

## **Recommendations for the Working Group**

**Rebecca Dumas**

Dear UN Working Group on the issue of human rights and transnational corporations and other business enterprises:

Justiça Global (Global Justice) is a Brazilian not-for-profit organization that was founded in 1999 to promote and protect human rights, to expose the most serious human rights violations in Brazil, and to develop strategies to challenge the attitudes and policies that allow such violations to persist. Our work aims to strengthen civil society and democracy, enhance access to justice, and promote much-needed reforms and public policies by addressing institutional weaknesses and related factors that contribute to patterns of the human rights abuse in Brazil.

We would like to take this opportunity to suggest ways for the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (“Working Group”) to structure its working program, in order to most effectively promulgate best human rights practices with respect to business and other corporate dealings.

In this regard, we propose that you establish a special mandate that will: (i) be responsible for receiving complaints and denunciations; and (ii) have the power to carry out on-site visits and issue reports surrounding the activities of transnational corporations and other business enterprises.

We consider these responsibilities and powers to be consonant with the guidelines already established during the Human Rights Council’s seventeenth session, in its resolution A/HRC/17/4, including those that require the Working Group to: identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles and assess and make recommendations thereon and, in that context, to seek and receive information from all relevant sources, including Governments, transnational corporations and other business enterprises, national human rights institutions, civil society and rights-holders; conduct country visits and to respond promptly to invitations from States; and report annually to the Human Rights Council and the General Assembly.

We point to the successful example of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (“Special Rapporteur on the right to health”) to illustrate how such a mandate might function within the Working Group.

The Special Rapporteur on the right to health is responsible for receiving information regarding alleged cases of violations of the right to health through a complaint procedure, and he or she subsequently communicates this information to States and other concerned parties. For this procedure to be more compatible with the inner workings of transnational corporations, we suggest different ways for the Working Group’s special mandate to gather the above-mentioned information. Particularly in large-scale projects, a country’s national laws (as is the case in Brazil) often oblige companies to conduct and present official impact studies for large-scale

projects that are expected to affect natural and urban areas. Frequently, these impact studies also address human rights related issues. However, even in cases where they do not, such impact studies usually encompass environmental, labor and other national and legal issues that are closely related to human rights standards. Therefore, the Working Group's special mandate could rely on the impact studies required of corporations in order to obtain information surrounding the human rights impacts of business ventures in various countries.

Because the impact studies mentioned above are primarily of a technical nature, the Working Group's special mandate could come up with a standard questionnaire to be distributed among local authorities, with the aim to assess the human rights impacts of large-scale projects. We suggest that the questionnaires be two-fold: (i) answerable by local governments or relevant corporations, whose response will be based on official impact studies; and (ii) answerable by NGOs and other civil society entities as a way to counter the information provided by local government or corporate actors. Since it would be impossible to charge the Working Group's special mandate with distributing the questionnaires to all actors throughout the world, such questionnaires could be directly available on the mandate holder's website. Upon receipt of completed questionnaires, the special mandate would request follow-up information from relevant stakeholders and other parties.

Please note that these questionnaires should not limit themselves to the negative impacts of transnational corporate activities; rather, they should be used to influence operations and lead to positive impacts on the protection of human rights, with special potential in the areas of social and economic rights. Exactly for this reason, positive reporting should also be encouraged by the Working Group's special mandate.

The Special Rapporteur on the right to health is furthermore charged with monitoring situations pertaining to the right to health throughout the world and, upon determining a need, he or she may undertake country visits to obtain a firsthand account on the situation concerning the right to health in a specific country. For the Working Group's special mandate, we believe the main focus for such visits should be large-scale projects, such as dam building, major drilling sites, cross-national oil ducts and other works of a similar magnitude.

Finally, the Special Rapporteur on the right to health is responsible for presenting annual reports to the Human Rights Council and to the General Assembly on the activities and studies that he or she undertakes. As a result of fulfillment of each of the responsibilities and powers mentioned above, the Special Rapporteur on health has been able to successfully draft and submit detailed reports, based on in country visits, surrounding the illicit practices and dealings of pharmaceutical companies around the world and the mechanisms for prevention thereof – including the Guidelines for Pharmaceutical Companies in relation to Access to Medicines.

It is for this and other reasons that we would like to recommend a similar mandate as that of the Special Rapporteur on the right to health be established for the Working Group, with regard to the human rights issues surrounding the practices and activities of transnational corporations and other business enterprises. We believe that a special mandate with such responsibilities and powers will allow the Working Group to document human rights abuses and appropriately hold companies to account for their malfeasance, in order to effectively promote the effective and

comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (among the other goals already set forth under resolution A/HRC/17/4).

We thank you for your attention to this matter, and we remain available to answer any questions you may have about our organization or our recommendations.

Sincerely,

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