

Business and human rights – Coherent action at national, regional and international levels is needed

- **A striking global imbalance can be observed between the amount of power and influence corporations exercise and international regulations on corporate liability for human rights violations.**
- **Human rights due diligence needs to become a priority for companies operating inside and outside the EU**
- **European States and the European Union must engage in a constructive and open way in the HRC Open Ended Working Group to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises**
- **The EU must meet its commitment to develop a European Action Plan on the UNGPs**
- **European Member States should continue to develop National Action Plans on Business and Human Rights which address the responsibility of States to protect human rights (UNGP pillar 1) and provide access to remedy (UNGP pillar 3).**

Globalisation and deregulation at an unprecedented scale have given enormous power and influence to multinational corporations. However, this has not been balanced by a framework outlining rules to regulate business activities and to effectively prevent human rights violations.

Cases of serious corporate-related environmental and human rights abuses make the news regularly. They take the shape of gross environmental neglect and exploitation, flagrant labour rights violations or partnerships fuelling violent conflicts in the developing world. From the sourcing of conflict minerals¹, to banks financing megaprojects causing irreparable damage to indigenous communities², to the use of slave labour in the production of food products³ sold in leading supermarkets – no sector is excluded from the corporate list of shame.

The adoption of the UN Guiding Principles on Business and Human Rights⁴ (UNGP) in 2011 was a significant development in international efforts to address the negative impact irresponsible business has on environmental and human rights. Yet, four years later, implementation rates are still unsatisfactory, while important matters – such as access to justice for victims – remain unaddressed by governments.

What is worse, civil society organisations report that the situation in the field has deteriorated due to an increasingly hostile environment for human rights defenders. Between 2011 and 2014, FIDH and OMCT's Observatory documented 43 assassinations of land rights defenders and the judicial harassment of 123 others⁵. They were targeted for defending their land, forests and waterways and for speaking out against the expansion of large-scale agriculture, dams, mining, logging and other threats to their communities.

For its part, the EU has not met its commitment to launch an Action Plan to implement the UNGPs, due since 2012. At a member state-level, several governments have released National Action Plans on Business and Human Rights, or launched processes to develop them. However, despite making reference to the need

¹ <http://www.corporatejustice.org/European-parliament-votes-for.html?lang=en>

² <http://www.corporatejustice.org/Independent-report-Dutch-and.html>

³ [Revealed: Asian slave labour producing prawns for supermarkets in US, UK](#)

⁴ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁵ *We are not afraid*, Observatory for the Protection of Human Rights Defenders Annual report 2014, FIDH and OMCT
<https://www.fidh.org/International-Federation-for-Human-Rights/human-rights-defenders/annual-reports/16546-we-are-not-afraid>

for regulatory measures, these national plans rely almost exclusively on voluntary measures⁶. Regrettably, research reports show time and again that voluntary standards fail to provide an adequate solution and the real answer comes in the form of comprehensive regulation. For instance, a recent enquiry exposed serious loopholes in Inditex's monitoring of its Brazilian supply chain⁷, despite the company's 2011 commitment to address modern-day slavery conditions in its supply chain.

It is time for bold action and adopting a coherent approach, at national, regional and international levels.

In June 2014, the Human Rights Council (HRC) Resolution 26/9 established an open-ended intergovernmental working group (IGWG) whose mandate is to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises and their impact. According to Res. 26/9, "the first two sessions of the open-ended intergovernmental working group (IGWG) shall be dedicated to conduct constructive deliberations on the content, scope, nature, and form of the future international instrument". This global initiative could be a game changer for millions of people whose daily lives are affected by corporate abuse and who are systematically denied access to justice.

As a committed member of the Treaty Alliance⁸, ECCJ welcomes HRC efforts in creating an international instrument to address corporate human rights violations. ECCJ finds that it complements existing national and regional processes, including the development of National Action Plans on Business and Human Rights, the adoption of regulatory measures and the Council of Europe's work in addressing gaps in the implementation of the Guiding Principles at the European level. An international framework as proposed by the HRC is needed to harmonise global legislation in the field and ensure that human rights can be equally enforced world-wide. At the same time, national level initiatives such as the French duty of vigilance bill⁹ also need to be discussed in an international forum, in order to create an even-level playing field and avoid criticism related to unfair competition.

Former UN Special Rapporteur John Ruggie described the adoption of the UN Guiding Principles on Business and Human Rights as "the end of the beginning", pointing out that the human rights standards established in relation to business represent a floor of minimum obligations, and certainly not a ceiling. If we are to see wide-scale reductions of human rights abuses linked to business activities, it is paramount to stimulate progress at all levels of governance. The proposal for a UN Treaty on Business and Human Rights, the implementation of the UNGPs and initiatives at the national and regional level are therefore both complementary and mutually reinforcing.

We therefore call on European States and the European Union to engage in the UN process initiated by the Human Rights Council in good faith and in a constructive manner, and take the implementation of the UN Guiding Principles seriously through the development of a European Action Plan on Business and Human Rights, including the adoption of robust policy and legislative measures. Concurrently, European Member States must continue developing National Actions Plans, keeping in mind that for these plans to be credible and efficient they must address the responsibility of States to protect human rights (UNGP pillar 1) and access to justice (UNGP pillar 3).

⁶ See our analysis jointly developed with ICAR: http://corporatejustice.org/IMG/pdf/icar-eccj_assessments_of_existing_naps.pdf

⁷ <http://www.corporatejustice.org/Fashion-brand-Zara-once-again.html>

⁸ <http://www.treatymovement.com/>

⁹ <http://www.corporatejustice.org/France-Historic-Vote-for-Corporate.html?lang=en>