

# Business and Human Rights: Accountability and Expectations

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# Context



# Ruggie Framework

- John Ruggie, UN Special Representative on Human Rights and Transnational Corporations
  - States have a duty to protect human rights
  - Corporations have a responsibility to respect human rights
  - Effective access to remedies
- Corporations can violate all human rights: civil, political, economic, social, cultural, labour and collective rights
- Applies to all corporations



# 31 Guiding Principles

10 – State Duty

14 – Corporation  
Responsibility

6 - Remedy



# State Duty to Protect Human Rights

- **GP 1:** “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate,, punish and redress such abuse through effective policies, legislation, regulations and adjudication.”
- **GP 2:** “States should set out clearly the expectation that all business enterprises domiciled in their territory and /or jurisdiction respect human rights throughout their operation.”
- Actions and omissions by state agents and by non-state actors
- Regulate and control corporate nationals, and coherent policies
- Extraterritorial jurisdiction
- State-owned enterprises: GP 4: “owned”, “controlled”, “receive substantial support”



# Corporate Responsibility to Respect Human Rights

- **GP 13:** “The responsibility to respect human rights requires that business enterprises:
  - (a). Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
  - (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”
- **GP 15:** “In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:
  - (a) A policy commitment to meet their responsibility to respect human rights;
  - (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
  - (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”



# Corporate Responsibility to Respect Human Rights

- All corporations and all human rights
- Senior level policies reflected in operations
  - Difference between Corporate Social Responsibility policies and human rights responsibilities
  - Risk management
- Nature of “due diligence” about human rights risks
  - Impact assessment
  - Consultation
  - Reporting and tracking
  - Suppliers and others
- Voluntary
  - Based on “social expectations - as part of what is sometimes called a company’s social licence to operate”
  - Effect on small corporations, non-consumer industry



# Access to Remedy

- **GP 25-28:** States must take appropriate steps to ensure judicial and non-judicial remedies
- **GP 29:** “Business “should establish or participate in effective operational level grievance mechanisms for individuals and communities who may be adversely impacted”
- **GP 31:** Effectiveness criteria for non-judicial grievance mechanisms: legitimate; accessible; predictable; equitable; transparent; rights-compatible; source of continuous learning
- International remedies
  - OECD Guidelines on Multinational Enterprises 2011
  - *Global Witness v. Afrimex*
- Costs, standing, lawyers



# Ways Forward for Accountability

- Enhanced State legal responsibilities
- Transparent and accountable corporate decision-making
- Voluntarism and law
- Nature of human rights



# Ways Forward

- Ruggie: 'Governments should not assume they are helping business by failing to provide adequate guidance for, or regulation of, the human rights impact of corporate activities. On the contrary, the less governments do, the more they increase reputational and other risks to business.'
- “[We do not like the fact that] the Nike product has become synonymous with slave wages, forced overtime and arbitrary abuse.” - Nike CEO Philip Knight (1998)

