International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)

ICC Working Group on Business and Human Rights

Submission to the United Nations Secretary General on Business and Human Rights and the United Nations System

26 March 2012

Introduction

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Working Group on Business and Human Rights\(^1\) (ICC WG on BHR) is pleased to present its input for consideration in the report of the United Nations Secretary General (the UNSG Report) that has been mandated by UN Human Rights Council Resolution 17/4 on the issue of business and human rights\(^2\).

Paragraph 12\(^3\) of Resolution 17/4 seeks to address how the UN system as a whole can contribute to the advancement of business and human rights.

Consideration of Resolution 17/4

The ICC WG on BHR supports the United Nations’ leadership in the realm of business and human rights. It welcomes Resolution 17/4 and encourages the UNSG Report to outline how the main elements can contribute to business and human rights in a coherent and complementary manner. It notes in particular:

- the welcoming of the UN Guiding Principles on Business and Human Rights;
- the creation of the UN Working Group on Business and Human Rights (UNWG); and
- the establishment of a Forum on Business and Human Rights under the guidance of the UNWG.

Importantly, Resolution 17/4 also recognizes the role of national human rights institutions (NHRIs) “and encourages national human rights institutions to further develop their capacity to

---

\(^1\) [http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Home.aspx](http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Home.aspx)

\(^2\) On 23 February 2012 the OHCHR disseminated a note calling for stakeholder input to the UN Secretary-General on how the United Nations system as a whole, including programmes and funds and specialized agencies, can contribute to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights, addressing in particular how capacity-building of all relevant actors to this end can best be addressed within the United Nations system.

\(^3\) In the OHCHR note calling for stakeholder input, the paragraph about the UNSG report cites paragraph 11, which is actually dedicated to the role of NHRIs in relation to business and human rights.
fulfil that role effectively, including with the support of the Office of the High Commissioner and in addressing all relevant actors.\textsuperscript{4}

It is the view of the ICC WG on BHR that the UN Guiding Principles on Business and Human Rights should be consistently applied as the normative framework for business and human rights. Additional efforts to further advance and operationalize the Guiding Principles should be coordinated between different UN programmes and specialized agencies, as well as with other stakeholders, in order to avoid any potential policy incoherence and/or duplication of guidance.

Suggestions for Action

The ICC WG on BHR suggests a primary focus in the UNSG Report on policy and programming coherence, and capacity building of relevant actors.

The central role of the UNWG, and of the implementation of the Guiding Principles, for instance, need to be articulated with respect to different UN programmes and specialized agencies. NHRIs support the Guiding Principles and UNWG, and are committed to engaging with its members. The ICC has responded to the UNWG’s call for input (see Annex A- December 2011 ICC Submission and Annex B- January 2012 ICC Statement) with recommendations (see section 3) that may be further considered for the UN infrastructure and cascading as well.

NHRIs are similarly exploring engagement with other UN programmes and specialized agencies on issues related to business and human rights, including:

- the UN Global Compact and its local networks,
- the UN Development Programme, and
- the OHCHR, for joint training and country engagement on BHR.

NHRIs support the capacity-building efforts of the UN in the field of business and human rights and are prepared to collaborate in these efforts at the national, regional and international levels. In this regard, the ICC WG on BHR has developed strategic action priorities for the period 2012 – 2013 and attaches them for consideration in the UNSG Report at Annex C.

Finally, as is underscored in paragraph 11 of Resolution 17/4, NHRIs have been encouraged to further develop their capacity in relation to business and human rights, including with the support of the OHCHR. In this regard, the ICC WG on BHR welcomes open dialogue and engagement by UN agencies for capacity building initiatives in particular.

Encl.

Annex A - December 2011 ICC Submission to the UN Working Group
Annex B- January 2012 ICC Statement to the UN Working Group
Annex C - ICC WG on BHR 2011-2013 Strategic Action Plan

\textsuperscript{4}Paragraph 11 of Resolution 17/4.

Introduction

*Effective national human rights institutions are the cornerstone of a strong human rights protection system at the national level, and an important relay mechanism at country level to ensure the application of international human rights norms.*

- United Nations Secretary-General Ban-Ki Moon\(^6\)

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) is pleased to present this submission to the United Nations Working Group on Transnational Corporations and Other Business Enterprises (UNWG) for its review and consideration.

**Section 1** outlines the legitimate and critical role of national human rights institutions in the realm of business and human rights, and in relation to each of the three pillars of the United Nations *Protect, Respect, and Remedy* Framework.

**Section 2** speaks to the achievements and activities of the ICC in relation to business and human rights.

**Section 3** provides a consolidation of recommendations relating to the mandate of the United Nations Working Group on Transnational Corporations and Other Business Enterprises. This section also speaks to the challenges and opportunities from an ICC lens that this Working Group may encounter and seek to act upon.

Several case studies, featured in the *annexes* along with other core resource material, demonstrate the real challenges and opportunities national human rights institutions navigate on the ground relating promotion and protection of the human rights of individuals and communities that are both positively and negatively affected by business activity.

---

\(^5\) (Main Text; The full submission inclusive of annexes is located at: [http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/International%20Policy%20Development.aspx](http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/International%20Policy%20Development.aspx))

\(^6\) ICC Chair Statement, 11 November, 2011
SECTION 1: National Human Rights Institutions

NHRIs: Independent, National Expert Bodies in Human Rights

National human rights institutions (NHRIs) are independent, expert human rights bodies established by national law or Constitution. NHRIs have a legal mandate to promote and protect human rights. They are distinct and independent from Government and non-governmental organizations.

