

Business and Human Rights at the UN: What Might Happen Next?

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ABSTRACT

Debates concerning corporate social and environmental responsibilities at the intergovernmental level have a long and complex history within the United Nations. The latest chapter in that history is the 2005 creation of an expert mandate on business and human rights. The mandate is emerging as the focal point for shaping thinking and potential future action in this field. This article examines recent developments on the subject of business and human rights and reflects on possible future actions that could be taken in this area over the coming years.

I. INTRODUCTION

Efforts to define the nature and scope of business responsibilities concerning internationally recognized human rights standards and to utilize international law generally as a means of influencing corporate behavior have taken a more central place on the corporate responsibility agenda in recent years. A growing number of company policy statements and operating practices reflect corporate leaders' increasing acknowledgement of some level of human rights responsibilities.¹

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1. The Business & Human Rights Resource Centre, *available at* <http://www.business-humanrights.org/Home>, tracks formal company policy statements explicitly referring to human rights. As of 15 January 2009, 236 companies with such statements are listed on the Resource Centre's website.

Initiatives like the Fair Labor Association,² the Voluntary Principles on Security and Human Rights,³ the Kimberley Process to certify diamonds,⁴ and the recently established effort by leading companies, nongovernmental organizations (NGOs), academics, socially responsible investors, and others to set standards on freedom of expression and user privacy on the Internet⁵ largely seek to address the roles and responsibilities of various industry sectors for specific human rights concerns. In most cases these initiatives, which are sometimes referred to by terms such as “civil regulation”⁶ and “co-regulation,”⁷ have unfolded, issue by issue, industry sector by industry sector, with limited involvement by governments. They have created a patchwork of new standards, new understandings, and new expectations, often with common themes but without consistency and adequate legitimacy in the eyes of the wider international community.

Debates concerning corporate social and environmental responsibilities at the inter-governmental level have a long and complex history within the United Nations. The creation by the UN in 2005 of an expert mandate on the issue of business and human rights⁸ is the latest chapter in that history. The mandate is emerging as the focal point for shaping thinking and potential future action in this field. This focus is due both to the legitimacy

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2. Launched in 1999, the Fair Labor Association, *available at* <http://www.fairlabor.org>, is a network of companies, nongovernmental organizations, and universities, dedicated to protecting workers' rights in member company operations worldwide through independent monitoring and verification using international labor standards.
 3. The Voluntary Principles on Security and Human Rights, *available at* <http://www.voluntaryprinciples.org>, is an initiative that began in 2000 with support from the governments of the United States and the United Kingdom (and now the governments of The Netherlands and Norway), major companies in the extractive and energy sectors, and NGOs. Its goal is to adopt a set of voluntary principles to guide companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms.
 4. The Kimberley Process to certify diamonds, *available at* <http://www.kimberleyprocess.com>, was launched in 2003 by governments, the international diamond industry, and civil society organizations to stem the flow of so-called “conflict diamonds”—rough diamonds used by rebel movements to finance wars.
 5. Press Release, Business for Social Responsibility, Companies, Human Rights Groups, Investors, Academics and Technology Leaders to Address International Free Expression and Privacy Challenges (18 Jan. 2007), *available at* <http://www.csrwire.com/PressRelease.php?id=7272>.
 6. See David Vogel, *The Private Regulation of Global Corporate Conduct 2* (Center for Responsible Business, University of California, Berkeley, Working Paper Series, Paper 34, 2006).
 7. See Philipp Pattberg, *The Transformation of Global Business Regulation 8* (Global Governance Project, Working Paper No. 18, 2006).
 8. *Human Rights and Transnational Corporations and Other Business Enterprises*, C.H.R. Res. 2005/69, U.N. ESCOR, Comm'n on Hum. Rts., 61st Sess., U.N. Doc. E/CN.4/RES/2005/69 (2005). This resolution recommends the appointment by the UN Secretary General of a special representative on the issue of human rights and transnational corporations and other business enterprises for an initial period of two years.

provided by the UN and to the fact that the mandate holder, John Ruggie,⁹ a well known international relations scholar and a former UN official, has successfully raised the level of debate in this area through consultation, research, and analysis, which governments, business representatives, and, to a growing extent, civil society organizations have welcomed.

Through his activities and three reports to the UN Human Rights Council, Ruggie has been largely responsible for moving what was a stalled and divisive debate to a new phase of dialogue and activity inside and outside the UN system. His reports, regional and expert consultations, surveys, and commissioning of expert studies on key topics have helped to generate significant interest in the subject within the business community and, increasingly, among governments.

This article examines recent developments within the United Nations on the subject of business and human rights, focusing in particular on Ruggie's work as the Secretary-General's Special Representative, and reflects on a number of possible actions that could be taken in the future given the recent renewal of this mandate by the UN Human Rights Council.¹⁰

II. LOOKING BACK: THE PATH OF BUSINESS AND HUMAN RIGHTS AT THE UNITED NATIONS

A. The Multinational Corporation and Changing Global Politics

In the 1960s, companies based in industrialized nations began to establish manufacturing subsidiaries in countries with less developed economies in an effort to overcome high trade barriers and take advantage of cost factors such as cheaper labor. The growing size and influence of these large companies became a matter of concern, especially for newly independent developing nations. They perceived multinational corporations as perpetuating colonial ties in economic terms and threatening political independence and development prospects.

In 1976, the Organization for Economic Cooperation and Development (OECD) adopted non-binding Guidelines for Multinational Enterprises.¹¹

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9. Ruggie is Kirkpatrick Professor of International Affairs and Director, Mossavar-Rahmani Center for Business and Government, Kennedy School of Government, Harvard University.
 10. *Mandate of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, adopted 18 June 2008, H.R.C. Res. 8/7, U.N. GAOR, Hum. Rts. Council, 8th Sess., 28th mtg., at 30, U.N. Doc. A/HRC/8/52 (2008).
 11. The Guidelines are part of the OECD Declaration and Decisions on International Investment and Multinational Enterprises, which was updated most recently in June 2000.

Mainly focused on issues of corporate governance, the OECD Guidelines also addressed employment, industrial relations, environmental, and consumer issues. Voluntary standards, such as the OECD Guidelines and the International Labor Organization's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy¹² (adopted in 1977 and amended in 2000), were viewed as a means to accommodate growing demand for more stringent international regulation of business.

