

HUMR 5133 Fall 2018 Exam questions

Please select and answer one of the three questions below.

Question 1

A legal Treaty on Business and Human Rights.

Analyse and discuss the draft as legal response to keeping business accountable for human rights violations. Your discussion should take into account the justification for a treaty as well as counterarguments by critics of the draft. This would entail discussing strengths and weaknesses of the Zero Draft, and discuss possible improvements of the draft. You should also discuss critically whether a treaty on Human Rights and Business Responsibilities will be sufficient for addressing violations by human rights by corporations.

Please find the Zero Draft attached to this exam question.

Question 2

According to a group of United Nations experts “(b)reastfeeding is a human rights issue for babies and mothers and should be protected and promoted for the benefit of both”. Frame and discuss this statement from a human rights perspective. Then discuss the statement in view of human rights responsibilities of businesses in the food sector, and take into account both General Comment 24 of the International Covenant on Economic, Social and Cultural Rights, and General Comment 16 of the Convention on the Right of the Child. Lastly, you should make a brief description of how a human rights due diligence may help address this problem.

Question 3

Corporate culture: Some scholars claim that international human rights law has discursive effects or leads to norm acculturation. Others say that these effects are merely isomorphic. Do you think the “hardening” of soft law human rights and business standards will lead to a change in corporate attitudes? You should reflect on this issues from the perceptive / theories of human rights change, and give illustrations that support your discussion.

Comment. Be sure to make a clear analysis of each question, to be sure that you answer all parts. Please be accurate with referencing, and refer to readings in the course syllabus. On the cover page of your paper you should refer to your candidate number and the question that you have selected. Please also reflect and take learning from the Mid-term paper and the comments you were given.

Max number of words: 4000

Good luck!

LEGALLY BINDING INSTRUMENT TO REGULATE, IN INTERNATIONAL HUMAN RIGHTS LAW, THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES

ZERO DRAFT 16.7.2018

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Section I

Article 1. Preamble

The State Parties to this Convention,

Stressing that all human rights are universal, indivisible, interdependent and inter-related;

Upholding that every person has the right to equal and effective access to justice and remedies in case of risk or harm decisive for the enjoyment of their rights;

Recognizing the rules of international law and international human rights law with respect to the international responsibility of States;

Stressing that the obligations and primary responsibility to promote, respect protect and fulfill human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory or otherwise under their jurisdiction or control, and ensure respect for and implementation of international human rights law;

Recalling the UN Charter articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of race, sex, language or religion;

Underlining that all business enterprises, regardless of their size, sector, operational context, ownership and structure shall respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur;

Upholding the principles of non-discrimination, participation and inclusion, and self-determination;

Desiring to contribute to the development of international law and international human rights law in this field;

Pursuing the fulfillment of the mandate established by the Human Rights Council Resolution 26/9;

Hereby agree as follows:

Article 2. Statement of purpose

1. The purpose of this Convention is to:
 - a. To strengthen the respect, promotion, protection and fulfilment of human rights in the context of business activities of transnational character;
 - b. To ensure an effective access to justice and remedy to victims of human rights violations in the context of business activities of transnational character, and to prevent the occurrence of such violations;
 - c. To advance international cooperation with a view towards fulfilling States' obligations under international human rights law;

Section II

Article 3. Scope

1. This Convention shall apply to human rights violations in the context of any business activities of a transnational character.
2. This Convention shall cover all international human rights and those rights recognized under domestic law.

Article 4. Definitions

1. “Victims” shall mean persons who individually or collectively alleged to have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their human rights, including environmental rights, through acts or omissions in the context of business activities of a transnational character. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.
2. “Business activities of a transnational character” shall mean any for-profit economic activity, including but not limited to productive or commercial activity, undertaken by a natural or legal person, including activities undertaken by electronic means, that take place or involve actions, persons or impact in two or more national jurisdictions.

Article 5. Jurisdiction

1. Jurisdiction, with respect to actions brought by an individual or group of individuals, independently of their nationality or place of domicile, arising from acts or omissions that result in violations of human rights covered under this Convention, shall vest in the court of the State where:
 - a. such acts or omissions occurred or;
 - b. the Court of the State where the natural or legal person or association of natural or legal persons alleged to have committed the acts or omissions are domiciled.
2. A legal person or association of natural or legal persons is considered domiciled at the place where it has its:
 - a. statutory seat, or
 - b. central administration, or
 - c. substantial business interest, or
 - d. subsidiary, agency, instrumentality, branch, representative office or the like.
3. Where a claim is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the claimant can justify acting on their behalf without consent.

