**Exploring the Content of Proposed Business and Human Rights Treaty**

Proposal for a Side Event during the 2nd OEIGWG (24-28 October 2016)

**Event Organiser**

Centre for Human Rights, University of Pretoria

**Background**

The perceived failure of ‘soft’ regulatory initiatives to hold corporations accountable for human rights violations has led to constant demands for a legally binding international instrument in the area of business and human rights (BHR). It is against this backdrop that the Human Rights Council in June 2014 adopted a resolution sponsored by Ecuador and South Africa to create an open-ended intergovernmental working group (OEIGWG) ‘to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises’. The first two sessions of the OEIGWG ‘shall be dedicated to conducting constructive deliberations on the content, scope, nature and form of the future international instrument’. Building on the 1st session held in July 2015, the 2nd session in October 2016 will continue the discussion so as to enable the OEIGWG Chairperson-Rapporteur to ‘prepare elements for the draft legally binding instrument for substantive negotiations at the commencement of the third session’.

While the current treaty process has triggered intense discussions around the world concerning the desirability of a treaty on BHR, a number of states and other stakeholders have been waiting to see more concrete proposals concerning the content of the treaty. A number of academics and other experts have started developing various proposals about the content of the proposed BHR. As part of this process, Surya Deva and David Bilchitz has assembled a group of leading scholars from all over the world to deliberate upon complex and contentious legal issues related to the treaty content and then develop concrete proposals in this regard. The outcomes of this project will be published by Cambridge University Press in 2017 in the form of a book entitled *Building a Treaty on Business and Human Rights: Context and Contours*. It is felt that a side event based on this book project will allow states, businesses and civil society organisations (CSOs) to develop an informed understanding about the content of the proposed BHR treaty during the 2nd session of the OEIGWG.

**Objectives**

The primary objective of this side event will provide an opportunity to all relevant stakeholders – representative of states, business associations and CSOs – to engage leading experts about the potential content of the proposed BHR treaty. The event will explore specific issues such as the following related to the treaty content:

* what types of corporations the proposed treaty should target and which human rights it should cover;
* whether the treaty should impose direct and/or indirect obligations on corporations and how these provisions should be formulated;
* what should be the scope of the state’s extraterritorial obligations;
* whether the treaty should obligate states as well as corporations to conduct human rights due diligence;
* how to deal with corporate responsibilities within complex group structures and global supply chains;

how the proposed treaty should ensure that bilateral investment treaties (BITs) and free trade agreements (FTAs) do not undermine human rights;

* how the treaty should strengthen access to effective remedies for victims of corporate human rights obligations by removing barriers; and
* what sanctions and enforcement mechanisms should be included in the treaty.

**Proposed Speakers**

Moderator

Bonita Meyersfeld, Associate Professor and Director of the Centre for Applied Legal Studies, University of the Witwatersrand

Panellists

David Bilchitz, Professor, Faculty of Law, University of Johannesburg

Carlos Lopez, Senior Legal Advisor, International Commission of Jurists

Robert McCorquodale, Director, British Institute of International and Comparative Law

Beth Stephens, Professor, Rutgers Law School