

HUMAN RIGHTS DEFENDERS & CORPORATE ACCOUNTABILITY

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About this monitor

Human rights defenders who work on issues related to corporate accountability face heightened and specific risks. They are stigmatised, criminalised and attacked, not only by State actors but also by powerful non-State forces including armed groups, private security firms and businesses themselves.

All this for demanding that economic projects do not have a negative impact upon human rights, that States and businesses respect their international obligations, and that justice be guaranteed where violations do occur.

At the same time, an increasing number of States are developing National Action Plans that seek to protect human rights defenders working in the field of business and human rights, while some corporations are taking steps to engage and consult with defenders and exploring actions which could prevent and respond to attacks and restrictions against them.

In the context of rapid globalisation and business expansion, informed discussion and understanding of the work of human rights defenders to promote corporate respect for human rights and accountability for corporate-related violations is becoming ever more important.

This year's UN Forum on Business and Human Rights provides an important space for this debate, particularly given the inclusion on the agenda of a panel regarding human rights defender protection.

ISHR believes that these spaces for discussion, proposals and commitments are crucial. They represent a recognition of the importance of defenders and a concern for the risks they face, whilst pulling together States, businesses, UN agencies, plus the defenders themselves, to discuss solutions.

Last year ISHR's 'Human Rights Defenders and Corporate Accountability' special edition Monitor provided such a space and was distributed to thousands of readers, many of whom demanded we produce this updated, multilingual, edition to feed into the next UN Forum.

ISHR invited a range of stakeholders to contribute with a view to promoting mutual understanding across all sectors of the key challenges facing human rights defenders working in the context of business and the key initiatives needed to protect and support them.

The pieces do not necessarily reflect the position of ISHR, but of the authors of each individual piece. All articles, as well as this Monitor which compiles them, can be found on www.ishr.ch.

The situation is drastic and it is an urgent imperative that the discussion in this compilation translate into stronger State and business action for the protection of human rights defenders.

Enjoy the read, and decide what *your* contribution will be.

Opinion

INCREASING RECOGNITION OF DEFENDERS' ROLE ON BUSINESS AND HUMAN RIGHTS AMIDST SERIOUS CHALLENGES AND THREATS

By Michael Ineichen, Programme Manager (Corporate Accountability) and Head of Human Rights Council Advocacy, ISHR

Human rights defenders working to promote corporate respect for human rights, and corporate accountability when violations occur, face extraordinary risks and need specific protection by States and business. Today there exists a broad consensus about this statement. However, this increasing specific recognition by States, business and international human rights mechanisms is both a relatively recent development, and to date remains uneven.



Photo: Flickr, Annette Bernhardt

Recognition is recent: Rewind to the 2012 annual UN Forum on Business and Human Rights. The agenda of putting human rights defenders and their protection at the core of the business and human rights debate was only in its infancy, comparable to a small start-up company. Illustrative of the then-marginal place of human rights defender issues on the UN's business and human rights agenda was the lack of a specific focus on defenders. While the role of civil society was broadly discussed, it took three years of sustained advocacy by national, regional and some international NGOs – with ISHR capacitating and supporting the advocacy of defenders in Geneva – to transform the 'start-up' of 2012 into one of the key players of the 2015 Forum.

As demonstrated by this year's edition of the dedicated Business and Human Rights Monitor, human rights defenders are increasingly seen to be key players in securing business respect for human rights by a range of actors. Such recognition is critical if the international community is to effectively support the courage of those who assist communities in seeking to prevent and mitigate the human rights impact of projects like [Jean-Pierre Okenda from the DRC](#), or advocating for workers' rights like [Muchamad Darisman in Indonesia](#).

Mauricio Lazala of the Business and Human Rights Resource Centre demonstrates that [increasingly, companies are starting to speak out](#) – publicly and privately – against attacks on human rights defenders. Similarly, Brent Wilton of Coca-Cola Company and David Bledsoe at Landesa give one example of [partnerships to increase respect for land rights](#), while Owen Larter (Microsoft) and Nicolas Patrick (DLA Piper) make the case for [closer cooperation between defenders and business](#), particularly in high-risk areas.

It is now imperative that this trend is continued and strengthened, and business starts to act based on its inherent interest in free, democratic and rights respecting societies, where human rights defenders enjoy a safe and enabling environment.

Of course, beyond the actions by business, States must develop and strengthen their policies and laws to protect human rights defenders working to promote corporate accountability.

The first is the development of National Action Plans. As ISHR has argued in submissions to the [UK](#), the [US](#) and [Ireland](#), human rights defenders and their protection must be at the core of the process and substance of NAPs. Building on their experience in developing the go-to-tool for the development of national action plans on business and human rights, Sara Blackwell of the International Corporate Accountability Roundtable (ICAR) points out the opportunities available to human rights defenders to push for [greater protection where NAPs are developed](#). Norway's Ambassador to Geneva calls for [‘clear and coherent signals to business through regulation and other incentives’](#), and cites the new Norwegian NAP as a step in that direction.

A further avenue to trigger firmer action by States and business is the process towards the elaboration of a business and human rights treaty started in 2015. As [ISHR's Ben Leather points out](#), more needs to be done to ensure the process includes the voices and concerns of defenders. [States must stop ‘ignoring the elephant in the room’](#) argues Genevieve Paul from FIDH, which would ensure that the ‘intergovernmental treaty process (IGWG)-’ develops from the current diplomatic controversy into the effective and credible route towards better business respect for human rights that [defenders from around the world have asked for](#). The recognition of the [role of civil society by the Chair](#) of the process, Ecuador's Ambassador in Geneva, is a step in that direction.

Recognition of the threats against defenders and their protection needs also remains uneven: As a first step, more detailed analysis of the factors underlying defenders' vulnerability, such as the [false dichotomy between development and human rights](#) identified by UN Special Rapporteur on human rights defenders [Michel Forst](#), is needed.

Secondly, additional actors that are still shying their responsibility have to step up to the plate, and play their part in protecting defenders. As Jessica Evans and Sarah Saadoun of Human Rights Watch show, the [World Bank and its International Finance Corporation](#) have a responsibility to protect human rights defenders and other civil society actors from retaliation and reprisals associated with projects it supports or finances. On his part, Michael Posner details the essential role of defenders in bringing [greater transparency to global supply chains](#).

Finally, as outlined above, the [UN's Forum on Business and human rights](#) as well as other key moments within the UN human rights system provide more and more accessible avenues for human rights defenders to voice their concerns, enlightened business leaders to share their successes in working with defenders, and for States to strategize around the best way to incentivise and regulate corporate behaviour to ensure those working to promote and protect human rights can do so in a safe and enabling environment. This Special Edition of the Human Rights Monitor intends to assist in that endeavour.

Michael Ineichen leads ISHR's work in support of human rights defenders who promote corporate accountability. You can reach him at [@ineichenM](#).

NO MORE 'BUSINESS AS USUAL' WHEN IT COMES TO BUSINESS AND HUMAN RIGHTS DEFENDERS

By Michel Forst, UN Special Rapporteur for the situation of human rights defenders

At the commencement of my mandate as Special Rapporteur on Human Rights Defenders I committed to focus on those defenders who are most exposed or most at risk. As part of this commitment I conducted consultations with over 500 human rights defenders from over 110 States from all regions of the world. As my [recent report to the UN General Assembly](#) records, one of the categories of defenders which emerged as most at risk in all regions was those working in the business and human rights, including those working on land and environment rights.

The evidence and testimony I received from the ground reinforced recent reports from the likes of ISHR, the Business & Human Rights Resource Centre, Global Witness, and the Observatory for the Protection of Human Rights Defenders which point to the particular threats, risks and restrictions faced by this group of defenders, whether they work in Africa, Asia, Latin America or in Western European States. These threats, risks and restrictions range from surveillance, to stigmatisation, to the inappropriate and excessive use of force against peaceful protesters, especially those protesting the activities of the extractives industries.

The particular vulnerability of human rights defenders working in the field of business and human rights arises from three key factors.

The first is the false dichotomy often propagated between development on one hand and respect for human rights on the other. This manifests in the stigmatisation of corporate accountability activists as 'anti-development', of trade unionists and protesters as 'economic saboteurs', of land and environment defenders as 'eco-terrorists', and of NGOs working in the field as 'foreign agents'. States must desist from such stigmatisation and denounce it when it occurs, promoting instead the reality that human rights defenders have a vital role to play in sustainable and inclusive development.

The second vulnerability factor is that the work of human rights defenders working in the field of business and human rights often involves promoting transparency, exposing violations and combating corruption. This can place them on a collision course with powerful State and non-State actors, including governments and businesses but also private military and security companies (particularly in the context of the extractive industries) and organised crime (which particularly emerged as an issue in my consultations in Latin America). The prompt and thorough investigation and remediation of all threats and attacks against human rights defenders working in the field of business and human rights, whether perpetrated by State or non-State actors, is vital in addressing this factor, with the shocking incidence of impunity for attacks against defenders effectively licensing further attacks.

The third vulnerability factor, related to the second, is the weakness in regulation of many non-State actors, both at the national and international levels. The specific protection of human rights defenders through national laws and policies and in any international treaty negotiated in the field of business and human rights is vital in this regard.

In my recent report to the UN General Assembly I made a number of recommendations to both States and businesses intended to respond to these factors. For States, in addition to the obligations I have outlined above, it is imperative that human rights defenders are actively engaged in the process of elaboration of a National Action Plan on Business and Human Rights and that any such action plan contains concrete commitments and measures to facilitate and protect defenders' work. Both States

and businesses should also engage human rights defenders in human rights impact assessment and due diligence processes for major projects – effective up-front engagement can avoid human rights risks and costs.

In relation to businesses, my report recommends that they play an active role in supporting and promoting the role of human rights defenders working in their sectors. This should include, for example, speaking out when human rights defenders are targeted for their corporate accountability work, as major jewellers like Tiffany & Co [positively did](#) when human rights defender and journalist Rafael Marques was prosecuted for his work exposing corruption in the Angolan diamond industry. Businesses must also, of course, cease and abstain from any supporting any actions, directly or indirectly, which impinge upon defenders' rights to freedom of expression, association and assembly.

When it comes to business and human rights defenders, business as usual is not good enough. Corporations, States and the UN human rights system alike must recognise the vital role of human rights defenders in promoting corporate responsibility and accountability and support and protect them in this crucial work.

Michel Forst is the UN Special Rapporteur on the situation of Human Rights Defenders. Follow him on Twitter at [@ForstMichel](#).

HOW'S THE BUSINESS ENVIRONMENT IN YOUR COUNTRY? LOOK TO CIVIL SOCIETY AS A BAROMETER

By Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Here's a hypothetical scenario for global entrepreneurs in 2015: Let's imagine you're an aspiring businessperson just starting a company – perhaps a hotel – in the fictional country of New Yorkistan.

You start by registering your new business. Sound simple? Not so fast: local government officials tell you they can't help. Registration requires an act of the National Assembly. No connections? You're out of luck.

But let's say you convince the authorities to register your company. They just have one condition: You can't work in the same industry as any other existing business.

Sorry, New Yorkistan already has another hotel. You're out of luck again.

And for the sake of argument, let's say you're the first hotel in New Yorkistan and you get operations underway. But the country is small and you soon realize you'll need foreign investment to boost your capacity.

"Sure," the government tells you. "But New Yorkistan limits foreign investment in hotel companies to 10% of their annual operating budgets – so keep it small."

Sound crazy? It should. These days, no government in their right mind would restrict businesses to this extent.

Unfortunately these regulations are all too real – they are the law of the land in Nicaragua, [Oman](#) and Ethiopia respectively. The catch: they apply only to civil society organisations, such as non-governmental associations, charities, and non-profit associations (or in the case of the Ethiopia

regulation, only associations which work on certain human rights issues). Businesses are allowed much more room to operate.

While regulations similar to those above may have applied to businesses years ago, the trend is different today: Governments everywhere are bending over backwards to create the best possible enabling environment for commerce. But many are going in the opposite direction with the enabling environment for civil society.

Why the difference in treatment? That's the question I ask in my [new report](#) to the United Nations General Assembly, which I presented in October 2015. And I cite dozens more examples where civil society gets the short stick.

In Malaysia, for example, certain associations can be dissolved when the head regulator decides; only "his opinion" matters. Dissolving a business requires a court order.

In [Rwanda](#), a business entity can be registered online in a matter of hours at zero cost. Registering an NGO can take several months, and the process is subject to extensive government discretion. Foreign NGOs also face a 20 percent limit on overheads. Can you imagine applying that rule to Microsoft or Shell?

You can also look at how much attention governments give each sector. A whopping 40 heads of state attended the last Davos Summit. None came for the 2015 editions of the CIVICUS World Assembly and International Center for Not-for-Profit Law's Global Forum, which are comparable civil society events.

The point in highlighting these examples is not to argue that it's wrong when States create environments designed to help businesses to succeed. Rather, the question is why can't States do the same for civil society?

A cynic might say the answer is fairly plain. One sector offers the promise of growth, development, and (in an unfortunate number of cases) cash in the pockets of officials. The other offers the prospect of unrelenting public criticism and is perceived to be a threat to power. Which is perhaps why critical for-profit media faces similar challenges as critical civil society. Favouring one sector over another seems like an easy call for governments these days. But is it the right one?

