



FORDFOUNDATION



# Report

## Fourth Meeting of the African Coalition for Corporate Accountability (ACCA)

Held at the Farm Inn Country Hotel & Wildlife Sanctuary, Pretoria, South Africa from 14-16 November 2017

March 2018



*ACCA: supporting communities and individuals whose rights are adversely affected daily by the activities enterprises.*

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## **1. A word from the Coordinator:**

This report of the 4<sup>th</sup> General Assembly (GA) of the African Coalition for Corporate Accountability (ACCA) is compiled for friends and members organisations of the. The ACCA GA is the meeting ground on the African continent for African CSOs who share ACCA's purpose of supporting African communities and individuals whose human rights are adversely impacted daily by the activities of corporations, both multi-national and domestic, as well as states in the context of business and human rights.

The 4<sup>th</sup> ACCA GA was initially meant to take place in Nairobi, Kenya, from 17-19 October 2017. However, in light of the clash of dates of the re-elections in Kenya, an official ACCA communication was released on 12 September 2017 informing the ACCA community of the unanimous decision to postpone this year's GA, and associated side-events to be moved from Nairobi to Pretoria, with the new dates: 14-16 November 2017.

The 2017 ACCA GA was hosted in partnership with the Democratic Control of Armed Forces (DCAF). Mr. Dante Pesce, who is a member of the UN Working Group on Business and Human Rights (UNWG), delivered the key-note address at the 2017 GA and engaged with the membership on pertinent corporate accountability issues on the continent. Mr Pesce's presentation from this year's ACCA GA may be accessed [here](#). The 2017 GA saw the participation of affected community members from Zimbabwe, Kenya, South Africa and Tanzania. The ACCA GA provided these community members with the platform to actively participate in consultation sessions on access to remedy and free prior and informed consent (FPIC), and to network with different civil society representatives from across Africa.

Some of the outcomes from the 2017 ACCA GA included the presentation of and consultation on ACCA's reports on access to remedy and FPIC, hosting a capacity building session on the use of video to promote FPIC in extractive projects, hosting Steering Committee (SC) elections and meetings, and further strengthening relationships between members.

We hope that you enjoy this report and look forward to continued engagement from the ACCA community at large.

Damian Oakes

## **2. Executive Summary:**

The 4<sup>th</sup> ACCA GA took place at The Farm Inn Country Hotel & Wildlife Sanctuary, in Pretoria, South Africa. The overarching theme for this year's ACCA GA was access to remedy. The ACCA Steering Committee (SC) members decided on this theme during SC members in-person meeting that took place in Abuja, Nigeria in January 2017 for two reasons: (1) access to remedy is one of the focus areas for ACCA's work streams, and (2) access to remedy was the overarching for the 6<sup>th</sup> UN Forum on Business and Human Rights. During this UN Forum on Business and Human Rights, ACCA presented its work on access to remedy in a session entitled: *"an African perspective to access to remedy – Regional challenges and needs"* which took place on the morning 28 November 2017.

The 2017 ACCA GA saw the participation of approximately 100 attendees, which included a larger number of ACCA members, as well as a small number of external participants. As was the case with the 2016 ACCA GA, the ACCA SC members held two separate SC meetings during which ACCA-related matters were discussed, during which there was also simultaneous interpreting services (English-French).

The first day of the 2017 GA was primarily dedicated to issues of private security, which were led by DCAF. The sessions on private security saw the participation of both non-ACCA member organisations and ACCA member organisations on panel discussions. The second day of the meeting enabled ACCA to engage in a range of business and human rights issues including: National Action Plans (NAPs), advocacy for AHPR's ruling, development finance, using video to promote FPIC in extractive projects, and a session on the treaty of human rights and business. The third day of the GA was set aside for ACCA governance matters, during which the SC members delivered a report back on the annual activity report and financial reports, both of which were adopted by participants. Consultation sessions on FPIC and access to remedy were also held. Thereafter, ACCA SC elections were held, and a session for charting the way forward for ACCA was also held. The 2017 ACCA GA agenda may be accessed [here](#).

## **3. Who participated in the GA?**

The GA brought together participants from both the continent and international arena representing civil society, legal practitioners, academia, community-based organisations, affected community members, as well as various national human rights institutions. Dante Pesce from the UN Working Group on Business and Human Rights, delivered the key-note address on day 2 of the GA. Simultaneous interpreting services (English-French) were provided for participants throughout this year's GA, including the parallel sessions. The participants expressed their gratitude to the interpreters for the excellent work done throughout the event.

