in a general environment of impunity.

**Legislation that holds companies accountable** for the impact of their global operations on human rights and the planet is an urgent necessity to guarantee companies *respect* human rights. A report commissioned by ECCJ and others<sup>li</sup> showed that governments in diverse jurisdictions are already using a **great variety of regulatory tools** to ensure that business act with due diligence with regards to a range of policy goals, such as consumer or environmental protection, the fight against money -laundering or human trafficking. These regulatory tools have required business enterprises to integrate considerations that are not purely short-term or profit-oriented into their decision-making processes. **Making Due Diligence mandatory for all companies in all sectors across the full supply chain and, companies liable for their failure to implement it and for the harms caused, is the most promising avenue** for the

development of regulations that oblige business to walk the talk of respecting human rights.

#### 4. What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?

The Mind the Gap consortium has **identified 5 recurrent strategies**<sup>iii</sup> **corporations use to avoid responsibility for their human rights abuses and environmental damage**, they represent the means by which corporations maintain and deploy structural power, hindering sustainable development.

1. [Constructing deniability](#): Companies use different arguments and strategies to deny responsibility for human rights and environmental impacts within their supply chains. While working with a range of suppliers is a common business practice, when confronted with negative human rights impacts in their supply chains, companies often argue that such impacts are undetectable due to [the complexity of the supply chain](#), or else they place responsibility for those impacts with their supplier. The truth is that they chose, and through planning, companies control how complex or non-transparent their chains can be. Companies can also construct deniability by [outsourcing high-liability activities](#) and/or [recruitment and employment](#), thereby limiting responsibility for those processes. Another variation of this strategy is when companies opt to [disengage from certain business activities](#) thereby cutting their association with human rights harm and thus responsibility for remediation. Companies further construct deniability by directly [refusing to disclose information](#) that could tie them to (potential) human rights and environmental impacts.
2. [Avoiding liability through judicial strategies](#): Judicial barriers to justice for victims in business and human rights cases have been well documented<sup>iiii</sup>. When companies are challenged in court, they have a variety of tools at their disposal to avoid liability. Commonly used strategies include: [abusing judicial processes](#) in order to delay and complicate proceedings and withhold attention from the substance of the case; [engaging in jurisdiction shopping](#); [shielding parent companies](#) from liability for harms conducted by entities within their corporate group; and [settling cases](#) out of court to avoid a guilty verdict and setting a precedent. The last strategy that can be categorized as a judicial strategy to avoid liability is to [take states to international arbitration](#) to avoid the adoption of more stringent legislation or to put pressure on states to drop criminal investigations
3. [Distracting and obfuscating stakeholders](#): The strategy to distract and obfuscate stakeholders can take a variety of forms. Companies can engage communities impacted by their operations in a [symbolic rather than meaningful way](#) to avoid community protests and subsequent demands for accountability directed at them. They can [disseminate distorted information](#) among the public to make their business seem more responsible than it is, or engage in downright [fraudulent activities](#) and disseminate false information to avoid responsibility for past or future harms. Another form in which this strategy manifests itself is by [manipulation of scientific research](#), producing data that is favourable for the business while downgrading societal risks and impacts. Furthermore, companies can [abuse standard systems](#) that are designed to assure that products and production qualities conform with specific requirements to conceal unsustainable or substandard company practices. A last form identified here is the [diversion of complaints](#) through company controlled grievance mechanisms that pretend to offer remedy for victims, but actually delay or divert right-holders' complaints.
4. [Undermining defenders and communities](#): The chosen mechanism for silencing criticism varies depending on the social context and judicial tools available. Strategies against defenders and

communities can take the form of [physical attacks or threats](#) executed by affiliates of the company for opposing corporate activities. Or the judicial system can be weaponized against human rights defenders through [strategic lawsuits](#), [criminalization](#), and claims of defamation. Companies can also use community engagement and the promised developmental benefits of their investments to [pit community members against](#) those protesting misconduct. And they can [obstruct the collective organization](#) of workers and thereby avoid having to respect other labour rights.