Obviously it's not from an international human rights law perspective. International law protects the rights to freedom of [peaceful assembly and of association](#) for exactly this purpose. Governments might not always be comfortable when citizens organise and become vocal, but preserving people's ability to do so is essential in a democracy.

But it's not the right call from a business perspective either.

When civil society is vibrant, rule of law is stronger, transparency is greater, and markets are less tainted by corruption. The presence of critical civil society can be viewed as a barometer of a State's confidence and stability – important factors for businesses looking to invest their money.

In fact, in researching this report, I found that the presence of a robust and vocal civil society sector, without exception, guarantees that a State also possesses a good business environment. In other words, there is a significant convergence of interests: when civil society does well, business does well too.

This isn't to say that businesses and civil society should be treated equally in every respect. They have their differences. Instead, I advocate "sectoral equity" – a fair, transparent and impartial approach where regulation of each sector is grounded in international law and standards, and not guided by money, power or the whims of officials.

This is an approach that works for both sectors because it's grounded in shared principles: rule of law over rule of power, predictability over disorder, fairness over corruption. Stable, balanced environments that tolerate dissent are better for everyone, whether you're a multinational corporation or a grassroots activist collective.

I view sectoral equity as a kind of stimulus plan for civil society and businesses alike: Elevating the treatment of the former would yield significant economic, social and political dividends for everyone. And the best part about it is that it would cost States virtually nothing. It only takes political will. It's time for businesses and civil society to work together towards this goal.

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Preview: The 4th Annual United Nations Forum on Business and Human Rights

The [2015 Forum on Business and Human Rights](#) (16 - 18 of November 2015) will as always feature an extensive collection of debates, discussions and networking opportunities for human rights defenders. If you are not able to take part in Geneva the sessions will be streaming live on [UN Web TV](#). It is also possible to take part through social media such as twitter with the hashtag #BizHumanRights

The programme of the forum is organised in a series of plenary sessions and parallel sessions.

The theme for the 2015 Forum is **tracking**

progress and ensuring coherence. The main aim of this year's forum (including tracking the progress) is to 'promote policy coherence' and 'achieve more rapid change on the ground for rights-holders'. The intention is that this would be achieved through six key areas of discussion:

- Efforts to track performance and progress in the implementation of the Guiding Principles (special focus on measuring and tracking implementation of states)
- Policy coherence in global governance frameworks (focus on implication of guiding principles on trade, investment and sustainable development)
- Policy and practice coherence at the national level (with a focus on national action plans and state owned enterprises)
- Corporate respect for human rights in practice (special focus on due diligence and supply chain challenges)



Photo: UN Photo/Jean-Marc Ferré

- Groups at risk (which includes learning from human rights defenders.)
- Access to effective remedy, (with a focus on judicial and non-judicial remedies)

The current [draft programme](#) highlights a number of key opportunities for defender involvement and networking. Below is a brief overview of the programme itself as well as a non-exhaustive list of events that may be of interest.

Key events of specific interest from a human rights defenders perspective

While the Forum itself takes place on 17 and 18 November, the events planned for 16 November form an integral part of the conversation, and several key events on 16 November may be of specific interest from a human rights defenders perspective:

- [Multi-stakeholder engagement across all three pillars \(case studies\)](#) which is organised in collaboration with the Business and Human Rights Resource Centre (BHRRC) and the Global Business Initiative on Human Rights (16 November, 3pm - 4.20pm, Room XX).
- [Identifying the specific challenges faced by Women Human Rights Defenders and understanding their valuable role](#) which is organised in collaboration with Proyecto de Derechos Económicos, Sociales y Culturales, A.C. (ProDESC), Association for Women's Rights in Development (AWID), Women Human Rights Defenders International Coalition (WHRDIC) (16 November, 4.40pm – 6pm, Room XX).
- The opening panel of the forum on 17 November focuses on progress and includes statements by the President of the Human Rights Council, the Forum Chairperson, the United Nations High Commissioner for Human Rights, and the Working Group on the issue of human rights and transnational corporations and other business enterprises. Some of the events of particular interest from a human rights defenders perspective on 17 November include
 - [National action plans on business and human rights: challenges and lessons learned](#) (17 November, 3pm – 4.20pm, Room XX).
 - [Measuring and tracking implementation of the Guiding Principles](#) (17 November, 3pm – 4.20pm, Room XXIII).
 - [Identifying solutions to key human rights challenges associated with Mega Sporting Events](#) (17 November, 4.40pm- 6pm, Room XX).

Events of special interest for human rights defenders for 18 November include:

- [Addressing the challenges that Human Rights Defenders face in the context of business activities in an age of a shrinking civil society space](#) organised by the UN Working Group together with Amnesty International, BHRRC, Civil Rights Defenders, Front Line Defenders, and the Observatory for the Protection of Human Rights Defenders. Institute for Human Rights and Business and the International Service for Human Rights (ISHR) (18 November, 10am – 11.20am, Room XX).
- [Company commitments and community-led initiatives: making meaningful community engagement a best practice](#) organised in collaboration with the BHRRC, Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica (COICA), Earth Rights International (ERI), HIVOS, International Federation for Human Rights (FIDH), Oxfam, Project on Organizing,

Development, Education and Research (PODER), and Centre for Research on Multinational Corporations (SOMO) (18 November, 11.40am – 1pm, Room XXIII).

- [Connecting the Guiding Principles with the business and human rights treaty process](#) which is organised by the Permanent Mission of Ecuador to the United Nations Office at Geneva (18 November, 1.30pm – 2.30pm, Room XII).

Parallel Sessions of particular interest from a human rights defenders perspective

- **16 November, 11.40am – 1pm Room XXIV:** Recognising indigenous peoples' rights to land, territories and resources, and challenges in their access to mechanisms for redress.

The session is Organised by the Asia Indigenous Peoples Network on Extractive Industries and Energy, Incomindios, the Indigenous Peoples Movement for Self-Determination and Liberation, CPDE-CSO Partnership for Development Effectiveness, the Latin American Mining Monitoring Programme, Red PAZINDE –Consejo de Capitanes Guaranies de Chiquisaca, Rural Missionaries of the Philippines– Northern Mindanao Region (RMP-NMR), the World Council of Churches-Ecumenical Advocacy Alliance, and CIVICUS: World Alliance for Citizen Participation. The session will deal with the rights of indigenous peoples' and the challenges they face in protecting their land as well as the consequences of extractive industries for indigenous communities.

- **16 November, 3pm - 4.20pm, Room XXI:** Balancing rights and State demands: taking stock of the challenges and exploring opportunities to secure rights online.

The session is organised by the Global Network Initiative (GNI) and Privacy International (PI). The session identifies challenges for governments and companies in regard to information and communications technology (ICT) users, specifically concerning the balance of the rights to privacy and freedom of expression and compliance with national laws controlling national security and law enforcement. The session is expected to discuss the current laws and policies between governments and ICT companies, the adoption of strategies that can be used to mitigate risks, and what constitutes adequate transparency and accountability mechanisms

- **16 November, 4:40pm – 6pm, Room XXIV:** Land, corruption and human rights: a round-table discussion on the implications of large-scale land investments and constructive responses for human rights

The session is organised by the Centre for Peacebuilding (KOFF), the Swiss Peace Foundation, the ICAR and the Quaker United Nations Office. The session is based around the increase of the sale and lease of largescale land in developing countries by for example foreign investment funds, corporations, local elites and governments and the corruption and human rights abuses it often brings to local communities. The session is an open dialogue discussing national, regional and international frameworks for land acquisition and their challenges, the creation of win-win situations by multi-stakeholder involvement as well as case studies and best practices.

- **18 November, 8.20am-9.40am, Room XXIV:** Whistle-blower protection in the context of the Guiding Principles on Business and Human Rights.

The sessions is organised by the French Centre for Scientific Research (CNRS), Blueprint for Free Speech, ICAR, ISHR and Expolink Europe Ltd. The session will explore gaps and trends in whistle-blower protection, including where whistle-blowers are also human rights defenders.

It will do so through discussing a universal protection and definition, prevention of reprisals, businesses and states responsibilities and duties. The panel will share experiences of protection of whistle-blowers, and draw on the lessons learnt in developing mechanisms for the protection of human rights defenders.

- **18 November, 11.40am-1pm, Room XXIV:** Enhanced due diligence in conflict-affected areas: the roles of different stakeholders.

The session is organised by Al-Haq, the Essex Business and Human Rights Project, International Alert and the Swiss Peace Foundation (Swisspeace). This session takes the conversation to how due diligence can and should be applied in a conflict area. The session discusses the responsibilities and duties of various stakeholders such as the company itself. The panel will firstly introduce the topic and share experiences and results of consultations, then experts will talk briefly followed by the audience being invited to take part through a discussion guided by the moderator.

Recent developments: Treaty, Treaty Bodies and National Action Plans

The first session of the Intergovernmental Working Group: an appraisal

HUMAN RIGHTS DEFENDERS AND BUSINESSES: THE ELEPHANT IN THE ROOM?

By Geneviève Paul, Head of Globalisation and Human Rights Desk, FIDH

During the first session of the Intergovernmental Working Group (IGWG) tasked with the elaboration of an international instrument on human rights and business in July, CSOs from all over the world joined forces and actively participated: they brought first-hand experience and in-depth analyses



Photo: Flickr, Dominik

pointing to the shortcomings and inadequacy of existing accountability frameworks. Their strong presence is a testament to a global civil society demand for an instrument that would succeed in helping to prevent and remedy corporate human rights abuses. It is also a testament to persistent corporate-related human rights abuses; to the lack of access to justice in the majority of the cases and to increasing trends of criminalization of social protests and attacks against those trying to protect their communities and the environment.

Two months ago in New York, 193 countries members of the United Nations unanimously adopted an ambitious set of Sustainable development Goals, the blueprint for the world's development in the next 15 years. Worth noting here is Goal 16: access to justice for all as well as accountable and inclusive institutions are rightly seen as a prerequisite for peaceful and inclusive societies for sustainable

development. On the ground, what we rather witness are [land rights defenders being more and more subjected to harassment and killings](#) in contexts of unbridled so-called “development”, the proliferation of restrictive laws against independent NGOs and, by striking contrast, amazingly permissive legal environment for businesses¹.

If States are serious about achieving sustainable development through peaceful and inclusive societies, the situation of human rights defenders must be addressed when discussing business and human rights at the Human Rights Council. The absence of key States during the first IGWG session is regrettable and must be addressed for this process to be successful.

That States such as Norway and Ireland – champions in promoting HRD's protection and supporting CSOs against global tendency of shrinking civic space - actively participate in this debate is all the more important. States need to support CSOs in making visible the situation of HRDs and the need for a future instrument on business and human rights to address what defenders are calling for: remediation, which includes effectively preventing repetition.

Likewise, all States, including those leading the IGWG process, must show commitment or at least their good faith, and start by taking immediate measures at home to ensure that human rights defenders can act freely, without fear of reprisal.

FIDH's latest report on the criminalisation of human rights defenders as a regional phenomenon in Latin America, published at the last session of the Inter-American Commission on Human Rights under the framework of the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT joint programme), together with some OMCT and FIDH's members, once again demonstrates how criminal law is being misused to muzzle HRDs. And it unfortunately does not come as a surprise that many of the documented cases concern defenders targeted in the context of business activities.

The protection of human rights defenders and ensuring corporate accountability are in dissociable. Ignoring this evidence is ignoring the elephant in the room.

Geneviève Paul is the Head of Globalisation and Human Rights Desk at the International Federation for Human Rights. Follow her on Twitter at [@GenPaul](#)

THE VOICE OF CIVIL SOCIETY MUST REMAIN CENTRAL TO THE IGWG

By Ben Leather, Advocacy, Training and Communications Manager, ISHR

Human Rights Council [resolution 26/9](#) established the IGWG and was right to recognise the relevance of civil society participation in its process. Whether communities documenting and denouncing abuses carried out in the name of business; individual victims demanding remedy for violations; or NGOs working to prevent abuses and mitigate their impact when they occur, human rights defenders are the motors for change on the ground and should provide the moral compass for IGWG negotiations.

¹ As analysed by Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and in his last report to the UN General Assembly, « Sectoral equity, A stimulus plan for civic space », UN Document A/70/266.

Both Ecuador, as Chair of the IGWG, and the OHCHR secretariat made important efforts to facilitate the participation of defenders at the first session, but – as we move towards the second session in October 2016 – they must do more to safeguard their ongoing contribution.

For starters, better preparation of the IGWG will allow for broader and stronger civil society input. It is commendable that Ecuador often engaged Geneva-based civil society regarding plans for the session. Nonetheless, the IGWG's proposed plan of work was circulated just a week before proceedings, with panellists confirmed at the last minute, making it impossible for grassroots activists to arrange travel to Geneva and for NGOs to tailor submissions and interventions to specific panels. Early next year, the next draft plan of work should be subject to informal consultations with States and civil society, in order to be published well ahead of schedule.

