

Palais des Nations
Geneva, Switzerland
28-29 June 2016

28 June, Room XXIII from 10:00 to 17:15
29 June, Room IX from 10:00 to 15:30

Business and the Bar:

Lawyers, Rights and Remedies



In cooperation with



Background

The American Bar Association (ABA) endorsed the United Nations Guiding Principles on Business and Human Rights in February 2012. It did so recognizing the broad impact that the private sector can and does have on human rights across the globe and, therefore, the pivotal role that business can perform in respecting and advancing human rights to the benefit of all concerned. The ABA also recognized the symbiotic relationship between the business and legal communities in virtually all areas of business activity and thus the importance of the legal profession's engagement and leadership in this burgeoning area of human rights law and policy.

In 2015, the ABA Center for Human Rights, along with leading bar associations from around the world, convened a two-day conference on the role of the legal profession in business and human rights. This high-level convening resulted in a joint "Declaration of Commitment on Business and Human Rights" endorsed by the participating bars and joined by others.

Objectives of the Dialogue

To discuss the role of lawyers, law firms, and bar associations in ensuring access to remedy for business related human rights harms. Among the avenues to be explored will be judicial remedies, including civil, administrative and criminal remedies; non-judicial remedies, including company-level, operational-level remedies, and grievance mechanisms. Arbitration and international dispute resolution mechanisms also will be explored.

Outcomes

- 1) Mapping of the range of current and future types of remedies as well as the obstacles to achieving them;
- 2) Examining the legal and ethical rules applicable to lawyers that may inhibit the realization of remedies; and
- 3) Exploring the role of lawyers in advising clients, whether plaintiff or defense counsel

Participants

Representatives of national, regional, and international bar associations, with external additional experts in the field of business and human rights.

Agenda

DAY 1: Tuesday, 28 June 2016

Room XXIII from 10:00 to 17:30

9:00 AM – 9:45 AM

Entry into building/security

Pregny Gate (bring official identification)

10:00 AM – 11:00 AM

Welcome & Introduction

- [Deborah Enix-Ross](#), ABA-CHR / Debevoise & Plimpton

Presentation of Day 1 Objectives and Agenda

- [Salli Swartz](#), ABA-CHR / Artus Wise

Keynote Address

- [Hon. Keith Harper](#), U.S. Ambassador to the U.N. Human Rights Council

OHCHR Accountability and Remedy Project: Outcomes and Expected Follow-up

- [Lene Wendland](#), Office of the UN High Commissioner for Human Rights

11:00 AM – 12:30 PM

The Remedial Landscape: Expanding or Shrinking? Obligatory or Voluntary?

Moderator and Overview: [Dr. Isabella D. Bunn](#), ABA-CHR / Regents College, University of Oxford

- *Commercial Law Mechanisms*
[Anthony Winer](#), Mitchell Hamline School of Law
- *Challenges in Conflict Zones*
[Anne-Marie Buzatu](#), Geneva Center for the Democratic Control of Armed Forces
The Utility and Potential of Arbitration in Business and Human Rights Disputes
[Sarah Macrory](#), Fietta
- *Effectiveness of OECD National Contact Points*
[Jean-Marie Pauqam](#), OECD National Contact Point for France
- *Implications of UK the National Action Plan and Modern Slavery Act*
[Jonathan Smithers](#), Law Society of England & Wales
- *Open Discussion*

12:30 PM – 13:30 PM

Lunch Break (provided)

13:30 PM – 15:00 PM

**Judicial Remedy through Civil Litigation Roundtable:
Challenges and Opportunities to Enhance Protection**

Moderator: [Amol Mehra](#), *International Corporate Accountability Roundtable*

- [Carey D'Avino](#), *D'Avino LLP*
- [Christopher Schuller](#), *German National Human Rights Institute*
- [Cees van Dam](#), *Erasmus University*
- [Anne Vaucher](#), *French National Bar Council*