Efforts by developing countries to control major corporations during this period could be seen most boldly within the United Nations. In 1974, the UN General Assembly passed a resolution calling for efforts "to formulate, adopt and implement an international code of conduct for transnational corporations" as part of a drive by developing nations to put in place a "New International Economic Order."¹³ Also during this period, the Commission on Transnational Corporations and the UN Centre for Transnational Corporations (UNCTC) were established.¹⁴ The UNCTC's mandate included monitoring transnational companies' social and environmental impacts, advising developing countries in their dealings with large corporations, and drafting proposals for normative frameworks that govern the activities of multinational companies.

None of these steps focused on corporate roles and responsibilities concerning international human rights standards, which were also coming into force during this period. Yet some governments were aware that activities of large corporations did raise human rights questions. For example, in 1977 foreign ministers of the European Economic Communities adopted a Code of Conduct for Companies Operating in South Africa in response to corporate activities under the apartheid system. This appears to have been the first intergovernmental document addressing the human rights responsibilities of companies.¹⁵ The same year, a report by the UNCTC, which the UN General Assembly had requested, presented an annotated outline for a code that included "respect by transnational corporations for human rights and fundamental freedoms" among the major principles relating to corporate activities.¹⁶

12. ILO, Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, *adopted* Nov. 1977, 204th Sess., *amended* Nov. 2000, 279th Sess. (2001), available at <http://www.ilo.org/public/english/employment/multi/download/english.pdf>.

13. *Programme of Action on the Establishment of a New International Economic Order*, G.A. Res. S-6/ 3202, U.N. GAOR, 6th Special Sess., Agenda Item 7, § V, U.N. Doc. A/RES/S-6/3202 (1974), includes five sub-paragraphs explaining the reasons for the proposed code which included preventing "interference in the internal affairs of the countries" where these corporations operated as well as issues relating to technology transfers and reinvestment of corporate profits in developing countries.

14. See, e.g., Thomas E. McCarthy, *Transnational Corporations and Human Rights*, in UN LAW/ FUNDAMENTAL RIGHTS: TWO TOPICS IN INTERNATIONAL LAW 175 (Antonio Cassese ed., 1979).

15. McCarthy, *supra* note 14, at 185 (referring to U.N. Doc. A/32/267).

16. UN Commission on Transnational Corporations, Report of the Inter-governmental Working Group on the Code of Conduct (First and Second Sessions), UN Doc. E/C.10/31 (Pt. I, II).

B. Business and the Quest for Development

By the 1980s, the effects of the oil crises in 1978 and 1979 and the ensuing debt crisis, as well as the liberalization of trade and capital flows, made foreign direct investment (FDI) increasingly important for developing countries. The emerging economic orthodoxy of “Neoliberalism” focused on liberalization of markets, privatization, and deregulation. Most developing country governments were persuaded that it was in their interests to move away from controlling and regulating multinational enterprises and toward facilitating their operations in host economies.

Developing countries sought to attract FDI, seen as necessary for moving their nations forward economically and socially. This attitudinal shift was a key factor leading to the liberalization of trade and foreign investment policies. The degree to which these policy changes were fully embraced by developing country governments or instead imposed by outside forces, such as the World Bank and the International Monetary Fund, continues to be debated in some circles. But clearly the international environment for multinational corporate activity had improved significantly.¹⁷ At the UN level, the proposed Code of Conduct was finally abandoned in 1994 as part of a restructuring in which the UNCTC was dismantled and aspects of the work of the Center and of the Commission on Transnational Corporations were integrated into a new division of the UN Conference on Trade and Development (UNCTAD).¹⁸

The more favorable political economy environment for private sector expansion did not eliminate the pressure on corporations to be more accountable for their social and environmental impacts. In fact, the scrutiny faced by major corporations increased dramatically in an emerging age of global media coverage, increased privatization of public services in many countries, and more organized civil society activism internationally. “State-centered” pressures on corporate actors, which had come primarily from Southern governments, were being replaced by “people-centered” scrutiny from organized lobby groups, consumer advocates, and individuals in the global North who focused largely on labor standards and environmental issues.

High profile cases involving the social and environmental impacts of companies such as Royal Dutch/Shell and its operations in Nigeria and the

17. For further discussion, see J.H. Dunning, *The Political Economy of International Production*, in THE UNITED NATIONS LIBRARY ON TRANSNATIONAL CORPORATIONS VOL. 7: GOVERNMENTS AND TRANSNATIONAL CORPORATIONS 309 (Theodore H. Moran ed., 1993).

18. See *Integration of the Commission on Transnational Corporations into the Institutional Machinery of the United Nations Conference on Trade and Development*, adopted 19 Dec. 1994, G.A. Res. 49/130, U.N. GAOR, 49th Sess., Agenda Item 12, U.N. Doc. A/RES/49/130 (1995).

plight of sweatshop workers for Nike and other garment manufacturers in South East Asia fuelled a renewed interest in corporate regulation at the international level. In response, a number of firms adopted their own codes of conduct. Coordinated approaches to develop industry specific codes and collective agreements between firms and trade unions in relation to supply networks began during this period. Alternative trade networks promoting environmentally sustainable products and better working conditions, as well as great attention to socially responsible investment funds, also began to flourish.

C. The United Nations Enters the Debate Anew

Within the United Nations, new approaches were also being developed. When Secretary-General Kofi Annan took office in 1997, he stressed the need for enhanced cooperation with the private sector to help the organization achieve its goals.¹⁹ At the World Economic Forum in 1999, Annan proposed a “global compact of shared values and principles” between the corporate sector and the United Nations. That call led to the UN Global Compact,²⁰ which by 2008 involved over 4,000 companies from around the world that voluntarily committed themselves to helping achieve UN goals and to upholding ten principles covering human rights, labor, the environment, and anti-corruption.

The Global Compact has been praised for engaging a diverse mix of companies and other stakeholders from all regions in learning and capacity building efforts, including in the area of human rights. But it has been criticized for not adequately monitoring participant performance and for potentially allowing corporations to gain public relations benefits for associating with the United Nations while maintaining questionable business practices. UN officials have explicitly stated that the Global Compact does not set out to “police, enforce, or measure the behavior or actions”²¹ of companies that claim to adhere to its principles; instead, it relies on public accountability, transparency, and the enlightened self-interest of companies to share their experiences in seeking to implement the ten principles.

