

Check against delivery



**Statement by Prof. John Ruggie
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63rd session of the General Assembly

Third Committee

Agenda Item 64 (b):

“Promotion and protection of human rights:
Human rights questions, including alternative approaches
for improving the effective enjoyment of human rights and
fundamental freedoms”

27 October 2008

New York



Mr. Chairman, Excellencies, Ladies and Gentlemen,

Thank you for this opportunity to report to the General Assembly for the first time. My mandate addresses a profound and even historic challenge for the entire international community: how to close the gaps between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. Among other effects, these governance gaps, as I call them, provide the permissive environment for wrongful acts by companies without adequate sanctioning or reparation. How to narrow and ultimately bridge such governance gaps in relation to human rights is the focus of my work.

In June 2008, the Human Rights Council was unanimous in welcoming the policy framework of “protect, respect, and remedy” that I proposed in my final report under a 2005 mandate, as a basis for moving the business and human rights agenda forward. The Council extended the mandate for another three years, and asked me to “operationalize” the framework so as to provide concrete guidance to States and business.

The framework has also been endorsed by the main international business associations and by leading international human rights organizations. And it has already been invoked by national authorities, including a National Contact Point under the OECD Guidelines for Multinational Enterprises.

In short, a new consensus has formed. This contrasts sharply with the divisive debate that had preceded the creation of the mandate, generated by a document known as the draft Norms on Transnational Corporations and Other Business Enterprises, produced by the Sub-Commission on Human Rights, but which the Commission on Human Rights declined to adopt.

The journey from 2005 to 2008 covered a lot of ground in a relatively short time. The mandate has convened fourteen multi-stakeholder consultations on five continents, assessing both the nature of the challenges and also the array of possible solutions. I have met personally with indigenous peoples groups and other affected communities, with workers in global supply chains, and with labor leaders whose colleagues were killed by paramilitaries protecting company assets.

The mandate has analyzed nearly 400 public allegations against companies; followed dozens of court cases; and compiled a comprehensive mapping of international standards and practices that currently govern business and human rights, ranging from criminal law to voluntary initiatives by firms.

The voluminous documentation is posted on my website and is widely used as a resource by practitioners and scholars alike (<http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative>).

Having established the boundaries and basic parameters of the business and human rights domain through the “protect, respect, and remedy” framework, the mandate’s focus now turns to providing more concrete guidance on each of its elements. Permit me to outline the framework briefly, and then indicate broadly what lies ahead.

The framework comprises three core principles: first, the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; second, the corporate responsibility to respect human rights, which in essence means to act with due diligence to avoid infringing on the rights of others; and third, greater access by victims to effective remedies.

The first principle is the State duty to protect. Governments are the most appropriate entities to make the difficult balancing decisions required to reconcile different societal needs. But currently most governments take a relatively narrow approach to managing the business and human rights agenda. It is often segregated within its own conceptual and (typically weak) institutional box.

Often human rights concerns are kept apart from, or heavily discounted in, other policy domains that directly shape business practices, including commercial policy, investment policy, securities regulation, and corporate governance. This State practice contributes to the governance gaps I noted at the outset. Inadequate domestic policy coherence is, of course, replicated at the international level.

Therefore, the human rights policies of States in relation to business need to be pushed beyond their narrow institutional confines. Governments need actively to encourage a corporate culture respectful of human rights at home and abroad. And they need to consider human rights impacts when they sign trade and investment agreements, and when they provide export credit or investment guarantees for overseas projects in contexts where the risk of human rights challenges is known to be high.

The second principle is the corporate responsibility to respect human rights—put simply, to do no harm. In addition to compliance with applicable laws, companies are subject to what is sometimes called a social license to operate—that is, prevailing social expectations. The corporate responsibility to respect human rights is the baseline expectation for all companies in all

situations. It is recognized by virtually every voluntary initiative, and it is stipulated in such soft law instruments as the ILO Tripartite Declaration and the OECD Guidelines.

Yet how do companies know they respect human rights? Do they have systems in place enabling them to support the claim with any degree of confidence? In fact, relatively few do. What is required, therefore, is a due diligence process whereby companies become aware of, prevent, and address adverse human rights impacts.

Access to remedy is the third principle. Even where institutions operate optimally, disputes over adverse human rights impacts of company activities are likely to occur, and victims will seek redress. Currently, access to formal judicial systems is often most difficult where the need is greatest. And non-judicial mechanisms are seriously underdeveloped – from the company level up through national and international spheres.