5. [Utilizing State power](#): The instruments used by companies to gain and leverage state assistance vary in their legality and acceptance. One way companies do this is by [exploiting the governance gaps](#) created by states: (foreign) investment is attractive to governments, thus luring companies often involves preferential treatment of these entities, including disregarding internationally accepted standards for corporate conduct. Furthermore, [corporate lobbying against regulations](#) intended to protect human rights and the environment, but that potentially harm business interests, is a common practice. Another way companies use state power to avoid having to take responsibility for human rights abuses is by [aligning with suppressive state institutions](#) that violate human rights. Finally, companies can [engage state security forces](#) to protect their business interests, even when serious human rights violations can be expected as a result.

Moreover, in the conjunction between economic and development objectives there are also many structural challenges to human rights centred sustainable development and the role that responsible business conduct plays. The first being that the default logic of **sustainability implies a capital-centred development with an inherent value bias**. Sustainable development based on respect for human rights places ‘sustainable development’ as the main goal when, today, the traditional concept of sustainability is falling short of addressing the needs of our societies and the planet. The COVID-19 crisis has laid bare inequalities in the system that allow companies to operate in total impunity despite of their human rights and environmental abuses. An iconic example of this time has been the garment sector’s complex and secretive supply chains that have enabled brands to profit from evading their responsibility to address low wages and exploitation in supply chains subduing any sustainable development standards to market profitability<sup>liv</sup>.

**A resilience component**, on the other hand, rather than sustain over a determined period seeks to regenerate and harmonize the relationships among humans and our natural ecosystems. **Climate justice, therefore, becomes focal to how we approach employment and innovation, living standards, and social equity**. Sustainability indicators such as the [Human Development Index](#) fail to consider ecological aspects and put emphasis on levels of income violating sustainability principles due to the strong correlation between income and ecological impact. The countries that score highest on the HDI also contribute most, in per capita terms, to climate change and other forms of ecological breakdown<sup>lv</sup>, are the home countries of most of the **multinational corporations expanding their economic profits by externalizing the costs of human rights abuses and environmental damages** generated by their business operations.

The same applies to the Sustainable Development Goals. **Goals 1-6 and 11-16 call for humanity to protect the planet from degradation<sup>lvi</sup> and to leave no one behind while achieving “harmony with nature”<sup>lvii</sup>**. Goals 7, 8, 9 and to some extent goal 12 however well intended, fail to take into account the negative impacts of private sector engagement. Numerous instances of corporate malpractice exemplify how business profit from child labour to the absence of a living wage, from oil spills to mass deforestation, from harassment of human rights defenders to land grabbing<sup>lviii</sup>. Turning the blind eye on the egregious means to achieve them, these profits are accounted for as economic growth. Within SDG 8, the assumption is that decent work is intrinsically attached to GDP growth is rather detrimental to the achievement of the other SDGs and of Goal 8 itself as it is based on the imposition of the industrial extractive economic model as the only means to achieve development. The call for

continued global economic growth equivalent to **3% per year, which opposes meaningful reductions in aggregate global resource use and reductions in CO2 emissions rapid enough to stay within the carbon budget for 2°C<sup>lix</sup>**. Scaling down resource in order to achieve the climate target, real clean and affordable energy specially for those deprived of it access and sustainable consumption and production patterns also requires a human rights and nature centred approach that ensures good jobs and respects traditional ways of low-impact-living to flourish among others.

Two major systemic obstacles that require business and human rights regulation to deconstruct them are a) The post-colonial economic system operating under the illusion of endless resources; b) A profit centred and growth-focused business model. **Enforceable legislation making human rights and environmental impacts a centre piece for business accountability is therefore essential**. While legislation alone will not have the capacity to deliver change in those systemic challenges, it is a beacon to define the frame of action and to overcome existing gaps in current Action Plans.

Section 108 of the UK Deregulation Act 2015 <sup>lx</sup> that requires any person exercising a regulatory function to have “regard to the desirability of promoting economic growth” and China advocacy for the human right to wealth creation over human rights in its economic driven policies are two examples of **economic growth being inserted as a policy priority<sup>lxi</sup>**. This is in response to a paradigm that has proven to be insufficient to achieve social objectives such as full employment and improved quality of life. The pursuit of economic growth also stands at odds with environmental sustainability and well-being of most of the global population. **The next decade will be crucial to set course towards a fundamentally different approach to managing the economy required to put people and the planet ahead of growth in GDP**. The regulatory frameworks that will be developed to speed and scale up UNGP implementation in the roadmap for the next decade have the opportunity to not only drive a meaningful change in the business model but to contribute to an economic recovery from the COVID-19 crisis that is currently under threat by the blind spot in SDG Goal 8. Realizing the SDGs without full UNGP implementation is impossible, encouraging good practices needs to come together with robust legislation and effective enforcement mechanisms.

