



**UN FORUM ON BUSINESS AND HUMAN RIGHTS, 2015**  
***Whistleblowers Protection in the Context of the Guiding Principles***  
**SUMMARY**

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Arnaud POITEVIN, legal researcher at CNRS, highlighted the trend for a widened definition for whistleblowing that includes not only employees, but all stakeholders in the entire value chain. Whistleblowing is mentioned in the OECD Guidelines for Multinational Enterprises, hence a risk of a case to be filled before a National Contact Point. It is also referred to in the UN Guiding Principles which state that business enterprises should establish or participate in effective operational-level grievance mechanisms. Protection should be extended to all lawsuits and ensure confidentiality, anonymity and security. Whistleblowing is a useful tool for companies to map their compliance and engage with stakeholders. Mark WORTH, International Whistleblower Project Manager for Blueprint for Free Speech, underlined that the issue was for the first time addressed at the Forum and that there is an inundation of laws protecting whistleblowers in many countries. He stated that 90% of employees first report internally, meaning companies need to have strong internal mechanisms of which stakeholders should be informed. He emphasized the need for legally binding penalties for retaliators. Sara BLACKWELL, Legal and Policy Coordinator at ICAR, stressed that whistleblowing should be part of the National Baseline Assessment (NBA) process, or at least part of the National Action Plan (NAP) consultation process, and announced a "Whistleblower protection in NAPs" template to be released by ICAR in early 2016. Ben COKELET, Executive Director of PODER, was concerned about the safety of journalists and human rights defenders as well as anti-corruption mechanisms such as whistleblower protections, given pervasive corruption and a porous judicial system in Mexico. In March 2015, PODER and its partners launched Méxicoleaks, a website that has received 1,000 leaks so far and features encryption technology to ensure whistleblowers' anonymity and security. Similar initiatives are being developed in Central and South America. Brynn O'BRIEN, Business and Human Rights Technical Adviser to No Business In Abuse, denounced the Australian policy of mandatory indefinite detention of immigrants arriving by boat, done through company contracting, as a case of

corporate complicity in abuses such as cruel and degrading treatment. She stated that reporting of abuse by employees is a criminal offence punishable by 2 year imprisonment, making internal complaint mechanism inadequate, and that civil society has been working with private sector, including investors, to end abuse. Grant STEVENS, Head of Sales at Expolink Europe Ltd, an independent 24 hour speak-up service, explained that in many businesses, whistleblowers often don't know who to go to or who to trust, fear recrimination and are intimidated by the process. Employers considering whistleblowing programmes often fear opening the floodgates and bad faith reporting which is rarely an issue in reality. A bigger challenge is conflicted middle management, non-ownership of process and diversity of data protection regulations. He stressed the need to enshrine right to disclosure in contracts with employees and suppliers, make the channel easily accessible and highly visible including publishing outcomes in companies' public report. Interventions from the floor focused on the role of many whistleblowers as human rights defenders and about the lessons from existing protections for human rights defenders at international and national level. Ben COKELET commented on the Mexican protection law which, while a welcome development, presents challenges in terms of implementation.