

Office of the United Nations High Commissioner
for Human Rights (OHCHR)
Working Group on Business and Human Rights
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

07 December 2011

Re: Proposals for Key Thematic Priorities and Activities

Dear Expert Working Group Members:

I would like to take this opportunity to congratulate you on your recent appointment to the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises. I wish you every success in fulfilment of your mandate.

Thank you for the opportunity to participate in the development of the Working Group's key thematic priorities and activities. I respectfully submit the following proposals for your consideration:

1. Creation of a matrix of human rights “principles”, “international standards” and “acceptable alternatives” (e.g. regarding the right of “freedom of association”, the “principle” is “the right to organize and bargain collectively”, the international standard is “formation of a trade union”, and acceptable alternatives where trade unions are illegal under national law “formation of worker co-operatives” that have a mandate to represent workers’ interests to management). This is an important issue in the context of States that have ratified international human rights treaties, but have not enacted domestic implementing legislation/regulations, Especially with respect to economic, social and cultural rights where progressive implementation of the right is permitted based on a State’s particular circumstances and, therefore, universal international standards do not exist, corporations have a significant challenge in determining the content of their corporate responsibility to respect those human rights.
2. Development of a matrix of human rights and their “core minimum content”, as established by States and national courts, in order to provide some guidance for companies operating in countries that haven’t developed national human rights standards (especially for economic, social and cultural rights, such as the right to water).

3. Creation of guidelines/standards regarding ethical resource royalties/rents. Given the current “commodity boom” and high natural resource prices, there is a “race to the bottom” in many developing countries to reduce resource rents/royalties in order to attract foreign investment in resource development. This is resulting in an unsustainable rate of resource extraction and may be infringing the “right to development” of current and future generations of developing country citizens. Given that many natural resources trade on international markets/have a world price, there is a strong argument that both States and corporations have an ethical obligation to charge and pay an economically justifiable resource rent relative to the international resource value.
4. Development of quantitative metrics for measuring human rights due diligence effectiveness. This requires measurable indicators of whether the Ruggie Framework and Guiding Principles are reducing the incidence of human rights infringements/violations by corporations/States (i.e. beyond data of number of companies with human rights policies, grievance mechanisms, etc.). This should include collection of current baseline data of infringements/violations, as well as reviewing and amending sustainability reporting initiatives to require collection and publication of necessary data.
5. Establishment of outreach, communication and monitoring cells. Knowledge of the existence and content of the Ruggie Framework and Guidelines is inadequate to ensure widespread uptake by corporate actors and monitoring by civil society. The role of national human rights institutions (NHRIs) should be enhanced and supported to take on an outreach, communications and monitoring function. Capacity-building workshops regarding the Ruggie Framework and Guiding Principles should be implemented with other key civil society actors, including communities affected by adverse human rights impacts (e.g. communities affected by extractive industry human rights impacts in the developing world).

Kind regards,



Frank Seier, Principal
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