

**Opening Statement to UK Parliament
Joint Committee on Human Rights
Professor John G. Ruggie
Special Representative of the UN Secretary-General
for Business and Human Rights
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Chair, Members of the Joint Committee,

Thank you for inviting me today.

You are familiar with the “protect, respect and remedy” policy framework I proposed and the UN Human Rights Council endorsed in June 2008. As I have only about five minutes for my introductory statement, let my focus on one issue raised in several submissions to your Committee: voluntary versus mandatory approaches to business and human rights.

Globally, we have serious business and human rights challenges because of pervasive governance gaps and governance failures. Broadly speaking, there are four types:

- First, structural gaps stemming from the misalignment between the global economy and globally integrated business enterprises on the one hand, and the territorially fragmented system of public governance on the other;
- Second, lack of policy coherence within governments between the human rights obligations they adopt and their implementation across separate but related policy domains such as investment, trade or securities regulation;
- Third, failures to implement laws whether because of a lack of capacity, fear of the competitive consequences, or corruption;
- And fourth, the silence of corporate governance rules and regulations on human rights issues, which therefore fail to signal to companies that they require not only a legal license to operate successfully, but also a social license.

Addressing these governance gaps requires creative thinking and innovative policy. But this is often impeded by adherence to a reified bifurcation of voluntary and mandatory means.

For example, those advocating international mandatory measures ignore the fact that treaties are voluntary in the sense that no country can be forced to adopt one; and even if we could reach a meaningful common denominator for a binding business and human rights treaty, compliance *de facto* would end up being largely voluntary because no international enforcement mechanism exists in this domain, or is likely to exist anytime soon.

On the other side, companies advocating pure voluntarism have not explained how to reach sufficient scale to make a difference, or how to pull laggards along.

Governments advocating voluntarism often fail to provide even non-legal guidance or incentives for companies to respect human rights, thereby implying that voluntary standards have little if any practical consequence. Furthermore, they do business no great favor by failing to provide adequate assistance to companies, especially when they operate in tough environments, such as areas in conflict or otherwise weak governance zones – which is where companies have done the greatest human rights harm and run into the most trouble. In the end, policies of voluntarism are often indistinguishable from *laissez-faire* – that is to say, they are not policies at all.

Quite apart from legal requirements, companies have a social responsibility to respect human rights. However, relatively few companies have systems in place that enable them to demonstrate their respect for rights. What is required, therefore, is an ongoing process of human rights due diligence whereby companies become aware of, prevent, and mitigate adverse human rights impacts.

This is yet another example of why the distinction between voluntary and mandatory can be misleading: there is nothing “voluntary” about conducting due diligence for companies claiming

to respect rights, because there simply isn't any other way to demonstrate it. This is not a matter of law but of logic.

We need to agree that a smart mix of measures – national and international, mandatory and voluntary – is required and get on with practical problem solving.

Of course, there is much more to be said but let me stop here and take your questions.

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