Human rights advocates were deeply skeptical of initiatives like the Global Compact that focused on the “business case” for social responsibility and voluntary action rather than new forms of regulation. As the Global

19. See, e.g., JAMES TRAUB, *THE BEST INTENTIONS: KOFI ANNAN AND THE UN IN THE ERA OF AMERICAN WORLD POWER* 146–47 (2006).

20. United Nations Global Compact, available at <http://www.unglobalcompact.org>.

21. GLOBAL COMPACT OFFICE, UNITED NATIONS, *CORPORATE CITIZENSHIP IN THE WORLD ECONOMY: THE GLOBAL COMPACT* (2004), available at http://www.unglobalcompact.org/docs/about_the_gc/2.0.1.pdf.

Compact took shape, the UN Sub-Commission on the Promotion and Protection of Human Rights, an expert body mandated to carry out studies and make recommendations to the UN Commission on Human Rights (replaced by the UN Human Rights Council in 2006), developed its own "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights." This document was the first attempt by a UN human rights mechanism to specify the responsibilities of the private sector concerning issues such as the right to equal opportunity and non-discrimination, the right to security of persons, the rights of workers, and the rights of particular groups that corporate activities may impact such as indigenous peoples.

The Sub-Commission approved the Norms in August 2003.²² Stakeholders reacted in sharply divergent ways. NGOs supported the document, but business associations strongly criticized it. Supporters contended that the Norms provided internationally developed standards applicable to all businesses and were a useful tool not only for companies to assess their own activities but also for governments and others interested in evaluating business practices. They stressed that the document did not challenge the role of the State as primary duty bearer for human rights but instead sought to clarify corporate responsibilities "[w]ithin their respective spheres of activity and influence."²³

Supporters viewed the universal applicability of the Norms as an important step in holding all companies, the vast majority of which had not committed themselves to voluntary initiatives in this area, accountable for their impacts on human rights. The recommendations concerning monitoring of corporate compliance at national and international levels were highlighted as important sign posts for future government action.

Critics argued that the Norms did not adequately take into account the positive contributions of business towards the enjoyment of human rights. Business representatives argued that, in some cases, their responsibilities under the Sub-Commission Norms went beyond standards currently applicable to States. Moreover, imposing legal responsibilities on business could result in shifting the obligations to protect human rights from governments to the private sector, allowing States to avoid their own international obligations.²⁴

22. *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, adopted 13 Aug. 2003, Sub-Comm'n on the Promotion & Protect. of Hum. Rts. Res. 2003/12, U.N. ESCOR, Comm'n on Hum. Rts, Sub-Comm'n on the Promotion & Protect. of Hum. Rts., 55th Sess., U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003).

23. *Id.* ¶ 1.

24. For a more detailed analysis of the Sub-Commission Norms, see David Kinley, Justine Nolan & Natalie Zerial, *The Politics of Corporate Social Responsibility: Reflections on the United Nations Human Rights Norms for Corporations*, 25 COMPANIES & SECURITIES L.J. 30 (2007).

At its annual session in 2004, the Commission on Human Rights passed a resolution stating that while the Norms contained “useful elements and ideas” for its consideration, the document, as a proposal of the Sub-Commission, had not been requested by the Commission and had no legal standing. The resolution specifically indicated “that the Sub-Commission should not perform any monitoring function in this regard.”²⁵ Misperceptions about the scope and legal status of the Norms, lack of clarity around key concepts such as corporate “spheres of influence,” strong opposition from industry and trade unions, and lack of support and involvement among governments during the drafting process all contributed to the Commission’s decision not to accept the initiative.

The Commission’s decision was seen as a victory for critics of the Norms. But it also kept the issue of business responsibilities on the agenda by recommending to the UN Economic and Social Council (ECOSOC) that it

[r]equest the Office of the High Commissioner for Human Rights to compile a report setting out the scope and legal status of existing initiatives and standards relating to the responsibility of transnational corporations and related business enterprises with regard to human rights . . . in order for it [the Commission] to identify options for strengthening standards on the responsibilities of transnational corporations and related business enterprises with regard to human rights and possible means of implementation.²⁶

III. A NEW UN MANDATE EMERGES: REGULATION, VOLUNTARISM, OR BOTH?

The High Commissioner’s report,²⁷ submitted in 2005, highlighted “the need for the Commission to act expeditiously to build upon the significant momentum that currently exists to define and clarify the human rights responsibilities of business entities.”²⁸ The Office’s consultations in preparation for its report revealed “growing interest in discussing further the possibility of establishing a United Nations statement of universal human rights standards applicable to business.”²⁹ At its session in 2005, the Commission on Human Rights requested the UN Secretary-General to appoint a special representative on the issue of “human rights and transnational corporations and other

25. *Responsibilities of Transnational Corporations and Related Business Enterprises with Regard to Human Rights*, C.H.R. Res. 2004/116, U.N. ESCOR, Comm’n on Hum. Rts., 60th Sess., ¶ c, U.N. Doc. E/CN.4/2004/L.73/Rev.1 (2004).

26. *Id.* ¶ b.

27. *Report of the Sub-Commission on the Promotion and Protection of Human Rights*, U.N. ESCOR, Comm’n on Hum. Rts., 61st Sess., U.N. Doc. E/CN.4/2005/91 (2005).

28. *Id.* ¶ 52.

29. *Id.* ¶ 52(b).

business enterprises.”³⁰ In July 2005, ECOSOC approved the Commission’s request without amendments.³¹ On 28 July 2005, Secretary-General Kofi Annan appointed Ruggie as his Special Representative.³² Ruggie’s position, like that of other representatives and rapporteurs emanating from the former Commission on Human Rights, is a voluntary one, with limited human and material resources made available by the United Nations.

