

**DISMANTLE  
CORPORATE  
POWER  
AND STOP IMPUNITY!**



## Document for Global Consultation

Ideas and Proposals  
for advancing work on the

# International Peoples Treaty on the Control of Transnational Corporations

## Contents

INTRODUCTION I - IV	2
Section A - CONTEXT AND BACKGROUND	4
Section B - JUSTIFICATION	5
Section C - PREAMBLE	5
Section D - LEGAL DIMENSION	7
1 THE SCOPE OF THE TREATY	7
1.1 Transnational Corporations (TNCs)	7
1.2 International Economic-Financial Institutions	7
1.3 States	7
2 GENERAL PRINCIPLES	8
Human rights, States and transnational corporations	8
Human rights and trade and investment norms	8
States and international entities: general regulatory framework	9
3 LEGAL PREMISES & PROPOSALS ON TRANSNATIONAL CORPORATIONS	11
4 THE SPECIFIC OBLIGATIONS OF TRANSNATIONAL CORPORATIONS	11
5 INTERNATIONAL CRIMES	13
5.1 Economic crimes against humanity	13
5.2 International corporate crimes	13
5.3 International ecological crimes	13
6 BODIES	14
7 FINAL PROVISION	15
Section E - ALTERNATIVES DIMENSION	15
1 ORIENTATION AND SCOPE	15
2 ALTERNATIVES IN PRACTICE	16
2.1 Achieving Water Justice	16
2.2 Implementing Food Sovereignty, Agrarian Reform & Peasants Rights -	17
2.3 Democratizing Work and Production. "PLADA" Development Platform of the Americas	19
2.4 Building alternative frameworks for investments	21
2.5 Reclaiming Solidarity Economy	22

# International Peoples Treaty on the

Document for Global Consultation

## INTRODUCTION

I

Social movements, indigenous people, trade unionists, experts, activists and communities affected by the practices of transnational corporations have participated in the elaboration of this INTERNATIONAL PEOPLES TREATY ON THE CONTROL OF TRANSNATIONAL CORPORATIONS.

The main objective of this initiative is to subordinate the juridical-political architecture that sustains the power of transnational corporations to human rights norms and rules.

This Treaty was not designed according to the classical juridical logic of international law. Numerous institutional, social and trade union sources, as well as opinion tribunals and the experience of affected communities have confirmed the persistence of systematic human rights violations committed by transnational corporations in a regime of permissiveness, illegality and generalized impunity.

The Treaty aims to bring together the accumulated experience of various struggles against transnational corporations, and against States and financial institutions acting in complicity with TNCs. It is a collective effort.

The proposals of social movements and communities must take precedence over legal debates. They must also be able to interpret and propose international human rights norms "from below".

The debate between technical and political aspects is directly pertinent to work to characterise control over transnational corporations. The technical language and specialised knowledge of experts masks the political nature of their interventions and their efforts to represent hegemonic interests, and tends to displace or distort the participation of social organisations, movements and communities.

A simplification of reality based on technical capacities, skills and processes, together with control over knowledge must not mark the Treaty's future. Alternative proposals on controlling transnational corporations are not to be discussed only by law firms or international affairs experts. Fundamentally, they must be proposals from below.

To advance towards a Treaty to control transnational corporations, we must engage in confrontation and base our work in a very different kind of regulatory logic. This logic is reflected in the context, the background and the justification of the Peoples Treaty.

There are obvious difficulties in establishing precise obligations and harmonizing the numerous existing relevant norms in one single treaty: labour law; human rights law; humanitarian law; environmental law; consumer rights; corporate rights; the recognition of transnational corporations' obligation to respect international human rights norms, and their civil and criminal liability in violations of these rights; the civil and criminal liability of their directors; the primacy of human rights and public interest over economic interests; the obligation of transnational corporations to pay their suppliers and subcontractors reasonable prices for their products and services; the creation of a World Court and regulations on extraterritorial obligations...touch upon a wide range of issues and the juridical logic underlying them varies significantly.

While these are not insurmountable difficulties from a legal-technical point of view, political will and a shift in the balance of power in favour of the peoples are needed to overcome them. The current international context demands that we decide between one of two possible road maps or paths: either we advance with a radically different framework in which the peoples and communities pressure for a binding framework to control transnational corporations, or we continue to deal with the condescending voluntarism of transnational corporations and bet on instruments like Corporate Social Responsibility, the Global Compact and the Ruggie framework, among others.

# Control of Transnational Corporations

## II

The title we have adopted for this document is quite important, as it contains a series of “Ideas and Proposals for advancing work on the INTERNATIONAL PEOPLES TREATY ON THE CONTROL OF TRANSNATIONAL CORPORATIONS (TNCs)”. It is set of rules for regulating transnational power and, as its final provision states, it “is a treaty of treaties or a framework treaty. Regulations must be further developed for many of its provisions in order to guarantee their full consolidation. This mandate coexists with obligations and rights that are effective immediately.

The development of regulations should not be left entirely in the hands of States and international institutions. Organisations, social movements and affected communities are both actors and subjects of the processes linked to the elaboration of the International Peoples’ Treaty.”

Furthermore, the final paragraph of the Preamble affirms, “We proclaim the International Peoples Treaty and call on the UN General Assembly to adopt it as a common standard for all States and institutions in relation to transnational corporations and urge that the rights, responsibilities and proposals recognized in this Treaty be transformed into new legislation, mechanisms and institutions at the national, regional and international level and that their implementation be promoted among all peoples and States”.

In order to confront the architecture of impunity in favour of transnational corporations, we must build an architecture of human rights in favour of the social majorities.

## III

In regards to this proposal, we still need to elaborate a strategy for implementing the Peoples Treaty, which involves different stages: the development of a code to control transnational corporations, which takes into account experience in the past with the Norms on the Responsibility of Transnational Corporations and Other Business Enterprises, approved by the Sub-commission for the Promotion and Protection of Human Rights in 2003 and later discarded by the United Nations; the elaboration of regulations for the various bodies mentioned, giving special attention to the World Court on Transnational Corporations and Human Rights; regulations on economic, corporate and ecological crimes; and, finally, various proposals in relation to States and economic-financial institutions.

## IV

Finally, the Peoples Treaty contains a section on Alternatives that will serve as a basis to indicate the framing and construction of new relations between peoples and nature and lead to the creation of new alternative economies and politics that put people and the planet - not corporations - first.

# Ideas and Proposals for advancing work on the International Peoples Treaty on the Control of Transnational Corporations

## Document for Global Consultation

### A CONTEXT AND BACKGROUND

The international community has avoided up until now its obligation to create specific binding legal norms for transnational corporations (TNCs) within the framework of international human rights law, despite the seriousness of the human rights violations that transnational corporations commit in total impunity.

In the 1970s, one of the priorities of the Commission on Transnational Corporations of the United Nations' Economic and Social Council (ECOSOC) was to investigate the activities of TNCs and to create an international code of conduct in order to regulate their activities. The draft code was debated for a decade, yet it never saw the light of day, mainly due to opposition from rich countries and transnational economic power.

In 1974, the Commission on Transnational Corporations and the Centre for Transnational Corporations were created by the United Nations. In 1976, the Organisation for Economic Co-operation and Development's Guidelines for Multinational Enterprises were published and in 1977, the International Labour Organisation launched its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies. Both the Commission and the Centre for Transnational Corporations were dismantled by the UN in 1994.

In 1998, the UN Sub-commission for the Promotion and Protection of Human Rights adopted a resolution to create a Working Group to assess the activities of TNCs and business practices in relation to the enjoyment of the economic, social and cultural rights and the right to development. The resolution noted that one of the obstacles to exercising those rights is the concentration of economic and political power in the hands of large transnational corporations.

The Working Group elaborated a draft set of norms for transnational corporations, called the Norms on the Responsibility of Transnational Corporations and Other Business Enterprises of the United Nations. The Sub-commission approved the draft in 2003.

Transnational corporations reacted strongly against the Sub-commission's draft through a document signed by the International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE) - institutions that represent the interests of major corporations from around the world. The ICC and IOE's document asserted that the Sub-Commission's draft undermined human rights and the rights and legitimate interests of private enterprises. They also argued that human rights obligations are to be met by the States and not by private actors, and they exhorted the UN Commission for Human Rights to reject the Draft approved by the Sub-commission.

In 2005, the Human Rights Commission finally gave into pressure from transnational economic power and completely ignored the draft of norms. Instead, it approved a resolution that invited the UN Secretary-General to appoint a special rapporteur on this issue of business and human rights. The role of special rapporteur was assumed by John Ruggie who officially became the Secretary General's Special Representative on the issue of human rights, transnational corporations and other businesses.

Ruggie is the author of the *Guiding Principles on Business and Human Rights: Implementing the United Nations*, adopted by consensus by the Human Rights Commission in 2011. In July 2012, a report published by the UN Secretary General was presented to the Human Rights Council (UNHRC) in its September 2012 session. The title of the report was "Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights." The report states that the Guiding Principles do not create any "new international law obligations", thereby confirming the principles' non-binding character.

In 2013, a Declaration introduced to the UNHRC by Government of Ecuador and signed by the African Group, the group of Arab Countries, Pakistan, Kyrgyzstan, Sri Lanka, Bolivia, Cuba, Nicaragua, Venezuela and Peru expressed the concerns of countries from the Global South regarding the flagrant human rights violations caused by TNCs' operations, which have gravely affected local communities and peoples, including different indigenous peoples. This declaration affirms that the Guiding Principles will not have any real impact unless a framework based on legally binding instruments that regulate and sanction the illegal actions of transnational corporations is created.

