



Launch of the African Coalition for Corporate Accountability

Summary Report of the first African Regional Civil Society Convening on
Human Rights & Business

June 2014

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Executive Summary

Introduction

Objective

Idea born at Global Rights workshop in London, from interactions among participants with ICAR & ECCJ. Lay the foundation for the African Coalition for Corporate Accountability. Introductory video from Human Rights Watch laying out the issues.

Participants

Friends of Global Rights and those invited through networks. Responded to a questionnaire (add from Introductions & Aspirations slides). Participated in distance learning: YouTube Q&A with Michael Addo, CAO phone calls, DIHR e-learning on NHRIs, etc. Prepared case and strategy templates before coming to the workshop.

Would like to thank our sponsors: SOMO and the Government of Canada. And the facilitators for donating their time and energy, especially Steph Booker (Natural Justice), Amol Mehra & Sara Blackwell (ICAR), Christopher Schuller (German Institute), Sylvia Kithinji & Herman Omiti (KHRC), Mutuso Dhliwayo (ZELA), and Meetal Jain (CALs).

Results

Participants shared their strategies to influence government and companies (Jeny + Amol's report on NAPs), and their experience with access to judicial and non-judicial remedy.

Participants also laid the foundation for the ACCA by mapping the many existing national, regional, pan-African and international coalitions they belong to (Jeny/Simon) that relate to business & human rights and revealed a gap that the ACCA would fill. Participants then set an agenda with priorities for ACCA. Participants also held an NGO Forum on the 9th Biennial Conference of the NANHRI, whose theme was "Business & Human Rights: Challenges, Opportunities and the Role of NHRIs", and presented a statement at the Conference with the results of the Biennial Conference (Add NGO Forum on NANHRI Declaration).

Sharing experiences with strategies

Before the convening, participants shared some of their experiences using different strategies in a case. Here, we briefly describe and summarize those experiences strategies. This is not meant to be a comprehensive list of all experiences or strategies participants every used, but rather an overview of the range of strategies that participants chose to share with one another.

[Add chart showing the range of strategies]

Community capacity-building

ZELA uses community training and capacity building to help communities understand how mining activities violate their Economic Social and Cultural Rights (ESCR) and how they can demand and claim for the protection, respect, and fulfillment of these rights. The result from these trainings was the communities understanding their ESCR as provided for under international, regional and national law.

RPDH aims to increase the capacity of communities to take charge, through the understanding of international standards and tools to address issues surrounding extractive industries, including being able to identify expectations for compliance and implementation of those rights. In addition trainings create understanding of the required attention needed to approach industries and when to alert the network defenders for corrective action.

SDI's strategy is to support the communities to resist the EPO Company expansion into community customary land claims and to negotiate for compensation for lands already cleared or cultivated. SDI has produced a guide for helping communities to negotiate with concessionaires. This will be used in SDI ongoing work with communities to prepare them to increase their bargaining power. Other advocacy tools SDI has often used which have produced results include the organization of community forums and conferences, and bringing together communities with similar issues with their land rights.

LITE aims to work with both the community and security forces. After consultation and briefing we informed the communities in two Local Governments of Warri South West and Warri North on the project we are implementing titled strengthening the capacity of security personnel with Voluntary Principles on Security and Human Rights. The project has a component that deals with issues of capacity building for security operatives and community residents on issues of human rights.

After some initial legal reforms and the ACHPR decision in Kenya, the EWC began engaging with community development. The strategy now involves building community support for a common agenda. EWC has formed several structures within the community including the youth forum, women forum and Elders forum. Through these structures capacity building initiatives are carried out to enhance their capacity to advocate for the rights of the community (e.g. training the youth paralegals within the community).

DH works with communities to identify problems that bother them, propose actions/solutions and assist them in mobilizing resources to implement them. Our work has focused on community awareness about their rights to ownership of land and forests that are located on their territory. It is in this process that farmers have raised the issue of referrals from their fields for exploitation of forests by companies that have a license from the state or the transformation of farmland in the work career to repair the tracks or asphaltting roads. The awareness of people of their right as owners to their customary land is a great success of our action. Their willingness to comply with the law by registering their heritage is also a success.

COPORWA first step was to train communities. They trained and sensitized the clients/community on their fundamental rights. Training meetings or platforms for the amicable resolution so that communities can benefit and be potters restore their rights. COPORWA helped communities strategize by doing policy analysis and identifying policy issues. Helping communities set up policy goals, desired outcomes and define the target, identifying key messages, identifying key allies and developing a plan of implementation and plan for monitoring and evaluation.

