The Peoples’ Forum on Human Rights & Business

The Peoples’ Forum brings groups from across the corporate accountability movement together to review progress over the past year, collectively design joint strategies to address corporate human rights abuses, and set a joint 2016 work plan for ESCR-Net members.

The design of the agenda for the Peoples’ Forum is led by a Planning Committee. In addition to the 2015 Peoples’ Forum co-hosts, Kenya Human Rights Commission (KHRC), the ESCR-Net members of the 2015 Peoples’ Forum Planning Committee were: Adivima (Guatemala), Afrewatch (DRC), Alternative ASEAN Network on Burma (Thailand), Comité Ambiental en Defensa de la Vida (Colombia), Habi Center for Environmental Rights (Egypt), Human Rights Law Centre (Australia), International Accountability Project (USA), Legal Resources Centre (South Africa), Movimento dos Atingidos por Barragens (Brazil), La Organización Fraternal Negra Hondureña (Honduras), Otros Mundos (Mexico), Save Lamu (Kenya) and Sierra Leone Network on the Right to Food.

The basis for developing the agenda for the Peoples’ Forum are the collective actions of the ESCR-Net Corporate Accountability Working Group (CAWG) already underway, and the analysis and priorities for collective action identified by members over the course of the preceding year.

ESCR-Net deeply appreciates the committed leadership and support of the staff of KHRC in ensuring a successful 2015 Peoples’ Forum. In particular, this report was made possible by the dedication of those from KHRC’s staff who thoroughly documented every session of the event, which makes up the basis for much of the detail in the sections below.

The Peoples’ Forum & the Activities of the Corporate Accountability Working Group

The Peoples’ Forum on Human Rights & Business provides a vital space for the strategic exchange and planning of the Members of the ESCR-Net Corporate Accountability Working Group (CAWG), shaping their collective, annual Work Plan. As such, the major strategic outcomes listed below are reflected in the CAWG 2015 Work Plan, and each activity will be pursued by collectives of Members, with coordination and other support from the ESCR-Net Secretariat. The annual flagship activity of the CAWG is the Peoples’ Forum itself, which will take place in Argentina in November 2016, as part of the ESCR-Net Members’ Global Strategy Meeting.
Strategic Outcomes of the 2015 Peoples’ Forum

- Integrate corporate capture analysis throughout the activities of CAWG

Through the ESCR-Net Corporate Capture Project of the Corporate Accountability Working Group (CAWG), members are increasingly sensitive to the considerable influence that ever deepening corporate-government relationships have on weakening the ability and willingness of state institutions and processes to ensure that human rights are respected, protected and fulfilled. For instance, these practices include corporate lobbyists weakening the will of elected officials to develop regulation that would oversee corporate activities, as well as influencing the authorities that have regulatory power to monitor corporate activities. Other examples include the bankrolling of elections, the hiring or coopting of state security services to act against communities that resist corporate projects, the exercise of revolving-door employment strategies between corporations and key government agencies, and vice versa, as well as many other related practices.

The objective of the corporate capture session in Nairobi was to share the emerging analysis of the Corporate Capture Project, seeking input from the Members and partners present on how the cases of corporate capture so far identified fall into sub-categories, or ‘characteristics’ of Corporate Capture, which are: Community Manipulation, Economic Diplomacy, Judicial Interference, Legislative & Policy Interference, Privatising Public Security Services and Revolving Door. These six initial characteristics of corporate capture broadly resonated with those present. Some specific suggestions were for the members involved in the Corporate Capture Project to examine more deeply how Community Manipulation plays out in practice, as well as review the interplay between legislative and policy interference, perhaps refining this characteristic. Overall, as the research and outreach with interested Members continues to take place, some members were in general hoping to maintain flexibility in the current structure of characteristics to revise them and add in new ones as required.

Finally, in this session and in other moments in the Peoples’ Forum, a broad base of Members expressed that corporate capture is a root cause of systemic corporate-related violations and ongoing impunity, and therefore the corporate capture analysis should influence the overall analysis across all CAWG activities.

