

Report on ALHR Attendance at UN Forum on Business & Human Rights, Geneva 2018

Introduction

ALHR's Business and Human Rights Subcommittee Co-Chairs, Lauren Zanetti and Madeleine Bridgette attended the 7th Annual [UN Forum on Business and Human Rights](#) in Geneva from 26 to 28 November 2018.

The 2018 Forum, titled *Business respect for human rights building on what works*, involved around 2,500 participants from business, civil society, government, affected communities, academia and trade unions. The three-day Forum is the largest gathering globally on business and human rights (BHR) and involves an intensive and busy schedule of panels, presentations and workshops, with up to five sessions running at any one time.

The Forum stems from the adoption of the *United Nations Guiding Principles on Business and Human Rights* (UNGPs) by the United Nations Human Rights Council in 2011. The UNGPs set out States' duty to protect against human rights, including from businesses; businesses' responsibility to respect human rights throughout their operations including supply chains and victims' right to remedy. The Forum was established by the United Nations Human Rights Council to 'serve as a global platform for stakeholders to discuss trends and challenges in the implementation of the Guiding Principles and promote dialogue and cooperation on issues linked to business and human rights...as well as identifying good practices.'¹

Top themes

A major theme of the 2018 Forum was around the implementation and scaling of human rights due diligence, which is an essential component of the corporate responsibility to respect human rights under Pillar II of the UNGPs.

Some of the other (many) topics and issues covered at the Forum included:

- Grievance mechanisms and achieving remedy for victims
- The role of investors in shaping the BHR landscape through investors' increasing focus on human rights impacts of companies
- The need to elevate and protect human rights defenders involved in combatting business-related human rights impacts in their communities
- Corporate human rights due diligence – the state of play and way forward
- BHR through a gender lens
- How the UNGPs' three pillars of "Protect, Respect and Remedy" can be leveraged by governments, companies and communities to ensure responsible tax practice
- What artificial intelligence means for human rights due diligence
- Child rights and human rights due diligence in practice

¹ Human Rights Council, Resolution 17/4 Human rights and transnational corporations and other business enterprises, Seventeenth session, UN Doc A/HRC/RES/17/4 (6 July 2011) at [12] <https://undocs.org/A/HRC/RES/17/4>

Sessions summaries

Below are summaries of key takeaways from six of the more than 60 sessions at the Forum. These summaries aim to highlight the wide ranges of issues and stakeholders involved in meeting the challenges of the BHR agenda.

Academic Networks in Conversation with Business and Human Rights Stakeholders

Lauren

This session focused on the role and contribution of academics in the BHR space, as both commentators and stakeholders.

Key takeaways included:

- The role of academics in shaping BHR policy and practice, by interpreting and interrogating the UNGPs, including unpacking them from non-Anglo perspectives
- There is a lack of diversity in BHR academia and a need for increased funding for Global South scholarship on BHR and cooperation between academic networks
- A multidisciplinary approach to BHR scholarship is required, and further work is required to ensure that BHR is covered in law, business and politics curriculums at undergraduate level (or earlier) and at postgraduate level. However BHR academics will also need to be vigilant that BHR field is not co-opted by business in the manner the CSR movement was, and that BHR research or consultancies are not 'captured' by business through funding
- Finally academics need to engage with business, listen to their issues, and work out how research can help answer business problems

Disruptive technology : what does artificial intelligence mean for human rights due diligence

Lauren

This session focused on the ways to deal with the potential adverse human rights impacts of AI technology.

Some of the key takeaways included:

- The challenges posed by the uncertainty around how AI technology will develop and its constantly evolving nature. How can companies undertake human rights due diligence capable of dealing with the uncertainties around future technologies and their deployment?
- Discrimination can be a problem at all stages of the AI development and implementation – use of AI in areas such as criminal justice, health care, financial services and surveillance require particular scrutiny
- The need for due diligence around data supply chains (with data being the raw material used by AI algorithms) including investigation of relevant business relationships and how data was created and captured. Many companies obtain data from data brokers or outsource to data scientists, and third party companies often do not have sufficient transparency about their practices
- The need to train engineers and other technology workers about how their work can impact on human rights (and not just privacy) and to build in human rights considerations into existing product review and design processes

Safeguarding human rights defenders: new efforts and tackling growing threats

Lauren

This session focused on steps companies should be taking to support human rights defenders. Some of the key takeaways included:

- The context of shrinking of space for civil society and the increasing trend of criminalisation and legal harassment of human rights defenders who speak up against business-related human rights issues, in particular in relation to large developments that may adversely impact access to land and livelihoods
- Companies need to be diligent in avoiding being complicit with state oppression of human rights defenders. Companies must assess risks to human rights defenders as part of their human rights impact assessment for a project
- Human rights defenders should be viewed by companies not as obstacles, but as valuable partners in the human rights due diligence process, and an expert resource who can highlight risks early and highlight issues for affected stakeholders
- Companies should appreciate they share civic space with human rights defenders. If the judicial and legal environment in a country is such that human rights defenders are persecuted and/or subject to criminalisation, this legal environment also presents risks to the company
- Companies should be establishing direct complaints mechanisms allowing human rights defenders to report when threats are made against them

