



HARVARD Kennedy School

JOHN F. KENNEDY SCHOOL OF GOVERNMENT

**KEYNOTE ADDRESS
LAUNCH OF NATIONAL ACTION PLAN
SANTIAGO, CHILE
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Madam President, Foreign Minister, Ladies and Gentlemen,

I am honored that you asked me to join you at the launch of Chile's National Action Plan to implement the UN Guiding Principles on Business and Human Rights. This marks an important occasion for Chile, and for the business and human rights agenda world-wide. It reinforces Chile's well-earned reputation as a country committed to achieving, in the words of your Plan, an ever-more fully democratic and inclusive society, together with a robust and sustainable business sector. And it will encourage other governments to follow in your footsteps.

The United Nations Human Rights Council endorsed the Guiding Principles unanimously in June 2011; Chile was a Council member at the time. The UN High Commissioner for Human Rights describes the Guiding Principles as "the global authoritative standard, providing a blueprint for the steps all states and businesses should take to uphold human rights." In addition to endorsement by the United Nations, the Guiding Principles have been drawn upon by other international standard setting bodies, regional organizations, individual governments, leading businesses, civil society and workers organizations, the International Bar Association and, this may surprise you, by FIFA, the governing body of the world's most popular sport.

The Guiding Principles are built on three-pillars: “Protect, Respect and Remedy.” (1) States have a *duty to protect* against human rights abuses by third parties, including business, through policies, regulation, legislation and effective enforcement; (2) business enterprises have an independent *responsibility to respect* human rights: that is, to avoid people’s human rights being harmed through enterprises’ activities or business relationships, and to address harms that do occur; and (3) where human rights are harmed, affected individuals and communities must have *access to effective remedy*, and both states and enterprises have a role to play in enabling this to occur.

There are thirty-one Principles, each with commentary elaborating its meaning and implications for law, policy, and practice. They encompass all internationally recognized human rights, and apply to all states and all business enterprises. They do not by themselves create new legally binding obligations but derive their normative force through their endorsement by states and support from other key stakeholders, including business itself. Yet elements of the Guiding Principles have already been incorporated into binding regulation and law at national and regional levels.

This morning, I would like to address three questions: why did we need Guiding Principles for business and human rights? How does the Chilean National Action Plan contribute to this agenda? And where do we go from here?

Why UNGPs?

Human rights traditionally have been seen as norms and practices to protect individuals from threats by the state. And international human rights law traditionally attributed to the state the obligation to secure the conditions necessary for people to live a life of dignity. The idea that businesses have human rights responsibilities independent of what states may or may not require is relatively new. It is largely a byproduct of the most recent wave of globalization. Markets and market actors went global. But internationally there is no central regulator to deal with the failure of

markets to provide adequate supplies of public goods, including the enjoyment of human rights.

The Guiding Principles seek to bridge this governance gap by serving as a common normative platform and practical policy roadmap. They engage the interests and capacities of all sectors of society, at local, national and international levels, in order to promote and strengthen respect for human rights in relation to business activity.

To respect human rights means to address adverse impacts on the rights of others, and to remedy such impacts if they occur. Respecting human rights is the foundation of treating people with dignity and contributing, thereby, to the goal of sustainable economic and social development.

The Chilean NAP

Chile's National Action Plan for implementing the Guiding Principles is conceived as a "living plan," one that is intended to evolve over time based on experience and results, and it is subject to formal review at the end of three years.

In developing the Plan, the Government commissioned an independent baseline assessment and convened extensive cross-agency discussions, recognizing that so many different functions of government and social actors touch upon human rights.

For its first three-year phase, the Plan places heavy emphasis on raising awareness and building capacity, within the government across different ministries, and in relevant sectors of society at large. Social dialogue with indigenous communities, particularly in the mining sector, is also stressed. Business associations and individual companies as well as civil society should be included in these efforts from the start, to both learn and teach.

Importantly, the Plan explicitly links action on the Guiding Principles and the Sustainable Development Goals, or SDGs as they are commonly known. These were adopted at a UN Summit in 2015, building on the

Millennium Development Goals. Governments committed to reaching the seventeen SDGs by 2030. They range from the elimination of poverty and hunger, to reducing inequalities and promoting decent work, to climate action as well as other sustainable environmental practices.