##### **5. In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs’ expectations over the coming years?**

The Mind the Gap Project and ECCJ’s latest publication *Debating mHRDD legislation: A reality check<sup>lxii</sup>*, offers some 'counter-strategies' to tackle corporate strategies that prevent structural obstacles to corporate accountability and sustainable development to be overcome. Some concrete examples are:

**Liability for both cause and contribution to:** The UNGPs extend a company’s responsibility to respect human rights beyond the adverse impacts of its own activities to also include “business relationships”. Furthermore, they clarify that if companies cause or contribute to adverse human rights impacts - through their acts or omissions, by themselves, together with or via a third party - they are responsible for (contributing to) remediating the harm. **This provision should be enforceable through national, regional, and international binding legislation**. We note that in the EU competition law there is a judicial presumption that a parent company has control over its subsidiaries<sup>lxiii</sup>. Non-contractual elements such as control and “economic dependence” are useful for determining the relationship for liability purposes.

**Anti-SLAPP measures:** In accordance to the UN Working Group on Business and Human Rights Guidance on National Action Plans on Business and Human Rights<sup>lxiv</sup>, States should enact anti-SLAPP legislation to ensure that human rights defenders do not incur civil liability for their activities. UN Special Rapporteur

to the rights to freedom of peaceful assembly and of association, Ms Ciampi made the following recommendations to States in her SLAPPs Info Note<sup>lxv</sup>: “States should protect and facilitate the rights to freedom of expression, assembly and association to ensure that these rights are enjoyed by everyone by, inter alia, enacting anti-SLAPPs legislation, allowing an early dismissal (with an award of costs) of such suits and the use of measures to penalize abuse.”

- Mind the Gap recommends specifically adding a sub article under Art 4. Rights of Victims of the UN Treaty on business and Human Rights reading: *State Parties shall ensure effective legislative and judicial protection from frivolous Strategic Litigation Against Public Participation (SLAPP) lawsuits brought by corporate plaintiffs against civil society actors, including but not limited to NGOs, civil society groups, trade unions, citizens, journalists and human rights defenders, in order to protect the latter’s right to free speech, association, petition and public communication from ill-founded judicial claims amounting to intimidation and harassment. Civil society actors shall be afforded a special motion to swiftly dismiss such frivolous SLAPP claims against them with award of costs and initiators of SLAPP actions shall be subject to penalties and sanction.*

**Corporate and supply chain transparency:** mapping, sharing and disclosure of supply chain information as a common international standard, which would have a real practical effect in improving global due diligence efforts through both prevention and redress, and would create a level playing field to overcome the competitive disadvantage of front-running companies disclosing their supply chain information voluntarily. ESG aspects shall be treated with the same level of rigor as quality and financial traceability and reporting.

**Adequate indigenous peoples and local community engagement:** FPIC is a right and a process that enables indigenous peoples to negotiate the conditions under which a project will be designed, implemented, monitored, and evaluated, if at all. In the event that consent is given in a *free, prior and informed* manner, they are entitled to withdraw it at any stage. This is also embedded within the universal right to self-determination and its practice should be expanded to local non-indigenous communities directly affected by business activities. In many cases the argument “on behalf of the national interest” leads to disproportionately negative impacts on certain non-indigenous communities of for instance farmers or fisherfolk against a marginal increase of the GDP that doesn’t translate on well-being for the people affected nor the majority of the population.

The standard has been incorporated into national laws in countries such as Bolivia, and has begun to be taken up in standard-setting by international organizations such as the World Bank’s International Finance Corporation and the International Council of Metals and Mining<sup>lxvi</sup>. The Food and Agricultural Organization also operates under this principle<sup>lxvii</sup>. However, most consultation regulations adopted by national legislatures fall short of genuine FPIC, because they limit themselves to consultation and don’t require consent, don’t allow indigenous communities to determine the process, limit the scope of the consultation unduly and don’t respect the decision of indigenous peoples not to engage in FPIC negotiations in the first place.