What is more, civil society participation can be enhanced by institutionalising and building upon some good practises seen in July. Resolution 26/9 contained no budget for webcasting, something which must be rectified in any future resolutions on the treaty process. Ecuador, however, paid to live-stream the first session, meaning that human rights defenders around the world could follow the debate, whilst guaranteeing an [audio-visual record](#) of proceedings. This practise must be maintained.

Prior to the session, some had argued that participation should be opened beyond those NGOs accredited with [ECOSOC consultative status](#) by the UN, given the relevance of the issue for grassroots activists and communities. However, the majority of civil society voices at the first session appeared happy with the compromise arranged by Ecuador of allowing non-ECOSOC accredited organisations to make written submissions prior to the IGWG, whilst limiting verbal interventions to accredited NGOs. Nonetheless, the window for receiving submissions was narrow, leaving many defenders unable to deliver contributions on time. In future, civil society should be given several weeks to send such contributions, which must then be integrated into the session's report.

The modalities of the IGWG itself could be enhanced by the next session, in order to integrate civil society interventions into the debate and give them an equal footing to those of States. At the first session, civil society was limited to interventions towards the end of each panel, whereas they should be interspersed with those of States to ensure dynamic debate, as happened during the Council's institution-building process. Several diplomats commented that the interventions of civil society pulled discussion away from politics and towards practical needs and solutions. What better, then, than to integrate those interventions into the intergovernmental debate itself?

The Chair can adapt modalities as she sees fit, and all States which value civil society interventions should actively encourage this evolution, regardless of their political position towards other aspects of the treaty process.

Civil society space was [briefly threatened](#) in July, as the Ecuadorian Ambassador decided to merge all NGO interventions from two panels, whilst postponing others. In future, guarantees must be made that NGOs will speak to the panels they have signed up to, whilst they also should not be subjected to time limits where States are not.

Finally, given that those who work on violations related to business are [some of the most at-risk](#) in the world, the Chair and secretariat must put in place a clear process to prevent acts of intimidation or [reprisals](#) against individuals participating, or seeking to participate, in the IGWG. This process should include methods to address alleged cases of intimidation or reprisals directly with the concerned State or non-State actors, including business, in order to seek guarantees of no-repetition.

The treaty will only be useful if it responds to the needs and demands of victims and defenders. Therefore if States are serious about ending violations in the context of business, they must act to ensure these voices remain central to the IGWG.

Ben Leather is the Advocacy, Training and Communications Manager at ISHR. Follow him on Twitter [@BenLeather1](#)

TOWARDS AN INTERNATIONAL LEGALLY BINDING INSTRUMENT ON TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES WITH RESPECT TO HUMAN RIGHTS

By Ambassador María Fernanda Espinosa, Permanent Representative of Ecuador to the United Nations in Geneva

On June 26, 2014, the UN Human Rights Council adopted Resolution A/HRC/RES/26/9, 'Elaboration of an International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with respect to Human Rights'. In order to comply with the mandate contained in the Resolution, an open-ended intergovernmental working group (OEIGWG or IGWG) was established. The first session took place from 6 to 10 July in Geneva, Chaired by Ecuador and attended by States representatives, international and non-governmental organizations, civil society, academy, private sector and other relevant stakeholders who had a first approach to the different components that could integrate a future binding instrument.

The topic under discussion has more than forty years of history. During this period, several initiatives intended to set norms of universal observance for transnational corporations, having achieved at most voluntary measures, the effects of which have been limited or inexistent, as demonstrated by case studies, especially when trying to provide victims of human rights violations related to transnational corporations and other business enterprises with access to justice and remedies.

From this perspective, various States and other actors have described the creation of the OEIGWG, and the process towards a binding instrument, as an historic opportunity to close a gap in international human rights framework. We must recognize the role played by civil society and human rights defenders in achieving this task, which have contributed significantly to both positioning the subject and also for the substantive discussion. Notwithstanding, it should be mentioned that numerous challenges remain, including the constructive engagement of several countries that have so far chosen not to get involved in the process.

With a view to the upcoming sessions, OEIGWG's Ecuadorian Chair invites States to address multilaterally all aspects that generate dispute through an inclusive, transparent and democratic debate. The Chair also invokes the statement by the President of Ecuador, Rafael Correa, to the UN General Assembly last September 28, calling upon States to actively participate in drafting a binding treaty to regulate transnational corporations when they violate human rights or threat nature. Far from affecting business or investments, this initiative aims to strengthen the international system of human rights and to contribute to achieving better living conditions for societies worldwide.

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Treaty bodies' engagement with business and human rights issues

OPPORTUNITIES FOR HUMAN RIGHTS DEFENDERS TO ENFORCE CORPORATE ACCOUNTABILITY: ENFORCING THE EXTRA-TERRITORIAL OBLIGATION TO PROTECT HUMAN RIGHTS

By Bret Thiele, Co-Executive Director of the Global Initiative for Economic, Social and Cultural Rights

Corporations and other business enterprises have a substantial impact on the world in which we live, including on human rights. According to the World Bank, in 2012, 63 per cent of the 175 largest global economic entities were corporations, and corporate activities have impact on human rights around the globe. Consequently, human rights defenders have increasingly focused on developing tactics, strategies and mechanisms to hold corporate actors accountable to human rights obligations.



Photo: Wikimedia Commons

This advocacy has resulted in the human rights framework addressing this reality, including with two key initiatives. The first is the Guiding Principles on Business and Human Rights framework. The second is the move to a legally binding human rights treaty on corporate actors, an initiative which has emerged from strong civil society engagement. Both show various degrees of promise, but both also have drawbacks. The Guiding Principles are unfortunately crafted more as a corporate social responsibility framework rather than corporate accountability framework, as they are voluntary in nature, and they don't apply the current comprehensive body of international law to corporate activity. And, while the process towards a legally binding treaty is welcomed and much needed, it will be some time before such a treaty is adopted and enters into force.

Fortunately, there presently is another means of holding corporate actors accountable by using the existing human rights framework, namely by holding States accountable to their respective obligations to protect human rights by directly regulating corporations and providing accountability and remedial mechanisms when those corporations do violate human rights. While the obligation to protect is well entrenched in the context of corporate activities at the domestic level, increasingly the extra-territorial obligation (ETO) to protect is being used to hold transnational corporations accountable for human rights impacts abroad.

Particularly driven by human rights defenders and civil society, the United Nations treaty bodies, those Committees mandated to monitor compliance with human rights treaties, have begun to seriously apply the extra-territorial obligation to protect human rights in the context of corporations and other business entities. For instance, building on earlier pronouncements, the Committee on Economic, Social and Cultural Rights, which monitors compliance with the International Covenant on Economic, Social and Cultural Rights, adopted its clearest articulation on the ETO to protect in the context of corporate accountability, expressing its concern "about the lack of adequate and effective measures adopted by the State party to ensure that Chinese companies, both State-owned and private, respect economic, social and cultural rights, including when operating abroad" and recommending that China:

- Establish a clear regulatory framework for companies operating in the State party to ensure that their activities promote and do not negatively affect the enjoyment of economic, social and cultural human rights; and
- Adopt appropriate legislative and administrative measures to ensure legal liability of companies and their subsidiaries operating in or managed from the State party's territory regarding violations of economic, social and cultural rights in their projects abroad.

The Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights, has also enforced ETOs in this context. For instance it recently adopted Concluding Observations on Canada in which it expressed its concern “about allegations of human rights abuses by Canadian companies operating abroad ... and about the inaccessibility to remedies by victims of such violations.” The Committee also regretted “the absence of an effective independent mechanism with powers to investigate complaints alleging abuses by such corporations that adversely affect the enjoyment of the human rights of victims, and of a legal framework that would facilitate such complaints.” The Committee went on to recommend that Canada “a) enhance the effectiveness of existing mechanisms to ensure that all Canadian corporations, in particular mining corporations, under its jurisdiction respect human rights standards when operating abroad; b) consider establishing an independent mechanism with powers to investigate human rights abuses by such corporations abroad; c) and develop a legal framework that affords legal remedies to people who have been victims of activities of such corporations operating abroad.”

The challenge now for human rights defenders is to keep this momentum going and to leverage these pronouncements with national level advocacy in order to achieve real positive change on the ground. Also, however, a concerted advocacy push should include the ETO to fulfil rights, by ensuring that corporate actors not only refrain from rights violations, but are required to ensure that their activities, including activities abroad, further the enjoyment of human rights around the globe.

Bret Thiele is the Co-Executive Director of the Global Initiative for Economic, Social and Cultural Rights, which undertakes advocacy in the area of extra-territorial human rights obligations.

For a comprehensive collection of UN pronouncements on extra-territorial obligations, including from treaty bodies, see the Global Initiative for Economic, Social and Cultural Rights' [Working Paper on UN Pronouncements on ETOs](#).

Additionally, the recent publication entitled [Global Economy, Global Rights: A practitioners' guide for interpreting human rights obligations in the global economy](#) by ESCR-Net provides an examination of the application of ETOs by UN mechanisms.

An update on National Action Plans: Who is developing what?

INCORPORATING HUMAN RIGHTS DEFENDERS INTO THE GLOBAL TREND OF NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS

By Sara Blackwell, Legal & Policy Coordinator, ICAR

The development of [National Action Plans \(NAPs\) on Business and Human Rights](#) is a notable avenue for addressing the heightened risks faced by human rights defenders (HRDs) working on corporate accountability issues. Since the adoption of the UN Guiding Principles on Business and Human Rights

(UNGPs) in 2011, particular pressure has been put on companies to independently change their policies and practices in response to instances of business-related human rights harms. While companies themselves should, of their own volition, contribute to a decrease in threats to HRDs, the role of governments in requiring and incentivising the private sector to better respect the human rights of HRDs is an essential one. The increasingly global focus on NAPs is a promising opportunity to put the onus back on States to fulfil their duty to protect human rights from adverse corporate impacts, as NAPs require governments to articulate commitments toward the adoption of laws, policies, and programs that promote business respect for human rights.



Photo: Wikimedia Commons

So far, six countries have published NAPs, and over thirty other governments are currently at various stages of NAPs development. While a small number of NAPs to date have explicitly addressed HRDs as a vulnerable group, adequate incorporation of HRDs into the process and content of NAPs has not yet been achieved. For example, while the Dutch, Lithuanian, and Swedish NAPs make no specific mention of HRDs, the [UK NAP](#) addresses the role of embassies in supporting HRDs and commits the government to promoting access to remedy in relation to HRDs. In addition, while the [Danish NAP](#) only mentions HRDs in the context of past governments' areas of focus, the [Finnish NAP](#) recognises the significant role that HRDs can play in human rights impact assessments and in the provision of legal remedies. ISHR and others have called on [Ireland](#) and the [United States](#) to ensure the participation of HRDs in the elaboration of NAPs and their protection in the substance, while also urging the UK to strengthen actions and commitments in relation to HRDs in their [revision of the UK NAP](#).

All signs point to more and more NAPs being issued in the coming years. HRDs and those working for their protection should take advantage of this increased government engagement on business and human rights issues to hold States accountable for their existing laws, policies, and programs to protect and support HRDs. They should also continuously and publicly assess NAP processes as they are underway, using lessons learned from corporate engagement to pressure States to meaningfully and transparently consult with HRDs and the communities they represent at every stage of a NAPs' development, implementation, and review. The HRD community should also contribute their experiences and expertise to the NAPs movement by submitting evidence-based recommendations that call on governments to include specific, measurable, achievable, relevant, and time-specific commitments that relate to HRDs. Such commitments will look different depending on many context-specific factors, including whether the country in question functions as a home State, a host State, or both.

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For more on the role of NAPs in the context of HRDs, see Sara Blackwell & Katie Shay, [The Role of National Action Plans on Business and Human Rights in Protecting Human Rights Defenders](#).

BUSINESS AND HUMAN RIGHTS: CHALLENGES AHEAD

By H.E. Steffen Kongstad, Ambassador of Norway to the UN in Geneva

In October, Norway joined the group of states with a National Action Plan for implementation of the UN Guiding Principles for Business and Human Rights (UNGPs). Another 20 states or so, in all regions of the world, are in the process of developing one. Surveys shows increasing numbers of companies putting thought and resources into understanding what respect for human rights should mean for their business, and developing innovative practices to manage human rights risks.

While there are many examples of improvements, the challenges in this field are massive. We need to do much more to prevent and address violations of human rights caused by business activities. Governments must step up national efforts and send clear and coherent signals to business through regulation and other incentives. States must speed up international efforts to fill gaps in the global incentive structure, including in the financial field. We also need to do more to address the patchy, unpredictable, often ineffective system of domestic law remedies, which hampers access to remedies for victims of human rights abuses today.

These large challenges make it tempting to look for one effective, simple answer, like a treaty. We are not excluding that an international instruments on a precisely defined narrow area could be necessary. The challenges are, however, so many and so diverse that we cannot achieve real changes on the ground without political will for immediate national action and reform in legislation and policies.

The OHCHR Accountability and Remedy Project is an important effort in this regard. Based on analysis of more than 60 jurisdictions it is already displaying a system of law remedies that lack clarity and coherence about the extent to which corporations may be legally liable, with severe funding problems for private legal action and very low levels of activity by domestic prosecution bodies.