Article 6. Statute of limitations

1. Statutes of limitations shall not apply to violations of international human rights law which constitute crimes under international law. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive and shall allow an adequate period of time for the investigation and prosecution of the violation, particularly in cases where the violations occurred abroad.

Article 7. Applicable law

1. Subject to the following paragraph, all matters of substance or procedure regarding claims before the competent court which are not specifically regulated in the Convention shall be governed by the law of that court, including any rules of such law relating to conflict of laws.
2. At the request of victims, all matters of substance regarding human rights law relevant to claims before the competent court may be governed by the law of another Party where the involved person with business activities of a transnational character is domiciled. The competent court may request for mutual legal assistance as referred to under Article 11 of this Convention.
3. The Convention does not prejudice the recognition and protection of any rights of victims that may be provided under applicable domestic law.

Article 8. Rights of Victims

1. Victims shall have the right to fair, effective and prompt access to justice and remedies in accordance with international law. Such remedies shall include, but shall not be limited to:
 - a. Restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition for victims.
 - b. Environmental remediation and ecological restoration where applicable, including covering of expenses for relocation of victims, and replacement of community facilities.
2. State Parties shall guarantee the right of victims, individually or as a group, to present claims to their Courts, and shall provide their domestic judicial and other competent authorities with the necessary jurisdiction in accordance with this Convention in order to allow for victim's access to adequate, timely and effective remedies.
3. States Parties shall investigate all human rights violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those natural or legal persons allegedly responsible, in accordance with domestic and international law.
4. Victims shall be guaranteed appropriate access to information relevant to the pursuit of remedies. State parties shall ensure that their domestic laws and Courts do not unduly limit such right, and facilitate access to information through international cooperation, as set out in this Convention, and in line with confidentiality rules under domestic law.
5. States shall provide proper and effective legal assistance to victims throughout the legal process, including by:
 - a. Informing victims of their procedural rights and the scope, timing and progress of their claims in an opportune and adequate manner;
 - b. Guaranteeing the rights of victims to be heard in all stages of proceedings without prejudice to the accused and consistent with the relevant domestic law;
 - c. Avoiding unnecessary formalities, costs or delay for bringing a claim and during the disposition of cases and the execution of orders or decrees granting awards to victims;
 - d. Providing assistance with all procedural requirements for the presentation of a claim and the start and continuation of proceedings in the courts of that State Party. The State Party concerned shall determine the need for legal assistance, in full consultation with the victims, taking into consideration the economic resources available to the victim, the complexity and length of the issues involved proceedings. In no case shall victims be required to reimburse any legal expenses of the other party to the claim.
6. Inability to cover administrative and other costs shall not be a barrier to commencing proceedings in accordance with this Convention. States shall assist victims in overcoming such barriers, including through waiving costs where needed. States shall not require victims to provide a warranty as a condition for commencing proceedings.

7. States Parties shall establish an International Fund for Victims covered under this Convention, to provide legal and financial aid to victims. This Fund shall be established at most after (X) years of the entry into force of this Convention. The Conference of Parties shall define and establish the relevant provisions for the functioning of the Fund.
8. States shall provide effective mechanisms for the enforcement of remedies, including national or foreign judgements, in accordance with the present Convention, domestic law and international legal obligations.
9. Victims shall have access to appropriate diplomatic and consular means, as needed, to ensure that they can exercise their right to access justice and remedies, including, but not limited to, access to information required to bring a claim, legal aid and information on the location and competence of the courts and the way in which proceedings are commenced or defended before those courts.
10. Victims shall be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured.
11. States shall protect victims, their representatives, families and witnesses from any unlawful interference with their privacy and from intimidation, and retaliation, before, during and after any proceedings have been instituted.
12. States shall guarantee the right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement of victims, their representatives, families and victims.
13. Victims shall have the right to benefit from special consideration and care to avoid re-victimization in the course of proceedings for access to justice and remedies.

