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Focus on Power

Contribution to GTI Forum Corporations in the Crosshairs

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In the global capitalist system, corporate profits are routinely given priority over environmental standards and peoples' rights. The self-regulation of corporate social responsibility (CSR) frameworks and the current United Nations Guiding Principles on Business and Human Rights, formally endorsed by the UN Human Rights Council in 2011, have proven ineffective in stopping this and correcting the asymmetry of power between big transnational corporations (TNCs), states, and people and their communities. This unevenness of power allows big corporations and TNCs to operate within a framework of complete corporate impunity.

It is important to remember that corporate power is not absolute or preordained, but was rather incrementally built through social relations over time. The economic and political power of TNCs was brought about by the rollback of the state in its function as defender of the public interest and the planet.

Sadly, governments are protecting the interests and privileges of large companies through free trade and investment agreements. For example, the Investor-State Dispute Settlement (ISDS) mechanism, an instrument of public international law, allows corporations to sue nation-states for perceived loss of profits. There are more than 3,400 policies and laws that support the interests of TNCs while not one law in effect for the supremacy of human rights over free trade and investment agreements. This reality endows TNCs with extraordinary privileges and rights—enabling them to act against the rights of peoples and their territories, benefiting from an architecture of impunity that frees them from responsibilities and obligations.

Environmental regulations put in place to address climate change are the fastest-growing cause for ISDS cases being filed not only against countries in the Global South, but also increasingly against countries in Europe. It is not surprising that mining and energy companies are now the most frequent users of ISDS mechanisms.

Susan George in her book *Shadow Sovereigns* best illustrates this when she wrote, “It’s not just their size, their enormous wealth and their assets that makes the TNCs dangerous to democracy. It is also their concentration and cohesion, their cooperation and capacity to influence, infiltrate and in some areas virtually replace governments.”

Since 2013, social movements, environmental and climate justice organizations, labor unions, women’s organizations, etc., have been mobilizing to push for a UN Binding Treaty on TNCs within the framework of human rights law. The Binding Treaty process, which is now in its fifth year, is giving various movements and civil society organizations opportunities to work together and challenge the unregulated accumulation of economic and political power by TNCs. They are pushing state parties toward a universal legal instrument that would put primacy of human rights over economic treaties that violate those rights. The work in promoting the Treaty complements national and local movement building and organizing aimed at deepening and broadening resistance against destructive extractivism, senseless planetary destruction, and the violation of human and workers’ rights and dignity as persons committed by TNCs.

About the Author



Dorothy Guerrero is Head of Policy and Advocacy at Global Justice Now, an organization that mobilizes people in the UK to act in solidarity with social justice groups in the Global South. Prior to Global Justice Now, she worked at the Transnational Institute, African Women Unite Against Destructive Resource Extraction, Focus on the Global South, Asienhaus, and the Institute for Popular Democracy in Manila, focusing on corporate accountability, climate justice, migration, and trade and investment. She holds an MA in Development Studies from the Institute of Social Studies in

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