



## **OHCHR Consultation: The Relevance of Human Rights Due Diligence to Determinations of Corporate Liability**

### **Agenda**

Palais des Nations, Room XXIII

5-6 October 2017

<b>DAY 1:</b> Thursday, 5 October 2017	
10:00 – 10:15	<b>Introduction</b>  Formal welcome and quick walk-through of agenda. <hr/> <i>Led by:</i> <ul style="list-style-type: none"><li>- Lene Wendland (OHCHR)</li></ul>
10:15 – 11:30	<b>Session 1: General Review of the Accountability and Remedy Project and Recent Initiatives by Stakeholders</b>  After quickly recapping ARP I and providing updates on ARP II, the floor will be opened to participants so they can share any initiatives undertaken to promote or implement the recommendations of ARP I. <hr/> <i>Open discussion, moderated by:</i> <ul style="list-style-type: none"><li>- Lene Wendland (OHCHR)</li></ul>
11:30 – 13:00	<b>Session 2: Deconstructing Human Rights Due Diligence and its Relation to Corporate Liability</b>  This panel discussion will break down the relationship between due diligence and legal liability to clarify what the nature and scope of this relationship is and the different ways that it can be legally expressed. <hr/>



	<p><i>Panel discussion, moderated by:</i></p> <ul style="list-style-type: none"> <li>- Gerald Pachoud (Pluto &amp; Associates)</li> </ul> <p><i>Panelists:</i></p> <ul style="list-style-type: none"> <li>- Jennifer Zerk (Legal consultant, OHCHR Accountability &amp; Remedy Project)</li> <li>- Rachel Davis (Shift)</li> <li>- Rae Lindsay (Clifford Chance)</li> <li>- Jonathan Kaufman (Advocates for Community Alternatives)</li> </ul>
13:00 – 15:00	<p><i>Break for Lunch</i></p>
15:00 – 16:30	<p><b>Session 3: Legal Regimes Requiring Companies to Carry Out Human Rights Due Diligence</b></p> <p>This session will explore the range of laws that exist or are currently being proposed, how they work in practice, and the pros and cons of different regimes.</p> <hr/> <p><i>Panel discussion, moderated by:</i></p> <ul style="list-style-type: none"> <li>- Sarah McGrath (ICAR)</li> </ul> <p><i>Panelists:</i></p> <ul style="list-style-type: none"> <li>- Jane Ellis (IBA)</li> <li>- Elise Groulx-Diggs (Doughty Street Chambers)</li> <li>- Esteban Mezzano (Nestlé)</li> <li>- Julia Lear (International Labour Organization)</li> </ul>
16:30 – 18:00	<p><b>Session 4: Human Rights Due Diligence and Claims of Negligence</b></p> <p>This session will explore the relationship between human rights due diligence and claims of negligence with a particular focus on the extent to which courts have thus far explicitly referred to or drawn from UNGP guidance on human rights due diligence in their analysis of whether the relevant standard of care was met by the defendant company in question. Panelists and participants will be invited to reflect on what could be done to promote greater awareness of human rights due diligence concepts by courts and judges and how to better “embed” human rights due diligence concepts into domestic negligence regimes.</p> <hr/> <p><i>Panel discussion, moderated by:</i></p> <ul style="list-style-type: none"> <li>- Margaret Wachenfeld (Themis Research)</li> </ul> <p><i>Panelists:</i></p> <ul style="list-style-type: none"> <li>- Richard Meeran (Leigh Day)</li> <li>- Doug Cassel (Notre Dame Law School)</li> <li>- Anita Ramasastry (UN Working Group on Business and Human Rights)</li> <li>- Catie Shavin (Global Business Initiative on Human Rights)</li> </ul>



**DAY 2:**

Friday, 6 October 2017

10:00 – 10:15	<b>Recap of Day 1 and Agenda for Day 2</b> <hr/> <p><i>Led by:</i></p> <ul style="list-style-type: none"><li>- Jennifer Zerk (Legal consultant, OHCHR Accountability &amp; Remedy Project)</li></ul>
10:15 – 11:30	<b>Session 5: Human Rights Due Diligence and Strict / Absolute Liability</b> <p>This session will discuss when strict and absolute liability is appropriate, as well as what role, if any, due diligence should have in relation to these regimes.</p> <hr/> <p><i>Panel discussion, moderated by:</i></p> <ul style="list-style-type: none"><li>- Humberto Cantú Rivera (Universidad de Monterrey)</li></ul> <p><i>Panelists:</i></p> <ul style="list-style-type: none"><li>- Julianne Hughes-Jennett (Hogan Lovells International LLP)</li><li>- Krishnendu Mukherjee (Doughty Street Chambers)</li><li>- Sandra Cossart (Sherpa)</li><li>- Elsa Savourey (Herbert Smith Freehills)</li></ul>
11:30 – 13:00	<b>Session 6: The Role of Human Rights Due Diligence in Determinations of Sanctions and Remedies</b> <p>This session will be devoted to how the outcomes of a remedy process should be affected by a company's exercise of due diligence.</p> <hr/> <p><i>Panel discussion, moderated by:</i></p> <ul style="list-style-type: none"><li>- Carlos Lopez (International Commission of Jurists)</li></ul> <p><i>Panelists:</i></p> <ul style="list-style-type: none"><li>- Robert McCorquodale (British Institute of International and Comparative Law)</li><li>- Katherine Gallagher (Center for Constitutional Rights)</li><li>- Mike Congiu (Littler Mendelson)</li><li>- Michael Bride (Bangladesh Accord)</li></ul>
13:00 – 15:00	<i>Break for Lunch</i>



15:00 – 16:30

**Session 7: Reaching out to Enforcement Agencies, Judicial Bodies, and Other Practitioners Regarding the Role of Human Rights Due Diligence in Determinations of Corporate Liability and Attendant Penalties**

This session will be devoted to figuring out how to best promote what was learned during the consultation to enforcement agencies, judicial bodies, and other practitioners who must decide how the existence of human rights due diligence relates to legal liability. It will be aimed at converting the substantive knowledge gleaned from the earlier sessions, and from the conclusions of ARP I, into practical action.

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*Open discussion, with introductory remarks by:*

- Mark Taylor (FAFO)
- Jennifer Zerk (Legal consultant, OHCHR Accountability & Remedy Project)

16:30 – 17:40

**Session 8: Promoting policy coherence in national, regional, and international initiatives**

This session will discuss the current processes and initiatives that could benefit from increased clarity regarding the relationship between human rights due diligence and corporate liability, and explore how to engage with the policy-makers behind these initiatives.

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*Open discussion, with introductory remarks moderated by:*

- Christopher Schuller (German Institute for Human Rights)

*Discussants:*

- Gabriela Quijano (Amnesty International)
- Paul Noll (Confederation of German Employers' Associations)

17:40 – 18:00

**Closing Remarks**

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*Led by:*

- Lene Wendland (OHCHR)