

Will there be a UN treaty to punish the abuses committed by multinationals ?

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Since the 1970s, representatives of trade unions and NGOs have made attempts at the United Nations - particularly within its specialised agency the International Labour Organisation (ILO) - to regulate the actions of multinationals in order to be able to sanction them if necessary. In 1971, for example, the ILO adopted a resolution on “the protection of workers’ representatives in the enterprise” and in 1977 a Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. But all efforts to establish such binding regulations have so far failed, blocked by private actors and, since the 1990s, by Kofi Annan himself, then Secretary-General of the UN, who instead buttered up the multinationals by offering them the privileged role of interlocutors at the UN with its Global Compact project.

Multinational companies, which currently number over 82,000, and some of whose wealth exceeds the GDP of several countries, have become major players in the global economy. They have long been criticised by NGOs and trade unions for their attacks on people and the environment. Examples include Michelin’s actions in India, Bolloré in Cameroon and [Areva in Niger](#). Not to mention the working conditions of workers in Asia, including the tragedy of the [Rana Plaza collapse in Bangladesh](#) in 2013, a building that was not up to safety standards, causing the deaths of more than 1,100 employees of subcontractors of western textile firms.

Another example is the damage caused by the American company [Chevron Texaco in Ecuador](#) : from 1964 to 1990, the company extracted oil and knowingly polluted, very seriously, the host country, by oil spills that spread into the ground in the Amazon, causing enormous health problems for the indigenous Amazonian people. Chevron refused to compensate the victims.

Thus, “the greatest human rights abuse in Ecuador was not committed by the state but by a company,” explains Guillaume Long, a former Ecuadorian minister, showing why in the national imagination the idea very strong, and makes Ecuadorian society very sensitive to the issue of sanctions against multinationals.

Other examples are legion : “Alstom is accused of corruption in Brazil and is engaged in the construction, with EDF and GDF, of large dams in the Amazon that devastate entire regions and [trample on the rights of the people](#). In India, Veolia is accused of making money out of [water management contracts](#) that are against the people’s interests, while Areva’s projects are fiercely contested by the local population. As for Carrefour...subcontractors are accused of resorting to slave labour in Thailand,” says France’s Association for the Taxation of Financial Transactions and for Citizens’ Action (ATTAC).

Key resolution at the UN Human Rights Council

In June 2014, at the initiative of Ecuador, then under the progressive government of Rafael Correa, and South Africa, the UN Human Rights Council adopted [a resolution](#), by 20 votes to 14 : this resolution created an intergovernmental working group (IWG) to create a legally-binding framework to regulate the activities of multinationals.

“This group is of historical significance,” says Marthe Corpet, confederal adviser to the French national trade union centre CGT, in charge of multinationals. Indeed, this is the first time such a group has been set up. Ecuador was elected chair of this group, says Long. The latter, who during the first two sessions of this group in 2015 and 2016 was Ecuador’s Foreign Minister and Ecuador’s Ambassador to the United Nations in 2017, presided over it, and said that “it was extremely difficult at first, because there were countries that voted against the resolution, such as the United States, the European Union, Canada, the United Kingdom and Australia. They were very opposed to the project, which they perceived as a cause taken up by the countries of the South against the countries of the North. We then tried to broaden support for the project, because we needed the support of countries where multinationals are based to make the treaty effective. In 2016, things went better and, in 2017, we managed to have a real negotiation, especially with the European Union and Australia [while the United States and Canada are still strongly opposed].”

At the 2017 negotiating session, nearly 110 countries were represented in Geneva, showing the international interest in the draft treaty, which is a project with “a lot of financial stakes,” as Long points out. It is the rich countries, where more than 85 per cent of the multinationals have their headquarters, who are the most opposed to the draft treaty. The draft UN treaty intends to regulate the action of multinationals and impose concrete sanctions on them in case of violation of human rights or attacks on the environment or the peoples’ rights. This treaty, once finalised by the group, will be put to the vote in the UN General Assembly.

