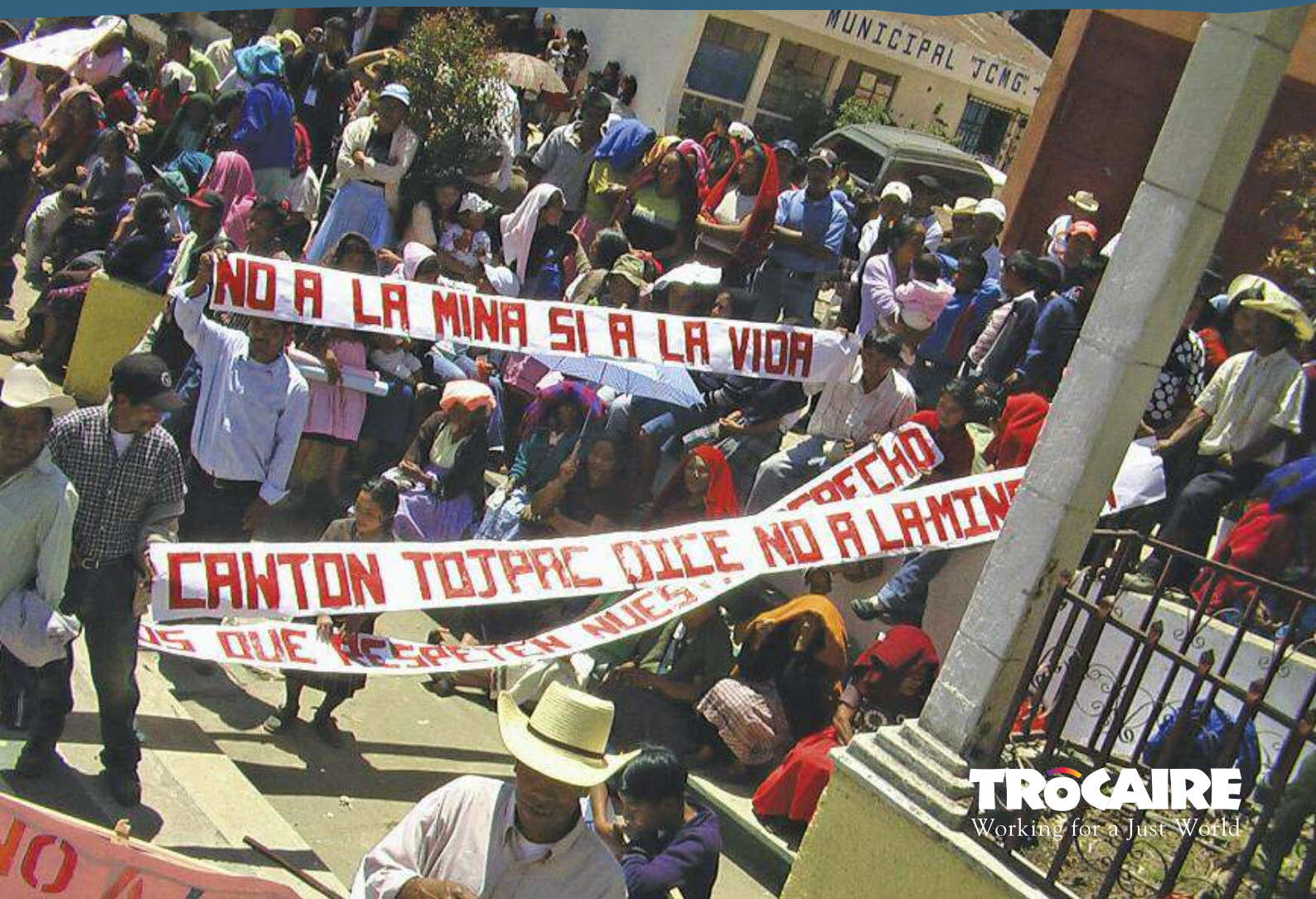


BUSINESS AND HUMAN RIGHTS

Advocacy Manual



TROCAIRE
Working for a Just World



This advocacy manual was conceived and co-authored by the Trócaire Governance and Human Rights team with Hannah Grene of Barncat Consulting.

Trócaire Business and Human Rights Advocacy Manual 2010.

Cover Image: Under ILO convention 169, the Free Prior and Informed Consent of Indigenous people should be obtained before mining projects commence on their lands. Photo: Pastoral Commission Peace and Ecology, Diocese of San Marcos, Guatemala.

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ACRONYMS

CAFOD	Catholic Agency for Overseas Development (England and Wales)
CERD	Convention on the Elimination of all forms of Racial Discrimination
CIDSE	International alliance of Catholic Development Agencies
COSIBAH	Network of Banana and Agro-industrial Trade Unions of Honduras
DRC	Democratic Republic of the Congo
ECCR	Ecumenical Council for Corporate Responsibility
EITI	Extractive Industries Transparency Initiative
FLA	Fair Labor Association
ICCR	Interfaith Centre on Corporate Responsibility
ICTI	International Council of Toy Industries
IFA	International Framework Agreement
IFC	International Finance Corporation
ILO	International Labour Organisation
IPEC	International Programme on the Elimination of Child Labour
MIGA	Multilateral Investment Guarantee Agency
NCP	National Contact Points of the OECD
NGO	Non-governmental organization
NHRI	National Human Rights Institution
OECD	Organisation for Economic Co-operation and Development
PIPlinks	Philippines Indigenous Peoples Links
TNC	Trans-national corporations
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UPR	Universal Periodic Review
US	United States

Foreword

TRÓCAIRE BELIEVES THAT BUSINESS PLAYS A PIVOTAL ROLE IN THE FIGHT AGAINST POVERTY AND HAS A CRUCIAL ROLE TO PLAY IN THE DEVELOPMENT PROCESS THROUGH MUCH NEEDED INVESTMENT, JOB CREATION AND TRAINING.



Small and medium enterprises will play a central role in relaunching growth in low-income countries, according to the World Bank. Trócaire has a long history of supporting business-related initiatives of farmer's groups, women's' cooperatives and local enterprise development.

Examples of successful initiatives include support to exporting fair trade olive oil from Palestinian farmers, fair trade coffee from farmer cooperatives in Central America and the development of processed cereals and baby foods in Rwanda for local and regional markets.

Equally, technological advances introduced by private corporations are bringing about rapid shifts in the ways in which people can protect their livelihoods and increase the likelihood that they can keep their families out of poverty. For example, mobile phone companies are providing services such as access to weather information for farmers and savings schemes for people without bank accounts.

Trócaire believes that companies are an important player in the development agenda as they bring together capital, labour and knowledge to address the needs of their societies. However our experience has shown that in countries with weaker governance systems, business actors, in particular trans-national corporations (TNCs) may in some cases play an unconstructive role, where they contribute to environmental degradation and human rights abuses.

In order to realise the potential of the private sector's role in development, the question of accountability needs to be addressed. Many advances have taken place in this respect. The Special Representative of the Secretary General on Business and Human Rights has produced a landmark framework adopted by the UN and endorsed by the European Union which aims to ensure that human rights violations by business interests are addressed. Significant international mechanisms have been put in place, often jointly with the private sector, to address the impact of business on human rights in specific areas.

This manual is designed to equip all those who wish to engage with these issues and work for greater accountability and transparency in the operations of business in countries of the developing world with information on the avenues open to them.

I trust you will find it to be practical and engaging and look forward to receiving feedback on its usefulness over the coming number of years.

Justin Kilcullen

Director

1. INTRODUCTION



Many Niger Delta children live close to highly polluting gas flares from the oil industry.
Photo: Friends of the Earth International



'Advocacy work is something within the reach of ordinary NGOs very often engaged in direct service delivery type work on the ground. Advocacy is not a separate 'project' as it were but something that well informed actors with good experience on the ground can engage in with the minimum of finance.'

Trócaire report on preparing a Shadow Report to the Convention on Discrimination Against Women in Sierra Leone¹

The following guide aims to help Trócaire staff and partners with concerns about corporations and human rights, by providing a clear overview of the various mechanisms which exist to hold corporations to account for their actions with regard to human rights. It is intended as a practical resource, giving information about how to access these mechanisms and providing case studies of successful use by civil society organisations. The guide attempts to outline some of the core concepts and debates, and in particular, to highlight that all concerned NGOs and stakeholders can and should take part in holding businesses to account.

Corporations are complex organisations, with multiple stakeholders, backers and subsidiaries. While this can present a considerable challenge, it is also an opportunity, presenting multiple avenues through which to try to influence the company. This resource attempts to cover some of the most useful of these opportunities.

Throughout the text, we have highlighted potential **action points** - these are suggestions for making practical use of some of the avenues and tools described here. With all of these action points, if you need further information or assistance in pursuing your complaint, you can contact Trócaire's Governance and Human Rights Unit, who will be happy to offer advice or to direct you to appropriate resource persons or organizations.

ACTION POINT 1:

Getting started! Define the problem, and work with the affected people to outline a possible solution. Next, look at the various avenues and possibilities for influencing the corporation. This can be done with the help of the following table and diagram.

¹ Aongus O'Keeffe, *Preparing a Shadow Report: Lesson Learning from the experience of Trócaire support to civil society in Sierra Leone in 2006-7*, June 2007.

Overview

What is covered in each chapter?

How does this help me?

<p>1. What's the problem? current debates on business and human rights</p> <ul style="list-style-type: none"> • Why we need to think about business and human rights as a separate issue? • The framework for business and human rights created by the UN Special Representative on Business and Human Rights, John Ruggie 	<ul style="list-style-type: none"> ✓ Understand the current international framework with regard to the responsibilities of business and human rights. ✓ Understand the difference between the host state and the home state of a corporation, and their responsibilities.
<p>2. People and profits: the business responsibility to respect human rights</p> <ul style="list-style-type: none"> • What is corporate responsibility, and how is it different from business responsibility towards human rights? • Responsibility to respect: due diligence • Responsibility to respect: supply chain 	<ul style="list-style-type: none"> ✓ Formulate your complaint about a company in terms of human rights. ✓ Find out if the company you are dealing with has a human rights statement of policy. ✓ Investigate the supply chain.
<p>3. A myriad of possibilities: industry, multi-stakeholder and civil society initiatives</p> <ul style="list-style-type: none"> • Industry initiatives • Multistakeholder initiatives • Civil society campaigns • Faith-based initiatives 	<ul style="list-style-type: none"> ✓ Understand the strengths and weaknesses of the various stakeholder mechanisms. ✓ Discover whether there is an initiative for the sector with which you are concerned.
<p>4. The state takes a stand: the duty to protect human rights</p> <ul style="list-style-type: none"> • Host country concerns: stabilisation clauses • Home country: human rights lawsuits against corporations • National Human Rights Institutions • Export credit agencies • Taxation matters! • Corruption matters! 	<ul style="list-style-type: none"> ✓ Understand what a National Human Rights Institution (NHRI) is, and whether it is possible to raise a complaint about a company with a particular NHRI. ✓ Explore the issues relating to host country and home country obligations. ✓ Learn why taxes companies are due to pay are a major governance issue. ✓ Learn how social auditing work can tackle corruption.

