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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Role of business in realizing the right to development

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the right to development, Surya Deva, submitted in accordance with Human Rights Council resolutions [33/14](#) and [51/7](#).

* [A/78/150](#).



Report of the Special Rapporteur on the right to development, Surya Deva

Summary

In the present report, submitted to the General Assembly pursuant to Human Rights Council resolutions [33/14](#) and [51/7](#), the Special Rapporteur on the right to development, Surya Deva, articulates a holistic vision of the right to development and examines the role of business in realizing this right. The present report provides a road map to harness the positive contribution of business and minimize the adverse impacts of business activities on the right to development. By analysing selected international standards, he provides illustrative examples of how businesses could contribute to realizing all four facets of the right to development (economic, social, cultural and political development) and the enabling role that States and civil society organizations should play in this regard. The Special Rapporteur also calls for a fundamental shift in how businesses operate in society by reorienting the purpose of business, changing irresponsible business models and going beyond the “do no harm” approach. Only by making these transformative changes will businesses be able to make a meaningful contribution to inclusive, equitable and sustainable development.

I. Introduction

A. Context

1. The present report is submitted to the General Assembly pursuant to Human Rights Council resolutions 33/14 and 51/7.

2. The world is at a crossroads as a result of multiple challenges: poverty, inequality, intersectional discrimination, nationalism and populism, the digital divide, climate change, environmental pollution, loss of biodiversity, food and energy insecurity, armed conflicts, refugees and internal displacements and disruptive new technologies. Non-realization of the right to development or pursuing unsustainable economic development policies is linked in one way or another to all these challenges. Similarly, businesses are central both to contributing to and solving these challenges.

3. In the report, the Special Rapporteur on the right to development, Surya Deva, connects the dots between these global crises and the gap between the potential and practice of businesses in contributing to the realization of the right to development. He presents an ambitious vision for businesses to reimagine their role in society to contribute to realizing the right to development and in turn overcome some of the pressing global challenges.

B. Objectives

4. In his report, the Special Rapporteur seeks to achieve four objectives. First, he briefly unpacks key components of the right to development and the unique value that this right brings to the practice of international human rights law. States, businesses and other actors should bear in mind this articulation of the right to development in discharging their respective duties and responsibilities.

5. Second, the Special Rapporteur analyses the critical role of businesses in realizing all four facets of the right to development (economic, social, cultural and political development) in line with relevant international standards. He provides illustrative examples of issues that businesses could focus on to realize each of the four facets of the right to development and showcases selected good business practices.

6. Third, the Special Rapporteur highlights three elements of a fundamental shift that must take place about the role of business in society: reorient the purpose of business, change irresponsible business models and go beyond the “do no harm” approach. Only by making these systematic changes will businesses be able to make a meaningful contribution to inclusive, equitable and sustainable development.

7. Fourth, the Special Rapporteur briefly examines the enabling role of States and civil society organizations in ensuring that businesses make a commensurate contribution to realizing the right to development.

C. Methodology

8. The Special Rapporteur draws on international standards concerning the right to development, as well as the human rights responsibilities of businesses, the relevant literature and the practice of States and businesses. The analysis in the report is informed by insights gained from extensive outreach to collect input from all stakeholders.

9. In response to the Special Rapporteur's call for input, submissions were received from 11 States, 4 international organizations, 18 civil society organizations, 2 business representatives and 4 individuals (including from academia).¹ The Special Rapporteur also conducted one consultation in Bangkok on 8 June 2023 during the United Nations Responsible Business and Human Rights Forum, Asia-Pacific, and two virtual consultations with experts from all world regions on 21 and 22 June. In addition, he had several bilateral conversations with representatives of States and other organizations in Geneva during May and June. The Special Rapporteur is grateful to all stakeholders for providing input in various forms.

D. Scope and limitations

10. The focus of the present report is on what businesses should do (or should not do) in realizing the right to development in line with relevant international standards. The analysis and recommendations are relevant for all businesses operating in any sector: public or private, multinational or local, formal or informal.

11. The Special Rapporteur acknowledges the duties and responsibilities of States and other actors, such as intergovernmental organizations, international financial institutions, development agencies, public development banks and national human rights institutions, in realizing the right to development. Civil society organizations, human rights defenders and the media also play a key role in ensuring that businesses contribute to realizing the right to development. However, owing to space constraints, the report deals briefly only with the enabling role of States and civil society organizations.

II. Unpacking the right to development

A. Basic contours of the right to development

12. The 1986 Declaration on the Right to Development defines the right to development as the right of every human person and all peoples "to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".² From this definition, one can discern three elements and four facets of the right to development. The three elements are the ability of human beings to "participate in", "contribute to" and "enjoy" the right to development. The four facets are: economic, social, cultural and political development. Pursuing these four facets together provides a pathway to realizing all human rights and fundamental freedoms.

13. In addition, one can derive four overarching principles of the right to development from the Declaration and other relevant instruments: self-determination, intersectionality, intergenerational equity and fair distribution.

14. The first overarching principle of the right to development is "self-determination". Peoples have a right to determine their economic, social and cultural development in line with the International Bill of Human Rights. The principle of self-determination entitles peoples to have "full sovereignty over all their natural wealth and resources".³ This principle is relevant because some States or companies tend to justify taking control over the natural resources of vulnerable or marginalized communities, without their meaningful participation, for the larger public good or to accomplish a top-down model of economic development.

¹ All submissions are available at: www.ohchr.org/en/calls-for-input/2023/call-inputs-2023-reports-un-special-rapporteur-right-development.

² Declaration on the Right to Development, art. 1 (1).

³ *Ibid.*, art. 1 (2).

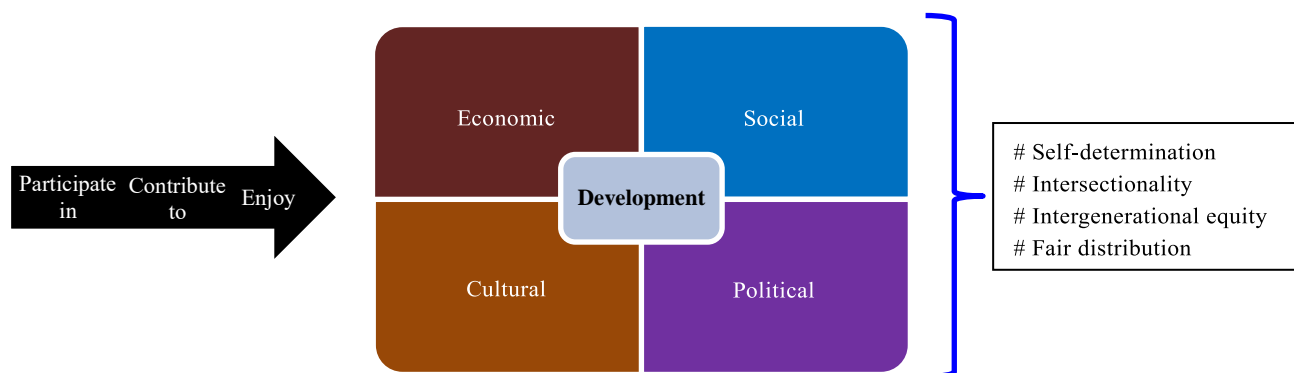
15. “Intersectionality” is the second overarching principle of the right to development. Rights holders “are not a homogenous group”.⁴ Many individuals and groups often face multiple and layered forms of discrimination in society, which undermine their ability to realize the right to development. That is why the preamble to the Declaration on the Right to Development underscores the obligation of States to promote universal respect for human rights “without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.⁵

16. The third overarching principle of the right to development is “intergenerational equity”, because this right is not a licence to destroy the planetary ecosystem or undermine the ability of future generations to fulfil their development aspirations. Both the 1992 Rio Declaration on Environment and Development and the 1993 Vienna Declaration and Programme of Action highlight this component of the right to development: “The right to development must be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.”⁶ Principle 5 (b) of the 2023 Maastricht Principles on the Human Rights of Future Generations is also relevant here because it stipulates that future generations are entitled to all individual and collective human rights, including the right to development.⁷ The principle of intergenerational equity, which is also acknowledged in the preamble to the Paris Agreement on climate change, is critical to ensure that the right to development contributes to inclusive, equitable and sustainable development.