Article 9. Prevention

1. State Parties shall ensure in their domestic legislation that all persons with business activities of transnational character within such State Parties' territory or otherwise under their jurisdiction or control shall undertake due diligence obligations throughout such business activities, taking into consideration the potential impact on human rights resulting from the size, nature, context of and risk associated with the business activities.
2. Due diligence referred to above under Article 7.1 shall include, but shall not be necessarily limited to:
 - a. Monitoring the human rights impact of its business activities including the activities of its subsidiaries and that of entities under its direct or indirect control or directly linked to its operations, products or services.
 - b. Identify and assess any actual or potential human rights violations that may arise through their own activities including that of their subsidiaries and of entities under their direct or indirect control or directly linked to its operations, products or services.
 - c. Prevent human rights violations within the context of its business activities, including the activities of its subsidiaries and that of entities under its direct or indirect control or directly linked to its operations, products or services, including through financial contribution where needed.
 - d. Reporting publicly and periodically on non-financial matters, including at a minimum environmental and human rights matters, including policies, risks, outcomes and indicators. The requirement to disclose this information should be subject to an assessment of the severity of the

potential impacts on the individuals and communities concerned, not to a consideration of their materiality to the financial interests of the business or its shareholders.

e. Undertaking pre and post environmental and human rights impact assessments covering its activities and that of its subsidiaries and entities under its control, and integrating the findings across relevant internal functions and processes and taking appropriate action.

f. Reflecting the requirements in paragraphs a. to e. above in all contractual relationships which involve business activities of transnational character.

g. Carrying out meaningful consultations with groups whose human rights are potentially affected by the business activities and other relevant stakeholders, through appropriate procedures including through their representative institutions, while giving special attention to those facing heightened risks of violations of human rights within the context of business activities, such as women, children, persons with disabilities, indigenous peoples, migrants, refugees and internal displaced persons.

h. Due diligence may require establishing and maintaining financial security, such as insurance bonds or other financial guarantees to cover potential claims of compensation.

3. State Parties shall ensure that effective national procedures are in place to enforce compliance with the obligations laid down under this article, and that those procedures are available to all natural and legal persons having a legitimate interest, in accordance with national law, in ensuring that the article is respected.

4. Failure to comply with due diligence duties under this article shall result in commensurate liability and compensation in accordance with the articles of this Convention.

5. States Parties may elect to exempt certain small and medium-sized undertakings from the purview of selected obligations under this article with the aim of not causing undue additional administrative burdens.

Article 10. Legal Liability

1. State Parties shall ensure through their domestic law that natural and legal persons may be held criminally, civil or administratively liable for violations of human rights undertaken in the context of business activities of transnational character. Such liability shall be subject to effective, proportionate, and dissuasive criminal and non-criminal sanctions, including monetary sanctions. Liability of legal persons shall be without prejudice to the liability of natural persons.

2. Civil liability shall not be made contingent upon finding of criminal liability or its equivalent for the same actor.

3. Where a person with business activities of a transnational character is found liable for reparation to a victim, such party shall provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

4. Subject to domestic law, courts asserting jurisdiction under this Convention may require, where needed, reversal of the burden of proof for the purpose of fulfilling the victim's access to justice.

Civil Liability

5. State Parties shall provide for a comprehensive regime of civil liability for violations of human rights undertaken in the context of business activities and for fair, adequate and prompt compensation.

6. All persons with business activities of a transnational character shall be liable for harm caused by violations of human rights arising in the context of their business activities, including throughout their operations:
 - a. to the extent it exercises control over the operations, or
 - b. to the extent it exhibits a sufficiently close relation with its subsidiary or entity in its supply chain and where there is strong and direct connection between its conduct and the wrong suffered by the victim, or
 - c. to the extent risk have been foreseen or should have been foreseen of human rights violations within its chain of economic activity.
7. Civil liability of legal persons shall be independent from any criminal procedure against that entity.

Criminal liability

8. State Parties shall provide measures under domestic law to establish criminal liability for all persons with business activities of a transnational character that intentionally, whether directly or through intermediaries, commit human rights violations that amount to a criminal offence, including crimes recognized under international law, international human rights instruments, or domestic legislation. Such criminal liability for human rights violations that amount to a criminal offence, shall apply to principals, accomplices and accessories, as may be defined by domestic law.
9. Criminal liability of legal persons shall be without prejudice to the criminal liability of the natural persons who have committed the offences.
10. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.
11. Where applicable under international law, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction over human rights violations that amount to crimes.
12. In the event that, under the legal system of a Party, criminal responsibility is not applicable to legal persons, that Party shall ensure that legal persons shall be subject to effective, proportionate and dissuasive non-criminal sanctions, including monetary sanctions or other administrative sanctions, for acts covered under the previous two paragraphs.