<p>5. Where do human rights begin? the United Nations human rights system</p> <ul style="list-style-type: none"> • Core human rights treaties • Universal Periodic Review • Special Procedures • UN Convention against Corruption • UN Declaration on Indigenous Peoples 	<ul style="list-style-type: none"> ✓ Understand how the UN human rights reporting systems work, and how civil society organisations can participate in them.
<p>6. United we stand: the International Labour Organisation (ILO) and the trade union movement</p> <ul style="list-style-type: none"> • ILO Declaration on Fundamental Principles and Rights at Work • ILO Convention 169 on Tribal and Indigenous Peoples • Tripartite Declaration of Principles Concerning Multinational Enterprises • Trade unions and international framework agreements 	<ul style="list-style-type: none"> ✓ Understand the various human rights instruments of the ILO. ✓ Understand how to influence proceedings at the ILO through its member states. ✓ Find out which companies have signed International Framework Agreements with Global Union Federations.
<p>7: Democracy and the market economy: the Organisation for Economic Co-operation and Development</p> <ul style="list-style-type: none"> • OECD Guidelines for Multinational Enterprises • OECD Anti-Bribery Convention 	<ul style="list-style-type: none"> ✓ Understand how to bring a complaint against a company to the relevant National Contact Point.
<p>8: Counting the cost: finance and investment</p> <ul style="list-style-type: none"> • International finance and the Equator Principles • Faith-based shareholder activism • National Pension Funds 	<ul style="list-style-type: none"> ✓ Understand how to bring a complaint to a financial institution which is backing a company committing human rights abuses. ✓ Understand how to engage in shareholder activism.

Overview of chapters and action points

1. Introduction

ACTION POINT 1:

Action point 1: Getting started! Define the problem, and work with the affected people to outline a possible solution. Next, look at the various avenues and possibilities for influencing the corporation. This can be done with the help of the following overview, or schematic diagram.

2. What's the problem? Current debates on business and human rights

- ✓ Why we need to think about business and human rights as a distinct issue
- ✓ The framework for business and human rights created by the UN Special Representative on business and human rights, John Ruggie.

ACTION POINT 2:

Action point 2: Identify the host and home state of the corporation with which you are dealing, and decide which might be more responsive to their duty to protect – you can of course appeal to both.

ACTION POINT 3:

Action point 3: It can be difficult to prove that a corporation was fully aware of the negative impact of their actions. By referring to due diligence in your complaint, however, you can move the debate from what they did or did not know to what they **should have** known.

3. People and profits: the business responsibility to respect human rights

- ✓ What is corporate responsibility, and how is it different from business responsibility towards human rights?
- ✓ Responsibility to respect: due diligence
- ✓ Responsibility to respect: supply chain.

ACTION POINT 4:

Action point 4: When formulating a complaint against a company, try to think in terms of the impact the company's actions may be having on specific human rights, such as the right to freedom of association, the right to non-discrimination, or the right to health. Think about phrasing your complaint with reference to international human rights standards. More on this, and how to access the various international human rights treaties, can be found in Chapter 6 on the United Nations.

ACTION POINT 5:

Action point 5: The Business and Human Rights Resource Centre maintains an updated list of companies with a human rights statement of policy. Check to see whether the company you are dealing with has such a statement and outline in your letter of complaint why you feel their actions are in contradiction to their own stated policy.

ACTION POINT 6:

Action point 6: If the local factory or enterprise with which you are concerned is not run by a brand name, try to find out to whom they supply. The bigger the brand name to whom they supply, the more protective the brand name will be of their reputation, and the more responsive they may be to calls for change. You may be able to pursue the complaint in the home state of the buyer, as well as in the host state of the supplier.

4. A myriad of possibilities: industry, multi-stakeholder and civil society initiatives

- ✓ Industry initiatives
- ✓ Multistakeholder initiatives
- ✓ Civil society campaigns
- ✓ Faith based initiatives

ACTION POINT 7:

Action point 7: This chapter contains a non-exhaustive list of some of the industry, multi-stakeholder and civil society initiatives that exist in the business and human rights area. Find out if there is one covering the sector with which are concerned, and whether you might raise your complaint with them.

5. The state taking a stand: the duty to protect human rights

- ✓ Host country concerns: stabilisation clauses
- ✓ Home country: human rights lawsuits against corporations
- ✓ National Human Rights Institutions
- ✓ Export credit agencies
- ✓ Taxation matters!
- ✓ Corruption matters!

ACTION POINT 8:

Action point 8: Check if there is a National Human Rights Institution (NHRI) in your country and if so that it is accredited to the Paris Principles and whether it accepts complaints about corporations. Write a letter outlining your complaint and request a meeting.

ACTION POINT 9:

Action point 9: Find out whether the corporation with which you are concerned has been offered credit or guarantees by its home state, and contact the Department of Trade with your concerns.

ACTION POINT 10:

Action point 10: Support partners to engage with the Publish What You Pay campaign, and call for governments to sign up to the Extractive Industries Transparency Initiative process, which has similar goals. Investigate what taxes and royalties are being paid by the corporation and compare these to industry averages.

ACTION POINT 11:

Action point 11: Support partners as part of social service audits to examine contract implementation by local and/or international companies.

6. Where do human rights begin? the United Nations human rights system

- ✓ Core human rights treaties
- ✓ Universal Periodic Review
- ✓ Special Procedures
- ✓ UN Convention against Corruption
- ✓ UN Declaration on Indigenous Peoples

ACTION POINT 12:

Action point 12: If you feel that a state is not doing enough to prevent abuses of human rights by a corporation, you can raise this in a shadow report to one of the UN treaty monitoring committees. You can raise this concern with regard to the host state, or the home state, as long as they have signed up to the treaty.

ACTION POINT 13:

Action point 13: Check when the Universal Periodic Review of both the host and the home state of the corporation with whom you have a concern is coming up. Submit a brief report with questions and recommendations for that country, both to the Human Rights Council itself, and to any friendly government with whom you have ties.

ACTION POINT 14:

Action point 14: Is there a Special Procedure on a theme or in a country with which you have a concern? If so you can find out what issues are currently under discussion, and whether there is a country visit or public consultation coming up in which you could participate.

ACTION POINT 15:

Action point 15: Check if the state in which you operate has signed the UN Convention Against Corruption and either campaign for it to ratify the Convention, or check on the progress of the monitoring mechanisms, with a view to using them once they have been established.

7. United we stand: the International Labour Organisation (ILO) and the trade union movement

- ✓ ILO Declaration on Fundamental Principles and Rights at Work
- ✓ ILO Convention 169 on Tribal and Indigenous Peoples
- ✓ Tripartite Declaration of Principles Concerning Multinational Enterprises
- ✓ Trade unions and international framework agreements (IFAs)

ACTION POINT 16:

Action point 16: While NGOs and trade unions cannot file complaints directly with the ILO, they can seek to influence a member government's action at the ILO. Explore whether there are specific ILO initiatives or projects which you might encourage your government to engage with.

**ACTION
POINT 17:**

Action point 17: Find out if the company with which you are dealing has signed an International Framework Agreement (IFA). If you believe that the company has violated the terms of the agreement, talk to the relevant local union to ensure close coordination and potential collaboration, and then consider contacting the Global Union Federation responsible for that IFA.

Democracy and the market economy: The Organisation for Economic Co-operation and Development

- ✓ OECD Guidelines for Multinational Enterprises
- ✓ OECD Anti-Bribery Convention

**ACTION
POINT 18:**

Action point 18: Filing a complaint under the OECD Guidelines is simply done by writing a letter to the appropriate National Contact Point, and in some cases, will produce a useful result. The list of National Contact Points is provided on the OECD website. If you need some advice on filing a complaint, you can contact OECD Watch, a civil society network specifically focused on the OECD Guidelines, or browse the resources on their website.

Counting the cost: Finance and investment

- ✓ International finance and the Equator Principles
- ✓ Faith-based shareholder activism
- ✓ National Pension Funds