Over 100 countries have NHRIs. Over two-thirds of NHRIs are accredited with an ‘A’ status, which means that they meet the requirements for independence, objectivity and pluralism set out by the United Nations (UN) Paris Principles.  

NHRIs play a central role in ensuring effective implementation of international human rights standards at national levels. The role of NHRIs is gaining increasing international recognition and support, as demonstrated by:

- the UN Human Rights Council review outcomes (e.g. independent NHRI participation in UN Human Rights Council proceedings including the Universal Periodic Review)8,
- requests by Treaty Bodies for NHRI participation;
- State actions to establish or strengthen NHRI legal frameworks further to their Universal Periodic Review; and

NHRIs also engage in cooperation and capacity building with the Office of the High Commissioner for Human Rights (OHCHR) and other partners such as the UN Development Programme in emerging economies, and in some countries UN Global Compact Local Networks or other actors.

The Work of NHRIs in Relation to Business and Human Rights

According to the UN Paris Principles, NHRIs are required to have a broad mandate to protect and promote human rights. This mandate encompasses both the public and private sectors, and all three pillars of the Protect, Respect, Remedy framework. As UN High Commissioner for Human Rights, Ms. Navi Pillay, affirmed in March 2010, this mandate includes business and human rights (BHR) as a core element.10

---

8 See e.g. http://www2.ohchr.org/english/bodies/hrcouncil/nhri.htm.
NHRIs are carrying out their roles and mandates relating to BHR in meaningful ways. For instance, they are initiating sector and country-specific baseline surveys, issuing advisories and position papers, and conducting public inquiries. They are acting as independent observers and mediators in potential and real conflict situations, developing best practice guidance and policies for businesses and other actors on human rights issues, preventing discrimination, and investigating and conciliating communications and complaints from individuals. Some NHRIs make legislative review and recommendations to ensure compliance with international human rights norms and standards.

The ICC has conducted an extensive baseline survey of NHRIs to identify and assess the interest, current activities, and capacity, and future engagement opportunities for NHRIs in respect of business and Human Rights issues. The detailed survey results, which will be published in 2012, confirm that:

- “issues of most widespread concern amongst respondents and across regions include discrimination, workers rights, issues relating to environment, food and water, and child labour;
- the NHRIs of most respondents in each region include business and human rights in their strategic priorities;
- the NHRIs of more than half of respondents across regions have engaged with the work of the SRSG;
- nearly all respondents have concerns regarding the privatization of public services, and the impacts in their country of the activities of transnational and multinational corporations and also small and medium sized enterprises;
- fewer respondents, particularly those from Asia Pacific, are concerned about the impacts in other countries of the activities of transnational and multinational corporations domiciled in their country;
- although there was some variation across regions, most respondents are concerned about the activities in each of the identified business sectors, and in particular, those of the extractive and energy, retail and consumer goods, and pharmaceutical and chemical sectors; and
- most respondents across regions are interested in being more active in relation to the sector-specific concerns they identified.

Respondents indicated an interest in a range of future activities, encompassing the justiciability of economic, social and cultural rights, community participation in decision making, NHRI mandate and resourcing constraints, the relationship between states and companies, norm clarification and the activities of financial institutions.”

Illustrations of NHRI case studies that have been brought forth in this consultation for the UNWG’s consideration are enclosed at Annex A. A number of other case studies may be made available upon request at this time through the Chair of the ICC Working Group on Business and Human Rights at ICC-BHR.CIC-EDH@CHRC-CCDP.GC.CA and by contacting NHRIs directly. The ICC will also be creating a space on its website for these and other leading practices by NHRIs in Business and Human Rights.

---

NHRIs: Key Actors in the UN ‘Protect, Respect, Remedy’ Framework and Guiding Principles

NHRIs, individually and through the ICC, have contributed to the development of the "Protect, Respect and Remedy" Framework and Guiding Principles, as well as to its application and convergence with other international standards related to corporate social responsibility.

The adoption of the UN Human Rights Council Resolution 17/4 on the Guiding Principles on Business and Human Rights12 reinforced the role of NHRIs in supporting and leading action across all three pillars of the UN ‘Protect, Respect, Remedy’ Framework.

The role of NHRIs is explicitly mentioned in each of the three pillars:

In relation to Pillar I, the State duty to protect human rights through its regulatory and policy functions,

"National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors" (Guiding Principle 3) 13.

Pillar I highlights the unique role NHRIs play in preventing the occurrence or escalation of corporate human rights abuses.

In relation to the corporate responsibility to respect in Pillar II, NHRIs are identified as a source of credible, independent expertise and guidance that businesses may consult with on human rights issues, for instance when assessing how to meet their responsibilities on issues of national and local context in complying with international human rights standards (Guiding Principle 23).14 This again highlights the preventive and promotional role of NHRIs.

Within the access to remedy pillar, NHRIs are once again included as one of the State-based grievance mechanisms that are administered by an independent body on a statutory or constitutional basis (Guiding Principle 25). NHRIs are also said to have a particularly important role in providing effective and appropriate non-judicial grievance mechanisms (Guiding Principle 27).15

14 Ibid.
15 Ibid.
In addition to providing strong guidance to states and companies, the *Protect, Respect and Remedy* provides a strong platform for NHRIs to reaffirm and strengthen their mandates and expertise in relation to business and human rights.