Action Points

- Apply the analysis of corporate capture across the activities of the CAWG, ensuring that each activity focuses on addressing corporate capture of the state in whatever form it appears, including in the Treaty Initiative project, indicating clearly how international norms can contribute to addressing corporate capture;
- Actively develop the ESCR-Net Corporate Capture Project in 2016, involving more members from all regions and ensuring that it generates significant attention within and outside the human rights community on the direct linkages between corporate capture of the state and the resultant human rights impacts, particularly at the national, sub-national and local level;
- Develop communications materials related to the analysis and cases generated by the Project to help reach a broader audience, including among grassroots groups.
Design advocacy plans at national, regional and international level to ensure the forthcoming treaty will incorporate the priorities of affected people and CSOs

ESCR-Net Members and partners came together in Nairobi to discuss advocacy efforts that have emerged in 2015 to encourage governments to constructively engage in the United Nations Intergovernmental Working Group (IGWG) mandated to formulate a new treaty to address corporate human rights abuses. ESCR-Net members decided to establish this project at the 2014 Peoples’ Forum to ensure that Members in every region, including grassroots groups and representatives of affected communities, were central to shaping this treaty and able to coordinate advocacy to ensure its realization and implementation. The role of the Treaty Initiative project is to link civil society organizations (CSOs) to the international treaty process, and generate connections with legal practitioners to work together to formulate proposals for the IGWG as well as support the development of regional and national advocacy networks and strategies.

The participants in Nairobi heard about emerging advocacy initiatives in Mexico, Southern Africa, Asia-Pacific and most recently in Africa, which ESCR-Net has worked to advance and support. Following these updates, participants worked together in regional groupings to identify advocacy opportunities relating to the treaty process, particularly in relation to existing regional processes, and how to encourage governments to engage in the intergovernmental process. Another consideration groups discussed was how to use the momentum around the treaty process to elevate attention on the current situations of corporate abuse taking place in their local areas.

Members and partners reaffirmed the importance of collective work in relation to the treaty process, emphasizing the ongoing priorities to incorporate advocacy strategies built from the bottom-up and to elevate the analysis of communities most affected. Following the regional consultations in Asia-Pacific and Africa, both of which resulted in strong advocacy commitments from participants, the 2015 Peoples’ Forum served as a strategic opportunity to engage in discussions with Latin-American groups about the forthcoming Treaty Initiative CSO consultation in their region.
Action Points

- Continue ensuring the participation of affected communities and CSOs from every region in the treaty process and the associated advocacy planning and implementation;
- Continue bridging CSOs and affected people with legal practitioners with knowledge of components of the proposed treaty;
- Promote the treaty process at national level by incorporating language accessible to and shaped by affected communities and grassroots groups;
- Facilitate strategic planning meetings with a broad constituency, including CSOs and trade unions, and connecting with groups leading existing relevant national and international campaigns.

Build and apply international solidarity to strengthen local resistance

The CAWG has developed Strategic Case Support initiative (SCS) to consolidate and harness the various skills, experiences and abilities of CAWG members in collective action on behalf of other members. When members seek collective support, the CAWG Steering Committee reviews the case in line with agreed criteria and, where possible, SCS coordinates a joint response by identifying a collection of Members most suited to provide support in ways that meet the specific requirements of the individual members engaged in local struggles.

The SCS has been in operation for two years, and the 2015 Peoples’ Forum provided a good opportunity to reflect on how it operates, how effective it has been, and how it might be improved, learning from the local and cross-regional strategies being used by members to address local corporate abuses.

Members and partners discussed cases of corporate abuse they work on, and the different local and international strategies used to strengthen local cases in Thailand, Cambodia, Guatemala, Canada and Kenya. For example, in a case covering Thailand and Cambodia that engages several Members, the presentation and discussions focused on the strategic benefits of engaging, simultaneously, litigation, industry grievance mechanism complaints, media advocacy in all relevant countries and community
documentation. In this and other cases there was interesting discussion on the benefits of undertaking sophisticated economic profiling of investors for the purposes of designing related advocacy actions. Reflecting on ongoing cases being undertaken by the SCS, participants stressed the need to maintain long-term support for Members addressing corporate human rights abuses, particularly grassroots members. The commitment was reaffirmed in the context of the Network’s aim to use the SCS system to tackle emblematic cases of corporate abuse while promoting effective advocacy strategies which strengthen international solidarity and build the collective analysis of CAWG in order to strengthen the effectiveness of other CAWG activities.

