

# Advancing Human Rights Accountability for Economic Actors

AN INTRODUCTORY FIELD GUIDE  
FOR FUNDERS



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The SAGE Fund –  
Strengthening Accountability in the Global Economy

*JANUARY 2015*

## Foreword

Two years in development, this guide is the result of dozens of interviews and conversations with key civil society, social movement and funding leaders engaged in advancing work at the intersection of trade, development, human rights, and the environment to highlight how human rights can be brought to bear on economic actors. The target audience is funders who make decisions about where to invest resources of foundations, governments or private donors to support human rights. In a broad and rapidly evolving field with multiple opportunities for investment, we have attempted to survey a portion of a much larger field of human rights and global economy, providing an overview of a select set of strategies that seek to hold economic actors (primarily non-state actors) accountable to human rights obligations. We hope that this mapping:

- **Introduces an important body of work, issues and approaches to donors and others with an interest in learning more**
- **Highlights some key opportunities for support and impact**
- **Begins a conversation in the field among donors and activists, spurring additional strategy development, field building and investment**

Many people contributed generously to this effort. We would like to thank our readers, Juana Kweitel (Conectas); Carroll Muffett and Carla Garcia Zendejas (Center for International Environmental Law); Genevieve Paul (International Federation for Human Rights); Karyn Keenan (Halifax Initiative); Chris Jochnick (Oxfam America); Arvind Ganesan (Human Rights Watch); and Jonathan Kaufman (EarthRights International) who offered insights on gaps, structure and key opportunities for the field. A special thank you to Michael Posner for his invaluable review and comments. Additional insights were offered by Dominic Renfrey (ESCR-Net); Ignacio Saiz and Nicholas Lusiani (Center for Economic and Social Rights); Danielle Hirsch and Cindy Colman (Both ENDS); Tricia Feeney (Rights and Accountability in Development); Judy Gearhart (International Labor Rights Forum); Gretchen Gordon (Bank on Human Rights); and Cathy Albisa (National Economic and Social Rights Initiative). Many human rights leaders gave hours of time to interviews and follow-up questions as we polished several drafts. Seth Feaster designed the layout of the text and the informative infographics that help this complex material come to life. Imali Bandara contributed research, editing and helped coordinate calls. Bess Rothenberg and Mindy Matthews provided assistance with editing. Tom Lee from Sigrid Rausing Trust, Sandra Smithey and Traci Romine from the CS Mott Foundation, and Betsy Dietel of Dietel Partners offered insight and strategy from the funding perspective. We are indebted

to all of these readers and contributors for their ideas and input, which have helped to strengthen the mapping in critical ways. Any omissions, limitations or weaknesses in framing, however, are those solely of the author and not the contributors.

## How to use this guide

This guide is a reference for funders seeking a broad overview of efforts to hold economic actors – corporations, development finance institutions, and others—accountable to human rights obligations within the larger field of human rights and the global economy. It provides an introduction to some of the field’s complex range of institutions, actors, and approaches. It is not an exhaustive survey of the field, but instead examines more traditional human rights strategies that focus on enforcement as a means of advancing accountability, rather than engagement. We do not anticipate a cover-to-cover read but expect most will flip to the discussions of various institutions and approaches, where there is more detailed information on current work and opportunities for impact.

Although some organizations and initiatives are referenced in the mapping to provide examples, the mapping does not provide a comprehensive listing of all the NGOs and civil society groups engaged in this area. An appendix of NGOs and other organizations working in the field of human rights and the global economy is attached. The list is incomplete, but provides an initial map that we anticipate will grow over time, and we welcome input and additions from readers.

We also welcome your feedback on key issues, approaches, and linkages with work outside the scope of this mapping. We hope this provides a catalyst for interested donors and others to learn more about human rights in the global economy; engage with groups working on these issues; and contribute toward building a broader base of support for the field.

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# Executive Summary

## The Problem

Our rapidly evolving system of international investment, trade, and development has produced many economic gains and benefits while at the same time, contributed to significant human rights violations and environmental damage. Increasingly **powerful economic actors — including transnational corporations and development finance institutions — are not subject to robust mechanisms holding them accountable for harms** they may cause or for abuses linked to their operations, such as:

- Forced evictions and displacement due to large infrastructure, energy and agriculture projects financed by IFIs or national development banks
- Loss of lands and livelihoods as a result of extractive industry operations
- Adverse health impacts and environmental contamination caused by exploitation of natural resources, factory operations, or industrial accidents
- Loss of life, arbitrary arrest and torture of community members and human rights defenders by security forces provided equipment or employed by a company
- Poor and unsafe working conditions in factories that are part of global supply chains for apparel and electronics retail brands, endangering lives and health of workers
- Violations of right to privacy, freedom of expression, and freedom of association, resulting from technology companies complying with government surveillance requests or domestic laws

The violations caused by economic actors have exposed critical gaps in accountability, where the protection provided by the international human rights system has not kept pace with the scope and impact of the global economy.

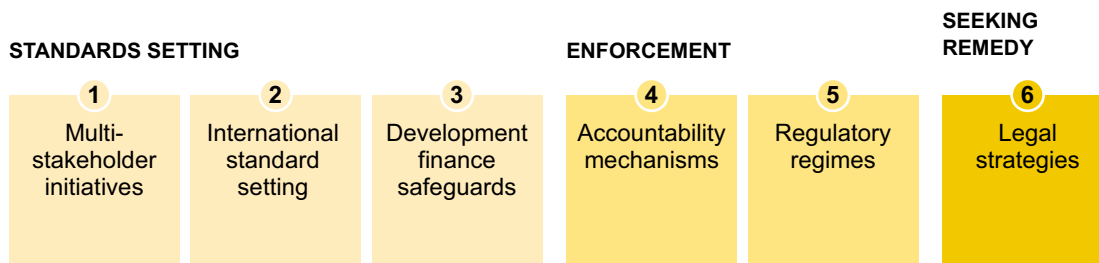
Affected communities and civil society activists from different fields — environment, development, indigenous peoples, labor and human rights — have responded with a variety of strategies aimed at curbing abuses, instituting safeguards in the system, and seeking remedy. There have been successes. However, cases of violations and harms continue to be documented while economic globalization — and the powerful actors operating within it — continue to present new challenges for accountability.

## The Mapping

**This mapping explores how the field of human rights activism is responding to the problems created by economic globalization:** pushing to expand the nature of human rights obligations to include non-state actors as well as states and find concrete ways of holding all actors accountable. The mapping

- Provides a partial overview of the current state of the human rights field to advance accountability for economic actors
- Identifies some key trends, openings in the field, and opportunities for greater support

The mapping is designed as an informational resource for donors, introducing them to the field by highlighting key issues that create gaps in human rights protection and a few of the main approaches that focus on enforcement and were developed in response. It is intended to provide a starting point for donors and others to learn more about this growing area of human rights and the global economy; engage with groups and issues in the field; and explore opportunities for support.



## Opportunities for Support

The human rights field has expanded its engagement from one international-level standard-setting agenda to include a decentralized exploration of more concrete and targeted opportunities at the national and regional levels. There is a concentrated effort to take existing human rights standards and norms and gain traction around establishing and enforcing rules for their compliance. This shift has produced a number of small, innovative, disconnected yet promising initiatives that require the creation of new tools and the development of new capacities and knowledge in the field.

A survey of these initiatives reveals that **there are opportunities for impact across a select range of human-rights approaches focused on standard setting, enforcement and remedy**. While this broad field includes many important entry points for funders, several clusters of work are coalescing around regulation and legal strategies. With additional support targeting these clusters, there is potential for replicating gains on a larger scale — particularly in the area of regulation — as well as making breakthroughs in other critical areas — such as access to remedy and extra-territorial obligations — that if successful would transform the field.

### Regulation

Momentum is building in the field to use regulation at the domestic level as a means to enforce human rights compliance by leveraging other areas of law (such as securities law) to introduce human rights standards, require disclosure, and mandate due diligence. Support is needed to defend the landmark gains made to date, and to extend those gains by seeding the ground in other countries and systems to advance similar regulatory initiatives. Right now, work in the field is concentrated at the beginning of the continuum that leads from transparency to accountability. The next frontier requires new strategy development to convert victories mandating disclosure and due diligence into greater human rights protection.

### Legal Strategies

Another cluster of work has emerged around advancing legal strategies for holding economic actors accountable for violations across borders, including strengthening corporate liability; enhancing access to remedy; and bridging extra-territorial gaps in recognition of human rights obligations.

A wave of new work on improving access to remedy is proceeding on multiple levels and is aimed at advancing systemic reforms, concretely addressing barriers at the national level, and providing remedy to victims and affected communities. There is renewed focus in the field on undertaking robust case work and developing multi-pronged high-profile campaigns and strategic



litigation. Together, these complementary strategies provide support to affected communities but also feed into the development of broader legal and policy change. This is one of the most important — yet one of the most challenging — areas of work, and additional support is needed in order to move from analysis to structural change. It requires an investment of time and capacity to tackle systemic barriers, which must be addressed predominantly at the national level. A number of important studies on access to remedy, including country-level mappings, have been released, creating a key opening in the field to devise follow-up and advocacy action plans on a larger and more coordinated scale with the potential for bigger impact than realized to date.

A related cluster of work supports the development of an important legal principle in international human rights establish obligations for states to observe the human rights of persons outside of their territory in development assistance, trade, and investment and in the regulation of transnational corporations. The establishment of ETOs in practice would have a transformative effect on the field bridging many of the enforcement gaps that hamper current efforts to hold corporations and non-state actors accountable across borders for harms committed by their operations. A global campaign has been initiated to “mainstream” ETOs in international human rights law and policy, seeking to gain legal recognition in practice. With additional support, work on ETOs has the potential to create a platform for addressing home-host state gaps in enforcement that have plagued efforts to hold non-state actors in the global economy accountable.

### Field Building

Continuous and sustained investment in field building is critical to the advancement of regulation, the development of legal strategies to hold economic actors accountable, as well as to developing the full potential of other opportunities for impact. Although the human rights movement has made progress in tackling gaps in protection created by non-state actors, its efforts have been hampered by a lack of tools, capacity and leverage to respond more effectively. Many of the approaches and mechanisms employed by civil society (and profiled in the mapping) have made headway in addressing gaps in non-state actor accountability and enforcement, but they have also encountered significant obstacles to closing them. Additional investment is needed to:

- Spur development and expansion of promising approaches, and support research on key challenges and emerging issues
- Build knowledge, skills and capacity of NGOs and social movements to analyze gaps in protection, fashion strategies in response and mobilize new coalitions and constituencies
- Create greater leverage within the donor and NGO communities by building an agenda for the field, identifying priorities, and supporting opportunities for impact

Groups, particularly from the Global South and affected communities, face significant start-up costs when trying to develop advocacy and policy work in this challenging arena. To have impact, they need to make a substantial commitment of time, resources and staff to develop the necessary skills, technical knowledge and program of action. Networks, coalitions, and the human rights movement as a whole face resource constraints for launching new lines of work related to human rights and the global economy, limiting their capacity to strategize collectively and pilot new approaches. In order to enhance the collective strength of the field, there is a need for groups to have room to share and develop strategies, assess joint opportunities in the field, and develop campaigns and coordinate advocacy across regions and countries. Donors can play a pivotal role by providing the support needed to build capacity of the field and sustain the infrastructure needed to yield greater impact.

### **Moment of Opportunity**

The field has reached a moment of opportunity. **With strategic support, it is poised to become a stronger and more cohesive field over the next three to five years**, yielding greater impact in advancing human rights accountability for economic actors. There is a shared sense among advocates in the field of the need to move from recognition of responsibilities toward enforcement of obligations. Human rights groups have been experimenting with different ways of gaining traction, and have opened up new opportunities across an array of approaches.

The dynamic nature of the global economy creates a constantly moving target for human rights protection as new economic actors, trends and challenges evolve. There is an ongoing need to invest in field building as human rights groups are continuously engaged in assessing influential actors in the field, identifying new leverage points and ways of working, and building the capacity needed to have impact. Currently, several emerging issue areas are on the horizon: the rise of private finance; fiscal policy and financial regulation; the increasing influence of BRICS; trade and investment agreements; and climate finance. Each of these issue areas brings a set of significant new challenges for human rights protection in the global economy. With strong support and greater capacity, human rights organizations and advocates can lay the groundwork needed to create innovative and effective strategies for addressing these and other emerging issues created by the global economy.

## Purpose of the Mapping

Our rapidly evolving system of international investment, trade and development has produced many economic gains and benefits, but while at the same time has contributed to significant human rights violations and environmental damage. Cases continue to be documented involving forced eviction; illegal exploitation of natural resources; loss of lands and livelihoods; complicity with violations by security forces; contamination of the environment and harmful health impacts; suppression of worker movements and organizing; and criminalization of social protest.

Affected communities and civil society activists from different fields – environment, development, indigenous peoples, labor and women’s rights – have responded with a variety of strategies aimed at curbing abuses, instituting safeguards in the system, and seeking remedy. There have been successes. However, violations continue while economic globalization — and the powerful actors operating within it — continues to present accountability challenges.

This mapping explores how one field of activism — human rights — is responding to the problems created by economic globalization. The field is pushing to expand the nature of human rights obligations to include non-state actors, and find concrete ways of holding all actors accountable. Specifically, the mapping aims to provide

- A partial overview of the field of human rights and the global economy, focusing on non-state actors
- A starting point to engage with other fields of activism and donors to learn about their respective work in this area, ideas for strengthening the field, and opportunities for collaborative learning

The field of human rights encompasses a wide range of NGOs (working at the international, national, and local levels); civil society coalitions and networks; social movements and community-based groups; workers’ movements and unions; human rights lawyers and legal advisors; UN experts; academics and activists. From across this broad field, organizations work on an equally wide range of initiatives aimed at addressing — from different vantage points — the global economy’s negative impacts on human rights. These initiatives include business and human rights, corporate accountability, international financial institutions (IFIs), extractive industries, trade and investment, transparency and accountability, workers’ rights, and more recently economic policy and financial regulation. Together, they create an array of overlapping yet largely uncoordinated initiatives, with varying degrees of scale and success.

By using one frame, we are exploring the opportunity to achieve greater impact — as donors and as activists — with a sharper understanding of how these different areas of work relate to each other and fashion a strategy around the most promising points of leverage.

Inevitably, as a first attempt, the mapping is not an exhaustive survey of the different strategies and tools used to hold corporations and other economic actors accountable to human rights obligations, but attempts to provide a select overview of some of the main approaches. Although some organizations and initiatives are referenced in the mapping to provide examples and give a sense of current work in the field, it does not provide a comprehensive listing of all the NGOs and civil society groups engaged in this area. An appendix of NGOs and other organizations working in the field of human rights and the global economy is attached. Due to the constraints of time, resources and knowledge, the list is incomplete and geographically skewed. However, we welcome the opportunity to hear from groups not mentioned here and learn about their work, particularly from the Global South.

## Challenge for Accountability: Rise of Powerful Economic Actors

For more than two decades, civil society advocates have been grappling with the formidable challenges created by economic globalization for human rights protection, particularly for marginalized communities and the environment. Increasingly powerful economic actors — such as transnational corporations and development finance institutions — are not held accountable for harms they may directly cause or for abuses linked to their operations. As a result, the violations caused by economic actors have exposed critical gaps in accountability, where protections provided by the international human rights system have not kept pace with the scope and impact of the global economy.

