

[Corporate accountability defenders in Central Africa: 'troublemakers' offer solutions](#)

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Summary: At the third of five sub-regional consultations by African Commission experts, ISHR drew attention to regional trends in central Africa related to the intersection of extractive industry activities, government policy, and challenges to human rights defenders. Testimonies from national organisations working to improve respect for the rights of individuals and communities affected by natural resource exploitation highlighted gaps in legislation, insufficient knowledge, immense power imbalances, and inadequate implementation as key drivers of vulnerability and abuse.

(Lubumbashi, Democratic Republic of Congo) - The work of human rights defenders is a key element in improving natural resource governance and seeking justice for affected communities, [ISHR has told the African Commission on Human and Peoples' Rights](#) at a meeting in the Democratic Republic of Congo.

From 13 to 15 July, the African Commission's Working Group on Extractives Industries, the Environment and Human Rights - [whose mandate includes](#) examining the impacts of the extractive industries on human rights violations and environment - heard testimonies from national and regional civil society representatives who work on **corporate accountability issues**. The Working Group aims of this consultations were to examine the impact of extractive industries on human rights, and **to solicit recommendations to the Working Group**, among other stakeholders, to improve respect for human rights in the area of natural resources management.

A range of legislative and policy measures throughout the region leave affected communities vulnerable, governments either ineffective or complicit, and corporations generally immune to penalty. ISHR participation in the consultation highlighted challenges facing those defenders, and provided recommendations for the Working Group and other stakeholders to improve respect for human rights.

Much of the substantive discussion and recommendations, arising from general debate and formal presentations and submissions, focused on the **direct impacts** of enterprises' operations or national legislation on the enjoyment of human rights. This included particular attention to consultation processes and the need to ensure that these are done in a manner that truly engages affected communities. Beyond simply mandating consultations, activists highlighted specific issues that prevent free, prior, and informed consent of communities: lack of information, limited or politicised participation, little advance notice, and weak support from local or provincial governments to enforce existing laws or ensure fulfilment of contracts.

Activists expressed dismay at the **weak governance and pervasive corruption** affecting all levels of government that undermine the ability of the State to fulfil its obligation to protect human rights when they

are threatened by corporate actors. On the part of corporations, **lack of transparency** is a huge hindrance to effective negotiating by communities, and to effective action by governments to protect citizens' interest. There were a number of calls for more accurate and thoughtful research or data collection; transparency and disclosure requirements; and reform of land tenure laws.

'It is important to have more nuance in the understanding of what constitutes a duty to protect in the area of corporate accountability. While companies could easily have the means to prevent negative impacts and to provide redress, what lacks is will and - more often than one might think - awareness within all parts of the company. Governments have the ability and the tools to change that, and to push companies to take meaningful steps to ensure respect for human rights,' said ISHR's Sarah M Brooks, who attended the consultation. ISHR's Clément Voulé also attended the consultation in his capacity as an expert member of the African Commission's Working Group.

Although the Working Group's framework specifically reminded participants of the impacts on civil and political rights of extractives industries, and the challenges facing human rights defenders, very few individuals addressed the **indirect impacts** of corporate activity. These could include corporate pressure to enact favourable laws to attract foreign investment; to place limits on fundamental freedoms to contain or even silence dissent; and, on the positive side, 'trickle-down' effects from corporate standards or best practices promulgated in multilateral or international fora.

In this regard, ISHR provided input through its [formal submission to the Working Group](#) and through active participation in the discussions that emphasised the need for better protection for defenders. First, the submission highlighted the challenges facing human rights defenders in general, and corporate accountability defenders in particular, in the Central African sub-region. These include harassment, intimidation, reputational risk, arbitrary application of vague provisions of penal codes, and in general official characterisations of defenders as 'troublemakers' or even 'foreign agents' or 'traitors'.

'The same worrying trends that we see around the globe in terms of closing civil society space are present here, whether it consists in the targeted application of registration and assembly laws or in the increasingly limited pool of finances available to organisations doing human rights work. However, at the same time the DRC has a vibrant network of activists working on different issues, in different regions, to improve the situation for communities,' said Ms Brooks.

The submission also contained short **profiles** for each of the countries in the region, using benchmarks like participation in multistakeholder initiatives; approaches to domestic legislation on enabling rights and efforts to maintain (or constrain) civil society space; and concerns or requests raised by the UN human rights mechanisms, including the Special Procedures, the UPR, and the treaty body system.

Finally, the submission offered **recommendations to the Working Group, governments, and extractives industry enterprises** on measures that could be taken to protect and promote defenders and civil society space. These included recommendations:

- To the Working Group: to ensure broad consultations with civil society; to publicly support defenders; and to prevent and protect against reprisals.
- To governments: to adopt laws that recognise and protect defenders, and to amend existing laws that leave gaps in protections for defenders and affected communities; to develop National Action Plans; and to hold companies accountable for violations.
- To enterprises in the extractives industry: to facilitate access for defenders; to strengthen efforts to combat corruption and to improve transparency; and to be proactive and speak out when fundamental freedoms are curtailed - especially, though not exclusively, in the context of natural resource exploitation.

Although there were significant concerns about capacity and knowledge of even basic human rights issues at the local level - among government officials, extractives companies, and local communities alike - **most of the participants remained optimistic about the potential for reform and broader respect for human rights**. Human rights must become a central element of these conversations, and national and international advocacy in this regard could be reinforcing. Ensuring that local defenders have the tools they need to do their jobs, and to do them safely without fear of reprisal, will be the first step.

The Working Group will continue the process of sub-regional consultations, with the next anticipated to be held in West Africa in early 2016. ISHR will continue to engage in and support this process, and the broader efforts at the African Commission level to protect and promote the work of corporate accountability defenders.

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