### **3.1 Selection process**

There were no registration fees for the 2017 ACCA GA, and participants could register for the event through the online forms that were circulated on ACCA's social media platforms and ACCA mailing list. The ACCA Secretariat and ACCA SC members decided on who would receive funding to attend the 2017 ACCA GA. Participants were selected from the pool of persons who completed the survey based on a number of criteria, including:

- representing organisations with a demonstrable record of working on corporate accountability issues;
- representing a diversity of regions;
- languages;
- scale of work (such as community-based or national-level work); and
- demonstrable interest and commitment to ACCA.

The participation of many attendees at this year's GA would not have been possible without the support of ACCA's partners and donors who assisted with funding the participation of attendees. In total, there were a total of 100 online requests to attend the 2017 ACCA GA.

#### **4. Cocktail reception**

A cocktail reception was held on the evening of 14<sup>th</sup> November at the Farm Inn Country Hotel & Wildlife Sanctuary. The cocktail reception sought to welcome participants and provide participants with the opportunity to network with one another, and learn about ACCA's activities, and about its member organisations. The cocktail reception took place immediately after the end of day one's activities.

#### **5. Session on using video to promote FPIC in extractive projects**

Jessie Landerman from New media Advocacy Project (N-Map) together with Veronica Zano from Zimbabwe Environmental Law Association (ZELA) and Clarah Magobeya (community member from Zimbabwe) delivered a capacity building session in the form of a presentation on using video to promote FPIC in extractive projects. During the presentation, Ms Magobeya spoke about her experiences as an affected community member. Participants expressed their gratitude for hearing a testimony directly from an impacted community member. Ms Zano from ZELA interpreted the testimony into English, which was then translated into French by the interpreters. The slide show prepared by Jessie and the video displayed during the GA may be accessed [here](#).

#### **6. Consultation sessions: FPIC and access to remedy**

During the 2016 ACCA GA, the ACCA Working Groups on FPIC and access to remedy refined the adopted terms of reference on access to remedy and FPIC, which would form the basis of the research part of ACCA's ongoing work streams. ACCA co-Chairpersons: Ms Abiodun Baiyewu headed the FPIC workstream, and Dr Michel Yoboue leads the work on access to remedy. Following the 2016 ACCA GA, a call for applications was released by the ACCA Secretariat to hire two research consultants to take forward the research part of these work streams. The SC members unanimously agreed that Dr. Attiya Waris would lead the work on access to remedy, and Dr Aderomola Adeyola who would lead the work on FPIC.



The draft versions of both research papers were sent to all participants ahead of last year's ACCA GA in preparation for the consultation sessions. Participants were given the choice to attend the session that interested them the most, and to add contributions to the work.

### *6.1 FPIC consultation session*

ACCA's research consultant on FPIC, Dr Aderomola Adeola, commenced the session with a Powerpoint session during which the desktop research on the levels of implementation of FPIC were presented. Two affected community members from Kenya and South Africa attended this session, and were given the opportunity to inject into the discourse of FPIC from a community perspective. Meeting participants agreed to work with a working definition of FPIC (which was decided upon in the session), a slightly amended version of ACCA's stance on FPIC in the ACCA Declaration.

In the session after lunch, the floor raised suggestions regarding the way forward for the report, which included ways to better educate communities on FPIC and how to ensure that their right to FPIC is respected through: advocacy toolkit for affected communities; making pamphlets/materials for communities; training paralegals in communities on FPIC; building solidarity with communities; and share information on actual cases/norms/campaigns (e.g. Model Mining Law/Southern African Campaign for Dismantling Corporate Power). The slide show used during the session may be found [here](#).

### *6.2 Access to Remedy*

ACCA's research consultant, Dr. Attiya Waris, commenced the session with a PowerPoint presentation with which Dr Waris introduced the desktop study on access to remedy which included understanding the land rights that a community leader can give to an individual or entity; understanding the structures of mining companies in Africa and globally, and mapping the African landscape. The session also raised the question of who are the actors involved (mining companies). Thereafter, the types of abuses that occur from the actors was highlighted.

During the session, the ways in which mining companies take advantage of the traditional African understanding of ownership of land was discussed; land is meant to be owned communally and to be used for future generations to sustain themselves. The mining companies view the use of land as the right to ownership of land. In this light, the misunderstandings that can occur between a concept in modern vs traditional law and traditional/customary law is highlighted.