A growing consensus has emerged within civil society that a powerful system of international investment and trade needs an effective counterbalance — a human rights system that

- Provides strong basic protections for all affected peoples and communities
- Holds all actors accountable, including corporations and international institutions
- Ensures access to effective remedies for victims

In order to construct this counterbalance, there are at least two fundamental gaps in accountability that must be addressed. These are the gap between states' and non-state

### FOCUS ON POWERFUL ACTORS IN THE GLOBAL ECONOMY

*While the primary focus of the international human rights system is on the state (or governments), increasingly the focus is expanding to define human rights responsibilities and obligations for powerful actors that play an influential role in the global economy and create significant human rights, labor and environmental impacts, including:*

**Corporations** *Domestic and multinational or transnational*

**International Financial Institutions (IFIs)** *World Bank Group, IMF, WTO and Regional Development Banks*

**National Development Banks**

**Export Credit Agencies (ECAs)**

**Private Banks and Financial Institutions**

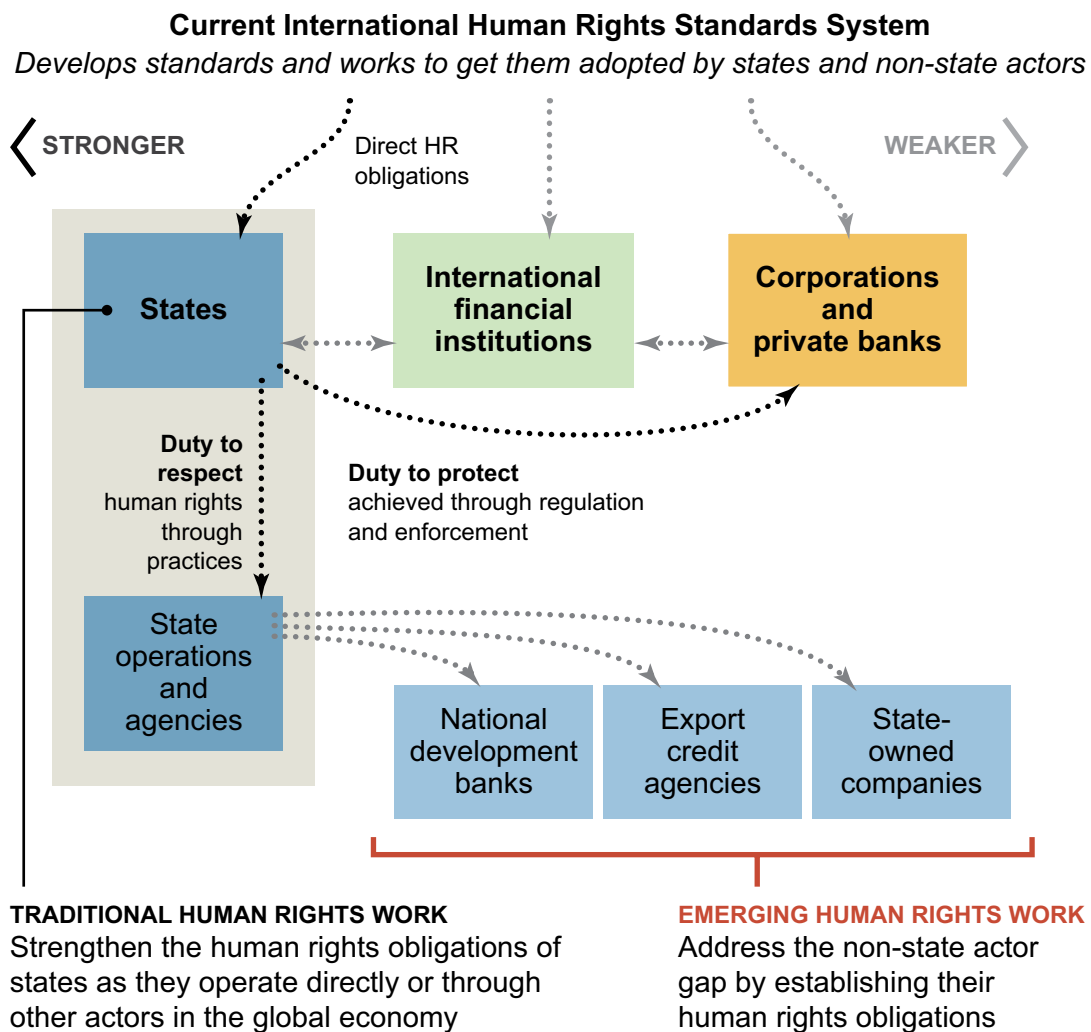
*Under international law, non-state actors include corporations, international organizations and armed opposition groups. For the purposes of this mapping, we are concerned with non-state actors that are primarily economic actors, encompassing corporations and private financial institutions. Within its focus on economic actors, the mapping also includes state-supported or affiliated development finance institutions.*

actors' responsibility for human rights, and the gap between the ability of investment capital to flow freely across borders and the constraints on state enforcement mechanisms to follow those investments.

## State Responsibility and the Non-State Actor Gap

The first challenge is to elaborate and extend human rights obligations to cover the full range of economic actors — state as well as non-state actors. To best address this need, work should be advanced from both sides in tandem.

First, the original conception and design of the international human rights system placed the primary responsibility on states (or governments) to protect human rights, not on corporations or other actors. Therefore, the main channel for addressing the human rights impacts of non-state actors (which includes



corporations and international organizations under international law) is through the state duty to protect. It is a positive obligation requiring governments to take action to prevent third parties from violating or undermining human rights. In theory, it calls for government regulation to ensure that business does not violate human rights standards in operations. However, this often falls short in practice.

In the intervening decades, the growth of the global economy fueled the rise of multinational corporations, development finance institutions and other global economic actors with significant influence and power rivaling that of states. The emergence of these powerful economic actors created challenges that the international human rights framework did not anticipate and was not fully equipped to address. First, it created a “non-state actor” gap in the system, failing to take full account of the actions and potentially adverse impacts of corporations, private banks and other non-state actors on vulnerable groups and affected communities.

Second, the original design assumed a clear public/private divide between state and non-state actors, which over time has blurred and created a “state responsibility gap.” In general, states have resisted carrying their human rights obligations with them as they act through international financial institutions or through state-created entities. Even though national development banks and export credit agencies are often wholly owned and funded by states, these states have not taken steps to ensure that public financial institutions comply with their international human rights standards and obligations in their operations.

The human rights movement has responded to these interrelated gaps by advancing initiatives to:

- Strengthen the state’s duty to respect human rights in its own operations and agencies by clarifying the human rights obligations of state-owned enterprises, national development banks and export credit agencies
- Clarify the human rights obligations of international financial institutions and other international organizations that states participate in and control as members
- Identify cases in which non-state actors cause or contribute to violations, and document the role, actions and human rights impacts of non-state actors
- Establish and clarify norms for non-state actors and explore ways to expand the human rights framework to hold them accountable

## Enforcement Gap

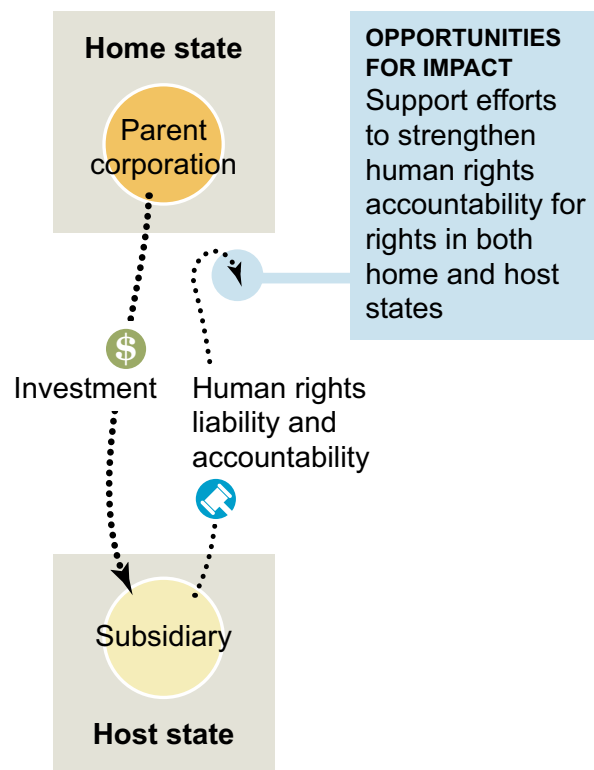
The second challenge — in strengthening the international human rights system to respond effectively to the global economic system — requires bridging gaps in enforcement capacity. The operation and impacts of multinational corporations and international investment are transnational, and in reality transcend the regulatory power of any single state. Put simply, investment is able to flow relatively freely across borders and incorporate in different countries, while regulations and enforcement mechanisms are more constrained and do not follow, thereby creating critical global gaps in human rights protection.

Host states — or countries where the investment or business operation is taking place — often lack the institutional capacity to enforce national laws and regulations against multinational corporations. Even when they have the capacity, host states (particularly low-income countries) may face a disincentive to enforce labor, environment and human rights protections for fear of loss of much-needed investment. Another disincentive arises when the interests of local elites — who control or influence the host state government — align with those of powerful economic actors rather than the public. At the same time, home states — or countries where the multinational corporation is headquartered — often hesitate to enforce regulations for corporations operating across borders or “extra-territorially” because these types of legal obligations are not clearly defined. If the political environment is hostile to regulation, host state governments may hesitate to enforce. They also may face a disincentive out of concern for prompting corporations to consider moving to a location with a more lax regulatory environment, suffering a loss of jobs and investment.

Over the last several decades, the legal rights of multinational corporations have expanded greatly through trade and investment agreements, national legislation and court decisions.

### The Enforcement Gap

*Investment capital tends to flow freely from parent corporations in home states to subsidiaries in host states, but accountability and liability for human rights rarely flows back.*





But over the same period, the legal framework for regulating multinational corporations and investment flows has remained relatively unchanged. This has created a great imbalance between the rights and responsibilities of corporations, tipping the scales in favor of investment and away from accountability. For example, parent companies (in one country) and subsidiaries (operating in another country) are treated as separate legal entities, making it difficult to hold the parent company responsible for violations incurred by a subsidiary. Some companies use separate legal entities not only to avoid liability but to “shop” for the best jurisdiction or legal forum to claim violations of investor protection and seek damages.

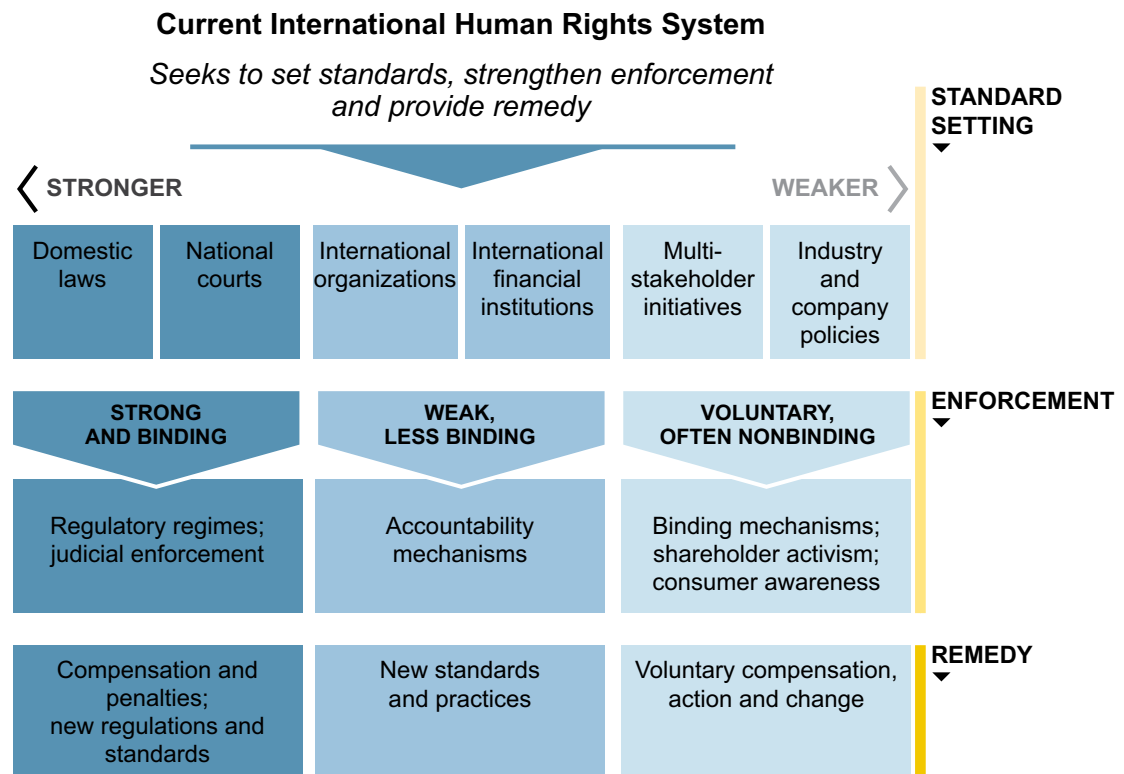
The human rights field has responded to this interlocking set of enforcement gaps by advancing initiatives to

- Strengthen corporate liability and pursue litigation, particularly in home states
- Expand regulatory regimes and binding multi-stakeholder agreements to mandate human rights compliance
- Bridge extra-territorial gaps by increasing legal recognition of extra-territorial human rights obligations and integrating into policy-making
- Tackle longstanding obstacles to improve access to remedy for victims and affected communities

## State of the Field: Focus on Enforcement

Responding to the challenges created by economic globalization, the human rights field initially focused on a key actor involved in violations: corporations. After repeated exposure of corporate misconduct, a variety of business and human rights initiatives were developed, seeking to hold corporations accountable through voluntary codes of conduct. These emerged in part to address the need for norms to define their conduct and to fill a void created by a lack of will on the part of governments to regulate corporations.

The field has moved far beyond business to focus on a wider range of economic actors that can adversely affect people, communities and the environment. Human rights organizations continue to document the operations of individual companies and specific industries, taking steps to mitigate their negative impacts and seek redress. Increasingly they are widening the scope by assessing the international investment and trade system — and the role of states as well as non-state actors within it — that provides financing for transnational business activities that result in violations. This broader focus is instrumental in identifying openings for structural changes in the international system and incorporating human rights accountability.



Although it is in the early stages, there is movement by donors and NGOs toward illuminating the points of connection between previously separate clusters of work – such as corporate accountability, development finance institutions, extractive industries, and transparency. This trajectory could lead to a more integrated approach by civil society seeking to address the adverse impacts of powerful economic actors. Among other potential benefits, an integrated approach holds the possibility of leveraging a critical mass of advocates and constituencies from different fields – environment, labor, development, indigenous peoples, human rights – and drawing upon the power of those different frameworks and strategies to advance accountability from complementary angles.

Many areas of work fall within the scope of advancing human rights accountability for economic actors, including a **spectrum of**

**approaches ranging from engagement to enforcement.** A proactive set of initiatives engages directly with corporations or influences investors, advocating for changes to business practices to ensure greater adherence to human rights standards in their operations. These measures often follow civil society’s exposure of harms linked to specific companies and form part of the response to calls for greater enforcement. The initiatives that are strongly engaged in this work together form part of a growing and reinvigorated field of business and human rights, which includes:

- **Business and Human Rights Consulting** – range of services provided by NGOs, institutes, management consulting and law firms to assist companies in assessing human rights risks and improving performance and compliance
- **Corporate Advocacy** – campaign strategy aimed at leveraging the power of companies to champion and advance human rights standards
- **Business and Human Rights Education and Training** – development of courses, manuals and guides for teaching business and human rights supported by online forums and networks of educators

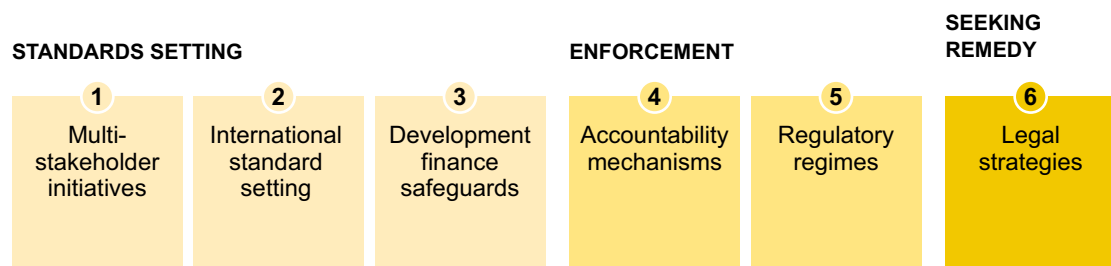
## THE VALE UNSUSTAINABILITY REPORT

*The International Movement of People Affected by Vale is a network connecting communities in different countries — including Brazil, Canada and Mozambique — adversely affected by Vale, one of the largest mining companies in the world and based in Brazil. The International Movement brings communities, allied NGOs and worker groups together to document the environmental and human rights harms of Vale’s operations, share experiences and formulate strategies for collective action to confront regulatory authorities and the Vale corporation directly.*

*Beginning in 2010, members of the International Movement attended the annual shareholders meeting of Vale in Rio de Janeiro, requesting information and pushing the company to address specific problems and impacts. An innovative move, they produced a shadow shareholders report, *The Vale 2012 Unsustainability Report*, which details the negative impacts of Vale’s operations on the ground and the lack of redress, gave shareholders other metrics for measuring Vale’s performance.*

- **Indexing and Benchmarking** – initiatives to develop human rights benchmarks that enable companies and shareholders to assess a company’s performance against others in the industry and reward positive performance
- **Socially Responsible Investment** – a set of strategies to influence institutional investors and establish socially responsible investment funds that advance human rights, environmental sustainability, and other standards
- **Shareholder Activism** – a corporate accountability tool that uses an equity stake in a company to pressure management to change policy or practice
- **Corporate Campaigning and Consumer Activism** – powerful range of campaign strategies that engage corporations directly and also harness consumers’ purchasing power to change corporate behavior and gain adherence to human rights standards in their business operations

While these and other related lines of work comprise an important part of the larger field of human rights in the global economy — and are certainly worth exploring separately — they fall beyond the scope of this mapping, which concentrates its limited focus on enforcement instead of engagement. This study provides a partial and selective survey of more traditional human rights methods of holding governments (or states), corporations and other economic actors accountable to human rights obligations and their obligation to provide remedy. **This section will provide a brief overview of six of the main approaches employed to hold economic actors accountable to human rights standards.** It is not an exhaustive survey, but an attempt to provide an understanding of the approach, how it has evolved, strengths and weaknesses, and current trends.



It is important to note that there are several fundamental activities that are key to the success of these approaches – and almost all human rights work:

- **Human Rights Casework and Documentation** are critical tools used to develop cases, inform legal and policy advocacy, and help shape standards. Time and resource intensive, they create a platform that other work builds upon. For example, many of the accountability

mechanisms are triggered by partnerships between affected communities and NGOs that together assess and document cases before filing complaints. This is an initial step in pursuing remedy as well as leveraging policy change. Documentation is also critical in establishing the facts and a reliable record since narratives of corporate misconduct and responsibility are often contested between companies and civil society.