Therefore, indigenous peoples of all continents have in recent years developed their own FPIC protocols, which define the conditions for a genuine FPIC process, in line with their own customary laws and legal institutions. In several countries, courts have afforded some form of recognition to these protocols and determined that governments and companies are duty-bound to abide by them. FPIC protocols have

tremendous potential to ensure effective protection of indigenous rights and therefore should be widely promoted and observed. So, more efforts should be made to guarantee the compliance with this important standard as part of the implementation of the UNGPs in the next decade.

**Availability of group claims:** The financial costs and risks of litigation for an individual against a typically well-resourced corporate defendant are often prohibitively high, and include lawyers' fees, court costs, and expert evidence; as well as the risk of financial ruin in the event of loss due to the typical application of the loser pays principle. In situations of mass harm, individual victims have to bring their own, individual and competing claims, meaning less efficient use of state resources. Group claims have consistently been identified by both international and regional human rights institutions and bodies as a key tool of redress in scenarios involving abuse by business entities, as expressed by the UN High Commissioner for Human Rights in his report to the UN Human Rights Council in 2016<sup>lxviii</sup>.

The Committee of Ministers of the Council of Europe also adopted Recommendation CM/Rec in 2016<sup>lxix</sup>, endorsing the use of group claims as means to further the implementation of the UNGPs, which was in turn endorsed by the Council of the European Union in its conclusions on business and human rights<sup>lxx</sup>. **State shall guarantee victims access to group claim mechanisms for all forms of harm arising from business activities.** Jurisdictions in a diverse range of states including India, Mexico, China, Indonesia, South Africa, Australia, the UK, and Brazil already permit this type of claims. The European Union is in the process of finalizing inter-state collective redress measures for European consumers<sup>lxxi</sup>.

Several other **important elements are relevant and possible to illustrate through the specific context of Europe in terms of developing legislation in coherence with the UNGPs implementation.** ECCJ has proposed a model for EU legislation on mandatory Human Rights Due Diligence and corporate liability<sup>lxxii</sup>, **requiring companies to identify, prevent, mitigate, and account for human rights abuses and environmental damage in their global value chains.** The set of minimum provisions that such legislation should include to ensure an effective and comprehensive EU regulatory framework for the above purposes sheds light on what actionable measures a key actor such as the EU can take in order to meet the UNGPs expectation over the next decade and beyond.

Moreover, the **NFRD reform** proposal of DG FISMA **should be ambitious enough not to undermine the future EU HRDD legislation**, but to stimulate and strengthen it. In this sense, the NFRD reform should rely on the UN Guiding Principles reporting framework as the means by which European companies fulfil their existing legal HRDD duty to report under the NFRD. The key recommendations for the upcoming EU mandatory Human Rights Due Diligence (HRDD) regulatory framework are:

1. Apply to all undertakings, including financial institutions, domiciled in a **Member State, or placing products on or providing services in the internal market.**
2. Require undertakings to **respect all internationally recognized human and labour rights, and environmental standards** in their own activities, and to ensure respect and compliance with those rights and standards throughout their global value chain.
3. Require undertakings to **take all necessary measures** in the exercise of due diligence, to meaningfully **consult stakeholders** for the purpose of defining and implementing due diligence, and to **publicly report on these processes and their results.**
4. Require that due diligence extend to the undertakings' **entire global value chains.**

5. Compel Member States to **provide for penalties and sanctions**, to designate competent investigating and enforcement authorities, and to **allow members of the public** to challenge non-compliance.
6. Compel Member States to provide for **civil liability of undertakings** for harm arising out of human rights and environmental abuses caused or contributed to by **controlled or economically dependent entities**.
7. Compel Member States to provide for **civil liability of undertakings for human rights and environmental abuses directly linked to their products, services or operations** through a business relationship, **unless they can prove they acted with due care and took all reasonable measures that** could have prevented the harm.
8. Ensure a **fair distribution of the burden of proof**, with the defendant corporation having to prove its relationship with the business entity involved in the harm and whether the former acted with due care.
9. **Harmonize time limits** to take legal action by setting a minimum limitation period of five years and **ensure EU courts' jurisdiction** regardless of related proceedings or rulings against subsidiaries, suppliers, or subcontractors outside of the EU.
10. Be qualified as **overriding mandatory law**, thus applying irrespective of the law otherwise applicable under private international law

