

## Business and human rights - the role of national human rights institutions: the potential of trans-national NHRI cooperation - the European Action Plan on Business and Human Rights

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# Business and Human Rights – The Role of National Human Rights Institutions

The Potential of Trans-national NHRI Cooperation  
The European Action Plan on Business and Human Rights



German Institute  
for Human Rights



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# Imprint

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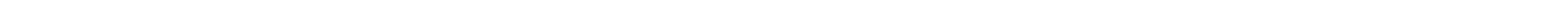
Documentation

# Business and Human Rights – The Role of National Human Rights Institutions

The Potential of Trans-national NHRI Cooperation  
The European Action Plan on Business and Human Rights



German Institute  
for Human Rights



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## Editorial

In times of immense economic and social challenges with business activities becoming ever more transnational, corporate action has more power than ever before to affect human rights, both positively and negatively. National Human Rights Institutions (NHRIs) have committed themselves, as affirmed in the ICC's 2010 Edinburgh Declaration, to integrate business and human rights into their strategies and activities at international, regional, and national level to support the implementation of the UN Guiding Principles. Since 2010, workshops on business and human rights have taken place at the regional levels of the ICC and four regional action plans have been developed in which they mark the 'end of the beginning' of the integration of business and human rights into NHRI action. The four action plans are the 2011 Yaoundé Action Plan, the Outcome Statement of the Asia-Pacific Forum of NHRIs after their first regional conference on business and human rights in Seoul in 2011, the Americas Action Plan after their conference in Guatemala in 2011, and finally the Berlin Action Plan documenting the results of the first European workshop on business and human rights in September 2012 in Berlin. Every action plan identifies concrete actions to be taken by NHRIs. The objective of this brochure is to document the development of and follow-up to the Berlin Action Plan, which you can find on page 15. You are getting insights into the work of NHRIs that is only at an early stage as far as business and human rights are concerned. The issues linked to business and human rights are often cross border issues – a particular and new challenge for NHRIs because their task is to focus on the implementation at the national level. Working on business and human rights they have to intensify their cross border cooperation and collaboration. The process was kicked off at the Berlin Conference in September 2012 within Europe and beyond thanks to the participation of the ICC Working Group on

Business and Human Rights as well as other international guests from NHRIs.

With its regional workshop, the European Network of National Human Rights Institutions (ENNHRI) aimed to contribute to the capacity building of European NHRIs in business and human rights. Right-holders affected by European markets and companies, within the region and beyond, should have a greater enjoyment of human rights. Consequently, the Berlin Action Plan expects European NHRIs to cooperate supra-nationally as well as transnationally with other NHRIs. They should undertake activities such as empowerment and support to affected rights-holders, monitoring, documentation, inquiries, handling of complaints, as well as education for and outreach to stakeholders, e.g. with regard to human rights impacts of businesses based in or operating in the respective NHRI's state. As concrete forms of cross-border collaboration in 2013, European NHRIs cooperated in the field of export credits: a submission with recommendations was sent to the Organisation of Economic Co-operation and Development (OECD). Another field of cooperation was hosting two conferences on austerity policy and their human rights impact in Berlin and Brussels.

This brochure starts with an essay on the role of NHRIs in the field of business and human rights by Prof. Alan Miller, director of the Scottish Commission of Human Rights and chair of the ENNHRI. Secondly you will read an interview with Lauretta Lamptey, director of the Commission on Human Rights and Administrative Justice and chair of the Network of African National Human Rights Institutions (NANHRI). From a host-country perspective, she points out why transnational cooperation between NHRIs is essential for facing corporate human rights violations. As an example of such a host-country/home-country NHRI



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cooperation, the brochure documents results of a workshop that the German Institute for Human Rights (DIMR) held with NANHRI members. The workshop's objective was to identify and elaborate fields of transnational cooperation between European and African NHRIs. Workshops in the Americas and in Asia will follow in 2014. The first part of the brochure ends with an overview of NHRI action in the field of business and human rights since the endorsement of the Edinburgh Declaration in 2011. The overview, which was prepared by the Danish Institute for Human Rights and the DIMR, shows that a lot of work in this area has already been done.

The second part of the brochure documents the Berlin Action Plan and the summary of ENNHRI's first regional workshop on business and human rights. The work on transnational cooperation of NHRIs in the area of business and human rights is financially supported by the German Ministry for Economic Cooperation and Development.

The Berlin Action Plan and the follow up examples that are presented here show that NHRIs have covered quite a distance in a short period of time: at the European level a process of integration has started, the role of NHRIs in the field of business and human rights has become clearer, and significant progress in the cooperation of NHRIs between host- and home-countries of business enterprises has been made. Those achievements serve as the basis for a deeper examination and provide more capacity to deal with corporate activities that impact human rights.

Michael Windfuhr,  
Deputy Director, German Institute for Human Rights



Alan Miller

# Human Rights, Business and National Human Rights Institutions

## Introduction

The business and human rights agenda has evolved significantly over the last decade. The most recent and important milestone in those developments are the UN Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (Guiding Principles). This document establishes a common global platform for action on the effective prevention of, and remedy for, business-related human rights harm. National Human Rights Institutions (NHRIs) have been identified in these guidelines as key actors to help the State and business enterprises to meet their human rights responsibilities, and support the UN Guiding Principles implementation process.

This paper starts by briefly describing NHRIs and their international structure. Subsequently, it examines the role they play in ensuring better accountability by governments and business when performing economic activities. In that analysis I draw on the Guiding Principles and the experiences of NHRIs all around the world. Finally, the paper highlights some of the challenges and ways in which NHRI mandates can be used to further advance the business and human rights agenda.

## National Human Rights Institutions

NHRIs are public bodies with a constitutional or legislative mandate to protect and promote human rights. NHRIs operate and function independently from government and civil society. NHRIs are central to national human rights protection systems and are important partners in the international human rights system. The United Nations has been extensively involved in establishing and strengthening NHRIs around the world.<sup>1</sup>

In 1993 NHRIs established the International Coordinating Committee of NHRIs (ICC) with the aim to coordinate the activities of the NHRI network. In 1998, rules of procedures were developed for the ICC and the membership of its Bureau was enlarged to 16 members, four from each of the geographical regions – the Americas, Africa, Asia-Pacific and Europe.<sup>2</sup> The Scottish Human Rights Commission (SHRC) is the current Chair of the European Group of NHRIs.

In August 2009, the ICC established a thematic Working Group on Business and Human Rights. The Working Group includes two members from each of the 4 ICC Regions. The Canadian Human Rights Commission held the Chair of this Working Group from 2011-2013; since 2013 the Working Group has been chaired by the Commission on Human Rights of the Philippines. The Working Group's purpose is to promote capacity building, strategic collaboration, advocacy and outreach by NHRIs in the business and human rights area.

In October 2010, under the leadership of SHRC and in cooperation with the United Nations Office of the High Commissioner for Human Rights, ICC and the Scottish

1 See for example UN Secretary-General's report to the General Assembly on NHRIs: 'National Institutions for the Promotion and Protection of Human Rights', Doc.A/HRC/13/44, 15 January 2010. Available at <http://www.refworld.org/pdfid/4bbef2662.pdf> [retrieved on 10.02.2014].  
2 UNDP and OHCHR work with over 80 NHRIs worldwide.

Parliament, delegates from over 80 countries as well as representatives of government, labour, civil society and business met in Scotland to discuss wide-ranging business and human rights issues. The meeting triggered a collective engagement and commitment of NHRIs to the Human Rights and Business agenda. Participating NHRIs adopted the **Edinburgh Declaration**, which calls, inter alia, to apply NHRIs' mandates to promote and protect human rights in this context as well as to incorporate business and human rights in the strategic plans of each NHRI and ICC Region around the globe.

The **Edinburgh Declaration** also established a reporting mechanism to account, including via Regional Chairs and the ICC Working Group to the ICC General Meeting in 2011 on specific activities on Human Rights and Business. As a consequence, four ICC regional declarations and plans of action for business and human rights have been adopted since 2011. The European action plan is attached.

The international community and the UN have further recognised the central role and contributions of NHRIs in the business and human rights agenda. On 15 June 2011, the UN Human Rights Council emphasised:

"[...] the important role of national human rights institutions established in accordance with the Paris Principles in relation to business and human rights, and encourages national human rights institutions to further develop their capacity to fulfil that role effectively, including with the support of the Office of the High Commissioner and in addressing all relevant actors [...]"<sup>3</sup>

## NHRI's and The Guiding Principles

Unprecedentedly, the UN Human Rights Council endorsed a new set of Guiding Principles on Business and Human Rights in 2011. The Guiding Principles are designed to provide – for the first time – a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity.<sup>4</sup> They rest on three pillars:

1. the States duty to protect human rights against adverse impacts by non-State actors, including business;
2. the corporate responsibility to respect human rights;
3. the need for greater access to remedy for victims of business-related human rights abuse.

Under the first pillar, the Guiding Principles recommend governments on how they should provide greater clarity of expectations and legal consistency for business in relation to human rights. The second pillar provides a blueprint for companies on how to know and demonstrate that they are respecting human rights. The final pillar focuses on ensuring that where people are harmed by business activities; there is both adequate accountability and effective redress – judicial and non-judicial.

Two years have passed since the United Nations Human Rights Council unanimously endorsed the Guiding Principles and they have found an increasingly prominent place within the business and human rights agenda. There is an unprecedented level of alignment of key standards and initiatives at global, regional and national level. A growing number of governments are developing national action plans on business and human rights, with the UK and Spain being among the first of them in Europe. The European Commission has also recommended a process to develop how the Guiding Principles should apply at national level via the *Strategic Framework and Action Plan on Human Rights and Democracy*.<sup>5</sup>

The EU has focused on how the Guiding Principles should apply in particular sectors, including ICT, oil and gas, and employment as well as in small and medium-sized enterprises. EU engagement within this area together with the commitment by Member States to develop National Action Plans carry a great potential for ensuring accountability of governments and private enterprises. Here,

3 UN, Human Rights Council, UN Doc. A/HRC/17/L.17/Rev., 15 June 2011, para. 11. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G11/141/87/PDF/G1114187.pdf?OpenElement> [retrieved on 10.02.2014].

4 UN, Human Rights Council, UN Doc. A/HRC/17/31, 21 March 2011. Available at [http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31\\_AEV.pdf](http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf) [retrieved on 10.02.2014].

5 EU, Council of the European Union, EU Strategic Framework and Action Plan on Human Rights and Democracy, Doc. No. 11855/12, 25 June 2012, Luxembourg. Available at [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf) [retrieved on 10.02.2014].

NHRIs play a key role to ensure effective implementation of the Guiding Principles and other relevant human rights standards at domestic level. In fact, the Guiding Principles recognise that NHRIs have both the mandate for and a role in supporting the implementation of all three pillars of the UN 'Protect, Respect, Remedy' Framework, through engagement with states, business and victims of human rights abuses by business enterprises.

International initiatives are increasingly incorporating the Guiding Principles into their policies and structures. The UN Global Compact's First Principle content has been recently clarified as to be read in line with the UN Guiding Principles; there has also been an update of the OECD Guidelines for Multinational Enterprises, which brought a new human rights chapter and due diligence recommendations in 2011; and the new ISO 26000 provides guidance on how businesses and organisations can operate in a socially responsible way, containing a human rights chapter. References to the Guiding Principles can also be seen in inter-state statements such as the 2013 G8 statement in London concerning Myanmar.<sup>6</sup> Likewise companies are increasingly aware of their human rights responsibilities<sup>7</sup> and are starting to embed human rights into their day to day operations.<sup>8</sup>

At the end of 2013 the Scottish Government in cooperation with SHRC and The Mary Robinson Foundation - Climate Justice hosted an international conference on Climate Justice in Edinburgh. The conference linked climate change, human rights and the role of business as essential dimensions of sustainability. NHRIs also play an important international role in the context of the post-2015 development agenda. We have a great opportunity to encourage the UN (and international community) to move business and hu-

man rights, including Climate Justice, to the centre of the international policy agenda with post-2015 development plans to carry on from the UN Millennium Development Goals, the so called post 2015 Agenda.

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## NHRI's Role

NHRIs work together with governments and civil society to enhance the protection of human rights. They have a special capacity to understand national concerns and identify international practices. NHRIs ability to promote and monitor the effective implementation of international human rights standards at national level is particularly relevant in this area. The fact that NHRIs are coordinated at international and regional levels facilitates a strategic approach to key human rights issues. They also have relevant experience in providing effective remedies to victims of human rights abuses. NHRIs credibility and legitimacy are crucial in promoting human rights standards.

NHRIs mandates are both broad and authoritative,<sup>9</sup> and there are a number of ways in which they can address business and human rights, from education and promotion to policy recommendation and complaint handling. A first survey conducted by OHCHR on behalf of the Special Representative shows that many NHRIs actively engage in business and human rights issues.<sup>10</sup> Some of these are:<sup>11</sup>

- India's NHRI using its quasi-judicial powers to ensure that industries function in accordance with national law, including the *Bonded Labour System Act*, *Minimum Wages Act*, and *Child Labour Act* and international standards;<sup>12</sup>

6 See 'The G8 Foreign Ministers have issued a joint statement following their meeting on 10 and 11 April 2013 in London.' Available at <https://www.gov.uk/government/news/g8-foreign-ministers-meeting-statement> [retrieved on 10.02.2014].

7 Since mid 2000, over 8,700 business participants and stakeholders from around the world have made a commitment to implement the principles of the UN Global Compact (including human rights, environmental labour and anticorruption principles) and communicate their progress to their own stakeholders on an annual basis. For the UN Global Compact visit <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> [retrieved on 10.02.2014].

8 See for example Quiroz-Onate, Diego: 'Newmont Mining Corporation: Embedding Human Rights through the Five Star Programme' in: *Embedding Human Rights into Business Practice II*, 2007, UN Global Compact & UN Office of the High Commissioner of Human Rights publication, pp. 157-167. Available at [http://www.unglobalcompact.org/docs/news\\_events/8.1/EHRBPIL\\_Final.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/EHRBPIL_Final.pdf) [retrieved on 10.02.2014].

9 See UN, General Assembly, 'Principles Relating to the Status of National Institutions (The Paris Principles)'. Adopted by General Assembly, UN Doc. A/RES/48/134, 20 December 1993. Available at <http://www.un.org/documents/ga/res/48/a48r134.htm> [retrieved on 10.02.2014].

10 See UN, OHCHR, 'Business and human rights: a survey of NHRI practices—results from a survey distributed by the Office of the United Nations High Commissioner for Human Rights', 2009. Available at <http://www.reports-and-materials.org/OHCHR-National-Human-Rights-Institutions-practices-Apr-2008.doc> [retrieved on 10.02.2014].

11 For a further discussion of this see the UN, OHCHR, 'Final Report of the UN Forum on Business and Human Rights' Geneva, 4-5 December 2012. Available at <http://bit.do/nhri-ohchr-report-UN-forum-pdf> [retrieved on 10.02.2014]. See also Faracik, Beata: 'The Role of the NHRIs in implementing the UN Guiding Principles on Business and Human Rights.' European Parliament. DG External Policies, Policy Department, 2012. Available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/457112/EXPODR01\\_ET%282012%29457112\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/457112/EXPODR01_ET%282012%29457112_EN.pdf) [retrieved on 10.02.2014].

12 See National Human Rights Commission of India, 'Special Report to Parliament on Silicosis' (submitted on 23.08.2011). Available at <http://bit.do/india-nhri-silicosis-pdf> [retrieved on 10.02.2014].