**Focus on NHRIs in UN Human Rights Council Resolution 17/4**

The United Nations Human Rights Council provided full endorsement to the Guiding Principles in June 2011 with the adoption of Resolution 17/4 on Human Rights and Transnational Corporations and other business enterprises. Resolution 17/4 makes several explicit references to the role and contributions that NHRIs make in relation to business and human rights and to the UNWG’s mandate and forum:

6 (b) To identify, exchange, and promote good practices and lessons learned on the implementation of the Guiding Principles and to assess and make recommendations thereon and, in that context, to seek and receive information from all relevant sources, including … national human rights institutions;.

6 (h) To develop a regular dialogue and discuss possible areas of cooperation with Governments and relevant actors, including … national human rights institutions;

13 Also decides that the Forum shall be open to the participation of … national human rights institutions…. **16**

Of particular importance, the Human Rights Council highlights that it:

10 Welcomes the important role of national human rights institutions established in accordance with the Paris Principles in relation to business and human rights, and encourages national human rights institutions to develop further their capacity to fulfil that role effectively, including with the support of the office of the High Commissioner and in addressing all relevant actors.” **17**

**SECTION 2: The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)**

NHRIs are not working in isolation on the business and human rights agenda. The ICC, established in 1993 as the representative body of NHRIs globally, facilitates collective action by NHRIs worldwide.

---


**17** Ibid.
The ICC aims to assist countries in establishing and strengthening effective, independent NHRIs in line with the Paris Principles. Among other roles, the ICC facilitates joint activities and cooperation among NHRIs and with other international organizations.18

Given that the ICC is a coordinating body for NHRIs, whose primary focus and expertise is to promote and protect human rights within their countries, the ICC may be considered another important partner for the UNWG in fulfilling its mandate.

**Highlights of ICC Achievements and Activities in Business and Human Rights**

**The ICC Working Group on Business and Human Rights**

The ICC established a Working Group on Business and Human Rights (BHR) as its first thematic Working Group in 2009. The Working Group coordinates NHRI actions relating to BHR and works to further develop NHRI capacities in BHR at individual and regional levels. The Working Group has supported NHRI engagement on BHR with the UN Human Rights Council, UN Special Procedures including throughout the mandate of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, Professor John Ruggie, and the UN Global Compact.

The ICC Working Group on BHR has achieved significant results since 2009, including:

- securing acknowledgement of NHRIs in the UN Guiding Principles through appropriate references,
- securing affirmation of NHRI mandates and continuing roles in business and human rights by the UN Human Rights Council in its June 2011 Resolution,
- recognition of NHRIs by the OECD in connection with the OECD Guidelines for Multinational Enterprises, submissions to the associated Resource Guide and OECD Common Approaches on Export Credit Guarantees, and a formalized statement of ICC-OECD cooperation now in prospect,
- initiation of a programme of NHRI capacity building on business and human rights,
- institutional cooperation between the UN Global Compact and ICC, with a formalized statement of cooperation in prospect,
- initiation of dialogue on NHRIs, human rights and business within the context of the OSCE,
- statements and submissions on key issues to the UN Human Rights Council and Special Procedures, as well as to the European Commission,
- the holding of an international biennial conference on the theme of Business and Human Rights: The Role of NHRIs (“the Edinburgh Conference”),
- the development and piloting of a training tool for NHRIs on BHR,
- the promotion of collaboration among NHRIs, and
- advocacy and awareness-raising around the roles of NHRIs with other national, regional, and international actors including civil society, in particular through the organization of side events and regional seminars on business and human rights.

---

The overriding goal for the Working Group moving ahead is to strengthen regional capacity in business and human rights. To this end, the ICC Working Group has developed a draft strategic action plan (SAP) for 2011-2013 in consultation with the ICC’s four regions. The SAP, enclosed at Annex B, builds upon the three original mandate areas of the Working Group, including strategic planning, capacity building and resource sharing, and agenda setting and outreach. The SAP has four main areas of activity, being to:

- provide guidance and tools to NHRI s on Business and Human Rights;
- engage with stakeholders on human rights and the role of NHRI s in implementing international and regional initiatives in Business and Human Rights;
- produce and deliver awareness and outreach activities and products; and
- develop, pilot, implement and evaluate regional training and tools in collaboration with regional networks.

The SAP draws upon the Edinburgh Declaration (Annex C)\(^19\), which resulted from the 2010 International Biennial Conference of NHRI s on BHR. The Declaration confirms the expanding role of NHRI s in addressing and preventing the escalation of potential corporate-related human rights violations.

In the Edinburgh Declaration, NHRI s agreed “to actively consider how their mandates under the Paris Principles can be applied, or where necessary strengthened, in order to promote and protect human rights as they relate to business, including to”:

- monitor compliance by states and non-state actors - including businesses - with human rights standards,
- advise relevant actors how to prevent and remedy human rights abuses by business,
- provide and/or facilitate access to judicial and non-judicial remedies,
- undertake research, education, promotion and awareness-raising,
- integrate human rights and business issues when interacting with international human rights bodies.