- **Legal Analysis and Policy Reform** constitute a strong set of interlocking tools for analyzing gaps in human rights protection; identifying options for policy change or legal reform to fill the gaps; and promoting the adoption of new laws and regulations. These are critical activities, for example, in driving standard-setting, an important, ongoing process for developing the human rights norms and legal standards for states and non-state actors, especially where standards are nonexistent.
- **Advocacy and Campaigns** comprise a powerful strategy for raising awareness around an issue, creating public pressure on a particular company, institution or government, and monitoring outcomes from agreements. Strong advocacy moves an issue beyond technical terms and makes it accessible and actionable to the broader public, compelling action on the part of key institutions and actors to take action. Advocacy and campaigns provide the fuel for most of the strategies and approaches profiled here.
- **Community Engagement** is a participatory approach that is experiencing growth and innovation as affected communities (including workers) develop new tools for assessing impacts, negotiating outcomes and engaging directly with corporations and other non-state actors. Shifting the fulcrum for action and decision-making to communities is key to producing change where violations most often occur. Enhanced support for communities, social movements and frontline advocates is also an important element in redressing an imbalance in the field where groups in the Global North have led much of the international corporate accountability work. NGOs working in partnership and donors providing support – such as the Fund for Global Human Rights, Global GreenGrants, and Grassroots International – have strengthened community engagement in advancing human rights accountability for economic actors.

It is difficult to overestimate the value that each of these brings in creating and sustaining an effective strategy, particularly in the relatively nascent and evolving field, and funders can play a role in propelling these strategies.



## 1. Multi-Stakeholder Initiatives: Movement toward Binding Agreements

Multi-stakeholder initiatives (MSIs) are one of the primary mechanisms used to encourage corporations to develop and adhere to human rights standards in their operations. Bringing together business, government, NGOs and international organizations, these stakeholders in a specific sector enter into a voluntary initiative to address the human rights, labor and environmental harms that tend to occur in that industry. The multi-stakeholder initiatives often draw upon human rights standards to create codes of conduct for the industry. Participating companies agree to comply with the standards and, depending upon the structure, apply them to subcontractors throughout their supply chain. In some MSIs, a company is certified only after an inspection or audit deems it to be in compliance with the standard.

Initially, the development of multi-stakeholder initiatives governed by voluntary codes of conduct was welcomed as a promising alternative to the lack of government regulation. Multi-stakeholder initiatives were seen to fill an important “governance gap,” where governments were unable or unwilling to regulate. Many civil society organizations viewed MSIs, although not binding, as an improvement over the status quo, corporate self-regulation. They provided a negotiated outcome among different interested parties – business, civil society, government – and were envisioned by some to be a transitional structure en route to enforceable standards.

In addition, MSIs were seen to provide much-needed clarity around corporate responsibility and relevant standards for different business sectors. Where norms were nonexistent or regulation was not politically feasible, MSIs were also seen as a practical first step: allowing for the development of standards, improving corporate conduct, driving up ethical standards in complex supply chains and in some cases laying the groundwork for future binding regulation. A proliferation of voluntary initiatives by industry sector ensued, including:

- Fair Labor Association for the apparel industry
- Kimberley Process for conflict-free diamond certification
- Voluntary Principles on Security and Human Rights (VPs) for extractive industries
- International Code of Conduct for Private Security Service Providers (ICoC)
- Global Network Initiative (GNI) for the information and communication technology sector
- Roundtable on Sustainable Palm Oil (RSPO)

In many MSIs, the primary focus is on companies or non-state actors, committing to a set of standards in their operations; whereas in others, both states and

companies are required to take action. This is true of the Extractive Industries Transparency Initiative (EITI) in which governments commit to meeting a set of requirements related to revenue transparency, thereby allowing an analysis of taxes, royalties and other fees paid by extractive industry companies against officially recorded government revenues.

With many of these initiatives in operation long enough to enable a comparison of outcomes, a number of studies and evaluations have been undertaken. Although an in-depth assessment of MSIs is warranted, it is beyond the scope of this mapping. Despite some positive developments, there is general recognition among NGOs of some of the shortcomings of voluntary initiatives in providing human rights accountability. All of the initiatives have been successful in establishing norms of conduct for governments and companies in the areas they address. However, implementation and oversight have been a persistent challenge. With a few exceptions, voluntary initiatives do not have a strong track record of policing their own members when they fail to adhere to the standards. A concern is that voluntary initiatives are incapable of completely addressing regulatory gaps or enforcing compliance on their own and enable companies to be selective in their application of human rights standards. Few, if any companies have ever been expelled from an MSI. Despite these constraints, MSIs may provide a useful transitional step in leading to a national or inter-governmental standard-setting process.

In response to weaknesses exposed by highly publicized violations and civil society critiques, MSIs have made some improvements over time through an iterative process. The collapse of Rana Plaza in Bangladesh in April 2013, which killed more than 1,100 garment workers, created the conditions for the signing of a binding agreement, the Bangladesh Accord, by apparel companies and unions, mandating independent inspections and factory repairs. Before Rana

## **BANGLADESH ACCORD IN THE GARMENT INDUSTRY**

*The tragic collapse of Rana Plaza in Bangladesh in April 2013, which killed more than 1,100 garment workers, created the conditions for the signing of a binding Memorandum of Understanding (MOU) by apparel companies (more than 150 companies from 20 countries), two global trade unions, eight Bangladeshi union federations, with four labor rights NGOs as witnesses. The MOU seeks to ensure safe working conditions for garment workers in Bangladesh. It includes critical components to ensure effective implementation:*

**Independent safety inspections** *with public reporting;*

**Mandatory repairs and renovations** *with an obligation to terminate business with any factory that refuses to make necessary safety upgrades;*

**Roles for workers and unions** *in the process.*

*A group of North American retailers created an alternative, business-led voluntary initiative – the Alliance for Bangladesh Workers Safety – that does not include workers unions.*

Plaza, a number of incidents highlighted unsafe factory conditions unabated by the existence of MSI certification systems. A 2012 fire at the Ali Enterprises garment factory in Pakistan killed almost 300 workers, despite a workplace inspection only three weeks earlier certifying that the factory was in compliance with a set of safety and worker rights standards. This and other incidents created a sense of urgency in addressing critical issues in the industry and failures in existing voluntary systems, paving the way for binding agreements with greater enforcement, transparency and worker participation.

Multinational corporations that adopt standards and codes also typically employ independent third-party auditors to monitor their suppliers' compliance. Third-party certification schemes are intended to provide a reliable assessment of suppliers' practices, even in regimes where governments cannot be relied on to effectively regulate companies. For example, the U.S. Securities and Exchange Commission's Conflict Minerals Rule requires companies to disclose their use of minerals originating in the Democratic Republic of Congo or neighboring countries. Many EU countries have adopted laws requiring companies to address in their annual reports the state of their suppliers' compliance with ILO core labor standards.

Effective participation in MSIs requires NGOs, unions, affected communities and other civil society organizations to demonstrate a significant and sustained commitment to engage in an ongoing process over a long period of time. However, this process puts a resource strain on participating civil society organizations because of the time, staffing and other resources needed for MSIs to have impact. This threshold can be an impediment to civil society participation and contribute to attrition in MSIs, especially among those groups most connected to grassroots worker groups and affected communities. Business and government do not face the same resource constraints, and can readily assign staff to participate. Over time, attrition affects the impact of the MSI, skewing the inputs and representation of interests within an initiative.

### ***Binding Agreements and Worker-Driven Social Responsibility***

As human rights and workers organizations focus on how to shift from voluntary initiatives to enforceable standards, there has been promising movement with the development of alternative models to MSIs. There is momentum toward establishing binding agreements with meaningful sanctions and the capacity for enforcement. By creating a legally binding agreement, these new models are able to enforce compliance by obligating buyers to terminate business with participating producers if they do not adhere to the agreed standards in their operations. The impact that a binding agreement has on an industry is dependent upon how many companies – what percentage of an industry – signs onto the agreement. The challenge is to extend the binding agreements



through campaigning and advocacy pressure to gain greater corporate sector participation, enabling the agreement to become industry-wide.

The Coalition of Immokalee Workers has developed a groundbreaking model of **Worker-Driven Social Responsibility** (WSR) through its Fair Food Program, which includes a binding agreement but goes further in securing human rights protection. The WSR model has several notable features that distinguish it sharply from traditional models of Corporate Social Responsibility (CSR), the starting point for most MSIs. First, it is a worker-led process in all dimensions which means that “workers are not just at the table, they are at the head of the table” according to CIW. Recognizing the power imbalance between corporate and civil society stakeholders in most MSIs, the WSR model is designed as a workers’ rights program, built on the power that workers amass through consumer campaigns that leverage purchasing power to secure agreements with corporations. Second, the model is built on an industry-specific human rights code of conduct designed by workers and targeting longstanding abuses that workers in the industry experience firsthand. Third, workers participate in the monitoring program, which includes a responsive complaints procedure, investigations and audits. An independent monitoring agency is established for each program with dedicated staff, giving continuity and enhancing oversight.

## ***Current Work in the Field***

### **Binding Agreements**

A notable development is the recent breakthrough in reaching binding agreements that provide meaningful sanctions and the capacity for greater enforcement and inclusion of workers and affected communities:

- **Bangladesh Accord** on Fire and Building Safety between apparel companies and trade unions establishing binding standards for the safety of garment workers in Bangladesh, including independent safety inspections, mandatory repairs, and a role for workers and unions
- **National Pact to Eradicate Slave Labor** launched by the Brazilian government and signed by companies pledging to keep their supply chains free of forced labor. If this is not done, the company’s name is published on a “dirty list” for two years banning it from receiving contracts, business or credit from any of the other companies or banks in the pact. While the pact is not a binding agreement on its own, in combination with the “dirty list” it generates a compliance effect.

### **Worker-Driven Social Responsibility**

Another notable development in the field is the creation of a WSR model (an alternative to CSR models) pioneered by the Coalition of Immokalee Workers (CIW) through their Fair Food Program.

## **COALITION OF IMMOKALEE WORKERS AND THE FAIR FOOD PROGRAM**

*In the tomato fields of Florida, farmworkers suffered sub-poverty wages, physical and verbal abuse, widespread wage theft, dangerous working conditions, retaliation for complaints, sexual abuse and harassment and in extreme cases, forced labor and modern-day slavery. Since 1997, the United States Department of Justice has successfully prosecuted nine cases of forced labor in the Florida agriculture industry involving more than 1,200 workers. These conditions persisted as a result of severe under-enforcement of existing labor and safety laws as well as significant gaps in human rights protection.*

*The Coalition of Immokalee Workers (CIW), a community-based worker organization of mainly Latino, Mayan Indian and Haitian agricultural workers in southwest Florida, launched a national Campaign for Fair Food, bringing together workers, consumers, growers and retail food companies in support of fair wages and dignified labor standards in the agricultural industry. CIW won landmark victories in human rights protection through its campaign, and sought to secure those wins through an enforceable agreement under a new model of “worker-driven social responsibility” (WSR).*

*In 2011, CIW established the Fair Food Program (FFP), a “workers’ rights program that is designed, monitored, and enforced by the workers whose rights it is intended to protect.” It includes a binding agreement between farmworkers, Florida tomato growers, and participating retail buyers, including Subway, Whole Foods, and Walmart. Under the FFP, CIW conducts worker-to-worker education sessions, held on the farm and on the clock, on the new human rights-based standards set forth in the program’s Fair Food Code of Conduct.*

**The Fair Food Standards Council (FFSC)**, a third-party monitor created solely to ensure compliance with the FFP, conducts regular audits, staffs a 24-hour worker complaint hotline, and carries out rapid complaint investigation and resolution.

**Participating buyers pay a small fair food premium** which tomato growers pass on to workers as a line-item bonus in their regular paychecks (\$15 million in fair food premiums were paid into the FFP between January 2011 and October 2014)

**FFP standards are enforced through market consequences** guaranteed by CIW’s legally binding Fair Food Agreements, in which participating buyers commit to buy Florida’s tomatoes only from growers in good standing with the FFP, and to cease purchases from growers who have failed to comply with the code of conduct

**Multi-Stakeholder Initiatives:  
OPPORTUNITIES FOR IMPACT**

- **Invest in monitoring programs and support sustained engagement by civil society organizations to ensure enforcement of standards**
- **Support campaigns and advocacy targeting companies and creating conditions for industry-wide binding agreements**
- **Invest in efforts to bridge the gap between MSIs and legal policy reform**



## 2. International Standard Setting: Renewed Momentum for Binding International Obligations

To ensure that international human rights law responds to the human rights challenges derived from economic globalization, it is critical that existing human rights standards must be strengthened and new ones are created to address gaps in protection. In the case of corporations, and to a lesser degree, development finance institutions, the creation of new standards has been an important way to advance human rights accountability. At present, most of the initiatives advanced under business and human rights involve voluntary codes of conduct that are not legally binding and lack an enforcement mechanism. A key goal of the human rights movement is to see voluntary standards eventually evolve in to mandatory rules.

### *United Nations Guiding Principles*

There is no legally binding international instrument that requires corporations and other non-state economic actors to respect human rights because existing instruments apply to states.

After pressure from civil society to develop rules, the now-defunct UN Sub-Commission on Human Rights produced a draft Norms on the Responsibilities of Transnational Corporations (UN Norms), which were seen as laying the groundwork for a future binding treaty. Many governments and the business sector strongly opposed the norms and the notion that there should be mandatory human rights rules for business. In response, UN member states decelerated the process by appointing a Special Representative on Business and Human Rights (SRSG), John Ruggie, to “advance the debate on human rights and business” in 2005.

The creation of the SRSG’s mandate was a compromise between development of new binding rules or doing nothing. Ultimately, the SRSG recommended a framework that laid out a basic set of human rights principles that businesses should follow, but delegated the implementation of those non-binding principles to national governments, multilateral institutions, and businesses themselves, rather than through an international binding instrument.

A significant amount of work has been done in this arena over 10 years, as part of — or in critical response to — the United Nations process culminating in the adoption of the UN Guiding Principles on Business and Human Rights (GPs) in 2011. The GPs are built on a “Protect, Respect and Remedy” framework, affirming

- State’s duty to protect against human rights abuses, including through the regulation of corporations and other non-state actors

## International Human Rights Standards

The International Bill of Human Rights and the International Labor Organization Core Conventions contain a range of rights that can be violated as a result of business operations, international trade and investment. While current international law imposes obligations primarily on states, efforts are underway to hold economic actors accountable to these standards.

**The International Bill of Human Rights** — comprised of the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) — commits states to respect a wide range of rights, including:

- *Right to life*
- *Right not to be subjected to torture or degrading treatment*
- *Right to liberty and security of person*
- *Right to freedom of association and assembly*
- *Right not to be subjected to slavery or forced labor*
- *Right to equal protection and non-discrimination*
- *Right of self-determination*
- *Right to work*
- *Right to form and join trade unions and right to strike*
- *Right to health*
- *Right to an adequate standard of living, including food, housing, water and prohibition on forced evictions*
- *Right to an effective remedy for violations*

**ILO Declaration on Fundamental Principles and Rights at Work** commits members to respect the following principles:

- *Freedom of association and collective bargaining*
- *Elimination of forced and compulsory labor*
- *Elimination of discrimination in employment and occupation*
- *Abolition of child labor*

- Corporation's responsibility to respect human rights through due diligence to prevent human rights abuses in its operations and through addressing the negative impacts when they occur
- Access to remedy for victims of business-related human rights violations

With the adoption of the Guiding Principles, a new stream of work has sprung up around advancing their implementation, supported primarily by government, (particularly the European Union) or corporate funding. Organizations such as SHIFT, whose founders worked for the SRSG, or the Institute for Business and Human Rights, work with governments and business to “put the Guiding Principles into practice.”

While the Guiding Principles fell short of expectations for an enforceable set of human rights standards for business, they did memorialize the concept that businesses must respect human rights and did create modest momentum by some governments to institutionalize them. Many NGOs view the Guiding Principles as having established a “floor” for non-binding standards, providing a framework that may be used to inform or shape new policy and legislation. NGOs are focusing on various ways to raise the threshold of human rights obligations for non-state actors and attempting to gain traction for implementation of standards, outside of the GP process. Though the Guiding Principles have been a modest victory, there is a need for standards that require business to implement them, be evaluated against them, and be held accountable for non-compliance.

### ***International Treaty on Business and Human Rights***

For more than a decade, civil society has advocated for an international treaty to provide corporate accountability for human rights violations. At the UN Human Rights Council in September 2013, Ecuador led a group of states from Latin America, Central Asia and the blocs of UN member-states from Africa and the Arab regions in calling for the creation of international binding regulation on corporations for human rights abuses. The impetus for this initiative arose out of frustration — experienced largely by states from the Global South — with the increased use of international investment arbitration by corporations to circumvent national legal systems mandating compliance with human rights and environment and labor standards. Supportive states view the creation of further international law (hard law) in this area as an effort to address perceived power imbalances between home and host states. Some civil society advocates also view this as an opportunity to complement existing soft law and fill gaps left by the Guiding Principles. The debate was highly politicized, and Western governments opposed the efforts. Some in civil society expressed concern about the scope and scale of the resolution and the politicized process that elicited such strong opposition to this effort by key governments.