- The considerable advice and tools to businesses provided by Australian, Canadian, Danish and other NHRIs on corporate responsibility;<sup>13</sup>
- The direct business engagement provided by NHRIs of New Zealand, Malawi, Togo and Venezuela, amongst others, to intervene as independent observers, mediators, or investigators in potential and real conflict situations;<sup>14</sup>
- Korean's NHRI recent research programme regarding regulations, policies and practices in this area to ensure compatibility with human rights standards;<sup>15</sup>
- The Philippines' NHRI complaint handling involving business;<sup>16</sup>
- Scotland's NHRI recommendation to the Scottish Government to ensure integration of human rights into each stage of the procurement process.<sup>17</sup>

workshops were held by the Network of African National Human Rights Institutions, Asia Pacific Forum of NHRIs and the Network of NHRIs of the Americas, and in 2012 by the European Group of NHRIs. Each workshop has resulted in a Regional Action Plan on Business and Human Rights, identifying key priority areas and concrete actions to be taken by NHRIs, individually and collectively.

The ICC has also agreed to:

- Develop a NHRI Training Tools comprised of a ICC training course for NHRIs on Business and Human Rights and an accompanying guidebook with regional supplements developed by regional committees;
- Develop NHRI Fact Sheets to support NHRIs engagement in the UPR and specific issues such as food, water and the environment.

#### Berlin Action Plan on Business and Human Rights

At regional level, ICC member NHRIs from the Asia-Pacific region agreed to engage with the Association of Southeast Asian Nations (ASEAN) to develop the regional thematic 'Baseline Study for Corporate Social Responsibility and Human Rights in ASEAN'. In Europe, the European Group of NHRIs developed a discussion paper on national implementation plans implementing the Guiding Principles for EU Member States.<sup>18</sup> The German Institute for Human rights is guiding the process for transnational cooperation of NHRIs in the area of Business and Human Rights.

In addition, in line with commitments expressed in the Edinburgh Declaration, NHRIs organised regional workshops on business and human rights to identify priority areas and potential for cross-border cooperation initiatives on issues of relevance to several countries and ICC regions. In 2011,

The European Group of NHRIs held its first Regional Workshop on Business and Human Rights in Berlin in September 2012.<sup>19</sup> Representatives of over 20 NHRIs from the European Region and the ICC Working Group on Business and Human Rights as well as civil society, business, government and European regional and international organisations participated in the workshop. The result was the definition of a set of priority actions for both NHRIs and the European Group of NHRIs, in order to allow for a coordinated collective support for the implementation of the UN 'Protect, Respect, Remedy' Framework.<sup>20</sup> These include:

- A national baseline study with reference to the UN Guiding Principles on Business and Human Rights;

13 See for example the Danish Institute for Human Rights at <http://humanrights.dk/business> [retrieved on 10.02.2014].

14 Malawi Human Rights Commission conducted investigations and other strategic engagement in 2009-2010 through the Alternative Dispute Resolution Mechanisms with a local mining company, Terrastone Limited, operating a quarry at Njuli.

15 See more at <http://www.humanrights.go.kr> [retrieved on 10.02.2014].

16 See e.g. the Oceana Gold Philippines Case at <http://www.chr.gov.ph> [retrieved on 10.02.2014]. A foreign company engaged in the exploration, development and the utilisation of minerals under a Financial and Technical Agreement granted in 1994. Key human rights concerns included displacement of the local population, housing rights and personal security.

17 The Guidance on Social Care Procurement has opened the door to human rights being incorporated into the service specifications, the selection and award criteria, and contractual clauses. The Guidance has now been finalised and published by the Scottish Government and COSLA (the Guidance is available at <http://www.jitscotland.org.uk/action-areas/commissioning/procurement/> [retrieved on 10.02.2014]. The Joint Improvement Teams SHRC response is available at <http://www.scottishhumanrights.com/ourwork/publications/article/submissionsocialcare> [retrieved on 10.02.2014].

18 The executive summary of the European Group of National Human Rights Institutions, 'Implementing the UN Guiding Principles on Business and Human Rights: Discussion paper on national implementation plans for EU Member States', June 2012, is available at <http://business-humanrights.org/media/eu-nhris-paper-on-nationalimplementation-plans-for-ungps-210612-short.pdf> [retrieved on 10.02.2014]

19 The Workshop was organised by the German Institute for Human Rights with assistance from the Danish Institute for Human Rights and the Scottish Human Rights Commission, and with the support of the German Federal Ministry for Economic Cooperation and Development and the Global Compact Network Germany.

20 For the Berlin Action Plan on Business and Human Rights page 15.

- Integrating human rights and business in submissions to international bodies, for example, during the UN Human Rights Council's Universal Periodic Review, and other reporting mechanisms;<sup>21</sup>
- Undertaking specific activities such as public procurement, human rights impact assessments, access to effective remedies for victims of business-related human rights abuses.

The European Group members further agreed on the following actions at regional level:

- Including business and human rights in the next and future strategic plans of the European Group;
- Conducting an informal NHRIs Baseline Survey, aimed to identify NHRIs' capacities and current levels of engagement with business and human rights issues;
- Undertaking strategic outreach with UN and European-level institutions as well as stakeholders relevant to business impacts on human rights such as the OECD National Contact Points (NCP) and the UN Working Group on Business and Human Rights;<sup>22</sup>
- Engaging with national institutions on national action plans to implement the Guiding Principles, and in issues such as reporting, public procurement and trade.

Participating NHRIs agreed to initiate concrete action in relation to the areas above within the next twelve month period and to report back on these to the European Group.

### The Challenges and Prospects

Business and human rights has been placed at the top of the NHRIs' agenda. However, there is much to do before their integration into national and international systems becomes a certainty. While the Guiding Principles have conceptually transformed this area, there is still a lack of coherence between policy and practice at both national and international levels. The reality is that the business and human rights issues still remain far from the centre of international business and political agendas, such as trade and investment policies as well as financial markets.

The challenge is to make it an integral part of global efforts to bridge existing governance gaps and safeguard protection and respect for human rights in the context of economic activities. NHRIs play a crucial role in making this possible. The sheer scale and complexity of the issue requires coordinated strategic efforts by the whole human rights protection system. A global fund on business and human rights linked to the UN with multi-stakeholder engagement could help with the funding side of this challenge, and set in motion a faster and greater global impact.

There are internal challenges too. NHRIs need to strengthen their technical capacity as well as their financial ability to be able to successfully operate in this area, while also investing in capacity building for governments, business and other key stakeholders, particularly individuals and groups who are especially vulnerable to adverse impact arising from business activities. NHRIs have to be sufficiently resourced to effectively engage governments and companies on difficult implementation tasks.

Further questions related to the limited mandate of NHRIs in some countries around the world arise. In a 2009 survey on business and human rights, 13 out of 43 NHRIs reported that they lacked legal mechanisms for handling complaints against companies.<sup>23</sup> However, NHRIs are realising increasingly that human rights protection also covers the conduct of business enterprises – at home and abroad – so their general mandate allows them to deal with both public and private actors.

There are also a variety of technical areas, operational environments and specific rights or groups that we need to learn to understand better. In addition, information flow and coordination within regional groups could be improved by establishing a business and human rights focal point within each NHRI.

In conclusion, NHRIs are increasingly active on the business and human rights agenda and are establishing themselves as key actors in addressing this strategic challenge of globalisation.

*The author is Chair of the European Group of National Human Rights Institutions*

21 The Scottish Human Rights Commission has introduced recommendations in this area in their submission to the second round of the Universal Periodic Review. A similar attempt is currently undertaken by other NHRIs.

22 A number of international organisations including the UN, the EU, the OSCE, OECD National Contact Points, the Council of Europe and the ILO were invited to participate and speak at the Regional Workshop to seek further synergies and potential for cooperation.

23 See footnote 10.

# 'Our Role in Resolving Disputes Might Simply Fall on Deaf Ears' – Why transnational NHRI cooperation in the field of business and human rights is important

A perspective of the Ghanaian Commission for Human Rights and Administrative Justice (CHRAJ)

Accra, 28/11/2013. The German Institute for Human Rights met members of the Network of African National Human Rights Institutions (NANHRI) during the 9th biennial conference of the NANHRI in Accra, which was dedicated to the topic of 'Business and Human Rights'. The purpose of this meeting was a consultation on transnational NHRI cooperation as a valuable resource in dealing with cross border business activities. After the consultations, Deniz Utlu, Policy Adviser at the German Institute for Human Rights in the field of business and human rights, talked to Commissioner Lauretta Lamprey about the need for an African-European NHRI cooperation, when companies with subsidiaries on the African continent have their home countries in Europe.

*The CHRAJ, like other National Human Rights Institutions in Africa, has a broad field of action, deals with a wide range of human rights violations, and provides many different services – from monitoring and reporting to advising the persons concerned. Will you have any additional capacity for a focus on the field of business and human rights? How crucial is this from your perspective?*

We take a very purposeful view of our mandate – we consider it as broadly as situations require. Obviously, we do have limited capacity in terms of human and financial resources, to carry out such a broad mandate. For example, what we have done in the past with most of our human rights activities is that we focus on something for a period. In election times the focus of our activities will be very much on the right to vote, and we will do public education, seminars, and other activities.

And then every few years it's the prevention of torture and cruel and inhumane treatment of prisoners – so we set up a monitoring team that goes across the country monitoring prisons. This is a very labour-intensive and time-consuming work, we can only afford to do it once every few years. Therefore, I would say, we can always find the capacity to focus on one thing at a time. It may

not be a sustained focus as a permanent high-level area, but, generally speaking, it may be a focus for that year or for a two-year period.

In the area of business and human rights, however, we don't feel that this cyclical approach is the right one. It's not something to look at once in a while. On the contrary, we feel that it must be a focal area of our activities. It's unusual in that sense because as a complaints-driven commission, our focal areas are the areas we get complaints in, for example domestic, family law matters. So to pick something as a focal area where we don't have a lot of cases is unusual; but since we anticipate its importance, we feel that – particularly in the extractive industries, as a new entrant into the oil and gas field – there will be issues of violations. We need to be prepared, we need to gear up, we need to do things like this kind of experience sharing at conferences and be ready for those situations in advance, not just with one focal area for a limited period of time. For this purpose we have intended to set up a human rights desk – we are not going to do that yet, but we will have focal persons within the Commission, whose permanent assignment is certainly to be the liaison person on business and human rights issues.

*You mentioned the extractive industries – is it desirable to cooperate for this issue with, for example, European NHRIs?*

I think that it absolutely is, particularly in that field, because the main companies in the extractive sector obviously come from regions outside of Africa. Our investigations at CHRAJ of individual violations have not required involvement from European NHRIs so far. One reason might be the particular types of violations and the long-term nature of some extractive industries: the companies have wanted to have a good working relationship with the communities, and they have understood that they're there for the long haul and it is therefore in their interest to try to remedy defects. In some other industries, in gas for example, where there is no community, the company

might not have that impetus, it might not be saying 'we have to live with these people; therefore we should live in harmony'. They might well take a very different position, where our involvement and our role in resolving disputes might simply fall on deaf ears. So we can see situations where we absolutely do need collaboration with NHRIs from home countries. As I mentioned in today's session, even where violations have not yet occurred – because as someone pointed out, so many companies are doing good things and being good corporate citizens and it's very easy for it to sound as if we feel that they all have so many problems – it is important to have the dialogue started so that we know that if we do need some involvement from the home country's side or some pressure or assistance with or some form of collaboration, that the avenues are already opened. So yes, we feel that being able to collaborate with European NHRI's will be very important.

*What could such collaboration look like in, for example, the mining industry, which is very important for Ghana? What kind of work should we do there together?*

Well, certainly you could let us know what standards are set in your country, for when we have an investment from one of your countries to strengthen our hand and to say 'you would not be able to do this in your home country; you cannot do it in our country.' So there should certainly be information sharing. I think for us, as one NHRI, as CHRAJ, it would also really be helpful to collaborate in situations where we get resistance from a multinational corporation to our efforts to mediate – and therefore it is not specific to mining. It would allow us to put pressure on them to come to the table.

*Do you have specific cases in mind?*

When government ministries and companies make decisions that have effects on people without letting them participate, we often get involved. We have a lot of cases about land acquisition, where the communities were not involved in the negotiation processes. The companies would negotiate with the government and then start mining without concerning themselves with the people who live in the mining zone. Though there might be a government resettlement plan, we are saying, 'you as a mining company have to take responsibility for the resettlement of these people.' Then we have cases where communities have been resettled and moved away from their main source of livelihood. So they may have been given an equivalent piece of land, perhaps even double the land they had, and this may have seemed fair to the Ministry of Lands while negotiating. But they did not take into consideration the actual community and what

it produced. If a fishing community is moved inland, a hundred miles away from any water, then the size of the land isn't the problem. That happened to a few communities that were put in places where they didn't know what to do. People who farmed were taken to an area where cocoa has never been farmed. When the community is not involved in a resettlement decision, often they lose more than their right to farm – they lose their right to choose to farm, because you moved them two hundred miles away from where farming is possible.

Here is where I think collaboration helps the most. We can intervene after reading about the circumstances and say 'you know, it may be late, but can you talk to the company and say this is going to be a problem?' We do not want to be told by the company, 'this is what I negotiated or 'this is my right; it has been agreed; you are the Human Rights Commissioner, and I don't answer to you. It's not about who answers to whom – it's about human rights that business have to respect in areas where national human rights institutions can exert pressure.

*In a case, for example, where a German company is involved, the German Institute for Human Rights could talk to civil society organisations with connections to the company or even talk to the company itself. Would you also expect coalition on the political level? What about political decisions that are made in Europe, but have impacts on Ghana? Or maybe you have an example?*

We recognise that we don't come into the picture when investment agreements are being negotiated. Investment agreements go to parliament, but by the time they're being put through our parliament, the agreement is essentially a done deal. In South Africa they have public hearings on most of the major investments, they advertise in papers long before, and stakeholders have the opportunity to make a difference at a much earlier stage. You as home-state NHRIs can take our information and use it to say, 'this company has made a good proposal, but do you know what they did in Ghana or Nigeria? Why aren't you considering bids from alternative companies?'

If there is an NHRI in the home country that has an avenue of influence, there is a strong reason for us to be able to speak to them and say 'we know you are in a position to communicate this and influence the activities of your governments. That's important.

*Thank you very much!*

# NHRI actions in the field of business and human rights – Update on steps to implement the 2010 Edinburgh Declaration

Claire Methven O'Brien, Cathrine Poulsen Hansen, Sofia Manukyan and Deniz Utlu

## Introduction

This briefing has been developed to provide an overview of the measures taken by NHRIs since 2010 towards fulfilling their Paris Principles mandate on business and human rights. It describes the actions taken by NHRIs from each of the ICC's four geographical regions: Africa, the Asia-Pacific, the Americas and Europe, first taking a look at the actions of individual NHRIs and then at NHRIs' collective actions at the regional level. Finally, a summary is provided of the actions of NHRIs at global level via the ICC Working Group on Business and Human Rights.

The briefing has been compiled on the basis of publicly available reports and materials. It is intended to be illustrative, rather than exhaustive. A more comprehensive report of NHRI actions towards implementing the Edinburgh Declaration is currently in preparation and will be published in coordination with the ICC Working Group on Business and Human Rights.

## NHRI Actions on business and human rights

### 1. Africa

#### 1.1 Africa: actions of individual NHRIs

##### 1) Cameroon National Commission on Human Rights and Freedoms (NCHRF)

In April 2012, a workshop on *Sensitisation of Cameroonian Private Sector Workers on the Fundamental Principles of Human Rights* was held. The objectives were to raise awareness of fundamental labour rights, as well as of the role of NCHRF and of the Ministry of Labour and Social Security in the labour area, and to develop a timeframe for dissemination activities on labour rights

within companies. Two further workshops have been held: one for NCHRF members on human rights and the extractive industries in July 2011, and a second on labour rights of workers in parastatal companies (Cameroon Development Corporation and National Oil Refinery) in November 2012.