17. “Fair distribution” is the fourth principle of the right to development. Article 2 (3) of the Declaration provides that the aim is “the constant improvement of the well-being of the entire population and of all individuals” and “the fair distribution of the benefits” resulting from national development policies.⁸ Instead of facilitating the economic development of some, it is a right to ensure that no one is left behind.

18. All these elements, facets and overarching principles of the right to development are crucial, as taking out any of them would create an imbalance. The figure depicts the correlation between these three facets, four elements and four principles.

A holistic vision of the right to development



⁴ A/72/162, para. 26. See also A/HRC/41/43.

⁵ See also article 6 (1) of the Declaration on the Right to Development.

⁶ Rio Declaration Environment and Development, principle 3. Similar wording is used in paragraph 11 of the Vienna Declaration and Programme of Action.

⁷ Available at www.etoconsortium.org/en/principles-on-the-human-rights-of-future-generations/.

⁸ See also Declaration on the Right to Development, art. 8, and 2030 Agenda for Sustainable Development, targets 2.5 and 15.6.

B. Unique value of the right to development

19. The right to development adds unique value to international human rights law in several ways. The Special Rapporteur will highlight this aspect in his vision report to the fifty-fourth session of the Human Rights Council, “Reinvigorating the right to development: a vision for the future”. It will suffice here to briefly illustrate the value addition. The right to development recognizes the agency of human beings, as their “active, free and meaningful participation” is fundamental to realizing that right.⁹ Human beings should also contribute to the realization of the right to development.

20. The right to development offers a process not only for the enhancement of human capabilities to accomplish development but also for the realization of all other human rights. By focusing on the vision of achieving a holistic development (economic, social, cultural and political development), this right embodies the practical application of the principle that human rights are “indivisible, interdependent and interrelated”.

21. The right to development also underlines the importance of States’ duty to cooperate to realize that right.¹⁰ International cooperation and solidarity are vital to the realization of all human rights and overcome many challenges currently faced by humanity – from climate change to migration, pandemics, peace and security, regulation of new technologies, food security and terrorism.¹¹

C. Bearers of duties and responsibilities

22. The Declaration on the Right to Development identifies those who have duties and responsibilities in relation to the right to development. To begin with, all “human beings have a responsibility for development”.¹² This responsibility, which is both individual and collective, is consistent with the rights holder being regarded as an active agent in the realization of the right to development.

23. As is the case with other human rights, all States have tripartite duties with regard to the realization of the right to development.¹³ Considering the nature of the right and the colonial history which created an inherent disadvantage for the global South, special attention is given to the duty of States to “cooperate with each other in ensuring development and eliminating obstacles to development”.¹⁴ The second revised text of the draft convention on the right to development elaborates further States’ duty to respect, protect and fulfil the right to development, as well as their duty to cooperate.¹⁵ The draft convention also outlines the duty of “legal persons to refrain from participating in the violation of the right to development” and certain obligations of international organizations.¹⁶

24. The Declaration on the Right to Development does not mention duties and responsibilities of other actors. Nevertheless, in view of the evolving nature of international human rights law, other actors such as international financial institutions, public development banks and businesses also have independent duties and responsibilities in relation to human rights, including the right to development. This issue is examined further below regarding businesses.

⁹ Declaration on the Right to Development, preamble. See also arts. 1 and 2.

¹⁰ *Ibid.*, arts. 3 (2) and (3) and 6 (1).

¹¹ See [A/75/982](#). See also “UN expert calls for declaration on the right to international solidarity”, press release, 28 June 2023.

¹² Declaration on the Right to Development, art. 2 (2).

¹³ *Ibid.*, arts. 2–8.

¹⁴ *Ibid.*, art. 3 (3).

¹⁵ [A/HRC/WG.2/24/2](#), arts. 10–12.

¹⁶ *Ibid.*, arts. 7 and 9.

III. Key normative standards for business

25. Numerous international standards provide guidance to businesses in terms of their responsibilities to respect human rights. Some of these standards are discussed below to show how they can provide a sound starting point for businesses to contribute to the realization of the right to development.

A. United Nations Global Compact

26. The United Nations Global Compact, launched in 2000, is the world's largest corporate sustainability initiative.¹⁷ The 10 principles of the Compact relate to human rights, labour rights, the environment and anti-corruption. These principles are derived from the Universal Declaration of Human Rights, the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization, the Rio Declaration on Environment and Development and the United Nations Convention against Corruption.¹⁸ The fulfilment of the right to development is expressly mentioned in principle 3 of the Rio Declaration.

27. The Global Compact principles go beyond the negative human rights responsibility of businesses. For instance, principle 1 provides that businesses “should support and respect the protection of internationally proclaimed human rights”, while under principle 9 businesses are expected to “encourage the development and diffusion of environmentally friendly technologies”. In other words, there is an expectation for businesses to go beyond the “do no harm” approach.

28. The Global Compact also encourages participating companies to contribute to realizing the Sustainable Development Goals and solving societal challenges through innovation and collaboration, but only after first conducting business responsibly.¹⁹

B. Guiding Principles on Business and Human Rights

29. The Guiding Principles on Business and Human Rights, unanimously endorsed by the Human Rights Council in June 2011, articulate the duties of States and the responsibilities of businesses to protect, respect and remedy business-related human rights abuses.²⁰ One of the most significant contributions of the Guiding Principles has been to articulate the independent responsibility of all business enterprises to respect all internationally recognized human rights. To discharge this responsibility, businesses should conduct ongoing human rights due diligence to identify, prevent, mitigate and account for how they respect human rights. Consultation with potentially affected rights holders and other relevant stakeholders is a key element of the human rights due diligence process.

30. The Guiding Principles are relevant to ascertain business responsibility regarding the right to development for at least three reasons. First, several components of the right to development – such as improvement of human well-being, self-determination, non-discrimination, participation and international cooperation²¹ – are already part of the International Bill of Rights, referred to in principle 12 of the Guiding Principles.

¹⁷ See <https://unglobalcompact.org/what-is-gc>.

¹⁸ See <https://unglobalcompact.org/what-is-gc/mission/principles>.

¹⁹ See <https://unglobalcompact.org/sdgs/about>.

²⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, United Nations publication, 2011.

²¹ OHCHR, “Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation” (New York and Geneva, 2006), pp. 5–7.

Second, the commentary to principle 12 provides that, depending on circumstances, “business enterprises may need to consider additional standards”. The Declaration on the Right to Development, along with the Rio Declaration and the Vienna Declaration, are such other standards that businesses should keep in mind. Third, a significant number of business-related human rights abuses are linked to development projects pursued without meaningful participation of people. This suggests that both States and businesses should pay greater attention to realizing the right to development in a holistic way to address the root causes of corporate human rights abuses.

C. Sustainable Development Goals

31. The right to development is central to the 2030 Agenda for Sustainable Development.²² Realizing the 17 Sustainable Development Goals would go a long way in securing the right to development. Businesses have a key role in realizing these goals as part of the Global Partnership for Sustainable Development.²³

32. Under the 2030 Agenda, businesses are expected to go beyond “do no harm”. For example, businesses should “contribute to changing unsustainable consumption and production patterns” and mobilize “financial and technical assistance to strengthen developing countries’ scientific, technological and innovative capacities to move towards more sustainable patterns of consumption and production”.²⁴ They should also “apply their creativity and innovation to solving sustainable development challenges”.²⁵ Businesses should foster multi-stakeholder partnerships to “mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the Sustainable Development Goals in all countries, in particular in developing countries”.²⁶

33. In the Addis Ababa Action Agenda, which is an integral part of the 2030 Agenda, businesses are also encouraged to continue with “impact investing, which combines a return on investment with non-financial impacts”.²⁷

D. Children’s Rights and Business Principles

34. The Children’s Rights and Business Principles, 10 principles developed jointly by the United Nations Children’s Fund (UNICEF), the United Nations Global Compact and Save the Children and released in 2012, provide guidance to businesses about the steps that they can take in the workplace, marketplace and community to respect and support children’s rights.²⁸

35. The Children’s Rights and Business Principles embody a holistic approach to the rights of children because their rights cannot be protected in isolation. Decent work and family-friendly policies, for example, have a direct correlation with the protection of the rights of children.²⁹ Principle 3 therefore rightly provides that

²² Resolution 70/1, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, preamble and paras. 10 and 35.

