

The UN Special Representative on Business and Human Rights

Anne Lindsay

What are the responsibilities of companies with regard to human rights? With the private sector influencing almost every aspect of our everyday lives, and many companies operating across national boundaries, how do we ensure that companies, both transnational and national, do not contribute to human rights abuses? The United Nations has given Special Representative John Ruggie another three years to develop recommendations and guidance for states and companies on this contentious issue.

Pressure

For some years there has been increasing pressure from civil society, responsible investors and some government representatives for clear standards for companies regarding human rights. Harvard professor John Ruggie was appointed in July 2005 as Special Representative of the UN Secretary General on the issue of human rights and transnational corporations. Prof. Ruggie has taken a pragmatic approach to the role, trying to build consensus with governments and business. Civil society and human rights groups have been involved in the process from the start, although at times the relationship has been strained.

CAFOD is one of the CIDSE group of Catholic development agencies which have been following Prof. Ruggie's work closely.¹ In February 2008 CIDSE made a submission to the Special Representative with seven illustrative case studies showing the impact on human rights by businesses from different industries.

The case studies, drawing on the work of partner organisations in the global South, focused on toy manufacture in China, soy cultivation in Brazil, mining in Honduras, the Philippines and Zambia, the Chad/Cameroon oil and gas pipeline, and labour rights abuses in Mexico's electronics industry.

Recommendations

The CIDSE paper made recommendations for measures to help improve companies' performance on human rights, including:

- Greater use of laws by home governments to apply to companies' operations abroad.
- Legal requirements on company directors to minimise negative environmental and social impacts, and to publish key information about company operations.
- An international advisory centre to provide developing countries with independent legal advice in contract negotiation with companies.
- An independent international ombudsperson with a mandate to investigate complaints of alleged human rights violations by companies.
- Further efforts to promote Free, Prior and Informed Consent for indigenous peoples.
- Ultimately the creation of a binding international human rights framework applying to companies, wherever they are based or operate.

CIDSE brought three experts from the South to Geneva in June 2008 to meet the Special Representative and give a clear account of the impact of companies on human rights in their countries. Sergio Cobo, director of Mexican organisation FOMENTO, and Maria Lourdes Cipriani, from Philippines Misereor Partnership, also spoke to UN Human Rights Council delegates.

Three principles

When Prof. Ruggie presented his findings to the Human Rights Council, following three years of consultations and numerous research projects, his report contained surprisingly few concrete recommendations.² Instead, the central idea is to develop a framework based on three principles:

- The state's duty to protect against human rights abuses.
- The corporate responsibility to respect human rights.
- The need for more effective access to remedies.

The Council adopted the report and agreed to extend the mandate for another three years, so that Ruggie can develop the framework described above. The extension opens up opportunities for investors, NGOs, communities and others to get involved in the process.

Concrete measures

Much of the analysis in the Special Representative's report is useful. He highlights that it is not enough to maintain the status quo. Globalisation has contributed to a governance gap when it comes to companies and human rights abuses. As the influence of businesses has increased, many national governments are unwilling or unable to protect the human rights of their citizens from action by unscrupulous companies. While companies are adept to exploit national and international legal frameworks, it is often very difficult for ordinary citizens to get redress.

This argument should be followed to its conclusion. The analysis must now lead to concrete measures to protect citizens' human rights from corporate abuses, not just to optional 'guidance' or good practice examples.

For the final outcome of the process to be useful and credible, more organisations, communities and individuals from the South need to participate in turning Prof. Ruggie's principles into practical recommendations. Ruggie has held 16 consultations of which 14 were multi-stakeholder consultations, but only three - in Johannesburg, Bangkok and Bogota – to date have been held outside Europe or the US. Many people whose human rights are directly affected by businesses, and many experts from the South, could add much to the discussion but have not been able to participate so far.³

In-depth analysis

It is important that the Special Representative looks at the experiences of those affected by corporate abuses. This has not yet happened in sufficient depth. NGOs have asked him to make more use of in-depth analysis of specific cases where individuals and communities have experienced corporate-related human rights abuse to inform his future recommendations.

In addition, CIDSE strongly supports the idea of using extra-territorial legislation more effectively. This means that the home government where a company has its headquarters would pass legislation covering overseas operations of businesses. This would not undermine the role of national governments in the South in protecting their citizens' human rights but would provide an extra form of protection.

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Notes

1. CIDSE: Coopération Internationale pour le Développement et la Solidarité / International Cooperation for Development and Solidarity, www.cidse.org.
2. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, Professor John Ruggie, to the United Nations Human Rights Council, Protect, Respect and Remedy: A Framework for Business and Human Rights, April 2008
3. For more information about the process and consultations, see www.businesshumanrights.org/Gettingstarted/UNSpecialRepresentative.

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