



“Access to remedy: the challenges and opportunities of operational-level grievance mechanisms”

Session at the 2016 Forum on Business & Human Rights - 16 November, 08:20-09:40 (Room XXVII)

Access to effective remedy is critical for people adversely affected by business operations. The UN Guiding Principles on Business and Human Rights envisage non-state-based grievance mechanisms (NSGMs) to be important remedial tools to address human rights abuses. NSGMs can take various forms: operational-level, community-led, multi-stakeholder initiatives, and mechanisms of international financial institutions (e.g., the World Bank Inspection Panel; Compliance Advisor Ombudsman of the International Finance Corporation).

This panel will explore the challenges and opportunities offered by one of the NSGMs: the operational-level grievance mechanisms (OLGMs) established by business enterprises. To enable a focused discussion, OLGMs in the extractive sector will be used as case studies, because this sector not only features many emblematic cases but is perhaps also the most active/advanced in piloting OLGMs. The UN Guiding Principles prescribe a number of criteria to ensure the effectiveness of OLGMs, namely that they are: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue. By using selected case studies and hypothetical scenarios, the panel will examine experiences gained and lessons learned for future in translating these criteria from “paper to practice”. There are several issues which require further clarification in this context, e.g., what human rights violations are a “no go zone” for OLGMs; is exclusion of judicial remedies rights-compatible; what good practices can we discern to make OLGMs legitimate, accessible and transparent; what does engagement and dialogue really entail. It is hoped that insights from this panel discussion will be relevant for the full range of NSGMs, including OLGMs in other sectors.

Moderator: Surya Deva, Member, UN Working Group on Business and Human Rights

Panellists:

- Jaume Corbella, Community relations and human rights advisor, Repsol
- Dame Carol Kidu, Co-Convenor of the Porgera Remediation Framework, and former member of Parliament, Papua New Guinea
- Sarah Knuckey, Lief Cabraser Associate Clinical Professor of Law, Columbia Law School
- Anupama Mohan, Advisor Sustainability, Statoil
- Pre-recorded video interview: affected community members (Porgera mine, Papua New Guinea)

From the floor:

- Patrick Bindon (Barrick Niugini Ltd)
- Catherine Coumans (MiningWatch Canada)