The Special Representative’s first report,³³ released in February 2006, was widely discussed primarily for its pointed critique of the Sub-Commission Norms. In the report, he argued:

[W]ithout a principled differentiation the allocation of responsibilities under the Norms in actual practice could come to hinge entirely on the respective capacities of States and corporations in particular situations—so that where States are unable or unwilling to act the job would be transferred to corporations. While this may be desirable in special circumstances and in relation to certain rights and obligations, as a general proposition it is deeply troubling. The issue is not simply one of fairness to companies or of inviting endless strategic gaming by States and companies alike. Far more profound is the fact that corporations are not democratic public interest institutions and that making them, in effect, co-equal duty bearers for the broad spectrum of human rights . . . may undermine efforts to build indigenous social capacity and to make Governments more responsible to their own citizenry.³⁴

Much to the dismay of supporters of the Sub-Commission’s work, Ruggie’s analysis included decidedly “un-UN like” language, characterizing the Norms as “a distraction”³⁵ engulfed in “doctrinal excesses,” “exaggerated legal claims and conceptual ambiguities.”³⁶ The Special Representative had concluded that the controversies surrounding the Norms would continue unless they were taken off the agenda. He perhaps did not anticipate, however, that many human rights advocates would interpret his words as implying that he was dismissing not only the Norms as such but also the broader

30. *Human Rights and Transnational Corporations and Other Business Enterprises*, C.H.R. Res. 2005/69, U.N. ESCOR, Comm’n on Hum. Rts., 61st Sess., 59th mtg., at 269, U.N. Doc. E/CN.4/RES/2005/69 (2005).

31. See *Provisional Summary Record of the 38th Meeting*, U.N. ESCOR, 2005 Substantive Sess., ¶¶ 46–48, U.N. Doc. E/2005/SR.38 (2005).

32. Press Release, United Nations, Secretary-General Appoints John Ruggie of United States Special Representative on Issue of Human Rights, Transnational Corporations, Other Business Enterprises (28 July 2005), available at <http://www.un.org/News/Press/docs/2005/sga934.doc.htm>.

33. *Promotion and Protection of Human Rights, Interim Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, U.N. ESCOR, Comm’n on Hum. Rts., 62d Sess, Provisional Agenda Item 17, U.N. Doc. E/CN.4/2006/97 (2006).

34. *Id.* ¶ 68.

35. *Id.* ¶ 69.

36. *Id.* ¶ 59.

aim of creating a normative framework at the global level that clarified the responsibilities of private sector actors.

Some civil society activists were already skeptical of Ruggie because of his central role in shaping the UN Global Compact while he was as an advisor to Secretary-General Kofi Annan. They saw in his critique further evidence that he could not exercise his human rights mandate in a way that built on the work of other UN human rights actors or incorporate the views of civil society stakeholders. Legal experts and supporters of the Norms, however, made few attempts to challenge Ruggie's analysis.³⁷ A letter in response to the report signed by over 100 NGOs made only one reference to the Norms in the context of calling on the Special Representative in his future efforts to "draw on many elements that have been identified through the work of other UN bodies."³⁸

Interestingly, civil society activists said little in support of the Special Representative's analysis where it was consistent with their own views. For example, the report's remarks concerning the weaknesses of voluntary corporate responsibility initiatives and the acknowledgment that "[i]t is essential to achieve greater conceptual clarity with regard to the respective responsibilities of States and corporations"³⁹ could be interpreted to suggest that the Special Representative believed new standards relating to business were potentially necessary. Yet such points of possible consensus were not highlighted at the time. Despite civil society concerns, Ruggie had successfully used his first report to move the business and human rights debate forward and had positioned himself to become a key player in future actions in this area.

In his second report, released in early 2007, the Special Representative sought to map the current landscape by examining "evolving standards,

37. Challenges to aspects of Ruggie's critique of the Norms can be found, for example, in a statement by Professor David Weissbrodt (a member of the Sub-Commission who led the drafting of the Norms) in a presentation before the American Society of International Law. David Weissbrodt, UN Perspectives on Business and Humanitarian and Human Rights Obligations (30 Mar. 2006). The International Federation for Human Rights also offered comments on Ruggie's report, questioning some aspects of his critique of the Sub-Commission Norms. INT'L FED'N OF HUMAN RIGHTS (FIDH), POSITION PAPER 442/2: COMMENTS TO THE INTERIM REPORT OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE ISSUE OF HUMAN RIGHTS AND TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES (Mar. 2006). For Ruggie's response, see Letter from John G. Ruggie, UN Special Representative on Transnational Corporations & Human Rights, Comment on FIDH Position Paper (20 Mar. 2006), available at http://www.fidh.org/article.php3?id_article=3166.

38. Joint Letter from NGOs to John G. Ruggie, Special Representative on Human Rights and Transnational Corporations and Other Business Enterprises, Office of the High Commissioner for Human Rights (18 May 2006), available at <http://www.amnestyusa.org/document.php?lang=e&id=engior500032006>.

39. *Promotion and Protection of Human Rights*, *supra* note 33, ¶ 70.

practices, gaps and trends.”⁴⁰ He signaled the potential for broad legal and political consensus around issues such as state duties to address corporate involvement in human rights abuses, while acknowledging that few states have policies, programs, or tools in place to deal with corporate human rights challenges. The Special Representative’s mapping exercise also reflected on such issues as developments in international criminal law, rules governing extraterritorial jurisdiction, the strengths and weaknesses of soft law mechanisms, and self-regulation by corporations.

Ruggie concluded his second report by suggesting that, due to the limited available time to respond to the broad mandate given to him by governments, he be granted another year to develop “views and recommendations” as called for in the resolution establishing the mandate. The UN Human Rights Council took up this request during its March 2007 session⁴¹ and agreed to extend the mandate for an additional year.

Of the eighteen governments that spoke during the Council session in response to the Special Representative’s second report, a significant number that previously had not provided public indications of their views concerning the subject matter took the floor. Some of these views are worth noting briefly, particularly because they give a sense of developing country concerns in this area. For example, the statement by Malaysia suggested that a clearer definition at the international level of what is considered responsible corporate behavior would address existing gaps and reflect a proper balance between corporate accountability and state responsibility. Pakistan’s statement reflected concerns raised by a number of developing country governments. For example, it stressed the need for more detailed studies of the impact of foreign and national direct investments on poverty reduction efforts and the importance of ensuring that corporate social responsibility initiatives do not undermine the competitiveness of small and medium size enterprises in developing countries. Other delegations asked the Special Representative for his initial views on the types of recommendations he would make in his final report, and some urged him to ensure that recommendations were specific enough to allow governments and others to follow up in the future.