²³ *Ibid.*, paras. 60 and 61.

²⁴ *Ibid.*, para. 28.

²⁵ *Ibid.*, para. 67.

²⁶ *Ibid.*, Goal 17.16.

²⁷ Addis Ababa Action Agenda, para. 37.

²⁸ See www.unicef.org/documents/childrens-rights-and-business-principles. See also Committee on the Rights of the Child, general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights.

²⁹ Jennifer Waidler, Bindu Sunny and Gwyther Rees, *Family-friendly policies in South Asia*, Innocenti Working Paper 2021-05 (United Nations Children’s Fund (UNICEF) Office of Research – Innocenti, Florence, 2021).

businesses should offer “decent work for young workers, parents and caregivers”. The principles envisage that businesses will both respect and support children’s rights, thus going beyond the “do no harm” approach. Businesses should “support children’s rights in relation to the environment and to land acquisition” (principle 7) and “help protect children affected by emergencies” (principle 9).

36. If businesses implement the 10 principles, they will make a significant contribution to realizing the right to development of children.³⁰ Vigilance on the part of transport companies and hotels could pre-empt child trafficking, while adopting responsible business practices and building capacity of suppliers could eliminate child labour. Similarly, responsible marketing and advertising practices could improve the health and mental well-being of children.

E. Principles for Responsible Investment

37. In view of the increasing relevance of environmental, social and governance issues to investment practices, an international group of institutional investors developed the Principles for Responsible Investment, comprising six principles.³¹ Realizing the right to development requires investment on the part of businesses. The Addis Ababa Action Agenda recognizes “that investing in children and youth is critical to achieving inclusive, equitable and sustainable development for present and future generations”.³² Investment in public services, as well as “in sustainable and resilient infrastructure, including transport, energy, water and sanitation for all”, is also critical to accomplishing the Sustainable Development Goals.³³

38. However, irresponsible investment practices might prove counterproductive. That is why each of the three environmental, social and governance components are closely connected to realize a holistic vision of the right to development. Principle 1 of the Principles for Responsible Investment provides that investors “will incorporate environmental, social and governance issues into investment analysis and decision-making processes”. Principle 3 provides that investors should “seek appropriate disclosure on environmental, social and governance issues by the entities in which we invest”. In this context, the Sustainable Stock Exchanges Initiative is relevant. It is intended to “enhance performance on environmental, social and governance ... issues and encourage sustainable investment, including the financing of the United Nations Sustainable Development Goals”.³⁴ As at June 2023, the Initiative has 133 stock exchanges as its members.³⁵ Some of these stock exchanges or regulatory agencies have started requiring listed companies to disclose environmental, social and governance data. For example, the Securities and Exchange Board of India has made business responsibility and sustainability reporting mandatory for the top 1,000 listed companies from the 2022–2023 financial year.³⁶ The Government of Malaysia is currently formulating the national environmental, social and governance industry framework for the manufacturing sector with a view to encourage manufacturing and investment aimed at achieving sustainable development.³⁷

³⁰ United Nations Global Compact, “Children’s Rights and Business Principles – Good Practices per Principle” (2015). Available at <https://unglobalcompact.org/library/1571>.

³¹ See www.unpri.org/about-us/what-are-the-principles-for-responsible-investment.

³² Addis Ababa Action Agenda, para. 37.

³³ *Ibid.*, paras. 12 and 14.

³⁴ “About the Sustainable Stock Exchanges Initiative”. Available at <https://sseinitiative.org/about/>.

³⁵ “Sustainable Stock Exchange Initiative Partner Exchanges”. Available at <https://sseinitiative.org/members/>.

³⁶ Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations 2015, regulation 34 (2).

³⁷ Submission from Malaysia, 8 June 2023.

F. Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises on Responsible Business Conduct

39. The Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct, originally adopted in 1976 and updated most recently in 2023, are recommendations jointly addressed by Governments to multinational enterprises “to encourage the positive contributions enterprises can make to economic, environmental, and social progress”.³⁸ The OECD Guidelines are broader in scope in that they deal with issues such as the environment, corruption, science and technology, taxation, consumer rights and competition. They contain an inbuilt non-judicial mechanism – the national contact point – to resolve complaints of potential breaches of the Guidelines. This will be relevant in the context of the right to development if communities affected by certain projects feel aggrieved.

40. Since the OECD Guidelines apply to enterprises “operating in or from” the territory of 51 adhering States, they have global application. The 2023 update of the Guidelines has resulted in significant improvements, some of which have a direct relevance in the context of the right to development. Two illustrative examples should suffice. First, the Guidelines now set out how enterprises should “contribute to reaching the goals of climate change mitigation and adaptation; the conservation, restoration, and sustainable use of biological diversity; [and] the sustainable, efficient and lawful use of land, resources and energy”.³⁹ All these aspects will be critical to the principle of intergenerational equity articulated above. Second, in the updated Guidelines businesses are expected to disclose responsible business conduct information.⁴⁰ The disclosure should include information about an enterprise’s “plans for implementing due diligence” as well as “identified areas of significant impacts or risks, the adverse impacts or risks identified, prioritized and assessed, as well as the prioritization criteria”.⁴¹ Such information will be valuable to facilitate the participation of peoples in corporate decisions having a bearing on the right to development.

G. International Labour Organization Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

41. Decent work is an integral part of both the right to development and the Sustainable Development Goals. The International Labour Organization (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is therefore relevant for businesses because adherence to the Declaration “will contribute to a climate more conducive to decent work, inclusive economic growth and sustainable development”.⁴²

42. The aim of the ILO Tripartite Declaration is to encourage the positive contribution that multinational enterprises “can make to economic and social progress and the realization of decent work for all”.⁴³ In addition to stipulating certain general

³⁸ Organisation for Economic Cooperation and Development (OECD), *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Publishing, Paris, 2023), preface, para. 1.

³⁹ *Ibid.*, commentary on chapter VI, para. 66.

⁴⁰ *Ibid.*, chap. III, para. 3.

⁴¹ *Ibid.*

⁴² International Labour Organization (ILO) Tripartite Declaration, annex, introduction.

⁴³ *Ibid.*, para. 2.

policies, the Declaration provides guidance to business enterprises, Governments and employer organizations and workers' organizations regarding issues related to employment, training, conditions of work and life and industrial relations. For example, multinational enterprises should "respect the minimum age for admission to employment or work", "maintain the highest standards of safety and health" and "be guided by the principle of non-discrimination throughout their operations".⁴⁴ They should also "have regard to the importance of using technologies which generate employment" when investing in developing countries and should where possible "take part in the development of appropriate technology in host countries".⁴⁵ Multinationals could "complement public social security systems".⁴⁶

43. One unique value of the ILO Tripartite Declaration lies in creating an institutionalized mechanism for social dialogue on issues of mutual concern among Governments and employers' and workers' representatives. The Declaration also stresses the importance of the freedom of association and the right to collective bargaining and highlights that multinational enterprises should carry out meaningful consultation with workers' organizations while conducting human rights due diligence.

IV. Role of business regarding the right to development

44. Businesses have an indispensable role in realizing the right to development.⁴⁷ They construct houses, build infrastructure, offer loans and banking services, create employment opportunities, foster vocational capabilities, develop new medicines and vaccines, provide Internet services, offer various means of transport and provide access to essential public services. At the same time, business activities can also undermine the right to development, e.g., through evading tax payment, promoting the sale of unhealthy products, exploiting migrant workers, causing environmental pollution or displacing Indigenous Peoples for development projects.