Article 11. Mutual Legal Assistance

1. States Parties shall cooperate in good faith to enable the implementation of commitments under this Convention and the fulfillment of the purposes of this Convention.
2. States Parties shall afford one another the widest measure of mutual legal assistance in initiating and carrying out investigations, prosecutions and judicial proceedings in relation to the cases covered by this Convention, including access to information and supply of all evidence at their disposal and necessary for the proceedings in order to allow effective, prompt, thorough and impartial investigations covered under this Convention. The requested Party shall inform the requesting Party, as soon as possible, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request.
3. Mutual legal assistance under this Convention is understood to include, but is not limited to:
 - a. Taking evidence or statements from persons;
 - b. Effecting service of judicial documents;
 - c. Executing searches and seizures;

- d. Examining objects and sites;
 - e. Providing information, evidentiary items and expert evaluations;
 - f. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
 - g. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
 - h. Facilitating the voluntary appearance of persons in the requesting State Party;
 - i. Facilitating the freezing and recovery of assets;
 - j. Assistance to, and protection of, victims, their families, representatives and witnesses, consistent with international human rights legal standards and subject to international legal requirements including those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment;
 - k. Assistance in regard to application and interpretation of human rights law;
 - l. Any other type of assistance that is not contrary to the domestic law of the requested State Party.
4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters covered under this Convention to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention. The transmission of information shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information.
5. States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are subject of investigations, prosecutions or judicial proceedings under this Convention, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place, is fully respected.
6. States Parties shall carry out their obligations under the previous Article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in a way not contrary to domestic law.
7. In accordance with domestic systems, each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution.
8. State Parties shall provide judicial assistance and other forms of cooperation in the pursuit of access to remedy for victims of human rights violations covered under this Convention.
9. Any judgement of a court having jurisdiction in accordance with this Convention which is enforceable in the State of origin of the judgement and is no longer subject to ordinary forms of review shall be recognized and enforced in any Party as soon as the formalities required in that Party have been completed, whereby formalities should not be more onerous and fees and charges should not be higher than those required for the enforcement of domestic judgments and shall not permit the re-opening of the merits of the case.
10. Recognition and enforcement may be refused, at the request of the defendant, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that (a) the defendant was not given reasonable notice and a fair opportunity to present his or her case; (b) where the judgement is irreconcilable with an earlier judgement validly pronounced in another Party with regard to the same cause of action and the same parties; or (c) where the judgement is contrary to the public policy of the Party in which its recognition is sought.

11. Mutual legal assistance under this article may be refused by a State Party if the violation to which the request relates is not covered by this Convention or if it would be contrary to the legal system of the requested State Party.
12. A Party shall not decline to render mutual legal assistance for criminal matters within the scope of this Convention on the ground of bank secrecy.

Article 12. International Cooperation

1. State Parties recognize the importance of international cooperation and its promotion for the realization of the purpose of the present Convention and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society. Such measures could include, but are not limited to:
 - a. promote effective technical cooperation and capacity-building among policy makers, operators and users of domestic, regional and international remedial mechanism,
 - b. Sharing experiences, good practices, challenges, information and training programs on the implementation of the present convention,
 - c. Facilitating cooperation in research and studies on the best practices and experiences for preventing violations of human rights in the context of business activities of transitional character.

Article 13. Consistency with International Law

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.
3. Nothing in these articles shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law. The present articles are without prejudice to any obligation incurred by States under relevant treaties or rules of customary international law, including the obligations under any other treaty that governs or will govern, in whole or in part, mutual legal assistance.
4. The provisions of this Convention shall be applied in conformity with agreements or arrangements on the mutual recognition and enforcement of judgements in force between Parties.
5. This Convention shall not affect the rights and obligations of the Parties under the rules of general international law with respect to the international responsibility of States.
6. States Parties agree that any future trade and investment agreements they negotiate, whether amongst themselves or with third parties, shall not contain any provisions that conflict with the implementation of this Convention and shall ensure upholding human rights in the context of business activities by parties benefiting from such agreements.
7. States Parties agree that all existing and future trade and investment agreements shall be interpreted in a way that is least restrictive on their ability to respect and ensure their obligations under this Convention, notwithstanding other conflicting rules of conflict resolution arising from customary international law or from existing trade and investment agreements.

