

**Implementing UN Guiding Principles
on Business and Human Rights**

S T A T E M E N T

by

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Ladies and Gentlemen,

Distinguished Panellists,

First of all, let me express my gratitude to Allerhand Institute for organising this Conference, which offers a unique opportunity to exchange information, good practices and lessons learned with regard to implementing the UN Guiding Principles on Business and Human Rights.

I am honoured to be invited here today, especially as the issue of businesses' impact on human rights has attracted the attention of the United Nations.

Over the past decade, many actors, including the UN, have been studying the scope of business' human rights responsibilities and exploring ways for corporate actors to be accountable for the impact of their activities on human rights.

As a result of this process, the international community has developed several initiatives and mechanisms that aim at clarifying the respective roles and responsibilities of governments and business with regard to protection and respect for human rights.

One early UN-based initiative was called the **Norms on Transnational Corporations and Other Business Enterprises**. It was drafted by an expert subsidiary body of what was then the Commission on Human Rights.

Its objective was to impose on companies, directly under international law, the same range of human rights duties that States have accepted for themselves under treaties they have ratified: "to promote, secure the fulfilment of, respect, ensure respect of and protect human rights".

This proposal caused a deeply divisive debate between the business community and human rights advocacy groups while stimulating little support from Governments. The Commission declined to act on the proposal.

In 2005 Commission established a mandate for a **Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises**.

The initial duration of the mandate was only two years and it was intended mainly to identify and clarify existing standards and practices. The Special Representative began an extensive programme of systematic research that has continued to the present.

In 2007, the Council renewed the mandate of the Special Representative for an additional year, inviting him to **submit recommendations**.

In June 2008 the Special Representative made only **one recommendation**: that the Council support the "**Protect, Respect and Remedy**" **Framework** he had developed following three years of research and consultations. The Council did so, unanimously "welcoming" the Framework in its resolution 8/7.

"Protect, Respect and Remedy" Framework rests on three pillars:

- the State duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies and regulations.
- 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 by victims to effective remedy, both judicial and non-judicial.

Each pillar is an essential component in an inter-related and dynamic system of preventative and remedial measures: the State duty to protect because it lies at the very core of the international human rights regime; the corporate responsibility to respect because it is the basic expectation society has of business in relation to human rights; and access to remedy because even the most united efforts cannot prevent all abuse.

In its resolution 8/7, welcoming the “Protect, Respect and Remedy” Framework, the Council also extended the Special Representative’s mandate until June 2011, asking him to “operationalise” the Framework – at is, to provide concrete and practical recommendations for its implementation. It took the form of “Guiding Principles”.

The Guiding Principles have been elaborated through extensive discussions with all stakeholder groups, including Governments, business enterprises and civil society.

The Guiding Principles address how Governments should help companies avoid getting drawn into the kinds of human rights abuses.

The Guiding Principles are grounded in recognition of:

- (a) **The State duty to protect human rights.** States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- (b) **The corporate responsibility to respect HR.** The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- (c) **Access to remedy.** The need for rights and obligations to be matched to appropriate and effective remedies when breached.

I will focus on the first set of principles related to the State duty to protect human rights.

3. In meeting their duty to protect, States should:

- (a) Enforce laws that are aimed at requiring business to respect human rights and to assess the adequacy of such laws;
- (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises enable business respect for human rights;
- (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;
- (d) Encourage business enterprises to communicate how they address their human rights impacts.

4. States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, by requiring human rights due diligence.

5. States should exercise adequate oversight in order to meet their international human rights obligations when they contract with business enterprises to provide services that may impact upon the enjoyment of human rights.

6. States should promote respect for human rights by business enterprises with which they conduct commercial transactions.

7. Because the risk of gross human rights abuses is increased in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses.

(a) engage at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;

(b) provide adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;

(c) deny access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation;

(d) ensure that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.

8. States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.

9. States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.

10. States, when acting as members of multilateral institutions that deal with business related issues, should:

(a) Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor prevent business enterprises from respecting human rights;

(b) Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;

(c) Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.

These Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.

