



2016 Asia Regional Forum on **Business and Human Rights**

Doha · 19-20 April 2016



The Accountability and Remedy Project: Practical challenges in cross-border cases – regional perspectives

Parallel session – Wednesday 20 April, 14:45 – 16:15

The OHCHR Accountability and Remedy Project has been focused on developing evidence-based and practical guidance for States to enhance accountability and access to remedy when companies are involved in human rights abuses, particularly in cases of severe abuses. OHCHR has released draft guidance to States to address legal and practical challenges that may limit accountability and prevent victims from obtaining effective remedy, and will present its final report to the Human Rights Council in June 2016.

One of the focus areas for the project is related to the the roles and responsibilities of interested states in cross border cases of corporate human rights abuses, an issue which presents distinct challenges from an accountability and access to remedy perspective. The UN Guiding Principles on Business and Human Rights provide that States should 'set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations'. They also stipulate that States should take steps to 'remove barriers' that can lead to a denial of access to remedy, which may include situations where a claimant in a host State cannot access home State courts regardless of the merits of the claim. However, in cases of business involvement in human rights abuses that have a cross-border dimensions, there are numerous challenges related to international cooperation and coordination to ensure that State authorities are able to seek and obtain relevant information and collaboration from counterparts in other States.

Building on OHCHR's proposed guidance to States in relation to cross-border cases of business involvement in human rights abuses the session will explore practical challenges and opportunities for more effective cooperation and collaboration from an Asian perspective. The session will explore how OHCHR's proposed guidance could be implemented in the region, including capacity needs, ways to embed the guidance in relevant domestic and regional processes, and ways that relevant stakeholders, including civil society organizations, national human rights institutions, and others, could advance uptake of the guidance and make cooperation and coordination more effective on the ground.

Multi-stakeholder panel followed by discussion with the audience:

- **Lene Wendland**, Adviser on Business and Human Rights, OHCHR (moderator)
- **Patrick Earle**, Diplomacy Training Program
- **Mohd Ashrof Kamarul**, Deputy Public Prosecutor, Attorney-General's Office, Malaysia
- **Krishnendu Mukherjee**, Public Interest Lawyer, Goa, India

Format of the session

- Opening remarks by Chair: The session will begin with an overview of the Accountability and Remedy Project draft guidance to states, with focus on the guidance provided on addressing issues pertinent to cases of business involvement in human rights that have a cross-border dimension
- Initial comments/presentation by the panelists: Panelists will be asked to comment briefly on how the guidance addresses challenges and issues seen in their own practical experience (approx. 5-7 mins each)
- Interactive discussion: The chair will lead a moderated Q&A discussion with participation from the floor