In terms of monitoring, NCHRF investigated pollution of the Ndogsimbi Stream in Douala in 2011, writing to the Minister of Health and Environment and Nature Protection and regional delegations, to request remediation measures. In 2012, NCHRF further initiated a human rights assessment of the Kribi Deep Sea Port project. This project was launched in 2009 under a long-range economic development policy of the Cameroon government. Subsequently, the NCHRF received complaints alleging a range of human rights abuses resulting from the project, for example with regard to the right to property, involuntary resettlements, indigenous peoples' rights and labour-related human rights. While NCHRF had already been providing advice to employers and workers in response to labour disputes, in 2012 it decided to initiate a broader human rights impact assessment of the project. As part of this assessment, in December 2012 NCHRF conducted a mission to visit the Kribi project site and meet with stakeholders, including representatives of relevant government authorities and residents.

Regarding the integration of business and human rights into strategic planning, the Cameroon National Action Plan for the Promotion and the Protection of Human Rights, which addresses the period 2013–2018, includes the following four aims:

- To strengthen national capacities to protect and promote human rights;
- To coordinate activities of relevant actors in this regard;
- To develop a human rights based approach in all national sectors, including industries and trade,



- to preserve a global and non-compartmentalised approach to human rights.<sup>1</sup>

## II) Kenya National Commission on Human Rights (KNCHR)

KNCHR has established a focal point on business and human rights and a *Human Rights and Business Programme within its Economic, Social and Cultural Rights Department*, under which a range of activities have been initiated.

Concerning the extractive sector, in 2012, KNCHR held a forum with stakeholders to discuss the situation of human rights in the extractive industries. The event aimed to build capacity amongst civil society organisations and streamline their participation in extractive industries due diligence. In December 2012, KNCHR undertook a mission to the Kitui Mui Coal Basin, a project affecting approximately 60,000 families. Further, concerning the Rukana Oil Site, through engagement with local partners, government and gas companies, KNCHR will focus on the government-business investment contract, and the compatibility of its terms with human rights standards, the adequacy of steps taken to consult and inform communities with regard to resettlement, as well as the adequacy of compensation especially given the size of the project.

KNCHR, in collaboration with the Institute for Human Rights and Business, has also launched the Nairobi Process: A Pact for Responsible Business, aiming to promote human rights due diligence in the emerging oil and gas sector in Kenya.<sup>2</sup>

An investigation by KNCHR concerning the Lamu-Port-South Ethiopia Transport Corridor (LAPSSET) is on-going. Phase One of LAPSSET, the construction of a sea-port on the Kenyan Coast (Lamu Port), which commenced in 2012, has already affected about 120,000 families.<sup>3</sup>

In 2012, KNCHR held follow-up meetings with local communities to assess whether recommendations made in its report, *Economic interests versus social justice: Public inquiry into salt manufacturing in Magarini, Malindi District (2006)* had been implemented. Subsequent to this, in 2013, KNCHR exercised its powers to litigate in the public interest, and filed a case against the companies in question in relation to violations of land rights and the right to a clean environment.<sup>4</sup>

From time to time KNCHR also conducts human rights training for businesses.<sup>5</sup>

## III) National Council on Human Rights of Morocco (CNDHM)

In 2013, CNDHM and the General Confederation of Enterprises of Morocco organised a seminar on Human Rights and Business. The seminar initiated dialogue amongst stakeholders on integrating business respect for human rights into the economy while taking the UN Guiding Principles as its framework. Over two hundred representatives of different stakeholder groups participated, including government, public institutions, public and private enterprises social partners, and civil society. Discussions at the seminar addressed themes including: the relationship between international instruments on business and on human rights, Morocco's commitments under international human rights law, relevant national legislation and the effectiveness of remedies available for violations of human rights connected to business. The seminar allowed stakeholders to identify areas of co-operation with a view to developing a coordinated plan of action in line with international standards.<sup>6</sup>

## IV) Sierra Leone Human Rights Commission (HRCSL)

In 2012, HRCSL undertook a formal inquiry into mining-related human rights abuses in Bumbuna, Tonkolili District, where a range of workforce and community griev-

1 Network of African National Human Rights Institutions (NANHRI), 'Report of the NANHRI Mapping Survey on Business and Human Rights', 2013. Available at <http://www.nanhri.org/phocadownload/mapping%20survey%20on%20bhr%20-%20role%20of%20nhris%20-%20final%20version.pdf> [retrieved on 10.02.2014].

2 Institute for Human Rights and Business, 'Nairobi Process: A Pact for Responsible Business', see more at <http://www.ihrb.org/about/programmes/nairobi-process.html> [retrieved on 10.02.2014].

3 Götzmann, Nora and O'Brien, Claire: 'Business and Human Rights. A Guidebook for National Human Rights Institutions', International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (DIHR) publication, November 2013, p.56. Available at [http://www.humanrightsbusiness.org/files/ICC%20working%20group/BHR%20Guidebook%20for%20NHRIs\\_2013\\_ENG.pdf](http://www.humanrightsbusiness.org/files/ICC%20working%20group/BHR%20Guidebook%20for%20NHRIs_2013_ENG.pdf) [retrieved on 10.02.2014].

4 Ibid.

5 Ibid.

6 Götzmann, Nora and O'Brien, Claire: 'Business and Human Rights, A Guidebook For National Human Rights Institutions, Regional Supplement: African Regional Frameworks and Standards on Business and Human Rights', International Coordinating Committee of National Human Rights Institutions (ICC) and Danish Institute for Human Rights (DIHR) publication, November 2013. Available at <http://bit.do/nhri-ohchr-guide-regionalsupplement-1> [retrieved on 10.02.2014].

ances had culminated in violence and police intervention leading to a number of deaths and serious injuries. HRC-SL's *Bumbuna Public Inquiry Report* (2012) identifies a range of recommendations for government, public bodies including the police, businesses, and the community, with a view to providing remedy for grievances suffered and preventing their recurrence in future.

As a follow-up to the Bumbuna inquiry, HRCSL launched in 2013 its *Business and Human Rights Monitoring Tool*. The Monitoring Tool can be applied by HRCSL in a range of ways, including in future investigations and dialogues with companies, and by other actors in assessing company conduct against human rights standards. The tool includes specific questions and indicators outlining the human rights and national laws as well as standards relevant to a number of business functions, such as human resources, environment and communities, security, government relations and procurement.<sup>7</sup>

#### V) South African Human Rights Commission (SAHRC)

In the area of monitoring and legislative review SAHRC has issued since 2010 legal opinions and commentaries on topics including the impact of the Gauteng Road Toll System, the Companies Bill, and the UN Guiding Principles on Business and Human Rights. SAHRC has a complaints-handling function that extends to business and labour matters and in 2012 a significant proportion of over 5000 complaints fell in this area.

#### VI) Zambia Human Rights Commission (ZHRC)

ZHRC's 2010 *State of Human Rights Report* focused on the topic of human rights and the environment. The Report notes the emergence of serious environmental problems linked to the development of a number of business sectors in Zambia, such as mining, agriculture and tourism. Amongst its conclusions, ZHRC identified the need for a more effective mainstreaming of human rights standards in environmental governance frameworks, in a number of areas.<sup>8</sup>

With regard to its advisory functions and in the context of its 2012 submission on Zambia's draft Constitution, ZHRC included commentaries on a number of topics relevant to the business and human rights area. For example, concerning draft Article 65 on Labour Relations, ZHRC proposed the substitution of the word "employment" with the broader term "work", with reference to Article 23(1) UDHR, Article 6 ICESCR, and Article 15 of the African Charter. In addition, ZHRC urged revision and inclusion of a more detailed clause in the Constitution on environment, given widespread pollution and environmental degradation in Zambia.<sup>9</sup>

#### 1.2 Africa: actions at regional level

The Network of African National Human Rights Institutions (NANHRI) held its first Regional Workshop on Business and Human Rights in Yaoundé, Cameroon, in September 2011. The workshop's objective was to promote and strengthen measures by African NHRIs to advance the UN Guiding Principles on Business and Human Rights in accordance with their Paris Principles mandate, by sharing experiences and good practices. At the workshop, recommendations for a 3-year plan of action were developed. The Yaoundé Declaration urges African NHRIs individually and at regional level to undertake capacity-building on business and human rights; human rights education, outreach and sensitisation with relevant stakeholders, and to integrate human rights and business issues into strategic planning and programmes.

In 2012, further to the Yaoundé recommendations, NANHRI undertook a *Mapping Survey on Business and Human Rights*. The survey gathered responses from African NHRIs regarding their needs, priorities and challenges in the business and human rights field. The Survey report includes a set of six case studies of good practices of NHRIs on business and human rights from within the African Network.<sup>10</sup> NANHRI's 9th Biennial Conference held in November 2013 in Accra, Ghana, also addressed the topic of business and human rights, and included thematic sessions on National Action Plans on business and human rights, and transnational cooperation between NHRIs to address business and human rights issues.<sup>11</sup>

7 See footnote 26, p. 69.

8 See footnote 29, p. 14.

9 Ibid.

10 See footnote 24, p. 64-83.

11 The Conclusions and Resolutions of the Ninth Biennial Conference of the Network of African National Human Rights Institutions in Accra, 27-29 November, 2013 are available at <http://www.nanhri.org/phocadownload/accra%20declaration.pdf> [retrieved on 10.02.2014].

## 2. Americas

### 2.1 Americas: actions of individual NHRIs

#### I) National Human Rights Institution of Chile (INDH)

In December 2013, Chile's National Human Rights Institute released its *Annual Report on Human Rights Situation in Chile*, which included a section on business and human rights issues. The report examined two cases addressing the actions of business entities and possible violations of fundamental rights. The first case was that of the Pascua Lama mining project. As a consequence of repeated breaches of environmental permits, the project was forced to cease all activities until mitigating measures were put in place. The second case examined is known as the 'Collusion of Pharmacies', raising a violation of the right to access medicines as a component of the right to health.<sup>12</sup>

#### II) National Human Rights Commission of Mexico (NHRC)

In September 2012, the NHRC issued a *Recommendation* urging the Government to ensure the protection of the rights of the Wixárika peoples in the context of mining activities in Wirikuta, a sacred indigenous site for the Wixárika. Violations of the rights to participation and consultation, cultural identity and a healthy environment were alleged, along with unlawful use of indigenous territories. The Recommendation was addressed to a number of Government actors, including the Ministry of Economy, the Ministry of Environment and Natural Resources, the General Commission of Development for Indigenous Communities, and to the municipalities of the affected areas. The Recommendation highlighted the urgency of reviewing the mining license in Wirikuta and, if necessary, the immediate cancellation of the mining activities. It also noted the need for improvement of national law and practice with regard to requirements to consult and negotiate with indigenous communities in relation to any process that can affect their rights and interests. The Recommendation further called for the creation of conservation and protection programmes incorporating inspection visits and field studies.<sup>13</sup>

### 2.2 Americas: actions at regional level

The Network of National Human Rights Institutions of the Americas held its Regional Seminar on Business and Human Rights in November 2011 in Antigua, Guatemala. The seminar resulted in the development of a Business and Human Rights Action Plan for the NHRIs of the Americas. The Action Plan includes a shared vision and a joint statement on the promotion of good human rights practices amongst corporations.<sup>14</sup>

## 3. Asia-Pacific

### 3.1 Asia-Pacific: actions of individual NHRIs

#### I) India National Human Rights Commission (NHRC)

In 2012, NHRC commissioned the Institute of Corporate Sustainability Management (ICSM) Trust to develop a draft code based on human rights standards for Indian industries. In preparing the study, data was collected from across industry sectors including steel, power, mining, cement, paper, sugar, banking, textiles and pharmaceuticals. The project also reviewed issues relating to company policies on employees, gender, purchasing, compensation, benefit and promotion, environment, and community.<sup>15</sup>

#### II) Indonesian Human Rights Commission (Komnas HAM)

In 2012, Komnas HAM issued its report following a three-year investigation into human rights abuses connected to the gas exploration activities of oil and gas exploration company PT Lapindo Brantas Inc. in Porong, Sidoarjo, East Java. According to the report, between 40- 60,000 people were displaced after a man-made mudflow in 2006, for which the company was responsible, which submerged over 10,000 homes in 12 villages in one subdistrict alone. In addition, 81 percent of the victims suffered from lung problems and more than 200 people had died from poor health following the disaster. Thousands of people also lost their jobs when 30 factories affected by the mudflow ceased operating.

12 National Human Rights Institution of Chile, *Annual Report on Human Rights Situation in Chile*, December 2013. Available at <http://www.derechos-humanos.udp.cl/wp/wp-content/uploads/2013/10/Informe-Anual-2013-completo.pdf> (Spanish only) [retrieved on 10.02.2014].

13 See footnote 26, p. 35.

14 The Declaration and the Action Plan of the Regional Seminar of the Americas on Business and Human Rights in Antigua, Guatemala, 9-10 November 2011 are available at <http://www.humanrightsbusiness.org/national+human+rights+institutions/capacity+building/icc+regional+workshops> [retrieved on 10.02.2014].

15 National Human Rights Commission India, *Developing Code of Ethics for Indian Industry. Final Report*, April 2012. Available at [http://nhrc.nic.in/Documents/reports/misc\\_dev\\_code\\_of\\_ethics\\_for\\_indian\\_industry\\_ICSM.pdf](http://nhrc.nic.in/Documents/reports/misc_dev_code_of_ethics_for_indian_industry_ICSM.pdf) [retrieved on 10.02.2014].

The Commission concluded that fifteen different human rights of local residents had been violated, including life, safety, health, housing, employment, education, social security, and education. Based on its findings, Komnas HAM issued a recommendation that Lapindo Brantas and its shareholders PT Medco Energi Internasional and Santos Ltd., the government, and the National Police take steps to restore the rights of the victims. For the company this would require completing the payments of compensation to victims and plugging the mudflow.<sup>16</sup>

### III) Jordan National Center for Human Rights (NCHR)

The Jordanian National Centre for Human Rights has held training sessions for inspectors from the Ministry of Labour to familiarise them with international standards regarding workers' rights. The objective has been to enable inspectors to apply these standards during their inspection of factories and other businesses which employ local or foreign workers, through training on monitoring violations of workers' rights, and preparing monitoring reports.<sup>17</sup>

### IV) National Human Rights Commission of Korea (NHRCK)

NHRCK has convened a number of seminars on business and human rights topics, including:

- A workshop on the UN Guiding Principles on Business and Human Rights and ISO26000 in coordination with the Korea Productivity Centre and the UN Global Compact Network Korea, in 2011.<sup>18</sup>
- A seminar on businesses' collection of personal data, in 2011. Here the purpose was to discuss gathering of excessive personal, sensitive and location information by business entities, and to develop effective regulations and systems to protect personal data.<sup>19</sup>

Under its advisory function, NHRCK submitted a recommendation to the Ministry of Knowledge Economy regarding the need to improve the composition and operation of Korea's National Contact Point (NCP) established under the OECD Guidelines for Multinational Enterprises,

and to increase access of individuals, employees, businesses, and other parties concerned to the NCP.<sup>20</sup>

A report was published in 2013 by NHRCK on the human rights of migrant workers in the agro-livestock industry. A survey undertaken by NHRCK revealed that many migrant workers in the sector are subject to overwork and excessive working hours, are not provided with copies of employment contracts, receive less than the minimum wage, are not compensated for overtime and experience unsafe working conditions as well as discrimination, verbal assault, violence by employers, and sexual harassment.

NHRCK has published additional reports on business and human rights topics including compliance with the Minimum Wage Act, Industry Lockout Policies and Practices, and a report on human rights and business issues in Korea in general. Published in 2012, the latter addresses international and domestic trends, roles of the state in prevention of human rights abuses by business enterprise, and proposals for promoting good business practices with regard to human rights. These include:

- Taking the human rights record of businesses into consideration in public procurement;
- Reporting on human rights by state owned enterprises;
- Considering human rights practices of businesses in public pension fund investment;
- Insurance by large corporations that contractors do not violate human rights.<sup>21</sup>

### V) Human Rights Commission of Malaysia (SUHAKAM)

From 2010 to 2012, SUHAKAM conducted a *National Inquiry into the Land Rights of Indigenous Peoples* in response to numerous and persistent complaints received by from the Orang Asli of Peninsular Malaysia and natives of the States of Sabah and Sarawak (collectively called 'Indigenous Peoples' or 'Orang Asal of Malaysia').

