



Righting Remedy:

A Workshop Series to Build Learning on Effective Judicial and Non-Judicial Remedies

June 2015-May 2016

Background and Context

Businesses have both positive and negative effects on the communities in which they operate. While companies generate wages, goods, and services, there are human rights risks inherent in business activity. Where these risks are not adequately prevented against, human rights violations may take place, and where these violations take place, it is imperative that the affected person or community has access to an effective remedy.

Access to effective remedy for violations of human rights is a core requirement of human rights protection. This has been emphasized by the United Nations Guiding Principles on Business and Human Rights (UNGPs)ⁱ, which identify access to remedy as one of the three pillars of the international business and human rights framework.ⁱⁱ Access to remedy can be provided by both judicial and non-judicial processes. According to the UNGPs, judicial mechanisms are “at the core of ensuring access to remedy.”ⁱⁱⁱ Nevertheless, judicial remedy “is not always required; nor is it always the favoured approach for all claimants.”^{iv}

Legal and practical barriers prevent victims from accessing effective remedies, both in the judicial and non-judicial context. Recently, increasing attention has been focused on the identification of the most significant barriers to remedy, as well as to what States can do to eliminate these barriers.^v Yet, to date, there has been little collaboration among organizations that focus their efforts on judicial mechanisms and organization that focus their efforts on non-judicial mechanisms.

The International Corporate Accountability Roundtable (ICAR) and the Centre for Research on Multinational Corporations (SOMO) have recognized that there is much to be gained by bringing the two communities together to discuss shared obstacles, exchange lessons learned, determine what remedies are possible and appropriate using the various existing mechanisms, explore how research in the two areas can be combined, and to co-strategize around breaking down current barriers.

Objectives

The “Righting Remedy” Project (“the Project”) aims to build knowledge and strengthen capacity among communities seeking to identify and eliminate barriers in the judicial and non-judicial spheres. This will be achieved through a series of two workshops that will allow for case comparisons, cross-fertilization of knowledge and research, a discussion of what remedies are possible and appropriate through existing mechanisms, thinking around how research tasks can be combined for greater efficiency and collaboration going forward, and a strategy session around how to break down current barriers. Following the culmination of the two workshops and strategy session, ICAR and SOMO will develop a paper detailing actions and recommendations that should be undertaken by these communities going forward.

Participants

The Project will include participants that represent a diverse geography, and organizations that utilize both judicial and non-judicial mechanisms will be invited to participate.

The following individuals will lead the Project’s efforts:

1. Ms. Kristen Genovese, Senior Researcher, SOMO
2. Dr. Joseph Wilde-Ramsing, Senior Researcher, SOMO
3. Mr. Amol Mehra, Director, ICAR
4. Ms. Katie Shay, Legal & Policy Coordinator, ICAR

ⁱ The United Nations “Guiding Principles on Business and Human Rights: Implementing the ‘Protect, Respect, and Remedy’ Framework” is the result of the six-year mandate (2005-2011) of the Special Representative to the Secretary General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. The Guiding Principles were endorsed by the United Nations Human Rights Council on 16 June 2011 as a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activities. Special Representative on Business and Human Rights, *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect, and Remedy” Framework*, adopted by the United Nations Human Rights Council, U.N. Doc. A/HRC/17/L.17/31 (June 2011), [hereinafter *UNGPs*].

ⁱⁱ The Protect, Respect, and Remedy Framework as outlined in the SRSG’s 2008 report “Protect, Respect, and Remedy: A framework for Business and Human Rights” rests on three pillars: (1) the State’s duty to protect individuals against human rights abuses by non-State actors, including businesses; (2) the corporate responsibility to respect human rights; and (3) access to remedy to victims of human rights violations. Special Representative on Business and Human Rights, *Protect, Respect, and Remedy: a Framework for Business and Human Rights*, U.N. Doc. A/HRC/8/5 (Apr. 2008).

ⁱⁱⁱ *UNGPs*, *supra* note 1, at princ. 26.

^{iv} *Id.* at princ. 26.

^v See, e.g., GWYNNE SKINNER, ET AL., THE THIRD PILLAR: ACCESS TO JUDICIAL REMEDIES FOR HUMAN RIGHTS VIOLATIONS BY TRANSNATIONAL BUSINESS, (Dec. 2013), available at <http://accountabilityroundtable.org/initiatives/remedy/>, SOMO, THE PATCHWORK OF NON-JUDICIAL GRIEVANCE MECHANISMS (Nov. 2014), available at <http://somo.nl/news-en/the-patchwork-of-non-judicial-grievance-mechanisms>.