

**Keynote Address at Commit!Forum
New York Stock Exchange
John G. Ruggie
Harvard University
27 September 2011**

I am honored to lead this discussion on business and human rights at the New York Stock Exchange. Your inviting me to do so demonstrates how tightly linked the worlds of business and human rights have become.

Your Forum is very timely because this subject has evolved rapidly in the international community. On June 16 of this year, the United Nations Human Rights Council endorsed a set of Guiding Principles for business and human rights that I had developed over a six year period – with the support of all stakeholder groups, including business, and after 47 international consultations, extensive research and in-country pilot projects involving companies, workers and other civil society actors, and communities. This marked the first time ever that the Human Rights Council endorsed a normative text that governments did not negotiate themselves – and it did so unanimously.

I'll address three questions today: Why did the United Nations think it necessary to produce global guidance on business and human rights? What do the Guiding Principles require of companies? And what's next?

Why?

The answer to the “why” question can be expressed in one word: globalization. By the 1990s, many businesses on the frontlines of globalization – apparel and footwear, consumer electronics, the extractive and infrastructure sectors, the toy industry, to some extent food and beverages – found themselves accused of human rights violations in their overseas operations: workplace standards, including employing child labor and even forced labor; communities evicted to make room for infrastructure projects; rivers polluted, thereby denying people's livelihood; protesters beaten, raped and killed by security forces protecting company assets; and somewhat later, information and communication technology companies accused of assisting governments in practicing censorship and violating rights of privacy.

Initially, companies resisted accepting any responsibility: Nike, under attack for labor practices in Indonesia, in effect said: this is not our problem; we're just buying from independent suppliers. Shell in Nigeria, facing world-

wide outrage over the killing of Ogoni leaders, said we're not responsible; it was the military protecting our installations. Several years later *Yahoo!* invoked much the same rationale in response to searing Congressional criticism for turning user information over to Chinese authorities, which sent dissidents to jail. All came to realize that these were, in fact, their problems.

Today, corporate social responsibility initiatives addressing such challenges are common-place. But when it comes to human rights, traditional CSR by itself has not truly moved markets. If you take the universe of 80,000 multinationals, ten times as many subsidiaries, and countless suppliers, CSR initiatives still are relatively small islands in a large and turbulent sea.

And even where they do exist, such initiatives are rarely strategic; often they are not well integrated with a company's own internal oversight and compliance systems – or, in many cases, with the cross-section of business functions that have a direct impact on people's rights; and they tend to be weak on external accountability.

The upshot is that many companies still get it wrong. And increasingly empowered individuals and communities are pushing back. In the extractive sector, for example, what has become known as stakeholder-related risk now is the single largest category of non-technical risks companies face – in the case of one international oil major, causing a \$6.5 billion value erosion over a two year period. Yet most companies still don't bother to measure this risk.

So I was asked by the United Nations to lead an effort to develop a set of minimum global standards of conduct for both governments and businesses – all of them, not only the self-selected few.

This proceeded in two steps. In 2008, I presented to the UN Human Rights Council the "Protect, Respect and Remedy" Framework, outlining *what* needed to be done. And in 2011, I present the Guiding Principles on *how* to do it.

What Do the GPs Mean for Companies?

The Guiding Principles address the human rights obligations of states as well as the responsibilities of companies. Briefly, under international human rights law it is the duty of states to protect against human rights abuses by any third party within their jurisdiction, including business. This requires states to take appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. In addition, states need to set out clearly the expectation that all business enterprises domiciled in their jurisdiction respect human rights throughout their operations.

What about business? Companies have long proclaimed that they respect human rights. But respecting rights has a very specific meaning in international human rights discourse: do not infringe on the rights of others. So I asked a simple question of businesses: how do you know that you respect rights? Do you have systems in place that would allow you to demonstrate to yourself, let alone anyone else, that you do not infringe on the rights of others?

Telling the world that you build schools and clinics, that you source locally wherever possible, or that you have hooked up a community to an electrical grid is admirable – but it doesn't answer the question. And the fact is that relatively few companies have adequate systems in place.

We needed a game changer: companies had learned the art of reacting to external “naming and shaming.” I proposed that they become proactive through “knowing and showing”: knowing and showing that they respect human rights – that they do not infringe on others' rights as they go about their business.