The inquiry found widespread violations of the land rights of the Indigenous Peoples taking many forms and perpetrated by different actors. Mostly knowingly, such actors

16 See Tempo.Co (14.08.2012): Komnas HAM: Kasus Lapindo Adalah Kejahatan at <http://www.tempo.co/read/news/2012/08/14/063423492/Komnas-HAM-Kasus-Lapindo-Adalah-Kejahatan> [retrieved on 10.02.2014].

17 See footnote 26, p. 34.

18 For more information see the website of the National Human Rights Commission of Korea: [http://www.humanrights.go.kr/english/activities/view\\_01.jsp](http://www.humanrights.go.kr/english/activities/view_01.jsp) [retrieved on 10.02.2014].

19 Ibid.

20 Ibid.

21 Ibid.

carry out economic activities in the pursuit of development that involve encroachments on the traditional land of the community, resulting in eviction or transfer to other less suitable areas, and affecting adversely their traditional way of life. Business activities implicated include plantation and logging activities, quarrying, mining, housing and other infrastructure projects, such as highways, gazetting of land into national or state forest reserves and/or parks. Such activities are carried out in areas where the community has lived on for generations or in adjoining tracts of land which they regard as part of their traditional foraging area. SUHAKAM's report contains recommendations to the Government for actions to address the abuses identified.<sup>22</sup>

#### VI) National Human Rights Commission of Mongolia (NHRCM)

NHRCM organised an international conference on *Mining and Human Rights in Mongolia* in October 2012 in Ulaanbaatar. The conference examined the human rights impacts of the country's rapidly expanding mining sector and looked at international best practices, in order to find ways to safeguard the environment and the rights of affected communities.<sup>23</sup>

#### VII) Nepal National Human Rights Commission

An *International Conference on the Rights of Migrant Workers* was hosted by the National Human Rights Commission of Nepal in November 2012. The Kathmandu Resolution, adopted at the end of the conference, focussed on the situation of migrant workers in the receiving, sending, and transit countries and the existing protection framework. It also identified the need for a cooperation mechanism across national borders, taking into account existing national, regional, and international human rights mechanisms.

#### VIII) New Zealand Human Rights Commission (NZHRC)

NZHRC's latest two-yearly *Census of Women's Participation*, published in 2012, addressed women's participation in business-related areas. Despite a reported increase in women's participation of two or three percentage points across many areas of professional and public life, women's

representation remained low at the top, on boards, and in senior leadership positions. NZHRC report identifies unambitious targets and ongoing systemic barriers as contributing to the lack of progress in those areas.

#### XI) Commission on Human Rights of the Philippines (CHRP)

In 2011, CHRP issued a Recommendation to the Government regarding alleged human rights violations of indigenous people of Barangay Dipidio in Kasibu, Nueva Viscaya. The Government had signed a Financial and Technical Assistance Agreement with a foreign company, Oceana Gold Philippines. In light of alleged human rights allegations for which the company was responsible, CHRP recommended that the Agreement be revoked, and called on concerned agencies to report actions they had taken to protect the communities.<sup>24</sup>

### 3.2 Asia-Pacific: Actions at regional level

Following on from the Edinburgh Declaration, APF held its Regional Conference on Business and Human Rights in Seoul, Korea in October 2011, hosted by the National Human Rights Commission of Korea and the APF. The conference's closing statement included goals aimed at capacity-building of individual NHRIs concerning business and human rights; human rights education, outreach and sensitisation with stakeholders and integrating human rights and business issues into strategic planning and programmes of each NHRI. The statement further demands bilateral and multi-lateral cooperation of NHRIs at national, regional and international levels.<sup>25</sup>

## 4. Europe

### 4.1 Europe: Actions of individual NHRIs

#### I) Danish Institute for Human Rights (DIHR)

DIHR has developed several tools for businesses and other stakeholders to support the implementation of human rights. For example, in 2010, DIHR launched the *UN Global Compact Self-Assessment Tool* together with Danish Industries, The Danish Industrialisation Fund for Develop-

22 See footnote 26, p. 56.

23 The Recommendations from international conference "Mining and human rights in Mongolia", 10-11 October 2012 organised by the National Human Rights Commission of Mongolia are available at <http://www.mn-nhrc.org/eng/main3/22/53-recommendations-from-international-conference-mining-and-humanrights-in-mongolia.html> [retrieved on 10.02.2014].

24 See footnote 26, p. 36.

25 For the Outcome Statement of the 'Regional Conference on Business and Human Rights' in Seoul, Korea, October 2011 see <http://www.humanrights-business.org/files/ICC%20working%20group/Regional%20Workshops/1.%20Seoul%20Conference%20Statement.docx> [retrieved on 10.02.2014].

ing Countries (IFU) and the Danish Business Authority. In 2013, the Tool was updated to align with new standards including the UN Guiding Principles.<sup>26</sup>

Each year DIHR produces a report on the status of human rights in Denmark, which includes recommendations on actions to be taken by the State to improve the national human rights situation. The recommendations are presented during DIHR's annual reporting to the Danish Parliament. DIHR is currently working on developing a chapter on business and human rights for such annual reports as well as better streamlining business and human rights considerations throughout the report. DIHR has also developed a national baseline study on the status of implementation of the UN Guiding Principles in Denmark.<sup>27</sup>

Wider DIHR activities since 2010 have included dialogue with relevant government bodies, including the Business Authority and Export Credit Agency, on integrating human rights into strategy and policies and positions in international organisations, such as the OECD and engaging with organisations representing Danish businesses, and directly with Danish companies, on tools and methodology development, as well as with civil society organisations.

Internationally, DIHR is undertaking joint projects with a number of other NHRIs, including those of Mongolia, Sierra Leone, and Korea, to strengthen human rights and business activities. DIHR has also developed the *NHRI Guidebook and e-learning on Business and Human Rights* on behalf of the International Coordinating Committee of NHRIs Working Group on Business and Human Rights. The Guidebook is a free resource for human rights practitioners within national human rights institutions (NHRIs), which introduces business and human rights concepts and frameworks and the NHRI mandate on business and human rights. It also describes best practices and case studies from amongst NHRI experiences in the field.<sup>28</sup>

Launched in 2013, DIHR's Human Rights and Business Country Guide is the first free resource for companies to identify, assess, and address human rights risks in their operations and supply chains around the world. The Country Guide describes human rights risks in law and practice in countries across the globe, and presents due diligence recommendations for private-sector actors to prevent and mitigate those risks.<sup>29</sup>

## II) Equality and Human Rights Commission (EHRC)

EHRC's 2012/13 and 2013/14 Work Programmes include four projects with a specific business and human rights focus:

- Business and human rights – awareness and capacity building;
- Meat processing review – recruitment and employment practices;
- Recruitment and employment practices in the cleaning sector;
- Home care inquiry follow-up – commissioning and workers' rights.

Regarding the first of these, EHRC has published guidance for smaller businesses to improve awareness of business and human rights, explain business obligations and promote due diligence approaches, and it is working with business and professional service networks to reach out to SMEs directly. EHRC undertook an inquiry into recruitment and employment practices in the meat processing sector in 2010. Since then, it has worked with a multi-stakeholder task force to agree standardised recruitment and employment practices for the industry. EHRC will continue to work with major supermarkets to support of improved management practices. It will also facilitate a roundtable of regulators, with the Health and Safety Executive, and the Gangmasters' Licensing Agency. Concerning recruitment and employment practices in the cleaning sector, EHRC aims to examine recruitment and employment practices. This will include work with stakeholders to implement practical solutions to problems found; identify good practices; examine the role of inspectorate and regulatory bodies; and raise awareness of human rights and their relevance to the workplace in this sector.

Further to an earlier inquiry into Human Rights of Older People and Home Care, EHRC has published guidance for local authority elected members and staff involved in the commissioning and procurement of home care. Practically focused and drawn up in partnership with local authorities and the home care industry, the guidance aims to help these stakeholders to understand their obligations under the Human Rights Act 1998 better. EHRC also published a review of compliance with its recommendations on the rights of workers and supporting National Minimum Wage payments to home care workers. Going ahead, EHRC plans

<sup>26</sup> See footnote 26, p. 55.

<sup>27</sup> See footnote 26, p. 33.

<sup>28</sup> See footnote 26.

<sup>29</sup> See the Danish Institute for Human Rights, *Human Rights and Business Country Guide*, 2013. Available at <http://www.humanrightsbusiness.org/country+guide> [retrieved on 10.02.2014].

to convene a roundtable with stakeholders, such as government, industry, regulators, unions, and local government, to further promote implementation. EHRC's Business and Human rights Working Group brings together the three UK NHRIs (EHRC, Scottish Human Rights Commission and Northern Ireland Human Rights Commission) with government departments and businesses committed to respecting human rights. Through this forum, the EHRC promoted the government's consultation on its draft National Action Plan (NAP) on business and human rights, enabled progress reporting and debate, and ensured support for SMEs was included in the NAP. Independently, EHRC attended consultation events and commented on drafts of the UK NAP, *Good Business: implementing the UN Guiding Principles*.

### III) Finnish Human Rights Centre (FHRC)

In 2013, FHRC conducted a training workshop for the Finnish export credit agency to on human rights. The workshop included approximately 50 participants from a range of organisations, including the export credit agency, Government Ministry for Commerce and the Ministry for Foreign Affairs. The workshop included an introduction to human rights norms and values, to the UN Guiding Principles on Business and Human Rights, as well as a focus on the topic of children's rights and business. The training was reported to be useful forum for opening a dialogue between FHRC and key financial and business actors in Finland.<sup>30</sup>

### IV) French National Consultative Commission on Human Rights (CCNDH)

In October 2013, CCNDH formulated recommendations for the French government concerning the implementation of the UNGPs in France, *Entreprises et droits de l'homme: avis sur les enjeux de l'application par la France des Principes directeurs des Nations Unies*.<sup>31</sup>

### V) German Institute for Human Rights (DIMR)

The German Institute for Human Rights (DIMR) in cooperation with the German Global Compact Network published

a guide for business Respecting Human Rights which gives an introduction to the Ruggie Principles. Together with the Greek National Commission for Human Rights (NCHR), the Spanish Defenso del Pueblo, the Irish Human Rights Commission (IHRC), the SHRC, the ENNHRI and other stakeholders the DIMR organised in 2013 events on the impact of the crisis on human rights, especially on the impacts of austerity policies. Another event on the linkage of foreign trade and human rights took place in 2013. DIMR, in cooperation with the OECD, organised a conference on export credits and has contributed to a submission that was sent to the export credit working group of the OECD. The submission, handed in with the DIHR and the CCNDH, contains recommendations for a revision of the Common Approaches, guidelines of the OECD what member states should take into account, when they check applications of companies of export credit insurances. The documentations of these events have been published in the first quarter of 2014.<sup>32</sup>

Further, DIMR has conducted all of the planned consultations on *Transnational NHRI Cooperation in the Field of Business and Human Rights* in Accra, November 2013, in Bogota, March 2014, and in New Delhi, April 2014. Currently the DIMR is preparing studies on all three pillars of the Ruggie-Framework. All studies should be published in 2014.

### VI) Northern Ireland Human Rights Commission (NIHRC)

In 2013, the Northern Ireland Human Rights Commission produced a study on how to further integrate human rights considerations into public procurement processes in Northern Ireland. The report examines the extent to which current frameworks and practices for public procurement in Northern Ireland are aligned to applicable legal requirements at national, European, and international levels. It also considers relevant best practices, evaluates the extent to which the current legal rules, policies and practices respect the human rights to which people are entitled, and makes recommendations to close any gaps in human rights protection within the jurisdiction.<sup>33</sup>

<sup>30</sup> See footnote 26, p. 33.

<sup>31</sup> For the Recommendations of the French National Consultative Commission on Human Rights, 'Entreprises et droits de l'homme: avis sur les enjeux de l'application par la France des Principes directeurs des Nations Unies', 24 October 2013, see <http://www.legifrance.gouv.fr/affichTexte.do?sessionId=?cidTexte=JORFTEXT000028200367&dateTexte=&oldAction=dernierJO&categorieLien=id> [retrieved on 10.02.2014].

<sup>32</sup> See the documentation of the conferences at German Institute for Human Rights, 'Austerity and Human Rights in Europe - Perspectives and Viewpoints from Conferences in Brussels and Berlin 12 and 13 June 2013', April 2014, at [http://www.institut-fuermenschenrechte.de/uploads/tx\\_commerce/Austerity\\_and\\_Human\\_Rights\\_in\\_Europe.pdf](http://www.institut-fuermenschenrechte.de/uploads/tx_commerce/Austerity_and_Human_Rights_in_Europe.pdf) [last accessed on 25.04.2014 at 12:17] and German Institute for Human Rights, 'Menschenrechtliche Risikostandards im System der Außenwirtschaftsförderung', April 2014, at [http://www.institut-fuermenschenrechte.de/uploads/tx\\_commerce/Dokumentation\\_Menschenrechtliche\\_Risikostandards\\_im\\_System\\_der\\_Aussenwirtschaftsfoerderung\\_11\\_11\\_2013.pdf](http://www.institut-fuermenschenrechte.de/uploads/tx_commerce/Dokumentation_Menschenrechtliche_Risikostandards_im_System_der_Aussenwirtschaftsfoerderung_11_11_2013.pdf) [retrieved on 10.02.2014].

## VII) Scottish Human Rights Commission (SHRC)

Also in the area of public procurement, SHRC held in October 2013 a conference together with Anti-Slavery International and the Institute for Human Rights and Business, *Upholding Human Rights, Preventing Forced Labour and Trafficking*, with the aim to prevent human rights abuses associated with the Commonwealth Games, as a mega-sporting event to be hosted in Scotland in 2014. Expected outcomes of the event were to: ensure greater understanding by participants of procurement, forced labour and trafficking; showcase previous, current, and future work and initiatives around these issues; examine the extent and nature of forced labour and trafficking in Scotland; bring together potential partners for networks and collaborations to promote human rights and combat forced labour and trafficking.<sup>34</sup> Exercising its advisory function, SHRC also made formal submissions with regard to the Scottish Procurement Reform (Scotland) Bill (December 2013) and Scottish Procurement Directorate Joint Improvement Team on the consultation draft of Guidance on Social Care Procurement (April 2010), the former of which led to the development of Scottish Government Guidance on Social Care Procurement.

### 4.2 Europe: Actions at regional level

In September 2012, the Network of European NHRIs (ENNHRI) realised the first European regional workshop on business and human rights hosted by the German Institute for Human Rights, and agreed upon the Berlin Action Plan on Business and Human Rights. In this plan, European NHRIs agreed to consider and to address business human rights impacts inside and outside their territorial boundaries. The plan recommends the development of national plans to implement the UNGPs, with attention to the impacts on vulnerable and marginalised rightsholders. NHRIs further agreed to undertake activities such as empowerment and support to affected rights-holders, monitoring, documentation, inquiries, complaints-handling, and education and outreach with stakeholders, including business. In scope, the plan extends to human rights impacts of businesses, public procurement, and commissioning of public services, human rights impacts

of systemic regulatory failure in the context of the financial crises, the OECD Guidelines for Multinational Enterprises and National Contact points, and access to effective remedies for victims of business-related human rights abuses. Pursuant to the Berlin Action Plan, interventions by the ENNHRI and NHRIs have included the following:

- Publication of a Discussion Paper on National Action Plans to implement UN Guiding Principles on Business and Human Rights (2012);
- Presentation to EU High Level Group on Corporate Social Responsibility on National Action Plans on Business and Human Rights (2012);
- Presentations to the European Coalition for Corporate Justice Annual General Meeting (on national action plans and baselines) (2012);
- Co-hosting with European Parliament Human Rights Committee a workshop on *The role of National Human Rights Institutions in Implementation of United Nations Guiding Principles on Business and Human Rights* in the context of the Second Ombudsman Summit of Eastern Partnership and European Union (2013);
- Statement to UN Working Group Panel Discussion on Rana Plaza (2013);
- A joint submission by the NHRIs of France, Germany and Denmark to the Working Party of the OECD Export Credit Agencies committee on alignment of ECA policies and practices with the UN Guiding Principles on Business and Human Rights (2013).<sup>35</sup>

## 5. Actions at global level

At global level, NHRI actions on business and human rights are coordinated by the Working Group on Business and Human Rights of the International Coordinating Committee (ICC) of NHRIs. The Working Groups are focussed on capacity development of NHRIs towards fulfilling their Paris Principles mandate on business and human rights, joint interventions and advocacy in international forums, and coordinating engagement with stakeholders. Further information on the ICC Working Group is available on the ICC website.

