

**CALL FOR INPUTS FOR AN ELEMENTS PAPER ON
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**CONTRIBUTION BY THE DANISH INSTITUTE FOR HUMAN
RIGHTS REGARDING THE ACTION AREA DOMESTIC AND
INTERNATIONAL PRIVATE BUSINESS AND FINANCE**

The Danish Institute for Human Rights (the Institute) welcomes the opportunity to provide input to this elements paper that seeks to shape the Outcome Document of the Fourth International Conference on Financing for Development (FfD 4). The Institute is Denmark's national human rights institution with a mandate to ensure and promote respect for human rights in Denmark and abroad. This input draws on the Institute's expertise and experience promoting the implementation of internationally authoritative standards on business and human rights and responsible business conduct frameworks such as the UN Guiding Principles on Business and Human Rights (UNGPs) and OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines) including in the context of sustainable finance. These standards clarify that all businesses have a responsibility to respect human rights which can be discharged through a process of human rights due diligence aimed at identifying and addressing negative impacts and risks to people. The UNGPs, as well as other human rights standards, are referenced in the 2030 Agendaⁱ and Addis Ababa Action Agendaⁱⁱ, in recognition of the duty of States to foster a rights-respecting private sector.

This contribution primarily seeks to inform the Action Area '**Domestic and International Private Business and Finance**'.^{*} We specifically welcome the expected focus under this action area on measures to further align business and finance with sustainable development, including through the harmonization of sustainable finance legislation and the strengthening of corporate sustainability reporting standards.ⁱⁱⁱ The latter are policy areas that the Institute has closely followed at the European Union level and has contributed to through expert advice and participation in advisory bodies.^{iv} The recommendations in this document are informed by EU-level developments as well as our years-long experience engaging with businesses and financial institutions on human rights and sustainable development topics.

^{*} Our input also touches upon multilateral development banks and could also be relevant for the action area International Development Cooperation.

Finally, the backdrop for this contribution is the wide recognition that the 2030 Agenda and human rights are interwoven and inextricably tied together. This is acknowledged in the aim of the 2030 Agenda “to realize the human rights of all”.^v Moreover, the Institute’s own analysis shows that over 90% of the SDG targets – even when not framed in terms of human rights - can be linked directly to international and regional human rights instruments and labour standards.^{vi}

This document is structured in two parts. The first part highlights three areas of concern about ongoing efforts to align business and finance with SDG and human rights norms. The second part puts forward recommendations with a view to informing the element paper and the Outcome Document of the Fourth International Conference on Financing for Development (FfD 4).

KEY CONCERNS

CONCERN 1: SDGS – HUMAN RIGHTS DISCONNECT

Despite human rights being a strong foundation of the 2030 Agenda, the first concern relates to the relatively disconnected way in which companies and financial institutions have implemented the SDGs and human rights agendas/frameworks. Broadly speaking, SDGs tend to be associated with the ‘positive impacts’ businesses have on society, whereas human rights often remain associated with their ‘negative impacts’ to be addressed as a dimension of risk management and compliance.^{vii} In other words, the implementation of the SDGs framework has been predicated on a ‘a do good’ logic, whereas human rights predominantly have relied on a ‘do no harm’ logic. This decoupling between SDGs and human rights frameworks - despite their well-established synergies and relevance across the positive and negative impact dichotomy - has contributed to a prevailing but misleading understanding of the SDGs as an opportunity agenda disconnected from aspects of compliance with international standards such as labour rights and human rights.

This disconnect makes possible the proliferation of SDGs washing claims such as when, for example, renewable energy companies facing allegations of land rights or Indigenous Peoples rights abuses can still claim to be making positive impacts on the realization of the SDGs by the sheer fact of their production of wind power. Picking the most attractive SDGs based solely on opportunities fails to recognize that sound human rights risk due diligence compliance with international standards should be the baseline expectation for any SDG contribution. Moreover, proactively ensuring respect for human rights holds inherent opportunities for making positive impacts on the realization of the SDGs. According to the UN Working Group on Business and Human Rights,

“robust human rights due diligence enables and contributes to sustainable development. For businesses, the most powerful contribution to sustainable development is to embed respect for human rights in their activities and across their value chains, addressing harm done to people and focusing on the potential and actual impacts.”^{viii}

The Institute has come across the unintended consequence of the SDGs – human rights silos relevant to different sectors and issue areas. For example, the Institute analysed this disconnect in the context of development finance institutions (DFIs) in a 2021 report.^{ix} In that report, we highlight how DFIs have incorporated the 2030 Agenda and SDGs as a cross-cutting, strategic framework for driving positive impacts captured in development impact methodologies, but have taken a narrower approach to human rights which have been addressed as a dimension of existing environmental and social safeguards primarily geared towards addressing negative impacts. The SDGs-human rights disconnect play out at DFIs in various ways such as:

