

## 1. The 5<sup>th</sup> edition of the UN Forum on Business and Human Rights

The UN Forum on Business and Human Rights, the leading global event on business and human rights taking place annually at the UN headquarters in Geneva, has attracted for its 5<sup>th</sup> edition a record number of participants (over 2.500) from governments, business, intergovernmental and non-governmental, national and international organizations, academia, the media, the legal community, etc. to discuss trends, practice, challenges and priorities related to the implementation of the UN Guiding Principles on Business and Human Rights. The Forum was held under the theme "Leadership and Leverage: Embedding human rights in the rules and relationships that drive the global economy" and covered the role of financial institutions with regard to human rights as one of its focus topics.

## 2. Highlights by topic and cross-cutting issues

- **Respect for human rights at the heart of the Sustainable Development Goals (SDGs)**

The person-centered approach of the SDGs was repeatedly stressed. Businesses and states were reminded that respect for human rights was at the heart of the sustainable development agenda and that every organ of society had the responsibility and potential to respect and promote human rights.

The perception that respecting human rights was limited to managing risks (often from a materiality to the firm perspective) or to pursuing business opportunities with positive social outcome (supported by an increasing rhetoric on the need to 'shift from risk to impact') was flagged as an emerging global risk and a serious threat to the link between the Guiding Principles and the SDGs. A mature approach to respect human rights implies awareness that human rights risks are about risks to people, that doing social good cannot compensate for preventing harm, and that mainstreaming human rights in core business is in itself a positive and hugely transformative process.

*"When companies drive respect for human rights across their own operations and their global value chains, they generate an unprecedented large-scale positive impact on the lives of people who may be most in need of the benefits of sustainable development." Prof. John Ruggie, Architect of the UN Guiding Principles on Business and Human Rights*

The industry voiced that observing human rights led to better business results and a healthier business environment, whereas not doing so triggered negative consequences for business. The SDGs, to which human rights are fully integral, provide a vision of commitment to sustainability for business. Companies have an important role to play in transforming the SDGs from vision to reality, namely by fully integrating the UN Guiding Principles in their strategies, policies and business delivery.

*"Today, we are here to rally the world so that that the Principles are implemented quickly, fully and globally as part of our wider efforts to achieve sustainable development for all." Mark Wilson, CEO of Aviva*

- **Collaborative engagement - key to achieve respect for human rights**

As different stakeholders are more mature in understanding the duty to protect and responsibility to respect human rights, they are invited to break silos and benefit from each other's knowledge. Meaningful collaborative engagement implies effective listening and building trust between business and civil society; active business engagement with clients; strengthening dialogue with and between governments for coherent national frameworks on business and human rights; and, overall, a common willingness to overcome obstacles and achieve progress on the UN Guiding Principles implementation.

Collaborative engagement between industry peers was also indicated as an effective means to increase leverage and improve situations where human rights are adversely impacted. While ending a business relationship may sometimes be inevitable, there is growing consensus that this is also the easier route when difficulties occur; seeking to increase leverage through collaborations requires more effort, but is also a more effective and promising path to stop human rights violations and create positive change.

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- **The protection of human rights defenders is the true test of the UN Guiding Principles implementation on the ground**

2015 was reported to be the deadliest year for human rights defenders since the adoption of the UN Guiding Principles. The tragic case of Berta Cáceres was echoed throughout the Forum to illustrate that communities and human rights defenders were among the first targets of human rights abuses. There is a growing concern regarding the assassination of environmental and land defenders, in particular among indigenous peoples. Governments were called on not to tolerate business links with human rights abuses, and financial institutions in particular were invited to collaborate with governments and clients for enhanced vigilance to protect human rights defenders.