<sup>33</sup> See footnote 26, p. 36.

<sup>34</sup> The Summary Report of the Scottish Human Rights Commission, *Responsibility and Rights: The Glasgow Commonwealth Games Upholding Human Rights, Preventing Forced Labour and Trafficking* is available at <http://www.scottishhumanrights.com/application/resources/documents/2013-10-22-Glasgow-Commonwealth-Games.pdf> [retrieved on 10.02.2014].

<sup>35</sup> The Submission to OECD Consultation between Civil Society Organisations (CSOs) and Members of the OECD's Working Party on Export Credits and Credit Guarantees (ECG) by the Danish Institute for Human Rights, the French National Consultative Commission on Human Rights and the German Institute for Human Rights is available at [http://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/PDFDateien/Sonstiges/Danish\\_Institute\\_for\\_HR\\_French\\_Nat\\_Consultative\\_Commission\\_on\\_HR\\_and\\_GIHR\\_Submission\\_to\\_OECD\\_Consultation\\_between\\_CSOs\\_and\\_Members\\_of\\_the\\_OECDs\\_Working\\_Party\\_on\\_Export\\_Credits\\_and\\_Credit\\_Guarantees\\_2013.pdf](http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDFDateien/Sonstiges/Danish_Institute_for_HR_French_Nat_Consultative_Commission_on_HR_and_GIHR_Submission_to_OECD_Consultation_between_CSOs_and_Members_of_the_OECDs_Working_Party_on_Export_Credits_and_Credit_Guarantees_2013.pdf) [retrieved on 10.02.2014].

<sup>36</sup> For news and further information see <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Home.aspx> [retrieved on 10.02.2014].



# European Group of National Human Rights Institutions

## Berlin Action Plan on Business and Human Rights

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1. The European Group of National Human Rights Institutions held its first Regional Workshop on Business and Human Rights in Berlin from 5-7 September 2012, in line with the ICC's Edinburgh Declaration of October 2010.
2. Representatives of over 20 A-status and other NHRIs from the European Region and the ICC Working Group on Business and Human Rights took part. The Workshop was organised by the German Institute for Human Rights with assistance from the Danish Institute for Human Rights and Scottish Human Rights Commission, with support from the German Federal Ministry for Economic Cooperation and Development and the Global Compact Network Germany.
3. *Recalling* NHRIs' collective affirmation, expressed in the Edinburgh Declaration, that their UN Paris Principles mandate applies to all human rights, civil and political, economic, social and cultural, and to human rights issues in corporate and public sectors alike,
4. *Recalling* the UN three-pillar framework of the state duty to protect human rights, the corporate responsibility to respect human rights, and the right to access to an effective remedy for human rights abuses; UN Human Rights Council Resolution 17/4 of 2011, its recognition of the role of NHRIs on business and human rights and the UN Guiding Principles on Business and Human Rights,
5. *Welcoming* the European Council's Strategic Framework and Action Plan on Human Rights and Democracy and the decision to seek from EU Member States in 2013 national plans for implementation of the UN Guiding Principles on Business and Human Rights, in line with the European Commission's 2011 Communication on CSR,
6. *Welcoming* the 2011 Revised OECD Guidelines for Multinational Enterprises which aligned with the UN Guiding Principles on Business and Human Rights,
7. *Welcoming* the establishment of a Permanent Secretariat of the European Network of NHRIs and its ability to contribute to progressive developments at European level including with respect to business and human rights issues,
8. *Noting* the Yaoundé Recommendations on the Plan of Action on Business and Human Rights of the Network of African NHRIs, the Regional Declaration and Action Plan on Business and Human Rights of the Network of NHRIs of the Americas, and the Asia Pacific Regional Seminar on Business and Human Rights Outcome Statement,
9. *Observing*, with deep concern, challenges to enjoyment of human rights in Europe as a result of the financial and economic crises, and that the burdens of national and regional austerity responses are borne disproportionately by vulnerable and marginalised rights holders within European societies, such as children, women, youth, older persons, persons with disabilities, migrants and migrant workers, refugees and those seeking asylum and minorities; and caregivers and others,
10. *Observing* the crucial contribution of business to the realisation of human rights, in particular, by creating employment, providing sustainable goods and services, creating value and contributing to revenue through tax, while recalling the negative impacts on human rights inside and outside Europe that result from poor business practices, as well as inadequate regulation,

11. *Recalling* that NHRIs should develop and at all times apply a human rights-based approach, and the need for provision of adequate resources to NHRIs to fulfil their Paris Principles mandate, including with regard to business and human rights,
  - human rights impacts of businesses based in or operating in the home state of the NHRI;
  - public procurement and commissioning of public services;
12. *Following* presentations and discussion amongst participating NHRIs, and contributions from civil society, business, government and European regional and international organisations, the European Group of NHRIs agreed upon the following Action Plan.
  - human rights impacts of systemic regulatory failures in the context of the financial crisis;
  - the OECD Guidelines for Multinational Enterprises and National Contact points;
  - access to effective remedies for victims of business-related human rights abuses;

#### **A. Priority actions for national human rights institutions 2012-15**

*Acknowledging* the independence and autonomy of all NHRIs, the diversity of their national contexts and the need to define strategic objectives and programmes informed by local circumstances and resources, NHRIs within the European Region should take measures such as the following towards fulfilment of their mandates with regard to business-related challenges to enjoyment of human rights:

- I. Integrating human rights and business issues into strategic planning and programmes of each NHRI, with attention to the impacts on vulnerable and marginalised rights holders inside and outside the home state territory;
- II. Establishing a business and human rights focal point, in line with the Edinburgh Declaration;
- III. Undertaking a national baseline study with reference to the UN Guiding Principles on Business and Human Rights and /or making recommendations for national plans to implement the UNGPs, and considering in this context business human rights impacts inside the territory and impacts outside the territory of companies established or based inside the territory;
- IV. Integrating human rights and business in submissions to international bodies, for example, during the UN Human Rights Council's Universal Periodic Review, reporting to UN treaty monitoring bodies and to European regional human rights mechanisms;
- V. Undertaking activities such as empowerment and support to affected rights-holders, monitoring, documentation, inquiries, complaints-handling, and education and outreach with stakeholders, including business, with regard to:

and also regarding:

- Export Credit Agencies;
- National development agencies including with respect to their policy advice;
- National pension funds, sovereign funds and other state investments;
- Bilateral or multilateral trade and investment agreements and with regard to other national, regional or international policies that have impacts at home or abroad with respect to business and human rights.

Participating European Group NHRI members undertook to initiate one concrete action in relation to the areas above within the next twelve month period and to report back on these to the Group.

#### **B. Actions to be taken by the European Group of NHRIs collectively to support members in promoting implementation of the UN Protect, Respect, Remedy Framework**

European Group members further resolved that the following actions should be taken at regional level:

- I. Including business and human rights in the next and future strategic plans of the European Group;
- II. Undertaking strategic outreach with European-level institutions and stakeholders relevant to business impacts on human rights, such as, the European Council, Parliament and Commission; the Special Representative on Human Rights; the Council of

- Europe; financial institutions, such as the EIB and EBRD; and the OSCE;
- III. Undertaking strategic outreach with international institutions, other ICC regional networks and stakeholders including OHCHR, the ILO, UNDP, FAO and other specialised agencies and special mandate holders of the UN; labour unions, business and civil society organisations, academia, rights-holders and their representatives;
  - IV. Gathering case studies on business and human rights from European NHRIs and disseminating to Network members;
  - V. In particular, engaging with regional and national institutions with regard to
    - the development of national baseline studies and national action plans to implement the UN Guiding Principles and national plans on CSR;
    - regional regulation relating to Export Credit Agencies, financial disclosure and other reporting;
    - public procurement and commissioning of public services;
  - VI. Cooperating with the ICC Working Group on Business and Human Rights to support capacity building of individual NHRIs, inside and outside Europe, including by producing an European Regional Supplement to the ICC Training Course on business and human rights;
  - VII. Undertaking outreach to the UN Working Group on Business and Human rights, including sharing with them this Action Plan;
  - VIII. Supporting European Group members to strengthen their legal mandates, where necessary, to be able to act effectively on business and human rights issues;
  - XI. Requesting European Regional Members of the ICC Working Group on Business and Human Rights to liaise with European Group member institutions' business and human rights Focal Points, and to report to the European Group Coordinating Committee on business and human rights issues annually.

Adopted in Berlin, 7 September 2012



# Summary of the First European Network of National Human Rights Institutions Workshop on Business and Human Rights

## September 2012

### Welcoming Session

During the welcoming session, representatives of the GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) and European NHRIs welcomed the participants of the workshop and gave a brief overview of the workshop's aims and structure.

**The general objective of the Workshop** was to contribute to building capacity of NHRIs in the European region, to fulfil their Paris Principles mandates, and to advance respect for human rights in the corporate sector, including through supporting implementation of the UN Framework and UN Human Rights Council's Guiding Principles on Business and Human Rights.

Specific objectives of the Workshop were as follows:

- I. Build knowledge of NHRIs in the European region regarding:
  - The application of the UN Paris Principles' NHRI mandate to business and human rights issues;
  - The UN Framework and 2011 UN Guiding Principles on Business and Human Rights (UNGPs);
  - Other applicable legal and policy frameworks, standards, and initiatives relevant to business and human rights in the European regional context;
  - Potential high-risk issues in the European regional context within the business and human rights field;
  - Opportunities, including the European Commission's 2011 Communication on Corporate Social Responsibility and the EU Strategic Framework and Action Plan on Human Rights and Democracy;

- The monitoring functions NHRI can and should exercise with respect to business and human rights, particularly with regard to their presence in home and host states.

- II. Facilitate peer learning amongst NHRIs concerning strategies, approaches, and actions undertaken by NHRIs within the European region and beyond, and promote effective implementation of human rights in the sphere of business activities. Particular attention should be given to the monitoring function NHRIs can assume, for example, with reference to the UN Universal Periodic Review (UPR) and treaty monitoring procedures.

- III. Promote recognition and understanding of the NHRIs' Paris Principles mandate amongst key stakeholders, including national authorities, the EU and other relevant regional institutions (including Council of Europe, OSCE, and OECD), labour unions, business, and civil society, including NGOs and media.

- IV. Initiate dialogue among NHRIs in the European region and other key actors as mentioned above on business and human rights and on the role and function of NHRIs and priorities within the European region as well as develop cooperation with NHRIs from other parts of the world, including members of the ICC Working Group on Business and Human Rights.

Following from the above, determine actions that can be taken by NHRIs, individually and collectively, to be included in an ICC European Region Action Plan on business and human rights, which will be drafted at the workshop.

**Speaker – Klaus Brückner,  
Director of the Berlin Representation of  
the Deutsche Gesellschaft für Internationale  
Zusammenarbeit GmbH (GIZ)**

Klaus Brückner outlined the work of GIZ, which includes capacity-building activities in partner countries and advising on development issues such as good governance. He emphasised GIZ's strong support for the capacity development of NHRIs worldwide, including on business and human rights.

**Speaker – Prof Alan Miller,  
Chair of the Scottish Human Rights Commission  
and the European Group of NHRIs**

Prof Alan Miller gave a short introduction to the role and activities of NHRIs in the field of business and human rights. He recalled that the dynamic evolvement of human rights in recent years and the broad consensus among many different stakeholders had contributed to the development of the UN Guiding Principles on Business and Human Rights in 2011. Prof Miller highlighted the adoption of the ICC Edinburgh Declaration in 2010 as being of central importance in affirming and explaining NHRIs' Paris Principles mandate to work on business-related human rights issues. He further explained that amongst the aims of the current workshop, one was to operationalise the Edinburgh Declaration by sharing best practices and experiences amongst NHRIs and adopting an Action Plan for the European Group of NHRIs.

**Speaker – Jürgen Janssen,  
Head of the German Global Compact Network (GGCN)**

Jürgen Janssen gave a short overview of GGCN's work. He recalled that the UN Global Compact is based on ten principles, addressing the areas of human rights, environment, labour, and anti-corruption, and that currently 8,700 businesses and other stakeholders from over 130 countries participate in the Compact. With regard to the German Global Compact Network, Jürgen Janssen indicated that this currently counts 2,000 German businesses as participants, including 24 of the DAX30 companies, and that more small and medium-sized enterprises (SMEs) have recently begun to take part. Mr Janssen explained that GGCN regularly organised workshops and training events for businesses of different types and that it had recently developed online tools to help businesses assess their management capacities to respect human rights. Furthermore, he reported that GGCN and the German Institute for Human Rights (DIMR) had intensified their cooperation, particularly with regard to knowledge-exchange, assistance for the establishment of grievance mechanisms and providing information to businesses about risks of human rights abuses and how to address them. Mr Janssen further

highlighted that NHRIs may be able to act as non-judicial grievance mechanisms for business-related human rights abuses, which GGCN saw as a valuable function.

**Speaker – Michael Windfuhr,  
Co-Director, German Institute for Human Rights  
(DIMR)**

Michael Windfuhr explained that European NHRIs currently found themselves in a learning process. Accordingly, a key goal of the Workshop was to determine how NHRIs could become more active in areas related to business and human rights and what specific roles they could most valuably play, by: (I) exchanging experiences and knowledge with each other and with members of the other three ICC regional networks of NHRIs; (II) discussing how NHRIs could improve their work on business issues and how they could be supported in this by other actors; (III) adopting a regional Action Plan at the end of the Workshop as guidance for European NHRIs' future work in the field of business and human rights.

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## **PART I – Stocktaking: International Frameworks and Recent Developments, including UN Guiding Principles on Business and Human Rights**

**Chair – Prof Alan Miller,  
European Group Chair, Chair Scottish Human Rights  
Commission**

This session focused on recent developments and initiatives at the international and regional levels in the field of business and human rights. Presenters from the UN Office of the High Commissioner for Human Rights (OHCHR), the European Commission (EC), the International Labour Organisation (ILO) and the Network of African National Human Rights Institutions (NANHRI) contributed to the discussion with reports of their experiences.

**Speaker – Vladen Stefanov,  
UN Office of the High Commissioner for Human  
Rights (OHCHR)**

Vladen Stefanov spoke about OHCHR's goal of strengthening the role of NHRIs in implementing the UNGPs at the national level. In 2012, OHCHR's regional office in South Africa supported a workshop to exchange views on issues related to business and human rights. Participants engaged with different stakeholders, including NHRIs, to discuss how the UNGPs could be applied and implemented

in the region. Mr Stefanov reported that OHCHR was currently developing training material for its own staff on the UN Guiding Principles, which would be available for other key stakeholders, including NHRIs, in 2013. He also stressed that the UN Working Group on the issue of human rights and transnational corporations and other businesses had recognised NHRIs as key institutions for promoting business' respect for human rights in its reports submitted to the UN Human Rights Council in April and September 2012. The reports also mentioned the important role of NHRIs in promoting the UNGPs and their convergence with international standards. Mr Stefanov drew attention to the first annual OHCHR Forum on Business and Human Rights, to be held in Geneva from 4–5 December 2012. He explained that the Forum would serve as a platform for different stakeholders to discuss recent trends and challenges in implementing the UNGPs, promoting dialogue and cooperation on issues linked to business and human rights and to identify good practices. He assessed the activities of the ICC Working Group on Business and Human Rights in promoting the embedment of the UNGPs in global governance frameworks as very promising and encouraged the Working Group to pay special attention to Pillar Three of the UNGPs in its future work, in light of the valuable role NHRIs could play in promoting access to remedy.