40. *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts, Report of the Special Representative of the Secretary-General, John Ruggie*, U.N. GAOR, Hum. Rts. Council, 4th Sess., Agenda Item 2, ¶ 29 n.26, U.N. Doc A/HRC/4/35 (2007) (citing *Connelly v. R.T.Z. Corp.*, [1998] A.C. 854 (H.L. 1997) (appeal taken from Eng.); *Lubbe v. Cape PLC*, [2000] 4 All ER 268 (H.L.) (appeal taken from Eng.).

41. The author was present at the United Nations in Geneva during the Council discussion of the Special Representative’s report. The text of most of the government statements discussed in this section is available at <http://www.business-humanrights.org/Documents/RuggieHRC2007>. References not available in written form were taken from the author’s notes of the discussion.

The statement by France stood out from the views of other major industrialized nations. It questioned the effectiveness of voluntary initiatives and urged the Special Representative to do more in the future to identify corporate involvement in gross human rights violations and to ensure more thorough consideration of the voices of victims. This view was consistent with a joint statement by five NGOs that stressed:

[I]t is essential that the Council's discussions on business and human rights incorporate the perspective of those affected by corporate human rights abuses and are informed by an understanding of the nature and scale of such abuses, in order to ensure a comprehensive analysis of the problem and the identification of appropriate solutions.⁴²

Did the Special Representative's next report address such requests and concerns? Submitted to the UN Human Rights Council in April 2008, the Special Representative's third report, titled "Protect, Respect and Remedy: A Framework for Business and Human Rights,"⁴³ sets out a three part policy framework involving the state obligation to protect against human rights abuses committed by corporate actors, the corporate responsibility to respect all human rights, and the need for accessible and effective grievance mechanisms to address alleged breaches of human rights standards. In his presentation of the report to the UN Human Rights Council on 3 June 2008, the Special Representative stated: "My sole recommendation to the Council is that it welcomes the framework, invites its operationalization, and fosters its uptake by all relevant social actors."⁴⁴

While recognizing the Special Representative's central objective of achieving broad support among states and other actors for his proposed framework as a whole, and thus not emphasizing specific recommendations or proposals within it, it should be noted that a significant number of references in the main report clearly adopt recommendation style language. For example:

The State Duty to Protect:

- States, companies, the institutions supporting investments, and those designing arbitration procedures should work towards developing better means to balance investor interests and the needs of host States to discharge their human rights obligations. (Paragraph 38)

42. Amnesty Int'l, ESCR-Net, Human Rights Watch (HRW), Int'l Comm'n of Jurists & FIDH, Joint Statement to Human Rights Council, 4th Sess. (Mar. 2007), available at <http://www.reports-and-materials.org/NGO-joint-statement-to-UN-re-Ruggie-report-29-Mar-2007.pdf>.

43. *Protect, Respect and Remedy: A Framework for Business and Human Rights*, Report of the Special Representative of the Secretary-General, John Ruggie, U.N. GAOR, Hum. Rts. Council, 8th Sess., Agenda Item 3, U.N. Doc. A/HRC/8/5 (2008).

44. John G. Ruggie, Special Representative of the Secretary-General for Business and Human Rights, Presentation of Report to United Nations Human Rights Council (3 June 2008), available at <http://www.business-humanrights.org/Documents/Ruggie-Human-Rights-Council-3-Jun-2008.pdf>.

- On policy grounds alone, a strong case can be made that ECAs [Export Credit Agencies], representing not only commercial interests but also the broader public interest, should require clients to perform adequate due diligence on their potential human rights impacts. (Paragraph 40)

The Corporate Responsibility to Respect:

- Companies should consider three sets of factors. The first is the country contexts in which their business activities take place, to highlight any specific human rights challenges they may pose. The second is what human rights impacts their own activities may have within that context—for example, in their capacity as producers, service providers, employers, and neighbours. The third is whether they might contribute to abuse through the relationships connected to their activities, such as with business partners, suppliers, State agencies, and other non-State actors. (Paragraph 57)
- For the substantive content of the due diligence process, companies should look, at a minimum, to the international bill of human rights and the core conventions of the ILO, because the principles they embody comprise the benchmarks against which other social actors judge the human rights impacts of companies. (Paragraph 58)

Access to Remedies:

- States should strengthen judicial capacity to hear complaints and enforce remedies against all corporations operating or based in their territory, while also protecting against frivolous claims. States should address obstacles to access to justice, including for foreign plaintiffs—especially where alleged abuses reach the level of widespread and systematic human rights violations. (Paragraph 91)
- Non-judicial mechanisms to address alleged breaches of human rights standards should meet certain principles to be credible and effective. (Paragraph 92)⁴⁵

45. The Special Representative further states in paragraph 92 that, at a minimum, such mechanisms must be:

(a) Legitimate: a mechanism must have clear, transparent and sufficiently independent governance structures to ensure that no party to a particular grievance process can interfere with the fair conduct of that process; (b) Accessible: a mechanism must be publicized to those who may wish to access it and provide adequate assistance for aggrieved parties who may face barriers to access, including language, literacy, awareness, finance, distance, or fear of reprisal; (c) Predictable: a mechanism must provide a clear and known procedure with a time frame for each stage and clarity on the types of process and outcome it can (and cannot) offer, as well as a means of monitoring the implementation of any outcome; (d) Equitable: a mechanism must ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair and equitable terms; (e) Rights-compatible: a mechanism must ensure that its outcomes and remedies accord with internationally recognized human rights standards; (f) Transparent: a mechanism must provide sufficient transparency of process and outcome to meet the public interest concerns at stake and should presume transparency wherever possible; non-State mechanisms in particular should be transparent about the receipt of complaints and the key elements of their outcomes.

Protect, Respect and Remedy, supra note 43.

Governments unanimously welcomed the Special Representative's third report during the June 2008 session of the UN Human Rights Council, and the mandate was renewed for an additional three years. The Council resolution⁴⁶ extending the mandate essentially calls on the Special Representative to operationalize the "protect, respect, remedy" framework through more specific recommendations to governments and concrete guidance to business and other stakeholders.

