**LEIGH DAY SUBMISSIONS TO THE OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP FOR THE ELABORATION OF AN INTERNATIONAL BINDING LEGAL INSTRUMENT ON TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES WITH RESPECT TO HUMAN RIGHTS, RESOLUTION A/HRC/26/9 (the “Working Group”)**

**11 October 2016**

**SUBMISSION 1 - INTRODUCTION**

**Leigh Day**

1. Leigh Day is a leading human rights law firm with a large international law department specialising in international corporate accountability cases.
2. Over the past 22 years Leigh Day has pursued numerous ground-breaking cases for people in developing countries who have allegedly been harmed by the activities of multinationals. Leigh Day is also acting in the first High Court case against a British company on behalf of victims of modern slavery. See [https://www.leighday.co.uk/International-and-group-claims](https://www.leighday.co.uk/International-and-group-claims%20) for details.
3. Consequently, Leigh Day has a well-informed perspective as to the effectiveness and accessibility of judicial mechanisms in the UK for providing remedy to victims of human rights abuses by business enterprises, including specifically multinationals, and the implementation of the ‘Remedy’ pillar of the UN Guiding Principles on Business and Human Rights (UNGPs) more generally.

**Recommended Matters for Consideration by the Working Group**

1. On 31 August 2016 Leigh Day made detailed written submissions to the UK Parliament Joint Committee on Human Rights (JCHR) Inquiry into Human Rights and Business. The mandate of this Inquiry was to examine:
   * + - 1. What steps the UK Government takes to monitor compliance with the UN Guiding Principles on Business and Human Rights (UNGPs).
         2. How far the Government is able to enforce the UNGPs
         3. Whether, and if so what, progress British business has made in carrying out its responsibility to respect human rights
         4. Whether victims of human rights abuse involving business enterprises within UK jurisdiction have access to effective remedy.
2. Leigh Day’s submissions to the Inquiry were focussed chiefly on the issue of access to effective remedy for human rights abuses involving business enterprises. Leigh Day’s written evidence to the UK Parliamentary Inquiry is set out in the following separate submissions:

**Submission 2** - Issues concerning accessibility and effectiveness of judicial mechanisms for holding UK business to account for human rights violations committed overseas.

**Submission 3** - Recommendations in relation to accessibility and effectiveness of UK judicial mechanisms for holding UK business to account for human rights violations committed overseas.

**Submission 4** – Issues and Recommendations regarding accessibility and effectiveness of UK judicial mechanisms for protecting the right to effective remedy for victims of modern slavery.

1. Leigh Day is of the view that the Working Group’s consideration of a binding international instrument on business and human rights should take account of the issues addressed in Submissions 2-4. Such issues include, in particular:

* Legal duties of human rights due diligence in relation to multinational enterprises.
* The burden of proof in relation to legal duties of care for multinational parent companies.
* Issues concerning the appropriate forum for disputes in relation to human rights violations
* The need for class action mechanisms.
* Levels of damages for human rights violations.
* Costs and funding of legal representatives and experts.

1. Whilst some of the considerations addressed in Leigh Day’s submissions to the JCHR Inquiry are specific to the UK, many of the issues discussed are of general application and relevance to the matters that fall for consideration by the Working Group.

For further information, please contact Richard Meeran, Shanta Martin, Daniel Leader, or Paul Dowling.

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