In June 2014, the UN Human Rights Council adopted a resolution establishing an open-ended intergovernmental working group with a mandate to create a binding treaty for transnational corporations. The working group will have its first meeting in mid-2015. Civil society groups are organizing around this process to design proposals to ensure greater prevention of business-related human rights violations and greater access to justice for affected people. A range of civil society actors generally acknowledge that the further development of international law in this area could be broadly beneficial, but differences exist at this early stage of the working group on what a treaty should cover and how it might operate. Groups are considering options for moving the process forward and broadening its scope to include national or local businesses as well as transnational corporations. The treaty process represents an important opportunity to address key human rights governance gaps, such as the need for stronger recognition of states' extraterritorial human rights obligations.

## **Current Work in the Field**

### **Targeted Norm-Setting**

While the recent momentum around a new international treaty has garnered attention, there have been quieter, productive efforts underway to advance norms and standards in targeted, issue or venue-specific ways. Over the past several years, NGOs have been opportunistic in their efforts to advance norms looking for multiple venues and sectors where there is the most traction for getting the standards over time into hard law.

- **Free, Prior and Informed Consent (FPIC)** – uptick in using the right recognized under international law for indigenous peoples to push for its expanded application, recognizing the right of all project-affected communities to free, prior and informed consent; and a related push to have FPIC implemented under national law (such as the Indigenous Peoples Consultation Law passed in Peru in 2011)
- **Sectoral Initiatives** – efforts at pushing for disclosure and reporting requirements for extractive industries under the Dodd-Frank Act
- **Regional Initiatives** – feasibility study conducted by the Council of Europe through its Steering Committee for Human Rights to

### **COCA-COLA ADOPTS FPIC STANDARD**

*Coca-Cola announced that it would adhere to the principle of Free, Prior and Informed Consent (FPIC) for all communities – including rural as well as indigenous – across its entire operations and supply chains. Coca-Cola will apply the FPIC standard as defined by the IFC Performance Standards on Land Acquisition and Involuntary Resettlement, and Indigenous Peoples. The announcement in November 2013 came as part of a larger commitment by the company to “zero tolerance” for land grabs in its global operations and supply chains, following a campaign by Oxfam to ensure land rights and human rights protection for rural communities. While enforcement of the principle will likely present challenges, this campaign win illustrates the impact of safeguards and standards to benchmark beyond their institution and the growing recognition of FPIC as an internationally accepted standard.*

explore different options for filling the “implementation gap” of the UN GPs, including drafting a non-binding instrument addressing barriers in access to remedy

- **International Human Rights System** A new push to expand beyond traditional committees and special procedures and advance standards for non-state actors in other branches of the system. For example, the UN Committee on the Rights of the Child adopted a “General Comment on State Obligations Regarding the Impact of the Business Sector on Children’s Rights,” and the UN Committee on Economic, Social and Cultural Rights is now in the early stages of developing a similar general comment to cover the business sector’s effect on ESC rights.

### **Regional Instrument on Access to Information, Participation and Remedy**

A movement is gaining speed in Latin America to develop a regional treaty ensuring access to information, public participation in decision-making, and access to justice on environmental issues. Under the leadership of Chile, 17 states have signed the Principle 10 Declaration, and have begun negotiations on a legally binding treaty that commits Latin American and Caribbean (LAC) governments to fully implement rights related to transparency and accountability as laid out in Principle 10 of the Rio Declaration on Environment and Development.

### **International Binding Regulation on Corporations**

The International Commission of Jurists (ICJ), among other organizations, has initiated an exercise to identify critical gaps in human rights protection related to business enterprises; assess the need for a new international instrument; and begin to outline the potential nature, scope and elements of an instrument. A similar process was undertaken for the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which laid important groundwork for future advocacy.

### **Civil Society Input and Advocacy**

The Treaty Alliance, a global alliance of civil society networks, campaign groups, and social movements, was formed to coordinate advocacy and provide support for the development of a treaty. Civil society gatherings, such as the annual Peoples’ Forum on Human Rights and Business, provide valuable space for NGOs and social movements to convene, learn about new issues in the field and develop joint strategies and common positions. Civil society groups, including ESCR-Net, FIDH and others, are working to ensure that the views and voices of those most affected by corporate-related human rights abuses influence the content of the treaty; the establishment of greater means of access to effective remedy; and the engagement of a broad coalition of states to participate in the treaty-making process. Civil society groups appreciate the opportunity that the treaty process in Geneva presents to bring pressure at national and sub-national levels to make more local advances, particularly on implementation of the GPs through National Action Plans and the creation of national legislation. There is



recognition of the need to ensure an international process where strategies are complementary and do not drain energy or resources away from the many other initiatives in the field.

**UN Forum on Business and Human Rights** – Since the adoption of the Guiding Principles, an annual UN Forum on Business and Human Rights is convened each December in Geneva, bringing together states, the business community and civil society to discuss current trends and challenges in implementing the GPs. There is a shared sense within the NGO community that further investment in this process will not significantly strengthen human rights obligations or accountability. However, the annual forum has established itself as a space for civil society to offer a critique of efforts within the UN system to advance accountability and highlight key issues in need of attention, such as access to remedy.

### **International Standard Setting:**

#### **OPPORTUNITIES FOR IMPACT**

- **Support research and advocacy applying international human rights standards to economic actors and incorporating them into domestic legislation**
- **Support civil and governmental initiatives to advance internationally binding regulation of corporations, including the development of legal analysis and proposals, multi-country advocacy activities, and campaigns**
- **Strengthen the capacity of smaller NGOs or groups from the Global South to engage in these global processes so their perspectives can be reflected in the development of international standards**



### 3. Development Finance Safeguards: New Push for Strengthened Standards

While the UN Guiding Principles process primarily focused on states and corporations, there have been a number of other processes that address the human rights standards — or lack thereof — for international financial institutions (IFIs), national development banks and other related development finance institutions (DFIs). In general, DFIs share a pro-economic development, poverty alleviation mandate, funding projects that can have unintended yet significant negative effects on human rights and the environment. Under pressure from global campaigns and donor pressure, many development finance institutions adopted some form of environmental and social “safeguards.” They have, however, largely resisted accepting or integrating human rights standards into their policies. While there has been some progress within IFIs, the standards used in safeguard policies are generally weak, inadequate and inconsistent. With the emergence of national development banks in the Global South, such as the Brazilian Development Bank (BNDES), and the newly created BRICS Bank (Brazil, Russia, India, China and South Africa), there is a growing sense of urgency to address the need for human rights standards in development financing across an expanding number of institutions and funds.

In recent years, many of the international financial institutions have undertaken a formal safeguard review process to update their policies. Activists have used these reviews as an opportunity to push for inclusion of human rights standards, and more recently to defend the gains made against a growing trend to channel IFI lending through programs not governed by safeguards. A small group of anchor human rights organizations, primarily from the Global North, participated in several safeguard review processes with the aim of introducing human rights, establishing a foothold, and securing recognition of international standards wherever possible.

The dominant NGO strategy has been to leverage multiple venues, gain inclusion of standards (however limited) in one institutional process and then use that to push for greater recognition in another. This is particularly important given the role that some guidelines play in benchmarking standards for other development finance institutions and, more recently, companies. For example, the International Finance Corporation’s (IFC) Performance Standards provide the model for the Equator Principles, which are used by private banks worldwide, and for the OECD Common Approaches, used by export credit agencies (ECAs).

On a small scale, the strategy has been successful in that human rights language or standards were introduced (in limited ways) into different safeguards. Overall, these efforts fell short, however, of achieving strong and comprehensive standards. As a result of advocacy, an update of the OECD Guidelines for Multinational Enterprises (2010-11) added a human rights chapter on minimum standards for corporate conduct based on those established in the UN Guiding Principles. Similarly, advocates succeeded in ensuring the Revised Sustainability

Framework of the IFC (2010-11) reflected the human rights framework and adopted an application of “free, prior and informed consent” for the first time. Human rights organizations achieved mixed results when a review of the OECD Common Approaches for Export Credit Agencies (2010-2012) extended the framework to include “human rights impacts” but failed to reference international standards to give content and meaning.

In the wake of important but limited gains from these and other review processes, NGOs and social movements from different sectors came together to evaluate their safeguard review strategy and to devise a new one. With a proliferation of development finance institutions and funds, they recognized that the established strategy — an institution-specific approach — has become less viable, requiring too many resources with the prospect of yielding diminished outcomes. A new strategy was needed to

- [Defend the gains already achieved by engaging in key safeguard review processes to prevent rollback, and](#)
- [Build support at the national level in key countries, particularly in emerging economies, to secure government commitment to human rights standards in development finance policy](#)

The new focus targeting advocacy and building capacity at the national level represents a major shift in strategy and organizing. The long-term strategy recognizes that national governments will be a primary force in deciding, designing and funding development policy. Therefore, the groundwork needs to be laid now to build the capacity — of governments and civil society at the domestic level — to adopt and integrate human rights policy at the national level. If it is successful, it should help grow robust civil organizations and coalitions within key countries in the Global South and North that are able to push for strong human rights standards and safeguards in development finance from their own governments.

In 2013, groups formed a new coalition, Bank on Human Rights, to implement this new strategy. As a first step, the coalition developed a set of common principles and policy demands that can be applied across all DFIs and funds, unifying the campaign across its national and regional focal points. It is now building the technical knowledge and capacity of Northern and Southern groups to raise awareness, exert pressure, and influence development policy within their own governments and DFIs. The campaign is in its early stages, but the new strategy design is a promising one, requiring significant and sustained support to be successful.

## ***Current Work in the Field***

### **World Bank Safeguard Review and Human Rights Campaign**

The first target of the Bank on Human Rights campaign is the World Bank Safeguard Review, which is underway. The goal is to keep the safeguards intact and prevent a dilution of standards. This campaign is coming at a critical moment as the World Bank is undergoing a restructuring that creates the opportunity to move human rights considerations from the safeguard review upstream to planning and project development.

### **Country Mappings of Development Policy Decision-Making**

A critical element in the new strategy on safeguards involves mapping the positions and internal decision-making structures for key member states and national development policy. The mapping reveals where development policy is made (often in the Finance Ministry) as well what other agencies or actors might have a positive influence on shaping policy (such as National Human Rights Institutions or the Labor Ministry) or pave the way for an inter-agency process. It is an initial step for domestic NGOs and constituencies in preparing the way for advocacy at the national level. At the same time, the process of mapping can play a useful role in convening, organizing and building the capacity of civil society to engage their governments, and push for a commitment to human rights standards in the development of financial policy and operations.

### **Advocacy Targeting Influential IFI Member States**

A resurgent strategy in the field seeks to influence the public position and human rights commitments of member states that play an influential role in the governance of development finance institutions. The advocacy can be a next step, building on country mapping. It can even emerge from a convergence of advocacy agendas at the national level. This was the case as groups in the U.S. were successful in securing restrictions on mega-dams, coal and other destructive projects in the 2014 appropriations bill. This initiative produced a series of national campaigns with different domestic strategies and positions, coordinated globally.

### **Advocacy Targeting Emerging Market States and BRICS Bank**

Using a similar mapping methodology as a starting point, organizations such as Conectas in Brazil are conducting research and analysis to map the foreign policy positions of key emerging market countries. Advocacy is underway that calls for greater integration and alignment between Brazil's human rights obligations and its national development bank policies. Specifically, there is a call for BNDES and the newly created BRICS Bank to conduct human rights impact assessments. A similar effort involving Chinese banks and export credit institutions is progressing. Groups in Asia are mapping existing policies, identifying stakeholders, and examining ways to promote the implementation of strong human rights standards. Similar efforts are underway in relation to other emerging economies including India and South Africa.

## **Development Finance Safeguards:**

### **OPPORTUNITIES FOR IMPACT**

- **Invest in strategic analysis of key member-state policy positions and build domestic coalitions and constituencies to advance advocacy at the national level**
- **Support advocacy targeting BRICS and national development banks to build in transparency and accountability**
- **Support the global campaign and capacity-building of national level groups, increasing opportunities for information-sharing and strategic collaboration to leverage strengthened standards**



## 4. Accountability Mechanisms: Need for Compliance and Remedy

Standards are a critical element of human rights obligations, but for them to have impact they must be accompanied by enforcement. Many of the early efforts around business and human rights centered on voluntary principles and self-regulation, with mixed results. A priority for the human rights field has been to move beyond voluntary initiatives to enforceable frameworks. One method for ensuring accountability is judicial enforcement or the use of courts, which is examined in the section on legal strategies.

Another method, explored here, is the use of non-judicial accountability mechanisms. These are complaint or grievance mechanisms established in tandem with an institutional policy to ensure that corporations and international institutions are held to the standards to which they agreed. Complaint mechanisms can be set up at the project level or by sector, country or institution. For corporations, there is one international procedure — Organization on Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises — that can be used to assess a company’s conduct against a set of standards and file a complaint. For international organizations, individual institutions have set up grievance mechanisms that can assess whether a project has violated any standards or policies adopted by the institution. The effectiveness of an accountability mechanism is dependent upon how robust the human rights standards are that underpin the agreement and what compliance or redress it can enforce, if any.

The importance of these elements is illustrated by the shortcomings of Canada’s Corporate Social Responsibility (CSR) Counsellor for the Extractive Sector, which was set up in 2009 to resolve disputes between communities and Canadian mining companies. Without the powers needed to fulfill its mandate — to conduct investigations, make binding recommendations, conclude that a company is in breach of standards set by the government of Canada, or compel a company to participate in the review process — the first appointed counsellor left after four years unable to mediate any of the six complaints filed. The government is now evaluating the counsellor’s office as part of a wider review of its corporate social responsibility strategy.

On the whole, existing accountability mechanisms tend to be weak and have limited application of human rights standards. For affected communities and the NGOs supporting them, prioritizing the use of an accountability mechanism as an end in itself may consume a significant amount of time and resources without any positive outcomes. Few cases make it through the grievance process with a favorable finding (compared to the pool of potential cases), and even fewer receive compliance or redress. However, there are conditions under which NGOs have found accountability mechanisms to be valuable. They can be effective when:

- Employed as one of several tools or tactics as part of a multi-pronged strategy and campaign
- Accessed as one of the few avenues of redress where affected communities' voices can be heard and complaints recognized, particularly in countries where judicial avenues are unavailable
- Used to test accountability mechanisms with the aim of strengthening them, setting precedents or, in some cases, exposing their inherent limitations and pushing for access to judicial remedy

### ***OECD Guidelines for Multinational Enterprises***

The OECD Guidelines for Multinational Enterprises are a unique corporate accountability mechanism in that they contain government-endorsed standards along with a dispute resolution mechanism. They are the only international mechanism that looks directly at the conduct of corporations – and any abuses that result – and allows in effect for civil society to file a complaint. The types of human rights violations addressed in the cases filed by NGOs include forced eviction, illegal exploitation of natural resources, complicity with violations by security forces, and violations of the right to health, environmental rights, labor rights, indigenous peoples' rights and women's rights.

These guidelines are not legally binding on companies, but their implementation procedure is binding on OECD member states. The guidelines have been revised several times, most recently in 2011, to include a separate human rights chapter that establishes minimum standards for corporate conduct that largely follow the UN Guiding Principles. The guidelines now clearly establish that corporations should respect human rights wherever they operate and avoid causing or contributing to human rights abuses. They also call upon corporations to undertake adequate human rights due diligence, and to differentiate this process from standard risk assessment.

While the expanded standards are an improvement, the review process did not rise to the institutional challenges that continue to undercut the effectiveness of the OECD guidelines as an accountability mechanism. All countries participating in the guidelines are required to set up National Contact Points (NCP) to receive complaints about corporate misconduct. Each NCP establishes its own process for handling complaints, which leads to problems in maintaining a level of quality in the system. Other weaknesses include:

- Lack of a mandatory oversight or peer review mechanism for the proper functioning of NCPs
- Lack of minimum standards for implementation of guidelines
- No sanctions or mandated consequences for companies that fail to comply

A global network of NGOs, OECD Watch, has tried to address these shortcomings. A cross-section of NGOs actively participated in the 2011 guideline review process, pushing for stronger standards and structural changes to address these problems. They made progress with each review, but there is still much more that is needed. The guidelines remain weak in securing compliance. A recent victory using them to assert the human rights responsibilities of minority investors in the POSCO case highlights the guidelines' limitations as an accountability mechanism even when successful — and confirms their best use as part of a larger, multi-pronged strategy.