NHRI s also agreed to proactively consider how to use NHRI mandates to advance the Protect, Respect and Remedy Framework while recognizing the need for its further development and alignment with international human rights standards. They agreed to strengthen and broaden their own activities by:

- creating focal points within their institutions
- developing platforms to convene dialogues among relevant actors, and engaging with business, trade unions, civil society and the UN Global Compact
- supporting victims of corporate abuses, empowering human rights defenders, and securing participation of civil society,
- sharing knowledge and expertise,
- incorporating business and human rights in strategic plans and work plans, and
- working collaboratively with NGOs and civil society.”\(^20\)

---

19 Source: ICC WG Chair Reports. See http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/default.aspx.
Most recently, three of four regional strategic planning workshops on Business and Human Rights have been held, and priorities identified by the regional groupings of NHRIs for action:

- by the Network of African NHRIs in Yaounde, Cameroon, October 2011;
- by the Asia-Pacific Forum of NHRIs in Seoul, Republic of Korea, October 2011; and
- by the Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent in Antigua, Guatemala, November 2011.

The regional outcome statements and action plans are presented for ease of reference at Annexes D, E and F. The European Region of NHRIs will hold its event in early 2012.

SECTION 3

Preliminary ICC Recommendations Relating to the UNWG Mandate

Drawing from input received by ICC members, this section presents both general and specific recommendations relating to the UNWG’s mandate and plan of work. A detailed consolidation of the NHRI inputs to the ten individual mandate areas are enclosed at Annex G.

Key Structures, Networks and Partnerships

- While the 10 points of the mandate present a broad and ambitious set of objectives, each with its own opportunities and challenges, they seem somewhat complementary and interrelated. For this reason, it may useful to think about building upon existing structures, networks and partnerships that can maximize the resources of the 5-person working group. Some of these have been initiated during the mandate of the UN Special Representative, John Ruggie; however, the UNWG has an opportunity to broaden and deepen a collective understanding, action, and engagement on BHR.

- As a number of the points in the mandate are aimed at a national level, it may be useful for the UNWG to establish national focal points or networks to support its mandate. The UNWG could establish some basic criteria to select the national focal point or network (e.g. expertise in BHR, independence, ability to serve as or convene a multi-stakeholder forum for dialogue among government, business, NHRIs, labour and civil society). As many NHRIs have already established focal points internally in accordance with the Edinburgh Declaration, some of these may be interested and qualified to serve as the national focal point, or included in such a network. Other national arrangements that might be considered relate to the ILO's Decent Work agenda and the OECD Multinational Guidelines.

- Given the regional representation on the UNWG; that there are regional nuances to human rights promotion and protection; and often regional concentrations of industry and business, the UNWG may also consider establishing regional partnerships or networks as a

---

strategy of addressing priority issues, lessons-learned and best practices that are most relevant in a region. The ICC and the ICC Working Group on Business and Human Rights are also divided into regional networks and could be partners with the UNWG for activities, learning events and capacity-building. Some of the institutions / organizations listed in points (g) and (h) of the UNWG mandate in Resolution 17/4 have regional structures that could also contribute to a regional strategy for the UNWG.

- To develop the second pillar of the UN Framework and Guiding Principles, it could also be useful to **establish, broaden, or strengthen networks for specific business sectors and industries**. Part of the strategy could be to form partnerships with leading industry associations and companies along with relevant and interested NGOs, labour associations, professional associations and multilateral organizations or initiatives whose standards and activities are relevant to the industry. These industry-specific networks could be particularly useful for promoting the Guiding Principles, sharing lessons-learned and best practices and capacity-building. To the extent that they engage in a meaningful and sustained manner with the UNWG, they could also become vehicles to promote a gender perspective and attention to vulnerable situations and priority human rights themes. NHRIs might wish to contribute to these networks - especially if a particular industry is active, controversial, or subject to human rights complaints in their country.

- To promote cross-cutting discussion, learning, capacity-building and tool development on priority human rights issues or specific vulnerable groups, it would be valuable for the UNWG to **tap into existing thematic networks** that UN Special Procedures and other specialized UN agencies have created - in order to introduce industry and business to the existing expertise and knowledge that exists on human rights issues; and vice-versa. In addition to women and children, other groups that could be covered by the work of the UNWG include indigenous peoples and migrant workers. On the issue of gender, one important partner would be UN Women given its' work with the UN Global Compact on the Women's Empowerment Principles.

- The annual **Forum on Business and Human Rights** can be the place, and the moment in the calendar year, to bring the work of these different structures, networks and partnerships together for a major event. It would be extremely useful if the Forum could serve the following functions:
  
  - to share information, through presentations, kiosks, publications, etc. (perhaps one day could be dedicated to this purpose)
  - to address priority thematic issues and to encourage written commitments to act upon these issues (perhaps a theme that may be considered across different industries and business sectors)
  - to maintain a tone of consensus-building and principled pragmatism that was initiated during the Special Representative's mandate, i.e. a less hierarchical and informal discussion format than in UN Human Rights Council sessions, as results of the Forum are still to be formally reported on
  - to promote accessibility to all stakeholders through low/no cost for participation; webcasting the forum; providing support for NHRIs, civil society organizations and experts from developing countries
Key Challenges

- **Duplication**: It will be a challenge to coordinate all the activities that will be taking place globally that have some relation to the UN Guiding Principles on Business and Human Rights. Through adopting some structures, networks and partnerships as suggested above, the UNWG has a better chance to have some contact with and influence on these activities and to ensure progressive development of the UN Guiding Principles, and avoiding as much as possible duplication (or multiplication) of overlapping or contradictory guidance.

- **Confidentiality**: It will be important for the UNWG to examine the legitimate balance between corporate confidentiality and rights-based principles such as accountability, transparency and information-sharing. If the UNWG is going to promote the sharing of lessons-learned and good practices, many of the corporate initiatives that are currently taking place (e.g. company-sponsored human rights impact assessments) could be disclosed to a greater extent.