## B JUSTIFICATION

Over the past 40 years, transnational corporations and the States that support them - both host states and home states - have built what can be called an 'architecture of impunity,' which can be understood as an extensive and binding legal framework made up of trade and investment treaties and agreements including resolutions of international institutions like the World Trade Organisation, the World Bank and the International Monetary Fund, and investor-state dispute settlement mechanisms. This architecture confers tremendous economic, legal and political power on transnational corporations.

International Human Rights Law, on the other hand, is the result of the struggles of millions of people and thousands of organisations all around the world. It is within this framework of international norms that the International Peoples Treaty is rooted. Building and analysing international law "from below", from the point of view of social movements and of resistance struggles of men and women - and not from the economic and political elite's State-centred vision - is the methodology for working on this Treaty. Numerous international norms have arisen from the pressure and mobilisations of local, national and global movements, and not only from the centrality of power.

The Peoples Treaty is a radical alternative proposal. Its objectives are, on one hand, to propose control mechanisms to halt human rights violations committed by transnational corporations and, on the other, offer a framework for exchanges and the building of alliances between communities and social movements in order to reclaim public space currently occupied by corporate power.

The Treaty is a regulatory project that draws its meaning from concrete examples of resistance and alternatives to corporate power. As such, it is different from other international efforts that tend to limit the focus of their action to concrete legal alternatives. This proposal is a work-in-progress. One of its objectives is to strengthen global actors who are fighting for change while reclaiming their legitimate space.

The consolidation of this process is crucial not only for the establishment of legal mechanisms to control major corporations, but also for the strengthening of the Treaty's second purpose, which is to reinforce social movements' demand for the respect of the commons and their opposition to the expansion of transnational corporations into sectors that should be controlled by communities and citizens. The treaty process will unite voices demanding binding rules on transnational corporations and the approval of norms - by governments - that exclude the private sector from areas that are key to human dignity and the survival of people and the planet.

Thus, the re-appropriation and re-elaboration of classic juridical instruments represent a challenge to the dominant paradigm of the legal-political order. The meaning of the right of indigenous peoples to free prior and informed consent, regulated by international human rights law, is redefined and reconstructed through assembly processes held for ongoing consultation. The people are constituent subjects of international law and can propose and enact new rights.

The International Peoples Treaty will be a treaty of the present and the future, based on the responsibility and ethics of present and future generations, in the obligation to protect the Earth and its peoples.

## C PREAMBLE

### THE PEOPLES AND THE NATIONS:

**BEARING IN MIND THAT** in several resolutions of the UN General Assembly, such as Nº 32/130, 43/113, 43/114 and 43/125, as well as the Declaration on Human Rights from the Tehran (1969) and Vienna (1993) Summits, the United Nations stresses that all fundamental human rights and freedoms are indivisible and interrelated. As such, the enforcement, promotion and protection of civil, political, economic, social, cultural and environmental rights must be given equal attention and urgent consideration.

**Affirming** that human rights violations are systematic practices used by transnational corporations in their global expansion.

**Affirming** the moral and legitimate authority of the people, as key protagonists in the opposition to this state of affairs, to create new norms and rules that reinforce the primacy of human rights, and their right to demand that States apply them in all areas of political, economic, social, environmental and cultural activity.

**Affirming** that effective respect of human rights by transnational corporations, States and international economic-financial institutions is linked to the respect for the people while taking into account the Universal Declaration of the Rights of Peoples of 1976.

**Affirming** that all peoples have the right to self-determination, to freely establish their own political, economic, social and cultural fate, and to freely exercise their right to autonomous, harmonious, sustainable, self-directed and inclusive development of their own territory, along with their right to live well, and to have access to public services and the commons.

**Reiterating** that sovereign equality between States, between peoples and between men and women, together with an equitable distribution of wealth and respect for nature constitute the principles upon which a new international political, economic and legal proposal must be built within the framework of international solidarity between peoples and individuals.

**Reiterating** that for fundamental human rights to be respected, a new democratic and egalitarian world is needed. The United Nations Charter, the Universal Declaration of Human Rights, the International Covenants on Human Rights and their respective Protocols, together with human rights treaties - general or specific ones -, international custom and general principles of law constitute the basic pillars for the construction of a new international legal system.

**Maintaining** that it is crucial to refound the texts that constitute the normative human rights framework and that a new constituent process that collects the demands of men and women and of social movements, that protects new rights related to peace, solidarity, the good life, nature, food sovereignty, democracy and the State, international migration, sexual health and women's reproductive health, the rights of indigenous peoples and minorities is needed.

**Recognising** affected communities' visibility and sustained resistance to the violations of human rights committed by transnational corporations and the impunity with which they operate - facts that have been substantively documented in reports from social movements, NGOs and observatories, and through the testimonies of affected communities' members and representatives, and United Nations rapporteurs - and judged in several opinion tribunals, including the Permanent People's Tribunal, and sanctioned in various national and international courts.

**Observing** the growing and systematic impunity with which TNCs operate and pursue their profits, which results in threats and attacks on human rights defenders, trade unionists, indigenous peoples, Afro-descendants, peasant farmers, children, and other affected groups, while TNCs continue to accumulate extraordinary profits.

**Recognising** that in recent years, transnational corporations and the States that support them - both states of origin and host states - have strengthened a new *lex mercatoria* made up of a set of multilateral, regional and bilateral trade and investment contracts, conventions, treaties and norms which include the regulations, structural adjustment policies and loans conditions of institutions like the World Trade Organisation, the International Monetary Fund and the World Bank, as well as investor-to-state dispute settlement (ISDS) mechanisms, which confer enormous political, economic and legal power on transnational corporations;

**Outraged with** the normative asymmetry that exists between international human rights law and international corporate law that protects the rights of transnational corporations in an imperative and coercive way.

**Witnessing** that Corporate Social Responsibility and *ad hoc* systems of control over transnational corporations including the International Labour Organisation's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies, the Organisation for Economic Cooperation and Development's Guidelines for Multinational Enterprises, and the United Nations' Global Compact and Guiding Principles are paradigmatic expressions of soft law, and that the set of codes of conduct and voluntary, unilateral and unenforceable agreements that constitute them are leading to the atrophy, colonization and corporate capture of international institutions.

**Recognizing** the absence of effective regulation on the territorial and extraterritorial obligations of States in relation to transnational corporations' responsibilities at the national, regional and international level.

**Recognising** that home states protect the interests of their transnational corporations and put them before human rights, and that host states do not guarantee the rights of the peoples and favour the interests of transnational corporations by legislating in their favour or by ratifying free trade and investment agreements.

**Re-affirming** the body of international laws and norms on human rights as a starting point, and building on the opinion of international experts, communities in resistance, affected peoples and social movements, this International Peoples Treaty asserts the primacy of human rights in the construction of economic, political, social and cultural paradigms.

**Expressing** deep concern with the complicity between States and transnational corporations and the subordination of States to the abuses of major corporations that limit the protection of peoples' rights and access to justice and the victims' right to compensation;

**Noting the urgent need** to take decisive collective action to dismantle the power of transnational corporations and end corporate impunity;

**We proclaim the International Peoples Treaty** and call on the UN General Assembly to adopt it as a common standard for all States and institutions in relation to transnational corporations and urge that the rights, responsibilities and proposals recognized in this Treaty be transformed into new legislation, mechanisms and institutions at the national, regional and international level and that their implementation be promoted among all peoples and States.

## D LEGAL DIMENSION

### 1 THE SCOPE OF THE TREATY

#### 1.1 Transnational Corporations (TNCs)

Transnational corporations are individual entities, or groups of economic entities, that conduct activities in more than one country, regardless of the legal framework they adopt in the country of origin and the country where they carry out their activity, and that are considered both as an individual and a group. A transnational corporation is any company that is made up of a parent company established according to the laws of the country in which it was created, which sets up operations in other countries through foreign direct investment or other economic-financial practices, without creating a local company, or through subsidiaries registered as local companies in accordance with the host country's legislation.

Like all legal persons, transnational corporations have the obligation to respect the rule of law and must face international sanctions if they do not, both at the national and international level, as confirmed through the analysis of existing international instruments, including those relevant to human rights. The recognition of the obligations of private individuals - including legal persons - in relation to human rights and their responsibility when a violation of these rights occurs is enshrined in Article 29 of the Universal Declaration of Human Rights and entrenched in the doctrine and numerous international conventions, especially those related to the protection of the environment.

#### 1.2 International Economic-Financial Institutions

Free trade and investment agreements, treaties and norms, together with the provisions, structural adjustment policies and conditioned loans approved by international economic-financial institutions strengthen the power of transnational corporations.

As international legal entities, these institutions - and the members of their decision-making bodies (single-person or collegiate) - are legally liable for the violations of civil, political, social, economic, cultural and environment rights that they commit, or help to commit, either through their actions or by omission.

The International Monetary Fund and the World Bank are specialised organisms of the United Nations system and as such, their decisions must be adjusted to ensure that they respect the Charter of the United Nations. However, like the World Trade Organisation (WTO) and regional banks, they are at the service of transnational capital<sup>1</sup>.

The WTO does not only regulate global trade of goods and services, it imposes intellectual property norms and restrictions on national regulations in many other policy areas. As such, it constitutes an institutional mechanism of the deregulatory neoliberal model. This model weakens the function of public authorities in the State, as well as the State's capacity to negotiate externally and the peoples' right to self-determination.

#### 1.3 States

States must develop, implement and comply with international civil, political, social, economic, cultural and environmental rights treaties, agreements and rules which will be more powerful than international rules pertaining to trade, investment, finance, taxation and security to international human rights norms.

The fact that a human rights violation is committed by private actors does not exempt the State from its obligation to guarantee, protect and promote these rights, and to provide affected communities with access to compensation through adequate judicial means.