**ACTION
POINT 19:**

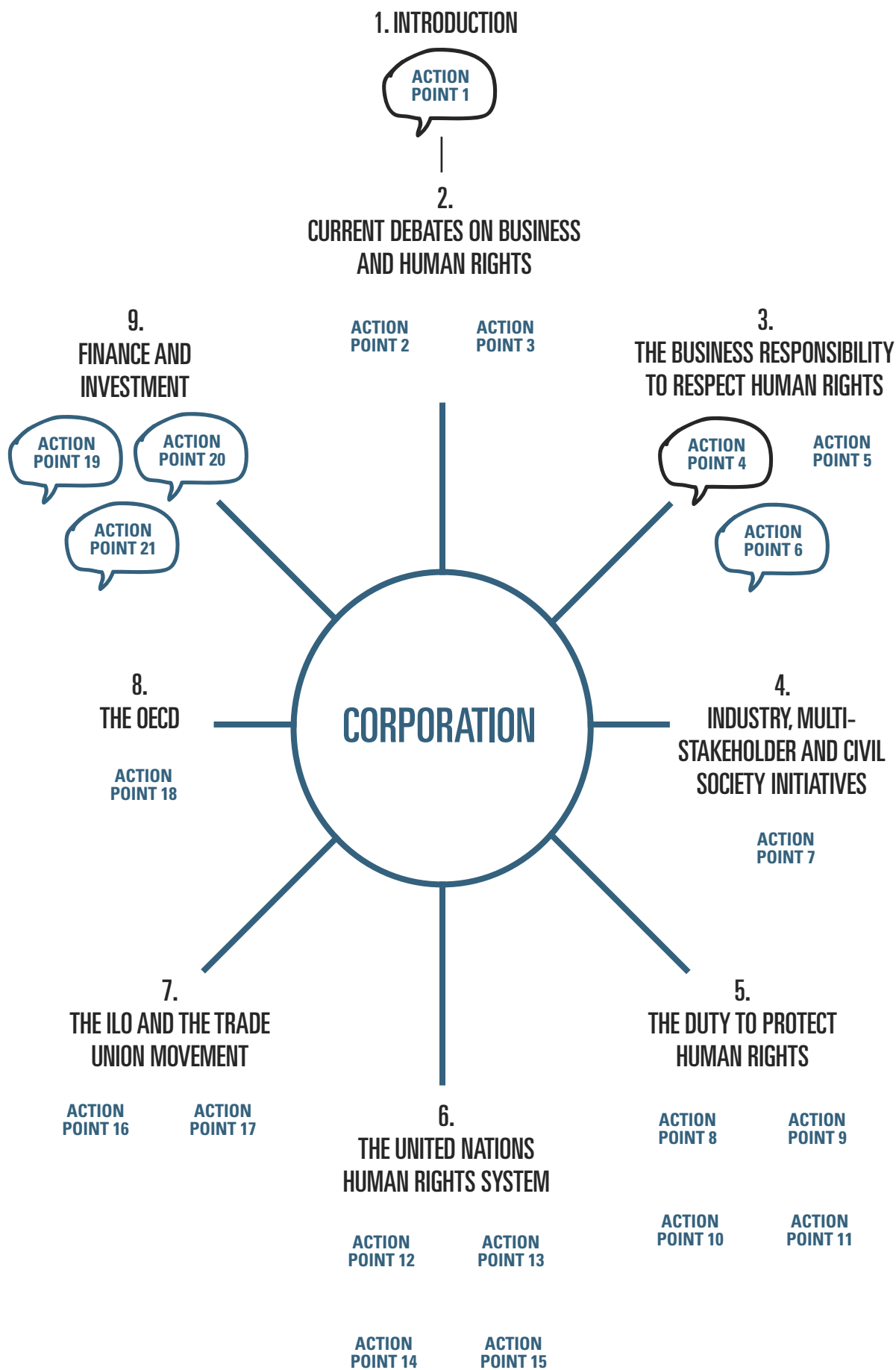
Action point 19: Find out if the company with which you are concerned is financed by one of the major international development banks. A complaint to any of the IDBs can be initiated simply by writing a letter.

**ACTION
POINT 20:**

Action point 20: Contact the ECCR or the ICCR in the USA, to discuss your concerns about a corporation, and to see what support they could offer in engaging with the corporation or its shareholders.

**ACTION
POINT 21:**

Action point 21: Investigate which state pension funds have invested in the corporation you are dealing with. Contact this fund with your concerns, ask the fund to engage the company on the issue to press the company to change its behavior. Ireland has a state pension fund, as do other European countries.



2. WHAT'S THE PROBLEM?

CURRENT DEBATES ON BUSINESS AND HUMAN RIGHTS



Child labour on coffee plantations in Nicaragua hinders longer-term economic progress. Photo: Noel Gavin

“...considerable numbers of individuals whose human rights are impacted by corporations, lack access to any functioning mechanism that could provide remedy. This is due in part to a lack of awareness as to where these mechanisms are located, how they function and what supporting resources exist.”

Professor John Ruggie, Special Representative to the UN Secretary General on Business and Human Rights²

It is now accepted in international law that all human beings enjoy human rights, and that the state has the primary responsibility to ensure these rights. The state's duty includes not only respecting human rights itself, but also protecting individuals from abuse of their human rights by any third party, including by a business organisation.

If that is the case, then why do we need to think about business and human rights as a separate issue? The answer is that there are a number of gaps in the framework.

1. The State does not always have full control – there are multinational corporations operating in conflict zones, or in places where State governance is weak. In the Democratic Republic of Congo, for example, a 2002 investigation by a United Nations panel of experts³ reported that they believed as many as 85 multinational corporations had violated the OECD Guidelines for Multinational Enterprises, through actions which included sourcing materials from mines that used child or forced labour, and paying taxes to rebel groups controlling resource-rich areas, thereby financing and prolonging conflict.
2. A corporation may sometimes even provide the incentive for human rights violations by the state itself. In the early 1990's in Burma, the military forcibly relocated several villages, inflicting murder, rape and torture in the process, to make way for a new pipeline, managed by a consortium of US and European corporations.⁴
3. The spread of globalisation has led to a situation where multinational corporations may actually be bigger than a country hosting their operations. A study in 2002 by the United Nations Conference on Trade and Development (UNCTAD) found that of the world's 100 largest economies, 29 were not states, but multinational corporations.⁵ By this measure, for example, oil company ExxonMobil is ranked as the 45th biggest economy in the world. Two of the countries in which it is currently active, Chad and Cameroon, do not even make it into the top 100 list, meaning that Exxon is at least four times bigger than either of their economies.⁶ This clearly leads to an imbalance of power.

² 'Protect, Respect and Remedy' April 2008, page 27, para 102.

³ UN Security Council (2002) Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and other Forms of Wealth of the Democratic Republic of the Congo. http://www.smartsanctions.se/stockholm_process/reports/congo_20021031.pdf

⁴ <http://www.earthrights.org/campaigns/yadana-pipeline>

⁵ See UNCTAD, 'Are transnationals bigger than countries?', 12/08/02. Available at

<http://www.unctad.org/Templates/webflyer.asp?docid=2426&intItemID=1634&lang=1>. Accessed 18 February 2010

⁶ Exxon's value-added was estimated at €63 billion; the lowest value in the top 100 was €17 billion.

These type of scenarios show that there are some situations in which relying on the duty of the State to protect human rights alone is not sufficient, and that a more proactive role for corporations is sometimes needed. Although international law does not yet fully cover these gaps, there have been some exciting developments in recent years. In 2008, the United Nations Human Rights Council endorsed *'Protect, Respect and Remedy'*, a framework for business and human rights presented by Professor John Ruggie, Special Representative on Business and Human Rights.⁷

This framework has quickly become the most widely accepted approach to business and human rights which has ever been put forward. How this framework can fully be implemented is not yet clear, and Professor Ruggie's mandate has been extended until 2011, to put in place an implementation strategy. However, the fact that the framework has already been endorsed by the Human Rights Council is extremely important, and it has been largely well received by both civil society and business. The framework has also provided focus and impetus for the wider debate on business and human rights, and many of the mechanisms for protecting against corporate human rights abuses discussed in this document are undertaking reviews in light of the Ruggie report. In November 2009, the European Union adopted the Ruggie framework as its guiding principles on corporate social responsibility, and pledged to take a leading global role in promoting it.

The three underlying principles of the framework – the duty of the State to protect human rights; the responsibility of the corporation to respect human rights and the access of victims to remedy for any human rights abuse – are outlined briefly below.

The duty to protect

As mentioned above, the duty of the State to protect its citizens against abuses of human rights by third parties, including corporations, is well accepted. In some cases, however, the **host state** – the state in which the corporation is operating - is unwilling or unable to take on that role. In such cases, the accountability gap may be filled by appealing to the state in which the parent company of the corporation is headquartered – known as the **home state**.

Experts do not agree on whether states have a responsibility to protect individuals abroad from human rights abuses by corporations headquartered in their territory. What is clear is that they are not prevented from doing so, and that there are several ways in which home states can and do monitor and regulate the behaviour of their corporations abroad, several of which are outlined in this paper.

ACTION POINT 2:

Identify the host and home state of the corporation with which you are dealing, and decide which might be more responsive to their duty to protect – you can of course appeal to both.

⁷ UN Human Rights Council "Protect, Respect and Remedy: A Framework for Business and Human Rights: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie" (Advance Edited Version), A/HRC/8/5, April 2008) [hereafter 'Protect, Respect and Remedy, April 2008]

The responsibility to respect

A treaty, like a contract, is only binding on the parties who actually sign it. Because corporations, unlike states, do not sign human rights treaties, they are not directly bound by them. What they do have, however, is a responsibility to *respect* those human rights, just as individuals do.

The difficulty is in knowing what exactly the responsibility to respect consists of, and how corporations should ensure that they are fulfilling it. This is why the concept of 'due diligence' is important. Due diligence means the care that a company should reasonably be expected to take in order to fulfil an obligation, in this case, respect of human rights.

For example, it would not be enough for a company to argue that they were not aware of the negative effect their activities were having on the local people or environment. Proper due diligence with regard to their responsibility to respect human rights should have uncovered that fact.

ACTION POINT 3:

It can be difficult to prove that a corporation was fully aware of the negative impact of their actions. By referring to due diligence in your complaint, however, you can move the debate from what they did or did not know to what they should have known. See chapter 2 for further discussions of this.

The access to remedy

There is already a wide range of grievance mechanisms, at company, national and international level, through which individuals can raise complaints about human rights and through which they may be able to access remedy. Professor Ruggie's work until 2011 is aimed at improving, setting standards, and enhancing these mechanisms, so that together, they will form a coherent system. However, he also argues that many individuals do not have access to remedy because they are simply unaware of the mechanisms that do exist.

3. PEOPLE AND PROFITS

THE BUSINESS RESPONSIBILITY TO RESPECT HUMAN RIGHTS



Farm produce is entering the EU labeled as Israeli products while being produced in illegally built settlements.

Photo: Trócaire

“ ‘The social responsibility of business is to increase its profits’

Milton Friedman, *New York Times Magazine*, September 13, 1970.

“ ‘Those responsible for business enterprises are responsible to society for the economic and ecological effects of their operations. They have an obligation to consider the good of persons and not only the increase of profits’.

Catechism of the Catholic Church, n.2432

In 1970, economist Milton Friedman argued against the growing concept of corporate social responsibility, maintaining that the sole responsibility of business is to increase its profits, and that to do anything else would be misuse of shareholders' funds.

Nonetheless, corporate social responsibility has continued to grow and gain currency. Many companies now refer to the 'triple bottom line'. The original bottom line – profit – is then considered in conjunction with 'planet' – environmental sustainability – and people – fair labour and concern with impact on the local community.

While corporate social responsibility can be a useful tool for civil society in engaging with corporations, and has contributed to many worthwhile projects, it is very important to distinguish between CSR and business responsibility for human rights.

Corporate social responsibility is a voluntary initiative, which many companies now believe helps their public image, sustainability and ultimately, their profits. Business responsibility for human rights, on the other hand, is a legal obligation and this is generally acknowledged by business; 'all companies...are expected to obey the law, even if it is not enforced, and to respect the principles of relevant international instruments where national law is absent.'⁸

⁸ International Organisation of Employers, International Chamber of Commerce, and the Business and Industry Advisory Committee to the OECD, *Business and Human Rights: the role of business in weak governance zones*, December 2006.