- **Communication**: While the Forum may be an excellent opportunity for information-sharing on an annual basis, it will be useful to have tools for transparent communications on an ongoing basis. The internet portal established for the UNWG on the Business and Human Rights Resource Centre's website (http://www.business-humanrights.org/Documents/UNWorkingGrouponbusinesshumanrights) is a very useful starting point. Its effectiveness and responsiveness to stakeholder needs could be reviewed from time to time.

- **Cost**: The costs associated with all the potential activities to implement the UNWG's mandate are considerable. The issue of costs and resources are particularly important for developing countries. Hopefully, resources can be maximized through partnership activities and financial and in-kind contributions from other organizations. As discussed below, finding an appropriate formula to receive corporate contributions is an opportunity to generate additional resources to address the issue of cost.

- **Cooperation from States and Companies**: As underscored in the UN Guiding Principles, States have the primary responsibility for regulating business enterprises and for ensuring policy coherence with respect to business and human rights. Therefore, the UN needs the cooperation of States in order to further develop and implement the UN Guiding Principles. There may be additional challenges around cooperation since businesses are regulated by different levels of government (State / provincial / municipal). It is encouraging that the UN Guiding Principles were unanimously adopted by the UN Human Rights Council, and hopefully the UNWG can count upon the cooperation of all member States, particularly for national-level activities and country visits. Similarly, the UNWG will benefit from the active engagement and endorsement of the UN Guiding Principles by many leading companies; however, it will have to face the challenge of "laggards" and companies that are dismissive of human rights.

- **Capacity-Building**: As appropriately identified as a priority for the Working Group to address, and as detailed by some of the submissions at Annex G, NHRIs among other actors face significant challenges in terms of capacity in BHR. NHRIs have a central role to play in advancing, supporting and operationalizing all three pillars of the framework; including through preventive and promotional activities, measures, and tools that prevent
disputes from arising or escalating, and which serve to foster corporate cultures respectful of human rights. States need to adequately resource NHRIs to handle business and human rights violations falling within their mandates.

Opportunities

- **UNWG Members:** The UNWG can build upon the specific expertise and existing networks of the UNWG Members. In particular, the regional connections and knowledge of the UNWG Members will presumably be valuable to establish regional networks and national focal points or networks. The ICC also strongly encourages the UNWG to actively engage the ICC regions through their representatives on the ICC Working Group on Business and Human Rights.

- **Appropriate Corporate Contributions:** Subject to UN rules and practices, the UNWG could consider how to enlist corporations in support to its mandate, to the Forum and to global, regional or national initiatives that promote the implementation of the UN Guiding Principles. Independently administered funds or foundations are options for receiving corporate contributions and distributing them on an equitable, principled and transparent basis. Corporations will naturally want public acknowledgment of their contributions; but this can likely be managed in a discrete and appropriate manner.

- **Momentum:** In consultation with the UN Special Representative and his team, the UNWG could identify sectoral or thematic areas that have forward momentum and invest some of its early efforts in building upon that momentum. While it is incumbent on the UNWG to tackle systemic and difficult issues, it is important to have success and visibility in some areas to draw laggards along. The results of these efforts could be a deepening of the UN Guiding Principles over the course of the UNWG's mandate. One such area could be that of prevention - insofar as opportunities exist to engage all actors in awareness, dialogue, and commitment around proactive and constructive ways to avoid the creation or escalation of human rights abuses.

- **Deepening and broadening of issues that the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, either did not treat, or treated in a cursory manner:** prioritizing specific areas for additional research and action would be welcome - for instance in relation to vulnerable populations, financial institutions and export credit agencies; and access to remedy.

- **Coordination, Performance Tracking and Measurement:** Coordination of efforts will be key to avoiding duplication and streamline UNWG efforts. Similarly, identifying specific time frames for priorities and measuring progress and achievements made in all facets of the Working Group's work will lay the groundwork for its eventual successes. The WG may wish to implement, test, and report on selected elements of the Guiding Principles identified with local actors. The WG may wish to develop a tracking system and a database for collective use during and after its mandate.
Additional Specific Recommendations relating to the UNWG mandate: This list is not exhaustive. It draws in part from the individual NHRI submissions presented at Annex G. Additional ideas specific to other areas of the mandate are enclosed at Annex G.

a. Effective dissemination and implementation of the Guiding Principles

- Engage NHRI in relation to human rights education and promoting the implementation of UN human rights standards and norms as this is their practice in other areas.
- Seek written commitments to accept and develop individual policies in line with UN Guiding Principles by various stakeholders (government departments, agencies, companies, industry associations, etc.)
- Audit the promotion and implementation of the UN Guiding Principles by different member States of the UN. National focal points or networks could assist in providing up-to-date information from each country.

b. Identification, exchange, and promotion of good practices and lessons learned

- NHRI are a source of first-hand information about developments and leading practices on the ground. NHRI may be relay mechanisms of the UNWG at the domestic level, and are supported by NHRI regional coordinators at a regional level and the ICC at an international level.
- The UNWG/OHCHR may serve as clearing house to compile and publish best practices, and NHRI will be key in turn in disseminating these practices at the domestic level.
- Focus on the responsibilities of investors and financial institutions (including Export Credit Agencies) given their important role in supporting business enterprises.

