

# Promises and pitfalls of non-judicial grievance mechanisms: Strengths, weaknesses, and how to improve outcomes on the ground

*Side session at the 2015 UN Forum on Business and Human Rights*

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**Organizers:** [Accountability Counsel](#), [Corporate Accountability Research Project](#), and [RAID](#)

**Date and time:** Tuesday, 17 November, 2015 at 15:00 - 16:20

**Location:** Palais de Nations, Room XXI

## Program

15:00 - 16:00 – Dynamic moderator / panel interaction

- Dr. Samantha Balaton-Chrimes, Deakin University (Australia)
- Tricia Feeney, RAID (UK)
- Sarah Knuckey, Columbia Law School (USA)
- Larry Memmott, Economic Bureau of the U.S. Department of State
- Kindra Mohr, Accountability Counsel (USA)
- Brent Wilton, The Coca-Cola Company

16:00 - 16:20 – Q&A and audience experiences

## Summary

This interactive panel discussion explored how non-judicial grievance mechanisms (NJGMs) have been effective and how they have failed to provide remedy in the context of business-related human rights abuses. The panelists and audience identified key shortcomings of NJGMs, as well as opportunities for business, governments, and civil society to work together to improve them.

The session opened with a presentation of a three-year inter-disciplinary study on how various NJGMs performed across 10 cases. It found that there are a range of factors that enable or constrain NJGMs in delivering remedy, but overall, remedy was limited. The research suggests that the UN Guiding Principles “Effectiveness Criteria” are a necessary but insufficient framework for the functioning of effective NJGMs. The Criteria should account for six additional factors: (1) mechanism leverage; (2) strategic relationship management; (3) approaches to power imbalances; (4) processes for gathering and verifying evidence; (5) mechanism resources; and (6) local-level engagement.

From a business perspective, these six factors are highly relevant to identifying ways to improve NJGMs, particularly those at the project/operational level. To have sustainable operations and relationships with people on the ground, it is critical to build mechanisms that can address grievances and deliver remedy as close to the local level as possible. One opportunity to do this is by engaging with various stakeholders throughout the supply chain in order to understand the context, risks, and impact of a company’s operations.

From a government perspective, it is important that companies actively and effectively address grievances, and citizens should have options for resolving them. However, the purpose of government is to protect the rights of its citizens with the force of law behind it. Stakeholders should look for opportunities for NJGMs to co-exist with, rather than supplant, effective judicial remedy. This could be through National Action Plans, G7 and G20 talks, and other multistakeholder meetings.

Practitioners find that NJGMs need the power to enforce decisions in order to provide meaningful remedy. Voluntary procedures and outcomes do not provide much relief for human rights victims. Company-led GMs have provided remedy in limited cases, but they are not appropriate to address systemic, gross, human rights violations. Going forward, this needs to be a clear message to business from the Forum, OHCHR, and government representatives.

In many cases, despite their shortcomings, NJGMs can serve as a complement to judicial alternatives and as an important tool for affected people to seek redress. The discussion concluded that NJGMs are imperfect and if we are to rely on them, all stakeholders need to collectively find ways to strengthen them while also reinforcing the rule of law.