*“Companies need to take a clear, unequivocal stance that they will not tolerate links to human rights abuses anywhere in their operations and supply chains. [...] Investors and financial institutions are starting to take steps to protect human rights defenders against brutality and abuses, and they are pledging a range of other actions to prevent and mitigate human rights risks.”* Zeid Ra'ad Al Hussein United Nations High Commissioner for Human Rights

- **Value chain is an area where businesses can be impactful at scale**

Respecting the human rights of workers in value chains came out as a strong global priority. While globalization brings great economic and social benefits, it also has effects on human rights, with abuses prevailing in supply chains. The awareness and capacity of regulators and businesses alike to address this issue will need to be strengthened. It is only by investing profoundly in human rights safeguards that a shift can be operated from individual, cosmetically applied changes to long-lasting impact at scale.

- **Working on a smart mix of voluntary and mandatory measures**

In debating mandatory versus voluntary regulation, a recurrent reminder was that the UN Guiding Principles were often already enshrined in domestic legal systems. Also, in reference to increasing pressure for mandatory regulation related to company transparency and reporting on human rights, it was flagged that what was needed, above all, was *better* - smart and 'fit-for-purpose' - regulation.

- **Eliminating discrimination should be a global priority**

The enjoyment of human rights *for all* in the context of globalization was raised as an urgent global need. Weaving in human rights in business calls for adopting a culture of non-discrimination and inclusion by businesses as employers, providers of goods and services and responsible actors in society.

- **Indivisibility of environmental and human rights issues**

Participants agreed that environmental and human rights concerns could no longer be divided, as shown by the UN Guiding Principles implementation. Increasingly, the Principles will have to connect to global processes such as the SDGs, the G20 and UNFCCC, to achieve policy coherence and maximize impact.

- **Company leadership to drive culture change for respect of human rights**

The role of company boards in setting the culture, values and tone of the company was strongly emphasized. While noting the positive influence of boards to drive responsible company behavior, the need for accountability at board level was also pointed out. An issue of concern was the lack of understanding of human rights issues by company leadership, in particular in the case of multinationals operating across different legal frameworks and cultures. Dialogue and engagement with stakeholders – internal and external to the company - was often cited as a solution to address this barrier.

- **Access to remedy: building knowledge on good practice**

Access to remedy was reported to be the weak point in the UN Guiding Principles implementation. More clarity is needed as to how businesses can contribute to the third pillar of the Principles. This will be a priority topic for the UN Working Group on Business and Human Rights in 2017, and businesses were strongly encouraged to offer their perspectives and solutions on the matter.

## 1. Key messages by sector

### *a. Banking*

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- It is positive to note progress in areas such as social or impact investment; however, for the sector to meaningfully contribute to the SDGs, banks will have to go beyond niche activities to adopt holistic approaches to mainstream human rights in business.
- In implementing sustainability policies, climate change and human rights risks are different from a materiality perspective: while the first can be valued, one cannot put a cost on human rights. At the same time, environmental and human rights issues are interlinked and should be considered together. In the process, banks should ensure that the voice of the right-holders is heard.
- Long-term a bank should be able to demonstrate that due diligence is a social license to operate; that it does not increase the costs but, on the contrary, the competitiveness and resilience of the bank. More awareness-raising is needed for banks on the value and meaning of due diligence. The Thun Group of Banks illustrates the sector's efforts to enhance and share knowledge on the topic.
- Smart collaborations can help overcome barriers in implementing respect for human rights: banks may be able to increase leverage in difficult client relationships by working with peer finance institutions; benefit from trustful and coherent human rights approaches by engaging with clients; better evaluate, address and communicate human rights risks by strengthening dialogue with NGOs.
- There is a need to level the playing field between various frameworks and national action plans focusing on business and human rights. Initiatives such as Dutch Banking Sector Agreement aim to provide pragmatic avenues for banks to operationalize the UN Guiding Principles. As banks seek more clarity around critical issues such as remediation and leverage, coordinating action across countries will be particularly important for an industry that is largely globalized.
- In the context of the SDGs, the original function of the banking sector should be rediscovered. Banks can be more than risk managers, to enable social good through improving services in areas such as the retail and SMEs sector, creating jobs, supporting people's access to finance and the economy.

