

THE U.N. GUIDING PRINCIPLES ON

BUSINESS AND HUMAN RIGHTS

ANALYSIS AND IMPLEMENTATION

THE
KENAN
INSTITUTE
FOR
ETHICS
at Duke University

THE U.N. GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS ANALYSIS AND IMPLEMENTATION

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INTRODUCTION

On December 12–13, 2011, the Kenan Institute for Ethics at Duke University convened a group of faculty and expert practitioners from a variety of disciplines to discuss the U.N. Guiding Principles on business and human rights, which were endorsed by the Human Rights Council in June 2011.

This paper summarizes the discussion as a contribution to the “business and human rights” agenda going forward, particularly as the new United Nations Working Group on the topic begins its work this month.

The discussion was held under the Chatham House rule. This summary is not intended to be a document adopted or endorsed by consensus of the group, nor to be taken as necessarily reflective of the positions of the individual participants or their organizations who are listed in this document.

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BACKGROUND

History

The modern international human rights framework was created by governments, for governments. Its foundational document, the Universal Declaration of Human Rights, was created in the wake of World War II to articulate a set of rights and freedoms that *states* would commit to protecting and fulfilling.¹

But business has grown in scale and scope since the Universal Declaration was created in 1948. While companies have delivered innovations and efficiencies that have dramatically raised standards of living and lifted millions of people out of poverty, they have also caused and contributed to human rights abuses around the world.

Consequently, there have been a number of initiatives to develop codes of conduct for business: by multilateral agencies like the Organisation for Economic Co-operation and Development (OECD), which issued the first version of its Guidelines for Multinational Enterprises in 1976; or for particular sectors: The Fair Labor Association to improve working conditions in factories was incorporated in 1999; the Voluntary Principles on Security and Human Rights for extractive companies were announced in 2000.²

But efforts to establish an authoritative and universal set of principles at the United Nations failed: The U.N. Commission on Transnational Corporations was established in 1973 to draft a

corporate code of conduct, but after many drafts was dissolved in 1994.³

From Norms to Guiding Principles

In 2003, the U.N. Commission on Human Rights received from one of its subsidiary bodies a proposed code of conduct for transnational corporations for its approval: “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights” (the Norms).⁴

The 2003 Norms asserted that business has “the obligation to promote, secure the fulfillment of, respect, ensure respect of, and protect human rights recognized in international as well as national law.” The Norms provoked a strong negative reaction from the International Organization of Employers and the International Chamber of Commerce, who asserted that the Norms were a “counterproductive” attempt to shift responsibilities to companies for “what are and should remain government responsibilities and functions.”⁵ In part because of that opposition, a number of States lined up to oppose the Norms. The fact that the Sub-Commission that drafted the Norms involved few states or companies in the process may have also contributed to the lack of support.⁶

Some NGOs such as Amnesty International supported the Norms.⁷ But such support wasn’t enough for the Commission on Human Rights, which declined to consider the Norms, saying they had some helpful elements but no legal

standing.⁸

In 2005, the Commission requested that the Secretary-General appoint a Special Representative to “identify and clarify standards of corporate responsibility and accountability for transnational corporations and other business enterprises with regard to human rights.”⁹ Then-Secretary-General Kofi Annan appointed Harvard Kennedy School professor John Ruggie.

In 2008, Ruggie presented to the Human Rights Council (which replaced the Commission in 2006) the “Protect, Respect and Remedy” framework, which he described as the “conceptual and policy framework to anchor the business and human rights debate, and to help guide all relevant actors.” The Council passed a resolution welcoming the framework and gave Ruggie a new three-year mandate to develop more practical guidance.¹⁰

Ruggie followed that instruction by developing a set of Guiding Principles.¹¹ In presenting the Guiding Principles to the Council in June 2011, Ruggie stated that “[t]he Guiding Principles’ normative contribution lies not in the creation of new international law obligations but in elaborating the implications of existing standards and practices for States and businesses; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it should be improved.”¹²