45. The key, therefore, is to harness the positive contribution of businesses and minimize the adverse impacts of business activities on the right to development. In this part, the Special Rapporteur provides illustrative examples of what businesses can do to realize all four facets of the right to development, including by integrating the four overarching principles.

46. Businesses should consider the four facets of the right to development not as separate compartments but as mutually complementary and reinforcing. For example, the role of businesses in achieving a just transition to a low carbon economy will be vital to all four facets of the right to development.⁴⁸ Similarly, if businesses – working in collaboration with States, trade unions and other relevant actors – can ensure an exploitation-free migration of workers and create decent work conditions for them, that would contribute to the realization of the economic, social, cultural and political development, including of these workers.⁴⁹ The 2018 Global Compact for Safe,

⁴⁴ Ibid., paras. 27, 30 and 44.

⁴⁵ Ibid., para. 19.

⁴⁶ Ibid., para. 22.

⁴⁷ Resolution 70/1, para. 67; Addis Ababa Action Agenda, para. 35; and submission from the International Organisation of Employers, pp. 2–5.

⁴⁸ Business and Human Rights Resource Centre, "Just energy transition principles for human rights in business and investment". Available at www.business-humanrights.org/en/big-issues/natural-resources/just-energy-transition-principles-for-human-rights-in-business-and-investment-2/.

⁴⁹ See submission from International Organization for Migration (IOM), 28 June 2023.

Orderly and Regular Migration, which takes human rights as one of the cross-cutting principles, provides a blueprint for achieving this goal.⁵⁰

A. Economic development

47. A 2023 Oxfam International report highlights that extreme wealth and extreme poverty have sharply increased at the same time for the first time in 25 years and that the richest 1 per cent have captured about two thirds of all new wealth worth \$42 trillion created since 2020.⁵¹ Inequality is not limited to wealth distribution. Gender inequality continues to persist at a worrying level,⁵² while “2.7 billion people – roughly one third of the global population – remain unconnected to the Internet”.⁵³ Such widespread inequalities are a major barrier to realizing the right to development.⁵⁴

48. The current economic inequality is not an accident. Certain business policies and practices are part of the problem. For example, while the compensation package of chief executive officers grew by 1,460 per cent from 1978 to 2021, compensation of the typical worker grew by just 18.1 per cent during the same period.⁵⁵ Businesses can become part of the solution by taking several measures to reduce existing economic inequality. If businesses pay living wages to workers (including those part of their supply chains),⁵⁶ this will directly reduce economic and other inequalities. Principle 6 of the European Pillar of Social Rights provides: “Workers have the right to fair wages that provide for a decent standard of living”.⁵⁷ Amfori’s Business Social Compliance Initiative Code of Conduct encourages its members and their business partners to “work progressively towards the payment of a living wage that is sufficient to afford a decent standard of living for the workers and their families”.⁵⁸ Companies such as H&M and Unilever have started taking measures to fulfil their commitment to pay workers a living wage.⁵⁹ More companies should follow this pathway.

49. Businesses should also adopt responsible purchasing practices, rather than passing the burden of complying with mandatory human rights laws to their supply chain partners. In addition, businesses should respect workers’ rights to the freedom of association and collective bargaining, because an effective realization of these rights will allow workers to address power imbalances and in turn secure decent work.

⁵⁰ See https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf.

⁵¹ Oxfam International, *Survival of the Richest: How we must tax the super-rich now to fight inequality* (Oxford, 2023).

⁵² See United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Progress on the Sustainable Development Goals: The Gender Snapshot 2022* (2022).

⁵³ International Telecommunication Union, “Facts and Figures 2022: latest on global connectivity amid economic downturn”. Available at www.itu.int/hub/2022/11/facts-and-figures-2022-global-connectivity-statistics/.

⁵⁴ A/HRC/39/51, paras. 5–30. See also E/CN.4/2002/WG.18/2, paras. 26–29.

⁵⁵ Josh Bivens and Jori Kandra, “CEO pay has skyrocketed 1,460% since 1978”, 4 October 2022. Available at www.epi.org/publication/ceo-pay-in-2021/.

⁵⁶ The 2022 Corporate Human Rights Benchmark shows that only 13 per cent of companies paid living wages or had set a target to do so across their “own” operations, while a further 6 per cent of companies had similar requirements or targets for their suppliers. Submission from the World Benchmarking Alliance, 23 June 2023.

⁵⁷ “The European Pillar of Social Rights in 20 principles”. Available at <https://ec.europa.eu/social/main.jsp?catId=1606&langId=en>. See also submission from the European Union.

⁵⁸ Amfori Business Social Compliance Initiative Code of Conduct, 2021, p. 4. Available at www.amfori.org/resource/amfori-bsci-code-conduct-english-december-2021.

⁵⁹ See <https://hmgroupp.com/sustainability/fair-and-equal/wages/key-impacts-and-learning/> and www.unilever.com/planet-and-society/raise-living-standards/a-living-wage/.

50. Although States can take various steps to augment resources needed to realize the right to development,⁶⁰ the payment of legitimate taxes by businesses will contribute to generating such resources. It was, for instance, pointed out that the Government of the Philippines loses at least 500 billion pesos (approximately \$9 billion) every year owing to tax evasion,⁶¹ undermining its capacity to invest in realizing the right to development. This is, however, a more systemic issue faced by many States. The “estimated tax evasion rates for personal income and corporate tax in Latin America have remained at an average of 44 per cent and 58 per cent respectively in the last two decades”.⁶² In this context, the OECD/Group of 20 (G20) agreement on a 15 per cent global minimum tax is a step in the right direction to minimize corporate tax evasion.⁶³ However, the world ultimately needs a more inclusive and human rights-based international tax regime which does not create any disadvantage for low-and middle-income countries.⁶⁴

51. Economic inequality often contributes to the digital divide, which in turn exacerbates existing inequalities and undermines pathways to realizing the right to development.⁶⁵ Businesses should take individual and collective measures not only to bridge the digital divide but also to ensure access to safe and affordable technologies to all people without any discrimination.⁶⁶ The steps taken by Kacific Broadband Satellite Group to offer satellite connectivity to rural areas in the Philippines to bridge the digital divide is illustrative of what companies can do.⁶⁷ In addition to adopting differential pricing, businesses should also embrace the call for “voluntary patent pooling” to enhance access to technology.⁶⁸

B. Social development

52. Despite various law and policy measures, gender inequality remains a major hurdle to the social development of girls and women.⁶⁹ The current data show that “the world is not on track to achieve gender equality by 2030” and that “closing gaps in legal protections and removing discriminatory laws could take up to 286 years based on the current rate of change”.⁷⁰ For example, “women are a minority of students in STEM (science, technology, engineering and mathematics) education, at only 35 per cent, and in information and communication technology studies, at just 3 per cent”.⁷¹ They “make up just 19.9 per cent of science and engineering professionals”.⁷² Women and girls also face disproportionate levels of discrimination,

⁶⁰ A/HRC/42/38, paras. 64–67 and 80–82.

⁶¹ Submission from the Center for Environmental Concerns – Philippines Inc.

⁶² OECD, *Tax Transparency in Latin America 2022: Punta del Este Declaration Progress Report* (2022), p. 15.

⁶³ See www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm.

⁶⁴ United Nations and Office of the United Nations High Commissioner for Human Rights, “Human rights experts support call for UN tax treaty”, press release, 29 November 2022. Available at <https://www.ohchr.org/en/press-releases/2022/11/human-rights-experts-support-call-un-tax-treaty>.

⁶⁵ Submission from South Centre, pp. 4 and 5.

⁶⁶ For example, concerns were raised about PayPal not allowing access to its digital payment platform to Palestinians in the Occupied Palestinian Territory of the Gaza Strip and the West Bank. See submission from the Arab Centre for the Advancement of Social Media.