France at the forefront, in the ongoing battle at the UN

France is leading the way, after adopting in March 2017 [a law on the duty of care of multinationals](#), a law carried by a coalition of the left. “This French law is the first act regulating the behaviour of multinationals regarding human rights at the global level,” says Corpet. Indeed, this law, one of the last laws of President François Hollande’s five-year term, is the first law in the world to write into hard law the regulation of multinationals. Several associations and NGOs, who have pushed for the adoption of this law, such as CCFD or Sherpa, as well as unions and experts, have created a Citizen’s Forum for CSR [Corporate Social Responsibility]. Then, as explained by Carole Peychaud, an ATTAC activist who was until recently in charge of lobbying for the Regulation of Multinational Enterprises at the French humanitarian organisation *CCFD-Terre Solidaire* (the Catholic Committee against Hunger and for Development) : they created a “French Coalition for a Treaty at the UN,” which organises frequent meetings involving groups such as ATTAC, FIDH (the International Federation for Human Rights), CCFD or France-Latin America.

“France is a special case,” says Peychaud, “because it is the only country in the world to have a law governing multinationals.” This law requires major groups to publish and implement a vigilance plan to identify and prevent the risk of serious violations of human rights and the environment. “Any failure to implement this plan is a fault liable to prosecution of the parent company in a French court,” says ATTAC.

Now, as Peychaud believes, “France has every interest in internationalising this French law. The civil society organisations in favour of the project are putting a lot of pressure on the European Union to support the project.”

At the global level, the other two leading countries in the process, Ecuador and South Africa, have brought the most left-wing countries in the southern cone of Latin America and Africa respectively with them. However, as Long tells us, the change of government in Ecuador since 2017, with a clear swing to the right, means that this country will undoubtedly be less enthusiastic in its support of the project. As for the United States, Japan, Russia and the European Union, they remain firmly against the project.

Thus, this treaty, if it succeeds in being adopted by the UN General Assembly, will be signed, it is hoped, by the European Union (France is pushing for this), and by the G77 countries – that is to say the countries of the South. A real battle is going on at this moment at the United Nations over this draft treaty. The International Organisation of Employers (IOE) “is up in arms against this project,” according to Corpet. However, employers’ representatives, and in particular representatives of large multinational firms, are increasingly influential in the United Nations ; we are talking about corporate capture of the UN, i.e., the weight of big business is growing at the UN. Multinational firms and the IOE are trying to block the negotiation process of this draft treaty.

A strong commitment from civil society

What is positive, however, is civil society’s strong commitment to this project : today, more than 700 movements (NGOs, associations, unions) support this draft treaty. These movements play “a fundamental role” according to Long. And to unite them, since the 2000s the [Global Campaign to Dismantle Corporate Power](#) was set up, strongly supported by Latin American anti-globalisation and ecological movements. This very active organisation has documented all the human rights violations of multinationals since the 2000s and has uncovered “an architecture of impunity”.

Indeed, there is a deeply unjust imbalance : a victim of a multinational cannot apply to any court for justice, while a multinational can turn against states via private arbitration tribunals.

The [French Coalition for a Treaty at the UN](#), to which Peychaud belongs, is a French version of the Global Campaign. Another, more mainstream structure has been put in place to unite many of these movements, the [Treaty Alliance](#). All these movements are putting pressure on the European Union to lean in favour of the treaty. These movements are very active and have acquired, as Long says, a lot of expertise and technical knowledge, “they have drawn up a draft treaty, on a maximalist basis, with the help of lawyers and experts.”

This draft Treaty at the UN has created a synergy between associations, NGOs, unions and activists around the world that have organised and linked together, to lobby for this treaty to be developed and adopted. Long believes that “there is an important political debate to be held at the UN on the primacy of the human being over capital ; so far, only states can be tried in court, not multinationals. Multinationals must be too !” It is vital that this group of negotiators can succeed in getting this treaty, to put an end to the impunity enjoyed by multinational companies and to punish their violations of civil, political, social, economic, cultural and environmental rights.

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