CIKOD aims to strengthen the capacity of traditional Authorities for effective natural resource management. The communities and their Traditional Authorities have been involved in dialogue,

community resource and institutional Mapping and visioning exercises in developing goal and desired change. CIKOD developed a bio-cultural community protocol for Tanchara community to engage with mining company. The Bio-Cultural community Protocol of the Tanchara community has kept Azumah resources practically away from the community since 2011.

Documenting impacts

ZELA also used the strategy of documenting the effects of the extractive industries. ZELA commissioned a scientific and investigative research on water pollution by diamond mining companies and its impacts on environment, health and community livelihoods. The research was commissioned in 2012 and was conducted by scientists from the University of Zimbabwe. The scientific assessment was conducted from the 5th - 13th of July 2012 by a team of scientists from the University of Zimbabwe together with ZELA staff members. Diamond mining companies have been discharging mining effluent into river systems that have traditionally and for generations been used by communities.

RPDH began by documenting the facts, making numerous visits, after which reports with photographs and testimonies, were sent to companies and public representatives involved in the process. These elements have yielded exchange meetings with the various stakeholders for finding early solutions to the problems raised.

Wacam contracted a researcher to do an empirical analysis of the effect of fecal matter pollution on water quality and on health, socioeconomic and sociopolitical wellbeing of human beings, from December 2005 to February 2006. 126 water samples were collected from River Asuopre upstream and downstream, River Tano, water supplied in polytanks for residents and farmers from Kenyasi, Ntotroso, Kwakyekrom and Kenyasi No. 1 and 2. The results of the study show that levels of Dissolved Oxygen, BOD5, Turbidity and Conductivity were within acceptable limits prescribed by World Health Organisation (WHO), Ghana Environmental Protection Agency (GEPA) and other regulatory bodies. However, colonies of total viable bacteria, E. coli, Salmonella and Shigella were above the acceptable limits and hence pose significant health hazards to residents who drink from all the water bodies sampled in this study.

SDI has worked with the complainants community to formally document a profile of each of the eleven towns and villages with 363 households signing onto complainant sheet that have been submitted to the RSPO. Additionally, the areas that have been cleared by EPO have been properly GPS. A map has been produced showing the cleared areas and the position of the additional towns and villages that stand to be affected should this expansion process go ahead.

LITE carried out a human rights impact assessment. They were able to establish the facts that the rights of these communities have been violated based on their allegations.

EWC has carried out research and developed publications including memorandums and has shared them with relevant stakeholders including government.

COPORWA and the National Commission of Children in Rwanda carried out a report, funded by the Legal Aid Forum project. From May to September 2013 the investigation looked to identify violations in the relevant communities and areas of the extractive industry.

In 2010, CIKOD conducted a community wellbeing and impact assessment in four communities affected by the operations of Azumah Resources Ltd. The communities include, Nanga, Saan, Tanchara and Basebli. Community level fora and stakeholder consultation fora were organized where testimonies were given.

ACIDH team made several trips down to the village to conduct interviews with almost all victims. They took pictures and developed the first list; it then compared its lists with those developed by the prosecutor general.

Finding allies & raising awareness

Building coalitions

EWC has also built strong synergies with both national and international human organizations to assist in advocating for implementation of the ACHPR recommendations. The initial strategy is to pursue negotiations with both the local and national government, to enhance support from both local and international non- state actors taking advantage of and supporting the international human rights standards.

The engagement in place between COPORWA and companies to date is that there have created body alliances of civil society organization at National and International levels for the advocacy work, capacity building, documenting injustice facts, organizing radio programs, newspapers all based at grass root levels.

ACIDH created a coalition as a strategy. The creation of a coalition in charge of monitoring the folder (ACIDH, FIDH and RAID).

Using the media to raise public awareness

ZELA has launched media campaigns to raise awareness on the plight of these mining communities. The media and web based dissemination of campaign messages and printing of T-Shirts with the message "STOP POLLUTING SAVE AND ODZI RIVERS".

RPDH used press releases and other publications, which then prompted mobilization and attracted the attention of policymakers on the need for dialogue. Members of international financial institutions (including the International Finance Corporation, a subsidiary of the World Bank) were enlisted to use their influence on decision makers; companies felt the need to fulfill international requirements in their mining activities in Congo. Because of the mobilization of various actors to support our advocacy, including: the network of other national and international NGOs, the media, there is a greater awareness around the issues and greater pressure on companies to address these issues in order to not hurt their image.

In 2005 Wacam worked with communities to establish that Newmont Gold Ghana Limited has a facility that discharged fecal matter into River Asuopre and made the information public in a press conference organized in Accra in December 2005. The community people were present at the press conference and answered questions.

