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UN Guiding Principles on Business and Human Rights

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Early UN initiatives on Business and Human Rights

- Norms on Transnational Corporations and Other Business Enterprises with regard to Human Rights (2003)
- Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (2005)
- “Protect, Respect and Remedy” Framework (2008)



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Norms on Transnational Corporations and Other Business Enterprises

The main objective of the Norms 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 fulfillment of, ensure respect of and protect human rights”



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Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises

- Initial task: „to identify and clarify” existing standards and practices”;
- In 2007, the Council renewed the mandate of the SR for another year, inviting him to submit recommendations;
- In 2008 the Special Representative made only one recommendation: that the Council support the “Protect, Respect and Remedy” Framework.



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“Protect, Respect and Remedy” Framework

- Rests on three pillars:
 - the State duty to protect against human rights abuses by third parties;
 - the corporate responsibility to respect human rights;
 - the need for greater access by victims to effective remedy.
- In resolution 8/7, the Human Rights Council asked the Special Rapporteur to provide concrete and practical recommendations for the Framework’s implementation.
- The recommendations took the form of “Guiding Principles” published in 2011.



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UN Guiding Principles on Business and Human Rights

- Guiding Principles are based on three pillars:
 - I. The State duty to protect HR:** States' existing obligations to respect, protect and fulfill human rights and fundamental freedoms;
 - II. 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;
 - III. Access to remedy:** The need for rights and obligations to be matched to appropriate and effective remedies when breached.



States' obligations to respect, protect and fulfil human rights and fundamental freedoms

Operational principles

3. In meeting their duty to protect, States should:
 - enforce laws that are aimed at requiring business to respect human rights, and to assess the adequacy of such laws and address any gaps;
 - ensure that other laws and policies governing the creation and ongoing operation of business do not constrain but enable business respect for human rights;
 - provide effective guidance to business enterprises on how to respect human rights throughout their operations;
 - encourage business enterprises to communicate how they address their human rights impacts.



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States' obligations to respect, protect and fulfil human rights and fundamental freedoms

The State-business nexus

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



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Ministry of Foreign Affairs

States' obligations to respect, protect and fulfil human rights and fundamental freedoms

Supporting business respect for HR in conflict-affected areas

7. States should help ensure that business enterprises operating in conflict-affected areas are not involved with human rights abuses, including by:
 - engaging with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities;
 - providing adequate assistance to business enterprises to assess and address the risks of abuses, paying special attention to both gender-based and sexual violence;
 - denying access to public support and services for a business enterprise that is involved with gross human rights abuses;
 - ensuring that their current policies, legislation and regulations are effective in addressing the risk of business involvement in gross human rights abuses.



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States' obligations to respect, protect and fulfil human rights and fundamental freedoms

Ensuring policy coherence

8. States should ensure that governmental departments that shape business practices are aware of and observe the State's human rights obligations when fulfilling their 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.



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States' obligations to respect, protect and fulfil human rights and fundamental freedoms

10. States, when acting as members of multilateral institutions that deal with business related issues, should:
 - seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;
 - encourage those institutions to promote business respect for human rights and to help States meet their duty to protect against human rights abuse by business enterprises;
 - draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.



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UN Guiding Principles on Business and Human Rights

- 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



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UN Guiding Principles on Business and Human Rights

- Guiding Principles are not creating any new obligations for states.

„The 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.”

Special Representative, June 2011



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UN Working Group on the issue of human rights and transnational corporations and other business enterprises

The 5 members of the Working Group were appointed in 2011 for the period of 3 years. Main tasks:

- 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;
- to guide the work of the Forum on Business and HR.



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UN Working Group on the issue of human rights and transnational corporations and other business enterprises

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



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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

- Business is a manifestation of opportunity, through the transformation of factors of production into goods or services, which can contribute to economic development.
- States and business enterprises have the potential to ensure that economic growth is achieved through more inclusive, equitable business practices.



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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

- The Guiding Principles are a powerful enabler for better decision-making by States and business.
- 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 a unique opportunity to focus the good efforts of States, businesses and civil society on the goal of universal business respect for human rights.



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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. It 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 Labor of the United States; Mr. Stavros Lambrinidis, EU Special Representative for Human Rights.



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UN Forum on Business and Human Rights, Geneva 3-5 December 2012

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



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EU Strategic Framework on Human Rights and Democracy

- 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 (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)



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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.
- Poland has begun its works aimed at developing its national plan on implementation of the Guiding Principles.
- This entails cooperation of different stakeholders – both governmental and non-governmental.



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Thank you for your attention.