The OHCHR project is supposed to provide recommendations to the Human Rights Council in 2016, but there are some interesting early findings. We can for instance learn from the fairly widespread use of strict liability in relation to labour rights and environmental protection. Human rights due diligence is a potential area for improvement. Some new and interesting ways of attributing fault to corporations are also emerging.

Human rights defenders, victims of corporate related human rights abuses and other civil society actors have a vital and constructive role to play in promoting corporate respect for human rights and in exposing and seeking remedy for the adverse human rights impacts of some businesses. We need these strong voices to encourage and support firm, concrete and immediate action on the ground, at national and international level, by States, businesses and the UN.

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How business can and should protect human rights defenders: speaking out and developing partnerships

CAN COMPANIES SPEAK OUT TO A ENSURE SAFE AND ENABLING ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS?

By Mauricio Lazala, Deputy Director, Business & Human Rights Resource Centre

Attacks, intimidation, harassment and killings of human rights defenders working on business and human rights issues have been on the increase for years - most have been well-documented. Unfortunately there are no signs of this trend abating any time soon. From Mexico to Azerbaijan, Israel to Ecuador, and India to Hungary, brave activists are weathering a storm of restrictions on their legitimate work. Over the past three years, more than 60 countries have passed or drafted laws that curtail the activity of non-governmental and civil society organisations. So what can be done to counteract these trends?



Photo: Public Domain Images

States have the primary obligation to respect human rights. But companies also have an important role to play, especially in the business and human rights sphere. And companies have made a stand for human rights, both publically and behind closed doors, on many occasions (albeit still in modest numbers).

My experience is that companies are far more likely to act when it relates directly to their operations or industries. Last year major apparel companies sourcing from Cambodia [condemned](#) the government for its violent crackdown on striking garment workers that resulted in deaths and injuries - this helped bring an end to the violence. In 2013 in Peru, six US textile firms [urged](#) the Peruvian Government to repeal a law that condoned labour rights violations, making it difficult for them to implement their own sourcing codes of conduct. Earlier this year [three jewellery companies](#) released statements calling on Angola to drop charges against Rafael Marques, a journalist on trial for defamation after exposing abuses in the diamond industry.

[Oxfam](#) and others have identified some of the causes and trends of increasing restrictions and attacks against corporate accountability activists and land and environment defenders. Among them are the proliferation of counter-terrorism measures that sweep civil society organisations into their embrace when governments interpret them too widely. In Chile, Mapuche indigenous people [have been convicted](#) on terrorism charges for allegedly starting a fire while protesting against a logging company. As [the Guardian pointed to recently](#), '[I]legitimate measures to curb funding of and money-laundering by terrorist organisations often have a debilitating effect on NGOs'. In this area finance service companies have the responsibility to show due diligence in distinguishing between illegal and legitimate money transfers.

Another trend identified by Oxfam is the availability of powerful technological tools to monitor and restrict defenders. Companies have a direct responsibility to avoid colluding with censorship and

persecution by States. Yahoo's former policy of sharing personal records of its users with Chinese authorities [infamously led](#) to the arrest, alleged torture and lengthy prison terms of at least four people. Yahoo faced a public backlash, lawsuits, and a Congressional hearing as a result. But large tech companies have also taken bold steps to protect their users; Google [pulled out of China](#) in 2010 over censorship attempts. In 2012, following a call from a Pakistani NGO to tech companies not to respond to a tender by their government for an extensive URL filtering and blocking system, four companies [committed publicly](#) not to submit bids – some cited human rights concerns as their reason for this.

Some companies have also taken a public stand on broader human rights issues, demonstrating that doing so does not result in economic doom, and refuting those who think this is not the 'business of business'. In March this year, 379 businesses and organisations [submitted a public statement](#) to the US Supreme Court in support of same-sex marriage. In the last couple years, [hundreds of companies](#) have publicly [expressed their support](#) for the peace process between the Colombian Government and the FARC guerrillas. In January 2015, following a series of anti-Islam rallies by xenophobic groups in Germany, companies [kept their installations dark](#); Volkswagen said the company 'stands for an open, free and democratic society'. More recently, [three FIFA sponsors](#) responded to NGOs' concerns around construction for the Qatar 2022 World Cup issuing statements supporting workers' rights in the country. And in September, [German businesses](#) offered support and joined campaigns welcoming refugees seeking asylum in Europe.

Far too many companies still remain silent when human rights are at stake in repressive States - or even actively work against respect of human rights - but many companies are showing that speaking out against abuse is the right thing to do, both for moral reasons and for [their own interest](#). Companies can be a powerful voice in the protection of the vulnerable in repressive countries, particularly where abuses are taking place linked to their industry or they are major investors.

A few brave companies are already helping to create and expand enabling environments for human rights. More companies should follow suit. Companies don't need to develop special skills for this; they already use their influence on governments when their interests are at stake. They just need to take care their advocacy is legitimate; ['there is a fine line between genuine concern and mere window-dressing'](#). Where human rights thrive and defenders are protected, companies will also find it easier to do business on a level playing field and meet their social expectations.

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WORLD BANK MUST PROTECT CIVIL SOCIETY ACTORS FROM RETALIATION AND REPRISALS

By Jessica Evans, Senior Researcher and Advocate, and Sarah Saadoun, Leonard H. Sandler Fellow, Human Rights Watch

The World Bank and its International Finance Corporation have a responsibility to protect human rights defenders and other civil society actors from retaliation and reprisals associated with projects it supports or finances.

In Cambodia, a small group of women stood singing on the sandlot where Boeung Kak Lake once was. A company had filled the lake with sand and, together with the government, persuaded or coerced thousands of families to leave their homes to make way for a high-end complex. The women had come

with a group of families to mark the boundaries of their destroyed homes, but the police took their tools and so they sang instead. After a few hours, the police moved in and arrested 13 women, one of them 72 years old. A court convicted them within 48 hours on trumped up charges and sentenced them to 30 months in prison, although some sentences were suspended.

The previous year, the World Bank's Inspection Panel found, and the bank admitted, that the Boeung Kak Lake evictions were directly linked to a bank project and violated bank policy. The bank responded as it should have: When the Cambodian government refused to work with the bank to address these wrongs it froze all new funding to the government until a solution could be found for the affected families.

Yet the World Bank remained largely silent on this and other occasions when the Cambodian security forces and courts carried out reprisals against critics of the project, throwing them in jail, violently quelling peaceful protests over the evictions, and threatening, harassing, and spying on critical community members.

The World Bank and its private sector lending arm, the International Finance Corporation (IFC), has similarly stood by in country after country when governments or companies retaliated against project critics. Over the last two years, we interviewed critics of projects in Cambodia, India, Uganda, Uzbekistan and elsewhere. More than half the people who lodged formal complaints against 34 bank-financed projects said they were threatened or faced some form of reprisal.

In one country, the government arrested an interpreter the bank's internal complaint mechanism had hired to assist them in investigating community complaints about a major development project, but the bank did little more than ask the government about the arrest. The interpreter remains in jail. Despite the Bank Group's considerable leverage and high-level access to its government and corporate clients, it has consistently done little or nothing to persuade them to tolerate criticism or intervene on behalf of the victims of reprisals.

The World Bank and IFC's unwillingness to take a firm stand against efforts to silence project critics is a manifestation of the Bank Group's broader repudiation of its human rights responsibilities. In response to a Human Rights Watch letter asking what the World Bank and IFC do to prevent and respond to reprisals, the Bank Group did not answer the question, instead emphasising that it 'is not a human rights tribunal'. The World Bank has used similar arguments to justify not incorporating human rights standards into its safeguard policies, claiming that it cannot enforce governments' human rights obligations and must limit itself to ensuring compliance with its own safeguard policies, which fall short of international human rights standards.

That is a poor excuse for the Bank Group to turn its back on people deserving its protection and blatantly distorts what is being asked of the bank. It is not expected to monitor a government's – or a company's – general compliance with human rights, but to ensure that it is not linked to those violations through the projects it finances.

This principle, called due diligence, is at the heart of corporate social responsibility. The United Nations Guiding Principles on Business and Human Rights provide that enterprises should undertake human rights due diligence to identify and mitigate the human rights impact not only of their own activities but also activities to which they are directly linked by their business relationships. Undertaking due diligence to prevent, investigate, and remedy reprisals would not make the bank a human rights tribunal; it would make it a responsible actor.

Moreover, reprisals serve as a clear reminder that the World Bank is mistaken if it believes it can so neatly draw a line between human rights and its safeguards. Bank Group policies require meaningful consultation with people affected by its projects, which depends on a safe environment where people can speak their mind without fearing reprisals. The same is true of its accountability mechanisms for addressing complaints: their utility is severely undermined when the bank is unwilling to protect people who initiate investigations at great risk to themselves. In other words, government and company retaliation against project critics is a serious obstacle to the effective implementation of bank policies.

As a public institution with a mandate to alleviate poverty, the Bank Group should be a leader in due diligence to protect people harmed by the projects it finances, including when they face threats, harassment, or imprisonment because they've filed a complaint or protested harm from bank projects. It's high time the bank stopped shirking its responsibilities, leaving people to speak out and seek redress at their own risk.

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MICROSOFT & DLA PIPER – WHY HUMAN RIGHTS AND HUMAN RIGHTS DEFENDERS ARE RIGHT FOR OUR BUSINESS

By Nicholas Patrick, Pro Bono Partner, DLA Piper, and Owen Larter, UK Government Affairs Manager, Microsoft Ltd

Human Rights have sometimes enjoyed a complex relationship with big business. Increasingly however, many global multi-national corporations have committed to conducting their business in a way that respects human rights. For many the motivations are purely ethical (for instance many businesses have signed the UN Global Compact which includes a commitment to promote human rights). Others are driven by a mix of business and moral considerations – for instance, the many corporates who now recruit direct from the third sector need to demonstrate a strong human rights policy to readily attract such talent, in return for the wealth of expertise, insight, networks, and even credibility such individuals can bring.

There is however more to be done, with human rights abuses still sadly occurring and many NGOs and other human rights defenders finding themselves targeted and persecuted in many countries. Addressing such abuses in a meaningful way is obviously a significant concern for civil society across the globe, as well as for any business that wants to conduct its operations in a responsible way.

The value of a strong human rights policy

DLA Piper and Microsoft's support for Human Rights is both well understood and deeply ingrained into our corporate culture and practices. For instance, at DLA Piper, many of the lawyers and consultants in the pro bono and responsible business teams come from the third sector and many in Microsoft's Corporate Citizenship teams across the globe bring extensive experience of the NGO sector. Both DLA Piper and Microsoft are proactive in respecting human rights and both have adopted human rights policies, ([Microsoft's Global Human Rights Statement](#)), with Microsoft also having

created the [Technology and Human Rights Resource Centre](#), designed to advance public understanding of the human rights impact of ICT.

As a result DLA Piper and Microsoft benefit from close, collaborative relationships with hundreds of NGOs; a strong connection to civil society that makes our businesses stronger. Our people gain an appreciation of some of the most complex social challenges of our time, as well as gaining valuable insight into the ways in which business activity can have a positive or negative impact on human rights. This in turn strengthens our business because it improves the quality of the products and services we provide to our customers as it gives us a broader perspective and allows us to identify social issues that may be relevant to our customers.

Furthermore, our collective experience certainly supports the belief that businesses thrive in communities that are rights respecting – not least as those territories tend to also display a strong respect for the rule of law. What is more, human rights defenders are crucial in fomenting rights respecting communities. It is therefore in our own self-interest as global businesses to support programmes which strengthen respect for the rule of law across the globe. This for instance, comprises one of the core aspects of Microsoft's Human Rights Statement.

Constructing a working framework to protect human rights defenders

As a result of this mutual and long-standing support for Human Rights, DLA Piper and Microsoft believe there are several ways the business sector and civil society can provide mutual support to each other to minimise the risk of persecution of human rights defenders.

- NGOs working in high risk environments need to establish networks of support within the business sector, particularly large multi-national corporations which have publicly stated a commitment to human rights. Invisible networks of influential friends and supporters in the business community can be invaluable when things go wrong. Human rights defenders should therefore partner with and work constructively with the business sector and foster partnerships and collaboration.
- Multi-national corporations ought to implement training for local managers. There is a particular need to ensure that local staff are trained to be respectful of the role of civil society, especially when communicating with regulators.
- Businesses should always aim to behave in a way that respects the rule of law. Where in doubt, this case needs to be made repeatedly and more clearly; for instance, in the same way that many in the business community have been proactive in articulating their support for gay rights.
- In certain circumstances businesses may wish to speak out in defence of NGOs and other civil society groups facing persecution. Having a prominent and well-developed policy on both Human Rights and external relations is helpful for guiding a company's behaviour.
- Some of this personal risk to business or reputation can be alleviated by having strong Trade associations, with their own systems and processes for responding on behalf of all members. By speaking with a united voice, the risks of unilateral action can be reduced or avoided entirely. The progress made by the technology industry via the Electronic Industry Citizenship Coalition around supply chain transparency is an example of how progress can be made in this way.

Moving Forward Together

While the above measures can constitute a balanced and proactive stance on supporting NGOs and basic Human Rights, we cannot be complacent. Rights respecting businesses need to be aware of the limitations being placed on NGOs around the world, and start to seriously assess how this expands the role and responsibility of the business community.