Two weeks after Ruggie’s presentation, the Council passed without a vote a resolution endorsing the Guiding Principles. It is highly unusual for an intergovernmental body to endorse a text they did not themselves negotiate, a testament

to the engagement of states by Ruggie throughout his mandate. The Council also established a Working Group to “promote the effective and comprehensive dissemination and implementation of the Guiding Principles.”¹³

The Council gives limited support to Special Procedures, but throughout his mandate Ruggie raised money from governments to hire staff, visit stakeholders and sites, and hold meetings around the world, many of which were organized in partnership with civil society organizations. He held large regional multistakeholder consultations in Bangkok, Bogota, Buenos Aires, Johannesburg, Moscow, and New Delhi; separate business and NGO consultations; small expert gatherings on subjects including corporate law and investment; numerous meetings with government representatives in Geneva and in their home capitals; and an online forum that attracted hundreds of comments and thousands of viewers.¹⁵

An Emerging Consensus

After years of lively and sometimes contentious debate, involving everyone from indigenous peoples’ representatives to Wall Street lawyers, uptake of Ruggie’s recommendations was widespread, as the many stakeholders who participated in the mandate’s consultations felt ownership over its outcomes. Ruggie also collaborated with other standard-setting bodies, such as the International Finance Corporation, the International Standards Organisation (ISO), and the OECD to embed his work into their own.¹⁶

To understand the success of the Special Representative’s mandate, it is also worth considering the Guiding Principles in the context of the historical moment in which they were created: the

financial crisis bringing scrutiny to corporate practices and state failures; growing economic power from non-Western countries, with companies serving as their *de facto* ambassadors; heightened transparency through technology and social media; debates over global governance within institutions like the United Nations and the G20, and over transnational issues like climate change and financial regulation.

Among those involved in the mandate over its six years, there was a palpable sense of relief at the Council's endorsement of the Guiding Principles—affirmation that consensus has been achieved from a truly global set of stakeholders representing all sectors of society. Yet there is acknowledgment that the Guiding Principles will not solve the world's problems; that there is fragility around this newborn set of standards, whose formal custody was transferred shortly after its birth with the new guardian yet to begin its work; and that the Special Representative's mandate was one phase—albeit a significant one—in a much longer journey.

The Guiding Principles

The Guiding Principles are organized by the three pillars of the “Protect, Respect and Remedy” framework that preceded them:¹⁷

- The **State Duty to Protect** against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication;
- The **Corporate Responsibility to Respect** human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they

are involved;

- The need for greater **Access to Remedy** by victims of corporate-related abuse, both judicial and non-judicial.

The three-pillar framework emphasizes the multistakeholder nature of the issue and avoids the failed attempt of the Norms to impose an expansive array of state responsibilities onto business.¹⁸ This approach was welcomed by business, which felt that the Norms and the corporate social responsibility field more generally absolved governments of their responsibilities; by human rights advocates, who saw both governments and companies as equally important players; and by states, some of whom had questioned the implied suggestion of the Norms that companies assume some of their responsibilities.

The State Duty to Protect

The State Duty to Protect section of the Guiding Principles affirms states' existing obligations under international human rights law to protect people within their territory and/or jurisdiction from human rights abuses, including by non-state actors; recommends that states enforce relevant laws, provide guidance to companies, and address the common lack of policy coherence across government agencies; and emphasizes the necessity of proactive measures by states where a business receives some form of government support, and in conflict-affected areas.

Extraterritorial jurisdiction—what powers and duties governments have when companies domiciled in their countries commit or contribute to human rights abuses abroad—was the most complex and controversial issue within the State

Duty to Protect pillar, as it cuts to the heart of issues of national sovereignty and the very nature of multinational business.