⁶⁷ “Kacific bridges the digital divide: Expanding satellite connectivity to rural areas in the Philippines”, 20 April 2023. Available at www.cnnphilippines.com/business/2023/4/20/kacific-bridges-digital-divide-in-ph.html.

⁶⁸ Addis Ababa Action Agenda, para. 116.

⁶⁹ See A/HRC/53/39.

⁷⁰ UN-Women, *Progress on the Sustainable Development Goals: The Gender Snapshot 2022*, p. 10.

⁷¹ *Ibid.*, p. 5.

⁷² *Ibid.*

the gender pay gap, sexual harassment and gender-based violence in both the public and the private spheres. This situation undermines women's pathways to development.

53. Children, our future, similarly face significant barriers to realize their right to development. Millions of children are trapped in situations of child labour, forced marriage, modern slavery and human trafficking for sexual exploitation.⁷³ They are also disproportionately impacted by armed conflicts.⁷⁴ The voices of children are rarely integrated adequately in decision-making processes about issues directly impacting their well-being such as new technologies and climate change.

54. Operating in this context, businesses must take proactive steps to advance substantive gender equality⁷⁵ and the rights of children to further their social development. They should contribute to advancing gender equality by ensuring “women's full and productive employment and decent work, equal pay for equal work or work of equal value, and equal opportunities, as well as protecting them against discrimination and abuse in the workplace”.⁷⁶ Several companies, such as Mastercard, Microsoft, Pfizer, Starbucks and Target, have made progress in closing the racial and gender pay gaps,⁷⁷ while EcoEnterprises Fund has been promoting gender-inclusive investments.⁷⁸ Although only 31 States have ratified the ILO Violence and Harassment Convention 2019 (No. 190) as at June 2023,⁷⁹ businesses should act in line with the spirit of the Convention wherever they operate. Businesses should also promote women's entrepreneurship in line with the Women's Empowerment Principles.⁸⁰

55. Considering that “business activities and relationships can have multiple adverse impacts on children”,⁸¹ what they do and do not do will have a direct bearing on the social development of children. Businesses must eliminate child labour throughout their supply chains, stop sexual exploitation of children, phase out the sale of unhealthy products and protect children from online abuses. They should also recognize the agency of children and involve them in decisions affecting children, e.g., introducing new technologies and climate change adaptation and mitigation measures.

56. Lack of effective remediation and accountability for business-related human rights abuses – many of which are linked to development projects – is another obstacle to achieving social development. Under the United Nations Guiding Principles, businesses (including development finance institutions) are expected to establish effective operational-level grievance mechanisms as part of their responsibility to

⁷³ ILO, Walk Free and IOM, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva, 2022). See also Walk Free, *Global Slavery Index 2023*. Available at <http://www.walkfree.org/global-slavery-index/>.

⁷⁴ At the end of 2021, “more than 450 million children – or one in six – were living in a conflict zone, the highest number in 20 years”. Ilze Brands Kehris, “Children affected by armed conflict and violence”, 15 July 2022. Available at www.ohchr.org/en/speeches/2022/07/children-affected-armed-conflict-and-violence.

⁷⁵ A/HRC/39/51, para. 67.

⁷⁶ Addis Ababa Action Agenda, para. 41.

⁷⁷ Arjuna Capital Proxy Impact, “Racial and Gender Pay Scorecard 2023”. Available at www.proxyimpact.com/_files/ugd/b07274_d88f00b8786f4bd8bcf27a0c4bb66e35.pdf.

⁷⁸ See www.unpri.org/diversity-equity-and-inclusion/ecoenterprises-fund-cultivating-gender-inclusive-investments/11006.article.

⁷⁹ See www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810.

⁸⁰ Addis Ababa Action Agenda, para. 41.

⁸¹ Andrew Mawson, Humberto Cantú Rivera and Subajini Jayasekaran, *Charting the Course: Embedding Children's Rights in Responsible Business Conduct* (UNICEF, United Nations Global Compact and Save the Children, Geneva, 2022), p. 9.

respect human rights.⁸² Some such mechanisms often fail to provide effective remedial outcomes⁸³ because they lack the active, free and meaningful participation of affected rights holders. Codesigning grievance mechanisms with affected rights holders or promoting community-driven operational-level grievance mechanisms⁸⁴ might allow businesses and development finance institutions to ensure such participation and in turn contribute to social development.

C. Cultural development

57. Businesses can also contribute to cultural development. We can take the rights of Indigenous Peoples as an example. Article 23 of the United Nations Declaration on the Rights of Indigenous Peoples provides that Indigenous Peoples “have the right to determine and develop priorities and strategies for exercising their right to development”. Under article 32, they also have “the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources”.

58. Indigenous peoples all over the world have been living in harmony with nature for centuries. However, the current development model often results in the dispossession or forced displacement of Indigenous Peoples from their traditional lands, territories and resources, which has a direct impact on their cultural development. While Indigenous Peoples have contributed least to the current climate crisis, they are highly vulnerable to mining or hydropower projects aimed at transition to a low-carbon economy.

59. It is worrying that many companies continue to ignore climate change risks or mislead their stakeholders about the seriousness of these risks. For example, the Carbon Tracker Initiative reported that “more than 70 per cent of listed companies that represent some of the world’s largest carbon-polluters, alongside most of their external auditors, are not fully accounting for climate-related risks in financial statements”.⁸⁵ It is widely accepted that the impact of climate change will be felt disproportionately by lower-income countries and marginalized individuals or groups such as women, girls, persons with disabilities and Indigenous Peoples.⁸⁶ While some mining may be necessary to sustain current development needs and support renewable energy transition, mining could also have significant adverse impacts on all human rights, including the right to development, environmental rights and the rights of human rights defenders.⁸⁷

60. In this context, business can play a critical role by ensuring that mining or other development projects in which they are involved promote – rather than undermine – cultural development not only of the present generation but also future generations. Businesses must ensure that mining is not only responsible and sustainable but also conducted only after obtaining a social licence from the affected communities through

⁸² See A/HRC/44/32; and OHCHR, *Remedy in Development Finance: Guidance and Practice* (United Nations publication, 2022).

⁸³ See Mark Wielga and James Harrison, “Assessing the effectiveness of non-State-based grievance mechanisms in providing access to remedy for rightsholders: a case study of the Roundtable on Sustainable Palm Oil”, *Business and Human Rights Journal*, vol. 6, No. 1 (February 2021), p. 67.

⁸⁴ Earth Rights International and Just Ground, “Community-driven operational grievance mechanism, discussion paper”, November 2022.

⁸⁵ Carbon Tracker Initiative, “Flying blind: the glaring absence of climate risks in financial reporting”, 16 September 2021. Available at www.unpri.org/accounting-for-climate-change/flying-blind-the-glaring-absence-of-climate-risks-in-financial-reporting/8555.article.

⁸⁶ Oxfam, *Towards a Just Energy Transition: Implications for Communities in Lower- and Middle-income Countries* (Oxford, 2022).

