

Principles for effective non-judicial remedy

The undersigned Australian civil society organisations are calling on the Australian Government, and all political parties, to commit to an effective non-judicial remedy mechanism that adheres to the following principles. These principles have been drawn from comparative studies of the most effective non-judicial redress mechanisms internationally.

Powers to investigate:

- A mandate to proactively investigate both individual cases of abuse and systemic problems which may give rise to those abuses;
- Clear processes for gathering and verifying evidence;
- Able to subpoena witnesses and company documents where appropriate.

Powers to recommend effective remedy:

- Able to recommend a range of appropriate remedies including compensation, an apology, cessation of particular activities, mitigation measures, corporate policy changes, and sanctions;
- A mandate to refer criminal wrongdoing to relevant law enforcement bodies.

Leverage:

- To generate buy-in and changes in corporate behaviour (such as through sector initiatives focused on human rights-compliant practice and the United Nations Guiding Principles on Business and Human Rights, and recommend the withdrawal of government contracts or trade support for companies that fail to engage).

Independence:

- Independent from government and corporate interests.

Resources:

- Well-qualified staff with appropriate subject-matter expertise and training in dispute-resolution;
- Appropriate financial resources for undertaking investigations.

Accessibility:

- A mandate to identify and address specific barriers that women and other marginalised groups face accessing remedy, including those of language, distance, resources and power imbalances.

Accountability and transparency:

- A strong, independent oversight mechanism;
- Required to provide regular and timely feedback to all parties regarding the steps of an investigation and to monitor and follow up on public recommendations for remedy;
- Required to report publicly on a regular basis (e.g. to Parliament).

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