c. Support for efforts to promote capacity building

- In light of paragraph 10 of Resolution 17/4, it is particularly relevant to engage NHRI in this area of the UNWG mandate. (Ideas are presented at Annex G).
- Continue to work towards the development of binding norms, laws and regulations at the national-level that are consistent with the three pillars of the UN Guiding Principles. An evolving human rights analysis of existing corporate law instruments could lead to progressive law reforms.
- Develop specific guidance for the informal sector, micro enterprises and small and medium enterprises (SMEs).
- Promote the development of training materials on the UN Guiding Principles and on different human rights issues for businesses.
- Find incentives, rewards and support for positive business initiatives as a preventive measure.
d. **Country visits:**

- NHRI can have a key role in cooperating with the UN WG prior, during and after a country visit. They may recommend the UN WG people or organizations they may consider meeting, arrange meetings, provide information and documentation prior to the visit, serve as platform for meetings, and have an important role in follow up after the visit: dissemination of recommendations to concerned parties, reporting/monitoring on implementation of recommendations, hosting consultation meetings at the national level to promote implementation and more.

e. **Access to effective remedies**

- In light of NHRI roles under Pillar III this point too is very relevant, for instance: developing the Wiki project on remedies; publishing information on available remedies, NHRI roles in facilitating victims' access to remedies, NHRI themselves being remedies; effective use of Treaty Bodies' communication procedures.
- We invite the UNWG to make recommendations, where relevant, to strengthen NHRI complaints-handling.
- Include the judiciary and legal profession as key groups for implementation of the UN Guiding Principles, particularly around issues of remedy.

f. **Gender Perspective**

- Consider the role of UN Women, particularly as the agency is promoting internationally the Women’s Empowerment Principles (WEP) in partnership with the UN Global Compact. The WEP is based around the business case for women’s participation, covers supply chain issues, and involves CEOs of major corporations signing up on a voluntary basis. It will be a lost opportunity re both gender integration and UN Agency co-operation if the Guiding Principles are not referred to and specifically connected to this work.

g. **Cooperation and coordination**

- In 2007, the ICC and UN Special Procedures (SP) have developed a joint discussion paper on how NHRI and Special procedures may effectively cooperate and partner. Though general in nature, you may wish to refer to this paper in the ICC’s submission too, as it provides useful guidance on various entry points for NHRI-SP cooperation.
- Work with the UN Human Rights Council, the Treaty Bodies and Special Procedures to include information about business and human rights issues in their reports.
- Actors could be encouraged to address business and human rights during the Universal Periodic Review.
Concluding Remarks

National human rights institutions are recognized as part of a strong national human rights protection system, along with an independent judiciary, a properly functioning administration of justice, a representative national parliament, and strong and dynamic civil society organizations. They are key to ensuring prevention of human rights abuses, the rule of law, the administration of justice, and respect for human rights. NHRIs and the ICC welcome your consideration of this submission and look forward to engaging in dialogue and action with you.

Annexes

**Annex A:** Examples of NHRI Case Studies

**Annex B:** ICC Working Group on Business and Human Rights- 2011-2013 Strategic Action Plan

**Annex C:** The Edinburgh Declaration

**Annex D:** Network of African National Human Rights Institutions - Recommendations on the Plan of Action on Business and Human Rights

**Annex E:** Asia Pacific Forum of National Human Rights Institutions Regional Conference on Business and Human Rights Outcome Statement

**Annex F:** Americas Regional Action Plan

**Annex G:** Consolidation of NHRI Inputs to the UNWG Mandate

---

23 ICC Chair Statements; Annual Report of the UN HCHR and Reports of the OHCHR and the UN Secretary-General on NRHIs (A/HRC/10/54)
Annex B- January 2012 ICC Statement to the UN Working Group


20 January 2012

Introduction

I am pleased to contribute to this first informal exchange on behalf of the ICC- the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

According to the Paris Principles, national institutions are required to have a broad mandate to protect and promote human rights. This mandate encompasses the public and private sectors, and all three pillars of the Protect, Respect, Remedy Framework.

Today I wish to highlight ICC recommendations relating to the UN Working Group mandate and plan of work.

Preliminary ICC Recommendations

The ICC’s submission to the UN Working Group identifies constructive ways to address the challenges we believe this Working Group faces, for instance:

- to adopt new, and tap into existing, structures, networks and partnerships to avoid multiplication of mandates and guidance, and to build sustainable relations and results

- to develop tools for transparent, ongoing communications and accessibility for all stakeholders

- to optimize resource savings through partnership activities and financial and in-kind contributions- in particular to benefit actors and stakeholders from developing countries
• to **deepen and broaden issues** either not yet treated, or treated in a cursory manner

• to encourage greater **disclosure** by examining the legitimate balance between corporate confidentiality and calls for greater accountability, transparency and information-sharing

• to encourage States to **adequately resource NHRIs** to handle business and human rights violations falling within their mandates as a way to increase collective capacity for implementing the UN Framework, to enable effective engagement with business, to promote business understanding of the value of respect for human rights, and to support business to integrate human rights throughout their enterprise

• to conduct **performance tracking and measurement** to demonstrate success

**Concluding Remarks**

The ICC welcomes an attentive review of its submission and looks forward to actively engaging in dialogue and action with the Working Group and others for collective gain.

