Business activities can have a huge positive impact on development. By providing decent jobs, living wages, innovation, offering equal opportunities, private sector could be a key driver to achieve the SDGs. Unfortunately there are plenty of examples of how business activities can generate human right violations, environmental damage, excessive use of natural resources, support to oppressive regimes, denial of collective rights. It has been shown that business ffect the whole spectrum of human rights.

In a globalized world where TNCs operate though myriads of subsidiaries and suppliers, many European companies are directly or indirectly linked to such abuses and affect the rights and livelihoods of communities around the world.

This is not a new issue. For decades there have been discussions on how to improve corporate responsibilities and make them accountable to society. There have been attempts to develop binding norms at UN level which failed. Over time, a softer approach has imposed, which is more business-driven, less prescriptive. This voluntary approach is crystallized in the concept of CSR. It is developed essentially through codes of conduct, partnerships, incentives, multi-stakeholder engagement. At international level the UN Global Compact, as set of voluntary principles to which companies can adhere, is this illustration of that belief that the problems can be addressed by business without further regulating.

However this approach has proved unsuccessful. The list of corporate scandals keeps increasing. Impunity prevails in many of these cases. Tragic events like the collapse of the Rana Plaza or recently the VW case show that not only we need stronger standards, but they need to be properly implemented and controlled by States.

States don’t only have a moral obligation to protect HR – under international law, they have a legal duty to do so, including to protect from violations caused by business.

In 2011, the UN HRC adopted the UNGPs on B&HR. They are a set of principles which are not binding and they don’t create new obligations – however they build on both international law and on what society expects from business. They are now the most authoritative framework defining the duties of States and the duties of companies with regards to HR. The UNGPs are at the center of the SDGs, which refer to them explicitly

What do the UNGPs say? There are structured in 3 pillars

- P1: States have a duty to protect HR against violations by business – which means taking the adequate measures, policies and laws to ensure such protection

- P2: Companies have a duty to respect HR in their operations. They have must be responsible for how they affect HR wherever they operate. They must identify, prevent, mitigate and account for the adverse impacts they have. The process through which they do so is called HRDD – and its now a core element of the whole CA debate.

- P3: States and companies must ensure that victims have an effective access to remedies. Despite better state protection and business conduct, there will always be abuses and the victims should be able to access justice. It could be via non-judicial grievance mechanisms – but they should also have access to courts. In many countries in the Global South there are insurmountable obstacles and victims are often left without any compensation or reparation.

As I said the UNGPs are not binding. It’s up to States and business to implement them. And after 5 years, many NGOs are critical as there has been too little progress. Very few countries have developed plans and identified priorities to address these issues. While the EU has called its MS to develop NAPs, only 7 States have released one so far. And these Plans were often very weak. But we have seen in most of these countries that the NAP processes offer good opportunities to engage all stakeholders in jointly assessing the situation and discussing how to move forward.

National governments and the EU keep focusing on the old receipes of voluntary CSR. They are reluctant to adopt rules that will ensure HR protection and stop impunity of business. Rules to make business liable are facing strong lobby of companies but also opposition of many European governments, who fear it would damage competitiveness and create admin burden. The 3rd pillar on A2R is completely neglected by States. Everyone is talking about addressing the social and environmental issues in the Global Value Chains – yesterday big EU conference in Amsterdam. But little is happening at EU level. There are interesting developments in some Member States (FR). And globally, in order to address some of the gaps left by the UNGPs, a promising process has started in the UN to develop a binding instrument (treaty) to regulate business – but this is a long shot and its facing opposition of all European states.

Among the few areas where some progress has been seen is corporate transparency (NFR). Being transparent is not the panacea – but it’s a first step towards being more responsible. A Diective has been adopted in 2014 and will come into force within a year - it will oblige over 6000 large companies to disclose information in their annual report on their HR, soc, envir risks and what processes they have in place to address these risks. This reform is a good illustration of engagement of diverse actors. NGOs have been pushing for such reform for years, and it’s been achieved thanks to the support of other stakeholders such as responsible investors, consumers, trade unions, some progressive business, and a few proactive governments.

The EU is proposing new platforms for dialogue, for instance recently a textile flagship initiative which gathers CSOs, business, unions. But all participants are now frustrated because the Commission doesn’t have a clear answer to the key question – a dialogue for what? It cant be just about exchanging ideas and good practice. It is about developing together concrete solutions to concrete problems. Without closing the door to one set of actions, which is the need for policy and legal reforms – unfortunately that is a path that the Commission refuses to consider in these discussions.

There is urgency to address the contribution of business to sustainable development. The SDGs provide us with an ambitious horizon. All players must engage. Governments alone will not be able to make business responsible, and many governments just don’t want to interfere too much with business conduct. Civil society alone, despite exposing scandals and proposing solutions, cannot pressure business enough to ensure they clean up their supply chains. Business must engage in good faith and acknowledge that the solution must be based on a smart mix of voluntary and regulatory approach. Unions, investors, consumers, academics, must increase collaborations. And most important, affected communities and their representatives must be involved in this discussion on how our European companies impact their daily lives.