CIKOD organized radio programs where some community members shared their experiences. A video recording of some of the testimonies has been done. Communiqués, a press release, and petitions have also been used. The result being, Azumah resources have responded officially to the petitions sent to them by the Upper West Coalition on mining.

SDI has issued position statements and press releases. The last major community conference was held in Sime Darby concession area. It resulted with a greater public awareness about the company operations. In addition, the media response from the company against SDI was fierce, given its corporate capability to go to any length to protect its investment interest.

Engaging with government and companies

Engaging government

Direct lobbying and cooperation

ZELA has written a letter to the Ministry of Environment, Water and Climate to take action. In addition, ZELA held workshops for Government institutions. The Parliamentary Portfolio Committees on Environment and Natural Resources and Mines and Energy have also been alerted to the situation through a workshop we held with them on the 8th and 7th of November.

Wacam, communities presented evidence to their chiefs and the District Chief Executive (DCE) about the dealings of the company. The DCE told them to exercise restraint as he will pick up the issue and ensure that the problem is resolved. Some compensation was negotiated for the victims but others saw the package as insulting.

COPORWA work closely and co-jointly with the Ministry of Local governance, Rwanda Governance Board and Legal Aid Forum to organize and give support in service delivery. From the above steps different authorities that were approached were the Local government at sector level and District level through organized meetings such as District Plans, Contract Performances and Accountability days through which cases of our target clients created. COPORWA has also organized field meetings between local authorities, representatives of the potters field to identify all cases of injustice done to the potters of Rwanda.

ACIDH held meetings with authorities (the Office of the Governor, the administrator of the territory, MONUSCO, the Attorney General, etc.).

CIKOD recently held an upper West regional development strategy meeting, where all stakeholders comprising District Chief executives and heads of Department and Traditional Authorities. The parties agreed and took a no mining stand in creating the regional development strategy; as a result of the education and communication material provide members at the beginning of the exercise.

National human rights institutions

Many participants have long-running relationships with their national human rights institutions, seeing them as a key partner. (NGO Forum on NANHRI)

Engaging parliament

Southern Africa Resource Watch & the Resource Barometer.

Some of the guidelines in this strategy include, countries updating their laws to meet international conventions and empower marginalized and excluded groups, policies put in place to penalize conflict of interest of public servants and politicians, and regulating extractive industries by the parliament. Focus areas include capacity for natural resource management, negotiation of contracts, company transparency, working with financial institutions, worker health and safety, artisanal and small-scale mining, gender, revenue transparency, sharing and taxation.

National action plans

Governments should develop a National Action Plan (NAP) concerning human rights and extractive industries but should be cautious in duplicating efforts already being implemented in the country. National Human Rights Institutions have a strong role to play in advising and supporting government in developing the NAP. To strengthen NAPs two or more governments can coordinate their efforts to develop baseline studies (i.e. environmental impact assessment, international investment agreements, human rights protection etc...).

Engaging with companies

Meetings and dialogue

ZELA has also set up meetings with the company's personnel. We have also organized the interest groups to approach the community liaison officers of the mining companies regarding the pollution issues. Several meetings have been held.

The RPDH with other organizations of civil society have deployed locally intense advocacy, which led to the establishment of a dialogue between companies and communities and the launch of a policy of providing safe drinking water to communities and some achievements of social order. The advocacy by RPDH has changed the situation and because of that, a true dialogue was initiated between communities and companies, which are now the subject of prior consultation before certain industrial operations.

Petitions

CIKOD and the Upper West Coalition, 28 NGOs, signed a petition presented to Azumah resources to cease their operation and at worse comply with National Laws and the ECOWAS directives. Azumah resources have officially responded to the petitions sent them by the Upper West Coalition on mining.

Lobbying financiers

SDI has directly lobbied financiers of the companies. Another strategy that has proven useful is to engage the financiers and to give them information about the violations of local community rights in the case of EPO in Liberia.

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their influence on decision makers; companies felt the need to fulfill international requirements in their mining activities in Congo. Because of the mobilization of various actors to support our advocacy, including: the network of other national and international NGOs, the media, there is a greater awareness around the issues and greater pressure on companies to address these issues in order to not hurt their image.

Multi-stakeholder engagement

The complainant community met on several occasions with both the company explaining their concerns and opposition for further expansion of the company. A total of 23 meetings were held between the complainant community and the company before formally inviting SDI for support to their community. These meetings were attended by local government officials and other citizens of the district living in urban communities. There have been no formal agreements between the complainant community and EPO before SDI support was requested. They have also made presentations to the government and international partners.

