

Implementing the “Protect-Respect- Remedy Framework”

How the state duty to protect and the
corporate responsibility to respect
(should) interrelate.

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UN Protect-Respect Remedy Framework

Pillar II:

Corporate responsibility to respect (R2R)

No legal obligation but a 'societal expectation' to respect human rights

Broad notion:

- all human rights
- all corporations

UN Protect-Respect Remedy Framework

- Importance governance structures beyond the State/ Transnational Private Regulation

Advantages:

- > Sense of ownership
- > Greater expertise
- > Better appreciation practical challenges
- > More information
 - improved compliance

Corporate Responsibility to Respect

- R2R → Voluntary uptake

“Adoption is voluntary, compliance is not”

- > Towards multi-facet accountability
- > Monitoring R2R involves broader range of stakeholders

→ Transparency is critical

Illustration: Regulating the Private Security Industry

Trade Associations:

- International Stability Operations Association (ISOA)
- British Association of Private Security Companies (BAPSC).

Multi stakeholder initiatives:

- Voluntary Principles on Security and Human Rights (VPs)
- International Code of Conduct for Private Security Providers (ICoC-PSP)

Disclosure in Guiding Principles

Guiding Principle 17 UN PRR Framework:

“In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence.

Disclosure: in pillar 2

Guiding Principle 21

In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders.

Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

(...)

- (c) not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality

Disclosure: in pillar 1

Guiding Principle

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In meeting their duty to protect, States should: (...)

(d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.

‘a requirement to communicate can be particularly appropriate where the nature of business operations or operating contexts pose a significant risk to human rights”.

Trend towards mandatory HRDD

Examples:

- The 2010 US Dodd-Frank Act
- The California Transparency in Supply Chains Act
- Future EU disclosure legislation

State duty to protect

- Actively support (greater transparency) multistakeholder initiatives
- Mandatory reporting where appropriate
- Legislation to ensure right to access to information for stakeholders

Beyond the UN Framework

- Treaty criminalizing international corporate crimes
- Towards direct legal obligations?