Fortunately, we are already starting to see trade associations becoming more active in this area. At the UN Forum on Business and Human Rights in Geneva in 2014 a group of US trade associations representing several business sectors argued that better legislative protections were needed to protect workers' rights in developing countries, supported by monitoring and enforcement. They argued that without such reforms the costs of ensuring compliance with human rights norms was being passed on to businesses that were not best placed to guarantee compliance.

Meanwhile in the UK, Microsoft has been deeply involved in advocating that more nations should implement the UN's 'Guiding Principles on Business and Human Rights' – which the UK was first to develop a National Action Programme to implement, however only a handful of nations have followed suit. Microsoft also recently addressed a high-level event hosted by DLA Piper in London entitled '[Business and the protection of Human Rights Defenders](#)' – where more industry support was invited for organisations like the [Global Network Initiative](#), which focusses on freedom of expression and Internet privacy or the [Electronic Industry Citizenship Coalition](#), promoting high labour, ethical and environmental standards in its supply chain.

Only through continued engagement between the business community, NGOs and human rights defenders can we continue to progress this important agenda.

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BUSINESS AND CIVIL SOCIETY: WORKING TOGETHER TO PROMOTE CORPORATE RESPECT FOR LAND AND ENVIRONMENT RIGHTS

By Brent Wilton, Director, Global Workplace Rights, The Coca-Cola Company; and David Bledsoe, Sr. Director Corporate Partnerships, Landesa

A '[social license to operate](#)' is not something a company applies for and obtains at the local government office; there are many factors that can contribute to obtaining or losing it. The respect for land rights (or lack of thereof) in the communities surrounding supply chain operations, including land acquired by suppliers, are one of those factors. Effective and secure land rights need to be legally and socially recognized, well-defined, enforceable, long-term, transferable, able to withstand changes in the structure of families and communities, and equal and enforceable for women and men.

Secure and enforceable land rights for communities and individual smallholders are important to strong economic development and to sustainable livelihoods. Secure rights spur investments in the land, increase environmental stewardship, and add significantly to household wellbeing, particularly when women have land rights. On the other hand, where land rights are inadequate or poorly governed and enforced, the community and individual land users suffer. These aggrieved populations can pose substantial risks for investors. In this context, respecting local land rights is not corporate philanthropy. It is effective risk management, good business and the right thing to do.

In late 2013 The Coca-Cola Company made a commitment to zero tolerance for land grabs. Given that in some parts of the world 90% of land is undocumented and land governance is almost non-existent, fulfilling the commitment is not as easy as simply drafting a corporate policy. Any such company policy is tangled up in the reality of implementation and the fact that in many countries clear land laws and regulations are not in place. Governments often lack the capacity to enforce existing regulations, or the required resources. Government programs for documenting and protecting land rights usually require, at a minimum: new or amended laws and regulations, specialized expertise, an ability and system to resolve disputes, and a consultative process that includes individual users and communities.

Under any approach to formalizing and protecting land rights, government should ideally take the lead. Nevertheless, there is a corporate responsibility to uphold and respect the legitimate but sometimes informal rights of land users – even when the government isn't able to provide the enabling environment. Over the last year and half the Company's work on land rights has centred on building internal knowledge and capabilities, establishing requisite policies, and engaging with NGO partners, bottlers and suppliers in working toward stronger and more consistent respect for land rights.

As part of this commitment, The Coca-Cola Company is undertaking 28 third-party country studies, in many with the partnership of Landesa, which focus on land rights, child labour and forced labour in the sugar supply chain, recognizing sugar as a commodity at risk globally for land rights issues. This effort is more challenging than it may appear as the Company does not purchase land for sugarcane, and does not directly control sugar-related land investments. As a result, the approach to real change needs to be collaborative and locally driven and adapted. With social license in the balance, stakeholder engagement with a range of civil society groups needs to be at the very centre of the work.

The first two of these country studies, [Colombia](#) and [Guatemala](#), have been published on The Coca-Cola Company website and several more will be published by early 2016. These studies serve as an important vehicle to build understanding of Company policies internally, and enable the Company to better prevent or mitigate potential future violations in collaboration with our bottlers, suppliers, and other key stakeholders. The intent of the studies is to conduct a rigorous review of Coca-Cola's supply chain and research the overall state of the industry. In Guatemala, for example, all authorized sugar mills supplying the Company participated in the research. Over 30 stakeholder organizations involved in the sugar sector or focused on the key issues were consulted and 579 workers were interviewed.

For the Brazil country study, which will be published in the coming months, Landesa developed tools for the researchers to use when talking with various stakeholders to better understand land use, rights and tenure security. Questionnaires were customized by stakeholder and ranged from smallholders and adjacent property owners to civil society to local government officials. While the studies may uncover existing practices that need remediation or even show the need for entirely new measures, the studies also provide information on good practices that can better inform replication and implementation.

In India, the Company looked to Landesa to help increase employee knowledge on national and state land rights. Navigating the intricacies of land rights in India is immensely challenging given disparate state laws and regulations that are overlaid with layers of varying historical and cultural norms. Landesa is helping traverse these issues starting with a day-long training provided for internal staff and another day-long session for the research firms.

Land rights is increasingly a focus area for the development and business communities alike. Despite a landscape of oftentimes confusing or poorly implemented laws, companies must figure out how to do the right thing. Fortunately this landscape is also giving rise to new approaches, new technologies and new partnerships such as that between The Coca-Cola Company and Landesa. All of these efforts

are getting us moving in the right direction towards our collective goal of zero land grabs and respect for human rights.

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GLOBAL SUPPLY CHAINS; ENGAGE WITH HUMAN RIGHTS DEFENDERS TO SHARPEN STANDARDS AND INCREASE TRANSPARENCY

By Michael Posner, Jerome Kohlberg Professor at the NYU Stern School of Business

The theme of this year's UN Forum on Business and Human Rights is 'Tracking Progress and Ensuring Coherence'. This Forum marks the fourth anniversary of the UN Guiding Principles, a fitting time to take stock of the business and human rights field. As the organisers of the Forum aptly observe, while there has been progress since 2011 'much remains to be done to translate policy statements and commitments into action and to ensure access to effective remedies for victims of corporate related human rights abuses'. One area where greater attention must now be directed is in tackling human rights challenges throughout global supply chains. An essential element of this effort is to create greater transparency, a place where human rights defenders have a vital role to play.

Global supply chains have been fuelled by the rapid expansion of market economies since the early 1990s, trade liberalization, and advances in transportation and communication technologies. The expansion of vast global supply chains has occurred in manufacturing, agriculture, fishing and other industries. The supply chain model has had numerous economic benefits to industry, dramatically reducing costs and making a much higher volume of products and commodities available on shorter time lines. These expanded supply chains also have created millions of new jobs, helping lift hundreds of millions of people out of extreme poverty.

But the rapid growth of supply chains also has brought new challenges, subjecting many of those who work in these industries to exploitation and unsafe working conditions that fail to meet international labour rights standards. Host governments in the places where this work is being done have the primary duty to protect these workers, but all too often they lack the will or capacity to protect their own people. In today's highly competitive global economy, many of these governments actually relax labour regulations and enforcement as they seek to win business from global brands. In many places they also seek to silence, attack or stigmatise trade union organisers and human rights defenders who they see as an impediment to their efforts to woo these global firms to do business in their countries.

In the absence of strong government regulation of these workplaces, global brands and retailers have struggled to define what the UNGPs calls the business 'responsibility to respect' human rights. Companies in different industries have taken some preliminary first steps to address these problems, developing a range of tools for doing so. Many have created company codes of conduct and monitoring programmes, employing a policing model of their main suppliers. Others have focused on private capacity building initiatives aimed at improving suppliers' internal management systems. Some have adopted certification schemes, which combine policing and capacity building. While each of these methods has yielded some episodic improvements, none have successfully addressed the most serious or systematic human rights problems in their supply chains, like factory safety issues in Bangladesh, mistreatment of workers in the Thai fishing industry, child labour in cocoa production in West Africa, or the problems associated with the mining of conflict minerals in the Congo.

Going forward a new approach to supply chains is needed. It should be based on: 1. an industry specific, standards based approach; 2. an assessment of the range of serious risks across each end-to-end supply chain; 3. a new remedial model that shares the costs and commitments among public and private actors; and 4. engagement with human rights defenders, trade unionists and community representatives both in developing standards and monitoring implementation and compliance.

Each industry group needs to work with other key stakeholders to develop common human rights standards and metrics that will set a clear substantive baseline for their industry. These standards need to be applied throughout company's end-to-end supply chains, including to all who contribute to the value of their end products or commodities. In assessing this universe, a distinction needs to be drawn between visibility and responsibility. The goal should be for companies to gain visibility over the full scope of their operations and those of their contractors and subcontractors, recognising that such full transparency does not mean that they bear the full responsibility for the costs of all remedies. Human rights defenders and worker representatives have a crucial role to play, both in helping to shape these standards and in ensuring full transparency. As they do so they must be protected against harassment or persecution in order to allow them to play this vital role.

Finally, once these real risks and costs have been established, a new remedial model needs to be developed, one that recognises the shared responsibility of global brands, local suppliers, host and home governments, international financial institutions and private philanthropy. Only by allocating the costs across these key private and public institutions will the most serious and important human rights challenges in supply chains be addressed in a meaningful way.

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A view from the regions: business, human rights defenders and regional mechanisms

INTER AMERICAN COMMISSION PRESIDENT CALLS SITUATION OF LAND RIGHTS DEFENDERS WORKING ON BUSINESS AND HUMAN RIGHTS 'A TOTAL DISGRACE'

By Eleanor Openshaw, Programme Manager (NGO Participation) and Head of Regional Advocacy, and Ben Leather, Advocacy, Training and Communications Manager and Focal Point for Latin America in Geneva, ISHR

The President of the Inter-American Commission on Human Rights (IACHR) has labelled as 'a total disgrace' the failure of States in the Americas to adequately protect defenders of rights to land, territory and environment, after hearing the testimony of defenders representing a coalition of 39 organisations, at a landmark hearing in Washington D.C. yesterday.

The coalition, of which ISHR was a convening member, also launched a [new report](#), covering 17 countries, which documents the specific and additional risks faced by human rights defenders working on issues related to business. The President noted that the protection of this group of defenders is a priority for the IACHR, although she acknowledged that a continued lack of resources deeply undermines the IACHR's ability to respond adequately.

Key points

Major new report, compiled by 39 organisations covering 17 countries, documents elevated risks face by those advocating for land, territory and environment rights in the Americas, with defenders subject to criminalisation, surveillance, kidnap and even murder by both State and business actors.

President of Inter-American Commission labels failure of governments to adequately protect defenders or to ensure accountability and an end to impunity for attacks against them a 'total disgrace'



Photo: ISHR

Report sets out over 40 recommendations to States, business enterprises and other actors to prevent criminalisation and attacks against defenders and ensure a safe and enabling environment for their vital work to promote corporate accountability, sustainable development and human rights.

The coalition of national, regional and international organisations working across the Americas had requested the first-ever dedicated hearing to highlight the role of businesses in violations against defenders working on the rights of the land, territory and the environment, whilst the new report contains recommendations directed to the IACHR, States, businesses and international human rights mechanisms.

'Through our analysis as a broad coalition we were able to present the Commission with evidence of a pattern of attacks against defenders of the rights of land, territory and the environment across the Americas, with examples of clear collusion between businesses, the State and even organised crime groups aimed at silencing defenders,' said Ben Leather of the International Service for Human Rights.

Opening the hearing on behalf of the Coalition, Maria José Veramendi of the Inter American Association for the Defence of the Environment (AIDA) noted that defenders of the rights of land, territory and the environment are at greater risk than other groups of defenders. Citing the work of Global Witness, Ms Veramendi noted that in the span of a decade - between 2002 and 2013 - at least 760 land and environment defenders were murdered.

'The environment in which these defenders work is one of deep-seated impunity, which simply encourages further threats and attacks against defenders,' said ISHR's Eleanor Openshaw.

Ms Veramendi highlighted that this impunity is particularly acute where the presence of the State is weak and yet businesses are free to operate. These are the very contexts in which defenders protect the lands and livelihoods of their families and community members. Particular tactics are employed to further undermine their work, including the stigmatisation of defenders as opponents of economic development, or as terrorists, all of which adversely affects their ability to seek justice and leaves them more vulnerable to further attacks and restrictions.

One tactic which is clearly documented in the report is that of the criminalisation of defenders through restrictive or vaguely worded laws being applied arbitrarily against them.

Danilo Chammas of Justiça nos Trilhos spoke of criminalisation at the hands of Vale S.A. in Brazil, where four members of the rural communities of Buriticupu in the north of the country were taken to court by the company for protesting the destruction caused by the passage of company vehicles through their territories. In addition, he highlighted how the company had used a surveillance system to monitor individual defenders and social organisations. The system, said Mr Chammas, functioned with the knowledge of the Brazilian State, using private security agents who previously had operated during the military dictatorship.