LITE had a stakeholder's conference last year where staff of the oil company participated with members of security agencies. At this conference, community members from Warri South West and Worth North Local Government Areas in Delta state who were at this forum shared their concerns on various abuses they have been suffering over the years from the hands of the companies and security operatives. The reason why we brought all parties together is for us to be able to find a common ground and discuss how to address alleged human rights abuses by companies and security agencies. We convened a multi-stakeholders conference and a follow up forum to engage each of these groups and solicit for more improved relationship.

Using accountability mechanisms

Non-judicial mechanisms

Third-party dialogue facilitator. Currently, the SDI has proposed an external/third party facilitator with experience in-country working on conflict resolution and/or facilitating stakeholders' processes. In order to realize the decision or outcomes from these engagements the parties, including the EPO Company and the communities, must agree to abide by the agreed decision before the actual dialogue.

Operational-level grievance mechanisms. The long-term strategy of LITE is in the area of strengthening access to non-judicial remedy in oil producing communities. We will engage the communities on the need to strengthen the community grievance mechanisms and ensure their issues are captured on the proposed bill. Approaching the local Government for input, oil companies for buy in and input, the State Assemblies in Niger Delta to establish a law on project-level grievance mechanisms, and the National Human Rights Commission to hear and address issues.

RSPO. SDI filed a complaint in September 2013 to the Round Table on Sustainable Palm Oil (RSPO) on behalf of 363 households in 11 villages affected by the expansion of the Equatorial Palm Oil (EPO) plantation expansion. The SDI is currently engaged with the RSPO Secretariat and the EPO Company to find redress for the community complaint. The RSPO has voluntary principles and criteria which they use to mitigate grievances with its member group. The EPO as a member of the RSPO is being made to abide by RSPO Criterion. When the complaint was filed it took nearly a month for the RSPO Secretariat to

acknowledge as a genuine community complaint. The complaint has finally been accepted by RSPO and the first of formal engagements between EPO and the communities under the RSPO mechanism is planned for November 30, 2013.

OECD NCP. ACIDH participated in a mediation process by the Belgian National Contact Point (NCP) of the OECD in Brussels (ACIDH, FIDH, RAID 1 and representing victims). In total, three meetings were held. At the end of the mediation sessions, the NCP issued a statement that the parties have not reached an agreement. However they released recommendations to the company (restore the water system, rehabilitate motherhood, and build the clinic).

Domestic litigation

ZELA used a domestic court application to interdict the mining companies from discharging their waste materials in any form into the Odzi, Singwizi, and Save rivers. The case is currently pending in the High Court. In response to the litigation case and advocacy campaigns the interim response of government was to establish a government led Task Force to assess the water pollution. The task force is comprised of Ministry of Mines officials, mining companies and traditional leaders. As a result of this pressure, some of the mining companies like Anjin and Marange Resources have reduced pollution by the end of December 2012.

Wacam brought a domestic case against the disposal of fecal matter into river Asuopre by Newmont Ahafo Mine, assisting the people from Ntotroso and Kenyase. Based on the research and the video documentary of Wacam on the fecal disposal evidence was provided for the basis of the community people to redeem their rights. This shows the importance of technical information, especially in cases that involve environmental justice. The case is still pending.

LHRC filed a case against ABG on behalf of 198 applicants in High Court of Tanzania at Mwanza. The human rights application was filled based on infringement of Constitutional rights as right to life, right to safe and clean environment, right to own property, and prayer for compensation to victims. The case has been pending to court for number of years as in order for human rights application to be determined under the Basic Duties and Enforcement Act, 1994 there is mandatory requirement of having full bench of 3 judges. Therefore the case is still pending as it is very difficult for such composition as in Mwanza there is only one based judge.

COPORWA provided access to legal aid for affected communities. With Advocacy and Legal Support the 30 House Holds received back their land that had been despoiled, 65 House Holds received cows in Government Program One Cow Per Family, 180 House Holds received Health Insurance.

International and regional litigation

The community through the Endorois Welfare Council (EWC) was able to launch a case through the local judicial systems and later through the regional systems (ACHPR). EWC used the African court to compel the Kenyan government to respect the rights of the minorities.

[Add from ACIDH]

Building the African Coalition for Corporate Accountability

Mapping existing coalitions related to business & human rights

[Add from Simon]

Setting the agenda

[Add from notes, plus picture]

Determining next steps

Meetali chosen as interim coordinator. Next meeting will determine governance structure & action plan.

Appendices

ACCA Declaration

NGO Forum on NANHRI Statement