- Development impact methodologies not adequately incorporating or capturing the positive outcomes of the implementation of the environmental and social standards even when the latter lead to better responsible business conduct practices by their clients. This results, for example, in many DFIs reporting on the number of jobs created but being silent on the quality of these jobs and whether they amount to ‘decent jobs’ in accordance with the ILO Fundamental Labour Rights Conventions.
- Development impact methodologies being silent on negative impacts and not factoring in whether the DFIs and their clients have harmed people and the environment in any way. In principle then, DFIs can claim to make a positive contribution to SDGs for investments that face allegations of human rights abuses or have been found in violation of the DFIs’ own environmental and social safeguards.

The FfD 4 outcome document is an opportunity to re-emphasize the interconnections between SDGs and human rights in the context of business and finance and the need for companies to adopt holistic approaches that overcome the conceptual and functional silos between positive and negative impacts or ‘do good’ and ‘do no harm’ logics, respectively. The misperception in viewing responsible business conduct standards such as the UNGPs and OECD Guidelines as lacking positive and attractive elements has arguably contributed to obscuring their value and relevance to guide business’s contributions to the SDGs. However, long-term respect for labour rights throughout an apparel value chain, addressing livelihood implications associated with a large-scale agricultural lease, or taking the necessary steps to ensure appropriate privacy protections in relation to the provision of

information and communication technologies provide only a few examples of how due diligence can make a long-term contribution to sustainability.

CONCERN 2: BIAS TOWARDS ENVIRONMENT

The second concern stems from the observation that in many contexts business and finance-oriented discussions on sustainability continue to display a bias towards environmental or 'green' topics. In an EU context, for example, the Taxonomy Regulation, a disclosure framework that seeks to provide science-based criteria for the classification of sustainable economic activities, solely considers environmental goals and objectives.^x This has left financial institutions and real economy companies without authoritative guidance on how to gauge contributions to social sustainability in the context of a relatively developed market for financial products that claim a social impact. Regulators are well-placed to enable the development of a conceptual foundation for what a business contribution to 'social sustainability' should look like. Leaving such decisions within the individual discretion of investors and companies can lead to inconsistent and fragmented approaches which only increase the risk of social washing.

In an EU context, some stakeholders argued that a social taxonomy might not be feasible because of the lack of an EU wide agreement on social rights such as collective dialogue and bargaining and the difficulty of developing scientific metrics on social matters because of their more subjective/qualitative nature. We believe that such concerns downplay the extent to which regional/international human rights and labour rights treaties can provide a legitimate framework for designing a social taxonomy. In 2022, the EU Sustainable Finance Platform, an expert advisory body, has produced a report for the European Commission which put forward a proof of concept on how a social taxonomy can be designed taking as starting point human rights and responsible business conduct norms.^{xi} The design advanced in the respective report can provide a blueprint for social taxonomies around the world and can inform potential common principles for taxonomies as it relates to social.

The FfD 4 outcome document should stress the importance of the social dimension of sustainable finance in order to correct the current bias towards environment in many private-sector focused sustainability initiatives and policies. The development of taxonomies that address both environmental and social matters should become a standard way of designing taxonomies compatible with international standards. There are also promising developments in that respect. For example, in 2023 the Ministry of Finance of Mexico issued the first Sustainable Taxonomy in the world that considers social objectives in its design alongside environmental objectives.

CONCERN 3: POLICY COHERENCE AND AMBITION

The third concern relates to the lack of coherence across policy and regulatory initiatives seeking to incentivize the integration of sustainability including human rights considerations into companies' and financial institutions' decision-making. Since the adoption of the Addis Ababa Action Agenda in 2015, there has been an uptick in policy and regulatory initiatives relating to sustainable finance and responsible business conduct. While these developments are promising and can play a critical role in the transition to a sustainable economy, we are concerned that various policy (in)coherence challenges might undermine their effectiveness.

At EU-level, for example, the Institute has documented such challenges in the context of more than a dozen of recent EU sustainability regulations binding on corporates and financial institutions.^{xii} While most of these regulations seek to promote the broad goal of sustainability, they display differing degrees of alignment with responsible business conduct standards such as the UNGPs and OECD Guidelines, e.g. by using different concepts, introducing narrower obligations and/or a reduced material and personal scope. The various misalignment points across these regulations have sent mixed signals to businesses and financial institutions about the expected standard of conduct they will be held accountable against.

