

Corporate Accountability Lab: A New Legal Social Lab Disrupting the Crisis of Corporate Impunity

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Summary

Corporate Accountability Lab (CAL) utilizes a novel legal “social lab” model to create new legal tools and strategies capable of holding corporations accountable for human rights and environmental abuses that occur across supply

chains. Through this lab, CAL researches, tests, creates, and distributes new corporate accountability and consumer protection legal tools called DCALs. CAL then offers tutorials and consulting services to implement the DCALs. As pioneers of the legal social lab model, we believe an experimental approach offers great promise in generating new solutions to the most complex and entrenched social problems in the 21st Century.

Toward Sustainable Practices in the Global Economy

When more than 1100 garment workers died in a factory collapse at Rana Plaza in Bangladesh in 2013, it was a blunt reminder of the lack of effective labor and human rights standards in global supply chains. The well-documented failure of voluntary corporate social responsibility programs to guarantee the basic rights of workers has resulted in unabated human rights and environmental abuses in the many countries producing textiles, electronics, food, and other products for the U.S. market (AFL-CIO, Anner, European Commission). At Corporate Accountability Lab (CAL), we utilize a novel legal "social lab" model to create new legal tools and strategies capable of holding corporations accountable for human rights and environmental abuses that occur across supply chains. Through this lab, CAL researches, tests, creates and distributes new corporate accountability and consumer protection legal tools called

DCALs. CAL then offers tutorials and consulting services to implement the DCALs.

CAL was founded in the wake of three devastating Supreme Court decisions instrumental in creating the current crisis of corporate impunity. In 2010, the Supreme Court ruled that the First Amendment allows corporations to spend unlimited amounts of money to support the election of their preferred lawmakers (Citizens United. v. FEC), critically undermining the possibility of corporate-funded lawmakers passing or amending laws to better protect people and the environment from corporate profiteering. Shortly thereafter, a 2012 Supreme Court decision (Mohamad v. Palestinian Authority) eliminated corporate liability under the Torture Victim Protection Act and a 2013 decision (Kiobel v. Royal Dutch Petroleum) limited the jurisdiction of U.S. courts to hear claims for human rights abuses committed overseas under the Alien Tort Statute.

For the 450 million workers around the world in supply chain-related jobs, this is devastating news. The global "race to the bottom" incentivizes employers in the Global South to maintain low wages, poor benefits, and unsafe conditions for workers. The U.S. consumer market, which comprises almost a third of the global market, demands impossibly low prices, resulting in factories employing forced, trafficked, and child labor that generate up to \$150 billion in illegal profits per year (ILO). While some U.S. brands and retailers have made improvements in

supply chain transparency, the general lack of accountability for abuses committed across global operations ensures that the floor for global wages and working conditions remains unacceptably low. Unless and until corporations are held accountable for their supply chains, poverty and inequality will remain widespread across the Global South.

The Trump administration now promises to escalate the crisis of corporate impunity to historically unprecedented levels. On March 13, 2017, President Trump signed an Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch. Those familiar with corporate takeovers in the private sector may recognize the similarities between this Order and the strategies used by corporate boards to dismantle unwanted parts of a business shortly after a hostile boardroom takeover. If this analogy holds true, we can expect to see this Order function as yet another attack on corporate accountability via the wide-scale dismemberment and privatization of the regulatory agencies tasked with protecting the public from corporate excesses. Meanwhile, lawmakers are simultaneously seeking to further dismantle the measures for corporate accountability that remain, including the class action lawsuit that has historically provided necessary consumer protection from predatory corporations (Goodlatte). For their part, corporations have sought to placate the U.S. consumer market with voluntary corporate social responsibility initiatives, which

are unenforceable in court and often guided more by a potential increase in brand value than a real interest in cleaning up supply chains. In such a climate, the rampant human rights and environmental abuse plaguing global supply chains will not be fixed through legislation or agency-made regulation. We now need legal strategies for corporate accountability capable of functioning outside of the regulatory state more than ever.