Other key stakeholders also expressed strong support for the Special Representative's third report. For example, the International Organisation of Employers (IOE), the International Chamber of Commerce (ICC), and the Business and Industry Advisory Committee to the OECD (BIAC) issued a joint statement welcoming the report as having "significantly advanced the debate on business and human rights."⁴⁷ The statement also flagged some issues of concern, such as

a potential danger in the focus on multinational companies and foreign investment . . . which reduces the attention on the vast majority of enterprises in the world which operate at the local and national level . . . a large part of the focus should be on the suppliers and domestic companies themselves and the framework conditions in which they operate.⁴⁸

A group of forty socially responsible investors welcomed the report and urged governments to renew the mandate "in order for Professor Ruggie and other stakeholders to elaborate and implement this vital framework."⁴⁹ Also of significance was a joint statement by a group of key civil society organizations including Amnesty International, Human Rights Watch, and Oxfam International, which recognized the value of the framework set out by the Special Representative but expressed the earlier view that more should be done to "ensure that the views and experiences of those affected by business-related abuses more fully inform the effort to identify appropriate solutions."⁵⁰ The statement proposed "more in-depth analysis of specific situations and cases . . . in order to give greater visibility and voice to those whose rights

46. *Mandate of the Special Representative*, *supra* note 10.

47. Int'l Org. of Employers (IOE), Int'l Chamber of Commerce (ICC) & Business and Industry Advisory Comm. to the OECD (BIAC), Joint Statement to the Human Rights Council, 8th Sess. (May 2008), *available at* <http://www.reports-and-materials.org/Letter-IOE-ICC-BIAC-re-Ruggie-report-May-2008.pdf>.

48. *Id.*

49. Statement by Socially Responsible Investors to the Human Rights Council on the Third Report of the Special Representative of the UN Secretary-General on Business and Human Rights, 8th Sess. (3 June 2008), *available at* <http://www.reports-and-materials.org/SRI-letter-re-Ruggie-report-3-Jun-2008.pdf>.

50. Joint NGO Statement to the Human Rights Council on the Third Report of the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises, 8th Sess. (20 May 2008), *available at* http://www.escr-net.org/actions_more/actions_more_show.htm?doc_id=686620&parent_id=430908.

are negatively affected by business activity and to deepen understanding of the drivers of corporate human rights abuses.”⁵¹

The June 2008 Council resolution renewing the mandate stresses the need to provide “more effective protection to individuals and communities against human rights abuses by, or involving, transnational corporations and other business enterprises,”⁵² calls for the integration of a gender perspective with “special attention to persons belonging to vulnerable groups, in particular children,”⁵³ and requests the Special Representative to continue to consult with “civil society, including academics, employers’ organizations, workers’ organizations, indigenous and other affected communities and non-governmental organizations.”⁵⁴ However, it does not request the Special Representative to undertake work on specific cases.

Interestingly, a subsequent and more detailed submission to the Special Representative by Amnesty International⁵⁵ makes no specific reference to the importance of particular situations or cases, focusing instead on the need for more attention on national legal frameworks and efforts to combat impunity for past abuses. These refinements could be due to the fact that a single organization made the submission following the Council’s adoption of the Special Representative’s renewed mandate. They could also signal a decision on the part of at least one key NGO to engage fully in influencing the future development of the policy framework as set out by the Special Representative.

IV. LOOKING AHEAD: POSSIBLE FUTURE ACTIONS

This section aims to draw together the threads of the previous discussion by exploring a number of possible actions that John Ruggie and other key stakeholders may take over the coming years to move business and human rights debates to new levels of clarity and action within the UN system.

A. State Duties to Protect Against Non-State Actor Abuses

There appears to be potential for short term progress around issues relating to state responsibilities to address corporate involvement in human rights abuses. What could be done within the UN human rights system specifically

51. *Id.*

52. *Mandate of the Special Representative*, *supra* note 10, ¶ 2.

53. *Id.* ¶ 4(d).

54. *Id.* ¶ 4(g).

55. Amnesty Int’l, Submission to the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (July 2008) *available at* <http://www.reports-and-materials.org/Amnesty-submission-to-Ruggie-Jul-2008.doc>

to address this situation? John Ruggie met with the chairs of the various UN treaty bodies and UN special procedures mechanisms mandate holders during their annual meetings, which coincided with the June 2007 session of the Human Rights Council in Geneva, to discuss these matters.⁵⁶ The 2008 resolution renewing the mandate requests that the treaty bodies, among other parties, cooperate fully with the Special Representative, "inter alia through the submission of comments and suggestions on the issues related to his mandate."⁵⁷

It is reasonable to conclude that there will be follow-up, both in terms of recommendations for further action in Ruggie's future reports and increased scrutiny of government performance during reviews by treaty body committees, following country visits by special procedures mandate holders and as part of the UN Human Rights Council's newly established Universal Periodic Review mechanism. The Special Representative could, for example, call on the UN treaty bodies to work jointly on a document that would elaborate what the state duty to protect entails in relation to corporations under the international human rights regime, including procedural issues concerning effective remedies for victims of violations. Such a document would need to address the tension between host state obligations to protect against corporate abuses and situations in which another state with jurisdiction should provide victims with access to remedies. UN special procedures mandate holders could also be invited to compile, based on their own country visits and reporting, a collective file of violations that involve corporate actors.

In the coming years, the Special Representative may also conclude that the issue of state capacity to address corporate involvement in human rights abuses requires further attention. Ruggie notes in his most recent report that:

Where States lack the technical or financial resources to effectively regulate companies and monitor their compliance, assistance from other States with the relevant knowledge and experience offers an important means to strengthen the enforcement of human rights standards. Such partnerships could be particularly fruitful between States that have extensive trade and investment links, and between the home and host States of the same transnationals.⁵⁸

The growing national and regional presence of the UN Office of High Commissioner for Human Rights perhaps could be utilized to coordinate and assist countries with regulation and enforcement, as could the range of UN

56. John G. Ruggie, Representative of the Secretary-General on Business and Human Rights, Address to the Sixth Inter-Committee Meeting of the Human Rights Treaty Bodies (19 June 2007), available at <http://www.reports-and-materials.org/Ruggie-address-to-treaty-bodies-19-Jun-2007.pdf>.