To give one example, the 2024 Corporate Sustainability Due Diligence Directive requires large companies and financial institutions to conduct human rights and environmental due diligence in order to prevent and address possible negative impacts on people and the environment. The obligation for financial institutions, however, only applies to suppliers and their own workers, excluding their downstream value chain activities including their investments where most severe human rights risks are to be found. At the same time, the Corporate Sustainability Reporting Directive, the EU's non-financial reporting regulation, also applicable to the financial institutions in the scope of CSDDD expects entities to report on their adverse human rights impacts across the full value chain, including therefore downstream activities. Such inconsistencies tend to increase compliance costs for the business and financial institutions in scope which need to navigate different requirements across different pieces of legislation and might also have the unintended effect of incentivizing companies to backtrack on prior commitments developed based on the UNGPs and OECD Guidelines.

Policy coherence challenges are also apparent in the different approaches taken to corporate sustainability reporting policies and initiatives. In the EU, the Corporate Sustainability Disclosure Regulation and the adjacent Environmental and Social Reporting Standards introduced a double materiality

approach whereby companies and financial institutions are required to disclose data on sustainability impacts that pose a risk to both business and people/planet. However, the double materiality – which is aligned with the UNGPs and OECD Guidelines - has yet to be embedded in international standards on sustainability disclosures with the ISSB maintaining a financial materiality lens only. Financial materiality – the dominant approach underlying non-financial reporting during the last decades - hasn't been sufficient to prevent and account for the adverse impacts of investments on the environment, climate, and people if those were not creating immediate financial risks for the organisation and obviously hasn't been sufficient to orient the economy in a more sustainable direction. Moreover, transparency and disclosure measures are meaningful to the extent that they can drive a change in business models and strategic decision-making, which requires such measures to be embedded in broader sustainability, including human rights, risk management practices. Anchorage of impact disclosure in human rights and environmental due diligence addresses the growing concern that reporting requirements might be diverting resources towards producing 'paper trails' at the expense of actions that can generate meaningful change in business conduct. The Institute has advocated that disclosure frameworks/reporting requirements should be firmly anchored in sustainability due diligence as outlined in the UNGPs and OECD Guidelines. In the EU, for example, the adoption of the Corporate Sustainability Due Diligence Directive as a complement to the Corporate Sustainability Reporting Directive – despite some misalignment in scope - has paved the way for a potentially transformative way of conducting business by ensuring synergies between sustainability impact management and disclosure.

Developments in the EU also provide lessons about future policy-making efforts on sustainability. While the EU has displayed political leadership on sustainability regulation, most of the measures adopted have primarily introduced reporting/disclosure obligations as opposed to mandating behavioral change such as through due diligence obligations. While the Corporate Sustainability Due Diligence Directive is an exception insofar as it mandates a standard of conduct, it has a much smaller in scope than the Corporate Sustainability Reporting Directive, i.e. it will only affect the largest corporates and financial institutions. In the EU, the expansion of the sustainability regulatory regime has been followed by a backlash in the form of attempts to dilute the existing regime or push back against the development of further regulation.^{xiii} This trend is a cautionary tale to policymakers in other jurisdictions and highlights the need to use available political capital on the most impactful forms of regulation, which in the Institute's view, are those that go beyond transparency to require changes in corporate governance, risk management and decision-making.

Finally, policy coherence considerations are also pertinent in the context of multilateral development banks (MDBs) and DFIs and their private sector investments. For example, through their standard-setting and investment activities, MDBs can play an important role to accelerate the uptake of sustainability standards in Global South jurisdictions. However, MDBs' environmental and social standards, including their disclosure requirements for clients, are not fully aligned with the UNGPs and OECD Guidelines^{xiv}, which is a missed opportunity for promoting standardized and coherent sustainability standards globally. Moreover, many MDBs do not fall within the scope of national or regional-level sustainability legislation, which leads to the situation whereby national financial institutions might be held accountable to a different standard than multilateral financial institutions. In a European context, for example, neither the European Investment Bank nor the European Bank for Reconstruction and Development, are expected to comply with the Corporate Sustainability Reporting Directive even though many of their real economy clients would be in the scope of the Directive.

The Institute believes that FfD 4 outcome document should stress the importance of policy coherence – across regulations, across jurisdictions and across private and public economic actors - and call for alignment with international responsible business conduct standards as a critical lever for consistency and a global level playing field. The absence of global coordination on these matters and the proliferation of jurisdiction-specific approaches can lead to fragmentation and ineffective duplication of efforts. Moreover, such inconsistencies can be easily exploited to backtrack on existing sustainability commitments and might fuel a more general backlash against sustainability regulation.

RECOMMENDATIONS

The FfD 4 outcome document is an opportunity for the international community to put forward a shared vision of the measures that can enable the alignment of business and finance with sustainable development and human rights norms. The Institute would welcome **the establishment of a set of conceptual principles to guide policy makers and private institutions developing sustainability policies, regulation, and other standard-setting initiatives**, with a view to ensuring their inter-operability and effectiveness. Two such principles that can orient the FfD 4 discussions and negotiations in are included below.

