

Response by John Ruggie to Ethical Corporation Magazine

The following statement by John Ruggie, Special Representative of the UN Secretary-General on Business & Human rights, is in response to the June 2008 Special Report in Ethical Corporation, [Business and human rights: Ruggie report – Ignore human rights at your peril](#).

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I read with great interest the recent Special Report in Ethical Corporation, entitled “Ruggie report: Ignore Human Rights at your Peril,” commenting on my report to the UN Human Rights Council as UN Special Representative on Business and Human Rights. I write to clarify a number of issues.

As you noted, the corporate responsibility to respect is one of the three principles in the policy framework I put forward. It is important that all actors understand the nature of this responsibility to ensure that we can progress with a common language. Thus it is necessary to point out that my report in fact finds that the concept of “sphere of influence” is unhelpful for further elucidating the boundaries of the responsibility to respect. Instead, I refer to the concept of “scope of due diligence” as a useful tool.

This means that it is inaccurate to suggest that my report says that “a company’s sphere of influence extends to any “leverage” a company may have over actors that are causing harm.” Instead, I state that it is not reasonable to attribute responsibility to companies solely on the basis of “influence” understood as “leverage”. I note that sphere of influence combines together two very different meanings of influence: one is influence as “impact,” where the company may be the cause of harm; the other is influence as whatever “leverage” a company may be able to exert over other actors with which it may or may not have a business relation. Impact falls squarely within a company’s responsibility to respect human rights; leverage may or may not, depending on circumstances.

Therefore, in determining the scope of due diligence, I prefer the more straightforward formula that companies should pay attention to three factors: the country context, its business activities, and the relationships connected to those activities.

I am also concerned that the Ethical Corporation piece conflates the “scope of due diligence” and the concept of “complicity”, stating that, “companies are complicit if their direct ‘activities or relationships’ are causing harm.” This is incorrect. Companies’ activities and relationships are two key factors for determining the scope of due diligence. Not every situation that falls within a company’s scope of due diligence implies complicity.

Let me also note for the record that my report nowhere mentions the company Google. And I am certainly not critical of bilateral agreements per se, but rather have generally expressed concerns about the lack of policy alignment between some investment and trade decisions and the protection of human rights which sometimes occurs.

Further, it is incorrect to speak of “recommendations” I made in relation to the state duty to protect: the report in fact makes only one single solitary recommendation: that the Human Rights Council welcome the “protect, respect, and remedy” framework and invite its further operationalization.

Finally, you will most likely be aware that I have just presented my report to the Human Rights Council. The support was unanimous, not muted as you suggested. It is encouraging in particular that all stakeholders have welcomed the framework, and it is the further elaboration of that

framework that the Human Rights Council may well ask me to take on. This task will involve looking beyond what is feasible within international governance structures such as they are, at what could be possible based on the shared responsibility of all relevant actors.