After much engagement with governments, legal experts, and other stakeholders, Ruggie chose to focus on the fact that states can take a number of steps with extraterritorial effect that clearly fall within the current permissible scope of their jurisdiction. In taking such an approach of clarification, Ruggie managed to avoid controversy that could have threatened overall support of his mandate, while helpfully dispelling misperceptions about the concept that had come from many corners.¹⁹

The Corporate Responsibility to Respect

Ruggie defined the Corporate Responsibility to Respect as the responsibility for business not to infringe on the rights of others and address negative impacts with which they are involved. This second pillar of the Guiding Principles outlines a process for companies to “know and show” that they are meeting their responsibility to respect human rights: Companies should have a human rights policy; conduct human rights due diligence, which includes assessing actual and potential impacts, integrating human rights throughout their operations, and tracking and reporting outcomes; and remediate any adverse impacts that they have caused or contributed to.

According to the Guiding Principles, the human rights that companies must respect at a minimum are those outlined in the International Bill of Human Rights and ILO core conventions (as opposed to the limited subset of rights that the Norms named). Ruggie was careful to point out that international human rights law generally does not currently impose direct legal

obligations on business enterprises (which some stakeholders disputed), although it is enshrined in domestic jurisdictions in numerous ways, such as legislation on labor standards, privacy, or land use.²⁰ Rather, the “responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate.” While grounding a foundational principle in social norms might seem unstable, it was as clever as it was irrefutable: What company would stand up and say it *doesn’t* have a responsibility not to hurt people?

On the other hand, some argued that “respect” is too *low* a bar, that companies should have so-called “positive” obligations as well including to fulfill or realize rights. Ruggie responded that the responsibility to respect is indeed “not merely a passive responsibility for firms”; and that “[t]here may be situations in which companies have additional responsibilities. But the responsibility to respect is the baseline norm for all companies in all situations.”²¹ The commentary for the first Guiding Principle under this pillar states, “Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation.”

Other issues debated during the development of the Corporate Responsibility to Respect principles and addressed to varying extents in the final product included the applicability of the Guiding Principles to small- and medium-sized enterprises; whether financial institutions merit special attention; and the extent of a company’s responsibility for impacts occurring in its value chain.

Access to Remedy

The Access to Remedy pillar of the framework addressed both state responsibilities to provide access to effective judicial and non-judicial mechanisms, and the corporate responsibility to prevent and remediate any negative impacts that they cause or contribute to.

One subtopic within this pillar that captured broad attention for breaking new ground was the criteria for effective company-based grievance mechanisms. Such criteria were piloted by companies in different sectors and regions, and made the subject of a separate online resource.²²

One of the most-debated topics was the status and enforcement of the principles themselves. Business and NGO concerns alike wondered whether the Guiding Principles would be yet another voluntary code of conduct, or whether they would be enforced. Ruggie tried to move the debate beyond this voluntary-versus-mandatory dichotomy: Saying that “no single silver bullet can resolve the business and human rights challenge” became a common refrain, as he tried to avoid the ill-fated Norms debate that focused on one international instrument.²³ In his 2007 report that mapped the spectrum of ways in which corporations are held accountable for human rights abuses, he emphasized that many voluntary initiatives have accountability mechanisms. He worked to embed the Guiding Principles into other standards that have their own enforcement mechanisms, like the OECD Guidelines for Multinational Enterprises. And he emphasized that his role was to not to create international law, but to provide policy recommendations to the Council, whose member states would then be responsible for

implementing his recommendations should they be adopted.

But some NGOs continued to lament the lack of an overarching accountability mechanism in the Guiding Principles themselves. At the same time, some business concerns fretted that “non-binding U.N. guidelines could inform binding common law. Or a non-binding U.N. report could inspire binding statutory law, which is after all one of the report’s goals.”²⁴

The Guiding Principles had to be general enough to apply to all kinds of companies in all industrial sectors and win the support of a broad range of Human Rights Council member states. As such, they are hardly an operational manual to be downloaded and implemented.²⁵ As Ruggie said in his final presentation to the Human Rights Council in June, invoking Winston Churchill, “I am under no illusion that the conclusion of my mandate will bring all business and human rights challenges to an end. But Council endorsement of the Guiding Principles will mark the end of the beginning.”²⁶

WORKSHOP SUMMARY

Workshop participants agreed that the Guiding Principles were a noteworthy development for multiple domains: for the ongoing evolution of the human rights regime; for the study of norms development; and for globalization, regulation, corporate and international law.