15:00 PM – 15:30 PM

Coffee Break

15:30 PM – 17:00 PM

**Judicial Remedy through Criminal Litigation:
Challenges and Opportunities to Enhance Protection**

Moderator: [Elise Groulx Diggs](#), *ABA-CHR / Doughty Street Chambers*

- [Caroline Buisman](#), *Stapert & Wiersum, International Criminal Court*
- *James Yap [invited]*
- [Krishnendu Mukherjee](#), *Doughty Street Chambers*
- *Veronique Tufal-Nerson, French National Bar Council*
- *Robert Heslett, Law Society of England & Wales / CCBE*

17:00 PM – 17:15 PM

Reflections from Day One

- [Salli Swartz](#), *ABA-CHR / Artus Wise*

18:15 PM – 19:30 PM

Reception at the United States Mission, with Welcome Remarks from Hon. Keith Harper, U.S. Ambassador to the U.N. Human Rights Council

Please bring your passport or other official identification with you to the reception.

DAY 2: Wednesday, 29 June 2016

NEW: Room IX from 10:00 to 15:30

10:00 AM – 10:15 AM

Presentation of Day 2 Objectives and Agenda

- [Salli Swartz](#), ABA-CHR / Artus Wise

10:15 AM – 10:30 AM

Keynote Address

- [Harriet Berg](#), Minister-Counsellor, Permanent Mission of Norway in Geneva

10:30 AM – 12:00 PM

Non-Judicial Remedies at the Operational and Company Level; Grievance and Mediation

Moderator: [Salli Swartz](#), ABA-CHR / Artus Wise

- [Yousuf Aftab](#), Enodo Rights
- [Rae Lindsay](#), Clifford Chance
- [Catie Shavin](#), Global Business Initiative on Human Rights
- [Nicole Bigby](#), Berwin Leighton Paisner
- [Andrew Orsmond](#), International Code of Conduct Association
- Open dialogue (45 minutes)

12:00 PM – 13:00 PM

Lunch Break (provided)

13:00 PM – 15:00 PM

Bar Leaders Roundtable Discussion

Facilitators: [Salli Swartz](#), ABA-CHR / Artus Wise, and [Bertrand Debosque](#), Bignon Libray / French National Bar Council. Participants: *Stephane Brabant, Deborah Enix-Ross, Robert Heslett, Marie-Claude Jean-Baptiste, Rocio Paniagua, Jean-Marie Paugam, Jonathan Smithers, Veronique Tufal-Nerson, Anne Vaucher*

- What role do we as lawyers play in ensuring access to remedy?
- Are there tensions in representing our clients in these cases? How do we navigate those?
- Are our ethical duties and bar rules in line with international human rights standards?
- How can we better enable access to remedy?
- Can we make any commitments together?

15:00 PM – 15:30 PM

Closing Reflections – [Deborah Enix-Ross](#), ABA-CHR / Debevoise & Plimpton

Materials

In 2005, the UN Secretary General appointed a Special Representative on Business and Human Rights to address the widespread lack of clarity on the roles and obligations of States and businesses with regard to human rights. This three-year mandate resulted in the UN's "Protect, Respect, and Remedy" Framework for Business and Human Rights and was subsequently extended by a further three years to 'operationalize' the Framework with the aim of providing practical guidance on steps that can be taken by States, businesses, and other actors to implement the Framework. This mandate resulted in the UN Guiding Principles on Business and Human Rights (UNGPs).

- **Pillar 1: The State duty to protect** against human rights abuses by third parties, including businesses, by taking appropriate steps to prevent, investigate, punish, and redress such abuses through effective policies, legislation, regulations, and adjudication.
- **Pillar 2: The corporate responsibility to respect** human rights, which means that companies are expected to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved.
- **Pillar 3: Access to remedy**, which requires both States and businesses to ensure that victims of business-related human rights abuses have greater access to effective remedy, both judicial and non-judicial.

The UN Human Rights Council (UNHRC) unanimously endorsed the UNGPs in 2011. Both the Framework and the UNGPs rest on three complementary and interrelated pillars:

The aim of the UNGPs is to guide governments, corporations, and other relevant stakeholders in ensuring that business operations around the world do not negatively impact and abuse human rights. Since the adoption of the UNGPs, States from a variety of regions around the globe have committed in principle to the UNGPs and other business and human rights (BHR) frameworks, yet significant work remains to be done on embedding these principles in law firms and Bar Associations.