In calling for change, it can be useful to refer to the corporate social responsibility agenda, as the company may be motivated to bring about change to prevent any damage to its reputation. However, it is vital to stress that the responsibility of business towards human rights is a **legal obligation** and not a voluntary initiative.

ACTION POINT 4:

When formulating a complaint against a company, try to think in terms of the impact the company's actions may be having on specific human rights, such as the right to freedom of association, the right to non-discrimination, or the right to health. Think about phrasing your complaint with reference to international human rights standards.

Due diligence

'Companies universally will say that they respect human rights...The question that we ask them is "...We are delighted that you respect human rights, but how do you know that you do? What steps do you go through to demonstrate to yourself that you do, and are those steps adequate? Most of the time there are no systems in place.'

This comment from Professor Ruggie illustrates the importance of the concept of 'due diligence', which was discussed briefly in Chapter One.

Professor Ruggie has initially identified four steps which companies must take to ensure due diligence. These are: a statement of policy with regard to human rights; assessment of any projects that may potentially have a human rights impact; integration of human rights policy across the company, rather than it being viewed as a corporate social responsibility add-on, and tracking and reporting responsibility.

ACTION POINT 5:

The Business and Human Rights Resource Centre maintains an updated list of companies with a human rights statement of policy. Check to see whether the company you are dealing with has such a statement at <http://www.business-humanrights.org/Documents/Policies> and outline in your letter of complaint why you feel their actions are in contradiction to their own stated policy.

Case study 1: Supermarkets selling Israeli settlement goods

Simply writing a letter to a company can be a good way of initiating a dialogue on a particular issue. The Ecumenical Council for Corporate Responsibility, a faith-based British and Irish network of which Trócaire is a member, has launched a campaign of letter writing to all major supermarket chains, outlining their concerns with goods sourced from the illegal Israeli settlements and enquiring as to the supermarket's policy with regard to stocking these goods. This both brings the issue to the supermarket's attention, and elicits information for future stages in the campaign. The ECCR provides excellent advice on letter-writing in its Guide to Investment and Engaging with Companies, available on its website.⁹

Supply chain

One of the most difficult things about holding corporations to account is the complex and diverse way in which they are structured. Increasingly, big brand names do not actually manufacture any of the products they sell, but outsource the manufacturing to the lowest bidder. This gives rise to two problems. Firstly, the competitive tender process forces the supplier to make their costs as low as possible, squeezing pay and working conditions. They may only put in place such minimum standards as the buyer insists upon. Although most of the big brand buyers will have corporate social responsibility and human rights policies, they may argue that they cannot be responsible for enforcing these further down their supply chain.

Fortunately, this attitude is changing, under pressure from consumers and civil society. Recent decisions by business and human rights mechanisms are also taking the supply chain into account, as is illustrated by the case study on the following page.

⁹ The Ecumenical Council for Corporate Responsibility, *Investment and Engaging with Companies: A Guide for Faith Communities*, July 2008, available at <http://www.eccr.org.uk/module-htmlpages-display-pid-48.html>

Case study 2: The supply chain in the coltan trade in the Democratic Republic of Congo

In 2008, the UK National Contact Point for the OECD Guidelines for Multinational Enterprises examined a case against UK company Afrimex in the Democratic Republic of Congo brought by Trócaire's partner Global Witness. The allegations were that Afrimex paid taxes to occupying rebel forces, thereby helping to fuel ongoing conflict, and sourced their minerals in mines that used child and forced labour. Afrimex argued that they did not pay tax directly in the DRC, and that the supply chain for minerals was extremely fractured, with Afrimex at several steps removed from the mine. The UK National Contact Point however, relied on Professor Ruggie's concept of 'due diligence' in their response, concluding that Afrimex was in a strong position to influence their supply chain, and thus were in violation of the guidelines for having failed to prevent the payment of such taxes.¹⁰ For more on the OECD Guidelines, see Chapter Seven.

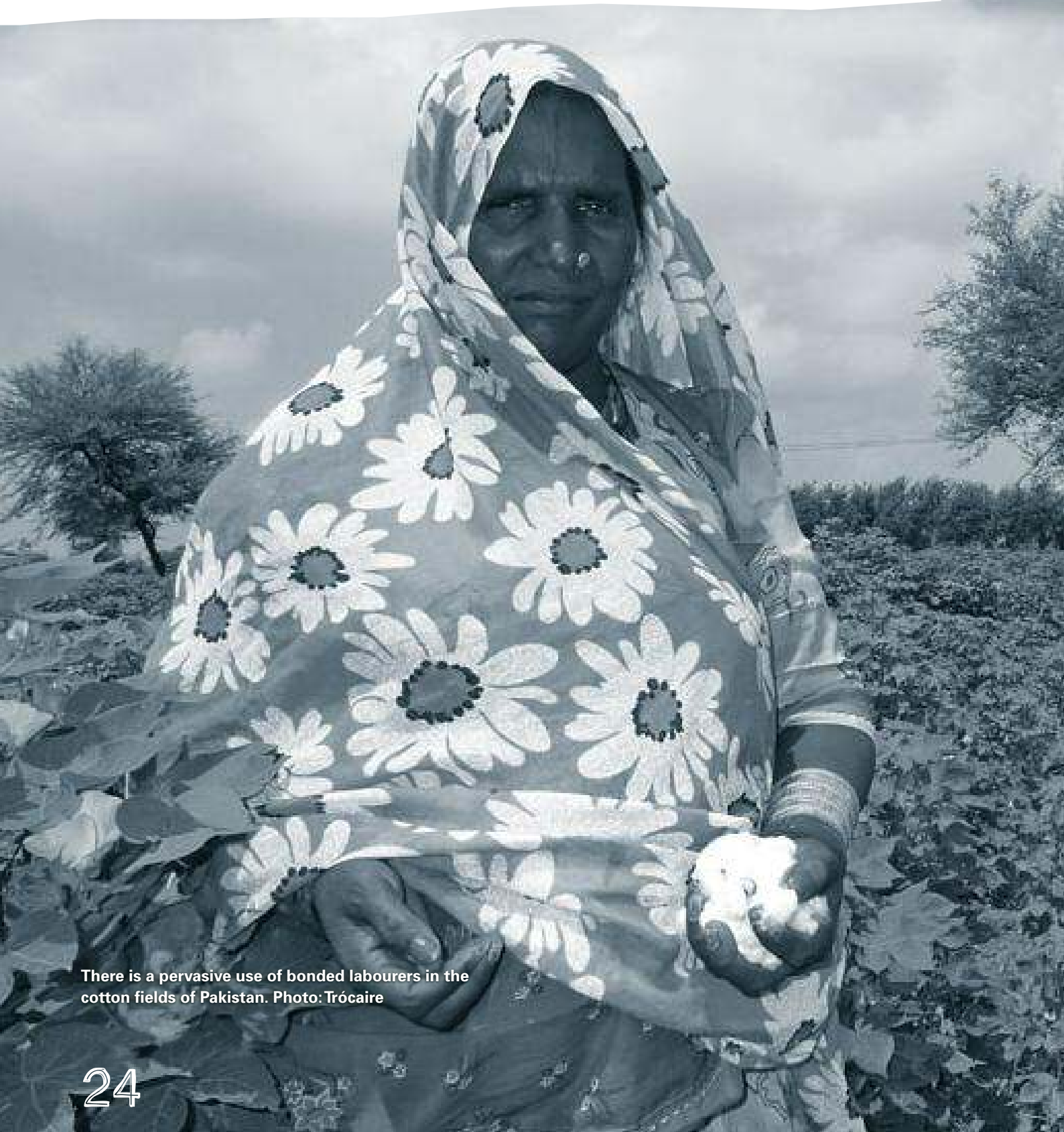
ACTION POINT 6:

If the local factory or enterprise with which you are concerned is not run by a brand name, try to find out to whom they supply. The bigger the brand name to whom they supply, the more protective the brand name will be of their reputation, and the more responsive they may be to calls for change. You may be able to pursue the complaint in the home state of the buyer, as well as in the host state of the supplier.

¹⁰ OECD UK National Contact Point, Final Statement on Afrimex, 28 August 2008.

4. A MYRIAD OF POSSIBILITIES

INDUSTRY, MULTI-STAKEHOLDER AND
CIVIL SOCIETY INITIATIVES



There is a pervasive use of bonded labourers in the cotton fields of Pakistan. Photo: Trócaire

“ ‘Ethics demands that systems be attuned to the needs of man, and not that man be sacrificed for the sake of the system.’

Pope John Paul II, The Ethical Dimensions of Globalisation

The previous chapter looked at the business responsibility to respect human rights, and some of the underlying issues and concepts. As we have argued, there exists a legal obligation on businesses to respect human rights. However, the way in which this should be enforced is still unclear.

Because of this lack of clarity, a whole set of codes of conduct, industry initiatives, and enforcement mechanisms have sprung up which are aimed at monitoring and improving businesses' social and environmental policies and their respect for human rights. These types of mechanisms are common especially in industries where abuses have been particularly prevalent, such as the extractive industries, or industries where companies feel a greater risk of reputational damage, such as the garment industry.

The following chapter goes through some of the main initiatives. It distinguishes between industry-only initiatives, multi-stakeholder initiatives, and civil society led campaigns and gives some examples of each.

Industry initiatives

Many companies will belong to a national association of companies in the same industry, and these national associations in turn often belong to an international association. The role of these international associations is to promote the interests of their industries, and a part of this is protecting the industry's reputation and image. Consequently, many of these international associations will have an extensive corporate social responsibility programme, including codes of conducts, or certification processes. While it may be useful to refer to industry standards when formulating a complaint against a company, it is important to remember that these are generally self-regulated initiatives, with little vested interest in uncovering business abuses.

Case study 3: Nightmare on Sesame Street

In 2008, the US National Labor Committee published a report which cited very poor working conditions in a Chinese factory manufacturing Sesame Street 'Ernie' toy for US toy company Knex. In their response to the report, Knex said: 'The Hoida toy factory is ICTI (International Council of Toy Industries) certified, which means that we comply with the highest safety and labor laws in the toy industry.' Although the statement went on to say that they took these allegations very seriously, and would investigate immediately, there are difficulties in relying on the industry initiative as proof of best practice. A recent report by German toy campaign *Aktion Fair Spielt* commended the ICTI initiative for employing independent monitors and for operating a code of conduct, but pointed out that its credibility was undermined by the lack of involvement of non-industry players, leaving industry to be its own watchdog.¹¹

Multi-stakeholder initiatives

As the name suggests, these initiatives bring together a variety of stakeholders, usually industry and civil society, sometimes with the participation of governments also. This fact gives multi-stakeholder initiatives, by and large, greater credibility than industry-only initiatives. A well-known example is the Kimberly Process, established under the auspices of the UN, which brings together states, diamond manufacturers and civil society in an initiative to stem the flow of conflict diamonds and to provide certification for 'conflict-free diamonds'.