---

<sup>1</sup> The International Monetary Fund and World Bank's ways of functioning and decision-making processes, as well as the guidelines they impose on economic policy, structural adjustment policies and foreign debt are in conflict with the international human rights system. The privatisation of public services, cutbacks in social spending, increases in the tariffs on public services, labour reforms, among others, clash directly with civil, political, social, economic, cultural and environmental rights.

## 2 GENERAL PRINCIPLES

### First section. Human rights, States and transnational corporations

- 2.1 All human beings, wherever they are, are born free and equal in dignity and are entitled, without discrimination, to all human rights and freedoms - both individually and collectively - which are inherent to their condition as human beings.
- 2.2 All citizens, and especially the most vulnerable groups, must have effective participation in decisions that affect their lives and their surroundings.
- 2.3 All States have the obligation to promote, respect, protect and guarantee human rights, including civil, political, social, economic, cultural and environmental rights, both within their territories and extra-territorially.
- 2.4 Human rights and the set of norms on their implementation, are universal, indivisible and interdependent.
- 2.5 International human rights law is structured around the Universal Declaration of Human Rights, together with the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and its Optional Protocols - which all together make up the International Bill of Human Rights - as well as declarations, guidelines, observations and principles adopted at the international level.
- 2.6 The system of sources of international law has been brought together in Article 38 of the Statute of the International Court of Justice and is composed of international conventions (general or particular); international custom; the general principles of law, recognised by judicial systems around the world as both the main sources and creators of judicial norms; and the judicial decisions and teachings of the most highly qualified publicists, recognised as auxiliary sources and references for interpreting existing norms. In international law, custom has the same legal value as international treaties and customary international law is binding and in effect. The International Bill of Human Rights is part of this law and is an actual peremptory norm *jus cogens* that embodies and protects the essential interests of the international community. According to Article 53 of the Vienna Convention on the Law of Treaties, it also establishes that no derogation from a peremptory norm is permitted and this kind of norm can only be modified by another norm of the same character.
- 2.7 Transnational corporations and the international economic-financial institutions must respect the sovereignty of the people and of States, which is coherent with respect for the right to development, buen vivir and the commons.
- 2.8 Transnational corporations and States must respect and comply with the conventions, recommendations and declarations that are part of international human rights law.

### Second section. Human rights and trade and investment norms

- 2.9 International human rights law - including international labour law and international environmental law - is hierarchically superior to national and international trade and investment norms, due to its binding nature and as *erga omnes* obligations - that is, as obligations to the international community as a whole and as an obligation of all members of the international community.
- 2.10 Free trade and investment treaties and agreements give priority to the privileges and profits of investors and transnational corporations over the peoples' rights and international human rights law. However, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and other international human and environmental rights treaties and conventions qualify as peremptory norms and general international law norms. Therefore, invoking the pre-eminence of these hierarchically superior norms results in the nullity of free trade and investment treaties and agreements.
- 2.11 The legal principles linked to free trade and investment norms - national treatment, most favourable nation, most favourable treatment, fair and equal treatment, the investment concept, the concept of indirect expropriation, limitations on imposing performance requirements, retroactive application of the treaty, free availability of foreign currencies, umbrella clause, stabilisation clause and survival clauses, etc. - must be subordinate to the host state's national norms and to international human rights norms. Submitting an investor-State dispute to an arbitration body must not be allowed under any circumstances, as it undermines the protection of State sovereignty and the rights of individuals and peoples that are already guaranteed under international human rights law.
- 2.12 The international, universal uses and principles - like those agreed upon by the parties (*pacta sunt servanda*), the principles of equality, good faith, abuse of law, unjust enrichment, the fundamental change of circumstances modifies the parties' obligations (*rebus sic stantibus*), force majeure and state of necessity - must be interpreted in a combined



and complementary manner that favours the rights of the social majority. Legal guarantees for investments must not be interpreted as being the equivalent of the *pacta sunt servanda* principle, but rather as the requirement to respect all of the principles mentioned. The international principle of the primacy of the victims must prevail over trade and investment rules.<sup>2</sup>

- 2.13 Social, labour and environmental clauses incorporated into trade and investment treaties and agreements are more declarative provisions than mandatory ones. These clauses are subordinate to the protection of trade and investment. Their regulatory weight must be changed to make them hierarchically superior to the principles related to trade and investment norms. Trade and investment rules that are incompatible with the full respect of all human rights must be eliminated.

### Third section. States and international entities: general regulatory framework

- 2.14 States must respect, defend, promote and guarantee the implementation of international law uniformly and abandon their attempts to avoid obligations stipulated in human rights treaties.
- 2.15 State responsibility extends to the acts and omissions of non-state actors that are following orders or acting under the guidance or control of the State.
- 2.16 States must guarantee and protect communities and individuals affected by the practices and operations of TNCs that violate civil, political, social, economic, cultural and environmental rights, and guarantee the affected communities' access to justice and right to compensation.
- 2.17 States are often liable for failing to guarantee the rights of individuals and 'the people,' as their actions favour transnational corporations. Host states can be denounced - for necessary involvement - in human rights violations committed by transnational corporations if they have legislated in their favour or ratified free trade and investment agreements that facilitate the activities of transnational corporations. They could also be denounced for complicity for failing to prevent the violations from happening. The obligation to respect international human rights law - including international labour law and international environmental law - applies to free trade zones, special economic zones and "maquilas".
- 2.18 States where transnational corporations' headquarters are based may be charged for criminal involvement and liability in human rights violations when they pressure or try to force countries to sign trade and investment agreements that do not protect the rights of citizens and peoples, or if they do not incorporate complaint mechanisms when the implementation of the treaties generate such violations.
- 2.19 According to international human rights law - including international labour law and international environmental law, the direct and indirect relations of States where transnational corporations' headquarters are located oblige them to ensure that their political and economic practices conducted within and beyond their jurisdiction do not violate civil, political, social, economic, cultural and environmental rights and to guarantee that corporations do not contribute to human rights violations in other countries.
- 2.20 According to the Maastricht Principles on the Extraterritorial Obligation of States in the area of Economic, Social and Cultural Rights, States have the obligation to respect, protect and fulfil civil, political, social, economic, cultural and environmental rights, both within their territories and extraterritorially. Failure to meet this obligation may compromise a State's international liability. In the absence of the recognition of these extraterritorial obligations, human rights cannot assume their rightful role as the legal base for regulating globalisation and guaranteeing the universal protection of human rights.
- 2.21 State mechanisms to support the internationalisation of corporations - including export credit agencies and banks, trade promotion, trade diplomacy, financial instruments, instruments of international aid policy, direct logistical support and foreign expansion - must be subordinate to the international human rights protection system. Through their departments responsible for international cooperation and human rights, States must establish guidelines for programs on the internationalisation of corporations that guarantee respect for human rights.
- 2.22 Universal and collective goods and services - such as food, health, education, culture, water, nature, etc. - must not be privatised, directly or covertly. In cases where they are privatised, States will be obliged to establish participatory and socially controlled assessments of the impacts of privatisation on human rights, and impose conditions like availability, access - physical, economic and to information - and quality that the States must respect and guarantee when initiating privatisation processes.

---

<sup>2</sup> According to the current regulatory model, any advantage conceded to national investors and companies must be extended to foreign investors, that is, national investors and companies cannot receive any State assistance, as it would mean going against the principle of national treatment. However, this principle does not apply to migrants and refugees who are subject to highly restrictive migration and refugee laws. The proposal must be to protect all people, regardless of where they live, and put them before the interests of transnational corporations.

- 2.23 States must prohibit the entry and establishment of investments that clash directly with human rights - the arms industry, nuclear energy, among others - and limit practices that, though legal, generate liability for their negative impacts on the development of the peoples and the good life of the communities. Channels for social participation should be created in order to establish new parameters for the concepts of development, trade and investment.
- 2.24 States must not seek to resolve economic and/or financial crises by eliminating, suspending, or limiting progress towards achieving the full realisation of economic, social and cultural rights. Once all other possible alternative proposals have been exhausted, it may limit progress - as opposed to adopting regression - through specific, temporary, proportionate and non-discriminatory measures. The essence of economic, social and cultural rights must be respected in all cases. General arguments on the need for fiscal discipline and reductions in public spending cannot be used to justify regression.
- 2.25 States and international institutions' humanitarian aid policies must be aimed at saving lives, relieving suffering and maintaining human dignity. The economic interests of States, these international institutions, corporations or all of the above must not be allowed to influence the design or condition humanitarian aid policies.
- 2.26 In order to guarantee freedom of speech and the right to objective and impartial information, States must prohibit the establishment of corporate media monopolies and the formation of groups and inter-company agreements, etc. between media corporations and other industrial, commercial and financial sectors. The State must guarantee the genuine plurality of service providers.<sup>3</sup>
- 2.27 The practice of off-shoring - the transferral of tasks to affiliated firms located abroad or indirectly, through the purchasing of intermediate goods and services from foreign suppliers with which they have no relations of dependency - demands the adoption of international labour standards that will: prohibit layoffs motivated by the desire to increase profits through outsourcing; prohibit the closure and relocation of profitable work centres; give workers representatives the power to suspend restructuring plans until they obtain the information they need to assess a corporation's economic and financial situation; give workers the right to veto measures that eliminate jobs and off-shoring plans; impose tax levies on goods re-imported from relocated businesses; demand the reimbursement of State aid received by companies that have relocated offshore; and extend TNCs' shared liability to their affiliates, suppliers, subcontractors and licensees.<sup>4</sup>
- 2.28 The practices of banks and other financial corporations geared towards speculating on and intervening in the commodities market - that is, on raw materials and agricultural products - must be prohibited.
- 2.29 Tax havens and speculation on sovereign debt must be prohibited. Also, public debt that is declared illegitimate - according to international human rights law - will be cancelled, and a substantial amount of the remaining debt of highly indebted countries will be eliminated.
- 2.30 "Revolving doors" (the free circulation of top-level executives and political representatives between the public and private sector), the capture of public policy decision-making processes (cooperation on regulations, joint elaboration of legislation, standard rules or draft bills), bribery and other forms of corruption must be prohibited.
- 2.31 Governments and parliaments will consult - online or in public hearings - companies, interest groups, social movements, trade unions, NGOs, indigenous peoples, among others, on decisions that will affect their interests.
- 2.32 Genetically modified organisms and all attempts to patent the various forms of life that exist in nature must be prohibited. In relation to findings that are fundamental to health, laws that give preference to the public domain must be established.
- 2.33 The complex network of banks, corporations, investors groups, agencies, consultants, commission agents and other actors that operate in the financial markets must be regulated. Norms on the transparency of financial practices; capital controls