These Guiding Principles should be understood as a coherent whole and should be read, individually and collectively.

These Guiding Principles should be implemented in a non-discriminatory manner, with particular attention to the rights and needs of individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized.

Nothing in these Guiding Principles should be read as creating new international law obligations, or as limiting or undermining any legal obligations a State may have undertaken or be subject to under international law with regard to human rights.

UN Working Group on the issue of human rights and transnational corporations and other business enterprises consists of 5 members appointed in 2011 for 3 years.

The Working Group is:

- to promote the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and HR;
- to identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles;

- to develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors, including relevant United Nations bodies, specialized agencies, funds and programmes;
- to guide the work of the Forum on Business and HR.

The Working Group published in April 2012 its **report on the issue of human rights and transnational corporations and other business enterprises**. Report contains: preliminary views concerning the background and context of the mandate, positive examples of existing initiatives to disseminate and implement the Guiding Principles on Business and Human Rights, and main proposals and recommendations made by stakeholders in submissions to the Working Group.

The key conclusions of the report are as follows:

Business is a manifestation of opportunity, through the transformation of factors of production – land, labour, finance and technology – into goods or services, which can contribute to economic development.

By meeting their differentiated but complementary responsibilities, as outlined in the Guiding Principles, States and business enterprises have the potential to ensure that economic growth is achieved through more inclusive, equitable business practices.

The Guiding Principles are a powerful enabler for better decision-making by States and enterprises alike.

The approach of the Guiding Principles to respecting rights offers a road map for doing business better by lowering risk, creating opportunity, avoiding conflict, improving external relations, safeguarding productivity and enhancing value.

The Guiding Principles present an unprecedented opportunity to focus the good efforts of States, businesses and civil society on the unified goal of universal business respect for human rights, for the benefit of rights-holders everywhere.

UN Forum on Business and Human Rights

The main focus of the Forum is to discuss trends and challenges in the implementation of the Guiding Principles on Business and Human Rights for implementation of the UN "Protect, Respect and Remedy" Framework.

The first annual Forum took place in December 2012 in Geneva and was chaired by Professor John Ruggie, former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

The keynote speakers included: Ms. Navi Pillay, UN High Commissioner for Human Rights; Mr. Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights, and Labour of the United States; Mr. Stavros Lambrinidis, EU Special Representative for Human Rights.

Mr. Stavros Lambrinidis, EU Special Representative for Human Rights stressed that:

The European Commission is currently working on a report on EU priorities for effective implementation of the UN Guiding Principles, as well as other policy initiatives;

The Commission is also working to improve the functioning of the internal market, making a difference to sustainable growth and employment, whilst contributing to broad environmental and social objectives;

According to the EU Strategic Framework for Human Rights and Democracy, the EU Member States are working on National Action Plans on business and human rights.

EU Strategic Framework on Human Rights and Democracy was adopted in June 2012. The EU will encourage and contribute to implementation of the UN Guiding Principles on Business and Human Rights through:

- Ensuring implementation to the Commission Communication on Corporate Social Responsibility, in particular by developing and disseminating human rights guidance for three business sectors (ICT; oil and gas; employment and recruitment agencies), and for small and medium-sized enterprises (2013 Commission);
- Publishing a report on EU priorities for the effective implementation of the UN Guiding Principles. (End of 2012 Commission)
- Developing national plans for EU Member States on implementation of the UN Guiding Principles. (2013 Member States)

National plans for EU Member States on implementation of the UN Guiding Principles

Poland attaches great importance to the activities that the EU is undertaking in promoting human rights and business, and fully supports a coordinated EU approach.

The Polish government has already begun works aimed at developing its national plan on implementation of the Guiding Principles. This entails cooperation of both governmental and non-governmental stakeholders.

The implementation of the Guiding Principles requires the cooperation of various ministries, including the Ministry of Economy, the Ministry of Labour and Social Policy, the Ministry of Justice and the Ministry of Foreign Affairs and other ministries covering separate domains of the Guiding Principles.

I wish you successful meeting and fruitful discussions.

Thank you very much for your attention.