⁸⁷ See submission from the Asian Forum for Human Rights and Development.

their active, free and meaningful participation. If the rights of Indigenous Peoples are impacted by any mining or other development project, then businesses must obtain a free, prior and informed consent in line with the United Nations Declaration on the Rights of Indigenous Peoples and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). As noted in the Maastricht Principles on the Human Rights of Future Generations, businesses “should draw inspiration and guidance from Indigenous Peoples’ knowledges, cultures and traditional practices which contribute to sustainable and equitable development and the proper management of the environment”.⁸⁸

61. Public development banks can also support businesses in contributing to cultural development by supporting projects which promote inclusive, equitable and sustainable development and giving priority to climate finance needed to ensure a just transition to a green economy.⁸⁹

D. Political development

62. Businesses can contribute to political development in several ways. They can, for instance, support the active, free and meaningful participation of people (especially youth and vulnerable groups) in all decision-making processes affecting them. Concerns are arising that businesses are not conducting meaningful consultation. For example, the 2022 Corporate Human Rights Benchmark shows that “71 per cent of companies scored zero on their approach to engaging with affected stakeholders on a regular basis”.⁹⁰ It is therefore not surprising that most businesses are not ensuring the meaningful participation of people.⁹¹

63. Participation is not identical to the consultation that many businesses may already conduct as part of human rights due diligence – the former requires recognition of the agency of people and the co-sharing of power with them to take decisions. Only by securing such participation of people would businesses ensure that “decisions reflect people’s needs and enable everyone to contribute to transformational change”.⁹² In this regard, businesses may draw inspiration from the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

64. Businesses can also nurture leadership by offering women and people from marginalized groups pathways to gain education, skills and opportunities for employment and loans. For example, Bank of America is supporting the WomenEntrepreneurs4Good initiative of Women’s Forum for the Economy and Society to support women entrepreneurs.⁹³ In 2022, the International Organisation of Employers and Microsoft launched a Tech@Work programme to impact digital, soft and entrepreneurial skills for 20,000 participants from the Democratic Republic of the Congo, Lesotho, Senegal and Uganda.⁹⁴ Microcredit by Grameen Bank in

⁸⁸ Maastricht Principles on the Human Rights of Future Generations (see footnote 7), para. 11 (a).

⁸⁹ Joint submission from 71 civil society organizations, 22 May 2023.

⁹⁰ See www.worldbenchmarkingalliance.org/publication/chrp/findings/companies-need-to-translate-their-commitments-to-stakeholder-engagement-into-meaningful-action/.

⁹¹ Submission from Earth Rights International, 23 June 2023.

⁹² United Nations, “Our Common Agenda policy brief 4: valuing what counts – framework to progress beyond gross domestic product”, p. 9.

⁹³ See www.womenentrepreneurs4good.com/. See also the BNP Paribas Wealth Management Executive Program for Women Entrepreneurs under which a group of women entrepreneurs attend an annual week-long programme at Stanford Graduate School of Business. See <https://wealthmanagement.bnpparibas/en/what-we-do/network/women-entrepreneur-program.html>.

⁹⁴ Submission from International Organisation of Employers, p. 5.

Bangladesh has had a transformative effect in empowering women and involving them in economic activities.⁹⁵

65. Businesses can contribute to political development by facilitating access to safe and affordable technologies to all people without any discrimination.⁹⁶ This will entail following the “safety by design” approach, developing human rights-based data systems⁹⁷ and taking affirmative action to provides access to vital technologies to disadvantaged individuals or groups. Digital companies should also move away from their “data extractivist models”⁹⁸ and address gender and racial bias in the use of artificial intelligence tools.⁹⁹

66. There is also a close correlation between development and peace and security: lack of inclusive development often triggers conflicts; when peace is disturbed, it is difficult to realize the right to development. With several ongoing conflicts in different world regions, businesses should play an active role in peacebuilding and transitional justice.¹⁰⁰ In addition to conducting heightened human rights due diligence¹⁰¹ and following the Voluntary Principles on Security and Human Rights, they should try to address the root causes of conflicts such as poverty, inequalities, discrimination against marginalized groups and xenophobia. Businesses should also conduct a human rights impact assessment before supplying weapons and ammunitions, ensure that their operational presence does not assist conflict actors and offer humanitarian aid wherever possible.

67. Lastly, as States listen to business leaders, businesses should use their leverage not merely to demand tax rebates or the creation of a business-friendly environment but also to encourage States to preserve civic space. That would go a long way to ensuring political development. As the High Commissioner recalled: “Civic space is a human rights issue, it is a peace issue, it is a development issue.”¹⁰² Civic space is a precondition for facilitating peoples’ participation in all decision-making processes related to the right to development. Without adequate civic space, businesses will also not be able to conduct meaningful human rights due diligence.¹⁰³

V. Time for a fundamental shift for business

68. Pursuing a holistic understanding of the right to development articulated in the present report provides a pathway to address some of the challenges with which the world is grappling. This will require a fundamental shift in the current role and place of business in society. The Special Rapporteur calls on business leaders to focus on taking the following three measures as a priority: reorient the purpose of business in society, change irresponsible business models and go beyond the “do no harm” approach.

69. In addition to accomplishing the right to development, the proposed fundamental shift will allow businesses to contribute to building a human rights

⁹⁵ See <https://grameenbank.org/about/introduction>.

⁹⁶ See B-Tech Project. See www.ohchr.org/en/business-and-human-rights/b-tech-project.

⁹⁷ Submission from Peter G. Kirchsclaeger, 30 May 2023.

⁹⁸ Submission from IT for Change.

⁹⁹ Surya Deva, “Addressing the gender bias in artificial intelligence and automation”. Available at <https://www.openglobalrights.org/addressing-gender-bias-in-artificial-intelligence-and-automation/>.

¹⁰⁰ See A/HRC/50/40/Add.4.

¹⁰¹ See A/75/212; and United Nations Development Programme, *Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide* (New York, 2022).

¹⁰² “UN Rights Chief issues call to protect and expand civic space”, press release, 26 May 2023. Available at www.ohchr.org/en/press-releases/2023/05/un-rights-chief-issues-call-protect-and-expand-civic-space.

¹⁰³ For guidance, see A/HRC/47/39/Add.2.

economy, an economy that “seeks to redress root causes and structural barriers to equality, justice, and sustainability”.¹⁰⁴ This will also be in line with the ambitions for Our Common Agenda set by the Secretary-General.¹⁰⁵

A. Reorient the purpose of the business

70. The time for tweaks is over. A fundamental shift is needed as to the role of businesses in society and their relationship with non-shareholders to address systemic problems with the current economic order. For instance, similar to the way in which gross domestic product (GDP) does not capture the human and environmental destruction of economic activities,¹⁰⁶ corporate profits do not reflect externalities and the investment of labour by workers. Nor do corporate boards, which often take decisions affecting people and the planet, include representation from all key constituents of society.

71. There are already some initiatives and calls concerning a shift in the purpose of business in society. For example, in August 2019, the Business Roundtable, an association of more than 200 chief executive officers of leading companies of the United States of America, issued a statement on the purpose of a corporation to commit to generate value for all stakeholders.¹⁰⁷ Although there are doubts about the extent to which such a statement has changed the conduct of companies making these commitments, a public manifestation of this normative shift as to the purpose of business is important.

72. The shareholder primacy model, coupled with the pressure to show upward profit in quarterly reports, pushes many companies to take decisions that harm people or the planet. During the coronavirus disease (COVID-19) pandemic, corporate profits soared while workers suffered. A report about the actions of 22 United States companies revealed that these companies generated \$1.5 trillion in wealth gains for shareholder during the pandemic, whereas 7 million workers at the companies earned only about \$27 billion in additional pay – just 2 per cent of shareholders’ wealth gains.¹⁰⁸ This trend seems to continue as rising “corporate profits account for almost half the increase in Europe’s inflation over the past two years”.¹⁰⁹

73. Reorienting the purpose of the business would also help in addressing two problems with the current remuneration model for corporate executives. First, there is an indefensible disparity between the salaries of chief executive officers and an average worker in companies. According to a study of 300 top United States companies conducted by the Institute for Policy Studies, the average ratio between the pay of a chief executive officer and a median worker in 2021 was 670 to 1.¹¹⁰ Second, the practice of linking corporate executives’ compensation package to profits is problematic because it discourages focus on long-term value creation or protection

¹⁰⁴ OHCHR, “Building economies that place people’s human rights at the center”, 6 April 2023. Available at www.ohchr.org/en/stories/2023/04/building-economies-place-peoples-human-rights-center.

¹⁰⁵ A/75/982.

¹⁰⁶ United Nations, “Our Common Agenda policy brief 4”.

¹⁰⁷ See https://system.businessroundtable.org/app/uploads/sites/5/2023/02/WSJ_BRT_POC_Ad.pdf.

