Business for the Rule of Law

CONSULTATION WORKSHOP REPORT

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Columbia, Bogota

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HOST/FACILITATOR:
Global Compact Network Colombia, United Nations Office on Drugs and Crime and Baker & McKenzie
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Workshop Report

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1. UN Global Compact and Business for the Rule of Law Overview
   - The Rule of Law is a principle of governance, through which, all persons, institutions and entities, public and private, including the State, are responsible for the compliance of the laws that are issued correctly, applied in an equitable manner and independently adjudicated, and which are consistent with international human rights norms and standards. It is also required to take measures to assure the compliance with the principles of the rule of Law, equality before the Law, justice in the application of the Law, separation of powers, participation in the adoption of decisions, legal certainty, avoid arbitrariness and legal and procedural transparency.

2. Business Support for the Rule of Law in Practice [Explained]

3. Case for Supporting the Rule of Law
   - How business is benefit with the rule of law? The first intervention stated that the rule of law helps in the promotion of inclusive societies that are in peace, with access of justice for everyone, and with more efficient and inclusive institutions. If a society does not pursue the rule of law, then it is a society with no future. For instance, Colombia is lacking transparency, and the workshop and the rule of law are first steps towards a better Colombian society.

   - What does the rule of law means in Colombia? The first proposal in the workshop was changing the concept of the 'rule of law' to a 'legality culture' since the latter is more attractive. This legality culture entails that each person is identified with this culture and contributes to the compliance of the law.

   - Within the contributions made in the workshop, the ones that made reference to strengthening the Culture of Legality prevailed, inasmuch as in that manner, the Rule of Law is benefit in a business level. This starts inside the enterprise, driving individuals to adopt and promote the respect and compliance of the law and the legality.

   - The notion of 'rule' was also referenced, stating that the term itself provides a strong impact in the common understanding and in the public opinion. In that sense, the concept that should
be promoted is the compliance and respect of the law, under the notion of culture, which facilitates the access, comprehension and interest by the individuals towards the concept.

- In particular, one of the main reasons for which there is neither rule of law nor legality culture in Colombia, is because the violation of the law does not have any consequence. This is especially notorious in the soft law enacted in aspects of money laundry. In this sense, the legality culture only works when there is a consequence, and for this, it is necessary to have a strong State that obliges the compliance. Furthermore, there is also the need to have some type of social consequence.

- It was also discussed the importance of working against corruption, strengthening the virtue and ethics of the citizens. Also, favoring this purpose, it was mentioned the importance of the business in their labor of instructing and performing controls in the supply chains regarding the respect of the law, with the purpose of diminishing the risks of corrupt practices and practices that are against the law in their operations, also protecting their image and finances.

- In the same manner, a brief reflection was made, regarding the public opinion in Colombia towards corruption, which in many cases, tends to be disguised under illusory phrases that pretend to confuse the people regarding the real value or context that represents and promote its undue acceptance in the group.

- The discussion ended with the importance of business in the implementation of respect of the rule of law and in the fight against corruption, as mechanisms that generate wealth. Also, it was highlighted the importance of organizational culture, which mutates to a continuous education for the persons that work in it. For this is that they are the best allies for the educational work of individuals, allowing them to take conscious of the public law and its obligatory compliance, as citizens of the Republic.

4. Business Actions and Business Examples in Support of the Rule of Law

- As enterprises duly constituted before the law, there are some possibilities of actions with relation to the support to the rule of law.

- Some examples of these were given: 1) There is an ethics circle in which the enterprises that supported the manual were included. In this circle, there was a review of the internal corporate ethic, business responsibility actions and of the organizational culture. 2) The campaign "I live for the forests", with the participation of a newspaper. This campaign has the purpose of increasing the awareness of the environment and climate change. They are also trying to implement the plantation of 120 thousands hectares of forest each year. The enterprises that need to make some ecologic compensation and those with business responsibility desire to participate in the program.

- The exercise made in Miami was also discussed, which had the purpose of spreading the actions made by Colombian enterprises against corruption, which in many cases are
unnoticed. Because of this, there must be a mechanism that allows the visibility to the international community of the actions made by Colombia against corruption.

- Likewise, a survey of risks of business activities was made, in which not much importance is given to anti-bribery matters. The enterprises do not see money laundering, corruption, among other illegal practices, as risks. The main issue here is that most of the campaigns or programs are directed to big enterprises, which encompass a 10% of the total enterprises. There was also a concern that the enterprises are committing more sophisticated crimes, such as price cartels. Something that can be really useful is working with the value chains in addressing this problem, including more practical and creative measures, and, in that form, strengthening the legality culture through responsible and secure businesses. But, apart from the involvement with the value chains, there is also a need of involvement with the enterprises in the same economic sector.

- Favoring the creation of an external entity for claims and complains among the members of the business guild, that favors a risk system that permits the detection and actions toward the identified risk. Recognizing also the difficulties faced by the enterprises in the detection of risks, especially in the provision processes, and in particular in the peripheral areas of the countries and urban zones in which there are conflicts between illegal groups for the control of the territory.

- It was discussed the need of regulating the non-profit organizations, which encompass a broad universe and that are relevant because the high risk of money laundering that may be present in such organizations.

- Which tools can be given to small enterprises so they can access the legality culture? Empowering the owner of the process about the benefits and consequences in its operative process.

- Incentives should be given towards the respect of the law, above business continuity.

- There are other persons outside Colombia that want to develop a culture of the rule of law, and because of this, it may be useful to include those persons in this type of discussions.

5. **Call to Action (to Business and by Business) to Support the Rule of Law**

- Taking into account the business sustainability and its relation with the sustainability in its surroundings.

- The construction of a fair, harmonious and fraternal society should be pursued. Advocating for the national unity and the promotion of responsible citizenship, focusing in the business sector, which have as an incentive more than its social responsibility, in areas such as the productive transformation, procurements and incentives.
• Working jointly and in a broader manner with the supply chain for minimizing the risks using tools such as the review of contractors.

• Working in a more efficient management of the resources. Especially in social investment and philanthropy, where the communities in need of money, the enterprises seeking for rapid solutions and the absence of the government fail during the process.

• Strengthening topics of risk management and value them in terms of costs, and the aggregated benefits that social investment represent to the company.

• Betting on the education and the role of the academy with the purpose of institutionalizing seminars of risks for fighting against corruption. This, with the purpose of influencing the directive spheres of the different enterprises. Compromising the high entities of such academic institutions for those purposes.

6. **Mobilizing Business to Support the Rule of Law**

• Give inputs for the development of the business in the framework of the rule of law.

• Integrate the business activity in the themes of the development agenda.

• Challenges to the businesses regarding the rule of law: collective action generation and collective compromise for the establishment of more transparent game rules, which are profitable, socially responsible and fight corruption. Being more inclusive in the aspects related to small business, favoring and promoting their participation in these.

7. **Any Other Comments, Suggestions or Questions**

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