### **OECD GUIDELINES COMPLAINT PROCEDURE: POSCO AND MINORITY INVESTORS**

*In 2012, three OECD complaints were filed over a proposed steel plant and infrastructure project in India by POSCO, a Korean company, that threatened to displace as many as 22,000 people. A complaint by the Fair Green & Global Alliance was filed with the Netherlands NCP against a Dutch pension fund, ABP, which holds shares in POSCO. A parallel complaint was filed against an investment bank, NBIM, with the Norwegian NCP. In contrast to the Dutch process, the Norwegian investment bank refused to participate in the process; answer the NCP's questions; or accept that the OECD guidelines applied to minority investors.*

*In what is considered a set of notable decisions, the Netherlands and Norwegian NCPs reconfirmed that the OECD guidelines do apply to minority shareholders, including sovereign wealth funds (clarifying and expanding the human rights obligations of non-state actors). Going further, the Norwegian NCP found that NBIM's refusal to engage in the process was itself a violation of the guidelines.*

*Calling for future action, the Netherlands NCP recommended a joint international fact-finding mission to assess, among other things, how to establish meaningful consultation with local communities that recognized the right to free, prior and informed consent (FPIC). Despite the strong final statement from the Netherlands NCP, POSCO still has not undertaken human rights due diligence or meaningful consultation as prescribed by the guidelines. As a next step, the Netherlands NCP has committed to a joint evaluation mission with the Norwegian and Korean NCPs. Civil society is following this development and exploring how to use it as part of the larger POSCO campaign.*



## ***IFI Complaint Mechanisms***

In response to civil campaigns and donor pressure, many public international financial institutions (IFIs) or multilateral development banks (MDBs) have established individual complaint or review mechanisms. These include:

- **World Bank** – World Bank Inspection Panel
- **International Finance Corporation** – Compliance Advisor/Ombudsman
- **Inter-American Development Bank** – Independent Consultation and Investigation Mechanism
- **African Development Bank** – Independent Review Mechanism
- **Asian Development Bank** – Special Project Reviewer and Compliance Review Panel
- **European Bank for Reconstruction and Development** – Project Complaint Mechanism

Recently, some of the national development banks have also taken steps to establish complaint mechanisms, such as the Netherlands Development Finance Company (FMO).

While they differ from one another, in general the IFI accountability mechanisms are designed to receive a complaint from people affected by a project; determine their eligibility to make a complaint; investigate whether the institution's policies or procedures have been violated; and make findings and recommendations. However, several problems with this structure undermine the effectiveness of these mechanisms in holding international institutions accountable to human rights standards and obligations in their lending and operations.

First, if the human rights standards adopted by the institution are weak or incomplete, the basis for finding a violation is limited, which in turn limits the degree of accountability. For example, the World Bank Inspection Panel only hears complaints related to violations of its own lending criteria. NGOs have responded to this limitation by participating actively in the safeguard review process and continuing to push for expanded standards (as discussed above under International Standard Setting and Safeguard Reviews).

Second, even when a violation is found, there is no mandatory compliance or redress. With many of the mechanisms, there is no obligation to act or to provide remedy on a report with findings or recommendations. Often after a successful complaint, the lending institution focuses on addressing how its processes fell short, not on providing redress for the project's human rights and environmental impacts. This undermines the ability of the complaint mechanism to hold the institution fully accountable.

Despite these weaknesses, the IFI accountability mechanisms can be an effective tool when used as part of a larger advocacy strategy employing a range of tools. For example, NGOs filed a complaint with the World Bank Inspection Panel on behalf of forcibly evicted residents of Boeung Kak Lake in Phnom Penh. The Cambodian government cancelled financing for the development project after the inspection panel found that the evictions violated the World Bank's resettlement policy. In this and other cases, the grievance mechanisms are now one of the only avenues for affected communities to bring their complaint and seek redress.

### **CAO INVESTIGATION INTO IFC INVESTMENT IN CORPORACION DINANT, HONDURAS**

*In January 2014, an internal investigation by the Compliance Advisor/Ombudsman (CAO) — the accountability mechanism for the IFC, the World Bank's private-sector lending arm — found that the IFC had invested in a palm oil and food company, Corporacion Dinant, implicated in serious human rights abuses in Honduras. The expansion of palm oil plantations in the Aguan Valley in Honduras is associated with a history of abuses. There were reports that 102 members of peasant associations had been murdered over a four-year period, with 40 of those killings associated with Dinant property or its security guards. The investigation was prompted by allegations that Dinant conducted or supported forced evictions of farmers in the valley, and that violence against farmers, including multiple killings, "occurred because of inappropriate use of private and public security forces under Dinant's control or influence," according to Human Rights Watch.*

*The CAO issued a highly critical statement about the IFC's failure to assess the risks of violence and forced eviction in the investment. It also found that the IFC failed to conduct adequate due diligence, or to adhere to its own policies. Furthermore, the CAO found that these failures stemmed in part from incentives for staff "to overlook, fail to articulate, or even conceal potential environmental, social and conflict risk" and that staff felt pressured to "get money out the door."*

*This precedent-setting finding created an opening for advocates to push for systemic reform at the IFC and beyond, calling for stronger due diligence and adherence to its own safeguard policies. It also propelled a growing call for scrutiny of the IFC's policy of channeling funds through third-party financial intermediaries, providing even less oversight and further diluting safeguards.*

Perhaps more notably, when an accountability mechanism issues a strong finding, as in the recent International Finance Corporation (IFC) and Dinant case (see box), it presents a powerful tool for not only seeking a specific remedy but for addressing a pattern of violations. It opens space for civil society to push for broader institutional reforms more forcefully. Furthermore, when an accountability mechanism conducts a robust investigation and issues a strong finding, it demonstrates the value of an independent mechanism and a rigorous human rights due diligence process.

### ***ECA Complaint Mechanisms***

Export Credit Agencies (ECAs) are public agencies set up by governments to provide government-backed loans, guarantees, credit and insurance to private corporations. Most industrialized – and increasingly emerging – countries have at least one ECA. The purpose of these loans and guarantees is to enable companies to invest or make business expansions in other countries (usually developing countries). Such moves typically involve political, economic or environmental risk and, as a result, there are financing gaps. Governments support ECAs — usually with public funds — in order to boost trade, exports and domestic business expansion, but may enable projects with the potential for significant environmental harms or human rights abuses to proceed.

Under pressure and growing criticism from civil society, the OECD Working Party on Export Credits and Credit Guarantees (ECG) adopted the Common Approaches for ECAs, a non-binding instrument that makes recommendations for ECAs to address the social and environmental impact of the projects they support. Advocates pressured the OECD to revise its Common Approaches in 2012 to include human rights impacts. The human rights standards, however, are weak and not legally binding, and do not even reflect the human rights due diligence requirements recommended by the UN Guiding Principles.

A few ECAs have complaint mechanisms, including the UK's Export Finance (ECGD), the USA's Overseas Private Investment Corporation (OPIC), Canada's Export Development Canada (EDC), and Japan Bank for International Cooperation (JBIC). None of the mechanisms provide findings that are legally binding nor do they offer victims compensation or remedy. The complaint mechanisms are based on facilitation and dialogue, and the final outcome is dependent on whether the board or agency acts on the recommendations. In this sense, the ECA complaint mechanisms share a structural weakness with those of IFI.

A network of NGOs, ECA-Watch, monitors ECAs and advocates for expanding and strengthening ECA standards through policy reform at the domestic, EU and international levels. Although progress has been made in expanding the standards to include human rights, it has been slow and insufficient. Since ECAs

are set up by countries and are state agencies — often financed with public funds — some human rights groups argue that states are violating their obligations under international law if they do not require ECAs to conform to human rights standards, including calling for national-level regulation.

## ***Current Work in the Field***

### **Active Testing and Monitoring of Accountability Mechanisms**

An ongoing area of work involves testing and monitoring various accountability mechanisms for corporations, IFIs, and ECAs. These strategies aim to strengthen the existing mechanisms by filing cases and complaints; pushing to implement their own policies and safeguards; and ensuring compliance and redress where possible. Filing complaints also creates a demonstration effect that is important in highlighting the weaknesses in the system, and building a case for broader reform. Periodically, lending institutions conduct formal reviews of accountability mechanisms, creating an opening for civil society to provide input and push for reforms.

### **Community Access to Complaint Mechanisms**

Another area of work seeks to improve access to and effectiveness of the complaint mechanisms. International Accountability Project, Accountability Counsel, SOMO, Center for International Environmental Law (CIEL), Inclusive Development International and others assist affected communities and grassroots groups to learn about the mechanisms, compile the necessary documentation and file complaints. Recently, there is an increased focus on providing regional and local trainings for NGOs and affected communities to enhance their access to the mechanisms and provide redress. There is also a need to build the capacity of local groups and gain the technical support to document the case and violations. Following up, groups keep pressure on the IFIs to ensure the grievance procedure is followed and at a minimum ensure that the voices of affected communities remain central to the process. The larger goal is to strengthen the existing accountability mechanisms and, in some cases, advocate for new ones.

### **Early Warning System**

CIEL and IAP partner with the Bank on Human Rights coalition to host an online “early warning system” that alerts communities to the potential human rights and environmental impacts of a proposed development project. The system has a searchable map and database, and aims to give communities the information they need early enough so they can advocate with the development finance institution and prevent human rights violations. In addition, the tool assists communities in filing complaints using the accountability mechanisms, and connects communities to NGOs at the national and international level to provide support.

## **Accountability Mechanisms: OPPORTUNITIES FOR IMPACT**

- **Support documenting, filing and monitoring of cases to test accountability mechanisms, highlighting weaknesses and areas for reform**
- **Support development of cases and campaigns, using accountability mechanisms as one tactic of broader strategy**
- **Fund building of local networks, groups and affected communities to file cases, develop campaigns, monitor agreements and outcomes**



## 5. Regulatory Regimes: Gaining Traction with Disclosure and Due Diligence

A range of innovative and successful initiatives are using regulatory regimes — largely at the domestic level — as a means to enforce human rights compliance. Regulation has long been preferred tool for human rights protection because it holds the potential for ensuring compliance. As the political space at the global level shifted with the conclusion of the UN Guiding Principles process in 2011, NGOs refined their focus to reassess opportunities at the domestic level to advance key principles in a binding way.

Human rights groups are examining existing laws and regulations that contain some provision to hold economic actors accountable in their operations, and exploring ways to expand and strengthen the standards. Groups are also going beyond a traditional human rights law approach to leverage other legal areas (such as securities law and regulation) to introduce human rights standards and require reporting. One of the benefits of this approach is that human rights standards and obligations can be “mainstreamed” into different areas of government administration, creating greater impact. With this sharpened approach to domestic regulation, groups have met with some success in pushing for new legislation that requires companies to disclose information and ensure human rights due diligence.

### *Disclosure*

There are a number of initiatives aimed at requiring human rights reporting and disclosure in order to increase transparency of supply chains. The larger goal is to move from transparency to accountability, with disclosure as an important first step. Underpinning the work is the assumption that if information is publicly available — for instance, corporations are required to disclose their supply chains and payments — there will be greater public scrutiny by the state monitoring those business relationships and, ultimately, that they will be regulated, in line with stronger human rights and environmental standards.

At the same time, corporations and other economic actors would be more likely to monitor and change their own behavior to keep from damaging their reputations. In this theory of change, disclosure is a foundational step; however, human rights groups must engage in ongoing advocacy and other steps to ensure that companies change practice and adhere to standards.

Transparency and accountability is a distinct but related field of civil society activism. It maintains a strong focus on the right to information and by extension public participation. It also seeks to use disclosure as a way to curb bribery and corruption. Many of the basic principles of transparency are enshrined as human rights standards. The links to human rights are clear, but there is room for greater

development of the strategic connections, use of the human rights framework to advance transparency strategies, and cross-collaboration in the field.

## ***Due Diligence***

Another regulatory approach involves government mandating or strongly encouraging companies to undertake human rights due diligence: a process to identify, prevent or remediate any adverse impacts and potential violations from a company's operations. A renewed interest in this human rights tool was one of the positive outcomes from the UN Guiding Principles. Between 2012–14, due diligence continued to garner critical mass. Several organizations — the Institute for Human Rights and Business (IHRB), CIDSE – International Cooperation and Development in Solidarity, International Corporate Accountability Roundtable (ICAR) and others — released major reports examining the way domestic legal systems make use of due diligence regulations to ensure corporations respect established standards, and exploring ways of expanding them.

Business also has looked for ways to disseminate the use of due diligence by companies in different sectors, and there is a proliferation of business initiatives in this area. For example, the International Council on Mining and Metals (ICMM) produced a guide to assist mining companies in revising their existing risk management processes to adequately address human rights. The state of practice is uneven at this stage, with the need to expand its application beyond security or supply chain issues and to monitor outcomes.

## ***Current Work in the Field***

### **Disclosure Initiatives**

Recently there has been a series of successful regulatory initiatives requiring disclosure. There is a stream of work focused on defending these regulations, ensuring implementation, and exploring options for replicating disclosure regulations in other domestic contexts. Once disclosure is mandated, it opens the possibility of adjoining other human rights standards and expanding the realm of human rights compliance.

- **Conflict Minerals Provision, Dodd-Frank Act Section 1502**  
U.S. disclosure law requiring companies that source certain minerals (tin, tungsten, tantalum, and gold) from the Democratic Republic of Congo to report their use and disclose their supply chain.
- **Publish What You Pay Provision, Dodd-Frank Act Section 1504**  
U.S. disclosure law requiring oil, mining and gas companies to disclose payments to governments in countries where they operate.

- **Transparency and Accounting Directives** (European Union)  
Following the blueprint of the Publish What You Pay Provision, a disclosure law requiring EU-listed and large private oil, mining, gas and logging companies to disclose payments they make to governments in countries where they operate.
- **Human Rights Reporting and Disclosure** (European Union)  
Legislative proposal adopted by the European Parliament requiring large companies to report on human rights, environmental, and anti-corruption issues in their operations, including supply chains.
- **Transparency in Supply Chains Act** A state law requiring companies doing business in California to disclose their policies and efforts to eliminate human trafficking and slavery from their supply chains, while Know the Chain — a coalition of anti-trafficking organizations — monitors company disclosure and compliance with the law.
- **Burma Responsible Investment Reporting Requirements**  
U.S. federal law that went into effect in 2013 requiring investors with more than \$500,000 total investment in Myanmar to disclose information on their operations; companies must provide information on their due diligence policies, security arrangements, and payments to the Myanmar government.
- **Proposals for Public Listing of Ultimate Owners of Companies**  
Proposals in the EU and the UK requiring companies to disclose who the ultimate or beneficial owners of anonymous, shell companies are in order to increase transparency and cut down on corruption and tax evasion.

### Human Rights Impact Assessments

One of the primary tools for assessing due diligence is the use of human rights impact assessments (HRIA) – conducted by companies, independent parties or communities and NGOs. A number of HRIA have been devised, and more are in process. It may take awhile for consensus to emerge around an effective and uniform set of impact assessments. However, their potential as a tool for communities to assess the impacts of a proposed investment project is promising. Some HRIA include:

- **The Danish Institute for Human Rights** created a Human Rights Compliance Assessment tool that is intended to be comprehensive and to identify human rights risks in company operations. The tool incorporates a wide range of international human rights and ILO standards and converts them into indicators for assessment. The assessment reports are not publicly available.
- **Rights and Democracy** piloted a HRIA tool several years ago and later tested it with Oxfam and FIDH, incorporating the findings and revising the methodology. Oxfam and FIDH took over dissemination



of the HRIA tool after the closure of Rights and Democracy, and are disseminating it more widely to help advance human rights due diligence.

- **PODER**, a Mexican NGO, and others are engaged in designing a HRIA tool to help communities assess proposed development projects or business expansions, with the results intended to be the basis for discussions and advocacy with project stakeholders. This version of the HRIA is meant to equip communities with the information and analysis needed to negotiate or advocate with companies, IFIs and government to address potential human rights violations.
- **Bank on Human Rights**, a global civil society coalition, proposes developing a best-practice tool kit to incorporate human rights risk and impact assessment into the standard social and environmental assessment frameworks of development finance institutions. Recognizing the role of the World Bank as a global standard-setter globally for other development banks, the tool kit will aid efforts to increase the use of human rights due diligence within development finance.

### **Testing Due Diligence Mechanisms in the Market**

NGOs have been entrepreneurial in advocating for new due diligence requirements and using existing procedures to highlight gaps in accountability, laying the groundwork for stronger regulation. A good example of this type of innovative strategy is a recent project on asset laundering in the Democratic Republic of Congo and the due diligence function of the London Stock Exchange's Alternative Investment Market (AIM).

- **Rights and Accountability in Development (RAID)**  
Produced the “first systematic examination of the extent to which corporate conduct in zones of conflict is taken into account by stock market regulations, and of whether existing rules are adequately enforced.” By testing AIM’s regulatory regime, RAID documented inadequate due diligence by companies trading in minerals from a conflict zone, the DRC. Recommendations were made to the British government about reforming the regulation of AIM, and by extension other stock markets, laying the groundwork for future advocacy.

## **Regulatory Regimes:**

### **OPPORTUNITIES FOR IMPACT**

- **Support the defense of regulatory victories and push for implementation of disclosure, due diligence, and transparency rules**
- **Seed regulatory initiatives, supporting NGOs and coalitions in the Global South**
- **Support development of human rights impact assessments for affected communities**



## 6. Legal Strategies: Constructing Accountability and Access to Remedy

Human rights groups employ a range of legal strategies, including the use of strategic litigation, in their efforts to hold states — and increasingly, non-state actors — accountable for human rights violations. With the growth of the global economy and emergence of powerful corporations whose operations cross borders, the human rights movement continues to explore ways to hold non-state actors legally accountable across those borders. Specifically, there is work to strengthen corporate liability; enhance access to remedy; and bridge extra-territorial gaps in recognition of human rights obligations.