Reaching consensus in multi-stakeholder initiatives can be difficult, and progress can sometimes be slow. For example, the Extractive Industry Transparency Initiative (EITI) is a ground-breaking initiative in which participating countries sign up to full disclosure of company payments and government revenues from oil, gas and mining. While important progress has been made in the initiative, 20 of the 22 participating companies failed to complete external validation of their implementation by the March 2010 deadline, meaning that only three countries were fully EITI-compliant at that time.¹²

Civil society campaigns

There are also a number of civil society campaigns and organisations working on monitoring and addressing business violations of rights in various sectors. It can also be useful to see whether there is a civil society organisation working on an industry sector with which you are concerned. They may be able to advise you on how to pursue your complaint, and to use your story as a case study to lobby for global change. While civil society campaigns can have very effective results, in general, these are most effective in industries where consumer support can be mobilised, and where companies have a greater concern for their public image.

¹¹ Uwe Kleinert, *A long run-up – Yet only a short leap forward*, Discussion paper by German toy campaign Aktion Fair Spielt on the ICTI CARE process, November 2009.

¹² Azerbaijan, Liberia and Timor Leste

Of particular interest to Trócaire and its partners are the various **faith-based initiatives** that are campaigning in the area of business and human rights. For example, Trócaire is actively engaging with the ongoing work of the UN Special Representative on Business and Human Rights through CIDSE, which brings together 16 Catholic development agencies.¹³ Trócaire is also involved in the Ecumenical Council for Corporate Responsibility, whose faith-based shareholder activism is discussed in Chapter Eight.¹⁴

Case study 4: Russell Athletic reinstates workers in Honduras factory

In January 2009, Russell Athletic decided to close one of its factories with the loss of 1,200 jobs. Although the company cited economic reasons, independent investigations found that unwillingness to deal with a newly formed union played a significant part in the decision.

The International Clean Clothes Campaign filed a complaint with the Fair Labor Association (FLA; see more details on FLA in table below), a multi-stakeholder initiative to which Russell Athletic was affiliated. The FLA put the company on its 'Special Review' status, which meant that its good standing with the initiative would become dependent on the company taking specific remedial action within a specified timeframe.

In November 2009, Russell Athletic agreed to re-hire the workers and to institute a joint union-management programme on freedom of association. This breakthrough was acclaimed as the first time that a worker-activist campaign had succeeded in re-opening a factory that had been shut down over trade union issues.

ACTION POINT 7:

The following is a non-exhaustive list of some of the industry, multi-stakeholder and civil society initiatives that exist in the business and human rights area. Find out if there is one covering the sector with which you are concerned, and whether you might raise your complaint with them.

¹³ www.cidse.org

¹⁴ www.eccr.org.uk

Industry initiatives

Initiative	Description	Impact and potential
International Council of Toy Industries CARE process	A certification scheme for safe and humane working conditions in factories manufacturing toys. http://www.icti-care.org/	It has had some good results, particularly in China, but concerns remain. Its credibility is undermined by the lack of involvement of non-industry players (see Case Study 3, Nightmare on Sesame Street above).
International Council on Mining and Metals	A CEO-led organisation promoting good practice and sustainable development in the mining sector. http://www.icmm.com	It does not have a grievance mechanism by which its members can be held to account, although it has published a guide for its member companies on handling and resolving human rights concerns and grievances at local level. ¹⁵
Worldwide Responsible Accreditation Process (WRAP)	An apparel industry supported certification standard for garment industry factories worldwide. http://www.wrapcompliance.org/	The fact that WRAP does not give a list of its certified factories on its website can make it difficult for civil society to use this as a lever. WRAP has also been criticized for not involving trade unions in its governance structures, although it does have NGO and university representation on its board. ¹⁶
Equator Principles	A banking industry set of voluntary principles which recognize the responsibilities the banking industry has for the social and environmental impacts of large scale projects (e.g. dams, mines etc) they finance. http://www.equator-principles.com/	BankTrack ¹⁷ a Dutch based advocacy NGO has criticized this voluntary initiative as having had little or no impact in terms of influencing the sorts of projects financed by the member banks.

¹⁵ International Council on Mining and Metals, Human Rights in the Mining and Metal Industry: Handling and Resolving Local Level Concerns and Grievances, October 2009.

¹⁶ Peter Utting, Regulating Business via Multistakeholder Initiatives: a Preliminary Assessment, 2001.

¹⁷ http://www.banktrack.org/download/bold_steps_forward_towards_equator_principles_that_deliver_to_people_and_the_planet/100114_civil_society_call_equator_principles.pdf

Multi-stakeholder initiatives

Initiative	Description	Impact and potential
Fair Labor Association	An NGO and clothing company initiative to end sweatshop labour, which monitors and reports on participating factory conditions. http://www.fairlabor.org/	The Fair Labor Association does accept third party complaints, and has tried to take on board the concerns of trade unions and other NGOs in strengthening its certification. ¹⁸ It should be noted, however, that its primary concern is with suppliers to US universities, and as such, has a relatively small group of 30 participating companies. ¹⁹ (see Case Study 4, Russell Athletic reinstates workers in Honduran factory.)
Kimberly Process	A UN led certification process for 'conflict-free' diamonds. http://www.kimberleyprocess.com/	A report commissioned by Global Witness in 2006 concluded that 'by many measures, the Kimberly Process...evidences international co-operation at its best' but warned against the growing impression that the Kimberly Process has 'solved' the problem of blood diamonds, pointing to several ways in which it needs to be strengthened. ²⁰
Extractive Industries Transparency Initiative	A multi-stakeholder governed initiative to promote full disclosure of government revenue from extractive industries in participating countries. http://eitransparency.org/	Publish What You Pay, Oxfam and Human Rights Watch have highlighted the fact that after almost 8 years of this initiative most countries have failed to become EITI compliant. ²¹

¹⁸ *ibid.*

¹⁹ See http://www.fairlabor.org/fla_affiliates_a1.html

²⁰ Global Witness, An Independent Commissioned Review Evaluating the Effectiveness of the Kimberly Process, 2006.

²¹ See <http://www.business-humanrights.org/Categories/Principles/ExtractiveIndustriesTransparencyInitiativeEITI>

Multi-stakeholder initiatives

Initiative	Description	Impact and potential
Voluntary Principles on Security and Human Rights	A multi-stakeholder initiative, these non-binding principles were developed to assist extractive industries in devising security and safety standards that ensure a proper respect for human rights. http://www.voluntaryprinciples.org/	While the Principles lack a clear monitoring mechanism, they are quite specific on what companies should do, which enabled Global Witness to use the Principles as a baseline for discussion with companies on their activities. ²²
Ethical Trading Initiative	A multi-stakeholder, multi-industry initiative made up of trade unions, NGOs and companies committed to improving working conditions. Companies sign up to a Code of Conduct and ETI provides mediation and training. http://www.ethicaltrade.org/	Although the only real sanction is the suspension of a company from the Initiative, it has had some positive results, including leading a successful multi-stakeholder campaign to put in place the Gangmaster (Licensing) Act in the UK in 2004. ²³
United Nations Global Compact	Over 5000 companies have signed up to the Global Compact, which is convened by the UN and have committed to producing annual communications on progress. http://www.unglobalcompact.org	Global Witness reflects widespread civil society concerns in its comment: 'the Global Compact is a loosely normative initiative which may well have beneficial effects in encouraging member companies to embody a set of principles in their operations, but does not seem to put pressure on them to actually do so'. ²⁴

²² See: Global Witness, *Oil and Mining in Violent Places: Why voluntary codes for companies don't guarantee human rights*, October 2007, available at www.globalwitness.org. For more critique of the VPs, see the Institute for Human Rights and Business, *Have the Voluntary Principles realized their full potential?* at http://www.institutehrb.org/blogs/staff/voluntary_principles_tenth_anniversary.html

²³ See ICTU, *Corporate Social Responsibility: A Guide for Trade Unionists*, 2005, p20.

²⁴ Global Witness, *Oil and Mining in Violent Places: Why voluntary codes for companies don't guarantee human rights*, October 2007, p6, available at www.globalwitness.org

Civil society initiatives

Initiative	Description	Impact and potential
Clean Clothes Campaign	A civil society campaign supporting workers and activities in the garment industry worldwide. http://www.cleanclothes.org	The Clean Clothes Campaign works with local partners to help identify particular problems and to help develop campaign strategies. An Irish branch of the Clean Clothes Campaign will be established in 2010 and Trócaire will be a founding member.
Publish What You Pay	A global civil society coalition helping citizens to hold their governments accountable for oil, gas and mining revenues. http://www.publishwhatyoupay.org/	Agencies of the Catholic Church have taken a lead across Africa in supporting the Publish What You Pay campaign, which calls for corporations to publish the taxes and royalties they pay to government.
Business and Human Rights Resource Centre	A leading independent website on business and human rights, where you can find information about many more initiatives and developments. http://www.business-humanrights.org	The Business and Human Rights Resource Centre also seek responses from companies to allegations of misconduct, so you may be able to enlist their help in contacting the company with which you are concerned.
Tax Justice Network	A recently developed international network researching and advocating on global tax justice issues. http://www.taxjustice.net	It has contributed to making taxation become viewed as a key development issue. It has highlighted the loss of revenues to developing countries through tax evasion and avoidance by TNCs facilitated by amongst other things, tax havens in the Global North.

Faith based initiatives

Initiative	Description	Impact and potential
Ecumenical Council for Corporate Responsibility (ECCR)	<p>A British and Irish membership organization of which Trócaire is a member. It seeks to promote greater corporate and investor responsibility. An Ireland working group is being established.</p>	<p>Its work on shareholder activism has produced significant changes in practices of major TNCs such as Shell in its operations in the Niger Delta. Working in partnership with local CSOs it raises their issues with UK or Ireland companies. See Case Study 13 in chapter 8.</p>
Interfaith Center on Corporate Responsibility (ICCR)	<p>A US faith-based association of 275 faith-based institutional investors, including national denominations, religious communities, pension funds, foundations, colleges, and unions.</p>	<p>It is a sister organization to the ECCR and operates in a similar fashion. It is affiliated to the ECCR and collaborates with it.</p>

5. THE STATE TAKES A STAND

THE DUTY TO PROTECT HUMAN RIGHTS



Communities in Orissa, India are holding their local governments to account to ensure proper public service provision and stamp out corruption.
Photo: Trócaire

“ ‘There’s a disconnect between the way that states operate and the way that businesses operate. States are confined to a geographical boundary, and businesses can operate across borders.’

