

**NHRI Steering Committee on Business and Human Rights**

**Proposal for the establishment of a  
NHRI Working Group on Business and Human Rights**

**March 2009**

## **EXECUTIVE SUMMARY**

At the ICC meeting in Nairobi, October 2008, the ICC bureau decided to establish a steering committee to oversee the establishment of an *NHRI Working Group on Business and Human Rights*.

The ICC Bureau invited the Danish Institute for Human Rights (DIHR) to establish the steering committee tasked to develop a proposal for the *mandate* and *composition* of the proposed Working Group. Coordinated by DIHR, the steering committee consisted of one NHRI from each ICC region including a designated representative of the ICC Chair.

The present proposal constitutes the joint conclusions reached by the steering committee to be presented to the ICC Bureau during the 22<sup>nd</sup> session of the ICC, March 2009.

The proposal recommends that an NHRI Working Group on Business and Human Rights be established consisting of two NHRIs from each region, sitting on a two-year rotational basis, including a designated representative of the ICC Chair.

The proposal provides recommendations on the composition of the working group in relation to members, eligibility criteria, funding and resources, ICC status as well as additional rules of procedure required for the governance of the Working Group.

Drawing on a 2007 a strategic framework set out during a NHRI Roundtable on Business and Human Rights held in Copenhagen in 2008, the proposal further recommends that the Working Group be mandated to pursue activities in the following three mandate areas:

### **a) Mandate area I: Strategic Planning**

Facilitate the inclusion of business and human rights issues into baseline research and strategic planning of NHRIs, and provide a platform for regional and international collaboration on joint NHRI programmes.

### **b) Mandate area II: Capacity Building and Resource Sharing**

Facilitate skills development of NHRI staff in relation to business and human rights issues and provide a platform for NHRIs for the exchange of expertise and best practices and for the joint development of tools and materials.

### **c) Mandate area III: Agenda Setting and Outreach**

Facilitate ICC and NHRI participation in key domestic, regional and international developments in the business and human rights field, including in relation to legislation, treaties, soft law mechanisms and institutional developments. Provide support for ICC and NHRI outreach to relevant domestic, regional and international stakeholders including governments, UN bodies and other multilateral institutions, business communities and civil society.

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## **I. INTRODUCTION**

### **I.a. Background**

1. In July of 2008 The Danish Institute for Human Rights (DIHR) hosted a two-day roundtable of NHRIs to discuss the issue of Business and Human Rights. The roundtable resulted in a joint recommendation to establish an ICC working group on the issue of business and human rights. At the ICC meeting in Nairobi in October 2008 the ICC bureau endorsed the recommendations and decided to establish a steering committee to oversee the establishment of the proposed working group.
2. The steering committee was asked by the ICC Bureau to develop a proposal for the ICC outlining the *mandate* and the *composition* of the proposed NHRI Working Group on Business and Human Rights. The present proposal constitutes the joint recommendations reached by the steering committee to be presented to the ICC Bureau during the 22<sup>nd</sup> session of the ICC in March 2009.

### **I.b. The Business and Human Rights agenda**

3. The corporate sector is increasingly recognized as a key stakeholder in the protection and promotion of human rights. With globalization, economic forces have lifted millions out of poverty. But at the same time, adverse impacts on the rights of workers and communities must be addressed. Balancing economic growth with human rights and environmental sustainability has become a key challenge for governments across the globe.
4. This has led to increasing debates over the role of multinational companies in protecting and promoting human rights in the course of economic development. The establishment of the United Nations Global Compact and the appointment of the Special Representative of the United Nations Secretary General (SRSG) on the issue of human rights and business demonstrate that companies are increasingly recognized as a part of international systems for protection and promotion of human rights.
5. In his recent concluding report to the Human Rights Council, the SRSG presents “a conceptual and policy framework to anchor the business and human rights debate, and to help guide all relevant actors”.<sup>1</sup> The framework consists of three pillars: i) the state duty to protect human rights in the corporate sector; ii) the corporate responsibility to respect human rights; and iii) the need for effective remediation of human rights violations linked to the corporate sector.
6. National Human Rights Institutions are uniquely placed to address the challenges raised under this framework and to facilitate dialogue and collaboration among key stakeholders from business, government and civil society.<sup>2</sup>

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<sup>1</sup> A/HRC/8/5. Please see <http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative> for all documents pertaining to the mandate of the SRSG.