### *Corporate Liability*

In general, there is no international legal mechanism for holding corporations either criminally or civilly accountable for violations. This gap has spurred advocates to pioneer the use of domestic legal systems through transnational litigation to hold corporations responsible for human rights and environmental abuses. There have been some successes, but significant obstacles remain. Difficulties like the collection of evidence, prohibitive costs, protracted time frames, and lack of political will impede access to justice. In addition, challenges, like the legal personality of corporations further complicate litigation efforts. For example, parent companies (in one country) and subsidiaries (operating in another) are treated as separate legal entities, making it difficult to hold the parent company responsible for a subsidiary's violations. Advocates are often limited to bringing cases in the forum where violations occur, where courts can be hampered by a lack of capacity or political will to pursue. This leaves the parent company, whose policies and financial interests drive the corporate group's operations, immune from suit. As a result, few cases advance or succeed.

The use of domestic legal systems, however, is one of the few approaches that allows for the possibility of holding a corporation directly responsible for harms and providing a remedy, usually in the form of damages. Therefore, human rights advocates continue to pursue criminal and civil liability as well as forms of regulatory action under corporate and securities legislation.

### *Criminal Liability*

Some of the early precedents in this area were established under international criminal law, recognizing the role of corporations in gross human rights violations but limiting liability to a few individuals. Since then, there have been efforts to extend the principles of corporate criminal accountability to the domestic law of states. The majority of national jurisdictions today recognize the concept of corporate criminal responsibility, although there are variations in the standards

used and problems of enforcement. Recent efforts have focused on filling the “prosecution gaps” to ensure that gross human rights violations committed by corporate actors can be prosecuted under domestic law. In Europe criminal prosecutions are becoming more widely used, offering some prominent examples

- In 2010, the European Center for Constitutional and Human Rights (ECCHR) brought a complaint against two executives of the German engineering company Lahmeyer International for the flooding of over 30 villages and the displacement of over 4,700 families during construction of the Merowe dam in Northern Sudan. The case was accepted by the public prosecutor in Frankfurt.
- In 2012, ECCHR and a Colombian trade union lodged a complaint in Switzerland against Nestlé and five of its managers for negligently contributing to the killing of trade union leader Luciano Romero by paramilitaries.
- In 2013, the Swiss NGO TRIAL successfully initiated federal criminal proceedings in Switzerland against gold refinery Argor-Heraeus SA for knowingly handling minerals taken from the Democratic Republic of Congo during armed conflict.

Human rights groups are also bringing criminal complaints before prosecutorial authorities in common law countries. The case of the Anvil Mining and the Kilwa massacre in the DRC highlights many of the challenges in seeking criminal and civil liability for human rights abuses involving corporations and shows how human rights organizations work together to pursue different paths to justice.

This challenging area of work is informed by a number of recent studies, including a 2014 report by the Office of the High Commissioner for Human Rights (OHCHR), “Corporate Liability for Gross Human Rights Abuses,” assessing the effectiveness of domestic judicial mechanisms. OHCHR plans to use the study to clarify key principles and identify models for best practice. Together with a raft of recent reports focusing on Access to Remedy (see the next section), they are creating a base of knowledge in the field to inform and spur new strategies and advocacy. There is a surge of interest in identifying and tackling longstanding barriers in legal accountability.

## **ANVIL MINING COMPANY AND THE MASSACRE AT KILWA, DRC**

*In October 2004, the Congolese military put down a small uprising in the town of Kilwa, in Katanga Province, Democratic Republic of Congo. Immediately after the town was recaptured, the military went on a rampage, looting shops and houses and detaining, torturing and killing civilians. The majority of the population fled, and some died in the attempt. In the next few days, scores of people were tortured and killed; others died from their injuries in the following months.*

*The Canadian/Australian mining company Anvil Mining Limited, which ran a mine at Dikulushi, some 50 kilometers away, facilitated and provided support for the military action. In a television interview in 2005, Anvil's CEO explained that following a request for assistance from the military, the company flew between 80 and 100 troops into the area from the provincial capital, supplied vehicles to move soldiers into Kilwa, and flew detainees out of the area after the operation.*

### **Criminal Trial in the DRC**

*After two years of intense pressure, led by Rights and Accountability in Development (RAID) and the Congolese NGO Action contre l'impunité pour les droits humains (ACIDH – Action Against Impunity for Human Rights), a Congolese military prosecutor recommended in October 2006 that nine military personnel and three former Anvil Mining employees be tried for alleged war crimes or complicity in war crimes. Anvil Mining itself was not prosecuted. Within days, the office of the president of the DRC summoned the prosecutor — a move that the UN criticized as political interference in the trial. In June 2007, all the defendants were acquitted.*

### **Pursuing Justice in Australia and Canada**

*Under pressure from RAID and its partners, the Australian Federal Police (AFP) began an investigation in 2005 because the company had a corporate presence in Australia. Two years later, the AFP informed the victims' lawyers there was insufficient evidence to pursue the case. A group of victims then initiated pre-action proceedings for discovery of documents in Australia to determine whether they had a civil claim worth pursuing. Anvil contested the application. Congolese authorities prevented the victims' international lawyers from traveling to meet with the victims, and their Congolese lawyers received anonymous death threats, which abruptly ended the application.*

*Several human rights organizations, including RAID, ACIDH, ASADHO, Global Witness, Canadian Centre for International Justice (CCIJ) and L'Entraide missionnaire, worked together to help a coalition of Kilwa victims — the Canadian Association Against Impunity or CAAI — file a class action suit in Quebec. In April 2011, the Superior Court in Quebec accepted jurisdiction, finding that the victims would not receive justice either in the DRC or in Australia. Anvil appealed, and the Quebec Court of Appeal found*

*in Anvil's favor, ruling that Quebec's courts did not have jurisdiction to hear the case. CAAI appealed to the Supreme Court of Canada, but the court dismissed CAAI's application in October 2012 on jurisdictional grounds without hearing any facts of the case, eliminating the possibility of judicial relief in Canada.*

### **The African Commission**

*In collaboration with RAID and ACIDH, the Institute for Human Rights and Development in Africa prepared a "Communication on Kilwa" for submission to the African Commission on Human and People's Rights. In March 2014, the commission ruled the communication admissible, finding that domestic remedies had been exhausted. The commission's ruling confirms RAID's contention that the Kilwa victims have no realistic prospect of recourse in the Congolese courts. Since the original trial, some of those who were tortured or shot have died of their injuries. RAID remains committed to supporting the remaining survivors in their quest for justice, and a new legal team is considering all options for pursuing the case in an alternative jurisdiction.*

## **Civil Liability**

In recent years, many developments in advancing corporate liability have involved the use of civil litigation. For victims seeking remedy for business-related human rights violations, a domestic legal claim could be pursued against a corporation in either the host state (where the violation occurred) or the home state (where the corporation is domiciled). Because of institutional and political obstacles to pursuing litigation strategies in many developing countries, advocates also have often opted to bring cases in home states in the United States or Europe, which have some procedures that allow for holding corporations accountable and where many of the parent companies for multinationals are located. With the growing number of multinational corporations from the Global South, however, and the use of transnational human rights litigation in host states, there is a need to re-examine the opportunities for bringing litigation in host or home states outside of Europe and North America. For example, there is potential for exploring the use of domestic tribunals in Brazil to hold Brazilian companies accountable for their expanding operations and impacts in Africa.

A wide range of NGOs in the Global South have been building a body of practice and litigation experience in cases involving civil liability for human rights violations by multinational corporations. These groups include the Centre for Public Interest Law (CEPIL) in Ghana; Environmental Rights Action in Nigeria; the Community Resource Center in Thailand; ERI and Dawei Development Association in Myanmar; the Community Legal Education Center in Cambodia; the Habi Center for Environmental Rights in Egypt; Tierra Digna, Justicia y Paz in

Colombia; Corporacion Colectivo de Abogados Jose Alvear Restrepo (CAJAR) in Colombia; and Centro de Accion Legal, Ambiental y Social de Guatemala (CALAS) in Guatemala; and Legal Resources Centre (LRC) in South Africa.

Recent developments in longstanding cases have prompted groups to reassess both the opportunities for and the challenges to advancing domestic litigation in developing countries where many of the harms occur. In July 2013, an Indian court ordered the Dow Chemical Company to explain why its wholly owned subsidiary, Union Carbide Corporation, has repeatedly ignored court summons in the ongoing Bhopal criminal case. Three decades after the gas leak from the Bhopal pesticide plant that is estimated to have killed more than 18,000 people, the lack of legal progress tragically highlights critical gaps in corporate accountability. The most notable development in the litigation landscape reversing the traditional arguments around home vs. host states — and introducing new obstacles — is found in the Texaco/ Chevron case in Ecuador.

### **Tort Litigation**

In the United States, human rights lawyers have employed a wide range of legal strategies and theories in corporate human rights litigation. This includes general tort law (such as assault and battery, negligence and wrongful death); the Alien Tort Statute (ATS); the Trafficking Victims Protection Act (TVPA); nuisance law; and California's Unfair Competition law; and the Racketeer Influenced and Corrupt Organizations Act (RICO).

### **TEXACO/CHEVRON CASE, ECUADOR**

*In 1993, a lawsuit was filed against Texaco, in its home state of the United States, for environmental damages and negative health impacts suffered by Ecuadorians living in the rain forest region near Texaco's oil operations. Texaco fought the lawsuit for nine years arguing that the case should be tried in Ecuador since the harm occurred there. In 2002, the U.S. court agreed and dismissed the case (forum non conveniens).*

*In 2003, a lawsuit was then brought in the host state courts in Ecuador on behalf of the affected communities against Chevron (which acquired Texaco in 2001), alleging severe environmental contamination from its oil operations. In February 2011, the Ecuadorian court issued a ruling against Chevron, ordering it to pay \$18 billion in damages and clean-up costs (eventually reduced to \$9.5 billion). Chevron appealed and filed a counter lawsuit against the plaintiffs' lawyers in U.S. court, using RICO, claiming the lawyers engaged in fraud, bribery and coercion to secure the court victory. Lawyers for the affected communities are seeking enforcement of the 2011 judgment against Chevron by filing lawsuits in Brazil and Canada, where Chevron has assets.*

In the wake of a series of cases involving transnational corporations' liability for human rights violations committed during apartheid in South Africa (In re South African Apartheid Litigation), it is today firmly established that corporate liability exists under the ATS. Many advocates sought to use the ATS as a tool for the accountability of corporations operating in developing countries. In 2013, however, the U.S. Supreme Court in *Kiobel v. Royal Dutch Petroleum* restricted the extraterritorial application of the ATS, deciding that it applied only when the activities giving rise to the abuse “touch and concern” the United States “with sufficient force.” While corporate liability under the ATS has been confirmed by courts post-*Kiobel*, at this time, it is unclear what the standard for “touch and concern ... with sufficient force” means, although it clearly narrows the use of ATS in the near term. Human rights groups are strategizing new ways forward with respect to the ATS, including “transitory tort” litigation brought in state courts, which is discussed below.

In the U.K. and other countries, advocates have brought tort lawsuits against corporations for both direct liability and negligence in breaching their “duty of care” for harms arising as a result of the failure to perform oversight and effective control of their subsidiaries. Recent developments in the EU and in the U.K. have made it easier to bring cases on one level (it is no longer necessary to establish that the home state is the most appropriate legal forum) and created new obstacles on another level (it is more difficult to recoup legal costs). On balance, the use of tort litigation against corporations for human rights violations is a promising tool.

## ***Access to Remedy***

A foundational element of the human rights system is the provision of effective remedy to victims of human rights violations. States have an obligation to take steps — judicial, administrative, and legislative — to ensure that when abuses take place, victims have access to remedy. While there are many types of possible remedy (legal, political, economic, or reputational), momentum in the field is focused on seeking legal recourse.

Under the UN Guiding Principles (GPs), corporations have a responsibility (as opposed to an obligation) to establish or participate in grievance mechanisms for those adversely impacted by their operations (“the third pillar”). While this represents progress, the right to effective remedy goes beyond procedural access and includes a substantive dimension, the right to reparation. Implementation of the right to remedy has lagged behind, leaving affected communities around the world — victims of forced displacement, physical violence, environmental contamination, labor rights violations and serious health impacts, among other abuses — languishing as they wait for redress. Because of the states' failure to provide effective remedy as well as the weakness of this third pillar of the UN GPs, access to remedy has emerged as a key priority of the field.



There are a number of new initiatives focused on improving access to remedy for victims and approaching it from complementary vantage points.

Recently, human rights organizations have conducted a series of case studies, country studies and analyses of barriers to remedy. Together they have produced a deeper understanding of the factors inhibiting access to justice for victims of human rights abuses committed by corporations and other non-state actors.

- [Injustice Incorporated: Advancing the Right to Remedy for Corporate Abuses of Human Rights by Amnesty International \(2014\)](#)
- [The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business by the International Corporate Accountability Roundtable, CORE Coalition, and the European Coalition for Corporate Justice \(2013\)](#)
- [Corporate Accountability for Human Rights Abuses: A Guide for Victims and NGOs on Recourse Mechanisms by FIDH \(published 2010; updated 2012\)](#)

Since access to judicial remedy is provided primarily at the national level, these studies establish an important base for assessing the legal and institutional factors that allow or inhibit it. Drawing on this body of work, a number of opportunities exist for supporting improved access to remedy, including designing programs for advocacy action and legal reform to address persistent barriers.

### ***Extra-Territorial Obligations***

Another legal strategy emerging as a key focus in the field supports the development of an important legal principle — extra-territorial obligations (ETOs) — in international human rights law and practice. Extra-territorial obligations refer to the obligations of States to observe the human rights of persons outside of their territory in development assistance, trade and investment and the regulation of transnational corporations. Although human rights are recognized as universal, traditionally, human rights obligations have been interpreted as referring only to the relationship between a State and the people living in its territory. With the transnational impacts of economic globalization, an increasing and glaring gap is created by the policies implemented by one country or one company and the negative human rights impacts on people living in another country. The lack of extra-territorial jurisdiction and clarity of obligations has contributed significantly to the problems of enforcement of human rights obligations for non-state actors.

ETOs define and establish human rights obligations for states over the activities of non-state actors that take place or have an impact in another state (host state), with the aim of bridging this critical gap in accountability. ETOs focus on state obligations, but have important repercussions for non-state actors (such as

corporations or intergovernmental organizations) through the duty to protect. This is an area of increasing importance in international human rights law, which has witnessed advancements in conceptual legal development in recent years.

ETOs have relevance for work on IFIs since they have the potential to more clearly establish the human rights obligations of intergovernmental organizations: states have human rights obligations through their treaty obligations, and they carry these obligations with them as they enter into multilateral or international institutions. The establishment of ETOs in practice would have a transformative effect on the field by going a long way toward bridging many of the enforcement gaps that exist.

In 2011, a group of leading NGOs and academics developed the Maastricht Principles on ETOs of states in the area of Economic, Social and Cultural Rights, clarifying the human rights obligations of states beyond their own borders. The launch of the Maastricht Principles helped sharpen the focus on gaps in accountability and the pivotal role that ETOs could play in bridging those gaps. At the same time, the Maastricht Principles helped consolidate work in the field, creating an ETO consortium dedicated to “mainstreaming” ETOs in international human rights law and policy. Organizations and UN bodies are advancing ETOs in tactical ways through activities coordinated by the consortium and its focal points; by NGOs in their programmatic work and partnerships; and by special rapporteurs including consideration of ETOs in their thematic reports.

There has been an increase involving uptake around ETOs in the international human rights system. In 2012, the Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights (ICCPR), conducted a periodic review of Germany, including its extra-territorial human rights obligations. The committee welcomed measures adopted to provide remedies against German companies for human rights violations while acting abroad, but encouraged Germany to strengthen and ensure that these remedies apply to all companies in their territory and in their overseas operations. In July 2015, the Committee plans to review Canada’s extra-territorial human rights obligations under the ICCPR. NGOs, including the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR). Parallel reports are being prepared, urging the committee to hold Canada accountable for ETOs in relation to Canadian corporations involved in the extractive industries in Central America and for decisions made within international financial institutions such as the World Bank.

Within the development arena, NGOs are also advancing ETOs in key global policy processes. The Center for Economic and Social Rights (CESR), among other organizations, continues to play a lead role in the debate over a new sustainable development agenda to replace the Millennium Development Goals when they expire in 2015. CESR developed a blueprint for the post-2015 framework that integrates human rights standards into development policy, including the duty of international cooperation and assistance, which requires collective action on the part of states and the international system to address

poverty and the “spillovers” or “externalities” from economic globalization. In this way, they are strategically bringing ETOs into the new framework, advocating for coherence between international development assistance policies and other multilateral policies in trade, investment, environment, finance, and taxation to prevent and address their negative human rights impacts. Policy coherence will increasingly become a strategic focus of the human rights field as an important avenue for potentially gaining greater leverage in holding economic actors accountable on human rights standards.

## **Current Work in the Field**

### **Use of U.S. Discovery Laws to Support Host State Litigation**

Earthrights International and other groups are pioneering the use of U.S. discovery laws as an innovative tool to support litigation in host states. Section 1782 of Title 28 of the U.S. code allows parties in a foreign lawsuit to obtain evidence from individuals or companies in the U.S. This tool has been used to obtain environmental impact assessments and other evidence from Chevron in support of a lawsuit in Nigeria brought by villagers affected by gas flaring.