Today there is both excitement and apprehension about what lies ahead. The previous six years were about bringing diverse stakeholders together to converge on a set of principles; now a very different set of issues lie in wait. Participants in the workshop framed those issues in terms of 1) **defining questions**, clarifying the fundamental nature of the Guiding Principles enterprise; 2) practical questions about **implementing** the Guiding Principles; and 3) **opportunities** in the current moment, as we move from the development of the Guiding Principles into their implementation.

Defining Questions

In the workshop, participants raised a number of questions and issues on which they held divergent views. The debate made it clear that those issues need to be tackled head on—whether by the new U.N. Working Group, other actors in the field, or some combination—if the Guiding Principles are to succeed and corporate-related human rights abuses are to be prevented and addressed.

Principles vs architecture

One fundamental question is whether the **application of human rights to business** is a natural

extension of the human rights movement and architecture, or new language for describing the complex effects of globalization. This question is important for a number of reasons.

First, rights-based **discourse** is not always obviously applicable to companies—the foundational human rights instruments were written primarily by and for states—and as such can be inappropriate or constraining when applied to multinational business. More important, human rights is not just a set of vocabulary or principles, but a system that comes with its own **architecture** and enforcement mechanisms. Some human rights advocates expressed disappointment with the Guiding Principles because they thought they neither added to nor fit within that architecture: Part of the strength of human rights instruments is the potential for their enforcement, even if that potential is often not realized.

It's unclear how existing U.N. human rights mechanisms—or even a new one—could enforce the Guiding Principles, particularly those aimed at companies, which live outside of the purview of the U.N. system. Participants from all stakeholder groups suggested that if the Guiding Principles do not find their link to the U.N. architecture, they risk becoming yet another voluntary code of conduct—which would disappoint both NGOs, who want accountability, and companies, who face myriad standards and want to know which one is authoritative. Does lack of infrastructure fundamentally undermine the Guiding Principles, or is it beside the point?

Practical vs aspirational

From the advocate point of view, another perceived weakness of the Guiding Principles is that they read as **more practical than aspirational**—not the sort of document that mobilizes citizens, as the human rights community aims to do. On the other hand, companies suggest that fully implementing a human rights due diligence system is indeed ambitious and aspirational; similarly for states to thoroughly meet their “duty to protect” as outlined in the Guiding Principles. Whether the Guiding Principles are aspirational or practical is more than just an intellectual debate, because it speaks to whether states and companies should be held accountable for their intent or their specific actions and outcomes.

Process vs outcomes

Related to that question of what parties should be held accountable for is whether the choice of a **process-based standard** is helpful or not. Participants agreed that a process-based standard is useful from a practical perspective, for instructing companies on what to do and others on what to look for, but examples abound of good processes with poor outcomes; processes are necessary but insufficient on their own.

If companies and states are to be held accountable for outcomes rather than “just” processes, how should those outcomes be measured? The lack of **data and metrics** for the human rights impacts of business—and the dearth of requirements to **disclose** that information—was cited as a barrier to getting mainstream investors to ask the right questions and getting companies to evaluate and improve their performance.

Implementation

In discussing implementation of the Guiding Principles, the discussion ranged between the theoretical and the practical, and gravitated towards the agenda and working methods of the new U.N. Working Group on business and human rights—though many of the questions for the Working Group apply to other actors in the field as well.

There is clearly concern about where **authoritative interpretation** of the Guiding Principles will come from, to avoid the sort of “lethal mutations” that one participant warned of from other domains. The Working Group seems the obvious source, but will need to develop its own resources and credibility in order to put forth opinions that are widely accepted.

