



Asamblea General

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Consejo de Derechos Humanos

32º período de sesiones

Tema 3 de la agenda

**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Comunicación presentada por escrito por el Grupo de Trabajo sobre la Cuestión de los Derechos Humanos y las Empresas de la Alianza Global de Instituciones Nacionales de Derechos Humanos*

Nota de la Secretaría

La Secretaría del Consejo de Derechos Humanos transmite adjunta la comunicación presentada por la Alianza Global de Instituciones Nacionales de Derechos Humanos**, que se reproduce a continuación de conformidad con el artículo 7 b) del reglamento que figura en el anexo de la resolución 5/1 del Consejo, según el cual la participación de las instituciones nacionales de derechos humanos se basará en las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos, incluida la resolución 2005/74, de 20 de abril de 2005.

* La institución nacional de derechos humanos tiene la acreditación de la categoría “A” ante la Alianza Global de Instituciones Nacionales de Derechos Humanos.

** Se reproduce en el anexo tal como se recibió, en el idioma en que se presentó únicamente.

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Anexo

[Inglés únicamente]

Submission by the Working Group on Business and Human Rights of the Global Alliance of National Human Rights Institutions

Statement of the GANHRI Working Group on Business and Human Rights on the report of the United Nations High Commissioner for Human Rights on Improving accountability and access to remedy for victims of business-related human rights abuse (A/HRC/32/19)

The Working Group on Business and Human Rights of the Global Alliance of National Human Rights Institutions (GANHRI)¹ welcomes the efforts of the OHCHR to address gaps in access to judicial remedy for victims of business-related human rights abuses.

National Human Rights Institutions (NHRIs) are independent public bodies established at national level according to the UN Paris Principles with responsibility for promoting and protecting human rights.

The GANHRI Working Group on Business and Human Rights is concerned that, in spite of the Human Rights Council's unanimous endorsement in 2011 of the UN Guiding Principles on Business and Human Rights (UNGPs), human rights abuses resulting from business activities continue to prevail in many contexts across the world.

While the right to a remedy is a fundamental principle of international human rights law, which has also been recognized under Pillar III of the Guiding Principles, the GANHRI Working Group is concerned that victims of business-related human rights abuses too often do not have access to an effective remedy. Practical and legal barriers to judicial remedies both at the domestic and extra-territorial levels have been widely documented across different jurisdictions, yet limited action has been taken so far by States to address those challenges in a systematic manner.

NHRIs from across all regions of the world (Africa, Americas, Asia and Europe) held a meeting in Rabat (Morocco) in March 2016. The workshop focused on the roles of NHRIs in promoting access to remedy for business-related human rights abuses. NHRIs welcomed the draft guidance presented by the Office of the High Commissioner for Human Rights (OHCHR) in relation to the "Accountability and Remedy Project".

In a dialogue with the OHCHR on the draft guidance, NHRIs highlighted that in addition to legal and practical barriers to access to justice, absence of the rule of law, corruption, repression of human rights defenders and the lack of implementation and follow-up of court decisions are important impediments to access to justice.

¹ The following "A" status national human rights institutions are members of the Working Group on Business and Human Rights of the Global Alliance of National Human Rights Institutions: the National Human Rights Council of Morocco, the National Commission of Human Rights and Freedoms of Cameroun, the Danish Institute for Human Rights, the German Institute for Human Rights, the Human Rights Commission of Malaysia, the National Human Rights Commission of Mongolia, the Commission on Human Rights of the Philippines, the Defensor del Pueblo of Bolivia and the Defensoría del Pueblo of Venezuela.

The GANHRI Working Group welcomes the approach taken by the Accountability and Remedy Project, focusing on severe cases, to put forward concrete and flexible recommendations elaborated through extensive research and multi-stakeholders consultations that can realistically be implemented by States with different legal traditions, and is committed to supporting the implementation of these recommendations at the domestic level. .

The GANHRI Working Group will continue to support NHRIs to encourage States to increase their efforts to ensure full implementation of pillar III of the UNGPs. The elaboration of National Action Plans on Business and Human Rights, to which many NHRIs are contributing to, provides an opportunity for States to carefully assess legal and other barriers that may obstruct effective access to remedy and identify measures to mitigate those barriers using the guidance set forth by the OHCHR. This specific guidance should also enable to enhance the peer-to-peer dialogue between governments on effective measures for reducing barriers to access to justice and support measurement of state performance with regard to the implementation of Pillar III of the UNGPs. Furthermore, the “Accountability and Remedy Project” provides a useful tool for the States to compare their jurisdictions.

The GANHRI Working Group encourages the Intergovernmental Working Group on Transnational Corporations and other business enterprises with respect to human rights to build on the findings of the project in the elaboration of a legally binding instrument on business and human rights.

The GANHRI Working Group is committed to supporting the work of the OHCHR to improve access to remedy for victims of business-related human rights abuses and encourages the UN Human Rights Council to mandate the OHCHR to continue its efforts in this area in the near future by looking at the current and potential roles of State-based non-judicial remedial mechanisms and ways to strengthen these mechanisms as an essential part of a well-functioning remedy architecture, and in complementarity to judicial remedy.