The relationship between the SDGs and the Guiding Principles is close. The SDGs state that the Guiding Principles contribute to a dynamic, well-functioning and sustainable business sector. And they acknowledge that success in meeting the SDGs requires the active participation of the business sector, alongside states and civil society. Typically, the most significant contribution by companies to the social dimension of sustainable development will be to drive respect for human rights across their operations and value chains.

The Plan also includes what might be described as pilot projects. Among them is a human rights impact assessment by the National Petroleum Company, an initiative focused on small and-medium sized enterprises, and links between banking institutions and cooperatives.

At this stage, the Plan does not include legislative or regulatory measures. On access to justice, it calls for a study by the Supreme Court on legal and practical impediments.

Finally, let me say how welcome it is to read a National Action Plan that is forward looking rather than describing in great detail what the government has done in the past.

What now?

In conclusion, allow me to share a few observations from the experiences of other countries, which may be of relevance in Chile.

The first will be familiar to all of you. The Andean region is blessed with abundant natural resources, and it is blessed with vibrant indigenous communities. Companies engaged in the extraction of natural resources or large infrastructure projects can come in conflict with nearby communities.

The costs of conflict can be very high – to the communities, but also to companies: in financial terms, reputation, and possible legal risks. There is only one sustainable solution: transparency, engagement, consultation and, where indigenous communities are affected, free, prior, and informed consent. The role that government can play is to facilitate such a process with a predictable policy framework in line with its international obligations, coupled with supportive practical measures.

Second, where foreign investment in big footprint sectors is a major national economic driver, both governments and businesses will benefit from carefully crafted and balanced international investment agreements that acknowledge human rights concerns. Companies benefit, for example, from guarantees that public security forces that may need to protect their assets are fully trained to not use excessive force to disperse protests. Governments benefit, for example, by ensuring that under the investment agreement they have enough domestic policy space to meet their human rights and environmental obligations.

Third, I draw your attention to the most recent G20 Summit Declaration. It affirmed that sustainable development requires sustainable supply chains. In turn, that means that companies need to implement labor and other human rights standards through the entire chain of suppliers, not merely the first tier. Effective human rights due diligence, such as outlined in the Guiding Principles, provides the necessary tool. And governments must set the example when doing business with business, such as in their procurement practices.

Finally, I believe we may have an emerging ally in the financial sector, which I will discuss in greater detail at tomorrow's Acción Empresas meeting. Investors increasingly recognize ESG factors as value drivers – ESG standing for companies' environmental, social and governance practices. The number of ESG funds has grown rapidly, and in many cases they outperform sector benchmarks and market indices. Human rights is the core of the 'S' in ESG: such factors as the security of the person, land

acquisition, sources of livelihood, access to clean water, non-discrimination in the workplace and society, indigenous peoples' rights, freedom of assembly, freedom of association and other core labor standards, health and safety, community relations, and so on. Governments and private standard setters, including stock exchanges, have begun contributing to this trend by promoting or requiring disclosure of meaningful non-financial information. This includes information on the management of human rights risks. I believe that we will see this trend continue and strengthen in time, moving into the investment mainstream.

My friends, we live in difficult and even troubling times. Often, current problems are the result of bad decisions taken in the past. We need to seize every opportunity to make sure that the decisions we take today are for the good of all, not only in the short run, but for our sustainable future. It is in that spirit that I welcome Chile's National Action Plan.

Thank you!

John G. Ruggie is the Berthold Beitz Professor in Human Rights and International Affairs at Harvard's Kennedy School of Government, Affiliated Professor in International Legal Studies at Harvard Law School, and a Fellow of the American Academy of Arts and Sciences. From 1997-2001 he served as the first-ever UN Assistant Secretary-General for Strategic Planning, where his responsibilities included establishing the UN Global Compact and proposing and gaining General Assembly approval for the concept of the Millennium Development Goals. From 2005-2011 he was Special Representative of the UN Secretary-General for Business and Human Rights, in which capacity he developed the UN Guiding Principles on Business and Human Rights. His book reflecting on that experience, entitled Just Business: Multinational Corporations and Human Rights (W.W. Norton), has been translated into Chinese, Japanese, Korean, Portuguese, and Spanish. In 2014 Professor Ruggie received the Harry LeRoy Jones Award of the Washington Foreign Law Society, honoring "an individual who has made an outstanding contribution to the development and application of international law"; and in 2016 the World Order Under Law Award from the American Bar Association.