The questions that the Working Group will need to tackle will not just be about the Guiding Principles, but the serious **dilemmas** and challenges that have vexed the human rights community for decades: e.g. when rights conflict with each other, or when governments are part of the problem, for example in this context by coercing companies to violate human rights or undermining investor protection.

Due to the Working Group’s limited resources and timeframe, there was discussion as to whether its focus should be on **breadth or depth**, i.e. promoting awareness of the Guiding Principles, particularly in emerging markets, or working with a smaller group of companies who are ready to delve deeply into the challenges of implementation. In either case, there was general agreement that the Working Group should continue in the mode of the Special Representative on business and human rights, who received

research support from a wide variety of academics and organizations rather than conducting all of the work within his small team.

There was a great deal of discussion on what the **strategic leverage points** might be for the Working Group, i.e. what stakeholders, issues, or ways of operating would have the greatest multiplier effects: big marquee companies in select countries and the finance and technology sectors were given as possible examples.

But some expressed concern that such an approach might be too opportunistic, and avoid the necessary challenge of getting to the root causes of corporate-related abuse. For example, there is currently a great deal of focus on how multinational companies can push the Guiding Principles down through their supply chains. Is that a distraction from ensuring that governments enforce their own labor laws? The group had some debate over whether the root cause of corporate-related abuses was **states or companies**, and how much an individual's or organization's answer to that question informs strategy and tactics; but others believed the question was irrelevant since addressing the roles of both players is clearly critical.

Such questions could also be asked of other organizations, which need to work out their own **theories of change** and where they can have the greatest impact. A number of participants spoke of the need to draw upon existing research on how change occurs within organizations, and within companies in particular; and on what causes governments to change policies and behaviors, individually and collectively. Company participants spoke of their challenges working out what issues and functions

are most relevant to human rights, while those involved with civil society organizations spoke of their need to effectively allocate their scarce resources—for example whether to focus on companies or states, and in those relationships how to balance advocacy versus partnership.

Related to the question of the theory of change is the question of what the right **analogy** is for business and human rights: Is it health and safety, or compliance and ethics, where activity is largely company-led and compliance-based, with culture and regulation being important components? Or is it the environment, where progress has come from convergence of the interests of companies and their investors, advocates, and (some) policymakers? Or is the right analogy the movement against child labor, where there was a clear business case for the 'wrong' position, but society pushed for regulation? Numerous **legal** questions follow, such as whether safe harbor provisions might be instituted for companies that undertake human rights due diligence, as has been the case in other domains.

Participants saw all of these issues and questions related to implementation as important for both the U.N. Working Group and other stakeholders to address if the Guiding Principles are to succeed—both in terms of their status as an authoritative global standard, and for having their desired impact on the ground.

Opportunities

Despite all of the challenging questions that remain, there was a great deal of excitement among participants about what lies ahead, with the recognition that the field now moves into a very different phase. The six years that led to the Guiding Principles were about the convergence

of positions into a single authoritative foundation. Now, **different skills and coalitions** will be needed for this next phase of dissemination and implementation.

Some participants expressed the belief that the prolonged debate over the Guiding Principles and associated accountability distracted the global community from the effects that companies are having on communities and individuals every day. But others countered that the Guiding Principles developed quickly compared to other instruments and norms, and that the convergence phase was absolutely critical to implementation going forward. In any case, there was hope that even with the fundamental questions that remain, the emphasis could be on **more practical** aspects of the issue going forward.

Participants thought that most of the tangible progress in the field to date had been made by a small number of multinational companies, which presented both a challenge and an opportunity in terms of creating space for **government leadership**. Participants wondered about the feasibility of a Government Leaders Initiative on Business and Human Rights, similar to business-led initiatives such as the Business Leaders Initiative on Human Rights and Global Business Initiative on Human Rights.