Maria Isabel Jiménez of the Asamblea Popular del Pueblo Juchiteco (APPJ) noted that criminalisation was commonly directed against indigenous leaders and those involved in demanding respect for the right of free, prior and informed consent for communities affected by proposed economic development projects. Making this demand of the State and of the company behind the wind farm project in Mexico had left Ms Jiménez, together with her colleagues and family, facing death threats and physical attacks in a divided community.

Isabel Zuleta, from Movimiento dos Ríos, said that in Colombia powerful interests that once gained from the war are now gaining from land exploitation, and that without changes to the current 'capitalist model', the destruction of the environment will continue and, with them, threats and attacks against those who defend it across the region.

In its recommendations, the coalition called upon the Commission to integrate a focus on this group of defenders across its work, whilst defining - with civil society - better protection measures to meet their particular needs, and particularly communities and collectives of defenders. The coalition also called upon the Commission to convene a meeting to bring together defenders and corporations to discuss the responsibilities of business towards ensuring a safe and enabling environment for defenders.

The panellists spoke of the threats and attacks they and their colleagues had experienced personally. Ms Zuleta spoke of a series of threats against her and in particular she highlighted an attempted kidnap against her and her colleagues. They had made a formal complaint against those they consider responsible, she said, yet no investigation has been started in regard to the events. A strong call was made to the IACHR about the need for defenders testifying at the Commission to be protected from reprisals.

Responding to the testimonies provided to the IACHR during the hearing, the President noted that the hearing had shone light on the 'breadth and depth' of the problem faced by defenders of the rights of land, territory and the environment across the region, noting that there exists 'a clear pattern of persecution' across the region. The President was clear about the limited funds available to the Commission, which have led to the delay of the establishment of a long awaited Special Rapporteur on Economic, Social and Cultural Rights.

The hearing was combined with another, led by International Institute for Law and Society together with indigenous authorities, which highlighted many of the same patterns of threats and attacks.

The organisations comprising the coalition and who contributed to the hearing and accompanying report are:

Asociación Interamericana para la Defensa del Ambiente (AIDA), Amazon Watch, la Asamblea de los Pueblos del Sur, Asociación Pro Derechos Humanos (APRODEH), Asamblea de los Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio (APIITDIT), Association for Women's Rights in Development (AWID), Colectivo de Abogados José Alvear Restrepo

(CAJAR), Centro por la Justicia y el Derecho Internacional (CEJIL), Centro de Derechos Humanos de la Montaña 'Tlachinollan', Centro de Derechos Humanos de las Mujeres Chihuahua, Centro Mexicano del Derecho Ambiental (CEMDA), Centro Nicaragüense de Derechos Humanos (CENIDH), Comisión Ecuaménica de Derechos Humanos (CEDHU), Comisión Mexicana para la Defensa y la Promoción de los Derechos Humanos (CMDPDH), Comité de Familiares de Detenidos y Desaparecidos en Honduras (COFADEH), Comunidad de Derechos Humanos Bolivia, Conectas Direitos Humanos, Comisión Colombiana de Juristas, Derecho, Ambiente y Recursos Naturales (DAR), Due Process of Law Foundation (DPLF), Federación Internacional de Derechos Humanos (FIDH), Fondo de Acción Urgente de América Latina y el Caribe (FAU-AL), Forum Suape, Global Witness, Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, International Service for Human Rights (ISHR), JASS por Asociadas por lo Justo (JASS), Justiça Global, Justiça nos Trilhos, Laboratorio de Paz, Movilización de Mujeres Afrodescendientes del Norte del Cauca por el Cuidado de la Vida en los Territorios Ancestrales, Peace Brigades International (PBI), Plataforma Internacional Contra la Impunidad, Proceso de Comunidades Negras en Colombia PCN, Proyecto de Derechos Económicos Sociales y Culturales (ProDESC), Robert F. Kennedy Human Rights, Terra Mater, La Unidad de Protección a Defensores y Defensoras Guatemala (UDEFEQUA), y Unión Nacional de Instituciones para el Trabajo de Acción Social (UNITAS).

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DEFENDERS' WORK IS KEY TO ENSURING ACCOUNTABILITY OF EXTRACTIVE COMPANIES

By Clement Voulé, Programme Manager (States in Transition) and Head of African Advocacy, ISHR, and member of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa of the African Commission on Human and People's Rights

Across the Africa continent, Human Rights Defenders (HRDs) working to promote the respect of human rights by extractive industries consistently face multiple risks and threats. Companies see them as trouble makers, who threaten their business and profits. On the other hand, Governments often accuse them of working against national interests or disturbing their privileged relationship with business partners. All too often, the sole objective of multinational corporations is to maximise, profit, while Governments' main concern is to attract investment regardless of the negative consequences and impact on the fulfilment and enjoyment of basic human rights.

Since August 2014, the African Commission Working Group on Extractive Industries, Environment and Human Rights Violations in Africa has organised three major regional consultations² on the impact of extractive industries on the enjoyment of human rights on the African continent. One of the key themes emerging from these consultations is the need to ensure the protection of HRDs fighting to

² Consultation for Southern region (August 2014) , East Africa sub region (January 2015) and Central Africa region (July 2015)

protect the rights of communities and individuals from the negative effects that result from natural resource extraction. It is clear that without the work of HRDs there would be a vacuum, as no one would hold corporates to account for the human rights abuses that they commit.

Regardless of the great risk that HRDs are exposed to, they have been persistent in their endeavour to expose human rights violations in the sector. They operate in extremely hostile environments making sure community grievances are heard. However, they face enormous challenges establishing working relations with and getting the audience of the companies and governments involved in the extractive sector. Their work is often criminalised and their security is often at risk. It is therefore essential to highlight the important and credible work carried out by these activists and to advocate for their protection.

The submission received by the working group during the Central Africa consultation in Lubumbashi, DRC highlights the critical contribution made by HRDs working in the extractive sector. Firstly, there is little awareness about international human rights, especially among indigenous populations and those in rural areas where violations often take place. Secondly, there is no space for communities to voice their concerns during the value chain due to the failure to implement the free, prior, and informed consent (FPIC policies). Lastly, communities and HRDs face barriers to adequately participate during policy formulation and decision making with regards to the natural resource sector.³

The ACHPR Working Group on Extractive Industries, Environment and Human Rights Violations in Africa takes the issue of the protection of HRDs very seriously as it is a core part of the implementation of its mandate. The resolution establishing the working group⁴ clearly expresses the need to work closely with HRDs and other stakeholders operating in the extractive sector to promote the respect of human rights by holding extractive industries corporations to account. In line with this approach, in November 2015 during the 57th ordinary session of the African Commission the Working Group will organise a joint side event with the International Service for Human Rights focusing on the challenges faced by HRDs working for the respect of human rights by multinationals operating in the extractive sector.

The upcoming consultations and meetings of the Working Group will help increase the attention brought to this issue. The Working Group will also carry out consultations in the West Africa region in February 2016 and in North Africa in late 2016, where it hopes to receive submissions on the situation of defenders and their rights as a result of their work, which exposes the impact of the conduct of multinationals in the extractive sector.

The work and impact of HRDs in the extractive sector should not be underestimated. These HRDs hold multinationals accountable when they abuse the law and cut corners to enhance their profits. Ultimately, by protecting HRDs we seek justice for affected communities and hold corporations to account for malpractice.

³ http://www.ishr.ch/sites/default/files/article/files/submission_to_the_african_commission_v2.pdf.

⁴ <http://www.achpr.org/sessions/46th/resolutions/148/>.

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Human Rights Defender Profiles

JEAN-PIERRE OKENDA: HUMAN RIGHTS DEFENDER FROM THE DEMOCRATIC REPUBLIC OF CONGO

After a number of years working with human rights organisations, Jean-Pierre Okenda has taken his own route toward improving human rights impacts of extractives projects in his country. His role, as coordinator for a platform of civil society organisations in the mining sector, involves a great deal of immersion in books and texts, but also with people. ISHR spoke with Mr Okenda on the margins of a meeting of the African Commission to hear his story.



Photo: Supplied

Defining the problem in DRC

'In the context of the DRC, it was absolutely critical that I redirect my work to make clear the connection between human rights and the extractive sector, and that meant research. It means understanding the global stakes of the issue. It meant explaining how bilateral relations and investment treaties really impact ordinary citizens and their rights.'

Research for research's sake is not Mr Okenda's goal. He aims to develop networks, training, and tools to empower affected communities and other organisations to better document, understand, and evaluate the human rights impacts of a project. He also emphasises the role of research in strengthening peoples' understanding of the links between human rights, extractives industries, and taxation, incomes, and other 'technical' issues. He also urged legal reforms to help protect human rights at the local level.

From the ground up

Building relationships with the government and enterprises is a challenge – but it is possible, if one understands where they start from.

'I sent a questionnaire on human rights to local and national authorities, and you know what? There was, aside from a small amount of general familiarity at the central level, a total gap in terms of human rights knowledge. This made it clear that – sometimes – violations arise because of this lack of awareness or training. And yet, they are still responsible for protecting and realising these rights!'

'It is important,' he added, 'that they know what we are looking for when we come and ask for such and such a document.'

'With corporations, it is the same. They limit themselves to two things: to the legal framework, and to the business's internal priorities and policies. If they don't have an internal policy, it's likely that they don't know a thing about human rights. To get them to think about human rights, it is critical to use another language they will understand, the language of professionalism.'

To further insist on empowering local communities and civil society to act, Mr Okenda noted the critical importance of having decentralized human rights institutions, so that even communities far from Kinshasa could seek resources and assistance to combat violations and abuses. *'There is a growing global move toward more participation of civil society, in decisions related the politics and planning, in addition to the implementation. We need to see this apply in the area of extractives as well.'*

The participation at the global level of local communities in the conversation about human rights and businesses is important. But the ability to participate is limited, says Mr Okenda, and so while human rights are central to the resolution of the issue, they will always be limited by governments' hypocrisy, by neoliberalism, the financial crisis, and other geostrategic concerns.

Risks to defenders: evident and pervasive

Mr Okenda is clear: risks do exist, for all human rights defenders, including intimidation, violent attacks, denunciation, and abusive prosecutions. For those working on investment and extractives issues, the problem is that these might sometimes be the very same individuals or institutions (e.g., government agencies) that are meant to be protecting the people.

So, according to Mr Okenda, defenders face every day a personal dilemma – to do what they think is right and defend a community's interests, or to protect their property and the lives of themselves and their families. In addition to overt risks, some defenders face pressure from their families themselves, who worry about the impact of rights defence work on safety and security. *'When the family becomes vulnerable, you are really weakened, too.'*

Nonetheless, concludes Mr Okenda *'Even if there are risks, even if we human rights defenders face failure or lose patience, it is essential to keep speaking out. Silence is the biggest threat.'*

Mr Okenda remains optimistic in his work. Efforts to encourage the government to recognize human rights defenders, and – along with corporate actors – see defenders as partners as opposed to adversaries, will be key.

ALBERTO SOLIS CASTRO: HUMAN RIGHTS DEFENDER FROM MEXICO

Alberto Solis Castro first gained exposure to human rights issues among the indigenous population of Mexico at a young age, when he worked with local indigenous communities as a teenager. He worked as an observer to the peace process between the Zapatistas and the Mexican government, and in doing so began to understand how people in these indigenous communities lived and what they needed.

Much of Alberto's current work with Servicios y Asesoría para la Paz (SERAPAZ) is intertwined with the changing situation of indigenous communities in Mexico.



Photo: Supplied

'We do a lot of work with communities who have issues with international businesses; they are constantly struggling to defend their land and national resources from corporations.'

Mining remains the largest threat, with over one third of Mexican land conceded to various extractive corporations, but there have been conflicts over projects ranging from wind farms to aqueducts to dams.

The unbalanced power of government and businesses

A defining feature of human rights violations in relation to business in Mexico is the unequal power dynamic between the government and businesses.

'The companies have a lot of power, and they are constantly giving orders to the government. So the government under a lot of pressure, which in many cases culminates in a repression of local communities to appease businesses. Sometimes businesses also blackmail the government; they demand that the government ensure that there is no social backlash from their project, or else the business will levy a huge fee for stopping the project. In the end, either the project will go forward or the government will pay the fee using money from the people's taxes. So they always win, they can win every case one way or another.'

Occasionally, businesses will make arrangements with organised crime syndicates. This is often done with the implicit agreement of the municipal authorities, creating an oppressive and dangerous environment for all defenders and activists. This was most notable in the case of the 43 disappeared students in Ayotzinapa, but is also a threat faced daily by defenders of human rights in business. There have been multiple cases of defenders who were murdered, disappeared, or killed in suspicious accidents.

The responsibility of international actors

Alberto pinpoints the need for international actors - international NGOs, intergovernmental organisations, multinational corporations - to work together with the State to address these human rights violations. On their own, he says, they have not made much of a change.

'The Mexican government has passed legislation to protect indigenous communities, but international businesses do not follow it. The UN has legislation to protect economic, cultural and social rights, but the Mexican government will not ratify it. It is very important that we come at this problem from all sides.'

He also calls for international regulations on multinational corporations' operations. Many of the companies working in Mexico are from other nations - particularly Spain - and they enjoy a certain amount of freedom in the way they run their businesses abroad. Alberto states that a key aspect that needs to be addressed is the lack of information, or even misinformation, shared with locals by companies.