### **Open for Justice Campaign**

In Canada, a campaign coordinated by the Canadian Network on Corporate Accountability (CNCA) is underway to introduce legislation that would allow foreign victims harmed by international operations of Canadian companies to bring civil suit in Canadian courts, bridging an important jurisdictional gap that would create more space for transnational (or extraterritorial) litigation in that country.

### **French Bill to Establish Duty of Care**

In 2013, a draft bill was introduced into the French Parliament to establish a direct obligation of duty of care on parent and subcontracting companies for the activities and harm caused by their subsidiaries, subcontractors and suppliers. This initiative was partly in response to the Rana Plaza disaster and the involvement of two French companies. The bill proposes to amend the civil and penal code to create liability for corporations. Human rights organizations are following the bill’s progress with keen interest, with an eye toward advancing similar legislative proposals in other countries.

### **CHOC v. HUSBAY MINERALS, CANADA**

*In a groundbreaking ruling (2013) that advances the Open for Justice Campaign, an Ontario court ruled that Canadian company Hudbay Minerals can potentially be held civilly liable in Canada for rapes and murder alleged to have been committed by mine company security personnel at HudBay’s former mining project in Guatemala. The lawsuits filed in Ontario court by members of the indigenous Mayan Q’eqchi’ population from El Estor, Guatemala, against HudBay Minerals are proceeding.*

### **Case Support and Campaigns**

There is a renewed focus by human rights organizations working together with social movements and affected communities to undertake strong casework as the basis not only for seeking remedies and holding non-state actors accountable, but for providing an informational base for larger policy change. Given the complexities in holding global economic actors accountable for human rights impacts, robust casework is critical to putting a human face to the violations; building pivotal campaigns; informing policy change and advocacy; and for testing existing corporate accountability mechanisms.

- **Stop POSCO Campaign, India**

A good example of this type of strategic and in-depth case support is the POSCO case in India, where the proposed construction of a steel plant by a Korean company threatens to displace 22,000 people. A broad campaign is underway that employs the UN Special Procedures, shareholder activism, legal strategies, and international advocacy.

- **International Network of People Affected by Vale**

A movement connecting communities in different countries affected by the mining company, Vale, that seeks to document the environmental degradation and human rights violations, identify patterns and undertake a range of advocacy actions, including preparing the groundwork for host state litigation.

### **Support for Affected Communities Seeking Remedy**

Another complementary initiative is found in efforts to provide technical services and funds that support communities affected by corporate human rights abuses. This set of activities is aimed at addressing the logistical barriers victims face in seeking remedy or bringing legal actions. In addition, they connect communities on the ground with a global pool of experts, advocates and human rights networks.

- **Public Interest Litigation Support Fund**

Environmental Defender Law Center has established a recoverable grants program to provide the critical resources needed to file claims, access expertise, and bring cases.

- **Pool of Experts for Impact Assessments**

DeJusticia is creating an interdisciplinary team of experts with the necessary technical skills to provide environmental and social impact assessments to affected communities and local organizations to be used as a support for litigation as well as part of a broader community-driven HRIA.

### **Address Barriers to Remedy at the National Level**

Drawing upon the findings of recent studies, a blueprint is emerging for tackling structural barriers that impede access to remedy for victims and create impunity

for non-state actors. There is an opportunity to develop advocacy action plans across a range of key host and home states in partnership with groups on a national level, increasing accountability, enhancing remedy and building coalitions and capacity outside of North America and Europe.

### **Global Campaign to Mainstream ETOs**

The ETO Consortium, a network of leading human rights organizations and academics, has launched a global campaign to mainstream ETOs in law and policy, to gain legal recognition for extra-territorial human rights obligations in practice. Through a range of coordinated activities, the consortium seeks to raise public understanding of ETOs, increase application of ETOs in law through strategic litigation and UN reporting, and strengthen political recognition of ETOs in policy-making.

### **Tort Litigation Post-Kiobel**

One option being explored in the post-Kiobel landscape is the use of state-level litigation in the U.S. to hold corporations accountable using tort law to establish liability for harms occurring outside the United States. A project is underway coordinated by Earthrights International and the International Corporate Accountability Roundtable (ICAR), to examine the opportunities in individual U.S. states for bringing wrongful death suits or claims of assault and battery (as opposed to torture, genocide or war crimes, which could be brought in federal court) and addressing the obstacles to a state litigation approach. The goal is twofold: to find a way around the roadblock created by *Kiobel v. Royal Dutch Petroleum*, and to enhance human rights legal protection on a broader scale through continued ATS and general tort law litigation.

### **IACHR Thematic Hearing on Extra-territorial Jurisdiction**

The Inter-American Commission on Human Rights (IACHR) held a thematic hearing in 2013 on the Human Rights of People Affected by Mining in the Americas, with a special focus on the extra-territorial obligations of home states. The commission took up the pressing question of whether a home state (where a corporation is domiciled) can be held liable for the actions of that corporation in another state. The commission asked to hear legal arguments that could be used to hold states accountable in the inter-American system. This is a promising initiative that opens opportunities to expand recognition and mainstream application of ETOs, and thereby help close a critical accountability gap.

## **Legal Strategies:**

### **OPPORTUNITIES FOR IMPACT**

- **Fund strategic litigation casework and campaigns to seek remedy and bridge gaps in legal accountability**
- **Support efforts to bring prosecutors and civil society actors together to enhance criminal liability of corporations for human rights abuses**
- **Invest in advocacy action and legal reform programs targeting barriers to remedy at the national level**
- **Support efforts to apply mainstream ETOs into legal analysis, judicial decisions, global development policy processes, UN reporting, and governmental forums**

## Emerging Issues

Human rights groups are continually trying to assess influential actors in the field, identify new leverage points and ways of working, and build the capacity needed to have impact. Significant changes in the broader arena of economic globalization have heightened a sense of transition in the field — and the need for groups to develop new knowledge and skills in preparation to shift tactics and targets. There are several emerging issues areas in the field that human rights organizations have noted, and they are doing the groundwork to create effective strategies to address them.

### Rise of Private Finance

A new and significant factor that has changed the non-state actor landscape is the recent and dramatic rise of private financing for development. Traditionally, the bulk of financing for development has stemmed from public sources, including bilateral government development assistance or international financial institutions with states as members. Private finance stands to eclipse the importance of public or IFI-related financing in the future, given its size, scope and impact. NGOs in the field have noted an increase in private financing for overseas investment and development from private banks and hedge funds as well as from BRICS, which are largely beyond the reach of the safeguard processes. Accelerating this trend, IFIs have adopted policies that funnel more of their own funding through private financiers or intermediaries, making it harder to monitor and more difficult to subject to safeguard review.

### Fiscal Policy and Financial Regulation

An emerging issue involves financial flows and economic policy at the national level and within international systems, and their impact on the protection and realization of human rights. In grappling with the crisis created by the 2008 recession, many countries imposed austerity measures that negatively impacted human rights, particularly on the most vulnerable populations. Human rights advocates have begun to examine more comprehensively the links between economic policy, financial flows (both those regulated by the state and those that are not but should be) and their impact on the protection and realization of rights. A new and challenging — yet potentially fruitful — area of work on non-state actors takes a macro approach to analyzing financial flows and economic policy decisions, the impacts they have on human rights, and identifying opportunities for regulatory change in order to enhance protection for human rights. This area examines tax policy and available revenues, directly linking non-state actor work with ESC rights through maximum available resources. A coalition of human rights and development organizations has developed a new

initiative, *Righting Finance: A Bottom Up Approach to Righting Finance*, to map this emerging issue area, develop the technical capacity to work on these issues and engage policymakers, and build knowledge and capacity in the field at the country level. Noting another indicator of the issue's increasing relevance, the special rapporteur on extreme poverty and human rights submitted a report to the Human Rights Council in June 2014 examining the human rights impacts of tax and fiscal policy, including corporate taxation, tax evasion, and illicit financial flows.

## Increasing Influence of BRICS

Brazil, Russia, India, China and South Africa (BRICS) and other emerging economies have increasing amounts of political influence in international development, trade, and investment regimes. Unlike other countries during the economic recession, the BRICS have had significant funds available to invest in infrastructure, agro-business and other projects. Funding is channeled through private companies or parastatals (such as national development banks or export credit agencies) that for the most part fall outside of any safeguard regime, making it even more challenging to push for human rights standards, impact assessments or policy change. National human rights organizations and other groups have begun examining the policy positions and potential leverage points of these influential states, as initial steps in developing a BRICS strategy.

## Trade and Investment Agreements

State-investor relations is an area that highlights the conflicts and inconsistencies within international law with the effect of privileging trade and investment over human rights. In principle, different sets of obligations — those of human rights, trade and investment — imposed on states should be able to harmonize, and, when there is a conflict, affirm the primacy of human rights obligations under international law. In practice, however, harmonization is difficult because of the “fragmentation” of international law into specialized areas and separate regimes, each with their own rules, institutions, dispute resolution mechanisms, and little or no coordination between them. In this fragmented field, trade and investment obligations tend to have greater adherence than human rights obligations because of the strong enforcement mechanisms and ability to impose financial sanctions.

Trade agreements lay the groundwork for investment and often include international binding arbitration as a mechanism for resolving a dispute that may arise between a company and the host country where the investment takes place. If there is a conflict between the investment demands and the domestic or local environmental, health, or labor regulations for example, economic stabilization clauses in the investment agreements undermine the protection or



fulfillment of human rights standards. These mechanisms have been in place for many years, but recent cases such as the Pacific Rim case in El Salvador and other high-profile cases have drawn more attention to this issue for human rights organizations.

## **PACIFIC RIM CORP AND GOLD MINING IN EL SALVADOR**

*With the price of gold on the rise over the last decade, there has been a surge in gold mining in El Salvador, a densely populated country with limited water resources. Pacific Rim, a Canadian mining company, proposed an underground gold mining project in the El Dorado basin, the largest river in El Salvador, using a process employing large amounts of water and cyanide to extract gold.*

*Pacific Rim undertook the required Environmental Impact Assessment (EIA) and feasibility study, which the government reviewed and found to be inadequate and incomplete, respectively, in particular lacking clarity on the impacts of water usage and risks of contamination. An independent study found that the proposed mine would have significant negative impacts by diverting large amounts of water and the effect of acid drainage on the water system. The government of El Salvador denied the exploratory mining permit, conditioned on a more detailed EIA by the company.*

*In 2009, Pacific Rim filed a \$77 million claim under the Central American Free Trade Agreement (CAFTA) through a U.S.-based subsidiary of Pacific Rim against the state of El Salvador. Pacific Rim claimed compensation for “expropriation” (increased cost of environmental protection that results in “indirect or regulatory expropriation”) as a violation of investor protection under the treaty. In 2012, the International Center for Settlement of Investment Disputes (ICSID), a powerful dispute resolution mechanism affiliated with the World Bank, dismissed the claim under CAFTA.*

*In parallel with the CAFTA process, Pacific Rim brought a claim that ICSID has agreed to hear: Pacific Rim is suing El Salvador for \$400 million over violations of the country’s 1999 national investment law. The dispute has galvanized communities in El Salvador, creating a mass public campaign that has resulted in a temporary ban on mining with a bill in Parliament considering a permanent ban. The dispute has also led to increasing hostilities and tensions within El Salvador, with the deaths of a number of anti-mining activists in recent years.*

## Climate Finance

Climate change is increasingly recognized as not only an environmental issue, but a human rights issue, in light of its impacts on health, livelihoods and displacement. Moreover, as governments and the international community have developed mechanisms and dedicated funding to addressing the adverse impacts of climate change, especially for developing countries, new challenges have emerged for the protection and fulfillment of human rights. Recognizing the inherent risks in promoting climate finance without considering existing inequalities, discriminatory practices or vulnerable communities, the Office of the High Commissioner for Human Rights has called for a human rights-based approach to climate finance. A number of climate funds have been created that share some of the same challenges as other development finance institutions, including the need for comprehensive safeguards, incorporation of human rights standards in operational policies, and effective accountability mechanisms. Given the scale of climate impacts and the amount of funding required, ensuring that climate finance supports activities that “do no harm” to communities or the environment is an issue of increasing priority for the human rights field.

### Emerging Issues:

#### OPPORTUNITIES FOR IMPACT

- **Invest in capacity building of groups to acquire knowledge, technical skills and staffing to exercise leadership on emerging issues**
- **Fund development of new tools and strategies to tackle emerging issues**
- **Support gatherings to build agendas for the human rights field and encourage cross-collaboration with other fields — environment, labor, trade and investment — working on a common set of challenges**

## A Call for Donor Action

**Human rights activism has reached a moment of opportunity. With strategic support, the field is poised to become stronger and more cohesive over the next three to five years**, advancing human rights accountability for economic actors. There is a shared sense among advocates in the field of the need to move from recognition of responsibilities toward enforcement of obligations. Human rights groups have been experimenting with different ways of gaining traction, and have opened new opportunities. By sharpening our understanding of how the areas of work explored in this paper relate to each other, and focusing resources and efforts around the most promising points of leverage, donors have the opportunity to achieve greater impact.

**This mapping identifies important work that is worth supporting**, highlighting opportunities for impact across a range of human rights approaches to economic actors. Some of these are nascent but promising initiatives that need time, piloting and scale. Others encompass a reworking of established strategies coupled with building new constituencies, giving them greater force. With additional support and focused attention, donors have the opportunity to spur further strategy development in these areas and cultivate openings for future advocacy and impact.

**This guide identifies compelling areas that hold the potential — with greater investment and field building — to address longstanding challenges to non-state actor accountability and enforcement.** Each of these areas has generated momentum, resulting in increased visibility of a critical issue and attracting new initiatives. While it is too early to measure many outcomes, this is a critical period of defining a focus for the field, identifying opportunities to gain traction, and advancing accountability and protection in a concrete way.

### Regulation

Momentum has been building around the use of regulation — largely at the domestic level — as a means to enforce human rights compliance. Advocates are going beyond human rights law to leverage other areas of law (such as securities law) to introduce human rights standards and require reporting. With this sharpened approach, groups have been successful in pushing for new legislation that requires companies to disclose information, particularly around supply chains, and ensure human rights due diligence to prevent violations in their business operations. This is one of the more innovative and promising areas to open up in the field, as demonstrated by a raft of successful regulatory initiatives such as Dodd-Frank and others.

There is a need for additional support in order to:

- Defend and extend regulatory wins
- Replicate gains in transparency and disclosure, particularly outside of the Global North
- Strengthen due diligence tools and mechanisms

## Legal Strategies

With the growth of powerful corporations and development finance institutions whose operations and impacts cross borders, the human rights movement is redoubling its efforts to find ways hold economic actors legally accountable across those borders. Specifically, work continues to develop around strengthening corporate liability, enhancing access to remedy, and bridging extra-territorial gaps in recognition of human rights obligations.

A concerted effort is underway in the human rights field to improve access to remedy for victims of human rights violations, and close vexing gaps in legal accountability. Responding to a weakness of the UN Guiding Principles, many human rights organizations are prioritizing remedy in order to push it further up the international agenda. Remedy is a foundational element of the international human rights framework and is a clear “value added” that a human rights approach brings to economic justice issues. Several layers of work are currently being developed in the field, which could produce significant gains in providing redress to victims and strengthening accountability, if given sustained support:

- Address barriers at the national level, drawing on the findings of recent studies
- Build cases and campaigns, connecting affected communities with local and international partners through multi-pronged campaigns

A related and complementary opportunity for investment involves strengthening the international framework for legal accountability by advancing recognition of extra-territorial obligations (ETOs) — an important legal principle that holds the potential to close critical gaps in accountability. ETOs establish human rights obligations for states to observe the human rights of persons outside of their territory in development assistance, trade and investment and the regulation of transnational corporations.

With the transnational impacts of businesses, trade and investment, a glaring gap is created between the policies implemented by one country or one company and the negative human rights impact on people living in another country. ETOs have been established in principle but now require significant support to gain

acceptance in practice. A number of openings exist to advance legal recognition of ETOs, and with adequate support, hold the potential for accelerating legal accountability and transforming the field:

- Support the global campaign to mainstream ETOs in law and policy
- Advance national level initiatives to close gaps in extra-territorial jurisdiction

## Field Building

Continuous and sustained investment in field building is critical to the success of advancing regulation and legal strategies for holding economic actors accountable as well as developing the full potential of other opportunities for impact. Although the human rights movement has made progress in tackling gaps in protection created by non-state actors, its efforts have been hampered by a lack of tools, capacity and leverage to respond more effectively.

Groups, particularly from the Global South and affected communities, face significant start-up costs when trying to develop advocacy and policy work in this challenging arena. Networks and coalitions face resource constraints when launching new lines of work related to human rights and the global economy, limiting their capacity to strategize collectively and pilot new approaches. Many of the strategies and mechanisms employed by civil society (and profiled in the mapping) have made headway in addressing gaps in non-state actor accountability and enforcement, but they have also encountered significant obstacles to closing them. Additional investment is needed to:

- Spur development and expansion of promising approaches, and support research on key challenges and emerging issues
- Build knowledge, skills and capacity of NGOs and social movements to analyze gaps in protection, fashion strategies in response and mobilize new coalitions and constituencies
- Create greater leverage, within the donor and NGO communities, by building an agenda for the field, identifying priorities, and supporting opportunities for impact

The dynamic nature of the global economy creates a constantly moving target for human rights protection as new economic actors, trends and challenges continue to evolve. There is an ongoing need to invest in field building as human rights groups are continually engaged in assessing influential actors in the field, identifying new leverage points and ways of working, and building the capacity needed to have impact. Currently, several emerging issue areas have been noted on the horizon: the rise of private finance; fiscal policy and financial regulation; the increasing influence of BRICS; trade and investment agreements;

and climate finance. Each of these issue areas brings a set of significant new challenges for human rights protection in the global economy.