---

3 Although there appears to be a certain level of diversity in the ownership and control over media, they are highly concentrated in the hands of oligopolies, or even monopolies. An oligopoly is a situation where a market is dominated by a reduced number of retailers or service providers. Since there are few participants in this type of market, they may establish agreements among themselves to create a situation where everyone benefits and to avoid competition, even if this is detrimental to consumers or users. A monopoly is a privileged legal situation in which there is only one producer with significant market power, who is the only one in a given industry to have a certain, distinct product, good, resource or service.

4 From a labour perspective, changes to the business unit are affecting workers' rights. Outsourcing and organisational decentralisation are being accompanied by regulatory changes to workers' protections. National laws are incapable of controlling the economic activity of corporations that operate in a globalized framework characterized by the de-territorialisation of their operations and the divying up of operations into several regulatory spheres.

In this context, the emergence of Global Framework Agreements represents an improvement in the evolution of codes of conduct, as there is a shift from the codes' unilateral character towards participation and collective bargaining. Unilateral and voluntary codes of conduct are being replaced by mechanisms of dialogue and trade union participation. They have the force of a contract between signatory parties, but they do not have an impact on regulations. There are proposals to strengthen the enforceability of global framework agreements and, in cases involving a failure to comply, to permit individuals to file a complaint with the legal authority of the host State against the TNC in question. If this fails, the case can then be presented to the legal authority of the home state where the agreement between parties was signed.

and financial services; control over hedge funds; fraud and fiscal evasion; rating agencies; executive compensation; and banking secrecy; and sanctions on illicit capital flows must be approved. Rules on taxing capital flows and progressive taxation on income, assets and corporate profits must be elaborated.

- 2.34 A transition process towards a new mechanism for regulating international trade that will substitute the World Trade Organisation must be launched. The General Agreement on the Trade of Services, agreements that lead to the elimination of small farm operations and peasant farmers, and the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) must urgently be repealed, and the International Union for the Protection of New Varieties of Plants must be rejected by member states. The latter are particularly beneficial to transnational corporations and negatively affect the right to health, access to pharmaceutical products and the rights and traditional knowledge of indigenous peoples, among other elements.

### **3 LEGAL PREMISES AND PROPOSALS ON TRANSNATIONAL CORPORATIONS**

- 3.1 National and international legal norms are binding for natural and legal persons.
- 3.2 Transnational corporations are legal entities and as such, they are both subjects and objects of the law. Therefore, international human rights law - including international labour law and international environmental law - are binding for transnational corporations.
- 3.3 The directors of transnational corporations are natural persons and they are also bound by prevailing legal standards. Current tendencies, especially those in civil and criminal law, as reflected in national legislations, recognise the liability of legal entities. They also recognise the principle of double indictment - that is, the legal entity, on one hand, and the individuals (company directors) who made the incriminating decision, on the other, can be indicted.
- 3.4 There is a shared liability between transnational corporations and their subsidiaries (de jure or de facto) and their chain of suppliers, licensees and subcontractors. As they are connected to the TNC through their economic practices, they share liability for violations of civil, political, social, economic, cultural and environmental rights. This shared responsibility of major transnational corporations with their subsidiaries, suppliers, subcontractors and licensees is a key issue, as it is common practice for TNCs to externalise costs, risks and thus the liabilities - which are assumed almost entirely by their subsidiaries, suppliers, subcontractors and licensees - while they continue to earn exorbitant profits.<sup>5</sup>

### **4 THE SPECIFIC OBLIGATIONS OF TRANSNATIONAL CORPORATIONS**

- 4.1 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must recognise the principles of the primacy of human rights and public interest over private economic interests.
- 4.2 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect civil, political, social, economic, cultural and environmental rights and fulfil their tax obligations so that States may guarantee the right to development, adequate food, food sovereignty, health, a healthy environment, housing, education and land.
- 4.3 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees will not commit acts that constitute war crimes, crimes against humanity, genocide, torture, forced disappearances, forced or compulsory labour, hostage taking, displacements, summary or arbitrary executions and violations of international humanitarian law, nor will they act as accomplices, collaborators, instigators, backers or accessories to such acts.
- 4.4 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect all international and national norms that prohibit discrimination on the basis of race, colour, sex, religion, political opinion, nationality, social origin, social status, belonging to an indigenous or Afro-descendant people, disability, age or any other condition that is not related to the requirements for doing one's job and must use affirmative action, when foreseen in the law and/or regulations.
- 4.5 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect women's living conditions, must not exploit them or contribute to the perpetuation of violence against them. They must not make false allegations against women community leaders, nor collaborate in the destruction of decent living conditions for women, within their cultural sphere, including their right to their language and transcendental references. They must not obstruct

---

<sup>5</sup> Shared liability is based on an objective guarantee obligation. Shared liability - incurred by action or omission - is generated for all those who contributed, in one way or another, to causing the harm or damage in question. The victim who has right to compensation can file a complaint against all parties involved at the same time, or one-by-one, or only some of them, and if they are bankrupt, charges will be laid against the one that is responsible and still solvent. There is several national and international laws that touch upon and regulate the levels of liability - in labour, environmental, financial, criminal issues - in causing harm.

the political participation of women leaders in public affairs and the community. Also, intensive export industries - textiles, flowers, agribusiness, maquilas, etc. - perpetuate wage gaps, the sexual division of labour, the invisibility and devaluation of reproductive and care work.

- 4.6 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect the rights of women as regulated by international human rights law, with special reference to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the declarations and final documents from the world conferences on women in Mexico, Copenhagen, Nairobi and Beijing; the World Conference on Human Rights in Vienna; the International Conference on Population and Development in Cairo, and the different conventions in which women share situations of discrimination with other social groups.
- 4.7 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must not use State armed or security forces, or hire private militia. In relation to the hiring of private security services, these services must be subject to strict regulations that guarantee the proper execution of their functions, clearly define the conditions for the use of force and ensure adequate supervision by authorities. Security services must not be allowed to operate outside of the site of the corporation they work for.
- 4.8 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must abstain from all forms of collaboration (economic, financial or of services) with other entities, institutions or people who commit human rights violations.
- 4.9 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must engage in fair practices in the area of commercialisation and marketing and adopt all reasonable provisions to guarantee the safety and quality of the products and services they offer. This includes respecting the precautionary principle and other international and national norms with the same objective. Furthermore, they must not produce, sell or market products that are dangerous or potentially dangerous to people, animals or nature, like transgenic crops and seeds.
- 4.10 In all of the countries they operate in, TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must conduct their activities in accordance with the laws, regulations, administrative practices and national policies on environmental protection, while complying with international agreements, principles, norms, commitments and objectives relative to, respectively, the environment and human rights, public health and safety, as well as bioethics and the precautionary principle. A regulatory framework on minimum standards that is universal, mandatory and coercive in nature and prohibits environmental dumping is required.
- 4.11 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees that are responsible for environmental liabilities - such as water, soil and air pollution caused by the exploration of hydrocarbon fields and mining, and the destruction of ecosystems through the construction of large hydroelectric dams, and the emission of greenhouse gases above permitted levels - must provide compensation for the peoples and communities affected by the damage caused and, where appropriate, repair the damages by restoring the environment to the state it was in prior to the invention.
- 4.12 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must abstain from resorting to using forced or child labour. They must provide a safe and healthy work environment. They must pay a wage that guarantees a decent life to men and women workers and guarantee trade union freedom, the effective recognition of collective bargaining and the right to strike. A universal, mandatory and coercive regulatory framework that establishes minimum standards and prohibits social and wage dumping is needed.
- 4.13 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees that develop any of the crimes described in section 5 of this Treaty in free trade zones, special economic zones and maquilas must be punished, as they must respect human rights regulated by national and international laws.
- 4.14 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect the rights of migrant workers regulated by international human rights law, especially the Migration for Employment Convention (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Migration for Employment Recommendation (No. 86) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 4.15 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must pay reasonable prices to their suppliers and subcontractors, which allow them to pay decent wages that allow them to have decent work. The royalties TNCs receive from licensees must remain at reasonable levels.
- 4.16 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect the indigenous and Afro-descendant peoples' territorial rights and their ownership over natural resources and genetic wealth that are both renewable and non-renewable resources and are found underground or on the surface.

