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FIFTEEN YEARS OF THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

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In June 2026, the United Nations Guiding Principles on Business and Human Rights¹ completed fifteen years. Structured around three fundamental pillars - the State duty to protect, the responsibility of business enterprises to respect, and the need for access to remedies - the 31 Principles deserve to be celebrated, but also examined through a critical-evolutionary lens. Although they mark a potential step forward by businesses in the direction of human rights, they convey a message whose content has been the object of criticism and of initiatives aimed at deconstructing and improving it to this day. In fact, what is regarded as one of their merits and as a guarantee of legitimacy - their adoption by consensus in the United Nations Human Rights Council in 2011 - also becomes an obstacle to the historical advancement of the process of effective regulation of corporate conduct in matters of human rights. In other words, within UN settings and their thematic reports, one ends up inferring that no statement could be opposed to the Guiding Principles, not even those best suited to the protection of the rights of people affected by corporate violations.

Accordingly, the first challenge was overcoming what has been called “principled pragmatism,” the philosophical and strategic methodology employed by Professor John Ruggie, which invoked the abandonment of an “unfounded idealism” that would require

¹ Available at:
https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf. Accessed on 08/09/2026

binding rules allegedly to be rejected by companies. In fact, when we began following this international agenda through Homa - the Brazilian Institute for Human Rights and Business - in 2011, we perceived the predominance, still under the effect of the enthusiastic and victorious adoption of the Principles, among academics and business entities, together with some representatives of States, of the belief that corporate logic would not accommodate mandatory rules, which would not correspond to its *modus operandi* and could even hinder a “natural and spontaneous” regulatory flow. Corporate regulatory dynamics, in turn, should reflect foundations that would fall within the spectrum of each company’s assessment and determination, and would not allow for “undue external interference,” such as human rights standards. These could even hinder the flow of business.

To govern business activity in this field, therefore, voluntary guidelines and codes of conduct, mostly drafted by the companies themselves, would suffice. However, the criticisms and studies presented by human rights defense organizations, largely composed of affected people, soon gained strength in light of the repeated failure to comply with National Action Plans on Business and Human Rights, even in European countries. And not in the “corrupt and chaotic environments” of the Global South. Today, one may identify an important paradigm shift in favor of the adoption of mandatory human rights frameworks for companies, such as Due Diligence Laws. It is important to emphasize that such transcendence was neither easy nor quietly achieved, nor was it the result of a rational conclusion by business actors, but rather occurred despite their resistance. What had previously been characterized as “radical and intolerant” began to appear as a new subject of national, regional, and international dispute.

Having moved beyond the voluntarism versus mandatory rule opposition, what the United Nations has been establishing as the choice for a smart mix of rules of both kinds, there is now a discussion that largely takes place beyond the Guiding Principles, such as the overcoming of corporate self-monitoring; the recognition of direct obligations for companies in human rights matters, establishing the primacy of corporate responsibility in the civil, administrative, and criminal spheres; the recognition of this responsibility throughout the entire global value chain, as an obligation of result rather than merely of means, usually embodied through the submission of Due Diligence Plans alone; mechanisms of cooperation established extraterritorially; the provision of more effective sanctions; the recognition of the participation and protagonism of those affected by human rights violations; and, above all, the adoption of the foundations of International Human Rights Law also in business activity, thereby ensuring a historically just alignment between those actors more powerful than many States today and the spectrum of prevention and protection historically achieved by peoples.

In Latin America, for example, the failure of self-monitoring and the application of the UN Guiding Principles have become especially clear in cases of socio-environmental conflicts, mining activities, and impacts on traditional peoples. In Brazil, attention is drawn to the collapses of the Fundão tailings dam, affecting the entire Rio Doce watershed (2015), and the Feijão tailings dam, in Brumadinho (2019)²; in Colombia, to the case involving the activities and closure processes of the multinational Glencore (Prodeco — 2020)³; in Peru, to projects for the exploration of minerals critical to the energy transition by Canadian corporations⁴; and in Ecuador, to the Warintza mining project of the business corporation Solaris Resources⁵.

