



## Addressing interference in access to justice: perspectives from the ground

*Parallel session*

*29 November*

*13:30-14:45*

*Organized by Above Ground, Canada; Citizen News Service (CNS), India; Defend Job, Philippines; Habi Center for Environmental Rights, Egypt; Project on Organizing, Development, Education, and Research (PODER), Mexico; and Sierra Leone Network on the Right to Food (SiLNoRF), as members of the ESCR-Net Corporate Capture Project Advisory Group*

**Background:** Accessing justice is often a challenge for victims of human rights violations, particularly in the Global South. In confronting human rights violations involving corporate actors, these challenges are increasingly present, mainly due to corporate capture. Corporate capture refers to the means by which an economic elite undermine the realization of human rights and the environment by exerting undue influence over domestic and international decision-makers and public institutions. One of the elements that define this phenomenon is judicial interference.

Judicial interference is the influence corporations exert over the proceedings and rulings of courts which provide favourable outcomes for corporations and undermine due process and efforts at seeking access to remedy and accountability.

This session will examine different examples of judicial interference, and the strategies being utilized by civil society organizations and communities to challenge this form of corporate capture of government institutions and decision-making. Due to the vast power imbalance between companies, governments and communities, it is particularly important to identify when judicial interference is happening and therefore obstructing access to remedy, and promote independent and reliable judicial systems worldwide.

**Session objectives:** This session will explore concrete examples and wider trends of judicial interference that are preventing victims' access to remedy in countries across different regions. Representatives will discuss the challenges and opportunities to effectively confronting judicial interference and ensuring access to justice for violations of human rights involving corporations.

**Session format and content:** The session has been conceived as an interactive panel, with a dynamic question and answer format between the moderator and speakers for the first 50 minutes, allowing them to address the key elements of judicial interference and emerging strategies to ensure access to remedy. In the final 30 minutes of the session, the moderator will open the discussion to questions/interventions from the audience, ending with a final comment from each speaker.

**Key questions:**

- What does judicial interference look like on the ground?
- How has judicial interference impacted effective access to remedy for victims in concrete cases of human rights violations involving corporations?
- Where have civil society-led strategies begun to expose and overcome this phenomenon?
- How can “champions” within the State and corporate spheres get involved in combating judicial interference?"

**Speakers:**

- **Fernanda Hopenhaym**, *deputy executive director*, PODER
- **Maria Eugenia Trombini**, *Human Rights attorney*, Terra de Direitos
- **Glacy Macabale**, *Campaign Director*, Save Freedom Island Movement (SFIM)
- **Francisca Garcia**, *Member*, Comités de Cuenca Río Sonora
- **Astrid Perry**, *solicitor*, Leigh Day's International and Group Claims Department
- **Surya Deva**, *Chair*, Working Group on Business and Human Rights

## **ANNEX – SHORT BIO**

**Fernanda Hopenhaym**

***Deputy Executive Director, PODER***

PODER is a regional NGO working on corporate accountability and human rights in Latin America. Fernanda has 18 years of experience in civil society organizations working on human rights, gender equality and economic justice, with a strong focus on business and human rights in the last 6 years.

**Maria Eugenia Trombini**

***Human Rights attorney and Social Scientist, Terra de Direitos***

Terra de Direitos is an organization that seeks to promote and enforce economic, social, cultural and environmental rights across Brazil for the past 15 years, and integrates Jusdh – a network comprised of legal aid entities, experts and social movements engaged in building a democratic agenda of justice.

**Francisca García**

***Member, the Comités de Cuenca Río Sonora***

The Comités de Cuenca Río Sonora is an articulation of people from seven communities in the Northern Mexican State of Sonora, affected by the worst mining spill in the history of the country, in 2014. Francisca belongs to a family that is a communal land holder, and she has been participating in the organizing process for three years, not only in her home village of Aconchi, but across all of the affected watershed communities.

**Astrid Perry**

***Solicitor, Leigh Day's International and Group Claims Department***

Leigh Day's International and Group Claims Department specialises in international corporate accountability cases. Astrid has extensive experience in cases relating to corporate human rights abuses having worked for a number of different communities impacted by the activities of British extractive companies.

**Glacy Macabale**

***Campaign Director of Save Freedom Island Movement (SFIM)***

Save Freedom Island Movement (SFIM) is a broad network convened to protect fisher-folk and other low-income residents from forced eviction from Freedom Islands in Paranaque City, for the Manila Bay Reclamation Project.

**Surya Deva**

***Chair of the Working Group on Business and Human Rights***

Mr. Surya Deva is an Associate Professor at the School of Law of City University of Hong Kong. He holds BA (Hons), LLB and LLM from the University of Delhi and a PhD from Sydney Law School, and has taught previously at the University of Delhi and at the National Law Institute University Bhopal. Mr Deva's primary research interests lie in Business and Human Rights, Corporate Social Responsibility, India-China Constitutional Law, and Sustainable Development. He has published extensively in these areas, including books *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (co-edited with David Bilchitz) (Cambridge, 2013); and *Regulating Corporate Human Rights Violations: Humanizing Business* (Routledge, 2012). Mr Deva has also authored commissioned reports for the International Commission of Jurists and the Ethical Trading Initiative. He is a founding Editor-in-Chief of the *Business and Human Rights Journal* published by Cambridge University Press, and sits on the Editorial/Advisory Board of the *Netherlands Quarterly of Human Rights*, the *Vienna Journal on International Constitutional Law*, and the *International Journal on Human Rights and Business*. In 2014, he was elected a Member of the Executive Committee of the International Association of Constitutional Law.