

3 December

Room XXIII
14.30 – 16.00

Thematic track: Access to remedy discussions

Operational-level grievance mechanisms in high-risk contexts: dilemmas and emerging practice

The UN Guiding Principles recognize that both State and business have roles to play to ensure access to effective non-judicial grievance mechanisms as a complement to judicial remedy mechanisms. Specifically, the Guiding Principles stipulate that business enterprises should establish or participate in effective operational-level grievance mechanisms for affected individuals and communities in order to enable grievances to be addressed early and remediated directly. The Guiding Principles also highlight the increased risk of business involvement in human rights abuses in areas affected by conflict or other contexts requiring heightened due diligence measures. Such contexts also pose particular challenges with regard to operational-level grievance mechanisms: both practical challenges related to the design and performance of such mechanisms and challenges that may result from a general lack of access to remedy mechanisms in such contexts.

This session will focus on dilemmas and lessons learned on operational-level grievance mechanisms in high-risk contexts. It will seek to examine how to apply principles for operational-level mechanisms in practice in some of the most challenging environments. The aim is to advance discussions on good practice for operational-level mechanisms, including by drawing on concrete experiences and examining emerging practices to align operational-level grievance mechanisms with the criteria set out in the UN Guiding Principles.

This session will discuss the following key questions:

- Are operational-level grievance mechanisms appropriate in high-risk contexts such as areas affected by conflict or "weak governance"?
- What special precautions might apply in areas affected by conflict or political instability?
- How can companies design operational-level grievance mechanisms that comply with the effectiveness criteria set out in the Guiding Principles in high-risk settings, including in contexts where there may be very little trust between companies and communities?
- How can protection be ensured for victims and their representatives using the mechanisms?
- What steps should be taken to ensure that the use of operational-level mechanisms do not undermine the role of legitimate trade unions, nor preclude access to judicial remedy?

Moderated by Alexandra Guáqueta, UN Working Group on Business and Human Rights

Speakers:

- Gina Barbieri, Senior Specialist, Dispute Resolution, Office of the Compliance Advisor/Ombudsman (CAO) for IFC and MIGA
- Rutger Goethart, Manager International Labour Relations, Global Human Resources, Heineken International B.V.
- Anupama Mohan, Lead Advisor, Statoil; and representing IPIECA
- Komala Ramachandra, South Asia Director, Accountability Counsel
- Evans Sichelwe, Legal and Human Rights Centre (Tanzania)