

2015 UN Forum Side Session: State-Based Mechanisms for Access to Remedy

Session Title:

State-Based Mechanisms for Access to Remedy

Organizers:

- Business & Human Rights Resource Centre (BHRRC)
- International Law Association, Study Group on Business and Human Rights (ILA)
- International Corporate Accountability Roundtable (ICAR)

Main Focus:

This side event will focus on the role of the State in providing access to remedy for human rights victims related to transnational business activity. This event will examine existing and novel state-based mechanisms available for redress, discuss the barriers to accessing remedy that exist with each mechanism, and gather ideas and recommendations on how to overcome these barriers.

The list of state-based mechanisms that will be covered by this side event are as followed:

- Criminal prosecutions
- OHCHR Accountability and Remedy Project - key findings of global survey
- OECD national contact points
- NHRIs and access to remedy

Session Format and information about the organizers:

A panel of participants will respond to a set of questions posed by the moderator, followed by moderated Q&A with the audience.

Names of Speakers and Moderator:

- Moderator: Mauricio Lazala (BHRRC)
- ICAR: Anita Ramasastry - (criminal prosecutions)
- OHCHR: Ragnhild Handagard (global accountability remedy survey)
- Kathryn Dovey (OECD NCPs)
- SOMO/OECD Watch: Joseph Wilde - (OECD NCPs)
- ILA: Claire Methven-O'Brien (NHRIs and access to remedy)

Key Discussion Questions:

- How do existing mechanisms provide remedy for human rights victims as the result of business activities, particular those of a transnational nature? What are the available remedies? What are the limitations of these mechanisms?
- How do existing national public laws and regulations protect human rights from abuses by corporations, even if not explicitly? What are the key challenges that limit investigations and prosecutions of human rights-related corporate crime?
- Could a treaty on business and human rights assist states in implementing their duty to provide effective access to justice for victims of human rights violations? If so, how?
- Does the OECD national contact points provide for the possibility of effective enforcement of international human rights law for access to remedy? If not, how could they be improved?
- Are there any examples of states experimenting with novel approaches to access to remedy and justice?
- How do these mechanisms relate to each other? Does the interplay undermine or strengthen the overall access to remedy?

Brief Background Description:

Business & Human Rights Resource Centre: Business & Human Rights Resource Centre is an international and independent NGO with a network of 15 regional researchers around the world. We work with everyone to advance human rights in business and eradicate abuse. We track the human rights impacts (positive and negative) of over 6100 companies in over 180 countries, making information publicly available. We operate around three strategic aims: building corporate transparency; strengthening corporate accountability, and empowering business and human rights advocates.

ICAR: On 26 February 2014, ICAR and Amnesty International launched a joint project entitled “Commerce, Crime and Human Rights: Closing the Prosecution Gaps,” which seeks to develop recommendations for State practice in addressing prosecution gaps for corporate crimes. This project will result in a set of Principles for State Action, endorsed by leading jurists and prosecutors. The Principles for State Action will be released in February 2016, and the 2015 United Nations Forum on Business and Human Rights will be a great opportunity to present the preliminary findings of the Project and gather input to perfect the Principles from the broad business and human rights community of stakeholders.

ILA: The International Law Association was founded in 1873. With 3,500 members including government experts, business executives and advocacy lawyers in 45 national and regional branches around the world, the ILA has a mandate to contribute to the study and development of international law through reports produced by its committees and study groups. The Study Group on Business and Human Rights was formed in 2013 and has embarked upon a study of

the relationship between access to remedy under the third pillar of the Guiding Principles and international law. In addition to developments in public and private international law, the study will consider developments that fall into a broader category of transnational law. This will include the study of different models seeking to ensure access to remedy as evident, for example, in the practice of international organisations and other non-state actors including businesses that are participants in international legal process. The relevance of business “practice” to the development of international law will also be examined. The study will be divided into several themes designed to track conventional, emerging, and novel approaches to the study and development of international law.