<sup>2</sup> A recent survey conducted by the Office of the United Nations High Commissioner for Human Rights has helped take stock of existing practices among National Human Rights Institutions in the field of human rights and business. Results of the survey can be found at <http://www.reports-and-materials.org/OHCHR-National-Human-Rights-Institutions-practices-Apr-2008.doc>.

### **I.c. ICC Steering Committee on Business and Human Rights**

The ICC Steering Committee on Business and Human Rights consist of one representative from each ICC region, appointed in consultation with the ICC regional chairs, including a designated representative for the ICC Chair. The work of the steering committee was coordinated by the Danish Institute for Human Rights.

Steering Committee members:

Africa:	<b>Mr. Koffi Kounte</b> , Chairperson, National Commission for Human Rights of Togo
Asia-Pacific:	<b>Ms. NA Younghee</b> , Director General of Human Rights Education Bureau, National Human Rights Commission of Korea
Americas:	<b>Ms. Maria Claudia Guarnieri</b> , Director of Legislative Affairs, Defensoría del Pueblo de Venezuela
Europe:	Professor <b>Allan Miller</b> , Chair, Scottish Human Rights Commission
ICC Chair Rep.:	<b>Ms. Myriam Montrat</b> , Director General of the Discrimination Prevention Branch, Canadian Human Rights Commission
Coordinators:	<b>Mr. Allan Lerberg Jorgensen</b> and <b>Ms. Claire Methven O'Brien</b> , Advisors, Danish Institute for Human Rights, Human Rights & Business Department

The work of the steering committee was conducted during January-March 2009 during which time the committee convened for three phone conferences. At the outset of the process a working draft of the joint proposal was developed by DIHR and submitted to the steering committee for written feed back. Subsequently three drafts were produced and consensus was reached on the content of the final proposal.

## **II. PROPOSED MANDATE OF THE WORKING GROUP ON BUSINESS AND HUMAN RIGHTS**

7. To outline the proposed mandate of the NHRI Working Group on Business and Human Rights, the Steering Committee took into consideration three broad issues: i) Mission statement, ii) Strategic Framework, and iii) ICC Status.
8. As a fact base for its discussions the Steering Committee took as its point of departure the strategic framework set out during the 2008 NHRI Roundtable on Business and Human Rights (please see appendix A). In conclusion the Steering Committee proposes that the NHRI Working Group on Business and Human Rights be established with the following mandate:

### **II.a. Name and mission Statement**

9. The Steering Committee proposes that the Working Group name be as follows: *NHRI Working Group on Business and Human Rights*. It is further proposed that the Working Group be established with the following mission statement:

*The NHRI Working Group on Business and Human Rights facilitates collaboration among National Human Rights Institutions in relation to strategic planning, joint capacity building and agenda setting in the field of business and human rights, in order to assist National Human Rights Institutions in promoting corporate respect and support for international human rights principles; and in strengthening human rights protection and remediation of abuses in the corporate sector in collaboration with all relevant stakeholders at the domestic, regional and international levels.*

### **II.b. Strategic Framework**

10. The mandate of the working group should set out a broad strategic framework, defining the scope of its functions and providing high-level strategic guidance for the concrete activities. Drawing on the framework set out during the 2008 NHRI Roundtable on Business and Human Rights, the Steering Committee proposes a strategic framework for the NHRI Working Group on Business and Human Rights, consisting of the following three mandate areas:

#### **d) Mandate area I: Strategic Planning**

Facilitate the inclusion of business and human rights issues into baseline research and strategic planning of NHRIs, and provide a platform for regional and international collaboration on joint NHRI programmes.