**Speaker – Tom Dodd,**

**European Commission (EC), DG Enterprise and Industry**

Tom Dodd highlighted the responsibility of businesses for both their positive and negative impacts on society. In its policy initiatives on corporate social responsibility (CSR), the EC now recognises the UNGPs as an 'authoritative policy framework' and in its 2011 Communication on CSR, the EC invited all EU member states to develop and implement national action plans on CSR and the UNGPs. Tom Dodd stressed that NHRIs could play a significant role in this regard by advising and supporting the development and implementation of such plans. With regard to implementing Pillar One of the UNGPs (state duty to protect), Mr Dodd explained that the EC had so far taken a number of significant steps. In 2010, the EC commissioned a study by the University of Edinburgh on how EU legal frameworks address the extraterritorial impacts of EU-based businesses. Inside the EU, the Charter on Fundamental Rights has been promoted as the guiding framework in relation to the fundamental rights component of EC impact assessments. The state duty to protect is further mentioned in the EU Strategic Framework and Action Plan on Human Rights and Democracy, which makes reference to the UNGPs. With regard to Pillar Two (responsibility to respect), Mr Dodd further reported that the EC was currently developing sector-specific guidance on human rights for employment and recruitment agencies, the telecommunications sec-

tor, and the oil and gas sector; whilst such guidance could take account of EU specificities, they were also intended to provide useful and relevant guidance outside the EU context. Tom Dodd added that the process of developing the guidance was intended to be transparent, inclusive and evidence-based. He further reported that the EC was currently preparing a legislative proposal on the disclosure of non-financial information by businesses. However, the EC was currently not planning any legislative initiative to establish legal remedies for business-related human rights abuses in line with Pillar Three of the UN Framework as the legal liability of businesses was a national and not an EU competence.

**Speaker – Githa Roelans,**

**International Labour Organisation (ILO)**

In her presentation, Githa Roelans emphasised that – although the ILO had not engaged extensively with NHRIs in the past – it was nevertheless well positioned to support aspects of their work, including activities to promote mainstreaming of the UNGPs. Ms Roelans explained that although the ILO did not have an explicit programme on business and human rights, as an organisation that promotes labour rights and social justice, its work overlaps considerably with the field of business and human rights: the ILO has 185 member states and its established legal conventions entail obligations for those states in the area of business and human rights. The ILO Core Conventions are explicitly mentioned by the UNGPs. Some ILO Country Programmes make explicit reference to business and human rights, such as in the area of abolition of child labour. The ILO operates a Help Desk for businesses, providing information on international labour standards and develops guidance on different work-related issues for employers' organisations and trade unions. Ms Roelans stressed that through its tri-partite structure, the ILO provides a platform for social dialogue amongst states, employer associations, and trade unions, and suggested that NHRIs could gain observer status in ILO sessions as a first step for closer engagement with the organisation. NHRIs, Ms Roelans suggested, could also draw on ILO resources in undertaking their monitoring activities, such as the ILO's NORMLEX Database, which includes ILO instruments on discrimination and corporate responsibility, and on ILO field research, for example.

**Speaker – Laretta Lamptey,**

**Commissioner for Human Rights and Administrative Justice in Ghana**

Laretta Lamptey discussed the first African Regional Workshop on Business and Human Rights, held by the Network of African National Human Rights Institutions (NANHRI), in Yaoundé, Cameroon, in September 2011. The

main outcome of the NANHRI Workshop was the adoption of the African NHRIs' Action Plan on Business and Human Rights. Commissioner Lamptey noted that 31 African NHRIs had participated in the Yaoundé workshop, which demonstrated the significance of, and interest in, business related human rights issues to NHRIs of the African continent. Commissioner Lamptey reported that the workshop identified a key challenge facing African NHRIs with regard to business and human rights as being that of diverse legal mandates, with some NHRIs, for instance, lacking sufficient legal powers to act effectively in response to human rights abuses by business actors. A further obstacle to the implementation of the Plan of Action on Business and Human Rights of the Network of African National Human Rights Institutions was lack of funding to support the contemplated activities, both at regional and national level. As a result, African NHRIs had not yet been able to dedicate the needed efforts to business and human rights activities, despite the seriousness of business-related abuses across the continent. However, a baseline survey of NANHRI members on business and human rights, aimed at identifying needs, challenges and priorities in the area of business and human rights for Africa's NHRIs would be completed before the end of 2012. According to Commissioner Lamptey, some initiatives have nevertheless proceeded in the region despite funding challenges. In January 2012, for example, a group of East African NHRIs held a capacity building seminar on business and human rights. During the seminar it emerged that while trafficking of children remained a major business-related problem across the region as a whole, other challenges varied from sub-region to sub-region. The Kenya National Commission on Human Rights recently held a conference on business and human rights issues relating to the right to water. Ghana's NHRI had organised a number of seminars on the oil and gas industry, focusing on the prevention of human rights abuses, given the early stage of development of the sector in Ghana at the current time. A UN Global Compact Local Network had also been launched in Ghana in 2012.

**Guest-Speaker – Dr Cephias Lumina,  
UN Independent Expert on the Effects of Foreign Debt**  
Dr Cephias Lumina spoke about the human rights impacts of austerity measures in Greece, in particular with regard to social and economic rights. Dr Lumina explained that, in order to overcome its recent financial crises, Greece had implemented austerity measures since May 2012, as condition of receiving funds from international and regional institutions, such as the IMF, ECB and the European Commission. The austerity measures included far-reaching decreases in public spending, the minimum wage, and pensions, as well as privatisation and increases in consumption taxes such as VAT. Dr Lumina noted

that the principal impacts of austerity measures affected public services, which therefore might stand to undermine the social and economic rights of the most vulnerable in society, who relied on such services. According to Dr Lumina, this had become particularly evident in Greece with regard to the right to health, right to education, and right to social security. He explained that state-funded Greek health services had suffered cuts of more than ten per cent with severe impacts on elderly people, people with disabilities, and those with urgent needs for medication, such as cancer patients. Furthermore, women and children bore a disproportionate burden of the adverse impacts associated with austerity measures, for example, single mothers and their children were more disadvantaged by recent tax and benefit reforms, and cuts in social services and child benefits, than other groups of society. The UN Independent Expert stressed that the Greek government needed to re-assess the impacts of austerity measures on fundamental human rights and suggested that the government should implement a human rights-based approach in its response to handling the crisis. He further suggested that the IMF, ECB and European Commission examine the effects of austerity measures on vulnerable groups. With regard to the role of NHRIs, Dr Lumina noted that at national level NHRIs could contribute to minimising negative impacts of austerity measures on human rights. According to their individual mandates, NHRIs could do this, for instance, by: (I) providing advice services to vulnerable groups; (II) undertaking fact-finding missions in affected communities; (III) drawing the attention of government officials to adverse impacts experienced by the most vulnerable and marginalised; (IV) conducting studies on the impacts of measures, such as budget cuts, on enjoyment of fundamental human rights, and making recommendations; and (V) becoming involved in the budget planning process and giving advice to the government on designing austerity measures to avoid adverse impacts on human rights.

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## PART II – Business and Human Rights: NHRI Experiences

**Chair – Charlotte Flindt Pedersen,  
International Director, Danish Institute for Human Rights**

In this session, representatives of the ICC Working Group on Business and Human Rights described the strategy and activities of the working group, and individual NHRIs shared experiences of working on Business and Human Rights.

**Speaker – Dr Claire Methven O'Brien,  
Senior Adviser, Danish Institute for Human Rights**

Dr Claire Methven O'Brien outlined the strategy of DIHR's Human Rights and Business Department, comprising four related work streams: direct corporate engagement, tools and research, international frameworks and NHRIs, and human rights and business in Denmark. Current activities under these work streams include: working with companies on human rights due diligence processes; developing tools to support human rights due diligence, such as the Country Portal and DIHR's Human Rights Compliance Assessment online tool and Quick Check; developing a training programme for NHRIs on Human Rights and Business on behalf of the ICC Working Group on Business and Human Rights, and preparing a UNGPs national baseline study for Denmark. Dr Methven O'Brien noted that providing direct support and advice to businesses on human rights issues can generate valuable knowledge and credibility for NHRIs, while at the same time such engagement needs to be guided at all times by the NHRI mandate to act as an independent institution in line with the Paris Principles. Dr Methven O'Brien highlighted that in 2012, DIHR's legislative mandate had been amended and now explicitly affirmed its role in engaging with the private sector, a change that might offer inspiration to other NHRIs seeking to strengthen their legal mandates with respect to business and human rights. A further important development in Denmark was the establishment of a new complaints and mediation institution. This body would handle complaints regarding breaches of the OECD Guidelines for Multinational Enterprises by Danish business actors at home or abroad. DIHR had drawn attention to the need for improvements to national arrangements to process such complaints in its submission to the first cycle of the Universal Periodic Review, which the new complaints institution had largely answered.

**Speaker – Ambassador Sophie Asimenye Kalinde,  
Chair, Malawi Human Rights Commission**

Ambassador Kalinde shared two case studies of investigating human rights abuses by companies based on the experience of the Malawi Human Rights Commission, illustrating some of the contextual factors that could alternatively hinder or promote NHRIs' efforts towards finding effective resolutions for business-related human rights abuses. The first case study concerned environmental pollution from a quarry, which had a number of adverse human rights impacts on local communities, including pollution of food sources, health impacts from dust and noise, and property damage as a result of blasting activities. The Commission had investigated these issues, confirming the communities' concerns and identifying legacy issues and lack of company compliance with the Malawi Environmental Act.

By engaging the community, the government and the company, the Commission had found that it was possible for all three parties to come together and resolve the issues through dialogue. As a consequence, the company suspended its operations until an Environmental Impact Assessment had been properly conducted and environmental clean-up undertaken. The second case study concerned a cane sugar operation in relation to which the company in question had forcefully sought community agreement to the project. The company had also ignored a court ruling regarding customary access and usage of affected lands. To date, this situation had not been satisfactorily resolved. According to Ambassador Kalinde, one observation that could be drawn from the divergent outcomes seen in the two case studies was the difficulty of reaching a satisfactory resolution in cases where the government itself has a vested interest in a business activity or project, whilst at the same time having responsibility to act as the regulating authority.

**Speaker – Ma Nerissa M Navarro-Piamonte,  
Philippines Human Rights Commission**

Ma Nerissa M Navarro-Piamonte outlined the approach so far taken by the Philippines Human Rights Commission in line with its view of the UNGPs as a tool to be used throughout thematic areas of the Commission's existing mandate, rather than a new stand-alone thematic domain. The Philippines Human Rights Commission has undertaken investigations of human rights and business-related complaints, for example, in the areas of mining and aviation. The Commission is also actively involved in policy reviews on business and human rights issues, for example, holding roundtable discussions with CSOs on abuses in the business sector, and providing input on the human rights implications of free trade agreements in the area of pharmaceuticals. Ms Navarro-Piamonte noted the potential of the 'Protect, Respect and Remedy' Framework to inform and guide the Commission's work in the area of social, economic and cultural rights. The Commission is also actively working to integrate human rights and business through joint projects with other members of the South East Asia Forum of NHRIs, comprised of Thailand, the Philippines, Indonesia, and Timor-Leste.

**Speaker – David Langtry,  
Acting Chief Commissioner, Canadian Human Rights  
Commission; Chair, ICC Working Group on Business  
and Human Rights**

David Langtry provided a brief outline of the strategy and activities of the ICC Working Group on Business and Human Rights since 2009. Amongst highlights noted by Mr Langtry were: the ICC's 2010 Edinburgh Declaration; acknowledgment of the role and mandate of NHRIs on



business and human rights in UN Human Rights Council Resolution 17/4; workshops held by ICC regional networks and resulting regional action plans on business and human rights; involvement of NHRIs, via the ICC Working Group, in the development of the UNGPs, revision of the OECD Guidelines, and collaboration with local UNGPs networks, the development of an NHRI training programme on business and human rights by DIHR on behalf of the ICC Working Group, as well as numerous other initiatives. In its individual capacity, the Canadian Human Rights Commission had recently launched its Human Rights Maturity Model, a human rights management tool for organisations (in both the private and public sectors), which was targeted at fostering an organisational culture respectful of human rights.

**Speaker – Diego Quiroz,  
Scottish Human Rights Commission**

Diego Quiroz described the experience of the Scottish Human Rights Commission in working on the human rights dimensions of public procurement. Mr Quiroz noted that historically, public procurement rules have been driven by economic and trade interests, rather than social or human rights considerations. Against this background, a recent study by the Scottish Human Rights Commission had identified three key problems with government outsourcing of social care services: lack of consultation, decreasing quality of service provision caused by the current tendering system, and a lack of focus on quality of services in the procurement process. In response to these findings, in 2010 the Scottish Human Rights Commission had made a number of policy recommendations: promotion of greater participation of service users in tendering for services material to users' enjoyment of fundamental human rights; introduction of an integrated impact assessment, including human rights, into the tendering process; broader integration of human rights into the procurement process, including into selection criteria. Mr Quiroz flagged a number of potential points for NHRI engagement on the issue of human rights and public procurement, with support from references to public procurement as an aspect of the state duty to protect in the UNGPs and also in the European Commission's 2011 Communication on Corporate Social Responsibility.

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**PART III –  
Business and Human Rights:  
Issues in the European Region**

**Roundtable 1: Duty to Protect**

**Chair: David Langtry,  
Acting Chief Commissioner, Canadian Human Rights  
Commission; Chair, ICC Working group on Business  
and Human Rights**

**Speaker – Hege Roettingen,  
Norwegian National Contact Point under the OECD  
Guidelines for Multinational Enterprises**

Hege Roettingen highlighted that states adhering to the OECD Guidelines for Multinational Enterprises have a duty to establish a National Contact Point (NCP). The OECD Guidelines were updated in 2011 and now include a dedicated chapter on human rights, aligned with the UNGPs. NCPs help to implement the Guidelines by providing a mediation and conciliation platform for resolving concrete issues that may arise in relation to adverse impacts of the activities of MNEs based in adhering countries. The NCP-based complaints procedure should start in principle with a process of dialogue between the parties. Subsequently, the NCP may reach conclusions as to whether the OECD Guidelines have been breached and ultimately, an agreement that settles the dispute between the parties concerned may be achieved. Ms Roettingen underlined the special role of NHRIs as human rights experts in this context and noted that it is within NHRIs' mandates to contribute to the implementation of the OECD Guidelines. She indicated that the Norwegian NCP was recently strengthened, following reform pressure from civil society and a long consultation process with businesses and trade unions to improve the mechanism. Ms Roettingen highlighted a recent case handled by the Norwegian NCP, which concerned a Norwegian company operating in the Philippines, which had allegedly failed to comply with the requirement to obtain free, prior, and informed consent from indigenous peoples affected by a proposed development. Following the issue of the Norwegian NCP's final statement in the case, which vindicated aspects of the complaint, the company's shares had dropped in value; subsequently, an agreement was reached between the parties. All complaints that have been made to the Norwegian NCP to date are published on the NCP's website.

