

## BUSINESS AND HUMAN RIGHTS

In June 2011, the Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (hereafter: “the Guiding Principles”). That was the first time a UN intergovernmental body had endorsed a normative document on the previously divisive issue of business and human rights. The Council’s endorsement effectively established the Guiding Principles as the authoritative global standard for preventing and addressing adverse impacts on human rights arising from business-related activity.

The Council also decided to establish a Working Group on the issue of human rights and transnational corporations and other business enterprises (the Working Group) with a mandate, *inter alia*, to promote the effective and comprehensive dissemination and implementation of the Guiding Principles worldwide. At its 18th session in September 2011, the Council appointed five independent experts, of balanced geographical representation, for a period of three years, as members of the Working Group. The Working Group formed in January 2012. The Working Group meets three times a year in closed sessions within which it can organise stakeholder consultations. Furthermore, it has the responsibility for organising a yearly Forum on Business and Human Rights. The Working Group’s mandate and strategy of work can be found on its website.<sup>1</sup>

**D**uring its first year of work, the Working Group discussed the issue of indigenous peoples on several occasions, including, in particular, violations of their rights in connection with extractive industries operations and other types of business activities as well as challenges regarding the implementation of the Guiding Principles in this sphere.

## **Work during 2012**

During two of its sessions, the Working Group organised stakeholder meetings. These consultations typically last around 3 hours and take place at the UN in Geneva. They are announced only 2-3 weeks ahead of the meetings. Of course this limits participation possibilities for organisations with no base in Geneva or Europe. Another way of providing input to the Working Group is through written submissions for which there are usually deadlines.

The first consultation in January 2012 provided for general information by the Working Group members about its mandate and its work plan. During the session, participants had the opportunity to read statements reflecting their priorities for the operation of the Working Group. A number of statements mentioned the importance of focusing on indigenous peoples and local communities, not only seeing the Guiding Principles as a business tool but rather focus on human rights violations and on the people that experience the severe impact of business operations on their lives.

The stakeholder consultation during the second session of the Working Group focused on the theme for the first Forum on Business and Human Rights.

In October 2012, the Working Group also carried out a country visit to Mongolia. In the future, the Working Group will carry out 2 country visits per year.

## **Indigenous preparatory meeting for the first UN Forum on Business and Human Rights**

In November 2012, the Working Group, in cooperation with IWGIA and the Forum for Development Cooperation with Indigenous Peoples of the University of Tromsø, Norway, and with funding from the Norwegian Agency for Development Cooperation (Norad), organized a meeting of indigenous experts in Copenhagen where specific challenges regarding the implementation of the UN Guiding Principles with regards to indigenous peoples and possible next steps were discussed. The meeting was attended by around 10 indigenous experts, including the chair of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and a member of the UN Permanent Forum on Indigenous Issues (UNPFII) and

resulted in a briefing note that was presented to the UN Forum on Business and Human Rights and included the recommendations that the Working Group:

- Uses the UNDRIP as a framework for implementation of the Guiding Principles and for its work;
- Builds strong cooperation with other UN bodies and mechanisms on indigenous issues, such as the Special Rapporteur, the EMRIP and the UN Permanent Forum on Indigenous Issues;
- Includes Indigenous Peoples as a standing agenda item in its meetings;
- During the next meeting of the UN Permanent Forum on the Rights of Indigenous Peoples, organises a meeting between its members and UN bodies and mechanisms dealing with indigenous issues, along with indigenous representatives;
- Builds awareness of its work among Indigenous Peoples, thereby contributing to promoting the effective and comprehensive dissemination and implementation of the Guiding Principles;
- Builds awareness of the rights of Indigenous Peoples among States, business and other stakeholders and provides guidance on how the Guiding Principles could be implemented with full respect for such rights as enshrined in the UNDRIP;
- Assesses the need for capacity building of Indigenous Peoples on the UN Guiding Principles;
- Provides guidance or mechanisms on how Indigenous Peoples can engage in all aspects of its work, including their effective participation in country visits;
- Requests States develop their domestic legislation and policies to implement the Guiding Principles with the full and effective participation of Indigenous Peoples.<sup>2</sup>

## **The first UN Forum on Business and Human Rights**

In December 2012, during the first annual Forum on Business and Human Rights in Geneva the Working Group organized a panel discussion entitled “Business Affecting Indigenous Peoples – what are the critical implementation challenges for the Guiding Principles in the context of indigenous peoples?” During the panel,

participants expressed their concerns with the perceived weakness of existing remedies and emphasized that indigenous peoples are collective rights-holders under international law, entitled to self-determination and pointed out the pivotal importance of the concept of Free, Prior and Informed Consent (FPIC), stemming from this right. Furthermore, there was broad agreement that building the capacity and empowering indigenous communities to make effective use of the UN Guiding Principles is paramount.

Based on the outcomes of these discussions, the Working Group decided unanimously to declare the issue of indigenous peoples a priority in the work of the implementation of the Guiding Principles and to prepare its first thematic report to the UN General Assembly in 2013 on the topic of indigenous peoples' human rights and business. Mr. Pavel Sulyandziga, member of the Working Group, would lead on the preparation of this report. He is an indigenous Udege from the Russian Federation and a well-known expert on indigenous peoples' rights, who served two terms as a member of the UNPFII. In 2010 he was the author of a Permanent Forum's Study on indigenous peoples and corporations.

The Working Group report will be discussed in the fall session of the General Assembly. ○

## Notes and references

- 1 <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandother-business.aspx>
- 2 Find the full briefing note on IWGIA's website: [http://www.iwgia.org/publications/search-pubs?publication\\_id=602](http://www.iwgia.org/publications/search-pubs?publication_id=602)

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