Christine Bader, Advisor to the UN Special Representative for Business & Human Rights

As we have seen from Chapter One, the duty of the State to protect its citizens against human rights abuses, including by corporations is well established and undisputed in international law. However, as summed up by Christine Bader in the quote above, the fact that corporations operate across borders can lead to a debate about the various responsibilities of the home state, where the corporation is based (frequently in the global North) and the host state, where the corporation is operating (frequently in the global South).

Bringing a complaint to the state

Legal action is clearly one method of bringing a concern with a company’s action to the state. A state has a responsibility to respect human rights, and to enforce them in national legislation. However, as discussed in Chapter One, the imbalance in power between a wealthy corporation and a considerably less wealthy country in which it is hosted, can lead to serious concerns that national legislation will not be properly enforced with regard to the corporation. In some cases, also, there may be serious flaws in the national judicial system.

The question then arises in such cases as to the responsibility of the **home state**. There is no consensus yet as to whether states are legally responsible for the impact on human rights of their corporations abroad. However, states are not prohibited from taking such responsibility , and as we will see in Chapter 5, the UN human rights bodies are beginning to encourage states to take on such a role.

There have been various legal actions aimed at holding corporations accountable in their home states for their human rights abuses abroad, with varying levels of success. While it is encouraging that some courts have been prepared to hear such cases, the process is both slow and expensive, and most cases are ultimately settled out of court. As such, it is perhaps not the most useful advocacy mechanism for civil society organizations, although there may sometimes be opportunities to contribute to research by pro bono law firms on such cases.

An easier route for bringing the activities of the corporation to the attention of the home state would be by simply raising it with the embassy of the home state in the host country.

National Human Rights Institutions

One avenue for bringing the behaviour of a corporation to the attention of either host or home state is through the National Human Rights Institutions (NHRIs). NHRIs are administrative

bodies set up to protect and promote human rights in a given country. They can take many forms, but the United Nations has provided some guidelines for their responsibilities and functioning in the Paris Principles, formulated in 1991. Professor Ruggie has conducted a study detailing which of these are prepared to accept complaints with regard to corporations.

ACTION POINT 8:

Check if the NHRI in your country is accredited to the Paris Principles at <http://www.nhri.net/default.asp?PID=276&DID=0> and whether it accepts complaints about corporations here: <http://www.business-humanrights.org/Links/Repository/708317>. Write a letter outlining your complaint and request a meeting.

Challenging state complicity in human rights abuses

In addition to the question of who bears responsibility if a corporation is violating human rights, states may sometimes, wittingly and unwittingly, have a negative impact themselves upon human rights, through their activities designed to encourage inward investment, or to support exporting industries.

For example, a **host state** may be prepared to freeze labour and environmental standards, in order to attract inward investment, as is illustrated by the case study below.

Case study 5: Oil agreements in Uganda

A recent analysis by civil society organisation PLATFORM of the oil agreements conducted by the Ugandan government with oil companies reveals some worrying provisions, including the use of stabilisation clauses.²⁵ These are clauses inserted to protect the multinational against any changes in national legislation that may occur over the lifetime of the project. If Uganda develops new regulation that increases costs for the oil companies, the government must compensate for these costs even if they are determined to be beneficial by Parliament in improving environmental or labour standards. This could place an unfair burden on the taxpayer, and may well act as a disincentive for government to introduce such legislation. A study conducted for the UN Special Representative on Business and Human Rights found that it was more likely for social and environmental legislation to be covered by stabilisation clauses in contracts conducted with the less wealthy non-OECD countries. This leads to serious concerns that human rights could be negatively impacted, by preventing the application of improved social and environmental standards.

²⁵ Platform (2010) Contracts curse; Uganda's oil agreements place profit before people. <http://fr.allafrica.com/download/resource/main/main/يداتس/00020051:bb7d9c4fd896024fa606e85eef9ef4b3.pdf>

Export credits and guarantees

In **home states** in the global North, despite their stated commitment to human rights and their claims to support the developing world, there is frequently a divide between the business agenda and the human rights and development agenda within government. This is of particular concern in relation to **export credits** or **investment insurance**. These are government-sponsored measures aimed at encouraging businesses to export and invest abroad. With guarantees or investment insurance, the state underwrites the investment of an exporting corporation, thus taking responsibility for any losses. Export credits are government-sponsored loans. Human rights concerns with the corporation being thus sponsored are frequently not taken into consideration. This issue has been highlighted by the Special Representative on Business and Human Rights, and an increasing number of states are now linking access to such assistance to company compliance with initiatives such as the OECD Guidelines or the UN Global Compact.

ACTION POINT 9:

Find out whether the corporation with which you are concerned has been offered credit or guarantees by its home state, and contact the Department of Trade with your concerns.

Taxation as a human rights concern

It may be difficult to think of tax as a human rights concern. However, a functioning democracy requires taxes to be paid so that social services may be provided. Taxation is the essential mechanism that links those who govern to those governed. The loss of tax revenues to developing countries has been estimated by Christian Aid to amount to \$160 billion per year due to tax evasion and avoidance by Multinational Companies.²⁶

Agencies of the Catholic Church have taken a lead across Africa in supporting the Publish What You Pay campaign, which calls for corporations to publish the taxes and royalties they pay to government.²⁷

ACTION POINT 10:

Support partners to engage with the Publish What You Pay campaign and call for governments to sign up to the Extractive Industries Transparency Initiative process, which has similar goals (see Chapter 3). Investigate what taxes and royalties are being paid by the corporation and compare these to industry averages. The international Tax Justice Network²⁸ can also be of support on these issues.

²⁶ Christian Aid, (2008) Death and Taxes: The true toll of tax dodging.

²⁷ PWYP (2009) Publishing what we learned; an assessment of the PWYP coalition.

²⁸ <http://www.taxjustice.net/>

Corruption as a human rights concern

Corruption undermines the rights of ordinary people to avail of public services. These services are either not provided due to misappropriation of funding, or only secured on payment of bribes. The Trócaire / CAFOD / Christian Aid Policy Monitoring Toolkit²⁹ outlines in more detail how as part of the monitoring of government policy formulation and implementation, civil society can hold the state to account for corruption including private sector public works provision.

Case study 6: Holding local government and private sector to account for public service provision

Corruption is a major issue in Sierra Leone. As part of its monitoring of the utilisation of PRSP funding, the Network Movement for Justice and Development (a Trócaire partner) tracked the delivery of a range of local public works projects such as school buildings, clinics, market areas etc.³⁰ The research highlighted the corruption and in some cases non-delivery or non-completion of contracts by local officials and private contracting companies. The publication of this research created major awareness of civil society's capacity to hold local government to account and also led to many contractors being barred from tendering for future public contracts.

ACTION POINT 11:

Support partners as part of social service audits to examine contract implementation by local and / or international companies.

²⁹ http://www.trocaire.org/sites/trocaire/files/pdfs/policy/monitoringgovernmentpolicies_full.pdf

³⁰ The Stolen Happiness: Civil society appraisal report on HIPC-funded projects for 2002-2005. NMJD, May 2006.

6. WHERE DO HUMAN RIGHTS BEGIN?

THE UNITED NATIONS HUMAN RIGHTS SYSTEM



Family forced from home after mining begins on Mount Canatuan, considered sacred by the Subanon people, in the Philippines. Photo: DIOPIM Committee on Mining Issues

“ .it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.’

Preamble to the United Nations Universal Declaration of Human Rights, 1948.

Although there is currently no UN mechanism which deals directly with businesses and human rights, concerns about human rights and business can be raised through the core human rights system of the UN.

Human rights treaty system

The most important human rights treaties are the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, known collectively as the **International Bill of Human Rights**. These are supplemented by human rights treaties on more specific issues, such as racial discrimination and discrimination against women. States sign up to each treaty individually, and once ratified, that treaty is then binding on that state in international law. Each treaty has its own monitoring committee, to which states must submit regular reports on their implementation of that treaty. The committee examines these reports and produces Concluding Observations, which include both positive and negative comments on the state's progress. These Concluding Observations include recommendations to the state, which the state must fulfil in order to be in compliance with its human rights obligations and as such, carry significant weight.

NGOs can provide valuable information to supplement the state report, through preparing a Shadow Report, which will usually then be published by the UN along with the country report. NGOs can also voice their concerns or provide evidence at the Committee session considering the report. These interventions often have a direct impact on the Concluding Observations by the committee. Sometimes, NGO intervention can also be used to put pressure on a state to present an overdue report.

Case study 7: PIPLinks Shadow Report on the Philippines

The Philippines is a signatory of the Convention against Racial Discrimination, but had not submitted a report since 1997. In 2007, a consortium including Trócaire partner PIPLinks, provided a detailed report to CERD, the Commission on Racial Discrimination which monitors the Convention on Racial Discrimination, outlining the government's discriminatory policies and actions against indigenous peoples in relation to its promotion of large-scale mining on ancestral lands. CERD wrote to the Government of the Philippines, requesting that they respond to the allegations, and submit their long overdue country report. The report was finally submitted in June 2008, and CERD issued a set of critical Concluding Observations in August 2009, giving the Philippines one year to report back on progress made.

Many treaty bodies now emphasise the importance of home states regulating the activities of their multinational enterprises abroad. For example, in 2008, the Committee on the Elimination of Racial Discrimination considered a report by the United States. It noted 'with concern reports of adverse effects of economic activities..in countries outside of the United States by transnational corporations registered in the State on the right to land, health, living environment and the way of life of indigenous peoples living in these regions.'³¹ The Committee encouraged the US to 'take appropriate legislative or administrative measures' to combat this, to 'explore ways to hold transnational corporations registered in the United States accountable' and 'to report back in its next periodic report information on the effects of US business abroad on indigenous peoples.'³²

ACTION POINT 12:

If you feel that a state is not doing enough to prevent abuses of human rights by a corporation, you can raise this in a shadow report to one of the monitoring committees. You can raise this concern with regard to the host state, or the home state, as long as they have signed up to the treaty. You can find a list of the core treaties, their monitoring bodies, and which states have signed up to each treaty, here:

<http://www2.ohchr.org/english/law/index.htm#core>

³¹ CERD/C/USA/CO/6 (2008), para. 30

³² *ibid.*

Universal Periodic Review

Each of the committees mentioned above deals with a different category of rights, and examines only the countries who have signed the relevant treaty for that committee. In 2006, the UN created a new mechanism called the **Universal Periodic Review (UPR)** which would examine the whole of a state's human rights record, for each of the UN's 192 member states. This review process is carried out through the Human Rights Council, which unlike the treaty monitoring bodies, is composed of states, not individual experts. Each state is reviewed every four years, on the basis of a report that they submit, by every other state. The process started in 2008, and by 2011, the Human Rights Council hope to have reviewed every member state.