57. *Mandate of the Special Representative*, *supra* note 10, ¶ 5.

58. *Protect, Respect and Remedy*, *supra* note 43, ¶ 45.

system wide partners that engage directly with business. Coordinated “UN country teams” comprised of the various agencies and programs working at the national level could conceivably be called on to assist in issues relating to corporate responsibility and human rights.⁵⁹

The Special Representative has signaled his intention to influence government action outside the UN human rights system as well. For example, in a June 2008 speech⁶⁰ to the OECD annual meeting of National Contact Points concerning the OECD Guidelines on Multinational Enterprises, Ruggie noted that the business and human rights field has changed considerably since 2000 when the Guidelines were last updated and that current references to human rights in the Guidelines lack specificity and practical guidance. Referring to his work on grievance mechanisms, Ruggie also raised questions concerning whether the well-established OECD National Contact Points system should be reviewed to enhance its effectiveness and credibility.

Another area in which the Special Representative has focused considerable attention involves so-called “policy incoherence” at the national level, which potentially undermines states’ ability to implement human rights obligations. For example, growing concern over possible tensions between the protection of investor rights and the protection of human rights has prompted some research and action in this field.⁶¹ Experts have raised concerns about the dispute settlement mechanisms connected with certain agreements. These agreements often permit investors to mount disputes against host governments over allegations, for example, that a specific regulation, law, or policy has a negative impact on the investor’s operations in the host state, but they provide little opportunity for the public to scrutinize the investors’ claims. Such lack of transparency in foreign investment dispute settlement potentially can result in investment tribunals, often comprised of lawyers without human rights expertise, making legally binding decisions on investment protections that may conflict with state obligations to protect human rights.

The human rights community has taken only initial steps to address such issues. The Special Representative’s cooperation with the International Finance Corporation for his third report⁶² likely signals an increase in attention to developing recommendations in this area. Similarly, greater efforts

59. See, e.g., *Follow-up to the Outcome of the Millennium Summit*, U.N. GAOR, 61st Sess., Agenda Item 113, U.N. Doc. A/61/583 (2006) (detailing follow-up to the high-level panel on system-wide coherence in the areas of development, humanitarian assistance and the environment).

60. John G. Ruggie, Special Representative of the Secretary-General for Business and Human Rights, Keynote Presentation at Annual Meeting of National Contact Points, OECD (24 June 2008).

61. For further discussion, see AMNESTY INT’L, *HUMAN RIGHTS ON THE LINE: THE BAKU-TBILISI-CEYHAN PIPELINE PROJECT* (May 2003), available at <http://www.amnestyusa.org/business/humanrightsontheline.pdf>.

62. *Protect, Respect and Remedy*, *supra* note 43, ¶ 36.

to advocate for explicit human rights principles and criteria in government procurement procedures, ethical investment indexing bodies, and socially responsible investment funds could all be part of future recommendations to governments.

B. Developing New “Soft Law” Standards on Business and Human Rights

Less agreement exists on exactly how new standards or guidance specifically aimed at clarifying the nature and scope of business responsibilities in the area of human rights could emerge. Most governments still seem to favor the encouragement of voluntary standard setting in particular thematic areas by the private sector, increasingly in cooperation with civil society actors. However, the ongoing global economic crisis may lead to increased government attention on possible new forms of regulation.

Given that few governments have actively engaged on issues relating to business responsibilities for human rights at the international level, what form could new standards conceivably take? Legally-binding standards in the form of a comprehensive human rights treaty addressing the obligations of corporate actors seem to be completely off the agenda for the foreseeable future. Most governments still have not publicly indicated their positions on this issue or otherwise signaled that a treaty addressing business responsibilities is of particular urgency. John Ruggie has expressed the view that “negotiations on an overarching treaty now would be unlikely to get off the ground, and even if they did the outcome could well leave us worse off than we are today.”⁶³

There are indications, however, that a significant number of governments may be open to further discussions regarding a more precise definition at the international level of what is considered responsible corporate behavior in the human rights field. The establishment of international principles, guidelines, or some other policy statement applicable to business seems to be one way forward. Academic literature has focused on the increasing reliance on such “soft law” instruments, crafted as normative statements such as declarations, resolutions, or principles.⁶⁴

Civil society and a significant number of business actors potentially would welcome such a soft law instrument on business and human rights,

63. Ethical Corp., *By Invitation: John Ruggie: Business and Human Rights—Treaty Road not Travelled* (6 May 2008), available at <http://www.ethicalcorp.com/content.asp?ContentID=5887>.

64. See, e.g., Dinah Shelton, *Normative Hierarchy in International Law*, 100 AM. J. INT'L L. 291 (2006).

endorsed at the UN level. Activists could use it as a campaigning tool to raise awareness of business abuses and encourage further legislative action at national, regional, and global levels. Business leaders who have been calling for greater clarity concerning the extent of their responsibilities would likely find such guidance useful for their internal corporate policies and involvement in industry and issue specific voluntary initiatives. Business representatives who have focused on warding off imposition of direct international legal obligations would likely see a soft law statement of guidelines or principles as a suitable compromise.

But the actual elaboration of such an instrument remains a central challenge. Traditionally, governments have been the key actors in developing human rights standards within the United Nations. This standard setting process, which typically involves government sponsors who play an active role in building political consensus, seeking inputs from diverse stakeholders, developing draft proposals (often based on work done by expert bodies), and achieving eventual adoption of a new standard, is complex and can take many years.

This has prompted speculation that Ruggie could develop, based on the legitimacy of his mandate as Special Representative, his own proposed set of principles or guidelines drawing on emerging consensus and good practices, as well as on the conclusions he has reached thus far and on additional efforts carried out under the 2008 Human Rights Council mandate. In a Preliminary Work plan describing initial thinking around the next phase of his work, the Special Representative confirms his intention to move in this direction: "To fulfill the Human Rights Council's request to elaborate further on the corporate responsibility to respect human rights and to provide concrete guidance to business and other stakeholders, the SRSG proposes to develop a set of guiding principles on the corporate responsibility to respect and related accountability measures."⁶⁵

Such an approach would follow the example of Francis Deng, a Special Representative of the UN Secretary-General on the situation of internally displaced persons (IDPs) who put forward Guiding Principles on International Displacement in 1998, setting out the rights of persons in this situation and the obligations of governments and the international community toward IDPs.⁶⁶ A group of outside experts under the direction of Deng in his role as UN Special Representative prepared the Principles.