#### **e) Mandate area II: Capacity Building and Resource Sharing**

Facilitate skills development of NHRI staff in relation to business and human rights issues and provide a platform for NHRIs for the exchange of expertise and best practices and for the joint development of tools and materials.

#### **f) Mandate area III: Agenda Setting and Outreach**

Facilitate ICC and NHRI participation in key domestic, regional and international developments in the business and human rights field, including in relation to legislation,

treaties, soft law mechanisms and institutional developments. Provide support for ICC and NHRI outreach to relevant domestic, regional and international stakeholders including governments, UN bodies and other multilateral institutions, business communities and civil society.

### **II.c. Strategic Action Plan**

11. The Working Group will be mandated to initiate and oversee activities within the above mandate areas. At the beginning of each two-year term the Working Group shall produce a detailed and prioritized action plan outlining planned activities and targets within the three mandate areas set out above including a corresponding funding strategy.
12. The action plan shall serve as a basis for reporting to the ICC Bureau and for continuous evaluation of the activities of the Working Group.
13. The Steering Committee emphasizes that in the interpretation of its mandate the Working Group should give priority to activities with the most value added for NHRIs, based on a broad understanding of NHRI needs, interests and capacities in the business and human rights area.
14. The first strategic action plan of the Working Group shall be informed by a baseline assessment, to be carried out by the Working Group, to assess the interests, needs and capacities of NHRIs in the area of business and human rights. The initial baseline assessment shall include all NHRIs and shall build on existing knowledge and past surveys on this subject. The results of the assessment shall be brought before the ICC Bureau, together with a proposed strategic action plan that responds to the priorities determined by that initial assessment.

### **II.c. ICC Status**

15. The Steering Committee further considered the status and role of the NHRI Working Group on Business and Human Rights in relation to the ICC. The Steering Committee proposes that the NHRI Working Group on Business and Human Rights should be granted a status of ICC *advisory body*, meaning it will be mandated to advise the ICC and its member institutions in matters pertaining to business and human rights.
16. The Steering Committee wishes to acknowledge, however, that in the future the mandate may be widened to enable the Working Group to function as a representative body with a mandate to represent the ICC in designated matters pertaining to business and human rights.

### **III. PROPOSED COMPOSITION OF THE WORKING GROUP ON BUSINESS AND HUMAN RIGHTS**

17. The Steering Committee was asked to develop a proposal concerning the composition of the NHRI Working Group on Business and Human Rights. In developing its proposal the Steering Committee emphasized that the composition of the Working Group should reflect the regional and professional diversity of the ICC member institutions, and that strong links be maintained to the ICC regions and the ICC chair. In developing its proposal the Steering Committee considered the following aspects: i) Members, ii) Eligibility Criteria, iii) Rules of Procedure, and iv) Funding and Resources.

#### **III.a. Members**

18. The Steering Committee proposes that the NHRI Working Group on Business and Human Rights be composed of nine (9) members according to the following model:

- a) Two NHRIs from each ICC region (total 8).
- b) A designated representative of the ICC Chair (total 1).

19. Each member will have one vote. The Working Group shall strive to reach decisions by consensus. In the event of disagreement all decisions of the Working Group, whether related to internal governance or to its activities, shall be based on simple majority rule.

20. The ICC Chair representative is considered additional to the regional members. In addition to its designated ICC Chair representative, the institution holding the ICC Chair shall be eligible to participate in the Working Group as a regional member, with the requirement that this representation shall be by two separate individuals.

21. If considered practicable the Working Group may at its own discretion choose to expand the number of members to up to three per region with the requirement that there should be equal representation of the regions meaning that all regions participate with either two or three members.

22. Where deemed relevant to its work it will be the prerogative of the Working Group to grant temporary observer status on a non-voting basis to further NHRI or ICC representatives on an ad hoc basis, e.g. to representatives of Regional Coordinating Committees.

#### **III.b. Eligibility Criteria**

23. The Steering Committee proposes that membership will be allocated based on the following criteria:

- a) Regional members are appointed by the respective regional chairs for a two-year rotating term.
- b) ICC accreditation status is not considered a criterion for membership.
- c) Membership is personal. Individual participants will be appointed by their respective institutions based on their function and personal capacity, giving priority to individuals with past experience in business and human rights issues. Members may at their own cost be accompanied by advisors.