There was also a hope that the debate would move beyond where it has largely been focussed, i.e. on extractives and manufacturing, and those impacts at the early stages of products and services. **Technology, finance, and product use** were seen as critical to bring into the debate more prominently.

There were high hopes that the U.N. Working Group would become a focal point and a catalyst for **convening** on business and human rights, for example through its Annual Forum, and for **research** on the wide range of topics that will be needed for progress going forward. Whether or not that comes to fruition, participants emphasized the need for ongoing **expert multistakeholder dialogue**, for example in the form of this workshop.

ENDNOTES

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⁵ Joint views of ICC and the IOE on the draft "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights" submitted to Members of the United Nations Commission on Human Rights, 24 November 2003, http://www.ioe-emp.org/fileadmin/user_upload/documents_pdf/papers/statements_resolutions/english/state_2003june_humanrights.pdf (accessed 18 Oct 2011).

⁶ For a history of these and other efforts, see Giovanni Mantilla, "Emerging International Human Rights Norms for Transnational Corporations", *Global Governance* 15 (2009), 279–298.

⁷ See, for example, Amnesty International, "The UN Human Rights Norms For Business: Towards Legal Accountability", <http://www.amnesty.org/en/library/asset/IOR42/002/2004/en/c17311f2-d629-11dd-ab95-a13b602c0642/ior420022004en.pdf> (accessed 18 Oct 2011).

⁸ Office of the High Commissioner for Human Rights, "2004/116: Responsibilities of transnational corporations and related business enterprises with regard to human rights," <http://www.business-humanrights.org/Documents/UNNorms> (item 3) (accessed 25 Oct 2011).

⁹ The resolution requesting the Special Representative's appointment: Office of the High Commissioner for Human Rights, "Human rights and transnational corporations and other business enterprises: Human Rights Resolution 2005/69," <http://www.business-humanrights.org/Updates/Archive/SpecialRepresentativeMandate> (accessed 25 Oct 2011). Special Representatives are a type of U.N. Special Procedure, an individual or working group appointed to address specific country situations or thematic issues; for more explanation, see <http://www2.ohchr.org/english/bodies/chr/special/index.htm#code> (accessed 10 Oct 2011) and <http://www.amnesty.org/en/united-nations/special-procedures> (accessed 10 Oct 2011).

¹⁰ John Ruggie, "Protect, Respect and Remedy: a Framework for Business and Human Rights", Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, A/HRC/8/5, 7 April 2008, <http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework> (accessed 27 Oct 2011). Human Rights Council resolution extending Ruggie's mandate: Resolution 8/7, 28th meeting, 18 June 2008, http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_7.pdf (accessed 27 Jan 2012).

¹¹ John Ruggie, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/17/31, 21 March 2011, <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed 27 Oct 2011).

¹² John Ruggie, Presentation of Report to United Nations Human Rights Council, Geneva, 30 May 2011, <http://www.business-humanrights.org/media/documents/ruggie-statement-to-un-human-rights-council-30-may-2011.pdf> (accessed 27 Oct 2011).

¹³ Human Rights Council, A/HRC/RES/17/4, 16 June 2011, <http://www.business-humanrights.org/media/documents/un-human-rights-council-resolution-re-human-rights-transnational-corps-eng-6-jul-2011.pdf> (accessed 27 Oct 2011).

¹⁴ For more on Ruggie's corporate law project, see <http://www.business-humanrights.org/SpecialRepPortal/Home/CorporateLawTools>; for more on investment, see <http://www.business-humanrights.org/SpecialRepPortal/Home/>

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¹⁵ Business & Human Rights Resource Centre, portal for the U.N. Special Representative, <http://www.business-humanrights.org/SpecialRepPortal/Home> (accessed 18 Oct 2011).

