

**UN Working Group on Human Rights And
Transnational Corporations and
Other Business Enterprises.**

**A response by the UK
Institute of Employment Rights
to the call for input**

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The Institute of Employment Rights is an independent think tank of academics and lawyers specialising in all issues of labour law. It is supported by trade unions representing over six million workers.

This Submission, kindly drafted by the academic named, reflects the authors own work not the collective views of the Institute. The responsibility of the Institute is limited to approving its publications, briefings and submissions as worthy of consideration.

The Role of the Institute of Employment Rights in the Working Group's Remit

We wish to note at the outset, the UN Working Group's remit to: "*seek and receive information from all relevant sources, including Governments, transnational corporations and other business enterprises, national human rights institutions, civil society and rights-holders*". The Institute of Employment Rights is often described as the foremost think tank for the labour movement in the UK. The Institute works with trade unions, academics and lawyers to act as a focal point for the spread of new ideas on employment rights and trade union freedoms. Although our focus is primarily worker rights in the UK, we also focus on international standards and the development of ideas to improve rights and conditions for workers around the world. Our work ranges from conferences and seminars, public policy Briefings, publications and pieces of commissioned work. We are therefore well placed to provide a labour rights perspective on the activities of the Working Group and we look forward to contributing to the Working Group's work on this challenging set of issues.

Priorities for the Working Group

The Institute of Employment Rights recognizes that the establishment of the Working Group can be understood as an outcome of the UN Special Representative John Ruggie's work between 2005 and 2011. The Institute also recognizes that early into his appointment, the Special Representative concluded that the '*UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights*' was unworkable'. His work therefore did not consider the role of a concrete international code or set of norms to guide the conduct of business. The Institute of Employment Rights believes that it is now time to re-open this debate, and believes that this would be entirely consistent with resolution A/HRC/RES/17/4 passed by the UN Human Rights Council meeting on 17th July 2011 which established the group.

We believe that Ruggie's Guiding Principles on Business and Human Rights which implement the United Nations "Protect, Respect and Remedy" Framework are best disseminated, promoted and encouraged through the establishment of bodies and mechanisms that are capable of monitoring and enforcing international standards.

Whilst we support the centrality of domestic legislation and policies relating to business and human rights in achieving the aims of the Resolution A/HRC/RES/17/4, we also recognize that what is required are universally applied, international standards. This is perhaps the greatest challenge the Working Group faces, and one that John Ruggie's work only scratched the surface of. Resolution A/HRC/RES/17/4 calls for the UN Human Rights Council "*to continue to explore options and make recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities.*"

It is our position that civil and tort law procedures, in which human rights violations are repositioned as disputes between two private parties, remain, for the overwhelming majority of victims, wholly inadequate as mechanisms of redress. Moreover, those cases will only ever impact upon the minority of cases that have a great deal of NGO support, or where litigants are wealthy enough to pursue those cases.

Voluntary mechanisms and initiatives which seek to develop good practice need to be supported by binding and enforceable mechanisms. It is our position that voluntary mechanisms have on their own been wholly inadequate in protecting workers and communities.

For all of those reasons, we support a re-opening of the debate on a set of universal standards that have legal force, through the mechanism of an international set of standards and/or a tribunal designed to hear cases of corporate human rights violations.

We also note the emphasis of resolution A/HRC/RES/17/4 on close cooperation with other relevant special procedures of the Human Rights Council, relevant United Nations and other international bodies, the treaty bodies and regional human rights organizations. To this end, we would urge the development of this discussion in the regional human rights commissions and the regional human rights courts.

We also wish to reaffirm the centrality of trade union consultation and involvement in the activities of the Working Group. There is no more significant, positive effect upon the protection of workers' human rights than the presence of active, democratic and independent representation. For this reasons the perspective of trade unions, where they are democratically organised at the level of the workplace, are absolutely crucial to the prevention of human rights violations and to the development of effective mechanisms of accountability for human rights violations involving corporations.

We welcome our involvement in the integration of a gender perspective throughout the work of the Group and to give special attention to vulnerable persons, and in particular children. Those are subjects on which we have done considerable work in the UK context.

To reiterate, we have considerable experience and interest in the broad range of areas covered in the Working Group's remit and are keen to engage with the activities of the Working Group, including, but not limited to, the UN Forum on Business and Human Rights

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