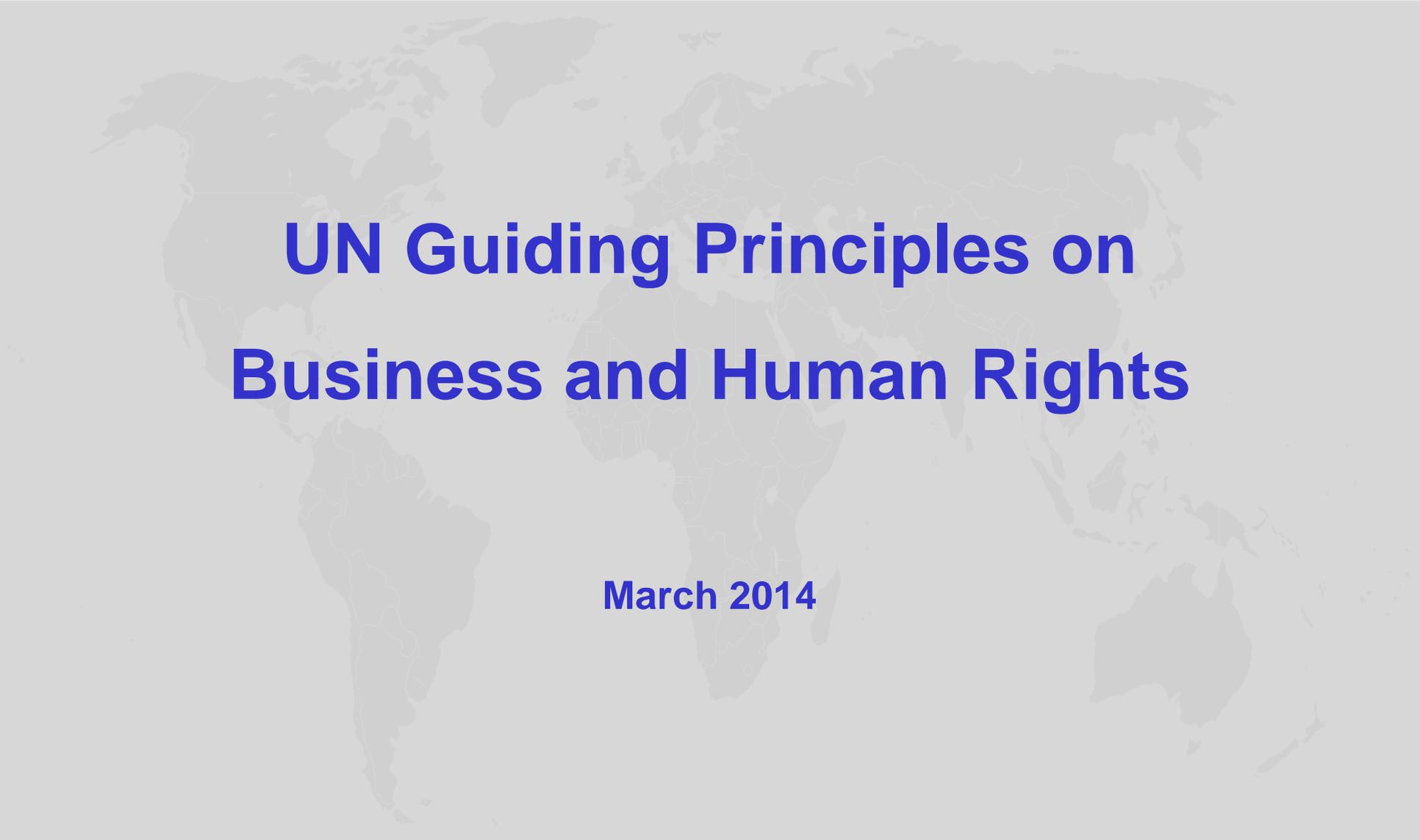




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# **UN Guiding Principles on Business and Human Rights**

**March 2014**



## Context

- In August 2003 a sub-commission of the UN Commission on Human Rights presented the so-called “**draft norms**” on the responsibilities of corporations with regard to human rights.
- These “draft norms” took the approach that the **duty of governments to enforce human rights could be transferred to companies**, sometimes in a binding manner.
- At the 60th meeting of the UN Commission on Human Rights in April 2004, the “**draft norms**” were rejected. Instead, a **special representative for human rights and multilateral enterprises (John Ruggie) was appointed** and asked to present recommendations on the responsibility of multinational enterprises.