Connecting Child Rights & Human Rights Due Diligence in Practice

Madeleine

This session focused on child rights and human rights diligence, emphasising how what works for adults in terms of human rights due diligence does not necessarily work for children. The session was organised by UNICEF. Some of the key takeaways included:

- 30% of the world population (children) are not visible in terms of human rights due diligence (this is the percentage of children in the global population, in some other parts of the world it is as high as 50%)
- The environmental impacts of business may affect a child more than an adult
- UNICEF has taken the UNGPs and applied them to children² because what works for adults in BHR due diligence does not work for children
- It is important for boards of companies to set their own priorities regarding children and business and human rights
- There needs to be guidelines on how to protect children's human rights with respect to food-related marketing

Developing a gender lens to business and human rights

² https://www.unicef.org/csr/files/CSR_GC_OBLIGATIONS_AND_ACTIONS_FINAL_AUGUST05.pdf;
<https://www.unicef.org/csr/thedevelopment.htm>

Madeleine

This session was chaired by Professor Deva and was an interactive café style type presentation. Some of the key takeaways included:

- Women lack economic empowerment and inclusion
- There is a lack of awareness from businesses around providing remedy to victims for gender based violence at work and partner violence at home
- The possibility and benefits of promoting worker driven partnerships, for example the Bangladesh Accord
- Australia was referenced as having unpaid leave for victims of domestic violence and how this should be replicated in all countries
- The Women's Empowerment Principles³ should be the first step and referenced when considering BHR due diligence from a gender lens
- Impact assessments should be participatory in nature
- Women are more likely than men to be unemployed and over represented in low paid jobs and managerial and leadership jobs
- The need to address legal barriers to women's economic empowerment, for example, men can prevent their wives from working in some countries

Understanding Business Impact on Children—Presenting the Children's Rights and Business Atlas

Madeleine

This session presented the Children Rights and Business Atlas (the Atlas). Key takeaways included:

- Children are often the most vulnerable population, requiring specific attention to guarantee respect for their human rights
- On 24 June 2010, UNICEF, the UN Global Compact and Save the Children launched a process to develop a set of Principles, the Children's Rights and Business Principles offering concrete guidance on what business can do to respect and support children's rights. You can read more here: <https://www.unicef.org/csr/theprinciples.htm>
- In partnership with Global Child Forum, UNICEF has launched The Atlas, a tool which aims to put indicators to the Children's Rights and Business Principles across 198 countries and territories, broken down by the 10 Global Industry Classification Standard groupings. This tool can serve as an entry point for including informed children's rights examinations into all due-diligence frameworks
- Enormous time and resources were spent developing the Atlas
- The Atlas doesn't do the work for business in terms of helping companies evaluate children's rights and their due diligence process. Businesses looking to take proactive steps on children's rights should engage with children's rights experts and stakeholders including UNICEF, or directly with national or local governments, and should disseminate The Atlas

³ <https://www.empowerwomen.org/en/wepps/about>

Accountability and remedy: exploring the interconnectedness of different types of grievance mechanisms

Madeleine

Session focused on grievance mechanisms with a particular focus on the OHCHR remedy project⁴, which commenced in 2014. Some of the key takeaways included:

- The Human Rights Council welcomed the work of the remedy project and recommended that the third phase focus on non-state mechanisms
- Issues of follow up were raised with regard to non-state based mechanisms – who will follow up complaint in a non state mechanism
- This is where policy coherence comes in, need a direction which promotes accountability and remedy. Too much fragmentation in how mechanisms respond especially where systemic problems. Matter of luck rather than design if a mechanism works. The second phase report of the OHCHR remedy project explains this problem and what states can do, more visible pathways. Paying more attention to systemic effectiveness, how they fit together, how they design these mechanisms, and with judicial mechanisms as well
- “All roads to remedy” is the approach to be taken when looking at remedies
- Remedy has to be considered at all stages of human rights due diligence
- Buffet of mechanisms – you choose what you want to eat. Critical that all remedies are available to right holders. Need interconnected pathways
- Non-state based mechanism, we should not consider states are hands off – states have to be proactive. National Human Rights Institutions can monitor how state are setting up grievance mechanisms
- If meaningful human rights due diligence is not done by company, the affected person should be able to go to an institution and/or court and seek a remedy
- Need to integrate gender dimension more strongly in remedy, rather than just mention it here and there
- Grievance mechanism is part of stakeholder engagement, by engaging the community and informing them of operation you can develop trust between the company and the community, identify early weak signals before they become grievances

Benefits of attendance for ALHR

- Promoted ALHR's profile at international event (and domestically amongst Australian attendees)
- Facilitated relationship building with BHR advocates
- Informed BHR Co-Chairs about cross-jurisdictional perspectives and current and emerging issues in the BHR space

⁴ <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>

Pictures and Some Tweets