CAL aims to disrupt this crisis by repurposing laws that corporations value to incubate new legal solutions for corporate accountability in a legal "social lab." As described by Hassan, social labs are platforms for addressing complex social challenges that have three core characteristics: they are social, experimental, and systemic (3). CAL's structure, which grew organically out of the diverse roots of its co-founders, mirrors such a platform.

CAL is social in that we seek the participation of diverse groups of people: academics, artists, inventors, lawyers, philosophers, theologians, and activists. We bring such groups together to collectively envision and test new legal and ethical frameworks to apply to the wild, under-regulated global economic system. We also view our own internal governance as reflective of the world we seek to create, using consensus process at the board and staff levels, and developing our new strategies through broad collaboration across multiple fields and vocations. CAL is experimental because we are designing our workflow

around an iterative process intended to efficiently create, prototype, and manage DCALs, or legal tools for corporate accountability designed by CAL.

The change we seek is systemic, as is our diagnosis of the faulty justice system that has spawned the crisis of corporate impunity. To effect this change, we are drawn to “open design” processes that empower us to voluntarily and collectively rethink and redesign the ways in which we can use the justice system to ensure that market incentives remain aligned with human rights and environmental protection. “Open design” processes fit neatly with the “social lab” model and emerge from the success of the free and open-source software (FOSS) movement. Through a voluntary and collaborative process of co-designing software, the FOSS movement has created an alternative economic model for software development capable of providing market discipline against corporations as big, powerful, and originally anti-FOSS as Microsoft. Inspired by the success of FOSS, we intend to utilize open design processes throughout our social lab in order to attract participation, to maximize the efficiency of our experimentation, to generate funding, and to ultimately ensure that our DCALs are providing effective market discipline for corporations to protect human rights and the environment across supply chains.

While we are continuing to refine the ways in which we integrate open design processes into our social lab to accomplish these objectives, we believe that the potential

for open design in legal social labs is enormous. For example, through open design website software, we are building a low-cost virtual space where diverse groups can easily convene to share ideas and to collectively construct templates for dialogues and research proposals that will help create new DCALs. We also recognize the potential for open design to help incorporate data-driven intelligence into our business model, providing ongoing opportunities for participants to run micro-experiments on ways to make our workflow more efficient and agile. Open design likewise enables us to better ensure that the DCALs we create are working effectively by empowering users to provide feedback and propose improvements. For instance, our current DCAL design includes three components: a white paper on relevant legal theory, a case study based on our prototyping and test case, and ethical perspectives on how DCAL impacts our community and our pursuit of social justice. Through open design, we intend to develop templates for feedback and improvement on each of these components.

With respect to funding, the FOSS movement also provides us with a variety of tested business models built upon open design processes that we're adapting to the CAL legal social lab. Such models include donation-based funding, crowdfunding, and charging solely for a consulting services attendant to a freely available product. As a new organization, CAL is continuing to explore how to best maximize the potential of each of these models.

We currently intend to create and publish DCALs entirely for free and to become self-sustaining through crowdfunding, consulting, and legal fees. In the meantime, we are currently seeking an initial round of funding through grants and donors.

CAL sees great promise in legal social labs and open design processes to solve the crisis of corporate impunity and other, pressing problems. As the new U.S. political climate promises to only exacerbate the crisis of corporate impunity, CAL's work is taking on increased urgency. We look forward to collaborating with partners and to sharing our best practices in social innovation.

Chris Byrnes

Chris Byrnes is a patent and international trade lawyer with experience organizing interfaith social justice movements. Prior to studying law at Georgetown, Chris obtained a Masters in Theological Studies at Harvard, and studied Religion and Conflict Transformation at Boston Theological Institute. He has worked with faith-based activists across the U.S., Middle East, and South Asia for social, economic, and environmental justice.

Charity Ryerson

Charity Ryerson is a human rights attorney with over 10 years' experience in the field. She has conducted labor rights and human rights monitoring throughout

the Americas and Asia, investigated anti-union violence, and litigated under the Alien Tort Statute and Torture Victim Protection Act against major U.S. corporations for egregious human rights violations in their supply chains. She has a B.A. in political science from Loyola Chicago, and a JD from Georgetown.

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