



Accountability Counsel assists communities around the world to defend their environmental and human rights. We hold corporations and international institutions accountable for abusive practices through our dual approaches: direct support for community complaints and policy advocacy.

Since Fall 2011, Accountability Counsel has made great strides in work with client communities in their efforts to seek solutions to human rights and environmental abuses around the world.

In the **Peruvian Amazon**, we await an audit of the IFC's role in financing an oil investment that is poisoning local people and their environment (page 2).



Just as the U.S. Supreme Court reviews limitations on corporate accountability, our victory in our case in **Oaxaca, Mexico** offers a look at what is possible with use of alternative recourse mechanisms (page 3).

The World Bank Inspection Panel's investigation into the harmful impacts of a palm oil project in **Papua New Guinea** affirmed our clients' allegations of violations of Bank policy and is leading to changes on the ground in PNG (page 2).

Through our **Strategic**

Support program, we are assisting communities in **Panama** and **India**, and recently collaborated with a student group at **Berkeley School of Law** to draft a complaint to an accountability mechanism with one of our partner organizations (page 4).



Our policy advocacy has focused on a troubling, opaque review of the procedures of the **OPIC Office of Accountability**, the functioning of the accountability office at the **Inter-American Development Bank**, and analysis of the new accountability policy at the **Asian Development Bank**. We are also beginning engagement as a member of the new **U.S. OECD National Contact Point Stakeholder Advisory Board**, a body we worked hard to create! See page 2.

We look forward to our Summer 2012 Law Fellows from Berkeley Law and UCLA Law starting soon!



**ACCOUNTABILITY
COUNSEL**

defending the environmental and human rights of communities around the world by creating, strengthening, and using accountability systems

Visit us online! Read about our work, meet our staff, and learn how you can help at www.accountabilitycounsel.org.

Policy Advocacy

Challenging an Opaque Policy Review at the Overseas Private Investment Corporation (OPIC) Office of Accountability

Accountability Counsel and civil society partners around the world are voicing growing concern about the opaque policy review being undertaken by the OPIC Office of Accountability. The Director of the Office is revising the procedures governing his office without public notice and comment, without transparency as to the scope or timeline of the review, and with changes that may limit community access to the mechanism in a manner contrary to the Congressional directive and OPIC Board mandate that established the Office. After requesting, without avail, that the Director open the process to the public, and subsequently witnessing the substantive changes being proposed, Accountability Counsel began work to ensure that Congress and the OPIC Board are aware of the repercussions that this review could have on the credibility and legitimacy of the Office of Accountability and OPIC in general.

New Accountability Policy at the Asian Development Bank (ADB)

After a year-long process of public notice and comment, the Asian Development Bank has now completed the review of its accountability mechanism. Major positive changes include the ability of communities to choose which function to use -- they may now directly access the compliance review function of the mechanism without being "stuck" in problem-solving even when it is not productive -- and an extension of the time that claimants have to file a complaint to two years after the grant or loan closing date. A full analysis of the final policy and the impact of our comments urging greater transparency and effectiveness is available on our website.

Monitoring Accountability at the Inter-American Development Bank (IDB)

Since the 2010 revisions to the IDB's accountability mechanism, we have been monitoring how the new office is working for project-affected people. Our work involves dialogue with the staff of the office, work with interested members of Congress, and partnerships with community users of the process and other interested civil society groups to highlight key changes needed.

Joining the U.S. OECD National Contact Point (NCP) Stakeholder Advisory Board

After several years of advocating for creation of a Stakeholder Advisory Board to assist with improvement of the U.S. OECD NCP, we are pleased to be a member of the newly created Board. We look forward to working with colleagues on the Board to ensure that the NCP is a transparent, accessible and effective tool for our client communities.

World Bank Inspection Panel Confirms Violations in Papua New Guinea

Bank Directed to Remedy Problems

In a victory for our clients in Papua New Guinea, the World Bank Inspection Panel issued formal findings of fact in response to a complaint regarding harm from a palm oil expansion project. The Panel report, published in December 2011, affirmed that the project violates World Bank Policy. The Panel found particular fault with the Bank's failure to comply with its Indigenous Peoples Policy, which requires consultation regarding all aspects of the project and provision of culturally appropriate benefits.