The Inter-American Human Rights System has addressed the issue attentively. In 2015, the Inter-American Commission on Human Rights issued recommendations concerning Honduras and the Dominican Republic, indicating measures to inspect working conditions, monitor migrant workers, and establish mechanisms to prevent corporate violations; in November 2019, the report “Business and Human Rights: Inter-American Standards”⁶, prepared by the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (REDESCA) of the Inter-American Commission on Human Rights (IACHR), was launched; in 2021, the Inter-American Court of Human Rights examined the case of *Los Búzios Miskitos (Lemoth Morris et al.) v. Honduras*, in which it affirmed the State’s duty to prevent violations committed by private parties and ordered States to adopt measures requiring business corporations to implement human rights policies, due diligence processes to identify, prevent, and remedy violations, as well as mechanisms of reparation. In 2023, the Court ruled in the case of *La Oroya Community v. Peru*, recognizing that the regulation of mining activities must incorporate due diligence duties and, in doing so, establish guarantees of non-repetition.

Attention should also be drawn to two advisory opinions issued by the Inter-American Court of Human Rights: Advisory Opinion No. 32/25, which, in light of the climate emergency, developed the concept of enhanced due diligence, requiring, among

² Internal audits and technical reports commissioned by the mining companies themselves incorrectly attested to the stability of the structures. Private oversight failed to prevent human loss and the destruction of watersheds.

³ Local organizations denounced that voluntary exit plans ignored environmental recovery and a just economic transition for affected communities, giving rise to continuing violations of the right to health, water pollution, and increased vulnerability of social leaders in the region.

⁴ Internal sustainability reports of the business corporations recorded the disposal of toxic waste. A direct consequence of this was water contamination affecting more than 700,000 people and significant litigation brought by Indigenous communities that rightly demand the real application of due diligence.

⁵ Corporate social responsibility programs were used unilaterally to divide the position of the local community. The observed consequence was the violation of the right to prior, free, and informed consultation of the Shuar Arutam Indigenous people, guaranteed by ILO Convention 169.

⁶ Available at: <https://www.oas.org/es/cidh/informes/pdfs/empresasddhh.pdf>. Accessed on 08/09/2026.

other aspects, a thorough assessment of risks, the adoption of preventive measures, the integration of a human rights perspective into climate policies, continuous monitoring, and adequate regulation and supervision of corporate due diligence; and Advisory Opinion No. 23/17, which established that the State duty of guarantee includes the duty to prevent violations committed by private actors, setting out the criteria for State responsibility for omission in the face of known or foreseeable risks and characterizing prevention as an obligation of means, to be implemented through measures of regulation, oversight, supervision, the requirement of studies, contingency plans, and damage mitigation.

Beyond the statements of the Inter-American Human Rights System, an instrument of the United Nations Human Rights Council emerges as an important evolutionary marker. This is Resolution 26/9, adopted on 26 June 2014, which mandates the creation of a legally binding treaty to regulate the activities of transnational business corporations with respect to human rights.

The movement initiated by the Resolution seeks precisely to counter the voluntarism of the Guiding Principles by changing the legal nature of corporate obligations, shifting from the field of corporate ethics to that of coercive international law. In October 2026, the 12th round of negotiations on the international instrument will be held. To this end, the Resolution proposes, among other elements, the use of four central aspects: the transition from soft law to hard law⁷; the replacement of goodwill with civil, administrative, and criminal corporate responsibility⁸; and the strengthening of coercive access to justice for victims⁹, including through the provision of extraterritorial cooperation mechanisms.

While work toward the realization of Resolution 26/9 continues, the need remains to think about the relationship between human rights and business enterprises, which is the purpose of this issue of the International Journal of Human Rights and Business. By proposing a critical approach — one that celebrates, looks back, and also seeks future scenarios — this volume brings together articles addressing the transformation of the

⁷ The Resolution requires the creation of a binding treaty, so as to generate rigid international legal obligations that States are legally compelled to incorporate and apply in their criminal and civil codes.

⁸ Under the Guiding Principles, due diligence is recommended as a good management practice to mitigate risks. The treaty project born of Resolution 26/9 converts this practice into a legal obligation backed by sanctions. Under the new model, failure to monitor the global value chain or to mitigate violations gives rise to explicit legal responsibility, enabling executives and corporations to be held accountable.