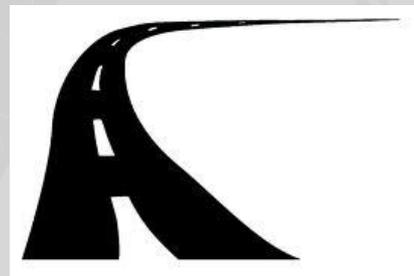


- In his report presented in April 2008, UN special representative John Ruggie proposes a concept for human rights and companies which he breaks down into three principles: **protect, respect and remedy**:
  - Protect: it is the duty of the state to protect its people against human rights infringements by non-state players.
  - Respect: it is the duty of companies to respect human rights and to put in place the management structures necessary to this end.
  - Remedy: judicial and non-judicial grievance mechanisms need to be developed and reinforced in order to improve defence against human rights infringements.



- The UN Human Rights Council endorsed the “protect-respect-remedy” framework in 2008 and asked Jon Ruggie to operationalise it.
- This finally led to the **UN Guiding Principles for Business and Human Rights**, which were unanimously endorsed by the UN Human Rights Council in June 2011.

“Protect, Respect,  
Remedy” Framework  
(2008)



UN Guiding Principles on  
Business and Human  
Rights (2011)

“UN Draft Norms” (2003)



## The UN Guiding Principles for Business and Human Rights

- The UN Guiding Principles are based on and operationalise the “**protect-respect-remedy**” framework, which the UN Human Rights Council endorsed in 2011.
- The UN Guiding Principles contain **recommendations to governments and businesses**.
- The **principles do not impose new legal obligations on business**, or change the nature of existing human rights instruments.
- They rather aim to articulate what these established instruments mean, for both States and companies, and to address the gap between law and practice.

## The State duty to protect

- States are the primary source of Human Rights law.
- Governments which establish laws, implement and enforce them are the prerequisite for effective respect by companies
- A huge challenge are weak governance zones
  - Clouding of the line between protect and respect
  - Expectation by society that companies will step in
- Expectation on States to address existing gaps in protection



## **Business needs to track Government intentions**

- Risk of constraints on business.
- EU national action plans being developed.
- Council of Europe has started to draft a standard on the implementation of the UN Guiding Principles.
- Reporting requirements.
- Conditionality (Procurement, Export credits, Extraterritoriality of domestic laws).
- Need to work to ensure focus of the Principles is not just on business behaviour.



## Corporate Responsibility to Respect Human Rights

- “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.” (Principle 11)
  - Comply with all applicable laws (even if enforcement is weak)
  - Premise of “do no harm”: Have to look from the view of rights holders – bottom-up approach
  - Transition in expectation: From broad policy/CSR-Statements of intent to “Knowing and showing”
  - Framework is “guidance”, not a “standard”. No “one-size-fits-all” within or between companies / regions, etc.



- Do not harm means:
  - Avoid causing or contributing to adverse impacts through own activities; and
  - Seek to prevent or mitigate adverse impacts directly linked to company through business relationships - Even if they have not contributed to those impacts

“Avoid” = control (you are responsible for impacts)

“Seek to” = leverage (supplier is responsible for impacts)



## What is expected?

- Company Statement on Human Rights
  - No one way (stand-alone or within existing texts)
  - Adopted by Board
  - Be careful with language (Consistency of interpretation; How could it be viewed / misused by others?)
  - Implementation / dissemination (Who is responsible? Are Resources available? )



- Due Diligence
  - Guiding Principle 17 addresses the approach of using due diligence as a "tool" to help a company **identify, prevent, mitigate and account for any adverse human rights impacts.**
  - Due diligence can help answer the question "*how does a business know that it is doing no harm?*"
  - Due diligence should include assessing actual or potential human rights impacts, integrating and acting upon its findings, tracking responses and communicating any actions.
  - The company needs to not only look at its own operations, but also those created by any business relationships.



- Access to Remedy
  - Need to provide effective mechanisms to address negative Human Rights impacts
  - Consider own mechanism
    - ✓ Real, accessible and credible
  - Know national legal context
    - ✓ National Human Rights Institutes
  - Help line, contact person
    - ✓ Process – transparent
    - ✓ Outcome - transparent



## UN Working Group on Business and Human Rights

- In June 2011 the UN Human Rights Council decided to set up a Working Group on Business and Human Rights to promote the effective and comprehensive dissemination and implementation of the UN Guiding Principles on Business and Human Rights.
- The UN Working Group pursues three work streams through which it will deliver its mandate:
  - Global dissemination
  - Promoting implementation
  - Embedding in global governance frameworks



## Webcast of the Business and Human Rights Webinar is available online

- On 20 December 2012 IOE Secretary-General Brent Wilton delivered a webinar on the UN Guiding Principles on Business and Human Rights to provide employer organisation members, and their member companies, with a preliminary update on the implementation of the Guiding Principles, as well as to discuss challenges and obstacles.
- A webcast of this webinar is online available via the following link:  
<http://www.youtube.com/watch?v=jpYTflltm1I&feature=youtu.be>



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**Thank you very much  
for your attention!**