#### Banking sessions:

- [Banks and the UNGPs: implementation case studies and dilemmas](#)
- [Banks: human rights due diligence and developments in public reporting](#)
- [Leveraging the money: engaging investors, lenders and buyers to ensure effective remedy for communities](#)

### *b. Investment*

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- While the question of human rights materiality continues to preoccupy investors, experience with addressing human rights risks exists already in the investment community, in particular in sectors such as ICT, beverage and food, extractives, footwear and garments, etc. Now it is the time that this experience expands to mainstream business and includes big players, such as institutional investors.
- Human rights issues should be considered as part and parcel of the ESG screening, and become integral to the communication between ESG analysts and portfolio managers. This dialogue will also help shape the evidence related the pertinence of human rights issues to a sound business approach.
- Engagement is key to a solid due diligence process and involves a two-way communication with companies: both obtaining information from companies and empowering them with knowledge. Investors notice that companies start taking responsibility on human rights individually, however they find that human rights issues are often systemic and solving them will require collective action.
- Human rights violations in supply chains are a big concern and unsolved issue. Few listed companies will be related to human rights abuses in their direct business; however, supply chains remain problematic even for companies that have human rights policies and procedures, in particular in

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areas related to labor rights and non-discrimination. Investors seek clarity on the roles of actors across the entire investment cycle in the due diligence process, to make it as meaningful as possible.

- Positive experiences from the sector relate to producing change on the ground further to initiating and deepening dialogue with investees and stakeholders that are close to the affected right-holders. Visiting factories, for example, once an issue is signaled to headquarters, will often lead to improvements for right-holders on the ground, who otherwise would remain distant from investors.
- Respect for human rights is about long-term value creation, not a limited segment of the investment universe. It is thus *integral to fiduciary duty* as a core concept shaping the investment decision-making process. In fulfilling this duty, investors were asked not to discriminate between human rights and other financially material risks, as human rights risks will often fail the materiality test (being mostly linked to the materialization of the legal liability test). A robust and complete human rights due diligence process goes hand in hand with a responsible fulfillment of fiduciary duty.

### Investment sessions:

- The responsibility and influence of institutional investors to drive better business conduct
- Capital supply chain: gaining a better understanding of the investor eco-system and how to engage with investors on human rights
- Commitment to practice: Using the UNGPs as a launch pad for responsible land-based investments
- Implementing the UNGPs in times of major political, economic or social change: focus on investment
- Leveraging the money: engaging investors, lenders and buyers to ensure effective remedy for communities

### c. Insurance

- Respect for human rights is not limited to risk, ethics or isolated opportunities, and is instead about creating a human rights culture in the organization. The means to institute this culture in finance was mostly discussed in the context of banking and investment; insurers, however, have also started taking action and have relevant experiences to share in this regard. Getting a glimpse into the human rights practice and challenges specific to insurance and reinsurance companies - concerned as risk managers, carriers and investors - will be extremely useful for the entire financial sector.
- As for the other segments of the finance industry, engagement with clients, investees and business partners is one of the more effective solutions to effect change on the ground. A good practice is to include commitment to human rights as a part of the client and investee on-boarding process and use the UN Guiding Principles as a tool to inform the internal policy of the company.
- Achieving a level-playing field in terms of human rights responsibilities for insurers is critical. There is already awareness on the topic among insurance companies, but their understanding, capacity and collaboration with industry peers need to increase. Also, the awareness of regulators on the issue should be strengthened, as they play an essential role leveling the playing field.
- Improving access to remedy for victims of human rights abuses is a hot topic of discussion for banks and investors, who seek models of what good practice could mean. Insurers were invited to provide any available examples and experience on access to remedy that could advance this topic.

### Insurance session

- Understanding the role of insurance companies vis-à-vis human rights

General information on the 5th edition of the Forum can be found [here](#)

Recorded Forum sessions can be accessed [here](#)

Selected plenary remarks and other statements can be accessed [here](#)

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