Shortly before the Bank Board of Directors met to discuss the Panel's findings, AC's Executive Director Natalie Bridgeman Fields met with Board members to brief them on key concerns and action needed to ensure that the palm oil project does not cause further harm.

The Bank's Board meeting in December 2011 resulted in a directive to Bank management to report back to the Board on a number of steps they must take to address violations of Bank policy: in particular, establishing baseline environmental data for all project-area mills and doing extensive consultations as part of a study regarding the road maintenance aspect of the project. AC attorney Sarah Singh met with a key member of the Board again in March 2012 to brief him on issues requiring follow-up and oversight.

In April 2012, Bank management will visit our clients and other smallholders to follow up on the



actions required to bring the project into compliance.

This case demonstrates the power of accountability mechanisms to bring voice to remote and directly affected people. Through our strong collaboration with PNG-based partner group CELCOR, our clients used the Panel process to bring attention to harm from the Bank's failed project and their voice has led to concrete changes on the ground.

Oil in the Amazon: Update on the IFC's Responsibility for Abuses by Maple Energy in Peru

In September 2011, the Shipibo communities we work with completed a dispute resolution process through the International Finance Corporation's (IFC) accountability mechanism, the CAO. We are now awaiting the results of the CAO's appraisal, which will determine whether the CAO will conduct a full audit of the IFC's policy violations in this case. We are watching this case closely due to the egregious nature of the harm caused by the IFC's investment that, to date, the IFC has not addressed or remedied at either the local or institutional levels.

Elusive Accountability in U.S. Courts and Our Victory in Mexico: What *Kiobel v. Royal Dutch Petroleum*, the Supreme Court's Pending Corporate Accountability Case, Means to Our Work

In November 2011, less than a year after filing a complaint to the U.S. Overseas Private Investment Corporation (OPIC) Office of Accountability (OA), three indigenous communities we represent in



Oaxaca, Mexico, completed a dispute resolution process that resulted in a major and historic victory: through negotiation, the communities halted a harmful OPIC-financed hydroelectric project. In March 2011, the communities and the company agreed that the company would respect the decision of the communities regarding whether

the Cerro de Oro hydroelectric project would go forward. This agreement was witnessed by the OPIC OA and all levels of the Mexican government. Since the communities' November decision to halt the project out of concerns about their health, safety, livelihoods and environment, both the company and the government have respected the agreement.

In contrast, international corporate accountability cases in U.S. courts often drag on for years without resolution. At present, the ability to even bring such cases is in jeopardy. On February 28, 2012, the U.S. Supreme Court heard oral argument in *Kiobel v. Royal Dutch Petroleum*, a case with tremendous implications for corporate accountability and the importance of our work here at Accountability Counsel. At issue in *Kiobel* is whether corporations may be held liable in U.S. courts for violations of international law such as torture, genocide and crimes against humanity. In the *Kiobel* case, the question is whether Royal Dutch Petroleum may be held responsible for having aided and abetted the Government of Nigeria in the torture, execution and detention of civilian environmental activists.

The law at issue before the Supreme Court, the Alien Tort Statute (ATS) of 1789, provides one of the few legal avenues under U.S. federal law to hold corporations accountable for human rights violations committed in other countries. There is a real question

about what avenues of international corporate accountability would remain if the Supreme Court rules that corporations are immune from lawsuits under the ATS.

Accountability Counsel was founded out of a belief that communities seeking redress for human rights and environmental violations need greater opportunities to hold perpetrators accountable, and that the options must include methods that are timely, cost effective, and have a high likelihood of success. Should the Supreme Court foreclose what was already a limited opportunity for corporate accountability, access to justice may be more elusive than ever for those who need it most.

Our recent work in Mexico provides an opportunity to reflect on alternative methods of dispute resolution that may become even more critical if the use of U.S. courts to seek recourse is restricted. By using the accountability mechanism tied to a financial institution that financed the Cerro de Oro project -- OPIC's OA -- we were able to ensure that our client communities received a relatively quick, inexpensive, efficient, and ultimately *effective* means of resolving their dispute with the project company. Through the OA's dispute resolution process, the Government of Mexico took interest in these issues and a dialogue about free, prior and informed consultation in the region is ongoing. While we are still awaiting the OPIC OA's compliance audit regarding OPIC's responsibility for its role in financing this project in violation of its own policies, the negotiated victory for the communities stands as a model.