The different types of remedy were discussed along with the challenges communities face when accessing these remedies. Thereafter, the recommendations for both companies and communities as put forward by the paper were discussed.

The session then moved onto taking comments from the floor. Participants stressed the need for a gender element in terms of recommendations. For example, in the case of the Inga Dam project (DRC), given that women are usually left with the responsibility of taking care of both the young and old, they are the worst affected by the adverse effects of the activities of corporations and/ or development projects. In the case of the women who live within the immediate vicinity of the Inga Dam project, they do not have access to energy. In the case of compensation versus settlement, the entire process needs to be well documented for future reference. This raises the need to train pro bono lawyers within communities to document all discussions and meetings with the stakeholders, and to archive these discussions.

In terms of the way forward, ACCA needs to formulate a training and advocacy work plan aimed at the local (site), national, regional, and international levels. The slide show used during the session may be found [here](#).

## **7. SC nominations and elections**

During the ACCA meeting in Addis Ababa in 2014, the ACCA General Assembly agreed that: *“The Steering Committee (and not ‘Steering Group’) shall be composed of 7 member organisations, striving for regional and linguistic balance. The Coordinator shall have an ex officio role in the Steering Committee. Steering Committee members shall have 3-year terms, renewable one time. Steering Committee decision-making shall be by consensus, and position statements will be made on an opt-out basis.”* During the 2016 ACCA GA, the ACCA members present adopted the current ACCA SC norms and procedures. The 2017 GA marked the 3<sup>rd</sup> GA since the appointment of the ACCA SC members. It was, hence, decided that SC member nominations and elections would take place during the 2017 GA.

The list of SC members elected during the ACCA meeting in 2014 is as follows:

1. Zimbabwe Environmental Law Association (ZELA), Harare, Zimbabwe;
2. Public Interest Law Center (PILC), Chad;
3. Legal and Human Rights Centre (LHRC), Dar es Salaam, Tanzania;
4. Global Rights Nigeria, Abuja, Nigeria;
5. *Groupe de Recherche et de Plaidoyer sur les Industries Extractives (GRPIE)*, Abidjan, Cote d’Ivoire;
6. *Rencontre pour la Paix et les Droits de l’Homme (RPDH)*, Pointe-Noire, Congo; and
7. *Maison des Mines du Kivu*, Democratic Republic of Congo (DRC).

During the 2017 GA, all SC members expressed their desire to renew their term by nominating themselves or by being nominated by another ACCA member organisation. The nomination and voting protocol described the following: the nomination process; voting eligibility limited to ACCA member organisations, mechanics of how to vote using the form created with Google Forms. The criteria for nominations and election that were agreed upon by meeting participants at the 2014 ACCA meeting in Addis Ababa is reflected as below:

- Vision for the ACCA ;
- Relevant subject-matter expertise;

- Fundraising experience;
- Regional balance;
- Linguistic balance (English and French, also Portuguese, Arabic, Spanish); and
- Responsiveness Gender balance (representation and expertise).

### *7.1 Nomination process*

On 15<sup>th</sup> November 2017, an e-mail was sent to ACCA member organisations present at the 2017 GA explaining the process for nomination of ACCA member organisations as SC members. The desired qualities of SC members together with the nomination form were sent to ACCA member organisations present the day before the SC member elections took place. The list of desired qualities agreed upon by participants at the 2014 ACCA meeting in Addis Ababa were used. ACCA member organisations were given until midnight on 15<sup>th</sup> November 2017 (day 2) to send their nominations to the Coordinator via the online form.

### *7.2 Election process*

On 17 November 2017, the ACCA Coordinator explained the voting protocol to ACCA member organisations present. The protocol described the following: the nomination process; voting eligibility (limited to ACCA member organisations at this year's GA); mechanics of how to vote using the form created on Google Forms. ACCA SC members decided that each ACCA member organisation was entitled to vote as per the geographical representation of the current composition of ACCA SC members:

- Southern Africa: 2 votes
- East Africa: 1 vote
- West Africa: 2 votes
- Central Africa: 2 votes

### *7.3 Election results*

Once the votes had been tallied, the Coordinator displayed the voting results on the screen. ACCA member organisations present at the meeting elected the following seven organisations to the ACCA Steering Committee:

1. Zimbabwe Environmental Law Association (ZELA), Harare, Zimbabwe;
2. Public Interest Law Center (PILC), Chad;
3. Legal and Human Rights Centre (LHRC), Dar es Salaam, Tanzania;
4. Global Rights Nigeria, Abuja, Nigeria;
5. Groupe de Recherche et de Plaidoyer sur les Industries Extractives (GRPIE), Abidjan, Cote d'Ivoire ;
6. Rencontre pour la Paix et les Droits de l'Homme (RPDH), Pointe-Noire, Congo; and
7. Centre for Applied Legal Studies (CALs), Johannesburg, South Africa.