In all, 14 of the 31 Guiding Principles are addressed to business, each with a commentary further elaborating its meaning and implications. Let me boil them down to their essence. Knowing and showing has two main elements:

1. A policy commitment by the company to respect rights that is *approved* by senior management; *informed* by engagement with affected individuals and communities; *communicated* to personnel and business partners; and *reflected* in operational policies and procedures;
2. A human rights due diligence process to identify and address human rights posed by the company's own activities and by business partners associated with those activities;

Human rights due diligence itself comprises four steps:

1. Assessing actual and potential adverse impacts, a process that should include engagement with affected rights holders, or where that is not possible with other sources of expertise;
2. Integrating the findings of those impact assessments across relevant internal functions and processes;
3. Acting upon the findings – with the company preventing or mitigating potential adverse impacts, and participating in the remediation of impacts that have already taken place. This can include operational-

level grievance mechanisms of the sort I piloted with five companies in five countries and sectors;

4. Finally, a company should track the effectiveness of its systems and responses, and be prepared to communicate the results to impacted individuals and communities, as well as to other legitimate stakeholders.

The UN Guiding Principles are not simply a tool kit that can be taken off the shelf and plugged in. When it comes to implementation, one size does not fit all. But however situations may differ in different sectors and operating contexts, the GPs are intended as the foundation for more detailed operational plans and actions.

Consequences and Next Steps

The GPs now are the most authoritative global standard for business and human rights. In addition to their endorsement by the Human Rights Council, they have also migrated to other international standard setting bodies.

The OECD has included a new human rights chapter in its Guidelines for Multinational Enterprises, adhered to by 42 countries including non-members like Brazil. It incorporates all of the elements of the corporate responsibility to respect human rights that I've just described, and it comes with a procedure for bringing complaints against companies to the participating governments.

ISO26000 is the new social responsibility adopted by 93 percent of all members of the International Organization of Standardization, including China. It too incorporates the business principles laid out in the UN Framework, and is important because ISO standards enjoy significant uptake in Asia.

The International Finance Corporation, the private sector arm of the World Bank, has updated its sustainability policy and the corresponding performance standards they require clients to meet. These now explicitly reference the business responsibility to respect human rights. In turn, the IFC performance standards get tracked by some 72 private sector project lending banks worldwide, and by several national export credit agencies. Here companies' access to capital may come into play.

Elements of the UN Guiding Principles are also becoming policy requirements at national and international levels. In particular, the potential contribution of human rights due diligence has informed domestic practice and legislation, including in the United States at federal and state levels. At the same

time, of course, companies can be tried in numerous jurisdictions, including the U.S., for involvement in the most egregious human rights abuses abroad.

This consolidation of standards contributes to creating a more level playing field, which companies have always asked for. It clarifies what is expected of companies in relation to human rights and provides predictability on where and how to focus their energies in response. It also provides guidance to investors – who should look closely at whether companies, especially those in difficult sectors and operating contexts, have adequate systems in place to manage human rights-related risks.

The Guiding Principles are hardly the final word on the subject. Further work is needed to understand their implications for best practices in particular sectors or in relation to particular dilemmas and to spread that learning. But the GPs provide a common platform on which we can build, step by step, to produce cumulative progress over time.

Business and human rights isn't rocket science. Fundamentally, it is about treating people with dignity – which is the right thing to do, and which constitutes the very foundation of socially sustainable enterprises and markets.

It was the widespread recognition of these simple truths that generated the enthusiasm and support which led the United Nations to adopt this global standard of conduct for business and human rights.

Our collective job now is to make it a reality where it matters most: in the daily lives of men, women and children in cities and villages throughout the world.

Thank you for your interest, your engagement – and for your commitment!

John G. Ruggie is the Berthold Beitz Professor of Human Rights and International Affairs at Harvard's Kennedy School of Government and Affiliated Professor of International Legal Studies at Harvard Law School. From 1997-2001 he was the United Nations Assistant Secretary-General for Strategic Planning, and from 2005-2011 he served as Special Representative of the U.N. Secretary-General for Business and Human Rights.