- 4.17 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples. The right to consultation and participation are inalienable, non-delegable and binding for the building of relations with States, corporations and other actors. In accordance with Article 27 of the Vienna Convention on the Law of Treaties, one cannot invoke internal law provisions to justify failure to comply with a treaty.<sup>6</sup>
- 4.18 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must comply with legal and regulatory tax provisions in all the countries they operate in and contribute to host countries' public finances by paying their tax liabilities on time.
- 4.19 In the countries where transnational corporations carry out any kind of commercial and/or financial activity, they must publicly identify their subsidiaries, suppliers, subcontractors and licensees, as well as the legal framework of their participation in other companies or legally registered entities.
- 4.20 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must subordinate their activities to the policies and plans in the area of intellectual property, science and technology of the countries they operate in and international human rights norms.
- 4.21 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must rapidly, effectively and adequately compensate individuals, entities and communities that have been harmed by their practices, providing compensation, restitution, retribution and rehabilitation for all harm suffered or all goods that have been depleted, that are at least equivalent to all damage caused.

## 5 INTERNATIONAL CRIMES

The practices of transnational corporations, or the individuals that act in their name, and States and international economic-financial institutions, as well as the natural persons responsible for them, that commit acts or act as accomplices, collaborators, instigators, backers or accessories and that commit grave violations of civil, political, social, economic, cultural and environmental rights may be classified as international economic, corporate or ecological crimes. A crime is understood to be international when the criminal conduct affects the collective security interests of the international community or violates legal property recognized as fundamental by the international community. The World Court, regulated by article 6.5 of this Treaty, will be responsible for judging these international crimes.

### 5.1 Economic crimes against humanity

The practices of natural or legal persons that violate economic, social and cultural rights regulated by the United Nations Charter, the International Covenant on Economic, Social and Cultural Rights and other United Nations resolutions and declarations qualified as *ius cogens* will be treated as economic crimes against humanity when circumstances defined by article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide<sup>7</sup> and the destruction of political groups and ethnocide.

### 5.2 International corporate crimes

The practices of TNCs, or of individuals that act in their name, that may qualify as corruption, bribery, organised crime, human trafficking, embezzlement of funds, money laundering, tax fraud, insider trading, market manipulation, organised fraud against clients, small shareholders and public shareholders; falsification of financial statements, among others, will be classified as international corporate crimes.

### 5.3 International ecological crimes

Ecological distribution conflicts generated by the practices of natural or legal persons include the grabbing of land and territories, privatisation, the contamination of water sources and the destruction of the entire water cycle, the devastation of forests and biodiversity, biopiracy, climate change, and the massive contamination of seas and the atmosphere, and ecocide, among others.

---

<sup>6</sup> According to Article 27 of the Vienna Convention on the Law of Treaties on internal law and observance of treaties, "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

<sup>7</sup> Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide states, "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

The distribution of the impacts and the load of pollution and encroachment are deposited in the territories and determine the configuration of natural devastation that results from them. This is directly linked to the rights of nature and, in turn, human rights and the possibility of enjoying a healthy environment. This final premise is fundamental for guaranteeing the remaining rights enshrined in national and international norms.

## 6 BODIES

- 6.1 States must guarantee compliance with international human rights law within their jurisdictions and provide effective legal protection to people, putting them before TNCs. They must also guarantee the impartial, rigorous and efficient functioning of their courts of justice, by providing political and economic support.
- 6.2 States must approve internal norms that regulate extraterritorial responsibility for the practices of transnational corporations, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees, and that allow the communities affected by such practices to bring charges against them in courts in the home state.
- 6.3 Under universal jurisdiction, States must commence proceedings on and receive denunciations of genocide, crimes against humanity and other crimes regulated by the Rome Statutes that are committed by natural and legal persons on their territory or extraterritorially.
- 6.4 A Public Centre for the Control of Transnational Corporations responsible for analysing, investigating and inspecting the practices of transnational corporations must be created. Government officials, social movements, trade unions and indigenous peoples will participate in the management of the Centre. Its primary functions will be to investigate denunciations submitted by groups and organisations affected by the practices of the transnationals. If the denunciations submitted are accompanied by evidence indicating their veracity, the burden of proof will be reversed - that is, transnational corporations will be obliged to prove that they did not violate civil, political, social, economic, cultural and environmental rights.
- 6.5 A World Court on Transnational Corporations and Human Rights must be established. It must be complementary to universal, regional and national mechanisms and guarantee that affected individuals and communities have access to an independent international legal body in order to obtain justice for violations of civil, political, social, economic, cultural and environmental rights. The Court would be responsible for receiving, investigating and judging complaints against transnational corporations, States and international economic-financial institutions for human rights violations and for civil and criminal liability in international economic, corporate and ecological crimes.<sup>8</sup>
- 6.6 The World Court on Transnational Corporations and Human Rights will have its own autonomous way of organising and functioning and will be totally independent of the executive bodies of the United Nations and the respective States.
- 6.7 TNCs, States and international economic-financial institutions are civilly and criminally liable for crimes and infractions they themselves commit - directly or in complicity, collaboration, instigation, or acting as backers or an accessory - as well as those committed by their directors, managers and members of bodies (single-person or collegiate) who make the decisions. According to the principle of double indictment, both the legal entity and the individuals who made the incriminating decision can be indicted for violations for which they are liable. Sanctions for legal persons may be in the form of fines, public dissemination of the ruling, confiscation of the instruments used in the crime or its product, or the dissolution of the corporation in question, among others.
- 6.8 The rulings and sanctions of the World Court on Transnational Corporations and Human Rights will be enforceable and binding<sup>9</sup>
- 6.9 The committees for the Human Rights Covenants and other quasi-judicial and international jurisdictions should accept, as part of their mandate, the possibility of directly receiving complaints against transnational corporations and international economic-financial institutions and submit them to the World Court on Transnational Corporations.
- 6.10 Disputes between transnational corporations and States cannot be brought before arbitration tribunals. It is national courts that have jurisdiction over such conflicts. Regional and international courts - with the exception of the trade and investment arbitration tribunals - will act as complementary bodies once the internal resources of the State involved in each case have been exhausted, or when there is excessive delay in judging the case.

---

<sup>8</sup> The International Tribunal for the Law of the Sea and the proposals commissioned by the Swiss Initiative - a project led by Mary Robinson and supported by the governments of Switzerland, Norway and Austria to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights - and elaborated by the United Nations Special Rapporteur on Human Rights, Martin Scheinin, and Special Rapporteur on Torture, Manfred Nowak, serve as a reference on how a World Court on Transnational Corporations and Human Rights could function..

<sup>9</sup> The sentences and enforceable and binding sanctions will be established by using the WTO dispute settlement system (DSS) as a model. The DDS is considered to be the most effective international jurisdictional mechanism that exists. The fact that its sanctions are coercive makes it, in practice, a real international court, just like the resolutions of the ICSID and other arbitration tribunals.

- 6.11 Trade relations between States and peoples must be based on the sovereignty of States and people, equality, solidarity, reciprocity and complementarity. They must satisfy the needs of the peoples at all times. Trade-related conflicts between States must be resolved through diplomacy, mediation and, when appropriate, arbitration based on fair and balanced rules.

## 7 FINAL PROVISION

The International Peoples Treaty is a treaty of treaties or a framework treaty. For many of its provisions, regulations must be developed further in order to guarantee their full consolidation; this mandate coexists with obligations and rights that are effective immediately.

The development of regulations of this Treaty should not be left entirely in the hands of States and international institutions. Organisations, social movements and affected communities are both actors and subjects of the processes linked to the elaboration of the International Peoples' Treaty.

The list of specific criminal offences, international crimes, and the rights recognised in this text is not exhaustive, but rather enumerative and by way of example. The other existing rights and crimes are implicitly recognised by and incorporated into the Treaty.

# E ALTERNATIVES DIMENSION

## 1 ORIENTATION AND SCOPE OF ALTERNATIVES

From the beginning, the International People's Treaty has been understood both as a framework and a process towards putting in place binding juridical human rights obligations and instruments to end Impunity of Transnational Corporations (TNCs) and also as validating the alternatives being forged on the ground in the midst of resistance to corporate power and domination in almost all spheres of life.

This Alternatives dimension of the People's Treaty is complementary to the Juridical dimension and is likewise built from the sustained and accumulated experiences of various struggles against transnational corporations in all parts of the world, especially in the Global South. It is also pursued in the framework of a vision and practice that asserts a fundamental departure from the current corporate neoliberal economic and political paradigm.

The International People's Treaty as a whole is constructed as an Alternative to the corporate power regime which is hegemonic in the current global economic and political paradigm and in dedicated commitment to system change – economic, political, social and cultural. This fundamental system change will create the conditions where profound juridical change will also be possible.

Social movements, peasants, trade unionists, women, indigenous peoples, environmentalists, migrants, experts, activists and affected communities who are in resistance to Transnational Corporations articulate alternatives in many varied spheres. Their struggles and practices are generating diverse alternatives on the ground. They are reclaiming and building a world which the Zapatistas call "a world where there are many worlds".

The building of alternatives is very challenging and is taking place in a deeply hostile environment of multiple crises and runaway corporate power. TNCs have captured democratic decision making and are rendering sovereignty meaningless while marginalising governments (often complicit) in their responsibility to place people's interests before corporate profits.

However in many spheres, local alternatives – still works in progress - are being linked up on regional and global levels and linkages and cross fertilisation is also being made across various movements and networks. Despite this, there is a great need to intensify these alliances for transformative action and to achieve significant convergence of counter-power to current TNC domination.

Drawing from intense confrontations with Corporate power, in the areas of Food, Land, Water, Work, Investments and Economy – a few examples are indicated here as part of the many alternatives that could be added to this dimension of the International People's Treaty. These are presented in some cases as they are formulated by movements and in others as experiences and practice of concrete struggles and alternatives. But it is anticipated that many existing alternatives in several other fields will be documented in the Treaty consultation process. Both in the juridical as well as the alternatives dimension, the Treaty process is an open invitation to contribute to and participate in the struggles that aim to dismantle corporate power, end impunity, and create the conditions to ensure the commons of humanity.