- i. **Alignment with international standards on business and human rights and responsible business conduct**

The FfD 4 outcome document should stress the importance of alignment of existing and future sustainability policies, regulations, and private standard-setting initiatives, with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. These standards are internationally authoritative, have been negotiated and endorsed by states, and have shaped business practice for almost two decades. Alignment with these standards will reduce the risk of multiplication of norms, international policy fragmentation and prevent a race to the bottom. Some of the implications of the operationalization of this principle are:

- (I) Existing and future non-financial reporting legislation and policy should enshrine a double materiality approach that considers risks to people and planet irrespective of their financial materiality. Double materiality approaches should be linked to human rights due diligence processes to ensure that what gets disclosed in terms of risks to people is supported by a company-wide, ongoing process of impact identification and management in collaboration with affected stakeholders.
- (II) The design of taxonomies – both environmental and social - should draw upon responsible business conduct standards. The work on by the EU Platform on Sustainable Finance Platform, both in respect to the minimum safeguards clause^{xv} in the Taxonomy and the social taxonomy^{xvi}, can be a key reference point in this regard.
- (III) Multilateral development banks and development finance institutions should be expected to align with responsible business conduct standards and existing sustainability regulation to ensure that a consistent standard is applied across private and public actors.

ii. Need for holistic approaches and system-level thinking

The FfD 4 outcome document should recommend a joined-up approach to incorporating the SDGs and human rights agendas in sustainability corporate practice and policies/regulations. At the very minimum, the document should clarify that trade-offs between human rights and SDGs are not acceptable and that business should not be encouraged to offset negative human rights impacts by claiming positive SDG contributions. In addition, the outcome document should highlight that the implementation of meaningful human rights due diligence measures can be leveraged as an important sustainability contribution. That can be done for example in the context of social taxonomies

by the development of social objectives that can be achieved through adequate implementation of human rights due diligence.

ⁱ United Nations, Transforming our World: The 2030 Agenda for Sustainable Development, A/RES/70/1, 2015, para. 67

ⁱⁱ United Nations, Addis Ababa Action Agenda of the Third International Conference on Financing for Development, 2015, see para 37: *“We will foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements, such as the Guiding Principles on Business and Human Rights and the labour standards of ILO, the Convention on the Rights of the Child (.....)”*

ⁱⁱⁱ As per the First preparatory Committee Session for FfD 4 Addis Ababa, see Background Note, July 2024 [Domestic and international private business and finance Background Note.pdf](#)

^{iv} See, for example, [The Institute appointed to new EU sustainable finance platform | The Danish Institute for Human Rights, High-level input on draft European sustainability reporting standards | The Danish Institute for Human Rights](#)

^v United Nations, Transforming our World: The 2030 Agenda for Sustainable Development, A/RES/70/1, Preamble, 2015.

^{vi} The Danish Institute for Human Rights, Human Rights and the 2030 Agenda for Sustainable Development: Lessons Learned and Next Steps, 2018, [hr and 2030 agenda-web 2018.pdf \(humanrights.dk\)](#).

^{vii} The Danish Institute for Human Rights, [Responsible Business Conduct as a Cornerstone of the SDG Agenda: a Look at the Implications](#), 2019.

^{viii} UN General Assembly, The Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises A/73/163 2018. Paragraph 59.

^{ix} The Danish Institute for Human Rights, [Human rights at development finance institutions: connecting the dots between environmental and social risk management and development impact](#), 2021.

^x [Regulation - 2020/852 - EN - taxonomy regulation - EUR-Lex \(europa.eu\)](#)

^{xi} For example, the report distinguishes between three types of ‘substantial contribution’ that economic activities can make to social sustainability, i.e. enhancing the positive impact inherent in an economic activity, avoiding, and addressing negative impacts, and enabling activities. See more at [Platform on Sustainable Finance’s report on social taxonomy \(europa.eu\)](#), 2022.

^{xii} The Danish Institute for Human Rights, [How do the pieces fit in the puzzle? Making sense of EU regulatory initiatives related to business and human rights | The Danish Institute for Human Rights](#), 2024.

^{xiii} See for example [An ESG Backlash Erupts in Europe on World's Strictest Rules – BNN Bloomberg](#)

^{xiv} UN Human Rights Office, Benchmarking Study of Development Finance Institutions’ Safeguard Policies, 2023, [OHCHR Benchmarking Study HRDD.pdf](#).

^{xv} EU Platform on Sustainable Finance, Final Report on Minimum Safeguards, 2022, available at [Final Report on Minimum Safeguards \(europa.eu\)](#).

^{xvi} EU Platform on Sustainable Finance, Report on Social Taxonomy, 2022, available at [Platform on Sustainable Finance’s report on social taxonomy \(europa.eu\)](#).