Section III

Article 14. Institutional Arrangements

Committee

1. There shall be a Committee established in accordance with the following procedures:
 - a. The Committee shall consist, at the time of entry into force of the present Convention, (12) experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence in the field of human rights, public international law or other relevant fields, who shall serve in their personal capacity.
 - b. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution, the differences among legal systems, gender balanced representation.
 - c. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties, they shall be elected for a term of 4 years. Each State Party may nominate one person from among its own nationals. Elections of the members of the Committee shall be held at the Conference of States Parties by majority present and voting. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
 - d. The initial election shall be held no later than six months after the date of the entry into force of this Convention. The term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in this article.
 - e. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him or her shall appoint another expert from among its nationals to serve for the remainder of his or her term, subject to the approval of the majority of the States Parties.
 - f. The Committee shall establish its own rules of procedure and elect its officers for a term of two years. They may be re-elected.
 - g. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
 - h. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.
2. States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
3. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
4. The Committee shall have the following functions:
 - a. Make general comments on the understanding and implementation of the Convention based on the examination of reports and information received from the States Parties and other stakeholders.
 - b. Consider and provide concluding observations and recommendations on reports submitted by State Parties as it may consider appropriate and forward these to the State Party concerned that may respond with any observations it chooses to the Committee. The Committee may, at its

discretion, decide to include this suggestions and general recommendations in the report of the Committee together with comments, if any, from States Parties.

- c. Provide support to the State Parties in the compilation and communication of information required for the implementation of the provisions of the Convention
- d. Submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.
- e. The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the present Treaty.

Conference of States Parties

5. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the Convention, including any further development needed towards fulfilling its purposes.
6. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

Article 15. Final Provisions

Implementation

1. States shall take all necessary legislative, administrative or other action including the establishment of adequate monitoring mechanisms to ensure effective implementation of this Convention.
2. Each State Party shall furnish copies of its laws and regulations that give effect to this Convention and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations, which shall be made publicly available
3. In policies and actions pursuant to this Convention, Parties shall act to protect these policies and actions from commercial and other vested interests of the [business sector] in accordance with national law.
4. Special attention shall be undertaken in the cases of business activities in conflict-affected areas including taking action to identify, prevent and mitigate the human rights-related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence.
5. In implementing this agreement, State Parties shall address the specific impacts of business activities on while giving special attention to those facing heightened risks of violations of human rights within the context of business activities, such as women, children, persons with disabilities, indigenous peoples, migrants, refugees and internal displaced persons.
6. The application and interpretation of these articles shall be consistent with international human rights law and international humanitarian law and shall be without any discrimination of any kind or on any ground, without exception.

Depositary

7. The Secretary-General of the United Nations shall be the depositary of the present Convention.

Signature

8. The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of (date).

Consent to be bound

9. The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

Regional integration organizations

10. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention.
11. This Convention shall apply to regional integration organizations within the limits of their competence; subsequently they shall inform the depositary of any substantial modification in the extent of their competence. For the purposes of paragraph 17, and paragraphs 22 and 23 of this article, any instrument deposited by these organizations shall not be counted. Such organizations may exercise their right to vote in the Conference of States Parties with a number of votes equal to the number of their member States that are Parties to this Convention. Such right to vote shall not be exercised if any of its member States exercises its right, and vice versa.

Entry into force

12. The present Convention shall enter into force on the thirtieth day after the deposit of the [---] instrument of ratification or accession.
13. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the ---- such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Reservations

14. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
15. Reservations may be withdrawn at any time.

Amendments

16. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favor a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting in the Conference of the Parties shall be submitted by the Secretary-General to all States Parties for acceptance.
17. An amendment adopted and approved in accordance with paragraph 15 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its

own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

18. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 15 of this article which relates exclusively to the establishment of the Committee or its functions, and the Conference of States Parties shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Denunciation

19. A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Authentic texts

20. The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.
21. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.