

The Ruggie Principles: A Turning Point for Business and Human Rights

In January 2011, amidst the early stirrings of the 'Arab Spring', telecommunication companies **Vodafone** and **France Télécom** were instructed by the Egyptian government to shut down mobile and internet services across the country. Next door in Libya, government forces allegedly bombed civilians with cluster munitions made by customers of major European banks, including **BBVA**, **Santander** and **Deutsche Bank**. And governments across the Arab region turned to technology supplied by American IT companies such as **Intel** to filter internet content and block websites.

As reports of violence across the Arab world dominate global news, companies increasingly face difficult questions about the extent to which their continued presence in these volatile countries contributes to, enables, or in some way legitimises the abuses that are occurring. While neither new nor confined to the Arab region, these questions have long gone unanswered, as companies and civil society have struggled to determine who bears responsibility for preventing or remedying human rights abuses when the very state whose job it is to prevent them is in fact the perpetrator.

But is it the role of business enterprises to prevent human rights abuses? For Professor John Ruggie, Special Representative to the UN Secretary-General on Business and Human Rights, the answer is unambiguously Yes.

A six-year journey

Professor Ruggie's work began in 2005, when then-UN Secretary-General Kofi Annan appointed him as Special Representative for Business and Human Rights. His mandate was specifically to explore how far corporate responsibility and accountability extended in the area of human rights, and how to define the respective roles of States and private corporations. The result was the 'Protect, Respect and Remedy' framework, which was unanimously accepted by the member States of the Human Rights Council in June 2008.

The framework rests on three pillars:

- The **state duty to protect** against human rights abuses by third parties, including businesses;
- The **corporate responsibility to respect** human rights, by preventing infringements of the rights of others and addressing adverse impacts should they occur; and
- Greater **access** by victims **to effective** remedy, both judicial and non-judicial.

In order to translate these principles into concrete, practical action by companies, Ruggie in turn developed guidance on their implementation. A three-year, international consultation involving companies (including F&C), States and civil society representatives has resulted in the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework".

Why do the Guiding Principles matter?

The Principles mark a major turning point insofar as they signal broad-based acceptance of the fundamental principle that business should be responsible for preventing, and therefore actively managing the risks of, human rights abuses linked to their activity. Their development is the product of a comprehensive multi-stakeholder consultation endorsed by the United Nations, and reflect detailed input from a critical mass of influential corporate voices.

Are they practical for business users?

The Guiding Principles seek to articulate the responsibilities of companies with respect to human rights and assist them in their implementation, by:

- Establishing a clear distinction between the responsibilities of States and businesses: while States are bound by international law to protect against human rights abuses, companies are expected to prevent abuses linked to their activity, and address any adverse human rights impacts they cause or to which they contribute.
- Providing companies with practical guidance on how to prevent and address human rights abuses. Specifically, companies should have in place a policy commitment to respect human rights; conduct a human rights due diligence process to identify, assess, manage and account for how they deal with their impacts on human rights; and have mechanisms in place to remediate any adverse impacts they cause or to which they contribute.
- Providing detailed standards by which States can measure and model the judicial and non-judicial remedies they make available for those who suffer business-related human rights abuses.

¹ This guidance document, the result of a lengthy and comprehensive multi-stakeholder consultation process, presents a set of 30 detailed, practical recommendations to help States and companies in the implementation of the Protect, Respect and Remedy framework. The official endorsement of the Guiding Principles by the UN Human Rights Council during its 17th session in June 2011 marked the culmination of Professor Ruggie's mandate.

Will they get traction?

The UN Human Rights Council's unanimous support for the Guiding Principles represents the first time in the history of the UN that member states endorse a text they had not negotiated themselves. Furthermore, the Principles have already been incorporated into global standards for businesses, such as the OECD Guidelines for Multinational Enterprises², the IFC Performance Standards³ and the new ISO26000 standard⁴. As these various voluntary initiatives become increasingly accepted and implemented, businesses will benefit from clearer regulation on human rights and thus create a level-playing field.

“For the first time ever, you have a convergence of standards and a common, level playing field in the business and human rights sphere, which will send stronger market signals to companies that these are the standards around which expectations and activities should converge. They have the strong backing of the international community, including by business itself.”

John Ruggie, 29 April, 2011

What next?

While Ruggie signals an extraordinary breakthrough, many real challenges remain: firstly, many governments themselves are perpetrators of abuse; and second, the very root of the problem – weak governments and weak institutions – makes it very difficult to enforce robust protection of human rights. What action should a company take if it has a business relationship with a government with a poor record of protecting human rights? This difficult question, increasingly relevant as transnational corporations seek to expand their markets or gain access to key feedstocks in countries with a record of human rights abuses, remains largely unanswered.

Yet despite these limitations, the Guiding Principles represent a major step in the right direction. They enshrine a new common understanding of corporate responsibility, and underscore the importance of strong, proactive management of human rights risks.