Regarding pillar I, increased action in the areas of Trade policy and public procurement is needed. In this sense we find constructive some of the recommendations made by MISEREOR and CIDSE, one of our allies in the European NGO coalition working on mandatory Human Rights and Environmental Due Diligence, in their input for this years' DG Trade Policy Review<sup>lxixiii</sup>:

- **Trade Sustainability Impact Assessments (SIA)** need to be strengthened by providing more resources and improving methodologies for broad consultations of civil society and possibly affected people and communities within the EU and in partner countries. Furthermore, comprehensive SIA should be conducted before the start of trade negotiations and should be updated before the conclusion of the agreement and be repeated after some period of the implementation of the agreements.
- **Transparency, participation, and democratic procedures** should be strengthened in trade policy. The European Parliament and national parliaments should play an important role in the formulation and adoption of trade negotiation mandates and the trade agreements themselves. As a precondition for increased civil society participation, all draft negotiation mandates, and chapters of trade agreements of the EU should be published timely to enable critical and constructed debates. As a basic **precondition for the ratification** of trade agreements, the State parties should be required to ratify and to implement the core international agreements on human rights, multilateral labour standards and Multilateral Environment Agreements (MEA).

- Current **human rights clauses** and **Trade Sustainable Development (TSD)** chapters should be fundamentally reformed and strengthened based on legal proposals<sup>lxxiv</sup>. The TSD chapters should require **human rights and environmental due diligence obligations** for corporations and foresee complaint mechanisms and sanctions in the case of abuses. All obligations of the TSD chapters should be fully covered by the **state-to-state dispute settlement** mechanism of the trade agreement, including the full sanctioning mechanism in cases of breaches of these obligations. A civil society complaint mechanism should be established and the panels for disputes should dispose of the necessary expertise on human rights, labour, and environmental issues. New trade and investment agreements should not contain any **Investor-to-State-Dispute-Settlement (ISDS) Mechanism**. Current trade and investment chapters, that contain such ISDS-mechanism, should be re-negotiated with partners.
- A **General Exception Clause** should explicitly establish the primacy of international agreements on human rights, labour rights and the environmental over other rules of the agreement. The clause should establish that trade and investment rules shall never be interpreted in a way to limit policy spaces of States parties to respect, protect or fulfil human rights within their own territory and abroad. States and regional integration organizations, in particular the EU, should also refrain from promoting a new **Multilateral Investment Court (MIC)**. Rules on investor protection should be limited to the principle of non-discrimination. **Review clauses** in future trade agreements should explicitly enable and require modifications of trade rules if they are found to limit policy spaces to fulfil human rights obligations or to promote sustainability. Regular SIA should inform decisions on such revisions of a trade agreement. Participation of civil society should play a key role in the revision of the agreements.
- In addition, to prevent states from becoming involved in human rights abuses, regulations for **public procurement** as well as for support by **export credit and investment guarantee agencies** should be enhanced. Only companies that fulfil their human rights and environmental due diligence should qualify for public procurement and ECA support. States should require adequate verification of this and should establish meaningful transparency on their transactions and the human rights and environmental assessments they have conducted.

## 6. Is there other information relevant to the UNGPs 10+ project that you would like to share?

Placing accountability at the centre of the UNGP from the Working Group, to states, to enterprises and investors, to NGOs and other collective bodies involved in the advancement of the UNGP project should be the main target of the next decade. The EU has a crucial role to play in this, however, most of the elements identified by **ECCJ in its reaction to EEAS Staff Working Document on UNGPs implementation from 2015**<sup>lxxv</sup> have not been addressed. We are at a conjunctural moment with the potential to change this.

