

Human Rights Council – 32nd session

Item 3 – Interactive dialogue with the UN Working Group on Business and Human Rights

16 June 2016

Joint oral statement on behalf of ISHR. The following organisations share the views expressed in this statement: Business and Human Rights Resource Centre (BHRRC), Migrant Forum Asia, PODER, Justicia Global.

Check against delivery – Delivered by Ms Harpreet Kaur

Thank you Mr President,

Chair of the working group on business and human rights,

On the fifth anniversary of the UN Guiding Principles it's more than ever critical that the Council puts the right of victims to access an effective remedy for violations of their rights at the centre of attention.

We share the Working Group's concern articulated in the report on the Asian Regional Forum about 'the lack of progress in this regard, on the part of Governments and business enterprises'.

For instance, in Mexico, the worst environmental and social disaster caused by Grupo Mexico's coppermine in 2014, with 40 million litres of toxic substances spilled in the Sonora river affected 25,000 people and is still met with impunity.

In Brazil, we are concerned that the authorities' agreement with Samarco to settle claims resulting from the rupture of a tailings dam in Mariana mentioned by the Working Group may be used to prevent legitimate legal action. If so, what will you do to engage with Brazilian authorities in support of effective remedies for victims?

Among other avenues, such as the treaty initiative, and the emphasis on national action plans on business and human rights,¹ the OHCHR guidance on 'improving accountability and access to remedy for victims of business-related human rights abuse' helps clarify legislative and regulatory action required for better protection of this right to access remedy.

As it outlines, human rights defenders play a critical role in supporting accountability for human rights violations involving businesses. They organise communities and workers, and assist victims to secure an effective remedy.

¹ See also

https://www.ishr.ch/sites/default/files/documents/ishr_icar_hrds_in_naps_guidance_eng.pdf for further information on incorporating HRDs and their protection in the development and content of NAPs.

In doing so, human rights defenders face serious restrictions and risks, which undermines the right to an effective remedy. As the study highlights, ‘victims, witnesses, human rights defenders, whistle-blowers and their legal representatives’ must be protected.

So too must fundamental freedoms. As the Working Group's communication to Thailand alleges, without freedom of association migrant workers were unable to advocate for themselves and thus subjected to forced labour.

In concluding, we urge the Human Rights Council – first and foremost the members of the core group on business and human rights Norway, Ghana, Argentina and Russia – to ensure their resolution reflects the reality on the ground.

The full range of actors involved in securing access to remedy and pushing for accountability, including human rights defenders, must be explicitly recognised. The resolution must be a clear call on States and corporations to refrain from attacking, threatening, harassing and limiting human rights defenders, and instead to robustly protect them and their work.