

The [Australian National Contact Point](#) (ANCP) was set up as part of Australia's membership of the OECD to hear complaints on the way Australian corporations operate overseas, but [research shows](#) it's poorly resourced and rejects most claims at the initial assessment stage, raising concerns about its effectiveness.

There are National Contact Points already operating in OECD countries, that are achieving more with their mandate to promote Australian businesses respecting human rights while operating or based in other countries.

Australia does not have a legal framework that specifically [regulates the human rights obligations of Australian corporations overseas](#). The Australian government is missing a vital opportunity to promote sound and ethical business practice and mediate disputes before they blow up, by inadequately resourcing this important human rights body.

## Why is the ANCP needed?

Australian companies now operate all around the world in mining, manufacturing, finance and other industries. Sometimes this is through wholly owned subsidiaries, sometimes they invest in joint ventures or part shares, and at other times Australian businesses procure parts through supply chains.

When their activities negatively impact communities overseas, those affected should be able to go to the ANCP to hear their complaints. Though, in principle, communities can take their claims to local police and courts, in many countries corruption, bias and long waits often make remedy through legal avenues impossible.

Company structures also sometimes render it difficult to hold the parent company or a lead company in a supply chain responsible, even though that business may be calling the shots.

As the Australian government adheres to the [OECD's guidelines for multinational](#)

[enterprises](#), it's required to have a National Contact Point to assist corporations in observing these guidelines. Part of this includes providing a platform for mediation and conciliation.

Though its findings may not be legally enforceable, the ANCP is particularly important because it's the only avenue for redress for many communities and individuals affected by Australian business, outside our national borders.

Properly resourcing the National Contact Point would allow the government to better fulfil its obligations under the [United Nations Guiding Principles on Business and Human Rights \(UNGPs\)](#).

Findings by other National Contact Points, when it comes to breaches of the [OECD Guidelines for Multinational Enterprises](#), have been highly influential in other countries. For example, the UK NCP determined that mining company Vedanta Resources had breached human rights guidelines regarding its planned mine in India.

It found the mine would displace thousands of tribal people. This finding resulted in high profile divestments from the company by a number of shareholders and the adoption of a new corporate social responsibility approach by the company. [Interviews with shareholders that divested revealed that](#) although the determination was not legal in nature, it was seen to have heightened authority because it came from the UK government.

### How the ANCP is failing

The [research on Australia's NCP](#) is part of a larger project that conducted 587 interviews with 1,100 individuals mainly in Australia, the UK, India and Indonesia. It assessed the performance of the ANCP based on an analysis of every claim that has been lodged with the body.

It found that the ANCP has all but abdicated its workload; it rejected or transferred (to another NCP) two thirds of all complaints made. With only one exception, the remainder of accepted

complaints were closed without resolution, as the ANCP was unable to bring the parties to mediation and unwilling to issue a determination against the company the subject of complaint.

In the more than ten years since its establishment, the ANCP is yet to make a single determination against a company the subject of complaint.

In my meetings with Treasury, the department confirmed that until recently, one public servant was tasked with running the ANCP, who already had a full-time load of other work. Treasury also disclosed this single staff member, with no expertise in the area, was expected to deal with complex human rights complaints involving some of Australia's biggest companies, around their primary role, with no dedicated budget.

To provide a point of comparison, the [Dutch NCP](#) has two full-time staff, as well as other staff who have responsibilities to the NCP as part of their other duties, and receives an additional €900,000 over three years to promote corporate ethics. It is advised by [four independent members](#) and four advisory members from the government departments most relevant to business and human rights. Australia's NCP receives no such independent advice.

The cases brought to the ANCP include a complaint regarding [ANZ's alleged financing of logging in Papua New Guinea](#) and [alleged forced evictions at a coal mine in Colombia jointly owned by BHP Billiton](#).

## What needs to change

There are several ways the ANCP can improve its functioning and provide access to remedy. Top amongst these are: improving the independence of the ANCP and properly resourcing it, improving the process for handling complaints and increasing transparency.

If there was ever a time that the much neglected ANCP has a chance of being reformed, it is now. Australia is making a bid for a seat on the United Nations Human Rights Council this year.

## Regulator failing to resolve complaints on alleged human rights abuses by Australian companies

Written by The Conversation

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Modern slavery – especially the extent to which it taints the supply chains of Australian businesses and businesses operating in Australia – is the subject of a [parliamentary inquiry](#) and national attention. Hopefully this important human rights mechanism gets the attention it deserves.

*Shelley Marshall is the recipient of funding from the Australian Research Council and the UK Economic and Social Research Council. She was a co-founder of the Network for Corporate Accountability of Australia which includes groups who have lodged claims with the Australian National Contact Point.*

**Read more** <http://theconversation.com/regulator-failing-to-resolve-complaints-on-alleged-human-rights-abuses-by-australian-companies-78930>