



UN Guiding Principles on Business and Human Rights

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- ✓ Prof. John Ruggie appointed 2005
- ✓ Human Rights Council mandate
 - ☑ Identify and clarify standards of corporate responsibility
 - ☑ Clarify role of States
- ✓ **Evidence-based:** voluminous research, 47 multistakeholder consultations, including business
- ✓ 2008: **“Protect, Respect and Remedy”** Framework (“Ruggie Framework”)
- ✓ 2011: **UN Guiding Principles unanimously endorsed**



Key features of Guiding Principles



- ✓ All States
- ✓ All companies, of all sizes, in every sector, in any country
- ✓ All internationally recognized human rights – including rights to health and education
- ✓ No new legal obligations – but elaborate on implications of existing obligations and practices for States and business
- ✓ Respecting human rights involves meaningful engagement
- ✓ Human rights cannot be offset: doing good in one aspect cannot compensate human rights harms elsewhere

State duty: what do the Guiding Principles say?



Must protect against business-related abuse within territory/jurisdiction

- ✓ Prevent, investigate, punish and redress abuse through effective policies, legislation, regulation and adjudication
- ✓ Both legal and policy dimensions

Should ensure that business based in its territory/jurisdiction respect human rights abroad

- ✓ Extraterritorial jurisdiction over companies not a general requirement in IHRL, but not prohibited
- ✓ Assumption: in favour of ETJ

Corporate responsibility to respect: What do the Guiding Principles say?



Respect: No harm and address impacts

Scope: all rights

Avoid causing/contributing +
prevent/mitigate negative impacts by
business relationships

Apply to all companies

Implications: Policies and processes

Access to Remedy: What do the Principles say?



Foundation:

- ✓ Essential part of duty to protect: States must take steps to ensure access to effective remedy for business-related abuse within their territory/jurisdiction
 - ✓ Judicial
 - ✓ Non-judicial

Judicial: courts (criminal or civil action)

Non-judicial: labour tribunals, NHRIs, National Contact Points (OECD), ombudsperson and complaints offices

Effectiveness criteria for non-judicial mechanisms



Legitimate?

Accessible?

Predictable?

Fair?

Transparent?

Rights-compatible?

Dialogue and engagement?

Remedy: critical part of business responsibility and due diligence (and good risk management)

SRSG pilot projects tested criteria:
Cerrejón (Colombia, mining)
Sakhalin (Russia, oil and gas)
Tesco (SA, food supply chain)
Esquel (Vietnam, garment)
HP (China, electronics supply chain)