## 2. ALTERNATIVES IN PRACTICE

### 2.1 Achieving water justice

The high-profile failure of water privatization in major cities of the south, provides ample evidence that the water needs of people should not be left in the hands of profit-driven, transnational water corporations. Almost without exception, global water corporations have failed to deliver the promised improvements and have, instead, raised water tariffs far beyond the reach of poor households. The rise of grassroots anti-privatisation campaigns in countries around the world is starting to turn the tide against free-market fundamentalism.

Viable alternatives both to profit-driven corporate control and to often bureaucratised and ineffective state-run water utilities are developed in many parts of the world. Building alternatives takes diverse forms depending on the socio-political context, but in many cases there are shared core principles of 'publicness', based on not-for-profit management in the public interest, equity, accountability and democratic control. Genuine **citizen** and community participation is an essential form of democratic water provision. Alternative water provisions lead to community development, in which women play an important role and have ownership. Conservation of water resources is preferred over expensive high-tech solutions.

#### Public-Public Partnerships (PUPs)

Public-public, public-community and community-community partnerships (PUPs) are emerging as a superior alternative to privatisation or Public Private Partnerships (PPPs) for developing capacity and achieving water for all. Going beyond a narrow definition of 'public', PUPs are framed as a concrete tool to connect different actors to share experiences and knowledge to improve public water systems. While PUPs are flexible and diverse, there are clear characteristics such as serving the public interest, while being strictly not-for-profit. Public-ness should be central to the spirit of partnerships to secure they lead to community development. Community development is not something to be decided on externally but should be discussed locally in a genuinely democratic manner. Partnerships are about solidarity, not profit, about collaboration, not competition. Trust and openness, not secrecy, creates real opportunities for knowledge transfer and experience-sharing.

From a war-torn utility, Phnom Penh Water Supply Authority (PPWSA) is now considered as one of Asia's outstanding public utilities, with a growing reputation for organizational excellence, customer-oriented service, and a high-level of service performance. It has increased water supply coverage from 20% to 90% between 1993 and 2010. These outstanding drastic improvements were brought about by a series of Public-public partnership projects (not-for-profit cooperation between water utilities).

#### Remunicipalisation

Remunicipalisation is now a growing political trend not only in the water sector but also for electricity and other essential services in Europe and elsewhere. More than 86 cities all over the world remunicipalised water services during the last 15 years.<sup>10</sup>

After decades of privatisation, water delivery in Paris was successfully transferred to public management in 2009-2010 with impressive results on many fronts, from increased transparency and cost savings to improved water resource protection. It is the largest remunicipalisation in Europe to date and was by no means a simple matter, due in part to the fact that the city's water supply was run by two private water firms (Suez and Viola), each covering half of the city. Thanks to remunicipalisation, the city saved approximately €35 million in its first year and was able to reduce the water tariff by 8%.

#### Human Right to Water, European Citizen Initiative and The Blue Community Project

The campaign for the recognition of the '**human right to water**' is one of the examples of a collective victory that was achieved. The 2010 Resolution by the UN General Assembly on the human right to water and sanitation (A/64/292) was a very significant achievement, but the struggles and conflicts over water continue.

The success of the **European Citizen Initiative (ECI)** on the right to water (Right2Water<sup>11</sup>) is another example where the right to water is applied as a political tool empowering people rather than merely as a legal tool. In November 2013, Right2Water successfully made the first European Citizen Initiative by collecting 1.66 million valid signatures from 28 EU countries.

---

<sup>10</sup> <http://www.psuru.org/reports/list-water-re-municipalisations-worldwide-november-2013>

<sup>11</sup> <http://www.right2water.eu/>



The **Blue community project**<sup>12</sup> born in Canada is another example, in which municipalities declare they recognise the human right to water and pledge to implement it actively. 15 municipalities in Canada have declared as Blue community. The wave has crossed borders and the Swiss city of Bern has become the first blue community in Europe, joined by Cambuquira in Brazil as the first one in Latin America.

## Some examples of democratization of public water provision

### Community Collaborative Water Management in Colombia

The National Network of Communal Aqueducts in Colombia was successfully established a few years ago. Communal aqueducts (community-based water systems) are bridging the gap in water service delivery in rural areas where no state utilities or public authorities serve the population and are key for poorest communities. They are a key reference for the defense of territories and from the mining companies backed by the national government, which contaminate and deprive water sources from communities. The participation of women in such initiatives is not merely symbolic, on the contrary, it shows the sense of commitment that women have towards their communities.

### Tamil Nadu state water Company

In India, the Tamil Nadu state water company (TWAD) in the early 2000s committed itself to improve access to water in about 500 rural villages, that had been neglected for decades.<sup>13</sup> TWAD actively engaged the communities in decision-making about water solutions – and supported with funding and expertise – helped the villages recover and protect water sources, introduce easy-to-maintain, low-cost technology, and prioritise access for indigenous people and other marginalised water users. Their efforts also helped the region to build resilience at a time of climate change, which threatens food security. Over 3695 democratically elected water users associations (representing 1.85 million farmers) played a key role in rehabilitating canal systems, reinventing water harvesting structures and water-saving sprinkler irrigation systems, and helping diversify farming.

#### References:

References in Report by Satoko Kishimoto on the Campaign website [http://www.stopcorporateimpunity.org/?page\\_id=5534](http://www.stopcorporateimpunity.org/?page_id=5534)

## 2.2 Implementing Food Sovereignty, Agrarian Reform & Peasant Rights

Today, food is intensively concentrated in a single production matrix – fewer than 50 corporations control most of the world's seed production, agricultural inputs and food distribution worldwide. And in the case of Brazil for instance, the 50 biggest foreign and domestic agribusiness corporations control practically all agricultural commodities trading and indirectly the composition of agricultural production in the country.

In the face of the massive destruction of the rural world by neoliberal policies, land grabs, dispossession by corporate extractivism, toxification of land and water systems, deforestation, depletion of bio-diversity, peasant and small farmer movements have arisen globally to claim back the land in agrarian reform and for food sovereignty. The past decades, have witnessed a continuity in the land and agrarian struggles for justice that have marked earlier stages of history. The producers of over half the world's food – peasant, family farmers and farm workers – have not only battled the corporate dominance of the agribusiness and food chain but have developed a platform of Food Sovereignty and Agrarian Reform as a political platform.

In its 6<sup>th</sup> Congress (June 2013) La Via Campesina re-iterated its fundamental opposition to the domination of Transnational Corporations in the food system and in all the spheres of life. It underlines the need to strengthen the global resistance in coordinated campaigns on different issues-the extractive industry, food sovereignty, seeds, public services, and financial corporations among others. It also recognizes the legitimization of TNCs through the FTAs, BITs and WTO as well as through the rhetorical narratives of the green economy and corporate social responsibility.

In 20 years of its existence, Via Campesina has made major contributions in the development of alternatives to the neoliberal model of economy with its key pillars of Food Sovereignty, Agrarian Reform, Agroecology and Peasant's Rights).

---

<sup>12</sup> <http://www.canadians.org/bluecommunities>

<sup>13</sup> More details is found at <http://www.tni.org/sites/www.tni.org/archives/books/watertamilnadusuresh.pdf>

## Food Sovereignty

The new concept of food sovereignty was introduced by La Via Campesina (LVC) in 1996 replacing the earlier official concept of food security (formulated by governments and the Food and Agricultural Organisation (FAO (Montecinos 2010). It includes a conviction that the production and distribution of food is a question of public and national sovereignty. Besides to the notion of access to food, sovereignty adds the right to produce food in the ways that are good for the environment and appropriate to peasant and farmers lives and nutritional needs. As the Nyeleni declaration says (2007); *“Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations”*.

Food Sovereignty is a vision for changing society and, from a broad social and community perspective, an alternative to the neoliberal policies. It is the right of Citizens to determine food and agricultural policy and to decide what and how to produce and who produces, It is the right to public resources such as water, land, and seeds. Food sovereignty calls for policies based on solidarity among citizens and between producers and consumers. It demands the regulation of markets because it is impossible to maintain agrarian policies based on market liberalization. Food sovereignty brings together movements from the global South and the industrial North as well as from rural and urban areas. Food sovereignty has now become an integral demand from many social movements around the world who are building alliances for transformative action.

## Agrarian Reform

Agrarian Reform integrates broad relationships between human beings and nature. It involves a range of processes that amount to the social expropriation of nature, such as those that struggle against its private, capitalist appropriation. It recognizes the need for a new model of production and technological development centered on co-productive relationship between human beings and nature, and the diversification in production that can re-invigorate and promote biodiversity. What is more, it is centered on the new political understanding of ‘coexistence’ and the social use of nature.

In early 2014 The Movement of Landless Workers (MST) have proposed a People’s Agrarian Reform, a new thinking on Agrarian Reform base on the new world situation:

- a) A classic agrarian reform is not enough. We now must defend a new project for people’s agrarian reform. All that classic agrarian reform can do is divide up land ownership and integrate the peasants as suppliers of raw materials and food for the urban industrial society.
- b) In the face of agribusiness power, the need arises to build alliances among all peasant movements, the working class, and other popular social groups fighting for structural change.
- c) The struggle for agrarian reform now becomes part of the struggle against the capitalist model. This stage in our struggle is marked by greater and more complex challenges than before. Today, the scene looks different than that during the phase of industrial development (1930-1980) when the agrarian reform settlements in unproductive lands were linked to employer-driven agriculture geared primarily toward agroexports.
- d) The confrontations with capital and its agricultural model extend from disputes over land and territory. But these widen into disputes over control of seeds, agroindustry, technology, nature, biodiversity, water and forests.

