



## ENDING CORPORATE IMPUNITY / How an UN treaty could help

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It is time for transformative actions to challenge structural injustices of the global economy – and the regulatory gaps in the international human rights system it exploits. One promising and exciting struggle currently underway is the popular mobilisation for a legally-binding treaty on transnational corporations and human rights – and the feminist voice in this mobilisation. In October 2017, the third year in a row, hundreds of representatives from social movements, women's rights organizations, indigenous and peasant movements, and international human rights NGOs all descended on the United Nations headquarters of the Human Rights Council in Geneva.<sup>1</sup>

In the 1990s, there was much public talk of globalisation, corporations, transnationals, multinationals... it's not the 1990s anymore, but all this time, corporate power has been multiplying itself. Sixty three per cent of the top 175 global economic entities are transnational corporations, not states. The revenues of the three largest corporations (Royal Dutch Shell, Exxon Mobil and Wal-Mart) exceed the gross domestic product of 110 countries – 55% of nation states.<sup>2</sup> Why is this of interest to feminists? Because human rights abuses and atrocities committed by corporations are vast, and their effects, while disastrous for the entire community, are also gender-specific. Because women are not only disproportionately affected, but are often on the front lines, defending their ancestral lands, livelihoods, and communities, against corporate greed and violations. These violations include the exhaustion of natural resources and irreversible environmental destruction,

resulting in damage to public health and often an increase in women's workloads; corporate interests drive violent conflicts, wars, and militarization; displacement of entire communities and land grabbing; violation of labour standards and exploitation of workers, with sexualised and gender-based violence against women workers and many other forms of abuse. Perpetrators include corporations, but also state authorities acting in their interest, as well as private and public security forces they contract.

### States as partners in crime

Despite (or rather, because of) this immense power, there are no binding, functioning and effective mechanisms to hold corporations to account for violations of human rights. In theory, this is the role of the state. In practice, the size and scope of corporate power translates into massive influence over policy and politics, defined as corporate capture. As a result, states often

act in the interest of corporations rather than their own citizens; and, ironically, states are complicit in increasingly eroding their own sovereignty through trade and investment agreements that limit state power and guarantee rights and profits for corporations. This is not just up to the individual nation-state and the political will of the government (although it is needed, and often absent); indeed, the global trade and investment regime, shaped and upheld by international financial institutions, ensures that states are kept in line. One such mechanism is the Investor-State Dispute Settlement court system of the World Bank, through which investors and corporations can sue states; but there is no parallel system where states or people could sue transnational corporations.

### Who benefits?

Simply put, the global economy in which we live has been designed to benefit and privilege corporations,

particularly those operating internationally. With regulatory laws and frames operating on national levels, and corporate chains complex and non-transparent, impunity for crimes against people and the environment continues to flourish.

The legally-binding treaty is therefore a historical opportunity to challenge this order and limit the impunity of transnational corporations. The existing international framework - United Nations Guiding Principles on Business and Human Rights - is voluntary. No wonder companies absolutely love it. It has been an important step in setting international standards, and is still a useful mechanism for human rights. But can human rights truly be dependent on the goodwill and benevolence of corporations? While the Guiding Principles were intended to mark the beginning of a process to address corporate human rights abuses, diplomats and businesses keep on invoking them to dismiss further actions.

### Who's an ally, who's not?

For feminists engaged in the struggle for the binding treaty, it is an interesting situation. The binding treaty is pioneered by Ecuador, with strong support from South Africa. Meanwhile, many states that traditionally align themselves in favour of resolutions on women's rights and gender equality, take a step back when it comes to protecting corporate interests, even when those threaten human lives and the environment. Indeed, in the UN, we have seen the European Union repeatedly hindering the binding treaty process. EU Member States, one after the other, reiterated their commitment to the voluntary Guiding Principles, and expressed their reservation - if not outright objection - to the legally binding treaty. Meanwhile, the strong presence of European civil society - and a powerful statement from a European Parliament Member - sent a different message about the position of people in Europe. This does not mean that Global South countries are all enthusiastic supporters; corporate interests

prevail everywhere, and there is still much work to be done on the ground, to pressure governments to take a clear position in favour of the legally binding treaty. The time for this work is now.

### How would a feminist binding treaty look like?

This is a question to be answered collectively. A feminist binding treaty must ensure that women in communities have the power to defend their rights, their life, land, and livelihood against infringements and violations by corporations; it must be relevant and accessible for all, for indigenous and rural women, for immigrant and refugee women, for women of colour. It must address the imbalance of power among communities with limited resources (particularly women in those communities), and corporations with their vast economic, legal and political resources. It must recognise and address gendered and intersecting forms of oppression and discrimination. This conversation is ongoing, in the formal UN sessions, among activists, in civil society side-events, statements and online discussions. How would a feminist binding treaty look like for you? Let us know, join the conversation!

**References:** 1 Many of the participants were part of the Treaty Alliance - a global civil society coalition for the binding treaty. Outside the UN buildings, on the open plaza, a welcoming tent hosted multi-lingual workshops and conversations among activists. This tent is constructed each year by The Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity. 2 Report "Challenging corporate power: Struggles for women's rights, economic and gender justice" (AWID/Solidarity Center, 2016)

**Webtip:** Statement by 14 organisations submitted to the 3rd session of the intergovernmental working group (IGWG): [www.awid.org/news-and-analysis/gender-perspective-un-binding-treaty-transnational-corporations](http://www.awid.org/news-and-analysis/gender-perspective-un-binding-treaty-transnational-corporations)

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