Thank you.
### Annex C - 2011-2013 Strategic Action Plan of the ICC Working Group on Business and Human Rights

#### Area of Activity 1: Provide Guidance and Tools for National Human Rights Institutions on Business and Human Rights

<table>
<thead>
<tr>
<th>Activities</th>
<th>Deliverables (Outputs)</th>
<th>Timeline</th>
<th>Lead**</th>
<th>Cost</th>
<th>Possible Success Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop guidance and tools for basic awareness, advocacy, and capacity building around Edinburgh Declaration commitments for individual NHRI and regions</td>
<td>Provision of subject matter expertise for BHR Regional Workshops&lt;br&gt;Provision of subject matter expertise for Regional Action Plans&lt;br&gt;Guidance to NHRI, e.g. “ICC Working Group on BHR Clinics” at ICC Regional Seminars&lt;br&gt;One page briefing note on key actions arising from the Edinburgh Declaration</td>
<td>2011-2013</td>
<td>ICC WG on BHR**&lt;sup&gt;25&lt;/sup&gt; members with regional networks</td>
<td>No additional financial cost to the ICC.</td>
<td>Declaration commitments are implemented commensurate with needs of NHRI and regions&lt;br&gt;Tools are developed, tested, and disseminated&lt;br&gt;ICC member use of tools for national and regional outreach&lt;br&gt;A commitment to BHR is demonstrated in regional action plans&lt;br&gt;An active link to OHCHR’s efforts on country engagement on BHR is established and implemented.&lt;br&gt;Legitimacy of action on BHR is reinforced as a core element of NHRI mandates&lt;br&gt;BHR issues are included in baseline research and strategic and operational planning of NHRIs</td>
</tr>
<tr>
<td>Finalize detailed 2010 BHR Baseline Survey Report with regional findings</td>
<td>Detailed baseline survey report&lt;br&gt;Present findings for optional use in regional action planning and ICC Working Group on BHR action planning</td>
<td>September 2011 - October 2011&lt;br&gt;October 2011-March 2012</td>
<td>DIHR**&lt;sup&gt;26&lt;/sup&gt;&lt;br&gt;Regional networks&lt;br&gt;ICC WG on BHR</td>
<td>Efforts provided through NHRI staff; no additional cost to the ICC.</td>
<td>Report is completed and disseminated to ICC members&lt;br&gt;Findings are considered for integration into regional action planning&lt;br&gt;Findings are considered for integration into ICC Working Group on BHR action planning</td>
</tr>
</tbody>
</table>

**24 All activities fall under the accountability and responsibility of the Working Group. As such, “Lead” denotes the national institution that is leading an activity on the Working Group’s behalf; always in liaison with the Working Group Chair.<br>**25 ICC WG on BHR refers to the ICC Working Group on Business and Human Rights<br>**26 DIHR - Danish Institute for Human Rights
## Area of Activity 2: Engage with stakeholders around human rights and the role of NHRIs in implementing international, regional, and domestic initiatives and frameworks in BHR

<table>
<thead>
<tr>
<th>Activities</th>
<th>Deliverables (Outputs)</th>
<th>Timeline</th>
<th>Lead</th>
<th>Cost</th>
<th>Possible Success Indicators</th>
</tr>
</thead>
</table>
| **Support NHRI engagement with stakeholders around the Edinburgh Declaration**  
(e.g. government, legislatures, trade unions, business including small and medium sized enterprises (SMEs), non-governmental organizations (NGOs) and civil society) | Guidance and tools for NHRIs  
Notice of regional activities and achievements in BHR in annual regional reports to the ICC | 2011-2013  
2012 and 2013 Sessions of the ICC | WG  
WG members in support of ICC Regional Chairs | Efforts are provided through NHRI staff; no additional financial cost to the ICC | Nature of guidance provided  
Nature and number of tools provided  
ICC member use of tools for national and regional outreach  
ICC and NHRI participation in key domestic, regional and international developments in the BHR field  
Stakeholders are aware of and supportive of a role for the ICC and NHRIs |
| **Support ICC engagement with stakeholders regarding role of NHRIs in implementation of UN Framework and Guiding Principles on BHR**  
(e.g. UN Working Group on BHR, UN Annual Forum, UN Human Rights Council (HRC), and Office of the High Commissioner on Human Rights (OHCHR), OECD, European Union, Organization for Security and Co-operation in Europe, United Nations Children's Fund, and national and regional stakeholders) | Guidance to NHRIs and the ICC Chair  
ICC and/or joint NHRI statements and submissions  
Organization and/or participation in events | 2011-2013 | WG | Efforts are provided through NHRI staff; no additional financial cost to the ICC | Nature of ICC and NHRI engagement achieved in the follow up to the SRSG mandate on BHR  
Stakeholders are aware of and supportive of a role for the ICC and NHRIs  
UN OHCHR country engagement strategy is considered in NHRI and ICC initiatives to implement BHR  
ICC member use of statements and submissions for national and regional outreach |
| Support ICC / NHRI engagement with the Organisation for Economic Co-operation and Development (OECD) regarding the role of NHRIs in implementation of the OECD Guidelines for Multinational Enterprises and Common Approaches | Completion of an ICC-OECD MOU | December 2011 | DIHR in liaison with the WG Chair | Efforts are provided through NHRI staff; no additional financial cost to the ICC | Nature of engagement by the ICC and NHRIs with the OECD |
| | Draft submission to OECD Investment Committee on a proactive agenda to support implementation of OECD Guidelines | December 2011 | | | Recognition of NHRI role in implementation |
| | Draft submission to Review of OECD Common Approaches on Export Credit Guarantees | December 2011 | | | ICC member awareness |
| | | | | | ICC member use of statements and submissions for national and regional outreach |
| | | | | | Stakeholders are aware of and supportive of a role for the ICC and NHRIs |
| Undertake activities to raise the profile and understanding of the functions of and possibility of partnerships with NHRIs with UN Global Compact members | Information note on NHRIs for UNGC | September 2011 | DIHR-WG Chair | No additional cost to the ICC | Information note is developed and presented |
| | Information on NHRI participation in UNGC meetings | September-November 2011 | WG members | | NHRIs participate in UNGC meetings |
| | Information on NHRI participation in and development of statements for UNGC/STC/UNICEF Children’s Business Principles consultation process. | Timeline to be determined | WG members | | NHRIs invite UNGC representative participation in ICC regional workshops |
| | | | | | # and nature of other activities held, e.g. organisation of side events |
| | | | | | ICC member use of statements and submissions for national and regional outreach |
| | | | | | Stakeholders are aware of and supportive of a role for the ICC and NHRIs |
| Identify opportunities for engagement with Treaty Bodies and regional mechanisms to heighten awareness of roles of NHRIs in relation to BHR | ICC statements and/or submissions to Treaty Bodies (TBs) and regional mechanisms on NHRIs and BHR | 2011-2013 | WG Chair with WG members | No additional cost to the ICC | Number and nature of engagements with TBs/regional mechanisms | Impact of engagement | ICC member awareness of engagements | ICC member use of statements and submissions for national and regional outreach | Stakeholders are aware of and supportive of a role for the ICC and NHRIs |
| Make submissions to UN Special Procedures on behalf of the ICC, on the roles of NHRIs in relation to BHR | ICC statements and /or submissions to UN Special Procedures on NHRIs and BHR | 2011-2013 | WG Chair in collaboration with WG members | No additional cost to the ICC | # submissions made to Special Procedures | Impact of engagement | ICC member awareness of engagements | ICC member use of statements/submissions for national outreach | Stakeholders are aware of and supportive of a role for the ICC and NHRIs |
## Area of Activity 3: Produce and deliver awareness and outreach activities and products

