The Role of Business in Responsibility to Protect (R2P) in Relation to the Guiding Principles of Business and Human Rights and Corporate Social Responsibility (CSR)

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The key terminologies and concepts

- Responsibility to Protect (R2P)

- The guiding principles on Business and Human Rights
  - Ruggie's framework: Respect, Protect and Remedy

- Corporate Social Responsibility (CSR)
  - Corporate security responsibility

- UN Global Compact (CSR)

Key related issues of R2P

- Conflict prevention
- "Business for Peace" initiative
- Prevention against genocide
- Early warning mechanisms and assessment

R2P progress and key issues

- Responsibility to protect called for at the World Summit Outcome in 2005.
- Early warning, assessment and responsibility to protect UN report of the Secretary-General updated in 2010.
- Issues: Gaps and Capacities
  - Lack of sufficient information sharing; "reluctance of the member states to share sensitive information with an organization…"
  - Early warning is not seen through from the perspective of R2P
- Some measures
  - The United Nations Interagency Framework for Coordination on Preventive Action, better known as the "Framework team" provides an informal forum to share information
  - Other institutions: UNICEF, OHCHR, UNHCR

Source: UN General Assembly, 64th Session, 14 July 2010

Business and Human Rights – UN Guiding principles (Ruggie's framework)

- (a) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;

- (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;

- (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

Source: Guiding Principles on Business and Human Rights, UN, NY and Geneva 2011

Business on Human Rights Due Diligence

- "Human rights due diligence can be included within broader enterprise risk management systems, provided that it goes beyond simply identifying and managing material risks to the company itself, to include risks to rights-holders."

Access to remedy

- "As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy."

UN Global Compact

Human Rights

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

- Principle 2: make sure that they are not complicit in human rights abuses.

- NOTE: There are principles related to labour issues such as child labour and forced labour which are not under the category of Human Rights

Any links?

- It appears these three concepts and frameworks are somehow related but the relationship among those are not clearly defined
- There is also an issue of degree of human rights violations – mass atrocity to human rights abuses complicity to labour exploitation – human dignity
- The state is considered with ultimate power and legitimacy to ensure human rights abuses are prevented; however, it is not clear when there is mass atrocity by the state, who will be able to protect those citizens with power and legitimacy
- The issues:
  - Responsibilities without legitimacy
  - Responsibilities without power
  - Responsibilities without accountability
  - Influence without legitimacy and power

The main actors and issues

- The main actors
  - The state
  - The corporation
  - Civil Society Organizations – NGOs

- The main issues
  - Power
  - Legitimacy
  - Responsibility
  - Accountability
  - Influence

The main issues

- Power and legitimacy
  - Asymmetrical power relations among the actors
  - The state has the most power and legitimacy

- Responsibility and influence
  - All actors have respective responsibilities and different spheres of influence
  - The issues are:
    - Transparency
    - Accessibility
    - Equitability

Moving forward?

- Should we argue based on the instrumental reasons – business will be profitable in the long run?
- What are the normative underpinnings of all three concepts and frameworks that can tie up these concepts?
- What are the main issues that need to be addressed with respect to the main actors?
- How should we resolve the separation of responsibility and accountability?
- Should we aim for mandatory requirements against voluntary ones? – e.g. should we make the due diligence report on human rights as mandatory?
- How should we measure the effectiveness of the implementation – e.g. Is UNGC effective or a "blue wash"?
- Should we tie with the concept of Political CSR and if so why so and the issue of legitimacy and accountability?