

Call for input on 2013 United Nations Forum on Business and Human Rights

Dear Members of the Working Group,

Peace Brigades International is a human rights organisation with over 30 years of experience in working to protect and promote the work of human rights defenders, including those working in the context of business related human rights violations. Although PBI was unable to participate in the 2012 Forum, we look forward to contributing to the 2013 event.

In a previous submission to the UN Working Group,¹ PBI outlined 3 key priorities for its work:

1. Greater inclusion of HRDs in decision making processes
2. Development of a legally enforceable protocol regulating the consultation and operational phases of large scale economic projects
3. Development of a toolkit of protection mechanisms for HRDs to be implemented by states and missions of origin countries of companies:

It is our view that these remain priority areas for the Working Group to focus on in order to achieve its aims of widespread dissemination and meaningful cross-sector implementation of the Guiding Principles. In this letter we will outline some key challenges that remain as a result of ongoing situations on the ground. We will also suggest key points of discussion and strategic initiatives to be taken into consideration for this year's forum.

Since the Working Group was established, PBI has found that business related human rights violations against individuals, communities, and human rights defenders who represent them continue unabated. Communities continue to be the victims of land grabs, illegal evictions, forced displacement; we have seen that indigenous communities' right to free, prior, and informed consent is consistently undermined and in some cases ignored. Human rights defenders continue to be the victims of extrajudicial killings, abductions, surveillance, and intimidation due to their efforts in trying to put an end to human rights abuses linked to business activities. The criminalisation of human rights defenders and community leaders presents an increasing challenge for the Guiding Principles as often it arises due to complicity between local state and business actors in the context of major investment projects. Criminalisation of HRDs is particularly worrying because it is used as a strategy to infringe on individuals rights to freedom of association, assembly, and peaceful protest.

The current situation suggests that stronger and more effective protection mechanisms need to be put in place for HRDs working in this area; this is an unresolved issue that goes to the heart of the business and human rights agenda. The Forum needs to answer the urgent question: what more can be done to prevent human rights violations against communities and HRDs? Full and effective implementation of the Guiding Principles depends on meaningful engagement with all stakeholders concerned; in our experience, not only is there still a lack of awareness among NGOs

¹Submitted in November 2011

<http://www.ohchr.org/Documents/Issues/TransCorporations/Submissions/CivilSociety/PeaceBrigadesInternational.pdf>

and communities of the Guiding Principles, but there is also a wide amount of scepticism regarding the propensity and capacity of the GPs to seriously address business-related human rights violations.

With the above in mind, we recommend that the focus of the Working Group and the agenda for the 2013 Forum both place a **stronger emphasis on the effective participation of affected communities and the NGOs and HRDs who promote and protect their rights**. Greater attention needs to be paid to the current situation of business-related human rights violations, and there needs to be a deeper reflection among all stakeholders about the role communities and NGOs should be playing in decision making processes that affect them. I would like to refer you to some of the strategic initiatives which we suggested in our previous submission. These models focus primarily on the prevention of human rights violations and violent processes through more systematic and meaningful engagement with communities and NGOs at all stages of business operations.

Also concerning is the high level of impunity that perpetrators and those responsible for violations, be they agents of the state, illegal groups, or business and other non-state actors, continue to enjoy at both national and international level. As many of the delegates of the 2012 conference pointed out, there needs to be a greater focus on implementation of the third pillar of Access to Remedy, including via judicial and non-judicial means. We would like to see this discussion take into account suggestions around the development of international legal mechanisms, as well as the strengthening of operational-level grievance mechanisms. Again, the model outlined in our previous submission suggests a framework for access for remedy in which there is genuine participation and recourse for victims and those who represent them.

With all of the above in mind we would respectfully like to suggest the following topics and discussion points be prioritised in the 2013 Forum.

- **Due Diligence:** - How to ensure better, fairer, culturally sensitive consultation processes (both in terms of state obligation and due diligence of companies) with full access to information. How can they be genuinely representative and reflective of human rights guarantees? How can states provide more robust and systematic human rights guidance regarding business operations in conflict areas? Is there a need for country specific guidelines? How can business projects be more effectively monitored and scrutinised? What should be the role NGOs and human rights defenders play throughout this process? How can their capacity to engage be increased?
- **State Duty to Protect** - How to address fragile rule of law issues that enable human rights violations linked with business to occur. Issues include: presence of illegal business ventures; presence of illegal armed groups; complicity between businesses and state agents in human rights violations; corrupt or weak judiciary. What role can HRDs play and how can that be supported? What role can the home country mission play to verify that due information and participation has been guaranteed; to monitor and advise businesses around ongoing human rights violations; and to facilitate the inclusion of communities and HRDs in key decision making processes that affect them?



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- **Access to Remedy:** - How to ensure fair and effective operational level grievance process that compliment and do not substitute collective bargaining processes; how can obstacles (resources, cultural, linguistic barriers, capacity, expertise, knowledge) be overcome to ensure significant access to local and international grievance mechanisms? How can awareness of protection and remedy mechanisms including the Guiding Principles be increased among affected stakeholders? How can we promote greater participation of affected individuals, communities, and NGOs in decision making processes to ensure more equal footing with government and business?

PBI is happy to liaise with the local organisations we accompany in Latin America to provide potential speakers for the forum. A representative from PBI would also be more than willing to contribute.

Sincerely,

International Advocacy Working Group

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