In the context of the ongoing [European Commission public consultation](#) on the **initiative of a legislative proposal on Sustainable corporate Governance including mandatory human rights due diligence**<sup>lxxxvi</sup>, the UN working group is highly encouraged to make an official contribution including the recommendations at the end of the last response and taking into consideration of some of the elements of our mid-term evaluation below:

- EU plans on access to judicial remedies should be further developed, in particular, the harmonization of access to evidence -a major obstacle to access to justice- should be examined.
- The Commission needs to make a priority out of incorporating a business and human rights angle in the review of the Recommendation for collective redress (2017) and in the revision of Brussels I and Rome II Regulations. The EU and its Member States must meet their duty to protect human rights by embedding the corporate responsibility to respect human rights into the mHREDD law.
- The Commission should further encourage and coordinate discussions with Member States on embedding corporate responsibility in civil/tort law. Fulfilling the moral responsibility and international law requirement to protect human rights will create a level playing field within the EU common market. The current lack of a level playing field within the EU undermines the efforts of companies that try to ensure high standards of human rights protection in their value chains.
- Respecting and reporting on human rights due diligence standards must be required from all companies operating in the EU market.
- The legislation should require companies to undertake full and effective due diligence, across the whole of a company's value chain. The legislation should be effective both inside the EU and outside. To be effective and because all businesses must comply to human rights law, all business enterprises, no matter their size or corporate structure, including SMEs must be covered by the legislation.
- The legislation must foresee administrative sanctions in cases of abuse and establish civil liability of European corporations for damages when these companies cause or contribute to human rights and environmental violations that are foreseeable and avoidable. The legislation must provide for joint liability for harms caused or contributed to by entities under their control or those which are economically dependent. The legislation should be closely aligned with international due diligence standards, namely the United Nations Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct.
- The EU should set up a peer review process for EU Member States National Action Plans for implementation of the UNGPs. Assuming an active role in coordinating the debate among Member States would significantly improve the uptake of the UNGPs. It would also help to identify those matters where a coordinated EU action is needed, and the division of competencies needs to be thought over.
- Future external EU actions need to take account of the Inter-Governmental Working

Group established by the UN Human Rights Council to elaborate an international legally binding instrument. The EU is right to promote implementation of the UNGPs by all states. At the same time, the EU and its Member States should engage in the “UN Treaty” process and ensure it contributes to the mutually reinforcing objectives of protecting human rights in the globalized economy and building a level playing field for business worldwide.

## ENDNOTES

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<sup>ii</sup> <http://www.ungpreporting.org/>

<sup>iii</sup> <https://home.extranet.ep.europa.eu/info/law/better-regulation/have-your-say/initiatives/,DanaInfo=ec.europa.eu,SSL+12548-Sustainable-corporate-governance>

<sup>iv</sup> <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>

<sup>v</sup> [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO\\_STU\(2019\)603475](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2019)603475)

<sup>vi</sup> <https://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>

<sup>vii</sup> On non-European States, see California Transparency in Supply Chains Act 2010 (US); Dodd–Frank Act, sec 1502, 2010 (US).

<sup>viii</sup> The BHRinlaw.org website provides a global overview of legislative and case-law developments in the field of mandatory Human Rights Due Diligence and parent company liability.

<sup>ix</sup> List of large businesses and associations that support human rights due diligence regulation:

<https://www.business-humanrights.org/en/latest-news/eu-mandatory-due-diligence/>

<sup>x</sup> <https://corporatejustice.org/evidence-for-mhrdd-may-2020-.pdf>

<sup>xi</sup> Report of the UN High Commissioner on Human Rights, “Improving accountability and access to remedy for victims of business-related human rights abuse: The Relevance of human rights due diligence to determinations of corporate liability”, June 2018.

<sup>xii</sup> Example of transparency or reporting frameworks in Europe are the UK Modern Slavery Act (2015), Provision 54, Transparency in Supply Chains, and the EU Non-Financial Reporting Directive (2014).

<sup>xiii</sup> The French Duty of Vigilance Law (2017) is the most notorious example, while Switzerland is also discussing a legislative proposal which establishes mandatory HRDD and corporate liability.