¹⁶ Examples of applications of the mandate's work can be found at <http://www.business-humanrights.org/media/documents/applications-of-framework-jun-2011.pdf> (accessed 27 Oct 2011). The ISO 26000 Social Responsibility guidance is only available for a fee, but general information can be found at http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/social_responsibility.htm (accessed 13 Nov 2011). See also OECD, "New OECD guidelines to protect human rights and social development," 25 May 2011, http://www.oecd.org/document/19/0,3746,en_21571361_44315115_48029523_1_1_1_1,00.html (accessed 13 Nov 2011).

¹⁷ Ruggie 2011 op. cit., "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework," <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed 27 Oct 2011).

¹⁸ Ruggie detailed these problems in his 2006 report: John Ruggie, Interim Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Doc. E/CN.4/2006/97 (2006), <http://www1.umn.edu/humanrts/business/RuggieReport2006.html> (accessed 28 Oct 2011).

¹⁹ Ruggie 2011 op. cit., Guiding Principles on Business and Human Rights, Guiding Principle 2. For more information, see "Exploring Extraterritoriality in Business and Human Rights: Summary Note of Expert Meeting," 14 September 2010, available with other relevant documents at <http://www.business-humanrights.org/SpecialRepPortal/Home/Materialsbytopic/Extraterritorialjurisdiction> (accessed 27 Oct 2011).

²⁰ For a discussion of how human rights are relevant to companies, see "Human Rights Translated: A Business Reference Guide", Office of the United Nations High Commissioner for Human Rights et. al., 2008, http://www.unglobalcompact.org/NewsAndEvents/news_archives/2008_12_05.html (accessed 27 Oct 2011). For an example of the debate about the application of international human rights law to corporations, see the online consultation held for the draft Guiding Principles, beginning page 82, <http://www.business-humanrights.org/media/documents/ruggie/online-forum-re-guiding-principles-nov-2010-to-jan-2011.pdf> (accessed 28 Oct 2011).

²¹ For an argument that 'respect' is too low a standard, see David Bilchitz, "The Ruggie Framework: An Adequate Rubric for Corporate Human Rights Obligations?," *Sur International Journal on Human Rights*, vol. 7, no. 12, Jun 2010, p. 199, <http://www.surjournal.org/eng/conteudos/pdf/12/10.pdf> (accessed 10 Nov 2011). The two Ruggie quotes are from his 2008 (para. 55) and 2009 (para. 48) reports respectively, both available at <http://www.business-humanrights.org/SpecialRepPortal/Home/ReportstoUNHumanRightsCouncil> (accessed 10 Nov 2011).

²² For more information on company-based grievance mechanisms, see <http://www.business-humanrights.org/SpecialRepPortal/Home/Materialsbytopic/Grievancemechanismsnon-judicial> (accessed 27 Oct 2011).

²³ For Ruggie's explanation of his decision not to pursue an international instrument, see John Ruggie, *Ethical Corporation*, May 2007, "Treaty road not travelled", <http://www.ethicalcorp.com/content/john-ruggie-business-and-human-rights-%E2%80%93-treaty-road-not-travelled> (accessed 24 Oct 2011).

²⁴ Human Rights Watch, "UN Human Rights Council: Weak Stance on Business Standards", 16 June 2011, <http://www.hrw.org/en/news/2011/06/16/un-human-rights-council-weak-stance-business-standards> (accessed 10 Nov 2011). Michael D. Goldhaber, "Analysis: The Millstein-Lipton Debate on U.N. Human Rights", 3 June 2008, <http://amlawdaily.typepad.com/amlawdaily/2008/06/analysis-the-mi.html> (accessed 10 Nov 2011).

²⁵ The Office of the High Commissioner for Human Rights subsequently published "The Corporate Responsibility to Respect Human Rights: An Interpretive Guide", Advance Unedited Version, November 2011, <http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf> (accessed 22 Nov 2011).

²⁶ John Ruggie, "Presentation of Report to United Nations Human Rights Council", 30 May 2011, <http://www.business-humanrights.org/media/documents/ruggie-statement-to-un-human-rights-council-30-may-2011.pdf> (accessed 10 Nov 2011).

