



International Chamber of Commerce

The world business organization

Policy statement

ICC views on business and human rights

Introduction

ICC, as the world business organization which speaks on behalf of enterprises from all sectors in every part of the world, joins the international community in celebrating the 60th anniversary of the 1948 Universal Declaration of Human Rights.

There is much that business has done and will continue to do, as individual companies and in partnership with others, to promote respect for human rights. It is clear however that these efforts can only complement, and not substitute, the role of States in establishing and enforcing regulatory frameworks for protecting human rights.

In this statement, ICC identifies key actions that companies have taken to address business and human rights issues, and calls for stronger involvement by governments, in all parts of the world, to uphold their international human rights commitments.

Why human rights matter to business

Business has a strong interest in promoting human rights. In addition to being the right thing to do, the promotion of human rights benefits all actors in society, including private enterprise. To enjoy long term and stable development, companies need the same basic principles, policies and institutions than those required to protect human rights. These include democracy, the rule of law, independent courts, and freedom from arbitrary government action, to name just a few.

Respect for human rights constitutes a baseline expectation for companies operating in any country. All companies, regardless of their size or home country, are expected to obey applicable laws and regulations, including those aimed at protecting human rights. Where national law is absent, or not enforced, companies are expected to respect the principles of relevant international instruments. This involves a company's approach to the production and marketing of its goods and services, treatment of employees, health and safety practices, community relations and environmental impact – all of which have potential human rights implications.

A shared responsibility

ICC firmly believes that business and governments have distinct and very different responsibilities in relation to human rights. Such distinction has been made clear in the policy framework developed by Professor John Ruggie, Special Representative to the



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United Nations Secretary-General (SRSG) on business and human rights, and which was unanimously welcomed by the Human Rights Council at its 2008 session¹.

The framework clearly establishes that states are the primary duty-bearers for human rights under international law and that governments have an obligation to protect against abuses by third parties, including business, through the implementation of appropriate regulatory frameworks. Companies, as any private actors, are subjects to the laws and regulations of the countries in which they are based and operate. In this framework, their responsibility is above all to respect human rights, meaning that they should take all necessary steps to avoid doing harm – or to be complicit in harm done by others – or else face appropriate action and sanction.

A similar distinction was provided by the Human Rights & Business Project, an initiative of the Danish Institute for Human Rights². Since the duties imposed by international human rights treaties are binding on those States that have ratified them, it is the responsibility of States to uphold and protect rights within their territories. As a result, governments are not only required to *respect* human rights, but also to *protect*, to *promote* and to *fulfil* these rights vis-à-vis their citizens³. The first essential duty of companies, as any non-state actor, remains to *respect* human rights– that is, to refrain from doing harm or to recklessly disregard violations committed by others.

A critical development affecting business responsibility towards human rights is the expanding web of potential corporate liability for international crimes. Under the Rome Statute of the International Criminal Court, employees and directors of companies may be subject to its jurisdiction for acts the Statute defines as international crimes. Also, a growing number of countries have integrated standards of international criminal law into their domestic jurisdictions, with potential legal implications for companies⁴.

Addressing governance gaps

The primacy of the role of governments for protecting and promoting human rights is well accepted. However, in some parts of the world, for lack of political will or institutional capacity, some governments cannot or will not assume their roles in protecting rights - including human rights. It is widely recognized that most egregious

¹ “Protect, Respect, Remedy: A Framework for Business and Human Rights”, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, 2008

² Defining the Scope of Business Responsibility for Human Rights Abroad”, The Human Rights & Business Project, 2001

³ The Human Rights & Business Project distinguishes four duties associated with human rights: to respect (i.e., refrain from blocking anyone’s access to the rights), to protect (i.e., ensure that others do not block access to the rights), to promote (i.e. take measures to facilitate people’s access to the rights) and fulfil (i.e., provide enjoyment of the rights who those unable to provide them by themselves) human rights.

⁴ See “Business and human rights : mapping international standards of responsibility and accountability for corporate acts”, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, 2006.



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violations of human rights occur in countries with weak governance, limited political and civil rights, or in actual conflict.