<sup>xiv</sup> Reference to NAPs’ assessment in this section refers to the publication ICAR, ECCJ, De Justicia, “Assessment of existing national action plans (NAPs) on business and human rights”, August 2017

<sup>xv</sup> Summary of main barriers to access remedy from business-related abuses and policy recommendations are included in ECCJ et al, “The EU’s business: Recommended actions for the EU and its Member States to ensure access to judicial remedy for business-related human rights abuses”, 2014.

<sup>xvi</sup> <https://corporatejustice.org/news/16780-a-coherent-implementation-of-the-ungps-demands-legislation-that-makes-companies-respect-human-rights-eccj-says-to-the-un-working-group-on-bhr>

<sup>xvii</sup> De Schutter et al, “Human Rights Due Diligence: the Role of States”, Commissioned by ECCJ. ICAR, CNCA, December 2012.

<sup>xviii</sup> [https://www.fian.org/files/files/The\\_Human\\_and\\_Environmental\\_Cost\\_of\\_Land\\_Business-The\\_case\\_of\\_MATOPIBA\\_240818.pdf](https://www.fian.org/files/files/The_Human_and_Environmental_Cost_of_Land_Business-The_case_of_MATOPIBA_240818.pdf)

<sup>xix</sup> <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/bolivia-pueblos-ind%C3%ADgenas-iniciar%C3%A1n-acciones-legales-nacionales-y-ante-la-comisi%C3%B3n-interamericana-de-derechos-humanos-contral-proyecto-hidroel%C3%A9ctrico-chepete-el-bala/>

<sup>xx</sup> <https://www.facing-finance.org/en/2019/01/vale-implicated-in-another-dam-collapse-in-brazil-with-more-than-300-casualties-feared/>

<sup>xxi</sup> <https://www.ohchr.org/Documents/Issues/Business/LetterResponseToOECD.pdf#page=3>

<sup>xxii</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance_en)

<sup>xxiii</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2341>

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<sup>xxiv</sup> [https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting\\_en](https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en)

<sup>xxv</sup> <https://www.finance-humanrights.org/wp-content/uploads/2019/11/Equator-Principles-4-Putting-the-22S22-into-Focus.pdf>

<sup>xxvi</sup> <https://www.unepfi.org/humanrightstoolkit/index.php>

<sup>xxvii</sup> [https://www.business-humanrights.org/sites/default/files/media/documents/thun\\_group\\_statement\\_final\\_2\\_oct\\_2013.pdf](https://www.business-humanrights.org/sites/default/files/media/documents/thun_group_statement_final_2_oct_2013.pdf)

<sup>xxviii</sup> <https://www.imvoconvenanten.nl/en/banking>

<sup>xxix</sup> [http://www.menschenrechte.uzh.ch/dam/jcr:27abc993-0b91-46df-9b69-f90a47d3d25c/2017\\_01\\_Thun\\_Group\\_discussion\\_paper\\_final.pdf](http://www.menschenrechte.uzh.ch/dam/jcr:27abc993-0b91-46df-9b69-f90a47d3d25c/2017_01_Thun_Group_discussion_paper_final.pdf)

<sup>xxx</sup> [https://business-humanrights.org/sites/default/files/documents/Thun\\_Final.pdf](https://business-humanrights.org/sites/default/files/documents/Thun_Final.pdf)

<sup>xxxi</sup> [Due Diligence for Responsible Corporate Lending and Securities Underwriting](https://www.foei.org/resources/publications/publications-by-subject/food-sovereignty-publications/agreements-block-progress-agroecology-food-sovereignty)

<sup>xxxii</sup> <https://www.foei.org/resources/publications/publications-by-subject/food-sovereignty-publications/agreements-block-progress-agroecology-food-sovereignty>

<sup>xxxiii</sup> <https://viacampesina.org/en/wp-content/uploads/sites/2/2018/02/Food-Sovereignty-A-guide-Low-Res-Vresion.pdf>

<sup>xxxiv</sup> MISEREOR and CIDSE's (International Alliance of Catholic Development Agencies) input to DG Trade's Policy Review Consultation, October 2020

<sup>xxxv</sup> <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0393>

<sup>xxxvi</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0045:0112:EN:PDF>

<sup>xxxvii</sup> <https://www.ombudsman.europa.eu/en/solution/en/95453>

<sup>xxxviii</sup> <https://lobbyfacts.eu/articles/30-01-2017/crowding-corridors-power-corporate-lobbyists-outnumber-ngos-and-unions-european>