As with the treaty bodies, NGOs can submit a Shadow Report and can make oral statements at the plenary session considering the country report. The most important part of the review is recommendations which are made by States, to which the country under review is encouraged to respond. The country can either accept or reject the recommendations, and then has four years – until its next review – to provide information on how they are implementing these recommendations. The Human Rights Council has indicated that it will take measures to address cases where States have consistently failed to co-operate with the recommendations of the UPR, but it is not yet clear what they are. If a review is coming up of a country with which you have concerns, it is useful to submit a report to a friendly government with whom you have ties, who may be able to raise questions and make recommendations based on the information that you have provided.

Case study 8: Trócaire participates in the Universal Periodic Review of Cambodia

In advance of Cambodia's UPR, in December 2009, Trócaire submitted a briefing note to the Government of Ireland, dealing largely with abuses of human rights arising from the use of natural resources in Cambodia for economic gain. The issues dealt with in the briefing note included forced evictions to make way for private development; intimidation of human rights defenders trying to protect against forced evictions and corruption and lack of transparency in the management of natural resources. These issues are all clearly reflected in Ireland's four recommendations to Cambodia, many of which are directly paraphrased from recommendations made by Trócaire. Cambodia must now decide whether to accept or reject these recommendations, giving appropriate reasons, and accepted recommendations will be monitored at their next UPR.

**ACTION
POINT 13:**

Check when the Universal Periodic Review of both the host and the home state of the corporation with whom you have a concern is coming up. Submit a brief report with questions and recommendations for that country, both to the Human Rights Council itself, and to any friendly government with whom you have ties. Check these links for upcoming hearings and more reading on the UPR.

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NewDeadlines.aspx>.

<http://www.hrpujc.org/documents/UPRtoolkit.pdf>

Special Procedures

The Human Rights Council can also use Special Procedures, which appoint either an individual as a Special Rapporteur or Special Representative, or a Working Group, to investigate, monitor and recommend solutions to particular human rights problems – either in a specific country, or on a specific theme. Civil society organisations may find this useful, in that it may present an opportunity of engaging in-depth with a UN representative on a particular case.

There are currently eight country mandates, and 31 thematic mandates. We have already seen in the previous briefing note that there is a Special Representative on Business and Human Rights. Other Special Procedures of interest for those concerned with corporate violations of human rights might include: the Special Rapporteur on human rights defenders; the Special Rapporteur on indigenous peoples; the Working Group on mercenaries; the Special Rapporteur on migrants; the Special Rapporteur on toxic waste and the Independent Expert on access to water.

**ACTION
POINT 14:**

Is there a Special Procedure on a theme or in a country with which you have a concern?

<http://www2.ohchr.org/english/bodies/chr/special/> By clicking into that Special Procedure, you can find out what issues are currently under discussion, and whether there is a country visit or public consultation coming up in which you could participate.

UN Convention Against Corruption

While not usually considered one of the core human rights treaties, the **UN Convention against Corruption** is also of interest in the business and human rights field. Corruption is the abuse of public power for private gain. This can be a cause of major concern when a wealthy corporation is dealing with an impoverished state. The UN Convention Against Corruption is the first legally binding anti-corruption instrument, and 137 countries are currently party to the Convention, meaning that it is legally binding upon those states.

The monitoring mechanisms for the Convention are still being constructed, with a Pilot Review Programme, including a self-assessment mechanism, currently underway.

ACTION POINT 15:

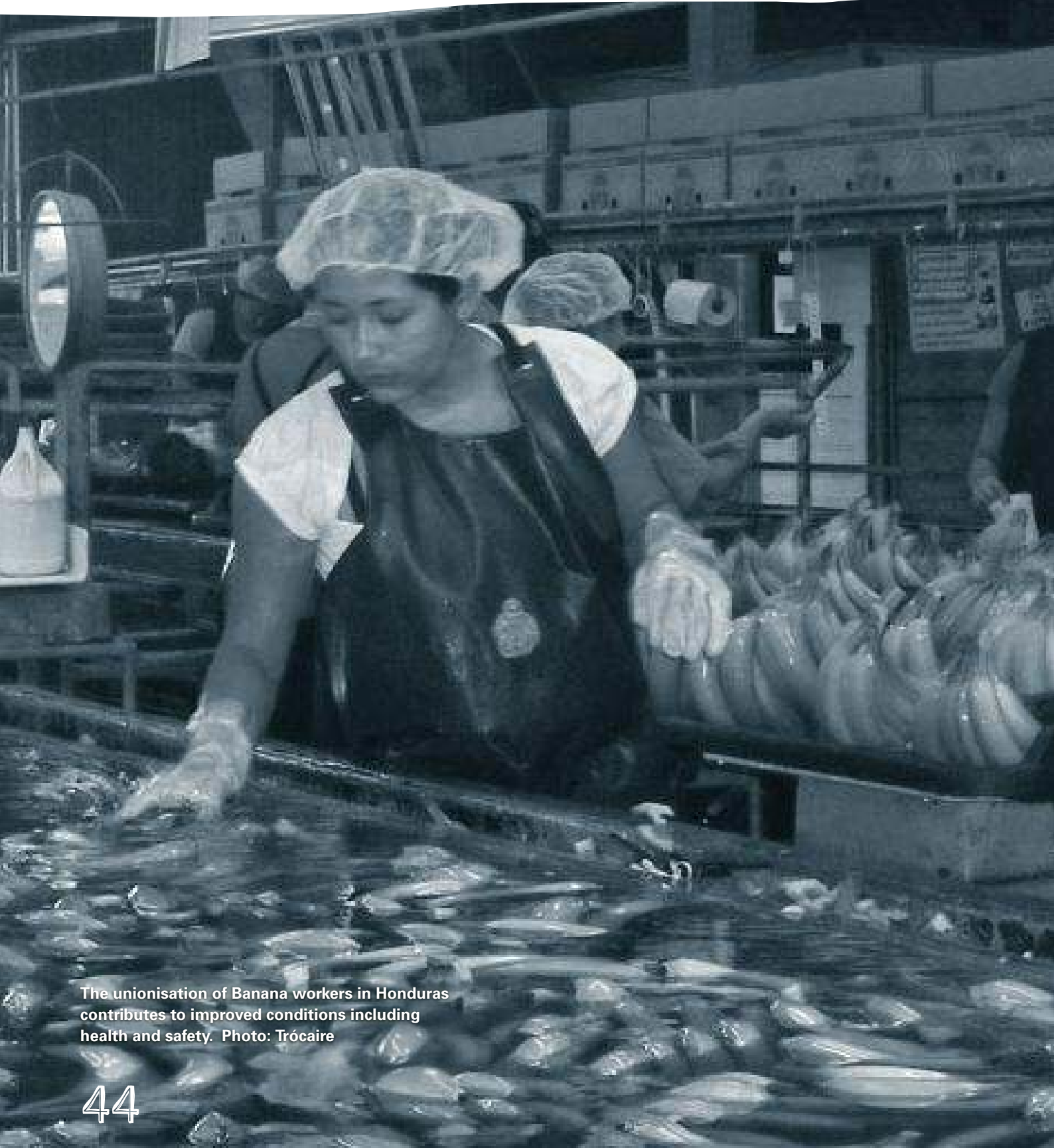
Check if the state in which you operate has signed the UN Convention Against Corruption and either campaign for it to ratify the Convention, or check on the progress of the monitoring mechanisms, with a view to using them once they have been established.

UN Declaration on Indigenous Peoples

The UN Declaration on Indigenous People does not have the legal weight of a convention, being a statement of principle, rather than a legal document to which states sign up. All the same, the Declaration represents an important step forward in recognising the special position occupied by indigenous peoples. Most significantly, it enshrines the principle of 'free, prior and informed consent' (FPIC) of indigenous peoples to any measure affecting them or their lands, territories and resources. This important principle has been recognised also by the UN Committee on Racial Discrimination (CERD), in for example their comments on the report by the Government of the Philippines mentioned in Case Study 7 on page 40. Further detail on FPIC is contained in chapter 7 under the International Labour Organisation.

7. UNITED WE STAND

THE INTERNATIONAL LABOUR
ORGANISATION AND THE TRADE UNION
MOVEMENT



The unionisation of Banana workers in Honduras contributes to improved conditions including health and safety. Photo: Trócaire

“ From decent work comes the four wins. Workers win through better wages and conditions. The employer wins through improved productivity, quality and profitability. The buyer wins through reliable supplies and protection of their reputation and the community and the country of production win through stability of employment and enhanced resources.

Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers' Federation³³

While the International Labour Organisation is in fact a specialised agency of the United Nations, it operates on a different basis than the UN human rights mechanisms described above. It is a tripartite organisation, bringing together governments, workers and employers to devise a global system of labour standards. The resulting standards, however, are addressed largely at governments, who are expected to ratify them and to enforce them in national legislation. However, as Lord Bill Brett, head of the ILO London Office puts it: 'All decisions of the ILO are agreed by employers, employees and government bodies jointly. So any company ought to be able to endorse the Declaration and its principles.'³⁴

The ILO Declaration on Fundamental Principles and Rights at Work outlines the labour rights which are most universally accepted by the international community. Professor Ruggie has recommended that companies should, at a minimum, refer to the UN Bill of Human Rights, and the ILO Declaration. The Declaration is enforced through a series of conventions which are binding on the states that have ratified them. These cover the four key principles of the Declaration: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. These are often called the ILO's 'core labour standards'.

As with the UN system, countries regularly submit reports as to their implementation of the various conventions. These are examined first by a committee of experts, and then by a Tripartite conference comprising government representatives and workers' and employers' unions. Complaints can also be submitted against a member state, although only by another member state, and may be dealt with by a Commission of Inquiry. This was invoked for the first time in 2000, following complaints against Myanmar, and the Commission of Inquiry found 'widespread and systematic use' of forced labour in the country.

In addition to the core fundamental treaties, there are nearly 200 treaties dealing with various labour related issues. One in particular merits a mention – the ILO Convention 169 on Tribal and Indigenous Peoples.

³³ Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers' Federation, 'From Decent Work comes the Four Wins' World Retail Conference 2009, Barcelona, 7 May 2009.