¹⁰⁸ Molly Kinder, Katie Bach and Laura Stateler, *Profits and the Pandemic: As Shareholder Wealth Soared, Workers were Left Behind* (Brookings, 2022), p. 3. See also Oxfam America, *Pandemic profiteers exposed*, media briefing (Oxfam America, 2020).

¹⁰⁹ Niels-Jakob Hansen, Frederik Toscani and Jing Zhou, “Europe’s inflation outlook depends on how corporate profits absorb wage gains”, IMF Blog (26 June 2023). Available at www.imf.org/en/Blogs/Articles/2023/06/26/europes-inflation-outlook-depends-on-how-corporate-profits-absorb-wage-gains.

¹¹⁰ Institute for Policy Studies, “Executive Excess 2022”. Available at <https://ips-dc.org/report-executive-excess-2022/>.

of the environment. The remuneration of business executives should not only have reasonable parity with the salary of workers but also be directly linked to their performance in protecting people and the planet.

B. Change irresponsible business models

74. A human rights economy requires, inter alia, business models that place “people and the planet at the heart ... with the goal of measurably enhancing the enjoyment of human rights for all”.¹¹¹ The Kampala Principles on Effective Private Sector Engagement in Development Cooperation also stress the need for “business models that focus on profitable solutions to sustainable development challenges”.¹¹² However, many current business models do not meet this yardstick because they prioritize profit over people or the planet. For example, many companies treat (migrant) workers as a commodity to maximize profits, encourage the use of unhealthy products such as tobacco, promote unsustainable consumption with total disregard for the environment, or indulge in lobbying against States’ policies on phasing out fossil fuel.

75. The time has come to call out and move away from such irresponsible business models, because the core economic activity or the very existence of certain companies “may be inherently harmful to human rights”.¹¹³ Such business models cannot be salvaged even by conducting human rights due diligence.¹¹⁴ We therefore need to develop and popularize business models that are more inclusive, equitable and sustainable. Doing so should address some of the root causes of current challenges faced by humanity – from poverty to inequality, pollution, biodiversity loss and climate change.¹¹⁵

76. Transition to a green economy would require companies to refrain from externalizing risks to people or the planet. They can do so by measuring the associated costs of generating profits, embedding circularity in all stages of manufacturing and adopting ambitious goals to achieve decarbonization of their own operations as well as those of their suppliers.¹¹⁶ Some companies are already starting to move in this direction. Natura, for example, embraces the “sustainable use of biodiversity” and promotes responsible consumption, including by creating in 2007 “the Environmental Table, which provides information on the environmental impact of each product”.¹¹⁷

C. Go beyond the “do no harm” approach

77. Businesses have a responsibility to respect all human rights, including the right to development. However, realizing the right to development – or any human right for that matter – will require businesses to go beyond respecting human rights. They would need to go beyond the current “do no harm” approach.

¹¹¹ OHCHR, “Building economies that place people’s human rights at the center”.

¹¹² See: www.oecd.org/dac/effectiveness/Kampala-Principles-on-effective-private-sector-engagement-development-cooperation.pdf.

¹¹³ David Jason Karp, “Business and human rights in a changing world order: beyond the ethics of disembedded liberalism”, *Business and Human Rights Journal* (2023), p. 3. Available at <https://doi.org/10.1017/bhj.2023.10>.

¹¹⁴ Marianna Leite, “Beyond buzzwords: mandatory human rights due diligence and a rights-based approach to business models”, *Business and Human Rights Journal* (2023), p. 8. Available at <https://doi.org/10.1017/bhj.2023.11>.

¹¹⁵ See Kish Parella, “Contractual Stakeholderism”, *Boston University Law Review*, vol. 102:865, pp. 897–911.

¹¹⁶ Submission from Kanishk Negi, 23 June 2023.

¹¹⁷ See www.naturabrasil.fr/en-us/our-values/natura-rasil-commitments.

78. Considering the role of businesses in all walks of life and in almost every economic activity in the current neoliberal world order, the traditional public-private distinction to differentiate human rights duties is no longer sustainable.¹¹⁸ In addition to performing their tripartite duties to “respect, protect and fulfil” human rights, States must reverse the current trend of commercialization and commodification of human rights.¹¹⁹ The duties or responsibilities of business cannot be confined to merely respecting human rights if the goal is to realize fully all human rights for everyone. In fact, as set out above in the present report, several international standards already envisage businesses taking steps that go beyond respecting human rights.

79. Businesses would also need to protect and fulfil human rights, at least in certain circumstances and situations.¹²⁰ For example, a pharmaceutical company should make reasonable efforts to ensure that its life-saving drugs or vaccines are accessible to all peoples without any discrimination or socioeconomic disadvantages. Similar considerations will be at play for a water, transport or Internet company enjoying a State-conferred or self-acquired monopoly over the provision of essential services: such companies should not set the price at a level that poor people cannot afford for accessing these basic facilities or limit service networks only to profitable areas.

80. One can also see the relevance of business responsibility to protect and fulfil human rights in relation to the 2030 Agenda. To end poverty, hunger and child labour or to achieve substantive gender equality, businesses would need to take positive steps to aid – not as charity or philanthropy but as part of their human rights responsibility – individuals or groups left behind systemically by the current economic order. Similarly, an effective response to climate change would require companies to make available financial resources, technical knowledge and technologies to developing States to ensure a just transition to a green economy.

VI. Enabling role of States and civil society organizations

81. States, national human rights institutions, investors, industry associations, trade unions, consumers, civil society organizations and human rights defenders have a critical enabling role to ensure that businesses contribute to the realization of the right to development. The role of States and civil society organizations is set out below.

A. Role of States

82. Human rights are not optional – either for States or for businesses. However, all the normative standards discussed above are voluntary for business. This is part of the problem, because respecting human rights is often not given the same weight by corporate boards as making profit for shareholders. States have an individual as well as a collective obligation to regulate more effectively the conduct of businesses, including by creating binding human rights obligations for them.¹²¹ The rise of mandatory human rights due diligence laws in Europe and the proposed Corporate

¹¹⁸ See Karp, “Business and human rights in a changing world order”.

¹¹⁹ See David Birchall, “Challenging the commodification of human rights: the case of the right to housing”, *Santa Clara Journal of International Law*, vol. 19, No. 1, p. 1 (2021); and submission from Oxfam International, 26 May 2023.

¹²⁰ Bilchitz develops a multi-factoral approach to determine positive corporate human rights obligations. David Bilchitz, *Fundamental Rights and the Legal Obligations of Business* (Cambridge University Press, Cambridge, 2021).

¹²¹ See Committee on Economic, Social and Cultural Rights, general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.

Sustainability Due Diligence Directive are a step in the right direction. To create a global level playing field,¹²² States should work together to adopt a legally binding international instrument envisaging binding human rights obligations for all businesses.¹²³ States should also enact and strengthen the implementation of national laws. Senegal, for example, adopted Law No. 2020-04 on the prevention and reduction of the environmental impact of plastic products and, consequently, the promotion of human rights.¹²⁴

83. States should also change the current legal architecture that facilitates business abuse of human rights or pollution of the environment. Corporate laws and trade and investment agreements are two key components of this architecture. Unless foundational changes are made to the key principles and goals of corporate laws, businesses will not be able to contribute at the scale or with the urgency required to accomplish an inclusive, equitable and sustainable development.¹²⁵ Modifications in the twin principles of separate personality and limited liability alongside the notion of shareholder primacy are a prerequisite for fully utilizing the potential of businesses to serve the interests of all societal stakeholders.

