

**Trygve Lie Symposium on Fundamental Freedoms
New York, 24 September 2010
Opening Remarks
Professor John G. Ruggie
Special Representative of the UN Secretary-General
for Business and Human Rights**

Excellencies, Ladies and Gentlemen,

I am immensely grateful to the government of Norway – and to Foreign Minister Støre personally – for being the lead sponsor of my Human Rights Council mandate on business and human rights, and for their outstanding support. I also want to thank the Russian Federation, a co-sponsor along with Argentina, India and Nigeria – and the other panelists in today’s discussion.

The international community is still in the early stages of adapting the human rights regime to provide more effective protection against business-related human rights harm. Yet the diversity of countries sponsoring my mandate alone signals the widespread recognition that change is necessary.

Our fundamental challenge is this. Recent decades have witnessed a growing misalignment, from local levels to the global, between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. No country is immune. These misalignments create the permissive environment within which blameworthy acts by business enterprises may occur without adequate sanctioning or reparation. Their human rights consequences, and their adverse impact on the sustainability of markets and enterprises themselves, have become major concerns.

In 2005, this led the then UN Commission on Human Rights to request the Secretary-General to appoint a Special Representative on the issue of human rights and transnational corporations and other business enterprises, first to map out the challenges and then to make recommendations for dealing with them.

Although the number of public and private initiatives has increased rapidly in recent years, they have not acquired sufficient scale to reach a tipping point, to truly shift markets. One major reason has been the lack of an authoritative focal point around which the expectations and actions of relevant stakeholders could converge – be they states, businesses, affected individuals and communities, or civil society at large.

Therefore, when I was requested to make recommendations to the Human Rights Council in 2008, I made only one: that it endorse what I called a conceptual and policy framework. In itself, this would hardly resolve all outstanding business and human rights challenges. But it was my hope that it would become a common foundation on which thinking and action could build over time. The Human Rights Council was unanimous in welcoming the framework, and extended my mandate another three years with the task of “operationalizing” and “promoting” it.

The framework has already enjoyed considerable uptake by states, companies and business associations, international institutions and civil society. Following an extensive round of stakeholder consultations in October, I will prepare the concrete guidance the Council has requested for the framework’s implementation.

The framework rests on three foundational principles: the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur; and greater access by victims to effective remedy, judicial and non-judicial.

Each principle is an essential component in a dynamic whole: the state duty to protect because it lies at the very core of the international human rights regime; an independent 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 concerted efforts cannot prevent all abuse.

The framework's normative contribution does not stem from any new legal obligations, but from the compilation of diverse existing standards and practices; integrating them into a single and coherent template; elaborating their implications for states and businesses; and helping us to identify where current practices fall short and how they might be improved.

So what are the key areas for improvement?

For states, it is dealing with widespread legal and policy gaps and incoherence. The most common gap is the failure to enforce existing laws, although for “at-risk” and vulnerable groups there often is inadequate legal protection in the first place. The most prevalent cause of legal and policy incoherence is that government departments and agencies which directly shape business practices – including corporate law and securities regulation, investment promotion, export credit and insurance, trade and so on – typically work in isolation from, and uninformed by, their government's own human rights obligations and agencies.

For companies, it is realizing that the corporate responsibility to respect human rights cannot be met by words alone: it requires proactive measures whereby companies “know and show” that they respect rights. The only way for them to do that is to exercise adequate human rights due diligence, whereby they identify and address adverse human rights impacts of their business activities and relationships. This involves assessing such impacts; integrating respect for human rights across relevant internal functions and processes, including control and oversight systems; and tracking as well as communicating performance.

Access to remedy is an integral part of both the state duty to protect and the corporate responsibility to respect. Yet on the state side, obstacles to judicial remedies abound and the universe of state-based non-judicial grievance mechanisms is under-populated and under-resourced.

For companies, grievance mechanisms at the site of their operations are particularly useful. First, they serve as early warning systems, providing companies with ongoing information about their current or potential human rights impacts from those impacted. By analyzing trends and patterns in complaints, companies can identify systemic problems and adapt their practices accordingly. Second, these mechanisms make it possible for grievances to be addressed and remediated directly, thereby preventing harm from being compounded and grievances from escalating. I am pleased to report that major companies with business operations in Russia and South Africa, two countries represented on this panel, are participating in a pilot project under my mandate, designed to test criteria for effective company-level grievance mechanisms.

Friends, these are but a few illustrative examples of a comprehensive approach to a complex – indeed, historic – set of challenges. There is no single silver bullet solution to the institutional misalignments in the business and human rights domain. Instead, all actors – states, businesses, and civil society – must learn to do many things differently. But those things must cohere and become cumulative. That is what the “Protect, Respect and Remedy” framework is intended to help achieve. I very much hope that I will continue to have the support of all stakeholder groups when the Human Rights Council next June considers my proposals for the framework’s implementation.

Thank you, and I look forward to our discussion.

John G. Ruggie is Berthold Beitz Professor in Human Rights and International Affairs at the John F. Kennedy School of Government and Affiliated Professor in International Legal Studies at Harvard Law School. He serves as Special Representative of the United Nations Secretary-General for Business & Human Rights.