**Speaker – Dr Cephas Lumina,  
UN Independent Expert on the Effects of Foreign Debt**  
Dr Cephas Lumina reported that he had identified serious

human rights abuses across different industry sectors during his fact-finding missions as Independent Expert on the Effects of Foreign Debt. He explained that the state duty to protect human rights was a general obligation besides the state's responsibility to respect and fulfil human right, and stressed that the 'Protect, Respect and Remedy' Framework explicitly links the state duty to protect with the operations of enterprises in an authoritative manner. Moreover, it was increasingly recognised that states have extraterritorial obligations with regard to human rights. Dr Lumina highlighted that the Maastricht Principles on Extraterritorial Obligations in the Area of Social and Economic Rights of 2011 elaborated the extraterritorial aspects of the state duty to protect. The Maastricht Principles had been drafted and adopted by a group of international law experts, including experts from NHRIs. The Principles cover acts and omissions of a state that impact on human rights outside its jurisdiction by virtue of the activities of businesses based there. According to the Maastricht Principle 23, all States must take action, separately, and jointly through international cooperation, to protect economic, social and cultural rights of persons within their territories and extraterritorially'. Dr Lumina pointed out that both home and host states of multinational enterprises have the duty to implement international human rights standards. In addition, as members of the international community, states are obliged by international standards to take joint actions to ensure human rights as described by those standards are observed. States have the obligation to ensure, through national legislative and administrative measures that non-state actors do not abuse human rights. Finally, Dr Lumina emphasised the complementary relationship between the Maastricht Principles and the 'Protect, Respect and Remedy' Framework.

**Speaker – Tom Kennedy,  
Deputy Head, Human Rights, UK Foreign and  
Commonwealth Office**

In the European Commission's (EC) Communication on Corporate Social Responsibility (CSR) of October 2011, all EU member states are invited to develop ... national plans for the implementation of the Guiding Principles. Tom Kennedy explained that the UK was currently at the forefront of efforts by EU member states to develop such national action plans. Immediately after their endorsement by the UN Human Rights Council in 2011, the UK had set up a steering committee to develop a UK strategy on business and human rights for large as well as small and medium-sized businesses. This process, led by the Foreign and Commonwealth Office, has involved consultations with civil society and businesses. The UK's human rights and business strategy, which should soon be final-

ised and published, will provide clear guidelines to UK-based businesses as to the Government's expectations of their behaviour overseas, given the need to ensure respect for the human rights of people, who contribute to or are affected by their operations. Mr Kennedy reported that the initial stages of the UK process had not been without challenge. Against the background of tough economic circumstances, it had been questioned why businesses should be confronted with additional requirements. The EC needed to justify why a national strategy on business and human rights would also be beneficial to businesses. Tom Kennedy further emphasised that NHRIs had a key role to play in the development of national action plans as outlined in the EC's 2011 Communication on CSR.

**Speaker – Nora Götzmann,  
Adviser, Danish Institute for Human Rights**

Nora Götzmann spoke about the role and impacts on human rights of Export Credit Agencies (ECAs) and state-investor agreements. ECAs are public entities that provide government-backed loans, guarantees and insurance to corporations from their home countries that seek to do business overseas in developing countries and emerging markets, for example, where investments are considered too risky for conventional corporate finance. Ms Götzmann highlighted two recent developments relating to the human rights impacts of ECAs. Firstly, in 2012 the OECD had issued a revised version of its Recommendations on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence. These now make reference to human rights, due diligence and the OECD Guidelines for Multinational Enterprises, and incorporate the 2012 IFC Performance Standards as a reference framework for certain projects. The OECD Common Approaches are not a legally binding instrument but nevertheless have a strong persuasive force amongst OECD member states. Secondly, at EU level, a new regulation has been adopted approving the incorporation of the revised text of the OECD Arrangement on Officially Supported Export Credits into EU law. The new regulation calls on European ECAs to report to the European Commission (EC) on the compliance of their activities with EU objectives and obligations. The first reports from the member states are due to be submitted to the EC in November 2012 and must include assessments of environmental and human rights risks. Ms Götzmann drew attention to the potential role of NHRIs in this reporting process, for example, by following-up on recommendations made to member states, by the EC, by gathering information with regard to the EC reporting template for member states, and by advising and commenting on the reports of their respective states' ECAs to

ensure that environmental and social issues are properly addressed.

**Speaker – Noemie Bienvenu,  
Commission Nationale Consultative des Droits  
de l'Homme (CNCDH)**

Noemi Bienvenu described the mandate of the CNCDH to advise the French Government on human rights issues. With regard to business and human rights, the CNCDH has provided advice in particular on Pillars One and Three of the UN Framework. CNCDH consists of 60 members, including representatives of NGOs, trade unions, academia, and the relevant government ministries, although latter have only an advisory role within the Commission. Ms Bienvenu reported that the CNCDH had completed and published an in-depth study on enterprises and human rights in 2008, which had been commissioned by the French Foreign Ministry, *La responsabilité des entreprises en matière de droits de l'homme*, which contains inter alia a set of recommendations to the French government. The study was based on findings from a two-year consultative process involving hearings with all relevant stakeholders. One of the report's key recommendations, highlighted by Ms Bienvenu, was to develop a national strategy on business and human rights, and to clarify the state's duty to protect with respect to business and human rights. A French national CSR action plan is now in preparation and the CNCDH has been invited to submit a report on modalities for its implementation.

**Speaker – Fidelma Joyce,  
Irish Human Rights Commission**

Fidelma Joyce presented the Irish Human Rights Commission's report from its recent Inquiry on the 'Human Rights Issues Arising from the Operation of a Residential and Day Care Centre for Persons with a Severe to Profound Intellectual Disability'. Ms Joyce highlighted the importance of the Commission's legal powers to undertake inquiries into human rights issues and its potential application to the area of business and human rights. The background to the Commission's inquiry was that, like many other states, Ireland had contracted out the performance of several of its public service functions to private entities. The Commission had examined contracts between the state and private actors for healthcare services as well as privatised service provision at ground-level. The inquiry found that the contracts for healthcare services were not human rights-based and did not include benchmarks reflecting service users' actual needs, especially in situations where multi-disciplinary support was necessary. In addition, problems were not communicated to relevant political stakeholders. Ms Joyce suggested that a review of legislative, strategic and policy

frameworks on the right to health and health services was required, in particular with regard to Ireland's Disability Act. Ms Joyce noted the words of the UN Special Rapporteur on Extreme Poverty and Human Rights, who had recently pointed out that human rights needed to be protected also in times of budget constraints. The Irish Government had not undertaken a poverty impact assessment on the delivery of healthcare services before introducing budget cuts in the health sector; rather, budget cuts had been made in an indiscriminate manner. Ms Joyce finally highlighted that after the Irish Commission had published its inquiry report, the initial budget allocation within the health sector was reversed to some extent, indicating the scope for NHRIs interventions to have a positive impact even in difficult national economic situations.

**Roundtable 2: Corporate Responsibility to Respect  
Chair: Dr Claire Methven O'Brien,  
Senior Adviser, Danish Institute for Human Rights**

Contributions to this session canvassed existing regulatory frameworks, such as the OECD Guidelines for Multinational Enterprises, as well as initiatives on part of businesses, non-governmental organisations and NHRIs to foster business respect for human rights.

**Speaker – Prof Roel Nieuwenkamp,  
Chair of the Working Party of the  
OECD Investment Committee, OECD Guidelines  
for Multinational Enterprises**

Prof Roel Nieuwenkamp spoke about the importance of the OECD Guidelines for MNEs for fostering business respect for human rights. He explained that while the Guidelines were not directly binding on companies, they were binding on OECD member states, which are thereby obliged to ensure implementation of the Guidelines and business adherence to these. This involves a dual function of education about and promotion of the Guidelines, as well as hearing specific instances of business non-compliance with the Guidelines via OECD National Contact Points (NCPs). Prof Nieuwenkamp further noted that the 2011 revision of the OECD Guidelines included alignment with the UNGPs via the introduction of a separate chapter within the guidelines on human rights, including recognition of the responsibility to respect human rights and human rights due diligence. The revision also placed increased emphasis on the role of NCPs. According to him, NHRIs may interact with the OECD Guidelines in a number of ways, for example, through engaging and collaborating with NCPs to ensure promotion of the Guidelines as well as working on specific instances of non-compliance.

**Speaker – Dr Wolfram Heger,  
Daimler AG**

Dr Wolfram Heger noted that from a business perspective the topic of human rights has increasingly gained attention over the last years, including growing attention within businesses of the linkages between business activities and human rights. He explained that Daimler had first begun to engage with human rights in relation to three specific topics: supply chain, child labour, and non-discrimination. Dr Heger highlighted the challenges of fostering awareness of and attention to human rights within businesses, such as the different types of organising frameworks across different business functions, staff understanding of human rights and governance structures between corporate and subsidiary levels. Despite such challenges, Dr Heger noted that paying attention to human rights made sense from a business perspective and that the UNGPs framework provided a useful frame for working towards the effective integration of human rights into business practice. In his view, NHRIs can play an important role in this regard by engaging with the business community to understand and further develop implementation of the UNGPs, especially at the local level.

**Speaker – Gwendolyn R Emmert,  
UN Global Compact Local Network Germany**

Gwendolyn R Emmert introduced the function and activities of the German Global Compact Network (DGCN). UN Global Compact Local Networks exist in more than 100 countries. Ms R Emmert noted that more than 200 businesses as well as representatives of over 50 non-business organisations, from civil society, politics, and science, were currently participating in the DGCN. The DGCN is supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) and is recognised as a platform for exchanging international best practices in sustainable and responsible business conduct. Ms R Emmert further explained that the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) coordinates the DGCN on behalf of the BMZ and in cooperation with the German Federal Foreign Office (AA). One of DGCN's functions is to bring together experts on business and human rights, such as through organising meetings, developing tools and resources, and facilitating a peer learning network. DGCN has developed the Organisational Capacity Assessment Instrument (OCAI), for example, to assist companies in assessing and improving their capacity to respect human rights and to exercise human rights due diligence. The OCAI consists of a self-assessment questionnaire with 22 questions focussing on the major elements of the corporate responsibility to respect human rights as outlined in the UNGPs.

**Speaker – Prof Edda Müller,  
Transparency International (TI) Germany**

Prof Edda Müller noted that fighting corruption and respecting and promoting human rights were closely linked as corruption is a key contributing factor of poor human rights implementation. She highlighted that if corporate responsibility was to deliver on its promise of sustainability for companies and the societies in which they operate, corporate governance and credible anti-corruption efforts should be integrated more closely and effectively to mitigate risks and promote responsible business behaviour. Prof Müller explained that TI collects evidence on corruption and provides recommendations. In its recent study on "Transparency in Corporate Reporting: Assessing the World's Largest Companies", for instance, TI analyses the level of transparency of corporate reporting on a range of anti-corruption measures among the 105 largest publicly listed multinational companies. TI assesses the publicly available information on those companies and provides further information about their governance structure and their willingness to combat corruption and to maintain corporate social responsibility.

**Speaker – Diana Copper,  
UK Equality and Human Rights Commission**

Diana Copper described the role and activities of the UK Equality and Human Rights Commission, which was established in 2007 under the 2009 Equality Act. It became A-status accredited by the ICC in 2009 and acts in accordance to its Paris Principle mandate. Ms Copper explained that the Commission has a working group on business and human rights with representatives from the business community, trade unions, and civil society. The Commission provides tools, especially for small and medium-sized businesses and gives advice on Pillar Two of the UN 'Protect Respect and Remedy' Framework in particular. Ms Copper highlighted that being the main community employer, representing 99 % of all businesses in the UK, small and medium-sized businesses had a special responsibility to observe human rights in the UK. She further emphasised that the 'Protect, Respect and Remedy' Framework' has been very useful for the Commission's work, as it formulates and interprets the corporate responsibility to respect human rights in an authoritative manner. The Commission has used the Framework to adopt its advice to the special needs of small and medium-sized businesses.

**Speaker – Elin Wrzoncki,  
International Federation for Human Rights (FIDH)**

Elin Wrzoncki considered the key role of NHRIs with regard to Pillar One and Pillar Three of the UN 'Protect, Respect and Remedy' Framework, in particular. In her view, Pillar Two of the Framework is very useful as it clearly acknowl-

edges corporate responsibilities vis-à-vis human rights, in particular the corporate responsibility to respect human rights and human rights due diligence. According to Ms Wrzoncki NHRI can fulfil a variety of functions with regard to business and human rights: influence the shaping of national regulatory frameworks to ensure that national laws and policies are in place to promote business respect for human rights (e.g. national baseline studies); examine the complex structures of businesses and review corporate law to foster respect for human rights; monitor business activities and their impact on human rights; provide human rights education to the business community; and consider complaints about alleged human rights violations.

### **Roundtable 3: Access to Remedy**

**Chair: Diego Quiroz,  
Scottish Human Rights Commission**

Contributions to this session canvassed jurisdictional and legal considerations concerning access to remedy for victims of corporate human rights abuses, case studies of NHRI investigations into human rights and business complaints, and suggestions for further NHRI engagement on access to remedy.

### **Speaker – Dr Miriam Saage-Maaß, European Centre for Constitutional and Human Rights Law**

Dr Miriam Saage-Maaß discussed obstacles to access to justice for victims of corporate human rights abuses, extraterritoriality and due diligence. Key obstacles to justice noted by Dr Saage-Maaß included: lack of resources for fact-finding and evidence-gathering, procedural hurdles, legal representation and court costs; limited opportunities in EU member states for bringing class actions; and jurisdictional uncertainty. The challenges posed by complex corporate structures, with parent and subsidiary companies spanning different jurisdictions, were also highlighted, such as obstacles to 'piercing the corporate veil'. Lack of clarity regarding the applicability of EU legal provisions extraterritorially was identified as a significant hurdle that needed to be overcome to ensure access to effective legal remedy for victims of corporate human rights abuses occurring outside the EU caused by companies headquartered in the EU. A further topic for discussion was the concept of due diligence and whether and if so, how, this might be incorporated into national or EU law. The importance of non-judicial grievance mechanisms, such as National Contact Points under the OECD Guidelines, was noted. In conclusion, Dr Saage-Maaß suggested that NHRIs could contribute to improving access to remedy in four key ways: by seeking greater clarity on extraterritoriality; working towards the implementation of human

rights due diligence into national law, for example, within the existing concept of duty of care; assisting and collaborating with NCPs; and by assessing individual instances of corporate human rights abuse.

### **Speaker – Larry Devoe, Ombudsman Institution of the Bolivarian Republic of Venezuela**

Mr Larry Devoe shared two case studies of investigations into business and human rights-related complaints by the Office of the Ombudsman Institution of the Bolivarian Republic of Venezuela, highlighting factors that hinder or contribute to effective resolution. The first case concerned a residential housing development constructed by a private company on the site of an old quarry. The company had taken insufficient care to ensure stable ground conditions. Subsequently, several of the buildings became unstable and were damaged. Having unsuccessfully tried to engage the company in dialogue, the Ombudsman's office later submitted the case to court. The court ordered the company to ensure the immediate relocation of affected families, a ruling, which the company ignored. Following a further court case, a state board responsible for arranging the company resources was established and had some success in resolving the situation of the housing development's residents. The second case study relayed by Mr Devoe concerned the company Galaxia Médica, which had sold over 62,000 breast implants made by the French company Poly Implant Prothese (PIP) in Venezuela between 2007 and 2011. In March 2010, the French Agency for Sanitary Safety had ordered the recall of breast implants made by PIP due to health risks. In Venezuela, Galaxia Médica refused to pay for the removal of PIP's breast implants and affected women were forced to have their implants removed at high cost by private physicians in private health facilities. The affected women requested the state of Venezuela to intervene and to have their implants removed for free. As no agreement could be reached with Galaxia Médica, the Office of the Ombudsman filed a complaint to the Supreme Court of Bolivia in June 2012, arguing that the company's refusal to remove or replace the breast implants was a violation of the women's right to health. The Court confirmed that the issue constituted a public health problem and ordered Galaxia Médica to proceed with the withdrawal and replacement of PIP implants at no cost to the affected patients.

### **Speaker – Chris Halburd, Environmental Law Service**

Chris Halburd emphasised the importance of Pillar Three of the UN 'Protect, Respect, Remedy' Framework, and discussed the links between Pillar Three and corporate law concepts that may hinder effective access to legal remedy

in practice. For example, corporate law concepts such as limited liability, separate legal personality and appropriate forum often presented obstacles to obtaining legal remedy for victims, highlighting the need for the review of corporate law and regulation at national level. Uncertainties and challenges around questions of extraterritoriality were again noted. With this in mind, Mr Halburd commented, the Environmental Law Service saw NHRIs as having a central role to play in examining and addressing obstacles to justice in their respective jurisdictions.