## **8. What will the ACCA do now?**

### *8.1 The ACCA way forward document*



The ACCA way forward document is a summary of the contributions of the comments and suggestions from meeting participants. The document may be accessed [here](#).

## *8.2 Hiring of a project Coordinator*

A call for applications was released in December 2017 to recruit the ideal candidate as a Project Coordinator to take the lead on ACCA's substantive work on free, prior and informed consent (FPIC) and access to remedy. This call for applications bears testimony to the growth and progress that ACCA has made since its inception meeting in Accra, Ghana in 2013. The new candidate will be recruited with the intended purpose of assisting ACCA in playing a more prominent role business and human rights issues on the continent, and ACCA's desire to support African communities and individuals whose human rights are adversely impacted daily by the activities of corporations, both multi-national and domestic. The new project coordinator will take forward the substantive work on FPIC and access to remedy.

## *8.3 Strengthening ties with the ACCA's partner organisations*

### Business and Human Rights Resources Centre:

Going forward, working closer with institutions like BHRRC will help ensure that ACCA members are aware of existing tools and information, which can be shared with affected communities. The ACCA GA resolved to deepen relations and partnerships with organisations such as the BHRRC. Firstly, through their three existing contact points in South Africa, Nairobi, and Senegal, as well as through the entire BHRRC Global Team. BHRRC have already begun conversations internally as the Africa team on how best they can be of use to ACCA mainly through deploying our competencies as defined by their niche.

### New Media Advocacy Project:

After attending the 11<sup>th</sup> Hour Project Connect event in October 2016, N-MAP shared videos of its work done with affected African communities with the ACCA. These videos were then shared on the ACCA's [Youtube page](#) and social media platforms. The Coordinating work between the ACCA and N-MAP helped reconnect N-MAP and ZELA to present a session based on a previous project on which the two organisation worked together.

The ACCA and N-Map are going to engage in discussion how to further the collaboration between the two organisations, to see how the ACCA member organisations and the ACCA community at large could benefit from N-Map's work.

### The Coalition for Human Rights in Development

Following the side event organised by the Coalition for Human Rights in Development at the 2017 ACCA GA, Coalition members are planning a series of capacity building workshops on remedy. Given ACCA's focus on access to remedy through its work stream, the ACCA

Secretariat and the Coalition are discussing how the ACCA member organisations and the Coalition's organisations can benefit from such workshops.

### ESCR-Net

The ESCR-Net has also been present at both the 2016 and 2017 ACCA GAs, where it facilitated a discussion on the treaty process. A number of ACCA members have expressed their interest in the ongoing processes around the development of a UN treaty on business and human rights. The ESCR-Net has played a key role in coordinating the 'Peoples' treaty' process, of which a number of ACCA members are involved in. The ACCA continues to offer its support on this process, linking interested member organisations to the ESCR-Net.

## **ANNEXES**

### **Annex 1:**

Photos from the 2017 ACCA GA may be accessed via ACCA's website by clicking [here](#).

### **Annex 2: Attendees list**

The attendees list from the 2017 ACCA GA may be found [here](#).

### **Annex 4: Welcome note by co-Chairperson of the ACCA: Michel Yoboue**

The welcome note by the ACCA co-Chairperson: Michel Yoboue may be found [here](#).

### **Annex 5: ACCA annual report of ACCA activities**

The ACCA annual report of activities and financial report (2017-2018) may be accessed on ACCA's website by clicking [here](#).

### **Annex 6: Minutes of the meeting**

Minutes from this General Assembly may be accessed on ACCA's website by clicking [here](#).

### **Annex 7: Videos**

Two ACCA videos were released for the 2017 ACCA GA. The first video may be viewed [here](#), and the second video may be viewed [here](#).



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CORPORATE ACCOUNTABILITY