F&C Acts

F&C's engagement with companies operating in high-risk countries has long reflected the core belief that robust management of human rights risks is crucial to businesses' long-term success.

Poor management of labour conditions, security and relations with surrounding communities can result in legal, operational and reputational challenges, affecting a company's economic performance. In addition to engaging companies on this subject for over a decade, F&C has participated in the development of key international norms and standards in this area, such as the Guiding Principles themselves and the Guidance on Responsible Business in Conflict-Affected and High-Risk Areas⁵.

Through our human rights engagement programme, we have maintained close dialogue with more than 40 companies that face heightened human rights risks due to either the nature or location of their operations. We have encouraged companies to identify, assess and manage human rights risks at all stages of their operations, and to clearly communicate how impacts are addressed.

Examples of our engagement include:

- Encouraging extractive industry giants such as **Chevron** and **Anglo American** to develop a global human rights policy.
- Encouraging **G4S**, the world's largest private security provider, to develop and implement a robust human rights risk management system.
- Engaging with international mining companies, including **AngloGold Ashanti**, **Antofagasta**, **BHP Billiton** and **Xstrata** to encourage them to assess human rights risks earlier in the exploration process, particularly as they expand into high-risk areas.
- Visiting **Total's** pipeline operations in Burma and gaining an understanding of how best to manage human rights risks along the pipeline corridor. We encouraged the company to share best practice standards with its business partners on the ground.
- Encouraging companies operating in Sudan, including **Petrofac**, **CNPC**, **ONGC** and **Petronas**, to avoid accusations of complicity in human rights abuses by promoting revenue transparency at the government level.
- Discussing with IT companies, including **Cisco**, **Intel**, **Microsoft** and **Yahoo!**, their approach to access, security and privacy concerns across their businesses, especially in markets that control access to information and have weaker privacy and security standards.

² These guidelines provide voluntary principles and standards for responsible business conduct in areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests and taxation. URL: www.oecd.org/daf/investment/guidelines

³ The IFC Performance Standards outline the International Financial Corporation's guidelines on corporate environmental and social responsibility and form the requirements for receiving and retaining IFC financial support. They cover issues such as labour standards, biodiversity, climate change, business and human rights, supply-chain management, and transparency.

⁴ ISO 26000 is an international standard giving guidance on social responsibility. The standard contains voluntary guidance, not requirements, and therefore is not for use as a certification standard like ISO 9001 and ISO 14001.



In the wake of the Arab Spring:

- We have redoubled our efforts with telecom operators and technology companies, including **Vodafone** and France Télécom, focusing on key areas of good governance and internal controls, including human rights risk management.
- We wrote to 12 companies with operations in Libya, including **ENI, Repsol-YPF** and **Finmeccanica**, to probe how they were addressing the risk of complicity in human rights violations. We asked them to conduct systematic human rights impact assessments upon their return to the country, and examine how any lessons learned from the Libyan case could strengthen their approach to conflict-affected areas more broadly.
- In our dialogue with European and North American banks, including **BBVA, Santander, Deutsche Bank, Credit Suisse, UBS, Bank of America** and **Citigroup**, we have encouraged a more transparent and systematic approach to assessing the reputational risks associated with servicing companies involved in cluster munitions and landmines.

Going forward, F&C's engagement efforts will continue to centre on encouraging companies that face significant human rights-related risks to manage them effectively – drawing now on the universally-recognised Ruggie Framework and Guiding Principles. F&C, for example, co-leads an investor group that is running a pilot project to implement the UNGC-PRI Guidance on Responsible Business in Conflict-Affected and High-Risk Areas. The focus of the project will be on investee mining companies operating in the Katanga province of the Democratic Republic of Congo.

To be continued...

In 2011, the Ruggie Principles have placed human rights at the top of the agenda of companies and civil society. However, Ruggie's work is far from complete. Governments and companies have now the challenging task of implementing the recommendations under the Guiding Principles. To oversee their implementation and dissemination, the Human Rights Council will establish a Working Group consisting of five independent experts (to be appointed at the Council's next session in September 2011) for a period of three years.

In the meantime, and through our dialogue, we will continue to press businesses to ensure they manage risks related to human rights effectively. The hard truth is that, with the challenges posed by a warming world and population growth, political instability and the likelihood of conflict are on the rise. Companies that have identified and assessed the human rights risks they face and have robust systems in place to manage them will be less vulnerable to sudden changes in the political climate and better placed to fulfil their responsibility to respect human rights and protect shareholder value.

⁵ This guidance document was developed by the UN Global Compact, the Principles for Responsible Investment and an expert group comprised of company representatives, investors, NGOs and UN representatives. Available at http://www.unglobalcompact.org/docs/issues_doc/Peace_and_Business/Guidance_RB.pdf

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