



## “PROTECT, RESPECT AND REMEDY”: THE U.N. FRAMEWORK FOR BUSINESS AND HUMAN RIGHTS

In June 2008, after three years of extensive research and consultations with business, governments and civil society on five continents, the United Nations Secretary General’s Special Representative (SRSG) on Business and Human Rights, John Ruggie, proposed a policy framework for managing business and human rights challenges. It is based on three pillars: the state duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and greater access by victims to effective remedy, judicial and non-judicial.

The Human Rights Council unanimously welcomed the "Protect, Respect and Remedy" framework, marking the first time that a U.N. intergovernmental body had taken a substantive policy position on the subject of business and human rights. The Council then extended the SRSG’s mandate until 2011 with the task of “operationalizing” and promoting the framework.

### THE STATE DUTY TO PROTECT

The State duty to protect highlights that States have the primary role in preventing and addressing corporate-related human rights abuse. It is a standard of conduct - States may be held responsible for failing to act appropriately to prevent and address corporate-related abuse. The duty’s extraterritorial scope remains unsettled in international law. Guidance from international human rights bodies suggests that States are not required to regulate the extraterritorial activities of businesses incorporated in their jurisdiction, but nor are they generally prohibited from doing so provided there is a recognized jurisdictional basis and that an overall reasonableness test is met.

Most governments take a narrow approach to managing the business and human rights agenda. Therefore, States’ human rights policies vis-à-vis business need to move beyond their present institutional confines. By governments safeguarding their own capacity to protect human rights, promoting respect for rights when they do business with business, fostering corporate cultures respectful of rights at home and abroad, and working together to prevent and address some of the most egregious corporate-related abuses, they will take significant steps in the right direction.

### THE CORPORATE RESPONSIBILITY TO RESPECT

The corporate responsibility to respect human rights means acting with due diligence to avoid infringing on the rights of others. In addition to complying with national laws, the corporate responsibility to respect human rights is the core expectation for all companies in all situations. It is recognized by virtually every voluntary initiative and features in such soft law instruments as the ILO Tripartite Declaration and the OECD Guidelines. It is also one of the UN Global Compact’s 10 principles. Companies may take on additional responsibilities voluntarily and in some situations, as when they perform public functions, more may be required of them.

Relatively few companies have systems enabling them to support claims that they respect human rights. What is needed therefore is a due diligence process whereby companies become aware of, prevent, and address adverse human rights impacts. Key elements of human rights due diligence include having a statement of policy, assessing human rights impacts, integrating human rights throughout a company however appropriate, and tracking as well as reporting performance.

### THE NEED FOR GREATER ACCESS TO REMEDY

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. Non-judicial mechanisms are seriously underdeveloped—from the company level up through national and international spheres.

Effective grievance mechanisms play an important role in the State duty to protect and the corporate responsibility to respect. Without adequate remedy, the duty to protect could be rendered weak or even meaningless. Non-judicial mechanisms, whether state-based or independent, should conform to principles of legitimacy, accessibility, predictability, rights-compatibility, equitability and transparency. Company-level mechanisms should also operate through dialogue and mediation rather than the company itself acting as adjudicator. As part of the corporate responsibility to respect, grievance mechanisms help identify, mitigate, and possibly resolve grievances before they escalate and greater harm is done.

The complete archive of the Special Representative’s reports to the Human Rights Council and other speeches, articles, research, correspondence, and submissions to the mandate can be found on the Special Representative’s web portal (<http://www.business-humanrights.org/SpecialRepPortal/Home>), which is generously hosted by the independent Business & Human Rights Resource Centre.