



16 November
15:00-16:20
Room XXIII (Building E)

State implementation of the UN Guiding Principles in the context of investment policy: areas for focus and examples of implementation

Organized by the UN Working Group on Business and Human Rights in collaboration with the LSE Investment & Human Rights Project

Focus of the session

This session will focus on discussing the challenges in the implementation of the State duty to Protect in the context of investment, and it will offer an opportunity to foster dialogue among different stakeholders on the development of national action plans and will showcase examples of good practice. It is held in the context of the UN Working Group on Business and Human Rights' efforts to promote scaled up action on implementing the duty to protect, including through national action plans on business and human rights, where the specific area of investment is a key policy area. It will feature new technical guidance in the area of the State duty to protect and investment and bring to the table concrete examples from States that are taking steps to implement the duty to protect in the area of investment.

Background

The scope of the discussion will encompass the legal frameworks for regulating investment, the design and negotiation of investment agreements as well as supporting and promotional activities that Governments undertake to facilitate, promote and protect investment. Implementing the State duty to protect human rights in this context requires specialised technical expertise in investment that is uncommon, even among specialists in business and human rights.

The rationale for this session is threefold. First, the UN Working Group continues to seek to build momentum behind State national action plans and the swifter implementation of the State duty to protect more generally. Investment is one key area, but it requires technical knowledge that is not yet well-developed or wide spread. The introduction of social criteria in the investment context is also often viewed as a barrier to attracting investment in many countries. A growing number of States are working on national action plans, which include attempts to strengthen coherence between human rights and investment policies, but good examples of practice and learning in this area are still embryonic. Second, there is momentum at the international level (e.g. in the context of UNCTAD and OECD processes as well as the 2030 sustainable development goals and the G7 leaders 2015 declaration) to re-think how States enter into international agreements to facilitate and protect international investment and how to resolve investment disputes. As highlighted in the Working Group's report to the Human Rights Council's 29th session, much more is needed to ensure coherence between States' human rights obligations and their positions on sustainable development,

trade, finance and investment. Opportunities for progress exist, and this session would help participants understand how opportunities in efforts to reform the international investment policies and agreements relate to the State duty to protect and the development of national action plans. Lastly, ongoing efforts to develop technical guidance on investment and the State duty to protect will allow new learning, technical advice and State-based examples to come to the fore.

Aims and objectives

- Support the UN Working Group's efforts to promote scaled-up and more rapid implementation of the Guiding Principles, including the State duty to protect in the context of investment
- Highlight the relevance of investment as a key area in the implementation of the State duty to Protect and the development of national action plans
- Understand obstacles to effective implementation and discuss how to overcome challenges for the implementation of the State duty to protect in the context of investment
- Present and discuss examples of good practice in the implementation in this area
- Connect the discussion on implementation of the Guiding Principles with the current momentum to reform the system of investment protection and discuss how this opportunity for reform relates to the State duty to protect and national action plans
- Explain how managing human rights in the context of investment offers an advantage and contributes to good investment climate

Key discussion questions

- How is the State duty to protect being implemented in the area of investment?
- What are the challenges for implementation of the duty to protect in the context of investment and how can they be overcome?
- What examples of good practice exist?
- What opportunities does the current international call for reform of the system of investment protection offer for strengthening implementation of the duty to protect in the context of investment?

Panel

Moderator: Dante Pesce, Member of the UN Working Group

Speakers:

- Roichatul Aswidah, Commissioner, Indonesian National Human Rights Commission
- Diana Mendieta Durán, Presidential Adviser on Human Rights, Government of Colombia
- Andrea Shemberg, LSE Investment & Human Rights Project
- Simon Wake, Principal Advisor, Communities and Social Performance, Rio Tinto
- Elisabeth Tuerk, Chief, International Investment Agreements Section, Division on Investment and Enterprise, UNCTAD

Format

Short introductory presentations (5-7 minutes) and moderated discussion amongst panellists and with the audience.

Background reading

Working Group's report to the UN Human Rights Council (A/HRC/29(28):

<http://www.ohchr.org/EN/Issues/Business/Pages/Reports.aspx>

Forum Twitter hashtag: [#bizhumanrights](https://twitter.com/bizhumanrights)

Watch live: <http://webtv.un.org/>