That, in broad terms, is the “protect, respect, and remedy” framework that the Human Rights Council welcomed and asked me to “operationalize.” Each of its three component parts will constitute a major work stream for the renewed mandate. I recently posted a preliminary work plan on my website, so that all stakeholders can know what to expect. Let me flag a few examples here:

Under the State duty to protect, I will continue to examine the impact of the international investment regime and related State agencies; I am planning to explore the use of corporate law tools as a means to promote rights-respecting corporate cultures; and I am exploring ways of addressing the particular human rights challenges related to business operations in conflict zones.

To fulfill the Human Rights Council’s request to elaborate further on the corporate responsibility to respect human rights, I plan to develop a set of practical guiding principles for companies on due diligence and related accountability measures.

With regard to remedy, the work plan includes exploring possible ways of overcoming obstacles that stand in the way of access to judicial remedy in relation to business and human rights; identifying promising non-judicial remedies; and developing a wiki, a web-based platform developed directly by its users, as a center for information, learning and networking about accessing non-judicial grievance mechanisms around the world.

The Human Rights Council resolution welcoming the framework and extending the mandate also asks me to ‘promote’ the framework, and invites

other international organizations to solicit the mandate's views as they develop their own business and human rights programs. I have already established working relationships with the UN Treaty Bodies and other Special Procedures, the Global Compact, the UN Commission on International Trade Law, the International Finance Corporation, the OECD, and the Inter-American Commission on Human Rights. I will seek similarly to engage other relevant organizations and initiatives.

Finally, going forward the Council encouraged me to continue the inclusive and evidence-based approach that characterized the mandate's work during the past three years. Accordingly, I have convened a Global Leadership Group for the mandate to provide strategic and substantive advice—a group that includes Kofi Annan, Mary Robinson, and thirteen other eminent individuals from different sectors and regions of the world (list of participants is appended). I am planning several regional consultations and expert workshops. And, pursuant to the Council resolution, the Office of the High Commissioner for Human Rights will organize, within the framework of the Council, a two-day stakeholder consultation, including representatives of victims of corporate-related rights abuse.

Mr. Chairman, Ladies and Gentlemen,

There is no single silver bullet solution to closing the global governance gaps in the business and human rights domain. But for the sake of the victims of corporate-related human rights abuse, and to sustain globalization itself as a positive force, they must be closed. To achieve that end, all social actors—States, businesses, and civil society—must learn to do many things differently. My new mandate is intended to help provide direction and operational guidance.

This is a massive undertaking, but the magnitude of the challenge merits it. Of course, success will depend on the continued cooperation of all stakeholders. But with so much at stake, and building on the consensus we have already achieved, I have every hope and expectation for good progress with tangible results where they matter most: in the daily lives of people and communities whose rights are adversely impacted by the economic forces that have been transforming our planet.

Thank you.

Global Leadership Group Advising the Mandate

- Kofi Annan** (Ghana), former Secretary-General of the United Nations
- Souhayr Belhassen** (Tunisia), President, Fédération Internationale des Ligues des Droits de l'Homme
- John Browne** (UK), Managing Director of Riverstone Holdings LLC; former Group Chief Executive of BP plc
- Maria Livanos Cattai** (Switzerland), member of the Board of Directors, Petroplus Holdings AG; former Secretary General of the International Chamber of Commerce
- Stuart Eizenstat** (USA), Partner, Covington & Burling LLP; former U.S. Deputy Secretary of the Treasury, Under Secretary of State, Under Secretary of Commerce, Ambassador to the European Union
- Luis Gallegos** (Ecuador), Ambassador of Ecuador to the United States; former Vice-Chair, UN Commission on Human Rights; Member of the UN Committee against Torture
- Neville Isdell** (USA), Chairman of the Board of Directors, The Coca-Cola Company (will join the panel in April 2009)
- Hina Jilani** (Pakistan), Member of the Council, Pakistan Human Rights Commission; former UN Secretary-General's Special Representative on Human Rights Defenders
- Kishore Mahbubani** (Singapore), Dean, Lee Kuan Yew School of Public Policy, National University of Singapore; former Ambassador of Singapore to the United Nations
- Narayana Murthy** (India), Chairman, Infosys Technologies Limited
- Sonia Picado** (Costa Rica), Chair, Inter-American Institute of Human Rights; former Judge and Vice-Chair of the Inter-American Court of Human Rights
- Cyril Ramaphosa** (South Africa), Executive Chairman, Shanduka Group; former Secretary General of the African National Congress
- Mary Robinson** (Ireland), Chair, Realizing Rights: The Ethical Globalization Initiative; former President of Ireland and United Nations High Commissioner for Human Rights
- Guy Ryder** (UK), General Secretary of the International Trade Union Confederation
- Marjorie Yang** (China), Chairman of Esquel Group.