⁹ The remedy provided for in the Guiding Principles depends largely on extrajudicial channels administered by the companies themselves or by voluntary governmental mediation. Resolution 26/9 seeks to close the impunity gap for corporate conduct at the international level insofar as it proposes the creation of extraterritorial jurisdiction mechanisms. This means that if a transnational business corporation commits a human rights violation in the Global South, affected communities may seek judicial protection directly before the courts of the country where the parent company is based, in the Global North, for example, thereby breaking the shield of legal separation between subsidiaries.

Ecuadorian Amazon by the neoliberal and extractivist model based on oil exploitation, colonization, and agricultural expansion; the need to incorporate the climate agenda into the National Policy on Human Rights and Business, in light of the Brazilian regulatory gap and the international trend toward State and corporate accountability for climate impacts on human rights; a critical analysis of the fast fashion model, highlighting its social, environmental, and individual impacts and the role of marketing strategies and social networks in driving hyperconsumption and accelerated disposal; the accountability of the different links in the charcoal production chain for labor analogous to slavery, based on an analysis of labor lawsuits; and the strategic and potentially abusive use of legal instruments by large mining companies to constrain and delegitimize environmental defenders and communities that challenge socio-environmental impacts.

In addition, this volume addresses topics such as the legal duties of the banking sector in the energy transition, based on environmental and human rights governance instruments; the potential improvement of corporate efficiency and reduction of hidden costs, turnover, and supply-chain risks through Bill No. 572/2022; the limits of the Inter-American Human Rights System in the face of socio-environmental violations by transnational corporations; and the investigation of the profile of employers sanctioned for contemporary slavery in the Brazilian state of Mato Grosso between 2020 and 2024.

Looking to the future, it becomes clear that the application of the Guiding Principles over the next fifteen years must be guided not only by the imperative *pro persona* principle that informs human rights and that underlies the semantic inversion long proposed by Homa. It must also, in a pressing contemporary effort, take into account that the market interests that inspired their birth in 2011 are understood in light of an imbalanced capitalism that transcends the economic sphere and touches crises such as the ecological crisis and, ultimately, the crisis of social reproduction¹⁰. Examples of initiatives that fit within this search for alternatives include Resolution No. 5 of 12 March 2020, of the National Human Rights Council (CNDH)¹¹, and Bill No. 572 of 2022¹², in Brazil, as well as Bill No. 153 of 2025¹³, in Colombia.

¹⁰ According to Nancy Fraser, this crisis occurs when capitalism destabilizes the very work of care and maintenance of life on which it depends. The economic system requires physical, emotional, and community energies - generally invisible and unpaid - to generate its workforce, but its relentless pursuit of profit exhausts these human and social capacities.

¹¹ Available at:

https://www.gov.br/mdh/pt-br/aceso-a-informacao/participacao-social/conselho-nacional-de-direitos-humanos-cndh/copy_of_ResolucaoDHeempresas.pdf. Accessed on 08/09/2026.

¹² Available at:

https://www.gov.br/mdh/pt-br/aceso-a-informacao/participacao-social/conselho-nacional-de-direitos-humanos-cndh/copy_of_ResolucaoDHeempresas.pdf. Accessed on 08/09/2026.

¹³ Available at: <https://www.camara.gov.co/marco-de-dd-hh-para-empresas-208/>. Accessed on 08/09/2026.

The fifteen years of the Guiding Principles on Business and Human Rights thus reveal a paradox: although they have represented an indispensable milestone by consolidating international parameters for State and corporate action, their structural limits, stemming from the voluntary nature of corporate obligations, reveal the insufficiency of the model in the face of the complexity of contemporary violations. The persistence of socio-environmental disasters, the expansion of global value chains, and the intensification of the climate crisis demonstrate that the protection of human rights cannot remain conditional upon self-regulation or corporate social responsibility.

The challenge for the coming years is therefore to strengthen national, regional, and international legal mechanisms capable of ensuring effective prevention, accountability, and reparation for persons and communities affected by human rights violations. More than preserving the legacy of the Guiding Principles, the task is to promote their evolution, repositioning human rights as the normative foundation and legal limit of economic activity and reaffirming that business development is only legitimate when compatible with human dignity, socio-environmental justice, and the sustainability of present and future generations.

And, last but not least, it is not a matter of being “against” the Guiding Principles, but rather of understanding the role they play in the international business and human rights agenda and ensuring that, in the face of a norm, or even a normative proposal, that is more protective and better suited to defending the human rights of certain people or social groups, the latter may prevail.

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