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## PART IV – Challenges and Opportunities – European Regional Institutions: What Impacts, what Potential?

**Chair: Prof Alan Miller,  
Chair, Scottish Human Rights Commission and Chair,  
European Group of NHRIs**

This session focused on the role regional and international governmental and non-governmental organisation can play in the area of business and human rights. Presenters from the Council of Europe, the European Commission (EC), the Organisation for Security and Cooperation in Europe (OSCE) and the Fundamental Rights Agency (FRA) contributed to the discussion with reports of their experiences.

**Speaker – Riccardo Priore,  
Council of Europe (CoE)**

Riccardo Priore spoke about the Council of Europe's long-standing experience in monitoring and implementing human rights across member states. The European Court of Human Rights (ECtHR) has ruled that under Article 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) state parties have a positive obligation to ensure that human rights are not violated by private parties. The European Social Charter (ESC) from 1961 and 1996 complements the ECHR in the field of economic and social rights, with employment rights as one of its main pillars; individuals must be protected from infringements of their guaranteed rights arising from their employment relationships. The primary responsibility deriving from the ESC rests with state authorities, but the state may delegate certain responsibilities to social partners, i.e. trade unions and employers' organisations. The obligations of the state under ESC concern not only legislative measures, but also policy measures and resources: states are also obliged to make available the necessary resources to give full effect to the rights enumerated. The European

Committee of Social Rights (ECSR) monitors the fulfilment of these obligations. In those states which have accepted the collective complaints procedure, currently numbering fifteen, trade unions, employers' organisations and NGOs, which enjoy participative status with the CoE, as well as national NGOs in cases where a state has made an additional declaration, can lodge a complaint. In 2010, the CoE Committee of Ministers considered whether a complementary legal instrument on corporate responsibility should be legislated as an additional protocol to the ECHR. Such an additional protocol would extend the ECtHR's jurisdiction to include economic and social rights. While expressing interest in the underlying issues, the Committee finally declined to act on the idea. Nevertheless, a steering committee has been tasked with conducting a feasibility study around business and human rights issues by the end of 2014. A new European instrument on economic and social rights could refer to the UNGPs, provide thematic guidance and for effective remedies. It might also provide for additional rights and principles not addressed by the UNGPs, for example, in relation to the extraterritorial application of social and economic rights.

**Speaker – Sue Bird,  
European Commission, DG Employment**

Sue Bird explained that the 2011 EC Communication on Corporate Social Responsibility (CSR) was an updated version of the 2006 Communication on CSR that in part responds to the financial crisis and its social consequences. The Commission's new CSR strategy aims to advance the interests of businesses as well as other stakeholders and holds great potential to anticipate environmental and social challenges that face all EU member states alike. It clarifies what is expected of businesses in the coming years on the basis of a smart mix of self-regulation and co-regulation. Ms Bird highlighted the new definition of CSR contained in the 2011 Communication. Whereas in 2006, CSR was described as voluntary in nature, the new Communication emphasises 'the responsibility of enterprises for their impact on society', an emphasis strengthened at various points by the usage of human rights language, such as 'identifying, preventing and mitigating [...] adverse impacts' of business operations. CSR is recognised in the new Communication as multi-dimensional, encompassing human rights, labour and employment rights, environmental obligations, anti-corruption-rules, consumer interests, volunteering and tax governance. Ms Bird noted the desirability of alignment between European and global instruments on CSR, including the OECD Guidelines, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises, the ten principles of the UN Global Compact, ISO 26000, and the UNGPs. The EC intends to monitor commitments undertaken by businesses with

references to such instruments. Given EU competence to maintain relations with third countries and regions, the EC also aims to identify ways to promote responsible business in sustainable growth initiatives in those countries. Furthermore, as indicated in the Communication, the EC intends to create a peer review mechanism of member state activities on CSR. The EC, in the Communication, further invites member states to create National Action Plans on CSR and on business and human rights. The latter were discussed in June 2012 at a meeting of the High-Level Group of Member States Representatives on CSR. In content, such plans would address, inter alia, internal and external policy coherence, alignment of corporate governance rules with UNGPs, good practices on business and human rights, consultation mechanisms, the principle of transparency, incentives to promote corporate respect for human rights, and rules communication of human rights impacts, monitoring and reviewing of results achieved. Finally, Ms Bird stressed the willingness of the EC to cooperate with NHRIs of EU member states and international NHRIs.

**Speaker – Signe Poulsen,  
Organisation for Security and Cooperation  
in Europe (OSCE)**

The OSCE consists of 56 participating states, inside and outside Europe (the United States of America, Australia, Japan and Mexico, for example, are members) as well as non-member states with observer or participatory status. Ms Poulsen described the OSCE's basis in political and security dimensions, supplemented in recent years by an environmental dimension. The OSCE's human rights dimension is addressed by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR). This is active throughout the OSCE area in the fields of election observation, democratic development, human rights, tolerance and non-discrimination, and rule of law. Ms Poulsen stressed the materiality of human rights to security-related questions. Respect for human rights and fundamental freedoms forms a key part of the OSCE's comprehensive security concept and its political dimension, albeit until now, these have lacked a comprehensive integration. The ODIHR has a dedicated human rights programme and monitors the human rights situation across the 56 participating states. ODIHR is supplemented, amongst others, by the Office of the Special Representative and the Coordinator for Combating Trafficking in Human Beings, who supports the development and implementation of anti-trafficking policies. Furthermore, OSCE/ODIHR encourages participating states to establish NHRIs in line with the UN Paris Principles. Overall, the OSCE's framework is well positioned to support the implementation of the UNGPs: the OSCE already interacts with private enterprises; it is currently considering additional legislative instruments in

the field of business and human rights: it can provide capacity building in the field of business and human rights; and it can facilitate the development of remedies in line with Pillar Three of the UN 'Protect, Respect and Remedy' Framework and the Guiding Principles.

**Speaker – Jana Gajdosova,  
European Fundamental Rights Agency (FRA)**

Jana Gajdosova introduced the FRA as one of the EU's specialised agencies. The FRA is mandated to provide the EU Institutions and member states with independent, evidence-based advice on fundamental rights. To meet this objective, the FRA performs the following main tasks: collecting and analysing information and data; providing assistance and expertise; and communicating and raising awareness of human rights. The FRA mandate allows it to be both reactive and proactive. EU Institutions formulate thematic areas for the Agency's work over a five-year period. The current Multi-Annual Framework (2007–2012) includes nine areas including, inter alia, discrimination; compensation for victims of human rights abuses; children's rights; and access to justice. Recently the FRA produced a report and recommendations on how to foster access to justice within the EU. Here, amongst other things, the need to strengthen NHRIs was highlighted. Outside the five-year-programme, the FRA can also formulate opinions and conclusions reactively on the request of the European Parliament, the European Council and the European Commission. The FRA is in regular dialogue with NHRIs, which are considered key stakeholders. With regard to the field of business and human rights, the FRA has begun to address this topic in the course of activities in the nine areas identified in its Multi-Annual Framework, such as child labour. Outside these areas, the FRA engages with the topic on an ad hoc basis: the European Investment Bank, for example, has sought advice from FRA on corporate social responsibility and the European Commission issued a request for advice on Article 16 EU Charter on Fundamental Rights concerning the freedom to conduct business across the EU. The FRA will undertake stakeholder consultations as part of its research in response to these requests.

**Speaker – Prof Dr Hans Petter Graver,  
University of Oslo, Adviser on the OECD Guidelines  
on Multinational Enterprises**

Prof Dr Hans Petter Graver expressed the view that NHRIs are important partners for National Contact Points (NCP) under the OECD Guidelines for multinational enterprises (MNEs). The OECD Guidelines entail a binding obligation on adhering states to encourage enterprises to uphold human rights. In 2011, the Guidelines were updated to strengthen protection of human rights and align the Guidelines with the UNGPs. Expectations on businesses

under the updated Guidelines are to conduct human rights impact assessments, to identify ways to mitigate negative human rights impacts, to conduct due diligence, to ensure responsible supply chain management, and to adopt a policy commitment to respect human rights. The mandate of NCPs in relation to the OECD Guidelines is twofold and concerns firstly, promotional activities, and secondly, mediation and arbitration of specific instances based on complaints made regarding breaches of the Guidelines by MNEs located in adhering states. Currently, there are forty-four NCPs worldwide. In Prof Dr Graver's view NCPs are the most important element in ensuring the effectiveness of the Guidelines. Although the Guidelines are not legally binding for enterprises, governments are obliged under the Guidelines to establish an NCP. Governments have wide discretion as to the institutional form of NCPs, yet NCPs are required to operate in accordance with the four core criteria of visibility, accessibility, transparency, and accountability. The OECD Guidelines apply to the operations of enterprises based in adhering states, whether these take place in home or host states, and irrespective of whether the host state itself adheres to the Guidelines. As regards the potential relationship between NCPs and NHRIs, Prof Dr Graver suggested that NHRIs in third countries could promote the OECD Guidelines there, while in terms of complaint-handling, NHRIs could also refer victims to NCPs and the specific instance process. NCPs should welcome complaints from or referred by NHRIs arising from business operations in return. Furthermore, NCPs should be subject to scrutiny by NHRIs, in line with their Paris Principles mandates. NHRIs should thus monitor whether NCPs are duly being established by adhering states to the OECD Guidelines and whether NCPs are in practice fulfilling their mandated functions. Finally, NCPs should be able to benefit from the expertise of NHRIs on human rights issues. In sum, Prof Dr Graver concluded that there was great potential for NHRI-NCP co-operation. NHRIs should therefore be proactive in approaching NCPs and encouraging NCPs to consult them wherever material.

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## PART V – NHRIs: New Approaches, Capacity Building and Cooperation

**Chair: Noémie Bienvenu,  
Commission Nationale Consultative des Droits  
de l'Homme (CNCDH)**

This session focussed on new approaches, initiatives, and actions that NHRIs have taken and could take in the

future, individually and collectively, to address business and human rights issues at national, regional, and international levels.

**Speaker – Dr Claire Methven O'Brien,  
Senior Adviser, Danish Institute for Human Rights**

Dr Claire Methven O'Brien presented DIHR's work towards a national baseline study on the implementation of the UN Guiding Principles in Denmark, which had been launched in August 2012. She stressed that the study would provide a firm foundation for DIHR's future work on business and human rights and, it was hoped, encourage the adoption of a national action plan. Dr Methven O'Brien explained that the study would be conducted in line with the principles outlined in the Discussion Paper published by the European Group of NHRIs in June 2012 on national implementation of the UNGPs. Thus, the study would address the full scope of the UNGPs across all three pillars, and its development should follow a human rights-based process, entailing participation by affected rights holders. An initial desk-study comprising the first phase would be followed by engagement and consultation with national stakeholders, such as responsible government authorities, business, labour, human rights and civil society organisations, and rights-holders and/or their representatives, as well as experts, with a final report and recommendations to be published and provided to the government during 2013.

**Speaker – Myriam Montrat,  
Discrimination Prevention Branch, Canadian Human  
Rights Commission**

On behalf of the ICC Working Group on Business and Human Rights, currently chaired by the Canadian Human Rights Commission, Ms Montrat provided an overview of the wide-ranging initiatives taken by individual NHRIs since the adoption of the ICC Edinburgh Declaration in 2010. Some NHRIs, such as the Danish Institute for Human Rights, have embarked on research activities and are currently in the vanguard of conducting baseline studies on business and human rights in their respective countries. The Kenya National Commission on Human Rights has been very active in the area of human rights training, organising a number of workshops to promote capacity building amongst staff and stakeholders. In Venezuela and Malawi, NHRIs are acting as independent experts and undertaking field investigations. Uganda's NHRI has been focusing on the issue of child labour and business capacity to respond to human rights, and the South Korean Human Rights Commission examines compliance of the business sector with human rights standards. The ICC Working Group on Business and Human Rights was strongly committed to promoting NHRIs' ability in turn



to promote and make effective the responsibility of businesses to respect human rights, and as result, it aimed to strengthen both NHRIs' individual capacity as well as NHRIs' collective capacities at regional level in this area. Ms Montrat described guidance provided, via the ICC Working Group to the ICC regional networks towards the development of their business and human rights strategies, and on how to engage with stakeholders to raise awareness of business and human rights issues, for example. The ICC Working Group was also developing regionally-tailored training tools on business and human rights for NHRIs (in cooperation with the Danish Institute for Human Rights and OHCHR). The Working Group was furthermore about to publish a series of factsheets on business and human rights that would provide concise guidance and suggestions for practical activities around issues, such as NHRI cooperation with UN Global Compact Local Networks and OECD National Contact Points, and on thematic issues, such as the right to food, women's and children's rights.

**Speaker – Allison Corkery,  
Centre for Economic and Social Rights (CESR)**

Allison Corkery spoke about the urgent need for the use of effective monitoring tools and indicators in relation to economic and social rights in order to make human rights meaningful for rights holders at the ground level and to ensure accountability for laws or policies that created, perpetuated or exacerbated deprivations of economic and social rights. Ms Corkery explained that in recent years quantitative methods, which comprised both outcome and process-based approaches, had been developed to permit more adequate monitoring of the realisation of economic and social rights. Ms Corkery outlined two projects in which CESR has engaged: firstly, a monitoring project in Ecuador on monitoring implementation of the state duty to protect, and secondly, an analysis of state measures to fulfil economic and social rights in Guatemala. Ms Corkery concluded by emphasising that CESR considered NHRIs as having a key role in establishing indicators in the area of business and human rights, particularly with regard to the assessment of implementation of the UN Guiding Principles on Business and Human Rights.

**Speaker – Michael Windfuhr,  
Deputy Director, German Institute for Human Rights**

Michael Windfuhr presented the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which were endorsed by the UN Committee on World Food Security (CFS) in May 2012. The German Institute for Human Rights had contributed substantively to the

development of these Guidelines which, according to Mr Windfuhr, thus provided a shining example of the important role NHRIs could play in the development of new international instruments to address difficult and highly politicised issues, such as the tenure of land. Michael Windfuhr explained that the Guidelines were human rights-based, as they drew on existing international human rights law, focused on vulnerable groups and included rights-based administration, safeguards and the recognition of the importance of complaint mechanisms. He further stressed that the Guidelines were an important tool for NHRIs working on corporate-related human rights issues, as they were applicable and material to all states and private actors. Mr Windfuhr encouraged NHRIs to endeavour to promote implementation of the Guidelines at international, regional and national levels, as well as their extraterritorial application (for example in relation to activities of export credit agencies) and provided suggestions for activities that could be undertaken by NHRIs in this regard.

**Speaker – Ma Nerissa M. Navarro-Piamonte,  
Philippines Human Rights Commission**

In her presentation, Ms Navarro-Piamonte sought to demonstrate how NHRIs could successfully work together at the regional level on issues related to business and human rights. To date only 45 states have signed the UN Convention on the Protection of Rights of Migrant Workers and Members of Their Families. At the same time, migrant workers worldwide face severe abuses of their human rights, such as ill treatment both by employers and law enforcement bodies, unsafe and unhealthy working conditions as well as limited access to social security and discrimination. Ms Navarro-Piamonte described the process by which, in response to this context, the Asian Pacific Forum of NHRIs (APF) had produced a Manual on Migrant Workers. During this process, NHRIs from Qatar, Malaysia, India, Jordan and the Maldives had collaborated and each made substantial contributions to the development of the manual's content by providing case studies and country-based information. Ms Navarro-Piamonte stressed that the manual was a highly useful tool for NHRIs, as it supplied concise and practical information that should assist NHRIs in handling business-related issues affecting the human rights of migrant workers, such as issues related to the activities of private recruitment and placement agencies.



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