



Statement by His Excellency Archbishop Ivan Jurkovič, Permanent Observer of the Holy See
to the United Nations and Other International Organizations in Geneva
at the 41st Session of the Human Rights Council
Item 3 – Clustered ID with Working Group on Transnational Corporations and Human Rights
Geneva, 27 June 2019

Mr. President,

During the past decades, the process of globalization and other international developments have seen non-state actors, such as transnational corporations and other businesses, play an increasingly important role in economic development but also upon the enjoyment of human rights on the international, national and local levels. Today, multinational enterprise is the standard mode of organizing economic activities between countries.

In this regard, the Holy See Delegation constantly has recommended the need to prudently and fairly regulate the economic activities of Transnational Corporations, in a manner that is inspired and guided by high ideals of fairness, solidarity and concern for the authentic development of the human family. The impact of production and the provision of a service will not be sustainable if they are seen merely as answers to immediate economic needs; they must be motivated by sensitivity to the overall needs of future generations. Human development is a process of experience, dialogue and reflection but also of doubt, anxiety, anguish, tension, struggle, and ultimately of prudent and caring discernment. There is a common line based on ethical decisions that integrate enterprise, economy and wealth with justice and peace in society.

The transnational nature of economic freedoms and human rights require an unavoidable reflection and debate on clear transnational legislation designed to support Governments in their duty to protect against third-party human rights abuses. As shown by recent cases, the lack of cooperation between States leaves many people unprotected by the law and unable to assert or defend their own rights, and thus they are obliged to ally themselves with those who take advantage of others, or to resign themselves to becoming victims of abuse.

“Every human reality and activity is something positive, if it is lived within the horizon of an adequate ethics that respects human dignity and is directed to the common good. This is valid for all institutions, for it is within them that human social life is born, and thus it is also true for markets at every level (...) Without an appropriate vision of the human person, it is not possible to create an ethics, nor a practice, worthy of the dignity of the human person and the good that is truly common. In fact, however neutral and

detached from every basic concept one may claim to be, every human action, even in the economic sphere, implies some conception of the human person and of the world, which reveals its value through both the effects and the developments it produces”.¹

It is well known that regulation tends to differentiate between two types of norms: legal and ethical. From ethical norms, many then try to derive and drive *lex ferenda*: law as it should be. The United Nations Guiding Principles reaffirm that business enterprises must comply with all applicable laws. Beyond legal compliance, these Guiding Principles foresee the responsibility of enterprises to respect human rights, irrespective of the ability of a State to enforce the law. This responsibility remains grounded in social standards. However, social standards do not inevitably lead to changes in *lex lata*: law as it is. However, where new hard law is not immediately being developed, consolidated, disseminated and embedded, social norms represent an indispensable tool for inducing changes in conduct. In this sense, the Guiding Principles and an international binding instrument are distinct alternatives; they should be seen as compatible.

Mr. President,

The last sessions of the Working Group and the experience from the Guiding principles demonstrate the unavoidable necessity of harmonious collaboration among all social forces - business, governments, civil society, and religious institutions - each one committed to the pursuit of the common good according to their respective areas of expertise and responsibility. A strategic mix of measures would be the best solution: not only juridical mechanisms, but also non- juridical measures. An international legal instrument should aim toward a mutually reinforcing system that provides “for a vibrant relationship between different adjudicative mechanisms and levels of remedy at both the domestic and international level”². Everyone should “work together in promoting a true, worldwide ethical mobilization which, beyond all differences of religious or political convictions, will spread and put into practice a shared ideal of fraternity and solidarity, especially with regard to the poorest and those most excluded”.³

Thank you, Mr. President.

¹ *Oeconomicae et pecuniariae quaestiones* Considerations for an Ethical Discernment Regarding Some Aspects of the Present Economic-Financial System, 2018.

² Global Rights Compliance LLP, ‘Legal Research for Treaty Proposal, prepared for Friends of Earth Europe. Final Version - Consolidated’ (2015).

³ Pope Francis, *Address to the Secretary General of the United Nations and the UN System Chief Executives Board for Coordination*, 9 May 2014.