**Presentation of Richard Howitt MEP, European Parliament Rapporteur on Corporate Social Responsibility, on "Challenges for the State Duty to Protect" to the UN Forum on Business and Human Rights, Geneva, 5 December 2012.**

Can I start off by quoting from Guiding Principle One under the heading of the framework's State Duty to Protect, the requirement for Governments:

"This requires taking appropriate steps to prevent, investigate, punish and redress abuse, through effective policies, legislation, regulations and adjudication."

I don't know how much additional investigation and punishment there's been, nor indeed new legislation or adjudication because of the Guiding Principles, but it is worth recalling this commitment made by every Government in the Human Rights Council when we voted for the Guiding Principles.

As a European Union, as you've heard already this week, we are instigating sectoral human rights guidance and national implementation plans on the Guiding Principles. I'm proposing such plans be subject to a peer review mechanism, well-known as a model to everyone here in Geneva. Being honest - and I had hoped this Forum would enable a more honest assessment of progress and difficulties in implementation so far - as a European Union we are only just beginning to integrate the Guiding Principles in to our external relations activities and I would accept that we have so far failed the test John Ruggie repeated once again yesterday to act on the issue of extraterritorial jurisdiction.

And in my presentation this morning, I want to concentrate on the real, honest challenges towards implementation of the State Duty in relation to business and human rights and on how these challenges can be overcome?

I want to suggest four in total.

The first is the obvious one sitting here in Geneva that there is always a possibility of a disjunction between policy specialists coming to detailed agreement within the UN - with UN Member States giving their unanimous assent - and real understanding and ownership in national capitals to take forward what has been agreed here.

It’s why the EU has put such an onus on national strategies, 19 out of our 27 countries having already written or at least begun the process of writing them.

The second one - there is no point in hiding it - is the level of political controversy. We've moved a long way in terms of acceptance by business of the principle of legislating in this area. But when I look at the European response to bring forward our own version of Dodd-Frank on company reporting for extractive industries, this has been very hard-fought. What's equally interesting to me - at least in the European Parliament - is that the draft agreement on the EU law ultimately went further than our US counterparts, by addressing project reporting and proposing to expand the scope of the sectors covered.

What this example shows is that legislation can be much more controversial before it's agreed, and much more acceptable afterwards, when everyone can see it working in practice. This is an issue of political will.

The third challenge is the problem of compartmentalisation. We all know that in some countries where human rights violations are most prevalent, the human rights infrastructure acts as a shield to construct an appearance of respect for human rights when in reality there is none. Even in the majority of our countries where there is a commitment to respect human rights, the danger is the knowledge of human rights specialists is not transferred to actual regulators, who then do not have the real understanding of human rights themselves which is necessary if we are to move forward.

So there's been a lot of talk this week about training, developing tools, building capacity. But if states are serious about state duty, we have to adopt all of this for our purchasers, labour inspectors, tax collectors, trade advisers, aid staff, environmental health officers and everyone else who is at the regulatory interface between government and companies.

And there is an issue of coordination too. In Europe, corporate responsibility policies are led by business, environment or labour ministries in different countries and you can see the different emphases in implementation that result.

There's no simple answer to this other than the obvious one about multi-disciplinary and inter-agency working. But I do wonder whether the model increasingly being adopted since the update of the OECD Guidelines on Multinational Enterprise, for quasi-autonomous and multi-stakeholder "National Contact Points" attached to Ministries but not simply operating within them, might provide a helpful model?

I wonder whether states might adopt "focal points" answering to different Ministries and covering not just the OECD Guidelines but the UN Guiding Principles too and other relevant international instruments? It could contribute to the objective of "convergence" which we discussed in the earlier session about "Global Governance." I pose it as an idea.

And the last challenge I want to identify is how we turn state duty in to states' duty? The imbalance of power John Ruggie talked about yesterday isn't just between companies and populations; it's between companies and governments too. And in dealing with multinational companies that increasingly means supranational government.

Which is why the European Union and other regional bodies in the world, as stepping stones from the national to the global, provide a very interesting platform for action.

But to some extent, the Guiding Principles are an example of a totally new form of governance which we are creating to meet the new challenges and where we are quite literally making up the rules as we go along.

In the next years that will I hope include too the setting of Sustainable Development Goals for the world, the establishment of Integrated Reporting for companies as the global norm, as well as achieving agreement on binding carbon emission reductions.

Each of these has potentially dramatic impacts on business, but each too will not be achieved without substantive business contribution and support.

And in calling on business to join us in these endeavours, Government has to be ready to undertake its own responsibility.

The Code of Hammurabi is the earliest example of law known to historians and dates from ancient Babylonian civilisation. I want to end with a quote from it:

“The first duty of government is to protect the powerless from the powerful.”

Here we are nearly four thousand years later and we're discussing the very same point.

If we don't fulfil the 'state duty to protect,' what we are doing is to leave people without protection.

And that isn't just the first principle - it is our first duty.

Thank-you.

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