## Agroecology

Particularly high on the agenda of Food Sovereignty and Agrarian Reform is the practice of Agroecology. Agroecology has been promoted within La Via Campesina (LVC) as a paradigm for achieving food sovereignty. “Agroecology can double food production in entire regions within ten years, while mitigating climate change and alleviating rural poverty.” This is the conclusion of Olivier de Schutter, U.N. Special Rapporteur on the Right to Food, in the presentation of his report in March 2011. This statement is based on his research around the world. In the report, he forcefully called upon states to adopt ambitious public policies for supporting agroecology.

## The Rights of Peasants

Work in the area of Peasant Rights is another important area of focus for Via Campesina. In fact rights based framing and concepts, including the the right to Food sovereignty has occupied a central place in its work and statements. Work on Peasant Rights was initiated by Indonesian member organization SPI, and discussed with other member organisations in the region on the occasion of the 2002 Southeast Asia and East Asia regional conference. It was taken up on the agenda of La Via Campesina’s Working

Committee on Human Rights, and submitted for consideration to other members of the movement during the 2008 International Conference on Peasant Rights that was organized in Jakarta. The text was finally adopted by the 2008 International Conference of La Via Campesina in Maputo.

La Via Campesina has worked actively over recent years to bring the Declaration on the Rights of Peasants to the UN Human Rights Council. These efforts have resulted in the passing of a UNHRC resolution in September 2012 which has led to the creation of an open-ended intergovernmental working group with the mandate to negotiate a draft UN Declaration on the Rights of Peasants and Other People Working in Rural Areas. This work is currently being pursued with the UN process.

#### References:

La Via Campesina 6<sup>th</sup> Congress documents - June 2013 Jakarta <http://viacampesina.org/downloads/pdf/en/EN-VITHCONF-2014.pdf>  
La Via Campesina Policy Documents <http://viacampesina.org/downloads/pdf/en/EN-policy-document.pdf>  
Agrarian Program of the MST-6<sup>th</sup> National MST Congress February 2011  
Peoples Treaty page: [http://www.stopcorporateimpunity.org/?page\\_id=5534](http://www.stopcorporateimpunity.org/?page_id=5534)

## 2.3 Democratizing Work and Production. “PLADA” Development Platform of the Americas.

By Trade Union Confederation of the Americas

The platform we present here embraces our decades-long resistance against neoliberalism and reclaims the arduous process of building progressive political and social alternatives. The direction is to identify and systematize the challenges we must face so as not to lose such gains and generate a region where development is sustainable, socially inclusive, politically democratic and based on the inalienable right of peoples to decide their own future.

The PLADA is the continuation of the work initiated in 2005 with the launching of the Labor Platform of the Americas and the founding of the Trade Union Confederation of the Americas (TUCA) in 2008 as a broad-based unitary space for hemispheric trade unionism. However, the PLADA is more than a mere continuation: it is the result of the dialogue of the trade union movement at the continental level led by the TUCA and based on a broad agenda and construction process in conjunction with environmental, rural and women's organizations of Latin America. The TUCA intends to extend this dialogue to new areas, as part of the agenda of the collective construction of Another Possible America.

The new political cycle that we stand for must be marked by the broadening and deepening of political democracy. The long period of neoliberal domination was characterized by the imposition of corporate business decision-making power on the institutions of representative democracy. Overcoming this entails the return of popular sovereignty.

For this we need to establish a new relationship between society, the State and the market. The State must be tool for the active participation of workers in public arenas to regulate the market to meet current social needs and look out for future generations.

We do not call for a paternalistic and authoritarian State, but for a new democratic State that has been deeply reformulated through instruments of popular consultation and direct participation.

Firstly this requires, reforming the political and judicial systems to prevent the interference of corporations in decisions; and secondly, the democratization of the mass media to prevent economic monopolies transforming them into political instruments to advocate for and promote their private interests.

This new political cycle must be based on social and trade union participation in decision-making in each country, as well as in regional integration processes. We emphasize that the greatest challenge is the self-reform of unionism in order to streamline the functioning of trade unions themselves through unity, internal democracy, and by expanding and strengthening representativeness based on freedom of association.

Advancing in democracy involves respect and recognition of our plurinationality and cultural diversity within nation-States.

### Economic Dimension

We stand for the strengthening of genuine regional and subregional integration processes as tool for the development of our peoples. This requires overcoming the legacy of the neoliberal period of free trade agreements that deepen international asymmetries and deteriorate the social and environmental fabric of each country.

The cycle of sustainable development which we advocate is driven by the fair distribution of income and wealth, permanently burying the neoliberal view that concentration of wealth with economic growth eventually “spillover” and reach the vulnerable population.

A new regional financial architecture at the service of development with social equality is necessary, as is infrastructure based on sustainability and the promotion of complementarity between our economies and fostering regional integration. Foreign investment should be steered by national and regional development plans. A new progressive taxation system should allow States to boost this new cycle of sustainable development.

Special attention must be given to the conquest of food sovereignty and food security threatened by the booming production of agricultural commodities for export under the control of multinational companies. A comprehensive agrarian reform and the gradual elimination of the monopoly of transnational corporations over agriculture are part of the new development model.

Lastly, the common denominator of this new economy must be the building of new capabilities for research and transfer of technology focused on the needs of our nations.

### **Social Dimension**

Regional unionism stands for the right to decent work based on equality between genders, ethnic groups and generations, without discrimination due to disability, sexual orientation or gender identity. However, there will be no decent work without respect for freedom of association and collective bargaining.

The starting point of this new stage should be the repositioning of a universal and solidarity social security system to remove the threat of poverty from the lives of workers, and ensure that production is carried out in safe and healthy workplaces.

This requires protecting the commons from the voracity for profit of private companies. Health, education, housing and urban transport are fundamental rights that are not for sale, therefore the social dimension of the new model must leave behind the legacy of patriarchal oppression systems, and promote the equalization of responsibilities of care and domestic work between genders.

We seek to implement policies to prevent and eradicate all forms of violence and conquer regional citizenship and rights for migrants.

### **Environmental Dimension**

The environmental crisis, and effectively and urgently addressing it, is a top priority of the international political agenda. All nations are entitled to sustainable development which today requires addressing the asymmetries between North and South, and the asymmetries between social classes within each country. This involves curbing predatory consumption in the North and in the wealthy classes, and lifting the majorities to new levels of consumption and satisfaction of their needs based on a new paradigm.

We argue that the commons of humanity - biodiversity, water, seeds, forests, energy and knowledge - should not be subjected to private profit, but instead should be used responsibly for the common good.

We advocate the strengthening of social and economic relations promoting socio-environmental balance with social involvement and participation, and the development of technologies preventing climate change and desertification.

### **Platform of a new Model**

Neoliberalism, large multinational corporations and international financial capital put the world on the brink of economic and environmental catastrophe, and workers on the brink of social hardship. Our peoples have responded with enduring resistance and then, even in that highly adverse economic context, have been electing post-neoliberal proposals.

The PLADA starts here, where the struggle of the working class becomes a tool of continental unionism to advance towards the definitive conquest of a new model of sustainable development. The key to victory lies in broadening and strengthening democracy, overcoming the blackmail of corporations and markets.

#### **References:**

Full text in French, Spanish, English and Portuguese here [http://www.csa-csi.org/index.php?option=com\\_docman&task=cat\\_view&gid=382&Itemid=181&lang=pt](http://www.csa-csi.org/index.php?option=com_docman&task=cat_view&gid=382&Itemid=181&lang=pt)

References on Peoples Treaty page: [http://www.stopcorporateimpunity.org/?page\\_id=5534](http://www.stopcorporateimpunity.org/?page_id=5534)

## 2.4 Building an alternative framework for investments

While on the one hand investment is constantly being promoted as a tool for development, there is simultaneously a growing international recognition that corporate activity, and in particular that carried out by powerful transnational investors, can have serious negative and long term effects on human rights, on the environment, and on equitable development that is both sustainable and inclusive. And in many cases these investments don't even generate economic growth and significant employment.

Despite this, the set of rules governing the protection of international investment continues to be expanded, guaranteeing an extraordinary, abusive and far reaching frame for investor rights, without in exchange committing to any binding obligation with respect to human rights, environmental rights, and socially sustainable and inclusive development. The investment agreements (BITs) and the investment chapters in Free Trade Agreements and WTO are the elements of a framework of impunity that gives the TNCs unprecedented powers to be able to dispute the prerogative of governments to be acting as guarantors for human rights while also guaranteeing that FDI will have a positive impact within a broader plan for national development. The BITs allow companies to evade laws, constitutions, and local and national courts. They also give corporations a green light to sue sovereign States for millions of dollars before private, secretive and arbitrary tribunals associated with the World Bank's International Centre for the Settlement of International Disputes (ICSID), or the United Nations Commission on International Trade Law (UNCITRAL), the International Chamber of Commerce (ICC), among others.

These international agreements are part of a legal set of rules that have been developed on a parallel track to be made applicable to the international community in its entirety without any consideration of whether there is reciprocity based on mutual consent, or that all are involved (*erga omnes* obligations) being understood as the international rights that underpin human rights. This parallel track has been used to avoid any discussion of international-level norms. Thus the conditions under which the BITs were originally entered into can be ignored, domestic legislation avoided, and even the Political Constitutions of States along with all other existing international laws evaded, resulting in a frame that forces parallel obligations on the States.

