



General Assembly

Distr.: General
29 June 2021

English only

Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2021]

* Issued as received, in the language(s) of submission only.



Business and Human Rights: Tenth anniversary of the United Nations Guiding Principles

APG23 welcomes the organization of the panel discussion on the tenth anniversary of the Guiding Principles on Business and Human Rights during the 47th Regular Session of the Human Rights Council, as well as the report "Guiding Principles on Business and Human Rights at 10: taking stock of first decade"¹ and the report on the ninth session of the Forum on Business and Human Rights², both prepared by the Working Group on the issue of human rights and transnational corporations and other business enterprises.

The tenth anniversary of the endorsement of the UN Guiding Principles on Business and Human Rights (UNGPs)³ could represent a meaningful turning point in advancing on the business and human rights agenda, if this momentum is well spent not only in consolidating the successful achievements, but also in identifying and addressing all the limits, gaps and inadequacies of the Guiding Principles resulting from the first decade of their implementation. United Nations, Member States, transnational corporations and the whole of business sector, civil society and all the different stakeholders involved in this process have a great responsibility to be assumed for the next decade: ensuring that the ambitions of the UNGPs will be significantly translated into reality, especially for all the peoples and communities still threatened and affected by human rights violations related to business activities.

The outbreak and the impact of the Covid-19 pandemic has reminded us, once again, how interconnected and interrelated are our societies, our economies, our ecosystems, and how potentially harmful can be the driving forces of globalization, if not encompassed and ruled by effective and human rights-led international frameworks. The stage of actions of the business sector, particularly of transnational corporations, is ever more global and less dependent on national and State actors, and as such it has to be guided by an authoritative and demanding global framework. At the same time, the national legal systems have to be aligned with such a framework, by grounding in it effective and coherent domestic measures. As a first formal instrument derived by a long-standing process within the UN, the UNGPs have represented a crucial cornerstone for the business and human rights agenda; nevertheless, it's now time to pave the way toward building a more robust, accountable and rights holders-centred UN framework.

APG23, as a civil society organization directly engaged for the promotion and protection of human rights both through international advocacy actions and on the ground in more than 40 Countries worldwide, has a long-standing commitment to proposing, implementing and spreading sustainable, equitable, human-centred economic and business models and practices. We therefore acknowledge the positive effects generated by the UNGPs in their first ten years, as outlined by the Working Group in its report. These are especially relevant in regard to cultural aspects, as the contribution of the UNGPs in pushing for a progressive shift from philanthropy to accountability, as well as from a marketing-oriented Corporate Social Responsibility (CSR) to the principle of the corporate responsibility to respect human rights. Nonetheless, truly transformational changes of paradigm are still to be achieved and consolidated, while the business-related human rights abuses and violations dramatically continue to affect vulnerable individuals and communities, often without any remarkable sanctions or consequences.

Looking at the lessons learnt in this first decade of the UNGPs, we see as a matter of fact that "voluntary approaches alone are not enough", as the Working Group underlines in the conclusion of its report. Consequently, we join the many voices from civil society organizations and communities at the forefront of the protection of human rights, that ask for a wider and stronger commitment in advancing the process for the elaboration and the adoption of an international legally binding instrument "to regulate, in international human

¹ <https://undocs.org/A/HRC/47/39>.

² <https://undocs.org/A/HRC/47/50>.

³ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

rights law, the activities of transnational corporations and other business enterprises", according to the resolution 26/9 of the Human Rights Council.⁴

A successful outcome of the ongoing negotiations for a binding treaty would be crucial to define universally applicable legal standards and reliable accountability mechanisms, that are strongly needed, and we call all Member States to actively engage in this process.

At the same time, a stronger commitment should be pursued at all levels to fully implement the UN Guiding Principles and give course to their provisions, by shaping business practices and behaviours through policies and regulations that, coherently with the UNGP, can ensure corporate respect for human rights. In this regard, APG23 shares many of the concerns that the Working Group has clearly expressed in its report. Among these concerns, also echoing what has been raised in different panels during the ninth session of the Forum on Business and Human Rights, we want to underline the following relevant issues and still standing challenges that need to be adequately and effectively addressed in the next decade of implementation of the UNGP.

a) Human rights due diligence. As one of the key elements introduced by the UNGP, human rights due diligence processes have been increasingly spread and applied, anyway without reaching the extent, adequacy and efficacy needed to identify, prevent, mitigate and account for the adverse impact of business-related activities.

Mandatory frameworks have to be established, in order to embed human rights due diligence in national laws and in business enterprises policies and practices, following the encouraging - but still few - initiatives so far proposed by some States and international organizations.

Within such policy and legislative frameworks, further attention needs to be paid to ensure that human rights due diligence processes are conducted also across global supply chains. Moreover, additional focus should be put on the environmental impact of business-related activities.

Human rights and environmental due diligence should be more widely integrated also into development finance projects and international financial institutions initiatives. This should apply also to the United Nations as an organization, whose low level of engagement in aligning its activities and business relationships with its own Guiding Principles seems quite paradoxical, as noted by the Working Group in its report.

b) Indigenous peoples and human rights defenders (HRDs). Indigenous peoples and communities and HRDs are among the most affected by business-related abuses and violations, particularly in contexts dominated by extractive or land-intensive industries, whose operations are often highly impactful on environment and human rights. By protecting their own lands and territories from irresponsible and disrespectful exploitation of natural resources, they are the last custodians of endangered ecosystems and cultures, so becoming the main target of abuses, violence and also deadly attacks. It is therefore crucial that in the next decade all the relevant stakeholders, at any level, will be engaged in adopting and implementing all the measures needed to safeguard the very existence of peoples and communities threatened by such abuses, also by enforcing their right to development and enhancing the key role of HRDs.

c) Accountability and access to remedy. Even if accountability is often recalled in the Guiding Principles, the voluntary nature of the UNGP has shown to be weak in ensuring adequate monitoring mechanisms and, moreover, access to remedy for victims of business-related human rights abuses and violations. Mandatory, accountable and human rights-centred frameworks, as well as more accessible and comprehensive grievance mechanisms, should be at the top of the business and human rights agenda in the next decade. In this regard, one of the concrete options to be undoubtedly pursued is strengthening and systematizing the connection with the Universal Periodic Review.

d) Policy coherence. In operationalizing their duty to protect human rights, States are expected to pursue and ensure policy coherence, but this provision remains largely unattended. A greater and more transparent commitment should be devoted to align human

⁴ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9.

rights obligations with business regulatory frameworks and State-led investments at domestic level, as well as with international trade and investment agreements at multilateral level. The efforts in filling these coherence gaps would result also in a more effective and balanced policy coherence for sustainable development framework, notably one of the key means of implementation of the 2030 Agenda.

Finally, we want to remark that the impact of any business-related guidelines and regulatory measures, voluntary or mandatory, will be truly transformational only if driven by a wide and shared acknowledgment of the unsustainable structural limits of the current development model, and consequently of the need to overcome them by adopting alternative, more equitable and sustainable paradigms.

As stated by Pope Francis in his letter to young economists and entrepreneurs worldwide for the event “Economy of Francesco” (19-21 November 2020): “We need to correct models of growth incapable of guaranteeing respect for the environment, openness to life, concern for the family, social equality, the dignity of workers and the rights of future generations. Sadly, few have heard the appeal to acknowledge the gravity of the problems and, even more, to set in place a new economic model, the fruit of a culture of communion based on fraternity and equality”⁵

⁵ https://www.vatican.va/content/francesco/en/letters/2019/documents/papa-francesco_20190501_giovani-imprenditori.html.