Companies operating in these areas, whether they are domestic or multinational companies, have the same responsibilities towards human rights as they do elsewhere. But it is clear that business alone cannot address the challenges affecting weak governance zones; only governments have the ability to achieve that.

In such circumstances, improvements may be achieved by initiatives from outside: this includes effective government-to-government dialogue, international cooperation, involving intergovernmental institutions, and, if necessary, pressure from the international community. Effective action will also require working relationships between governments, business, and other non-state actors to produce, as far as possible, a coordinated approach to human rights.

The priority should be given to improving the capacity of national governments to develop the necessary institutions, managerial capacity and financial resources to implement and enforce their laws protecting human rights. The most effective way to increase the enjoyment of human rights worldwide is by helping governments to fulfil their international commitments at national level, within their own jurisdictions.

What business does for human rights

Business has a clear role to play in promoting good human rights practices. Through their normal business activities of investing in people and capital, producing goods and providing basic services, companies often make major contributions to the improvement of living conditions which are essential to the enjoyment of human rights, in particular economic and social rights. This positive role of business can be especially important in weak governance zones, where economic development plays a key role in increasing demand for the rule of law.

In the last ten years, a very large number of companies have also recognised more explicitly the role and responsibilities they have in terms of respecting human rights. The rapid uptake by companies all over the world of human rights policies and practices attest to the growing attention paid by business to these issues. Efforts to increase transparency and improve corporate governance practices have made companies more sensitive to the impacts they may have as producers, employers, customers, taxpayers and neighbours. A majority of companies are now supporting the idea that acting like good corporate citizens makes good business sense.

For companies operating in multiple jurisdictions, compliance with multiple sources of law represents in itself a major undertaking. International instruments like the Organisation for Economic Cooperation and Development (OECD) *Guidelines for Multinational Enterprises*, the International Labour Organization (ILO) *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*,



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provides useful frameworks for implementing principles and standards of responsible business conduct which are consistent with applicable laws. Another useful reference is the Global Compact and its “10 principles” covering human rights, labour standards, the environment, and anti-corruption.

This positive engagement by companies has materialized in a growing use of human rights impact assessments and action plans aimed at preventing and addressing potential human rights issues which may arise in the course of business. These actions have been complemented by multistakeholder initiatives to address human rights issues in sectors such as mining, oil and gas, footwear and apparel, and toys, amongst others.

Through their policies and practices, companies can make a significant contribution to the realization of human rights, particularly those of their employees. They also help promote respect for human rights in their wider sphere of influence and responsibility, e.g. the parties with whom they do business and the communities within which they operate.

The role of ICC

For its part, ICC has continuously promoted best practices to its members – domestic and international companies of all sizes, sectors and regions – aimed at enhancing their internal management of human rights and other corporate responsibility areas. The *ICC 9 steps to responsible business conduct* helps them in the process of developing individual company policies and practices in the field of social responsibility. The *ICC guide to responsible sourcing* presents practical steps for integrating social and environmental considerations into global supply chains. Another area in which ICC has provided guidance is economic, social and environmental reporting, in view of helping companies to improve their communication with stakeholders⁵.

ICC has also worked in partnership with the International Organisation of Employers (IOE) and Business and Industry Advisory Committee (BIAC) to the OECD to provide continuous business input and support into the mandate of Professor John Ruggie on business and human rights. The three representative bodies have developed concrete proposals to help business address dilemma situations in the context of weak governance zones⁶. ICC, together with other business associations, now looks forward to contribute input to the new phase of Professor Ruggie’s mandate, which will examine ways to operationalize his proposed policy framework.

Conclusion

It is considerably easier for companies to operate in jurisdictions where human rights are effectively protected by a properly functioning legal framework, than in jurisdictions where this is not the case. The most pressing issue today for the enjoyment of human rights worldwide is to bridge governance gaps, specifically the failure or inability of

⁵ More information available on www.iccwbo.org/policy/society

⁶ “Business and Human Rights: The Role of Business in Weak Governance Zones”, IOE, ICC and BIAC, 2006

