

Position paper

on the UN “Protect, Respect
and Remedy” Framework
for Business and Human Rights

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econsense – Forum for Sustainable Development of German Business, is an active network of leading, globally-active companies and organisations with a strong presence in Germany who have a shared interest in shaping the future of sustainable economics and corporate social responsibility – through open dialogue with one another, policymakers and society.

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The aim of the econsense – Forum for Sustainable Development of German Business network is to work together with its member companies to fashion and to promote corporate sustainability. All the members of econsense honour the principle of sustainable development and are interested in pushing this strategy at a national, European and global level.

By directly addressing existing international standards, political guidelines, and regulations, the adoption of the “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” formulated by the UN Special Representative for Business and Human Rights, Prof. John Ruggie, is the first time that a framework for business and human rights has been successfully tabled. It was unanimously adopted by the United Nations in 2011.¹

The key element of the Ruggie Framework is that the state always has the primary duty to protect human rights; corporations and business enterprises have a responsibility to respect human rights and should act (also preventatively) to avoid the infringement of human rights. The applicable reference framework is the “International Bill of Human Rights” and the declaration of the International Labour Organisation (ILO) on the Fundamental Principles and Rights at Work. In addition to the definition of the obligations of the state to protect human rights, and the definition of corporate responsibility, the UN Framework is also enlarged to include a third component covering effective remediation. For businesses and the state, this means that formal and informal grievance mechanisms and sanction mechanisms should be developed and strengthened to improve the means of preventing violations of human rights and to ensure redress for violations of people’s human rights.

econsense welcomes the “Protect, Respect and Remedy” Framework concept and their Guiding Principles as a new basis for discussions, and the first largely accepted answer to the previously unclarified questions of the responsibilities of businesses for human rights, as well as the level playing field accepted by almost all stakeholders. As a network of globally active businesses and organisations, econsense expressly recognises the responsibility of transnational corporations to respect and uphold human rights. The concrete corporate responsibility hereby (Chapter II Principles No. 11 to 24 of the “Responsibility to respect” pillar of the Guiding Principles) is not considered to have the same priority as the overarching primary responsibility of states – analogous to the UN Framework.

The high level of abstraction of the Guiding Principles to date underlines the serious complexity of the issue of “Business and Human Rights”. There are currently no pan-company templates

¹ The periods in office of Prof. Ruggie as the UN special representative totalled six years. The key final product of his initial period in office (2005-2008) was the report “Protect, Respect and Remedy: a Framework for Business and Human Rights” (cf. <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>). His mandate was extended to 2011 on the strength of this report. The aim was to operationalize the Framework, develop guidelines for businesses to implement the principles, and intensify the public debate with all relevant stakeholders. This work culminated in the “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” which was adopted in Geneva in 2011 (cf. <http://www.business-human-rights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>).

for tackling the challenges, and indeed, these are not considered to be the best way forward for achieving the desired results in future given the specific nature of every company's individual situation. As presented in the Framework and the Guiding Principles, the proper handling of the relevant human rights situation always depends on the specific conditions in each individual case.

The overseas activities of businesses can make a contribution to regional, economic and political stability, as well as the expansion of infrastructure, and the strengthening of the local employment market. This positive effect can be heightened further by influencing the value chains. This not only focusses attention on the *prevention* of human rights violations strongly emphasised in the Ruggie Framework, but also on the positive contributions made by business enterprises whose overseas activities can make an essential contribution to promoting the protection of human rights.

Respecting and upholding human rights by a business enterprise should not be seen as an isolated function, but rather as an aspect which is understood in its entirety. Human rights can be closely connected to aspects such as value chains, working conditions, water, climate, the protection of minorities, migration, etc. Business enterprises therefore come into contact with human-rights relevant issues in many aspects of their business activities. This demands the implementation of transparent processes across the whole of a company to ensure respect for and the upholding of human rights.

Human rights are playing an increasingly important role in social, ethical and environmental sustainability indicators. The financial markets take human rights into growing consideration in their evaluations of business performance and risks. The growing sensitivity of consumers also leads to greater consideration being accorded to human rights in a corporate context. Human rights as an integral part of sustainable business management provide business enterprises with immediate opportunities for gaining competitive advantages at the expense of their competitors, gaining access to new markets, and successfully satisfying more demanding customer expectations. This goes hand in hand with improvements in employer attractiveness, enhanced job satisfaction, and a better corporate reputation.

According to Principle 15 of the United Nations Guiding Principles on Business and Human Rights, business enterprises are prompted to have in place policies and processes, including a policy commitment to meet their responsibility to respect human rights, a human rights due-diligence process, and processes to enable the remediation of any adverse human rights impacts. Depending on each individual case, the instruments proposed here represent prudent measures helping business enterprises deal with the issue of human rights.

As a pan-sector initiative of globally-active business enterprises, econsense will actively concern itself with the issues of human rights and business enterprises, and continue to advance the topic amongst its member companies and in cooperation with third parties.