### Principles for an Alternative Investment Framework

- National States should take back the ability to implement legislation and public policies so that those investments play a positive role within a long term strategy in a national project agreed to by the population, and one that guarantees absolute respect for all human rights. To achieve this there would need to be a fundamental reformulation of the international legal regime that currently acts like a straightjacket in preventing State action in this area.
- Along with States recuperating their regulatory capacity, it is necessary for people to put into place control mechanisms to be able to deal with their own States using approaches such as direct, participatory, and proactive democracy that include enforceable mechanisms to ensure that social demands are acted on, so that the democratic exercise of peoples' sovereignty becomes a reality. The problem rests not only with legislation or institutions: without genuine peoples' participation nothing can be guaranteed.
- It is not enough to rip up or renegotiate international investment treaties and to then implement national regulations. At the moment there is a competition to see who can offer the most concessions and privileges to the foreign investor. What is needed is a legislative framework along with international and/or regional regulations that prohibit unfair competition, all of which can then be applied with specific detail to national legislation.

### Some concrete alternatives

Preeminence of human rights over investor rights and to establish the obligations of transnational corporations with regard to the observance of human and environmental rights

- It is necessary to overcome the current asymmetrical relation between investor rights and human rights.
- Investors should be held accountable for reporting on their corporate initiatives not only in their country of origin but also in those countries where they invest.
- transnational investment proposals need to be preceded by an evaluation with social participation that would include a socio-environmental and human rights impact assessment

Alternative dispute settlement solutions.

- It is imperative that current clauses dealing with investor-State dispute settlement be annulled, particularly those that allow investors to challenge and sue host States via international arbitration over governmental regulatory actions that they perceive to be harmful to their particular interests.
- Investor-State disputes should be settled before national tribunals, in accordance with the host country's legislation.
- These new regional/international dispute settlement mechanisms should be two-way. That is to say not only investors but also States, communities and citizens can originate a legal challenge.
- It is necessary to guarantee that any appearance before a public international/regional tribunal allows access and equitable participation for the communities impacted, that the procedures be conducted publicly, and no rights be accorded that are stronger or broader.
- In the case of human rights violations by an investor or company, the investment treaties should explicitly respect the rights of the affected individuals or communities to seek additional recourse at the international level, as outlined in International Law governing Human Rights.

Abolish the privileges of foreign investors and to guarantee states the space to be able to implement public policy and special and differentiated treatment, guaranteeing that the principle of equality supports national priorities.

- Eliminate the current arrangements of National Treatment, Minimum Standards Treatment, and Most Favored Nation Treatment.
- Eliminate the concept of indirect expropriation and restrict the definition of investment.
- Eliminate the ultimate arbitrability clause as well as retroactivity.
- Permit the implementation of capital controls and performance requirements; stop the flow of illegal funds and tax evasion, and privilege productive over speculative investment.

#### References:

Full text A Call for the Building of an Alternative Legal Framework to the International Investment Treaties on Peoples Treaty page [http://www.stopcorporateimpunity.org/?page\\_id=5534](http://www.stopcorporateimpunity.org/?page_id=5534)

## 2.5 Reclaiming a Solidarity economy

The solidarity economy is a fundamental part of an alternative to corporate power

Investment now has a dynamic disconnected from the real economy of everyday life and social need. Major corporations put their money on the money markets, making money out of money, rather than employing people to produce useful things and services. We face governments handing over the delivery of services to private corporations intent only on guaranteed profits. In this context, many millions of people across the world are self-organising their own and each other's creativity to meet practical needs, and to do so in harmony with nature and under humane working conditions. The result is the emergence of an economic logic based on mutuality and solidarity.

It is worth exploring whether this idea of a solidarity economy can provide a framing concept for developing an alternative to corporate power. It is a concept which frames a wide variety of different organisational forms created at different points in history.

We are just now at a particular moment in the history of technology which provides us with tools that both enhance the creativity of individuals and, at the same time, extends the possibilities for co-operation and co-ordination on a global scale. The future use of these technologies will be contested – already predatory private corporations can see gold in the knowledge commons being produced through people's habitual inclinations, as social beings, to share, communicate and socialise information, to produce greater knowledge and understanding. But the key point is that technological tools have been created in recent decades that take solidarity economics potentially to a new level. While production is local, the new information and communication technology (ICT) makes it possible for social, political and economic organisation to be global, and able to create a counter-power at that scale.

To understand and grasp the possibilities, it helps to put the development of the solidarity economy in historical context. The search for mutually-based alternatives to private profit is as old as capitalism. Since the 19th century, this has produced a varied tradition of co-operative production. These forms of solidarity-based production have a varied record but there is sufficient experience of sustained success, even under the pressures of a capitalist market, to conclude that co-operatives are one element in a solidarity economy alternative to corporate power.

The way that digital technology has developed has enabled people who share values of egalitarian and open co-operation to take co-operative production, especially cultural production, to a new level of scale and economic significance, through peer-to-peer (known as P2P) production. Globally and locally, productive communities of citizens have been creating vast common pools of knowledge, code (software), and design, which are available to all to further build on. Often, these commons are managed by democratic foundations and nonprofits, which protect the common pool of knowledge from private enclosure, most often using open licenses. A recent US report on the 'Fair Use Economy', i.e. economic activities based on open and shared knowledge, estimated its economic weight in that country to be one-sixth of GDP.

Often, however, it has been capitalist corporations that have seen the potential of this and made them a source of profit. We only have to observe the ability of Google and Apple to profit from the voluntary social labour of open software developers and social networkers to see that this world of P2P exchange is a contested world. Without strong civic institutions committed to the idea of the commons and the public good, open knowledge systems are vulnerable to appropriation and ultimate commodification by capitalist firms, as is currently the case with the internet itself. The recent regulatory ruling in the United States undermining 'net neutrality' is an advance in the privatisation of what has until now been an equitably accessible global commons of information.

But we are seeing, especially from experiences in Latin America, that the state need not be the custodian of corporate interests. It can be a partner with movements and initiatives for the commons. The experience of Uruguay, following the success of a referendum for the constitution to guarantee the protection of water as a public good, has shown how a government can both protect and expand a natural commons. Similarly regarding the immaterial commons, the government in Ecuador is embarking on an ambitious plan to develop the knowledge commons as the basis of a hybrid economy based on the values of *buen vivir*. Their vision is of the state as an explicitly partner state.

As the experience of Latin America illustrates most vividly, the solidarity economy emerges partly out of conflict. Nowhere is this more the case than in the global struggle over public services and utilities. These organisations, created with social rather than private or corporate goals but often bureaucratic in their forms of management, have been threatened by governments seeking to privatise, often under corporate pressure. In many cases, public service workers have resisted not simply by defending the status quo, but joining with citizens to make proposals for reforming the service they provide into one based on relations of active solidarity.

This transformative resistance is another sphere of the solidarity economy. Some, notably the water activist Tommaso Fattori, have called it the struggle for the 'commonsification' of the state. Indeed an increasing range of struggles in defense of public services and utilities, frame their visions of co-operative self-government in terms of the commons. As a result, there is a rich process of cross-fertilisation across spheres – water, knowledge, health, recycling, food, energy – and an increasingly dense network of experiments towards a solidarity economy.

The solidarity economy is clearly emerging as a potential ecology of different economic forms sharing common values; potentially a hybrid system. In movements around energy, food and water, these alliances are combining oppositional campaigns to corporate power with forms of counter-power that demonstrate that an alternative is both possible and under construction.

#### References:

References in Report by Hilary Wainwright on Peoples Treaty page: [http://www.stopcorporateimpunity.org/?page\\_id=5534](http://www.stopcorporateimpunity.org/?page_id=5534)  
'The Solidarity Economy Alternative: Emerging theory and practice' ed Vishwas Satgar. Publisher UKZN Press.

# CAMPAIGN TO DISMANTLE CORPORATE POWER & STOP IMPUNITY

## INTRODUCING THE CAMPAIGN

Transnational corporations operate globally, moving from one country to the next, threatening states who dare to confront them with legal actions or withdrawal of investment. The *Global Campaign to Dismantle Corporate Power and End Impunity* aims to provide a global structural response to this unaccountable power: bringing together existing campaigns and networks to build collective, systemic responses to corporate power and advance peoples' alternatives.

## I. CAMPAIGN GOALS AND OBJECTIVES

- Strengthen the struggles of affected communities resisting corporate power and build a global movement against corporate power and impunity.
- Build collectively an International People's Treaty on TNCs which will include an international legal framework and body that can impose binding obligations and sanction TNCs.
- Start the process of dismantling TNCs' political, economic and legal power, reclaiming public control over their operations, and holding politicians and corporate leaders responsible for corporations' economic and ecological crimes.
- Contribute to building an alternative economic and political paradigm rooted not in corporate power but in the dignity and well-being of people and nature.

## II. HISTORY OF THE CAMPAIGN

This campaign initiative arose in the midst of the converging global crises and out of years of work of the Bi-regional Europe-Latin America and Caribbean Enlazando Alternativas Network and the Permanent People's Tribunal to denounce European TNCs' widespread human rights violations and ecological destruction in Latin America and the Caribbean. Between November 2011 and June 2012, a series of consultations were held at key moments of the political calendar (COP17, WSF in Porto Alegre, Americas Summit in Cartagena, FAME in Marseilles, meeting on corporate power in Johannesburg) to consult on the campaign proposal. In response to these efforts, in June 2012, over 100 organisations, networks and movements from Latin America, Africa, Asia, Europe, US and Canada signed on to a Call for International Action against TNCs at the Rio+20 People's Summit and launched the campaign.

**STOP  
CORPORATE  
IMPUNITY.ORG**

**CONTACT US**

For more information, write to: Diana Aguiar ([d.aguiar@tni.org](mailto:d.aguiar@tni.org))

