



How lawyers can help communities access to remedy

Parallel session

28 November

13:30-14:45

Organized by International Senior Lawyers Project

Objective: Engage in and facilitate a discussion, on the role lawyers play in helping communities access remedy throughout the lifespan of a large-scale development project.

The third pillar of the UN Guiding Principles, access to remedy, has been the most elusive for most of those who work on corporate accountability around the world. Lawyers are an integral part of the process toward truly and effectively accessing remedy for harms committed by corporate actors. The role of litigators in helping project-affected communities access remedy for corporate harms is generally recognized and understood: litigators bring legal challenges before judicial mechanisms, among other means to seek recourse. However, transactional lawyers who may traditionally represent corporations and governments—particularly those working in development-related fields, such as project finance, extractives, and environmental law—also have a critical role to play, particularly when they deploy their strategic advice and negotiating expertise toward assisting project-affected communities and the civil society advocates who support them.

This panel will look at how lawyers might advise their clients (including civil society, community, government, and corporate clients) throughout the lifespan of a large-scale resource development project in order to ensure community's access to appropriate remedy for current and future harms. Lawyers are present at every stage of a development project, and thus can provide strategic advice, prepare evidence and communications, gain access to critical information, and help prepare local communities for the possibility of litigation, mediation, or other non-judicial remedy mechanism. Lawyers can also help structure and establish, via multi-stakeholder negotiations, project-level and/or community-driven grievances mechanisms, where community members can seek remedy prior to the escalation of harms.

In order to effectively showcase the many interventions that lawyers can make from the early stages of a large-scale development project—from investor-government negotiations to diligence and environmental and social impact assessment to project implementation and beyond—this session will explore these issues through the various experiences of the organizations that have been tackling such issues.

Format: During the session, panelists will discuss, via moderated Q&A, the roles and duties of lawyers with respect to project-affected communities. Panelists will use real examples and interactive hypotheticals to help clearly demonstrate their work, and identify needs, successes, and challenges. During the final 20 minutes of the session, panelists will answer questions from attendees that they may have, identify further areas where lawyers should be utilized, and help think about how to further the reach of lawyers to communities affected by large scale development projects around the world.

Possible Questions for Panelists:

1. What do you see as your role in advising your client/partner with respect to project-affected communities?
2. What are some of the biggest arguments/barriers that you have heard from lawyers in this type of work?
3. Is future access to remedy part of your discussions with clients regarding (i) project diligence, (ii) community consultation, (iii) community benefits, and (iv) ongoing community-corporate engagement?
4. In cases where you have been retained from the early stages of a project, what actions have you taken that have ultimately facilitated future access to remedy for project-affect communities? What impact and value did this have for the communities? Conversely, in hindsight, what could you have done at the early stage to better prepare communities for future recourse?
5. What is one piece of advice you would give to those in the room today regarding the role of multi-stakeholder engagement vis-à-vis the latter's ability to access remedy for current and future harms? What is the role of the lawyer in this engagement process?

Speakers:

- Kindra Mohr, *Policy Director, Accountability Counsel*¹
- Yasmin Batliwala, *Chief Executive, Advocates for International Development*
- Rocio Paniagua, *Senior Legal Advisor, International Bar Association*
- Monika Mehta, *Interim Director, Inclusive Development, International Senior Lawyers Project (Moderator)*

¹ See in annex a short bio of speakers and moderator

ANNEX. SPEAKERS SHORT BIOS.

Kindra Mohr

Policy Director, Accountability Counsel

Kindra Mohr serves as Accountability Counsel's Policy Director, overseeing our Policy Advocacy program and leading efforts to protect human and environmental rights in international development projects. She brings extensive advocacy and accountability experience working with non-profit organizations, and from the corporate board room to Capitol Hill. Before joining Accountability Counsel, Kindra conducted performance reviews, inspections, and evaluations as a project leader for the Office of Inspector General for the City of New Orleans.

Yasmin Batliwala

Chief Executive, Advocates for International Development

Yasmin Batliwala has extensive experience of the public sector and has worked at a senior level for many years. She is a Magistrate and has undertaken some work with the United Nations office on Drugs and Crime.

Rocio Paniagua

Senior Legal Advisor, International Bar Association

Rocío Paniagua is a Senior Legal Advisor with the Legal Policy & Research Unit. She completed her law degree at the Autonomous University of Madrid and undertook additional law studies at the Roma Tre University in Italy and the Complutense University of Madrid, where she earned a Masters in International Cooperation for Development. A member of the Madrid Bar Association, she has previously worked as a Legal Officer in the International Department of the Spanish National Bar Association and in two major re-insurers in London and Dublin. As Senior Legal Advisor, Rocío is leading the IBA Legal Policy & Research Unit projects in the areas of business and human rights and anti-corruption.

Monika Mehta (Moderator)

Interim Director, Inclusive Development, International Senior Lawyers Project

Monika Mehta joined ISLP in 2017 as a Legal Officer in the Community-Inclusive Development focus area. Previously a staff attorney for the American Bar Association Center for Human Rights *Justice Defenders Program*, Monika provided pro bono legal assistance to human rights activists and lawyers who faced retaliation and threats for their work in South and Southeast Asia.