'Businesses are just trying to sell something, so of course they only share the positive aspects of their projects with the local communities. I know that that's how it works. But we need to change their concept of human rights; human rights are an integral part of business, not an obstacle.'

Like many other Latin American and African States, the Mexican government often justifies these exploitative projects as contributing to the development of the country as a whole, and thus worth any local sacrifices. Alberto stresses that vulnerable groups, including poor and indigenous communities, rarely if ever reap any benefits from large scale industrial projects.

'As long as the Mexican government keeps claiming that these projects are for the "development" of the whole nation, while ignoring the actual needs of the people, it's difficult to believe that the situation could change anytime soon.'

WILL MCCALLUM: HUMAN RIGHTS DEFENDER FROM THE UNITED KINGDOM

'I would say that it is the tactics we use are what provoke a backlash from the Government as much as the issues we work on. In the UK if you make full use of the freedom of information system or judicial reviews, then you are probably going to have speak out publically about the failures of government policies. This is what puts you in the firing line'.



Photo: Supplied

And as Greenpeace and other environmental groups have highlighted the risks to environmental rights implied by UK energy and climate policies, they have found themselves targets of derogatory statements from both authorities and the media, questioning the motives of their work. The [previous Environment Secretary](#) labelled them 'self-serving', 'highly paid globe-trotters' 'focusing on the wrong issues and doing real harm while profiting handsomely'. Yet Will says that this is actually emblematic of a broader governmental intolerance of civil society advocacy.

'There is a general background noise from the government which is anti-NGO; there's a sense of disrespect and there's been a marked difference since 2012. It's as if the government see questioning by civil society as a pain which ought to be kept in check. But dissent has its rightful place in a democracy and, in fact, we can help ensure the government makes policies which respect rights and protect the environment. There is a sense that in the UK the government would like to see the role of NGOs as one of simply service providers'.

Restrictions on the activities of NGOs

This attitude has manifested itself not only in the governmental discourse, but also in legislation limiting NGO activities. Will points to the 2014 Lobbying Act, which put strong financial and administrative limitations on the advocacy work NGOs could do around election periods. [A recent letter](#) by 150 NGOs called for the law's repeal, following a recent [independent inquiry](#) into its impact.

'At least as concerning for us, however, is the current review of the Freedom of Information Act. Over 140 organisations [spoke out](#) last month in concern at apparent attempts to weaken the Act. The government has mandated a Commission to carry out the review, but almost all of its members are politicians and all have a track record of questioning the Act. Where's the balance? Where's the view of those of us who rely upon the Act to hold the government accountable?'

Will is concerned at suggestions that the Commission will recommend the implementation of fees for tribunal appeals against freedom of information decisions, currently free.

'At Greenpeace we have a certain amount of resources we could invest in such appeals. But what's the impact for smaller organisations and grass-roots human rights defenders? They rely on this Act to demand better from the State'.

A lack of transparency and of proper consultation are two obstacles which make it difficult for organisations and communities to question the environmental impact of business projects, says Will.

'On the one hand, there is a failure by the government to be transparent regarding who they are being lobbied by and how; there is no effective lobbying register. Yet on the other hand there is a reluctance on the part of the State to listen to those communities and activists who are asking for an environmental perspective to be taken into account. The government wants to expedite business projects at all costs, as shown by a recent [change to planning guidance](#) which will allow central government to circumvent local authorities in the approval of fracking projects if the latter has taken more than 16 weeks to evaluate a project proposal'.

The use of Counter-terror legislation to limit activism

In an echo of a [disturbing global trend](#), another fear amongst environmental rights organisations in the UK, is the possible use of counter-terror and surveillance legislation to limit their activism. As the UK government pushes bills to clampdown on extremism, Will is concerned that some of the laws' vague terms and exceptional processes have the potential to be misapplied.

'The government has said that the Extremism Bill is to tackle what [falls below the legal threshold for terrorist proscription](#). There needs to be a clear articulation of what this means to ensure the law cannot be abused. Meanwhile, the [Policing and Criminal Justice Bill](#) provides for 90-day pre-trial detention. Any law which gives authorities who are relatively intolerant to dissent the power to lock people up before they've been judged must be subject to proper consultation of local civil society and international human rights experts before it is passed'.

It will also fall upon this government to make guarantees of no-repetition in the cases of [police spying and surveillance](#) of environmental groups which have led to a public inquiry into [undercover policing](#).

'But this is all part of a global trend of clamping down on civil society, particularly when it is seen as slowing the pace of business. Many of our colleagues from Greenpeace around the world are suffering far harsher consequences. In India, for example, the government has been making a [sustained attack on civil society organisations](#), including Greenpeace, for over a year now. In the UK we are in the relatively fortunate position of living in a country which has a rich history of protest and civic activism. That only makes it sadder that the government is following this trend and trying to silence us'.

Will McCallum is Political Network Coordinator at Greenpeace in the United Kingdom. Follow Will on Twitter at [@artofactivism](#)

MUCHAMAD DARISMAN: HUMAN RIGHTS DEFENDERS FROM INDONESIA

Since the end of the Suharto era, Indonesia has made ever-accelerating progress economically, including joining the G-20, and is now the world's fourth most populous country with over 255 million people. However, that development has a price. The demands of that population – for housing, food, and energy – have meant development of buildings, infrastructure, and an industrial agriculture at a similarly



Photo: Supplied

breakneck pace. For those who build the skyscrapers of Jakarta, who harvest palm oil on Sumatra, or manufacture sportswear in Java, health risks and business-related human rights abuses are pervasive.

Enter Muchamad Darisman. He currently partners with U.S.-based Worker Rights Consortium to monitor and improve working conditions in garment factories, but he is also the founder, since 2009, of a local NGO that raises awareness of occupational disease and victim's rights. He has led campaigns to highlight the ongoing (and legal) use of asbestos in Indonesia and across the Asian region, and to raise awareness about the negative health impacts on workers and communities.

'The worker needs to be the main source'

'What we see in Indonesia is a lack of knowledge by almost all workers about their rights, and the development of unions is low. So violence at work and occupational safety and health risks are common,' says Darisman.

The Indonesian garment sector is considerably more developed than some of its regional counterparts. Nonetheless, the relationship between workers and factory management can be tense, especially when there are complaints.

'Sometimes, the brand will just use a company [supplier factory] report, which might not be inclusive of the workers' perspective. For us, it is important that the worker be the main source. We go to them in the dormitories, and listen to their cases. Then, even if the factory denies the findings, we have proof and can talk to the brand.'

Worker-centred monitoring schemes on a range of labour rights, including occupational safety and health, are growing in popularity as traditional, third-party audit models are falling out of favour in the aftermath of the disasters in 'up to code' factories in Bangladesh and Pakistan, including Rana Plaza.

'When the brand gets involved, sometimes they still deny the findings. They don't want to take on responsibility for working conditions or freedom of association.'

Soft tactics and quiet threats

The environment for NGOs and freedom of association in Indonesia is, compared to other ASEAN countries, relatively open. Nonetheless, the impact of the 2013 Law on Mass Organisations requiring both [foreign and domestic NGOs to report on funding and activities](#) and cementing management of NGOs in the Ministry of Home Affairs has posed some barriers, including to major international NGOs. - Workers have the right to form and join unions, another element of freedom of association, under the Ministry of Manpower, but implementation is not complete. For example, the government still has the discretion to approve the registration, or not.

'I had one case in [a major car manufacturing facility] where workers wanted to organize, but the management wouldn't give permission. There was an inactive union already. So the workers went to the local authorities, but the government refused to give them a permit letter. It isn't clear, but we think the company used their influence – they just didn't want a progressive union that would exercise its rights.'

However, defenders working on issues of corporate accountability in the sector, which is arguably one of the more advanced and responsive to reputational risk, still face threats in their work.

'A lot of the time, we are just told at the door that we cannot have access. Other times, the threats come outside the factory, with people watching and following us, the NGO workers, and even their own workers who are trying to organize a union.'

Union-busting is common, and occasionally, Darisman notes, factories involve local gangs. *'It depends on the nature of the company, on how closely it is linked to the brand. But surveillance is soft tactic, while other times they might question you, or even go to your home to tell your family that you are causing trouble'.*

Garment factories have also come under criticism for alleged contamination of local waterways by chemicals used in dyeing, printing, and finishing synthetic fabrics.

No paradise under these palm trees

Land rights and the progressive expansion of agricultural plantations are another issue confronting Indonesian activists and civil society. In Indonesia, roughly 6 million hectares are under cultivation – an area twice the size of Belgium.

'Abuses related to land are common. 'A lot of the time, NGOs working on land issues and organisations of farmers will be stigmatized; they might be labelled "Communist" or, at the same time, be accused of being the "hand of Western states". They are interrogated about their sources of funding, and sometimes their projects are blocked'.

On 29 September, farmers from three of the major islands came together in Jakarta to demand official recognition of ownership of the land they work, according to Indonesian law. Leaders of farmers' organisations described the barriers posed by local governments, who act in their own interest to sell the land to mining or plantation businesses. Clashes often occur between farmers defending their right to land and police, soldiers and 'criminals paid by companies'. In a separate case in February 2015, a young [land and worker rights activist was killed](#), allegedly by security guards for the Asia Pulp and Paper company.

The extractives sector poses its own challenges. As Mr Darisman spoke with ISHR, the East Java police were wrapping up an investigation regarding [the death of a farmer known as Salim](#). His body was found on 26 September, bearing signs of torture, and official comments have confirmed that his death was directly linked to his role leading a protest against an illegal local sand mining operation.

The role of brands, and the way forward on human rights

Many brands, say Darisman, are reluctant to act even when they hear about abuses in their supply chains. They don't want to take on the responsibility of fixing problems. Some models have developed to help supplier factories meet minimum standards through a combination of training and monitoring, most prominently the ILO's Better Work program. But, say some activists, this does not always solve the problem and instead, can give a stamp of approval to companies who, in other facilities or at other times, have been charged with human rights abuses. *'These factories have to resolve the issues at the root, not just delay or hide behind a CSR program'.*

Working in coalitions has been helpful in achieving success in victim organizing on issues of occupational disease. In part, Darisman notes, this is because companies from China, Korea and Vietnam can be difficult to work with, so sharing strategies and approaches is critical. But he adds that it is also a result of development patterns in the region –as asbestos materials were banned in countries like Japan, and later South Korea, the factories moved elsewhere, including to Indonesia. [Asian regional networks, for example ANROEV and A-BAN](#), have brought together victims of asbestosis or other occupational disease to connect those currently in litigation with victims from other jurisdictions who were successful in securing compensation to motivate one another and share advocacy strategies.

'The UN is really important, and civil society should know how to use it, what tools can help them push Indonesia from the grassroots level to do what the UN recommends. But a lot of socialization needs to happen first. Training is key.'

The more people can share information, including at the international level, the better those networks and coalitions can advocate for change on the ground. Darisman remains optimistic, he says, especially when he looks at his friends and other civil society organisations. The efforts of government and the brands by themselves are not sufficient to change, which needs to be driven by those most affected.

'I am just one person, but there are many out there working on these issues and taking even bigger risks. Workers want change, and even though it won't come easily, we can fight together for rights regardless of national borders, push the governments, get to the heart of global brands, and change global society from the grassroots.'

ISHR: supporting corporate accountability defenders in their international work

Over the past 12 months, ISHR has trained tens of human rights defenders working on the issue of business and human rights, as well as providing them with direct support and advice in carrying out international advocacy.

Defenders from Australia, Brazil, Guatemala, Honduras, India, Mexico, Mongolia, Sweden, Tanzania, Venezuela and Vietnam – amongst many other countries – have been trained by ISHR through a range of workshops, whether over two weeks in Geneva, several days in-country, one-day overviews or sessions with a specific focus on the issue of corporate accountability.

Participants learn about how to interact in a strategic way with the UN Human Rights Council, its Special Procedures and Universal Periodic Reviews, as well as the Treaty Bodies. They are brought up to speed regarding international developments around the issue of business and human rights and given tips on advocacy techniques.

When trainings take place in Geneva, ISHR has facilitated meetings with Special Procedures, diplomats, treaty body members and INGOs, so that the human rights defenders put their skills into practise immediately, advocating on their issues and making contacts for their future international advocacy.

Joint actions on business and human rights are often taken in follow-up to trainings, such as joint submissions to the [UN intergovernmental Working Group towards a binding treaty](#), the [Inter-American Commission on Human Rights](#) and the [Human Rights Committee](#).

This November, around the UN Forum on Business and Human Rights, ISHR will welcome to Geneva nine defenders from eight countries for a short training and joint strategizing session, as well as accompanied advocacy at the Forum itself.

In 2016 ISHR plans to continue to strengthen the expertise of defenders working on corporate accountability, with an intensive two-week training and accompanied advocacy programme planned for June, and country-specific trainings including in Colombia in January.

Key resources for human rights defenders working for business and human rights

ISHR SUBMISSIONS & REPORTS

- A [regional report](#) on the specific and additional risks faced by human rights defenders working on issues related to land, territory and the environment in the Americas; the responsibility of the State and business (an analysis by a coalition of 39 organisations from 12 countries presented at the Inter-American Commission on Human Rights in October 2015).
- [Submission to the African Commission's Working Group](#) on Extractives Industries, the Environment and Human Rights on the situation of corporate human rights defenders in Central Africa.
- [Submission to the UK Review](#) of its National Action Plan on Business and Human Rights.
- [Submission to US](#) on its National Action Plan on Business and Human Rights.
- [Submission to Ireland](#) on its National Action Plan on Business and Human Rights.