**Action Points**

- Continue to facilitate international support to strengthen the national and grassroots movements fighting local corporate related human rights violations;
- Promote different corporate accountability strategies and make them available among Members and partners in all regions;
- Strengthen communications and support networks between CSOs.

> **Empowering communities through a documentation and advocacy tool**

The human rights abuses that people and communities face often go unreported due to the lack of access by those affected to a means of reporting and amplifying their cases in a simple way that reaches a broad audience and supportive communities of practice.

Addressing requests from its membership for development of tools that can overcome this shortfall, ESCR-Net, in collaboration with the Business & Human Rights Resource Center (BHRRC), is leading a documentation project to provide support to CSOs to effectively document human rights violations of corporations and/or state actors, and connect this reporting with a community of activists that can meet the technical and advocacy needs that groups identify through documentation of their situations. The first phase of the project was undertaken in 2015 and involved collectively designing a documentation checklist with grassroots groups, NGOs and advocates working locally on corporate accountability issues. The documentation session in Nairobi focused on reviewing how the checklist could be improved to better meet the needs of groups operating on the ground.

**Action Points**

- Ensure design of a documentation methodology that can flexibly meet the particularities of different communities, and can also serve to facilitate advocacy opportunities;
- Continue the dissemination of the documentation checklist in several languages among communities and local NGOs;
- Build community groups’ capacity to actively engage in the documentation process.
Human Rights Defenders

Human rights defenders (HRDs) challenging corporate abuses continue to face criminalization, defamation and other acts of reprisal by states and corporations and often seek international solidarity as a source of protection and means of elevating awareness of their situation. The session on HRDs at the 2015 Peoples’ Forum was an important opportunity to reflect collectively about trends affecting the security and protection of corporate accountability activists. The session began with an explanation of the ESCR-Net System of Solidarity (SOS) – which was created to increase protection for HRDs under threat and prevent imminent human rights violations from taking place. The session included a discussion of how the corporate accountability community defines the term “human rights defender”. Via personal testimonies, several participants shared their experiences in light of some recognized trends such as threats to physical security, the use of laws to silence HRDs and threats perpetrated by non-state actors. The session also allowed participants to explore some concrete strategies from the field of corporate accountability advocacy, such as investor advocacy and employing an analysis of extraterritorial obligations (ETOs) in their work. Looking towards 2016, there was agreement among those present to increase coordination around actions that promote the security and protection of HRDs working to advance ESC rights and corporate accountability.

Action Points

- Facilitate mutual learning between members and technical exchange to strengthen community-based protection systems;
- Develop communications strategies to highlight the legitimacy of the work of HRDs and to counter narratives that seek to depict them as criminals, terrorists or ‘anti-development’;
- Engage in direct advocacy with corporations about ways in which their policies and practices undermine security and protection of HRDs;
- Develop advocacy actions with home states of corporations to pressure them to abide by their ETOs in the context of security and protection for HRDs;
- Document and publicize corporate and state actions that threaten HRDs.
Generate collective analysis from communities most impacted by trade and investment

Discussions about economic models continue to be a relevant topic for groups working on corporate accountability. At the session in Nairobi, Members and partners discussed building a collective analysis to challenge those economic policies which create an environment conducive to corporate human rights abuses. Analytical and strategic discussions during the sessions focused on how past and ongoing economic disparities are perpetuated and reinforced by the structure of the global economy, including through the operation of the international trade and investment system (including investor-state dispute settlement mechanisms), financial markets, tax arrangements and international debt systems.

Action Points

- Continue facilitating collective discussions with members about the intersection of economic policy formation and implementation and the impacts on human rights;
- In partnership with ESCR-Net’s Economic Policy Working Group and/or other Working Groups of ESCR-Net, as relevant, develop detailed analysis and plans for collective action on emerging issues identified by Members at the Peoples’ Forum and elsewhere, such as:
  - Ensuring land tenure security in the context of economic policy formation and implementation, and;
  - The need to inhibit corporate interference in state actions to respect, protect and fulfill human rights, for example through addressing the exercise of investor-state arbitration to impede states that seek to advance regulation in protection of the environment and human rights;
- Continued learning from the community-based experiences and strategies used by affected people in many regions resisting harmful economic policies.