



General Assembly

Distr.: General
20 December 2023

English only

Human Rights Council

Fifty-third session

19 June–14 July 2023

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.

[30 May 2023]

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



Business and Human Rights: Considerations Arising from the 11th United Nations Forum on Business and Human Rights

Associazione Comunità Papa Giovanni XXIII (APG23) appreciates the focus that the Working Group on the issue of human rights and transnational corporations and other business enterprises has chosen for the 11th session of the Forum on Business and Human Rights: "Rights holders at the centre: strengthening accountability to advance business respect for people and planet in the next decade".

The Forum on Business and Human Rights has proven to be an open and plural space for dialogue and discussions. We recognize the efforts of the Working Group to deliver this result over the years, and for the next sessions we suggest to keep promoting the active and constructive engagement of even more actors, also by adopting innovative formats.

During the eleventh session of the Forum, putting accountability and rights holders at the centre of the business and human rights agenda has shown to be a common concern, as well as a cross-cutting and demanding challenge. Many concrete cases and experiences shared in the Forum have revealed the urgent need of more robust and binding legal and policy frameworks at both international and national level. Different voices have been raised to highlight and denounce the too many situations of human rights violations related to business activities across different economic sectors worldwide, often without any kind of protection or remedy. Such situations disproportionately affect indigenous people and human rights defenders, whose contribution and engagement in the Forum and the related processes should therefore be ever more secured, sustained and expanded.

We want to echo some of the concerns and proposals arisen from the Forum, by reiterating the following key messages proposed also in our previous statement on the Tenth anniversary of the UN Guiding Principles in 2021. (1)

- 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.
- 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 by 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 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 UN 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 this regard, one of the concrete options to be undoubtedly pursued is the strengthening and systematizing of 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 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.
- e) International legally binding instrument. We see as a matter of fact that voluntary approaches to business responsibility in protecting human rights are not enough, as also underlined by the Working Group in different reports and interventions. 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 rights law, the activities of transnational corporations and other business enterprises", according to the resolution 26/9 of the Human Rights Council.

Furthermore, 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 economic and development models, and consequently of the need to overcome them by adopting more equitable and sustainable paradigms.

Consistently, business practices have to be reshaped by putting human rights and environment at their core. People-centred approaches, focused on rights holders and victims of rights violations, need to be systematized and applied in relation to the harmful impact of business activities, both in preventive and reactive stages. Such approaches can be declined by enhancing rights holders' engagement mechanisms based on the principles of meaningful participation and of free, prior and informed consent, as well as by designing remedial mechanisms fully tailored to victims of rights violations, such as restorative justice programmes.

As stated by Volker Türk, UN High Commissioner for Human Rights, in his closing remarks of the 11th Forum on Business and Human rights: "We know that State laws and policies can be strengthened as part of the smart mix of measures to protect people and planet from harmful business activities throughout the value chain. And the business community can do more to avoid harm and address it where it occurs. This change - and this commitment - must be genuine and authentic. Not by sticking a label on a product or publishing one pager on a website."

And yet: "It must be unequivocal: business profit cannot be at any expense. We have to take into account the impact of profit on people. The good news is, we are seeing this change happen in many ways."

Indeed, many actors throughout the world - especially among non-profit sector, community-based organizations, social entrepreneurs and innovative enterprises - are already building this change, by exploring and adopting economic and business models that recognize and respond to human rights and environmental challenges by putting people and planet before profits. Let us work together to sustain and spread these pioneering initiatives and give a chance to our common future.

(1) A/HRC/47/NGO/219