Accountability Counsel believes our work must be a compliment to traditional legal avenues and we are in solidarity with groups working to ensure that those avenues remain open. Where the door to the courts may be closing, however, we will continue our work to keep other doors to justice open.



Gender Focus



Accountability Counsel works in communities where people face grave challenges to their livelihoods, human rights abuses, risks to the environments they depend on for survival and risks to their social structure. In some of our cases we seek to avoid harm, while in others we seek to redress wrongs already committed. In each of our cases, the agribusiness, petroleum and hydropower projects that communities are facing have disproportionate impacts on women. Women are often the least likely to be consulted about a project that will impact their livelihoods, yet bare the brunt of impacts such as denial of access to water, food security threats, and physical abuse.

It is therefore imperative that the voices of women and girls are heard through the complaint process so that those with the power to stop abuses and make change respect women's rights and needs. Accountability Counsel employs a number of methods to ensure that women and girls are included in our work and maintain appropriate leadership roles. We invite you to learn more on our website.

Collaboration with UC Berkeley School of Law Student Clinic on Accountability Mechanism Complaint

Accountability Counsel has just completed a successful collaboration with students at UC Berkeley School of Law through a project with Law Students for Environmental and Economic Justice (SEEJ).

Two of the four leaders of the project, Anne Bellows and Ryan Shaening-Pokrasso, were Summer 2011 Law Fellows with Accountability Counsel who wanted to continue supporting communities in using international financial institution (IFI) accountability mechanisms. The collaboration involved Accountability Counsel's training of students in the clinic regarding how to work with client communities, conduct fact-finding and policy analysis, and draft complaints. Under our supervision, students worked closely with one of our partner organizations abroad, resulting in the full support for the organization

in their complaint to an accountability mechanism. Through work with law students we hope to train the next generation of lawyers on the effective use of IFI accountability mechanisms.



SEEJ team leaders Anne Bellows and Ryan Shaening-Pokrasso in Oaxaca, Mexico in July 2011 with AC staff.

Accountability Counsel Thanks

our Spring 2012 Law Fellows **Caitlin Daniel** (top right) and **Katherine McDonnell** (lower right). Thanks also to our Spring 2012 Undergraduate Intern **Tianyi Wang** (at left).



Interested in working with us?

Applications for our Fall 2012 Law Fellow and Intern positions are due May 1, 2012. Please visit our Jobs and Internships webpage for details.

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Strategic Support to Communities in Panama and India

In contrast to our sustained, in-depth work with communities in Peru, Papua New Guinea and Mexico, Accountability Counsel often provides advice through our Strategic Support program to communities and organizations where strong local capacity exists, but where specific support is requested.

Continuing our Strategic Support in India, in January 2012, we visited communities in the state of Orissa to follow-up on advice to local groups regarding a four-lane highway, sponsored by the World Bank, that raises issues regarding consultation, community safety and involuntary resettlement.

Accountability Counsel's attorneys are also assisting organizations in Panama as they navigate use of the International Finance Corporation's (IFC) Compliance Advisor/Ombudsman (CAO) and the Inter-American Development Bank's (IDB) Independent Consultation and Investigation Mechanism (ICIM). In early 2010, sixteen Panamanian

organizations filed complaints with the CAO and ICIM regarding the Pando and Monte Lirio dams, which threaten a Panamanian river and the surrounding communities.

Accountability Counsel began working on the case in Fall 2011, after the company had refused to participate in the problem solving process and the communities were awaiting compliance results. We are assisting the communities with their follow up to the ICIM's compliance findings and the CAO's remarkable February 2012 decision not to complete a full audit.

Thanks to our Pro Bono Attorneys

Within the past six months we have been proud to collaborate with the following lawyers and law school clinics:

- Rodney Allen
- Berkeley School of Law International Human Rights Law Clinic
- Gideon Kracov
- Alyson Finley
- SEEJ (see article at left)

Support Accountability Counsel

We welcome your tax-deductible donation to support Accountability Counsel's continued success. You can donate online through our website or by check to our address below. Thank you for making our work possible!

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