### **III.c. Rules of Procedure**

24. The Steering Committee proposes that the Working Group be established with the following broad rules of procedure.
- a) From among its members the Working Group will appoint a Chairperson to serve on a two-year rotating term, so that each region assumes office in turn.
  - b) At the end of each two-year term the outgoing chair will remain as member of the working group for an additional one-year term to facilitate the transition of business to the incoming chair and the new members.
  - c) The Chairperson will be responsible for designated executive functions, including overseeing the coordination of Working Group activities and reporting to the ICC.
  - d) The Working Group will report to the ICC Bureau twice annually according to the following schedule:
    - a. Annual report: delivered orally and in writing to the ICC Bureau at the annual ICC meeting.
    - b. Interim report: delivered in writing to the ICC Bureau at the half-way point between Annual reports.
  - e) The working group shall establish such further procedures for ICC reporting and follow-up as deemed necessary.
  - f) The Working Group will convene for a minimum of one annual face-to-face meeting with the option of increasing this number bearing in mind that costs should be kept at a minimum. Fixed annual meetings should be made to coincide with the time and location of the annual ICC meetings. Additional meetings should be hosted by a capable member institution at a time agreed by the working group.
  - g) The Working group may at its discretion invite such non-NHRI representatives to contribute to its work and meetings as deemed necessary.
  - h) It will be the prerogative of the Working Group to establish additional procedural provisions as is deemed relevant for its work.

### **III.d. Funding and Resources**

25. The Steering Committee also considered issues concerning funding of Working Group activities. Two types of funding will be required:
- a) Funding of expenses incurred by individual institutions in relation to participation in core Working Group functions. As a minimum this includes travel expenses related to participation in one annual meeting.
  - b) Funding for individual programme activities related to the mandate areas outlined above.
26. The Steering Committee mainly discussed funding in relation to item 1. While ongoing fund raising for individual programme activities should be a crucial aspect of the Working Group mandate, the Steering Committee limits its remarks to the issue of funding related to participation in core working group functions:
- a) To ensure diversity and inclusion the Steering Committee strongly emphasizes that arrangements should be in place to enable equal participation by institutions with limited financial resources.

- b) Measures should be taken to minimize the cost of participation. Face-to-face meetings should in so far as practicable be made to coincide with ICC meetings already planned, and where sufficient, meetings should be held as phone conferences.
- c) It is envisaged that in relation to item 1, funding is required on a needs basis to cover participants' travel expenses. Furthermore, expenses will arise in relation to coordination of working group activities, including hosting of meetings, administrative functions etc. Such expenses will be eligible for reimbursement on a needs basis for institutions with limited financial resources. The working group should develop a plan to establish joint funding for such expenses including needs based criteria for re-imburement.
- d) Salary expenses for individual working group participants will be born by the participating institutions.
- e) When developing its two-year action plan, the Working Group should develop a corresponding fund raising strategy covering its core functions as well as the proposed programme activities and targets.
- f) The Working Group should liaise with the ICC Working Group on Funding.

#### **IV. PROPOSED PROCESS FOR ESTABLISHMENT OF THE NHRI WORKING GROUP ON BUSINESS AND HUMAN RIGHTS**

- 27. The Steering Committee recommends that where possible the Working Group shall be established on the basis of the current Steering Committee adding further members from each region according to the above criteria.
- 28. The Danish Institute for Human Rights shall coordinate the establishment of the Working Group in collaboration with the Steering Committee members.
- 29. Steering Committee members will undertake to identify one additional member institution from their respective regions in collaboration with the respective regional secretariats and chairs.
- 30. The Working Group shall convene for its first founding meeting no later than 30 June 2009. This meeting shall be additional to the fixed annual meeting.

**V. APPENDICES**

- A. *Report From the Roundtable of National Human Rights Institutions on the Issue of Business and Human Rights*, Danish Institute for Human Rights, 2008.