**With strong support and greater capacity, human rights organizations and advocates can lay the groundwork needed to create innovative and effective strategies that address the emerging issues created by the global economy.**

## Appendix

### Partial list of NGOs and Organizations in the Field of Human Rights and the Global Economy

This appendix provides a list of NGOs and other organizations working in the field of human rights and the global economy. Due to the constraints of time, resources and knowledge, the list is incomplete and geographically skewed. However, we welcome the opportunity to hear from groups not mentioned here and learn about their work, particularly from the Global South.

Organization	Acronym	Country (main office)	Primary Geographical Scope	Website
Acción Ecológica		Ecuador		accionecologica.org
Accountability Counsel		USA	International	accountabilitycounsel.org
ActionAid International		South Africa	International	actionaid.org
Action contre l'Impunité pour les Droits Humains (DRC)	ACIDH	Dem. Rep. of Congo	DRC	<i>no website</i>
Africa Centre for Corporate Responsibility		Nigeria	Africa	<i>no website</i>
Africa Institute for Energy Governance	AFIEGO	Uganda	Africa	afiego.org
African Centre for Democracy and Human Rights Studies		Gambia		acdhrs.org
African Coalition for Corporate Accountability	ACCA		Africa	globalrights.org/access-justice
Afrodes		Colombia	National	afrodes.org
Alternative Asean Network on Burma	AltSEAN-Burma	Thailand	Asia	altsean.org
Alyansa Tigil Mina (Alliance Against Mining)		Philippines		alyansatigilmina.net
Amnesty International	AI	UK	International	amnesty.org
Arab Human Rights Fund		Lebanon		ahrfund.org/en
Arab NGO Network for Development	ANND	Lebanon	Regional	annd.org/english
Arabic Network for Human Rights Information		Egypt		anhri.net/en
Asia Foundation for Human Rights and Development	FORUM ASIA	Thailand	Asia	forum-asia.org
Asia Indigenous Peoples Pact		Regional		aippnet.org
Asia Monitor Resource Centre		Hong Kong	Asia	amrc.org.hk
Asociacion Interamericana para la Defensa del Ambiente			Regional	aida-americas.org
Association Africaine de Défense des Droits de l'Homme	ASADHO	DRC		blog.asadho.org
Bangladesh Environmental Lawyers Association	BELA	Bangladesh		belabangla.org

Organization	Acronym	Country (main office)	Primary Geographical Scope	Website
Bank Information Center	BIC	USA	International	bicusa.org
Beijing Yirengping Center		China		yirenping.org/english/eng
Bench Marks Foundation		South Africa		bench-marks.org.za
Bolo Bhi		Pakistan		bolobhi.org
Both ENDS		Netherlands	International	bothends.org/en
Bretton Woods Project		UK	International	brettonwoodsproject.org
Burma Partnership		Burma/ Myanmar	National	burmapartnership.org
Business and Human Rights Resource Center	BHRRRC	UK	International	business-humanrights.org
Cambodia Center for Human Rights		Cambodia		cchrcambodia.org
Cambodian Peace-building Network	CPN	Cambodia	National	facebook.com
Canadian Network on Corporate Accountability	CNCA	Canada	Canada	cnca-rcrce.ca
Canadian Centre for International Justice	CCIJ-CCJI	Canada	International	www.ccij.ca
CEADESC		Bolivia		ceadesc.org
CEE Bankwatch Network		Czech Republic		bankwatch.org
Censat – Agua Viva		Colombia		censat.org
Center for Applied Legal Studies		South Africa		wits.ac.za/law/cals
Center for Business and Human Rights NYU School of Business		USA	International	www.stern.nyu.edu
Center for Constitutional Rights	CCR	USA	USA	ccrjustice.org
Center for Economic and Social Rights	CESR	USA	International	cesr.org
Center for Human Rights and Environment	CEDHA	Bolivia		wp.cedha.net/?lang=en
Center for Human Rights and Global Justice NYU School of Law	CHRGJ	USA	International	www.chrgj.org
Center for International Environmental Law	CIEL	USA	International	ciel.org
Center for Public Interest Law	CEPIL	Ghana	Ghana	www.cepil.org.gh
Center for Women’s Global Leadership	CWGL	USA	International	cwgl.rutgers.edu
Center of Concern, Rethinking Bretton Woods Project	COC	USA	International	coc.org
Centre for Environment & Development		Cameroon		cedcameroun.org
Centre for Human Rights, University of Pretoria		South Africa		chr.up.ac.za
Centre for Human Rights and Rehabilitation		Malawi		chrrmw.org
Centre for Research on Multinational Corporations	SOMO	Netherlands	International	somo.nl
Centre for Trade Policy and Development		Zambia		ctpd.org.zm
Centre pour la Justice et la Réconciliation		DRC		cjrrdc.org/cjr-rdc.ws
Centro de Accion Legal Ambiental y Social de Guatemala	CALAS	Guatemala	Guatemala	www.calas.org.gt



Organization	Acronym	Country (main office)	Primary Geographical Scope	Website
Centro de Derechos Humanos y Ambiente	CEDHA	Argentina		wp.cedha.net
Centro de Estudos das Relações de Trabalho e Desigualdades		Brazil		ceert.org.br
Centro de Estudios Legales y Sociales	CELS	Argentina	Argentina	cels.org.ar
Centro Prodh		Mexico		centroprodh.org.mx
China Labor		New York	China	chinalaborwatch.org
China Labour Bulletin		China		clb.org.hk
Citizens for Justice		Malawi		cfjmalawi.org
Civdep		India		cividep.org
CLEEN Foundation		Nigeria		cleen.org
Coalition of Immokalee Workers	CIW	USA	USA	ciw-online.org
Colectivo de Abogados de Jose Alvear Restrepo	CAJAR	Colombia	National	colectivodeabogados.org
Comisión Nacional de Derechos Humanos		Perú		derechoshumanos.pe
Community Legal Education Center		Cambodia		clec.org.kh
Coordinadora Andina de Organizaciones Indígenas	CAOI	Andes	Regional	coordinadoracaoi.org
Coordinadora Nacional de Derechos Humanos	CNDDHH	Perú		derechoshumanos.pe
Conectas Direitos Humanos		Brazil	Brazil/ International	conectas.org/en
Crude Accountability		USA	International	crudeaccountability.org
Dawei Development Association		Burma/ Myanmar		ddamyanmar.com
Defend Job		Philippines	National	defendjobphilippines.wordpress.com
Dejusticia		Colombia	Colombia	dejusticia.org
Dignity International		Malaysia	International	www.dignityinternational.org
Earthjustice		USA	USA	earthjustice.org
EarthRights International	ERI	US/Thailand	International	earthrights.org
ECA-Watch			International	eca-watch.org
Ecolur		Armenia		ecolur.org
Egyptian Centre for Economic and Social Rights	ECESR	Egypt	National	ecesr.com/en
Egyptian Initiative for Personal Rights	EIPR	Egypt	Egypt	eipr.org/en
Ekta Parishad		India	India	www.ektaparishad.com
Environmental Defender Law Center	EDLC	USA		edlc.org
Environmental Rights Action/ Friends of the Earth Nigeria		Nigeria		eraction.org
Equipo Pueblo		Mexico	National	equipopueblo.org.mx
Equitable Cambodia		Cambodia	National	equitablecambodia.org
Ethiopia Human Rights Council		Ethiopia		ehrc.org

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ETO Consortium				etoconsortium.org
European Coalition for Corporate Justice	ECCJ	Belgium	Europe	corporatejustice.org
Facultad Latinoamericana de Ciencias Sociales	FLASCO	Argentina		flasco.org.ar
Fair Labor Association		USA	International	fairlabor.org
FERN		Belgium	International	fern.org
FoodFirst Information and Action Network	FIAN	Germany	International	fian.org
Focus on the Global South		Thailand	Regional	focusweb.org
Forum des Alternatives Maroc		Morocco		forumalternatives.org
Frente de Defensa de la Amazonía		Ecuador		fda.org.ec
Friends of Nature		China		fon.org.cn
Fundacion Ideas para la Paz		Colombia		ideaspaz.org
Fundar: Centro de Análisis e Investigación		Mexico		fundar.org.mx
Geledés - Instituto da Mulher Negra		Brazil		geledes.org.br
Global Initiative for Economic, Social and Cultural Rights	GI-ESCR	USA		globalinitiative-escr.org
Global Rights		USA	International	globalrights.org
Global Witness				new.globalwitness.org
Green Advocates		Liberia		greenadvocates.org
Green Anhui		China		green-anhui.org/
Green Salvation		Kazakhstan		greensalvation.org/en/
Groupe de Recherche Alternatives et de Monitoring du Projet Pétrole Tchad-Cameroun	GRAMP-TC	Chad		internationalbudget.org/groups/groupe-de-recherches-alternatives-et-de-monitoring-du-projet-ptrole-tchad-cameroun-gramp-tc/
Groupe de Réflexion sur les Industries Extractives au Niger	GREN	Niger		<i>no website</i>
Habi Center for Environmental Rights		Egypt	Egypt	hcer.org/en
Habitat International Coalition Housing and Land Rights Network	HIC-HLRN	Egypt	International	hic-net.org
Halifax Initiative		Canada	International	halifaxinitiative.org
Human Rights First		USA	International	humanrightsfirst.org
Human Rights Law Centre	HRLC	Australia	National	hrlc.org.au
Human Rights Law Network		India		hlrn.org.in
Human Rights Watch	HRW	USA	International	hrw.org
Humanitarian Organization for Migration Economics	HOME	Singapore		home.org.sg
Inclusive Development International				inclusivedevelopment.net/
Indonesia Legal Aid Foundation	YLBHI	Indonesia		ylbhi.or.id/
Institute for Agriculture and Trade Policy	IATP	USA	International	iatp.org/
Institute of Public and Environmental Affairs		China		ipe.org.cn/en

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Instituto Latinoamericano de Servicios Legales Alternativos	ILSA	Colombia	Latin America	ilsa.org.co
Integrated Social Development Centre	ISODEC	Ghana		isodec.org.gh
Interamerican Association for Environmental Defense	AIDA		Latin America	aida-americas.org
Interfaith Center on Corporate Responsibility	ICCR	USA		iccr.org
Accountability Project	IAP	USA	International	accountabilityproject.org
International Alliance on Natural Resources in Africa			Africa/Regional	ianra.org
International Bureau for Human Rights and Rule of Law		Kyrgyzstan		bureau.kz/?l=en
International Commission of Jurists	ICJ		International	icj.org
International Cooperation for Development and Solidarity	CIDSE	Belgium	International	cidse.org
International Corporate Accountability Roundtable	ICAR	USA	International	accountabilityroundtable.org
International Federation of Human Rights	FIDH		International	fidh.org/en
International Labor Rights Fund	ILRF	USA	International	laborrightrights.org
International Network for Economic, Social and Cultural Rights	ESCR-Net	USA	International	escr-net.org
International Rivers		USA	International	internationalrivers.org
Justiça Global		Brazil	Brazil	global.org.br/en
Kenya Human Rights Commission		Kenya	Kenya	khrc.or.ke
Kharkiv Human Rights Protection Group		Ukraine		khpg.org/en
La Red de Acción en Plaguicidas y sus Alternativas de América Latina	RAP-AL	Colombia		rap-al.org
Land Center for Human Rights		Egypt	Egypt	lchr-eg.org/en
Legal Initiative for Forest and Environment	LIFE	India		accessinitiative.org/partner/life
Legal Resources Centre	LRC	South Africa	South Africa	lrc.org.za
Lumière Synergie Développement		Senegal		www.facebook.com/
LumièreSynergieDeveloppemnt				
Maka Angola		Angola		makaangola.org/?lang=en
Mêmes Droits Pour Tous		Guinea		mdtguinee.org
Mines, minerals & people		India		mmpindia.org
Movimento dos Atingidos por Barragens	MAB	Brazil	National	www.mabnacional.org.br
Movement for the Survival of the Ogoni People	MOSOP	Nigeria	Nigeria	mosop.org
Movimento dos Antingidos por Barragens, Brazil		Brazil		mabnacional.org.br
Myanmar Centre for Responsible Business		Burma/ Myanmar		myanmar-responsiblebusiness.org
National Association of Professional Environmentalists	NAPE	Uganda		nape.kevinmgibbons.com

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National Centre for Advocacy Studies	NCAS	India	National	ncasindia.org
National Roundtable Against Metallic Mining in El Salvador		El Salvador	National	stopesmining.org
Network for Accountability of Tobacco Transnationals resource/network-accountability-tobacco-transnationals-natt			International	stopcorporateabuse.org/
Network Movement for Justice & Development			Sierra Leone	nmjd.org/home/
Observatorio Ciudadano		Chile		observatorio.cl/
Observatorio de Derechos de los Pueblos Indígenas		Chile		observatorio.cl/pddii
Observatorio Latinoamericano de Conflictos Ambientales	OLCA	Chile		olca.cl/oca/index.htm
OECD-Watch			International	oecdwatch.org
Otros Mundos		Mexico	National	otrosmundoschiapas.org
Oxfam International		UK	International	oxfam.org
Pacific Environment		USA	International	pacificenvironment.org
Paung Ku		Burma/ Myanmar		www.facebook.com/PaungKu
Philippine Human Rights Information Center		Philippines	Philippines	philrights.org
Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo	PIDHDD			pidhdd.org
PODER		Mexico		projectpoder.org
ProDesc		Mexico		prodesc.org.mx
Proyecto de Derechos Economicos, Sociales y Culturales	ProDESC	Mexico	National	prodesc.org.mx
RE: Common		Italy	International	recommon.org
Rencontre Africaine pour la Défense des Droits de l'Homme	RADDHO	Senegal		raddho.com
Rencontre pour la Paix et les Droits de l'Homme	RDPH	Rep. of Congo		rpdh-cg.org/
Repórter Brasil		Brazil		reporterbrasil.org.br/
Réseau des Organisations de la société civile pour la Transparence dans les industries extractives et l'Analyse Budgétaire (ROTAB/Publish What you Pay Niger)		Niger		publishwhatyoupay.org/where/coalitions/niger
Réseau Ressources Naturelles/ Natural Resource Network	RRN	DRC		rnrndc.org/
Rights and Accountability in Development RAID		UK	International	raid-uk.org/index.php
Samta		India		samataindia.org.in/index.html
Save the Children (Latinoamérica)		Perú		peru.savethechildren.net
Sawit Watch		Indonesia		sawitwatch.or.id
Sherpa		France	International	www.asso-sherpa.org
Shwe Gas Movement		Burma/ Myanmar	National	shwe.org
Sentro ng Alternatibong Lingap Panligal (Alternative Legal Assistance Center)	SALIGAN	Philippines		saligan.org

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South Asians for Human Rights		Sri Lanka		southasianrights.org
South East Asia Council for Food Security & Fair Trade	SEACON	Malaysia	National/ Regional	seacouncil.org/seacon
Socio-Economic Rights Institute of South Africa	SERI	South Africa	South Africa	seri-sa.org
Socio-Economic Rights Project, Univ. of the Western Cape		South Africa		communitylawcentre.org.za/
Solidarity for Asian Peoples Advocacy (SAPA) Working Group on ASEAN		Regional		stopcorporateimpunity.org/?p=2344
Southern Africa Resource Watch		DRC		sarwatch.org
Spectrum		Burma/ Myanmar		myanmarspectrum.com
Students and Scholars Against Corporate Misbehavior	SACOM	Hong Kong		sacom.hk
Taiwan Labour Front		Taiwan		<i>no website</i>
Taiwan Association for Human Rights		Taiwan		tahr.org.tw
Tamkeen for Legal Aid & Human Rights		Jordan		tamkeen-jo.org
Terra de Direitos		Brazil		terradedireitos.org.br/en
The Corner House		UK	International	thecornerhouse.org.uk
Third World Africa		Ghana		twnafrica.org
Tierra Digna		Colombia	Colombia	www.tierradigna.org
Tlachinollan Centro de Derechos Humanos de la Montaña		Mexico		tlachinollan.org
Toward Ecological Recovery and Regional Alliance	TERRA	Thailand		terraper.org
Transient Workers Count Too		Singapore		twc2.org.sg
Trust Africa		Senegal		trustafrica.org/en
Video Volunteers		India	National	videovolunteers.org
Wahana Lingkungan Hidup Indonesia	WALHI	Indonesia	National	walhi.or.id/en
Wassa Association of Communities Affected by Mining	WACAM	Ghana		wacamgh.com
Workers Rights Consortium		USA		workersrights.org
Zvule Prava		Czech Republic		zvuleprava.cz

ADVANCING HUMAN RIGHTS ACCOUNTABILITY  
FOR ECONOMIC ACTORS

*JANUARY 2015*