<sup>xxxix</sup> <https://corporateeurope.org/en/2019/02/veto-power-please-lobbyists-corporations-behind-commission-power-grab-over-services>

<sup>xl</sup> <https://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-internal-market-with-a-strengthened-industrial-base-services-including-transport/file-services-notification-procedure>

<sup>xli</sup> See [https://media.business-humanrights.org/media/documents/files/documents/CLA\\_AB\\_Final\\_Apr\\_2017.pdf](https://media.business-humanrights.org/media/documents/files/documents/CLA_AB_Final_Apr_2017.pdf) and [https://corporatejustice.org/asi\\_eccj\\_report\\_final.pdf](https://corporatejustice.org/asi_eccj_report_final.pdf)

<sup>xlii</sup> [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_243201/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm)

<sup>xliii</sup> <https://www.ft.com/content/b72e3969-522c-4e83-b431-c0b498754b2d>

<sup>xliv</sup> <https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2019>

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<sup>xlvi</sup> <https://fas.org/sgp/crs/misc/LSB10147.pdf>

<sup>xlvi</sup> [https://corporatejustice.org/documents/publications/eccj/the\\_third\\_pillar\\_-\\_access\\_to\\_judicial\\_remedies\\_for\\_human\\_rights\\_violation.-1-2.pdf](https://corporatejustice.org/documents/publications/eccj/the_third_pillar_-_access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf)

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<sup>xlix</sup> <https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/taking-states-to-international-arbitration/>

<sup>i</sup> <https://longreads.tni.org/cashing-in-on-the-pandemic>

<sup>ii</sup> <https://corporatejustice.org/hrdd-role-of-states-3-dec-2012.pdf>

<sup>iii</sup> <https://www.mindthegap.ngo/about-us/summary/>

<sup>liii</sup> [https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/#\\_ftn1](https://www.mindthegap.ngo/harmful-strategies/avoiding-liability-through-judicial-strategies/#_ftn1)

<sup>liv</sup> <https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains>

<sup>lv</sup> Ecological economics journal – <https://static1.squarespace.com/static/59bc0e610abd04bd1e067ccc/t/5de24834a06c92692061e801/1575110717082/Hickel+-+The+Sustainable+Development+Index.pdf>

<sup>lvi</sup> <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>lvii</sup> [https://sustainabledevelopment.un.org/content/documents/2754713\\_July\\_PM\\_2\\_Leaving\\_no\\_one\\_behind\\_Summary\\_from\\_UN\\_Committee\\_for\\_Development\\_Policy.pdf](https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf)

<sup>lviii</sup> <https://corporatejustice.org/news/351-eu-action-plan-on-sdgs-overlooks-human-rights-risks-of-corporate-activity>

<sup>lix</sup> UN environment – Resource efficiency: potential and economic impacts [https://www.resourcepanel.org/sites/default/files/documents/document/media/resource\\_efficiency\\_report\\_march\\_2017\\_web\\_res.pdf](https://www.resourcepanel.org/sites/default/files/documents/document/media/resource_efficiency_report_march_2017_web_res.pdf)

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<sup>lxii</sup> <https://corporatejustice.org/debating-mhrdd-legislation---a-reality-check.pdf>

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<sup>lxv</sup> [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjy\\_PHeiYftAhVF4YUKHVl\\_APkQFjAAegQIAhAC&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FFAssociation%2FInfoNoteSLAPPsFoAA.docx&usg=AOvVaw2g2D1CNNK3K\\_21zXVZbY3b](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjy_PHeiYftAhVF4YUKHVl_APkQFjAAegQIAhAC&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FFAssociation%2FInfoNoteSLAPPsFoAA.docx&usg=AOvVaw2g2D1CNNK3K_21zXVZbY3b)

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<sup>lxvii</sup> <http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>

<sup>lxviii</sup> UNHRC, 10 May 2016, “Improving accountability and access to remedy for victims of business-related human rights abuse” pt. 15.3. Available at: [http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A\\_HRC\\_32\\_19\\_AEV.pdf](http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A_HRC_32_19_AEV.pdf)

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