<table>
<thead>
<tr>
<th>Activities</th>
<th>Deliverables (Outputs)</th>
<th>Timeline</th>
<th>Lead</th>
<th>Cost</th>
<th>Possible Success Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer existing content to ICC website</td>
<td>Intranet material on BHR</td>
<td>September 2011</td>
<td>DIHR/ OHCHR</td>
<td>Efforts are provided through NHRI staff; no additional financial cost to the ICC.</td>
<td>A platform for ICC members to exchange expertise, resources and promising practices is provided. # promising practices obtained, shared, and integrated to the Guidebook and website. Ability of ICC members to access and provide content on best practices to the website. Website responsibility is assumed by OHCHR.</td>
</tr>
<tr>
<td>Make continuous updates of WG content to the ICC website</td>
<td>Intranet material on BHR</td>
<td>2011-2013</td>
<td>WG</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liaise with OHCHR-NIRMS to ensure provision on ICC website for NHRIs to provide content on best practices</td>
<td>Regional pages for WG website on BHR (e.g. a discussion forum)</td>
<td>September 2011</td>
<td>DIHR/ OHCHR</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop basic awareness materials for NHRIs on BHR</td>
<td>Basic awareness materials, e.g. information / fact sheets</td>
<td>2011-2013</td>
<td>WG and Regional networks</td>
<td>Efforts are through NHRI staff; no additional financial cost to the ICC.</td>
<td># and nature of materials produced. Awareness and use by ICC members of materials. Effectiveness of materials.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Organize additional events on BHR/NHRIs to raise the profile of NHRIs amongst relevant stakeholders in relation to business and human rights</td>
<td>Events relating to NHRIs and BHR</td>
<td>2011-2013</td>
<td>WG Chair in collaboration with WG members and regional networks</td>
<td>TBD in collaboration with OHCHR and regional networks.</td>
<td># of events held. # and type of participants. Participant satisfaction with events. Impact of events. Stakeholders are aware of and supportive of a role for the ICC and NHRIs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop incentives for NHRI innovation</td>
<td>CSR Award</td>
<td>2012-2013</td>
<td>WG</td>
<td>TBD</td>
<td>Development of the award.</td>
</tr>
<tr>
<td>Activities</td>
<td>Deliverables (Outputs)</td>
<td>Timeline</td>
<td>Lead</td>
<td>Cost</td>
<td>Possible Success Indicators</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------</td>
<td>----------</td>
<td>------</td>
<td>------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Complete development of core modules for a Training Programme and Guide Book for NHRIs for regional adaptation</td>
<td>Core Modules of a Training Programme for NHRIs on BHR  Guidebook for NHRIs on BHR  Piloting of training  Content development for regional frameworks  Evaluation of training delivery and tools</td>
<td>2011-2013</td>
<td>DIHR in collaboration with WG Chair, WG members, regional networks, and OHCHR</td>
<td>Costs are TBD in collaboration with regions and OHCHR</td>
<td>A Training Programme and Guide Book are developed and piloted  Regional inputs and best practices are incorporated to products  Funding is identified for regional workshops  NHRI capacity and staff skills are developed in relation to BHR  Training evaluation is designed and implemented  # sessions delivered  # participants reached  Impact of training  User satisfaction  A platform for joint NHRI and/or regional collaboration on BHR issues is provided  An active link to OHCHR’s efforts on country engagement on BHR is established and implemented</td>
</tr>
<tr>
<td>Pilot the NHRI Training modules and tools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support ICC regions in planning of regional workshops on BHR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support training delivery</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluate training delivery and tools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>