65. Preliminary Work Plan, Mandate of the Special Representative on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, 1 September 2008—30 June 2011 (10 Oct. 2008), available at <http://www.reports-and-materials.org/Ruggie-preliminary-work-plan-2008-2011.pdf>.

66. For an analysis of this effort, see Roberta Cohen, *The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting*, 10 GLOBAL GOVERNANCE 459 (2004).

Could Ruggie follow a similar approach? In September 2008, the Special Representative announced that he was convening a leadership group, made up of individuals with wide experience in government, business, and human rights advocacy to advise him on the next phase of his mandate.⁶⁷ The announcement of the group makes clear that its members would not be asked to endorse any recommendations the Special Representative may make. However, such a multi-stakeholder group, formally outside the UN system but with legitimacy vis-à-vis its membership and link to the Special Representative's new mandate could be asked to advise on the elaboration of guidelines or principles concerning business and human rights. The result of this effort could later be presented by the Special Representative to the Human Rights Council for further debate or endorsement.

Such an undertaking would be resource intensive and politically sensitive and would require skillful handling. As Deng himself suggested in a recent discussion of the process he led to establish guidelines concerning IDPs,⁶⁸ a wide range of institutional sensitivities, procedural issues, and substantive questions would need to be addressed. But if successful, such a process could be a vehicle for achieving greater normative clarity and operational guidance over a relatively short time period.

C. Enhancing the Effectiveness and Legitimacy of Voluntary Initiatives

The growing reliance on voluntary multi-stakeholder initiatives to determine corporate responsibilities with regard to specific governance challenges likely will continue for the foreseeable future. Efforts like those targeting the illicit diamond trade, which fuels violent conflict in Africa, to those that support freedom of expression and privacy on the Internet exemplify such initiatives. The Special Representative's new mandate signals governments' continued commitment to such initiatives through its request that the Special Representative coordinate his activities to "[i]dentify, exchange and promote best practices and lessons learned" with the efforts of a newly formed human rights working group of the UN Global Compact.⁶⁹

What can be done to confront the challenges and shortcomings that face existing voluntary initiatives involving business, civil society, and, in some cases, governments? What incentives could the Special Representative

67. Press Release, United Nations, Global Leadership Group to Advise on Business and Human Rights (22 Sept. 2008), available at <http://www.reports-and-materials.org/Leadership-group-22-Sep-2008.pdf>

68. Francis M. Deng, *The Guiding Principles on Internal Displacement and the Development of International Norms*, in INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: BRIDGING THEORY AND PRACTICE 141 (Thomas J. Biersteker et al, eds., 2007).

69. *Mandate of the Special Representative*, *supra* note 10, ¶ 4(e).

recommend that governments put in place to help ensure that such initiatives reach a scale where they can influence market behavior?

Improving the governance structures of voluntary initiatives is clearly a key priority. Existing initiatives are generally marked by weak governance; in many cases, this undermines the potential effectiveness and legitimacy of the efforts. How should secretariats be established and funded? What are implications for participating companies in terms of their relationships with suppliers, distributors, and subsidiaries? What forms of complaints, grievance, or alternative dispute resolution mechanisms should be instituted? Concerning the latter, it is conceivable that multiple bodies from local and international levels could help improve the effectiveness of multi-stakeholder initiatives by assisting in the resolution of disputes and by investigating and issuing authoritative opinions in cases where mediation was unsuccessful. At the national and intergovernmental levels, assuming the availability of adequate resources for such activities, national human rights institutions are one such category of organization that would be potentially well suited to take on such roles.⁷⁰ Intergovernmental endorsement of guidelines for voluntary initiatives could be a powerful way to make current and future efforts more legitimate and effective.

V. CONCLUSIONS

The possible future recommendations and actions discussed here are not meant to suggest that more traditional regulatory approaches aimed at influencing corporate behavior are unnecessary or unhelpful. Rather, this discussion has sought to support those who contend that international legal norms and techniques are “beginning a process of migration into areas of ‘private’ life.”⁷¹ To what extent will international law be applied to the broad domain of corporate social responsibility in the decades to come?

It is increasingly clear that the international human rights framework has begun to shape the direction of multi-stakeholder approaches to addressing specific governance challenges. But it is less certain whether the UN Human Rights Council, still in the early stages of its institutional development, will seek to incorporate such new thinking and approaches into its activities in the future. In the area of business and human rights, it is difficult to make

70. For a recent analysis of the work of such bodies with respect to business related issues, see OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, BUSINESS AND HUMAN RIGHTS: A SURVEY OF NHRI PRACTICES (2008), available at <http://www.reports-and-materials.org/OHCHR-National-Human-Rights-Institutions-practices-Apr-2008.doc>.

71. Vaughn Lowe, *The Politics of Law-Making: Are the Method and Character of Norm Creation Changing?*, in *THE ROLE OF LAW IN INTERNATIONAL POLITICS: ESSAYS IN INTERNATIONAL RELATIONS AND INTERNATIONAL LAW* 207, 226 (Michael Byers ed., 2000).

firm conclusions at this stage. Emerging economy countries such as China and India and the growing importance of their respective corporate sectors, as well as the unfolding impacts of the global economic crisis, could significantly change the dynamics discussed here, potentially making the effort to agree on relevant standards at the UN level more urgent, yet more difficult to achieve.

A significant number of governments maintain that improving social and environmental standards entails costs for companies and economies that may undermine enterprise development and employment generation strategies in many developing countries. Some view efforts by major multinational companies to exert influence on a wide range of suppliers in developing countries as detrimental to small business interests. Others argue that the actions of such corporations, which operate in countries with weak enforcement standards, require new forms of accountability.

What seems certain is that the movement towards greater corporate responsibility is one of the most deep-rooted developments in the human rights story of the first decade of the twenty-first century. John Ruggie's efforts to forge a consensus, combined with growing public calls for greater accountability and a developing body of good practice and experience in the field could together lead to a major contribution to the cause of human rights in the years to come.