84. While investment agreements may attract foreign investment needed for economic development, they may also pose a threat to the right to development if not structured properly. Over the years, the United Nations Conference on Trade and Development (UNCTAD) has provided practical guidance to States on developing an investment policy framework that supports sustainable development and on reforming the old-generation investment agreements.¹²⁶ States must reform their investment agreements urgently to encourage responsible business conduct.¹²⁷ The Protocol on Investment to the African Continental Free Trade Agreement signals an important shift by recognizing the obligations of investors to comply with high standards of business ethics, investment-related human rights and labour standards.¹²⁸ Investment agreements could also specify that “a State’s right to regulate any issue relating to the promotion of development aims, including the protection of human rights and the environment, is protected and should not be the subject of an investment arbitration”.¹²⁹

85. “States are responsible for creating an enabling environment for business to operate consistent with international human rights and environmental standards.”¹³⁰ Most businesses are rational actors, and they often respond positively to incentives and disincentives. In line with the commitments made under the Addis Ababa Action Agenda,¹³¹ States should offer incentives to businesses contributing to realizing the right to development. For example, regulations and policies regulating special economic zones and export-processing zones should give preference to companies with a track record of conducting responsible and sustainable business. Tax rebates, preferential loans and special weightage in public procurement contracts are other

¹²² Submission from Centre Europe-Tiers Monde and Rosa Luxemburg Foundation; and submission from Amfori, 27 June 2023.

¹²³ See www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc.

¹²⁴ Submission from Senegal, 9 June 2023.

¹²⁵ Beate Sjøfjell, “How company law has failed human rights – and what to do about it”, *Business and Human Rights Journal*, vol. 5, No. 2 (2020), p. 179; and Charlotte Villiers, “A game of cat and mouse: human rights protection and the problem of corporate law and power”, *Leiden Journal of International Law*, vol. 36 (2023), p. 415.

¹²⁶ UNCTAD, *Investment Policy Framework for Sustainable Development* (2015) and *International Investment Agreements Reform Accelerator* (2020).

¹²⁷ See [A/76/238](#).

¹²⁸ Submission from South Centre, p. 3.

¹²⁹ Submission from Barnali Choudhury, 8 June 2023.

¹³⁰ Submission from International Organisation of Employers, p. 2.

¹³¹ Addis Ababa Action Agenda, para. 36.

incentives that States could offer to companies contributing to the right to development.¹³² At the same time, States should impose progressive wealth tax on rich businesses and hold accountable free-riding companies (those indulging in irresponsible business conduct).

86. States should also lead by example by embracing a new model of “planet-centred participatory development”. Centring the planet – instead of people – will ensure that the entire planetary ecosystem (people, biodiversity and the environment) is protected and the negative consequences of adopting an anthropocentric approach are minimized. The goal of “leaving no one behind” should include not merely people but also flora and fauna, without which people cannot survive. All development policies and programmes should be developed bottom-up through active, free and meaningful participation of all people.

B. Role of civil society organizations

87. Civil society organizations have an indispensable role in encouraging businesses to contributing to realizing the right to development and holding accountable businesses operating in breach of their human rights responsibilities. They can do so by raising awareness about the right to development, documenting corporate behaviour infringing the right, conducting advocacy to encourage States to adopt laws and policies supportive of the right to development and assisting affected individuals and communities in seeking access to remedy. Civil society organizations can take steps to put pressure on companies to change their irresponsible or exploitative business models.¹³³

88. There are significant imbalances of power, information and expertise between people and businesses.¹³⁴ Civil society organizations can play a vital role in addressing these imbalances by facilitating inclusive participation of people, especially from marginalized or vulnerable background, in decisions concerning the right to development made by businesses. They may, for example, conduct alternative community-based human rights due diligence of development projects. In addition, civil society organizations can act as “triggers” for other levers of change – such as consumers, shareholders, institutional investors, industry associations, development finance institutions, national human rights institutions and the media – to promote responsible and sustainable business conduct.

VII. Conclusions and recommendations

A. Conclusion

89. The right to development, if taken in a holistic way in accordance with the relevant normative standards, provides a pathway to realize all human rights and achieve inclusive, equitable and sustainable development. Businesses have a key role in realizing all four facets of the right to development: economic, social, cultural and political development. States, civil society organizations and other actors have an enabling role in ensuring that businesses perform their responsibilities.

90. At the same time, the current economic order and many business models are inconsistent with a holistic understanding of the right to development, because they are promoting cumulative economic growth, creating inequalities and destroying the

¹³² Submission from Maat for Peace, Development and Human Rights, p. 4.

¹³³ Submission from Kish Parella, pp. 4 and 5.

¹³⁴ Submission from the World Benchmarking Alliance, 23 June 2023.

planet. Similarly, the existing development narrative which embodies a sequencing mindset between economic development and human rights is problematic from the perspective of the right to development.

91. The world therefore needs a new model of “planet-centred participatory development”. A fundamental shift is also needed in how businesses operate in society by reorienting the purpose of business, changing irresponsible business models and going beyond the “do no harm” approach. Businesses earning profit should be seen as part of a wider social good, that is, achieving inclusive, equitable and sustainable development. States must take several measures to bring this fundamental shift, including by changing the legal architecture that facilitates irresponsible or unsustainable business practices.

B. Recommendations

92. **The Special Rapporteur recommends that businesses:**

(a) **Take individual and collective action to realize all four facets of the right to development in line with their responsibilities under relevant national, regional and international standards;**

(b) **Consider the four overarching principles of the right to development – self-determination, intersectionality, intergenerational equity and fair distribution – while contributing to the realization of the right to development;**

(c) **Conduct meaningful human rights due diligence, secure a social licence from the relevant communities before commencing any mining, hydropower or other development projects and respect Indigenous Peoples’ right to free, prior and informed consent;**

(d) **Ensure active, free and meaningful participation of people in all decision-making processes concerning their right to development and pay special attention to the participation of vulnerable or marginalized individuals and groups;**

(e) **Take proactive steps to contribute to overcoming various barriers to realizing the right to development, such as poverty, inequalities, discrimination, the digital divide and conflicts;**

(f) **Refrain from adopting practices to evade the payment of legitimate taxes to States necessary to realize the right to development;**

(g) **Contribute to a just transition, including by embracing decarbonization, phasing out fossil fuel, integrating circularity throughout their products and services and sharing green technologies;**

(h) **Pay special attention to how their operations and policies are likely to impact the rights of children and future generations and involve their representatives in decision-making processes;**

(i) **Encourage States to preserve the civic space necessary to conduct meaningful human rights due diligence, as well as to facilitate the participation of people in decisions concerning the right to development;**

(j) **Bring a fundamental shift in the role of business in society by reorienting the purpose of business in society, changing irresponsible business models and going beyond the “do no harm” approach.**

93. **The Special Rapporteur recommends that States:**

(a) Operationalize the right to development through their constitutions, laws and national action plans on human rights, business and human rights, climate change or the implementation of the Sustainable Development Goals;

(b) Set a good example for businesses by adopting a model of “planet-centred participatory development” and preserve civic space to enable participation of people in all decision-making processes related to the right to development;

(c) Adopt a legally binding international instrument envisaging binding human rights obligations for all businesses to create a level playing field and change the legal architecture of business irresponsibility by revising corporate laws, as well as trade and investment agreements;

(d) Ratify the ILO Violence and Harassment Convention 2019 to ensure that gender-based violence and harassment in the world of work does not impede the right to development;

(e) Develop policies to encourage businesses to embrace an intersectional approach in all their policies, practices and projects, close the gender pay gap and promote women’s entrepreneurship and leadership;

(f) Create mechanisms to ensure that the active, free and meaningful participation of peoples and communities is an integral part of all development-related decision-making by businesses;

(g) Offer incentives to businesses contributing to inclusive, equitable and sustainable development and strengthen accountability for companies engaging in irresponsible business conduct.

94. The Special Rapporteur recommends that civil society organizations:

(a) Raise awareness about the importance of the right to development and dispel the myth of this right being equivalent to mere economic development;

(b) Push both States and businesses to play their respective parts in contributing to the common goal of achieving an inclusive, equitable and sustainable development and in turn build a human rights economy;

(c) Support affected individuals and communities in conducting alternative community-based human rights due diligence and in holding accountable businesses operating in breach of the right to development;

(d) Conduct advocacy for a fundamental shift in the current unsustainable economic order and irresponsible business models.