OTHER KEY AND RECENT REPORTS

- An [analysis by the Business & Human Rights Resource Centre](#) of more than 200 lawsuits against companies over the last decade found that legal harassment of human rights defenders working to hold businesses accountable for human rights abuse is on the rise. This analysis included several recommendations, including to governments
- A policy report initiated by Universal Rights Group, [The Road from Principles to Practice: Today's Challenges for Business in Respecting Human Rights](#), prepared by the Economist Intelligence Unit, contains the results of a global survey of 900 CEOs, designed to understand their views, perceptions, strategies and actions in the human rights field.
- The International Corporate Accountability Roundtable (ICAR) together with the Danish Institute for Human Rights produced a handbook titled: [National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks](#), gives in-depth information about NAPS and valuable tips for engaging in the process.

Key advocacy spaces for human rights defenders working on corporate accountability

This is a brief compilation of key spaces available to human rights defenders working on corporate accountability at international and regional level, and through civil society initiatives. It intends to provide a starting point for orienting advocacy work by and for human rights defenders working on corporate accountability at international and regional level, and not to provide an exhaustive list of initiatives in the area of business and human rights.

THE UN'S FOCUS ON BUSINESS AND HUMAN RIGHTS

The UN established in June 2011 a [Working Group on the issue of human rights and transnational corporations and other business enterprises](#). The key mandate of the Working Group is to promote the effective and comprehensive dissemination and implementation of the [Guiding Principles on Business and Human Rights](#), using the usual range of tools available to [Special Procedures of the Human Rights Council](#) (country visits, thematic reports, and individual communications).



Photo: UN Geneva

In order to discuss the trends and challenges in the implementation of those Guiding Principles and to promote dialogue and cooperation on issues linked to business and human rights, a [Forum on Business and Human Rights](#) has been held every year since 2012 and is open to all relevant stakeholders, including in particular human rights defenders. There is an increasing focus on human rights defenders in the agenda of the Forum, with two specific panels dedicated to human rights defenders in 2015 focusing on women human rights defenders and on the role of business in protecting defenders respectively.

The [Special Rapporteur on the situation of human rights defenders](#) and the [Special Rapporteur on the rights to freedom of peaceful assembly and of association](#) have both expressed concern about human rights defenders working on these issues, with the previous Special Rapporteur on human rights defenders devoting a [report to the issue of human rights defenders working on major development projects](#) and the Special Rapporteur on the rights to freedom of peaceful assembly and of association devoting a report to the issue of freedom of association and the extractive industries.

In June 2014, the Human Rights Council mandated an Intergovernmental Working Group (IGWG), tasked with commencing work towards the drafting of an international legally binding treaty on business and human rights. In July 2015 the IGWG had their first session, more information and reports can be found [here](#).

Finally, the [UN Global Compact](#) initiative, is intended as a practical framework for the development, implementation, and disclosure of sustainability policies and practices by businesses that are committed to aligning their operations and strategies with ten universally accepted principles.

BUSINESS AND HUMAN RIGHTS AT THE AFRICAN LEVEL

The ACHPR has a Working Group on Extractive Industries, Environment and Human Rights Violations, established by Resolution 148 which was adopted at the 46th Ordinary Session held in 2009. The mandate of the Working Group is principally to examine the impact of extractive industries within the context on the African Charter and undertake research on issues pertaining to the right of all peoples to freely dispose of their wealth and natural resources, as well as gathering information on cases and on how to hold liable non-state actors. The resolutions and reports are available [here](#).

The Working Group also collaborates with interested donors and NGOs. To find out how NGOs can engage with the Commission, obtain an observer status, participate to the NGO Forum and submit reports, click [here](#).

The Working Group is in the process of holding sub-regional consultations. Having held its [Central Africa consultation](#) in mid-2015, a West Africa consultation is planned for early 2016.

BUSINESS AND HUMAN RIGHTS AT THE EUROPEAN LEVEL

The Council of Europe's Steering Committee on Human Rights (CDDH), on the Committee of Minister's request, prepared a preliminary document listing the existing standards and outstanding issues in the field of business and human rights. The CDDH was then instructed with the task of drafting a political declaration supporting the UN Guiding Principles, as well as a non-binding instrument, which may include a guide of good practice, addressing gaps in the implementation of the Guiding Principles at the European level. For this purpose, it set up a Drafting Group on Human Rights and Business, which already elaborated a [Declaration of the Committee of Ministers supporting the UN Guiding Principles](#). For more information and documentation, click [here](#).

BUSINESS AND HUMAN RIGHTS IN THE ASEAN REGION

In June 2014, the ASEAN Intergovernmental Commission on Human Rights (AICHR) finalized its [first thematic study](#), which focuses on Corporate Social Responsibility and Human Rights in ASEAN. The study can be used as a tool of promotion and protection of human rights in the business sector, and shows the commitment of this ASEAN human rights body to take into account corporate responsibility in future policy frameworks in the region.

Two NGOs have released reports on Business and Human Rights in ASEAN : the Business and Human Rights Resource Centre (BHRRRC) report '[Business and Human Rights in ASEAN: A Baseline Study](#)', '[Development for all, or a privileged few?: Business & human rights in Southeast Asia](#)', and, FORUM-ASIA report '[Corporate Accountability in ASEAN: A Human Rights-Based Approach](#)'.

BUSINESS AND HUMAN RIGHTS IN THE INTER-AMERICAN SYSTEM

Although there is no Special Procedures on the issue of business and human rights at the Inter-American Commission on Human Rights (IACHR), the human rights independent body of the Organisation of American States (OAS), there is however a [Rapporteurship on Human Rights Defenders](#) and a [Unit on Economic, Social and Cultural Rights](#).

It is noteworthy that the General Assembly of the OAS adopted in June 2014 a resolution entitled "[Promotion and Protection of Human Rights in Business](#)". The Resolution, amongst others, urged States and the IACHR to disseminate the UN Guiding Principles, and requested the Permanent Council to hold a special meeting, through the OAS Committee on Juridical and Political Affairs in first quarter 2015, to foster exchange of experiences and best practices on the topic.

THE OECD GUIDELINES ON BUSINESS AND HUMAN RIGHTS

The [OECD Guidelines for Multinational Enterprises](#) (also available in [French](#)) are recommendations for responsible business conduct that 44 adhering governments encourage their enterprises to observe wherever they operate.

The Guidelines establish that firms should respect human rights in every country in which they operate, as well as environmental and labour standards.

NGOs can submit a "specific instance" or a "complaint" about alleged breaches of the OECD Guidelines for Multinational Enterprises (Guidelines) to a government's National Contact Point (NCP). For a guide on how NGOs should use this procedure, click [here](#).

THE BUSINESS AND HUMAN RIGHTS RESOURCE CENTRE

Founded in 2002, the [Business and Human Rights Resource Centre](#) offers a broad range of resources related to human rights abuses and advances of companies around the world. Amongst the 'Big Issues' covered, there is a whole section on [human rights defenders](#).

The Business and Human Rights Resource Centre also has its own [publications](#) such as briefings on corporate legal accountability, on business and freedom of association, on information and communications technology, on business and children, on private military and security companies, as well as country and regional briefings.

CHILDREN'S RIGHTS AND BUSINESS

Developed by UNICEF, the UN Global Compact and Save the Children, the [Children's Rights and Business Principles](#) are a comprehensive set of principles to guide companies on the full range of actions they can take in the workplace, marketplace and community to respect and support children's rights.

For a guide on how companies should assess their performance in meeting their responsibility to respect children's rights, see '[Children rights in Impact Assessments: a Tool for Companies](#)'.

GUIDES FOR NGOS, VICTIMS AND COMMUNITY-BASED HUMAN RIGHTS DEFENDERS

FIDH has elaborated a comprehensive tool for victims, NGOs and other civil society groups to seek justice and obtain reparation for victims of human rights abuses involving multinational corporations. The guide explores the different types of recourse mechanisms available, and is available in [English](#) and in [French](#).

There is also a number of guides on how to use the Right to Free, Prior and Informed Consent (FPIC) in order to assist communities affected by large-scale development projects. Some examples of such guides are the [Oxfam Guide to FPIC](#), the [UN-REDD Programme Guidelines on FPIC](#), and [FAO's 'Respecting FPIC'](#).

Finally, we can note initiatives to elaborate simpler, more accessible guides for community-based human rights defenders. Examples of such initiatives, developed by Protection International, are the Protection

Guide for Human Rights Defenders in Rural Areas, available in [Spanish](#) and [Q'eqchi'](#), and the Protection Manual for Community-based Human Rights Defenders in [Thai](#).

GUIDELINES ON HUMAN RIGHTS DEFENDERS

In the absence of specific guidelines on human rights defenders working on business and human rights, there is still the possibility to refer to all the available guidelines on the protection of human rights defenders in general. Useful examples are the [EU Guidelines on Human Rights Defenders](#), the [OSCE Guidelines on the Protection of Human Rights Defenders](#), the Guidelines on the Protection of Human Rights Defenders developed by [Switzerland](#), [Norway](#) and the [United States](#).

There is a number of NGOs that work towards the protection of human rights and the promotion of a safe and enabling environment for human rights defenders. Many of these NGOs dedicate a whole section of their work to issues related to business and human rights, corporate and social accountability or extractive industries and natural resources. Some examples are [Human Rights Watch](#), [Amnesty International](#), the [Observatory for the Protection of Human Rights Defenders](#), and [Frontline](#).

Key 2016 Opportunities for human rights defenders working on corporate accountability

Throughout 2016 there are a number of advocacy opportunities for human rights defenders in the international and regional systems, and in the context of the development of national action plans. This is an indicative, non-exhaustive outlook on the coming year.

OPPORTUNITIES WITHIN THE UNITED NATIONS SYSTEM

Human Rights Council

The 31th session of the [Human Rights Council](#) in Geneva (March) will see, among other things, the UN Special Rapporteur on human rights defenders' annual thematic report. It is likely to contain a section on defenders working on business and human rights issues. The high-level segment of the Council, and in particular the civil society portion of it, will also provide an opportunity to profile human rights defenders issues.

During an upcoming session of the Council the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression is expected to present a report which intends to have a focus on corporate accountability.

The Working Group on the issue of human rights and transnational corporations and other business enterprises will also present its annual report.

Intergovernmental working group on a legally binding instrument on transnational corporations and other business enterprises

The [Intergovernmental working group on a legally binding instrument on transnational corporations and other business enterprises](#), also known as 'IGWG', had its first session in July 2015. At this stage, the expected date of the next session is 24-28 October 2016. Civil society has asked Ecuador, the chair of IGWG, to give details of the session well ahead of time to facilitate preparation and avoid the

difficulties of the first session. The meeting is also expected to build upon key outcomes of [the first session](#).

It is expected that the meetings will be webcast on [UN-TV](#) as per the first session.

UN Forum on Business and Human Rights

The 2016 edition of the [UN Forum on Business and Human Rights](#) is likely to take place in November/December, with input by stakeholders on proposed panels and discussions expected around June 2016.

The Working Group will also organise a regional forum on business and human rights, expected to take place in the third quarter of 2016 in Asia.



Photo: Flickr, US Mission Geneva

OPPORTUNITIES WITHIN REGIONAL SYSTEMS

African Commission on Human and Peoples' rights

The [African Commissions' Working Group on Extractive Industries, the Environment and Human Rights](#) will hold a regional consultation to inform its work, focusing on West Africa, currently foreseen in early 2016.

In April, the 58th regular session of the [African Commission on Human and People's Rights](#) provides an opportunity for human rights defenders on the continent to raise corporate accountability issues.

Inter-American Commission of Human Rights

At a hearing held in October 2015, a large coalition of civil society organisations has requested the Inter-American Commission of Human Rights to increase attention toward the situation of human rights defenders working on business and human rights. Find more information [here](#).

National Action Plans on business and human rights

This is an indicative list (not an exhaustive one), sourced from the Business and Human Rights Resource Centre and research and advocacy undertaken by the International Corporate Accountability Roundtable, of:

- States that have produced a National Action Plan on business and human rights - The United Kingdom, The Netherlands, Denmark, Finland, Lithuania, Sweden.
- States that have produced a draft National Action Plan on business and human rights - Italy, Spain.
- States that are in the process of developing a National Action Plan on business and human rights or have committed to doing so - Argentina, Austria, Azerbaijan, Belgium, Brazil, Chile, Colombia, France, Germany, Greece, Indonesia, Ireland, Jordan, Latvia, Malaysia, Mauritius, Mexico, Morocco, Mozambique, Myanmar, Norway, Peru, Philippines, Portugal, Scotland, Slovenia, Switzerland, Tanzania, USA.

- States in which either the National Human Rights Institution or civil society have begun steps in the development of a National Action Plan on business and human rights - Ghana, Kazakhstan, Poland, Serbia, South Africa, South Korea, Tanzania, Zambia.



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