

Ensuring Access to Effective Judicial and Non-Judicial Remedies: Progress, Trends & Recommendations



**2014 UN Forum on Business and Human Rights
Palais de Nations, 1 December 2014, 11:45 - 13:15, Room XI**

Session Overview

The third pillar of the UNGPs is generally regarded as neglected and the pillar which has seen the least progress since the principles' endorsement. Access to effective judicial remedy sits at the very core of the third pillar, and is fundamental for the effectiveness of the balance of the UNGPs. The UNWG stated in its May 2014 report to the HRC its intention to support a process to identify "models of best State practice in relation to the functioning of domestic judicial mechanisms". Moving beyond principle to operationalisation of the UNGPs, the evolving structures of remediation at the state and enterprise level are critical to internalising the UNGPs within the domestic legal frameworks and the internal human rights cultures of enterprises.

The **International Corporate Accountability Roundtable (ICAR)**, **Corporate Responsibility Coalition (CORE)**, and **European Coalition for Corporate Justice (ECCJ)** developed *The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business*. The report identified and analysed the barriers to remedy in the United States, Canada, and Europe, setting out detailed recommendations for the actions States should take to address these barriers.

This side event will reflect on developments that have taken place at the national and international levels since publication of *The Third Pillar*, examine recent proposals to improve access to remedy that have gained traction, as well as focus on opportunities to address gaps in legal coverage and protection that could improve access to courts for victims of human rights abuses. Furthermore, speakers will present recommendations that were produced following the organisation of a series of high-level conferences in France, the UK, Germany, and Brussels.

The panel will also consider access to effective non-judicial remedies, focusing on remedial opportunities in Latin America, Africa, Asia and especially China. New developments in these regions offer concrete guidance which takes into consideration their distinct cultural, political and legal systems. These contextually appropriate remedial structures may help OECD core states and the MNCs headquartered there better approach their National Action Plans and supply chain governance structures.

Victims of corporate-related abuses' voice will be represented by human rights defenders from the Global South testifying about obstacles to accessing remedy and the increased criminalisation of their activities.

Session Format

The side event will be in the form of an interactive dialogue and workshop, beginning with the organisers briefly sharing the initial findings of their research and then moving on to discussion of potential opportunities and promising developments.

Questions will be posed to the participants and an open dialogue will be encouraged. There will be 40 minutes for Q&A at the end of the session.

Objectives

- To show that addressing gaps in legal coverage and protection to the law could create real change by making courts available to victims, without imposing a heavy burden on the judicial infrastructure;
- Under the OECD process, identify avenues to improve access to effective remedies (e.g., the role of NCPs post-2011), especially to deal with complaints regarding corporate conduct in non-OECD states;
- Identify the potential of informal redress mechanisms by CSOs in particular in states with governance deficits and how will corporate redress mechanisms interact with formal, state-based accountability mechanisms;
- Gather recommendations on policy and legal reform to improve access to justice everywhere;
- Highlight what is being done to overcome barriers to accessing remedy for corporate human rights abuses in various jurisdictions around the world, and identify how this should be incorporated into NAPs;
- Special case of China and its role in in the GP project;
- Draw attention to challenges faced by human rights defenders in accessing remedy, and to the increased criminalisation of their activities, particularly in the area of land rights.

Panellists

- Mauricio Lazala (Chair), Business & Human Rights Resource Centre
- Geneviève Paul, International Federation for Human Rights (FIDH), steering group member of European Coalition for Corporate Justice (ECCJ)
- Juan Pichun Lonko, Spiritual leader of the Lemulemu community (Mapuche)
- Katie Shay, International Corporate Accountability Roundtable
- Larry Catá Backer, W. Richard and Mary Eshelman Faculty Scholar & Professor of Law, Professor of International Affairs, Pennsylvania State University; Director, Coalition for Peace and Ethics (an independent NGO)
- Karin Buhmann from the Danish National Contact Point
- Caio Borges, Conectas Human Rights