Available at <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15739&langue=2>

³⁴ Lord Bill Brett, Director, ILO London Office, quoted in ICTU, *Corporate Social Responsibility: A Guide for Trade Unionists*, 2005, p15.

ILO Convention 169 on Tribal and Indigenous Peoples

Indigenous peoples are frequently the worst affected by the activities of multinational enterprises in developing countries. This is in part because their title to land is often not written, and therefore their consent is not always obtained for exploitation of natural resources in the lands they occupy, sometimes leading to loss of livelihood, forced evictions and destruction of sacred sites.

Because the UN Declaration on Indigenous Peoples mentioned above is not a legally binding instrument, ILO Convention 169 remains the only international 'hard law' mechanism for indigenous peoples. The Convention places a strong emphasis on participation and consultation of indigenous peoples, and refers to 'free and informed consent' in relation to relocation issues. Although its scope is limited by the fact that only 20 states have ratified the Convention, many of these are states with large indigenous populations in Central and South America.

Case study 9: Indigenous issues in Guatemala

In Guatemala, where up to 60% of the population are indigenous, there are major issues with regard to the expropriation of land for mining. This has become an increasing issue over the past number of years, particularly given the rising price of gold, and communities are organising to utilise existing legal processes and frameworks to influence the course of these developments. These include ILO Convention 169, to which Guatemala is a party, and indigenous peoples' popular forums and plebiscites, which are provided for and recognised under Guatemalan law. Over the last number of years, over half a million indigenous people in several districts have voted to stop open cast mining taking place on their land. A recent court challenge to the validity of these plebiscites has been overruled, confirming that they are both legal and properly carried out. Although the courts also found that they were not legally binding, the result of the plebiscites clearly indicates that free, prior and informed consent of the concerned peoples has not been obtained, and there has been a marked drop-off in mining companies entering the country as a result.

The ILO has also attempted to provide guidelines specifically for multinational enterprises, in the **Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy**, a non-binding instrument which provides guidelines for both governments and multinational enterprises. The principles lay out best practice, without any process by which the Declaration might be implemented, and without any grievance mechanism by which transgression of the principles might be examined. The ILO have, however, made a commitment to collaborate with the OECD in the implementation of their similar Guidelines for Multinational Enterprises, and has undertaken to build the capacity of the OECD National Contact Points to deal with labour issues.³⁵

³⁵ ILO Information Note, Key events to promote the MNE Declaration and update on relevant CSR-related activities within the Office and in other international organizations and initiatives, Geneva, 9 October 2009, GB.306/MNE/3

Case study 10: Trócaire, Ireland and the International Programme to Eliminate Child Labour

The ILO has a number of initiatives which tackle specific labour-related human rights issues. One of the most important of these is the International Programme to Eliminate Child Labour (IPEC). In 2006, Trócaire made child labour the theme of its annual Lenten campaign, and called upon Ireland to contribute funding to IPEC.³⁶ The campaign paid off, with Ireland becoming a donor to IPEC beginning in 2008.³⁷

ACTION POINT 16:

While NGOs and trade unions cannot file complaints directly with the ILO, they can seek to influence a member government's action at the ILO, as illustrated above. Explore whether there are specific ILO initiatives or projects which you might encourage your government to engage with.

Trade union movements

As well as participating in the ILO through national representation, trade unions are also affiliated to sectoral Global Union Federations, a number of which have reached International Framework Agreements with specific global corporations. These IFAs are based on the ILO core labour standards discussed above. Nearly 90 IFAs (or Global Framework Agreements, as they are also known) have been signed between Global Union Federations and individual corporations.³⁸ This aims to prevent corporations from applying different approaches to trade unions in the various countries in which they operate, depending on local conditions.

Trade unions tend to strike a note of caution when it comes to such voluntary codes of conduct and initiatives described in Chapter Three. As trade unionist Neil Kearney put it: 'My message to workers is "organise first, then you can use the codes."' ³⁹

³⁶ <http://www.trocaire.org/news/2006/04/10/ireland-must-support-international-programme-eliminate-child-labour>

³⁷ ILO, Action against child labour 2008-2009: IPEC Progress and Future Priorities, February 2010, Annex III: Contributions received from donor governments, p92.

³⁸ European Foundation for the Improvement of Living and Working Conditions, <http://www.eurofound.europa.eu/index.htm>

³⁹ Neil Kearney, General Secretary of the International Textile, Garment and Leather Workers' Federation, Fringe meeting on CSR at the ICTU Biennial Delegates Conference, June 2005.

Case study 11: Banana workers – codes of conduct and efforts to ban harmful chemicals

In many of the banana plantations in Honduras, there are signs erected announcing the engagement of the plantation owners with a code of conduct or certification label. While these codes or labels raise awareness of the need for a certain set of minimum standards and involve inspections by the certifying bodies, they are no replacement for plantation owners sitting down with duly elected worker representatives and ensuring that standards and conditions are being properly observed. COSIBAH (a Trócaire partner) is the main trade union in Honduras organising banana workers. It has successfully negotiated the banning of Chlorpyrifos, a pesticide which is known to have an adverse impact on the health of plantation workers. While this ban is in place in plantations that are unionised, Chlorpyrifos is not banned for use by the Government of Honduras and as such it continues to be used in plantations where there is no union. In the words of one plantation worker 'without the union, the code of conduct would be useless'.

Unions also frequently collaborate with civil society organisations to lead international campaigns on labour rights and social justice. For example, Trócaire has collaborated with the Irish Congress of Trade Unions on the international campaign to stop child labour in toy manufacturing.

ACTION POINT 17:

Find out if the company with which you are dealing has signed an IFA by checking the list available here:

<http://www.global-unions.org/spip.php?rubrique70>

If you believe that the company has violated the terms of the agreement, talk to the relevant local union to ensure close coordination and potential collaboration, and then consider contacting the Global Union Federation responsible for that IFA.

8. DEMOCRACY AND THE MARKET ECONOMY

THE ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT



Artisanal miners digging for cobalt in Ruashi mine, DRC. Photo: Global Witness

“ There have been several attempts to complement legal systems in host and home countries, most recently with the establishment of OECD National Contact Points. The very existence of NCPs points to widespread acceptance - by developed and developing country governments alike - of the need for some kind of independent enquiry point/dispute mechanism system.

CIDSE submission to Ruggie mandate, February 2008⁴⁰

The Organisation for Economic Co-operation and Development brings together 30 of the richest countries in the world with a 'common commitment to democracy and the market economy' in a forum for discussion, analysis and implementation of best government policy and practice.

In 1976, the OECD developed a set of Guidelines for Multinational Enterprises, aimed at regulating the behaviour of OECD-based corporations overseas.⁴¹ All of the 30 member states are party to the Guidelines, and an additional 12 non-OECD states have signed up to the Guidelines, in order to encourage OECD investment.

Each OECD Guideline country has a National Contact Point, whose role it is to accept complaints concerning corporations operating in or from their territories. Many of these claims are filed by trade unions with regard to labour rights, but as of January 2010, 90 OECD Guideline cases have been filed by NGOs, and over 80% of these are concerned with human rights issues.⁴² Crucially, there is an explicit duty on the host state to encourage its corporations to enforce the Guidelines wherever they operate. As OECD member states still hold 83% of the global stock of outward foreign direct investment⁴³, the majority of multinationals operating in developing countries are likely to be headquartered in an OECD country, and as such, can be the subject of a complaint under the OECD Guidelines to their host country.

There is very little standardisation of the National Contact Points, and while some are very effective, others are housed within a government department, often that responsible for promoting overseas trade, and therefore lack real independence. In all cases, the major flaw of the National Contact Points is that they usually lack real power to enforce any decisions against companies. A review of the Guidelines in June 2010 may improve these shortcomings, as may developments in some of the leading countries interested in reform, such as the UK.

⁴⁰ CIDSE Recommendations to reduce the risk of human rights violations and improve access to justice: submission to the UN Special Representative on Business and Human Rights, February 2008. Available at: www.cidse.org

⁴¹ The guidelines in English are available at: <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

⁴² OECD Watch, Quarterly Case Update, February 2010. Available at www.oecdwatch.org, accessed 10 March 2010.

⁴³ OECD, 'The Impact of Foreign Direct Investment on Wages and Working Conditions', OECD-ILO Conference on Social Responsibility, Paris, 23-24 June 2008.

Even in their present form, however, a complaint to the National Contact Points can sometimes help to improve a situation. Sometimes the OECD National Contact Point can provide a useful mediation between the company and those affected by it. In 2001, for example, Oxfam Canada filed a case in relation to First Quantum, a Canadian mining company who owned a 90% stake in a Zambian copper mine, Mopani. Mopani were in dispute with ex-miners squatting on mine land, and had threatened to evict the settlers by force. The case was resolved after the company met with groups from the affected communities, with the Canadian NCP acting as facilitators.

In other cases, a complaint to the National Contact Point can supplement and highlight an ongoing public campaign, and while the NCP ruling may not be directly enforced, it can have an influence on the development of the campaign, as is highlighted in the case study below.

Case study 12: Vedanta mining falls foul of the UK National Contact Point

In December 2008, Survival International filed a case to the UK National Contact Point against Vedanta, a British-owned mining company, claiming that its plans to mine bauxite in the state of Orissa, India, would have a severe impact on the Dongria Kondh, an indigenous people, who regard the mountain as sacred, and rely on it for their traditional livelihood. Despite the fact that the company had been granted permission to mine by the Indian Supreme Court, the UK NCP accepted the case and in 2009, issued a strongly worded statement finding Vedanta in violation of the Guidelines, for failing to consult the Dongria Kondh, and for not considering the impact of the construction of the mine on their rights and freedom. Subsequently, there has been significant disinvestment from Vedanta, including by faith-based stakeholders such as the Church of England and the Joseph Rowntree Charitable Trust, and the Indian government has deferred its approval to begin mining until evidence of local consultation has been produced. This type of faith-based shareholder activism is discussed further in Chapter Eight.

ACTION POINT 18:

Filing a complaint under the OECD Guidelines is simply done by writing a letter to the appropriate National Contact Point, and in some cases, will produce a useful result. The list of National Contact Points is provided on the OECD website.

http://www.oecd.org/document/60/0,3343,en_2649_34889_1933116_1_1_1_1,00.html

If you need some advice on filing a complaint, you can contact OECD Watch, a civil society network specifically focused on the OECD Guidelines, or browse the resources on their website at <http://oecdwatch.org/>

OECD Anti-Bribery Convention

Another instrument of the OECD worth noting is the OECD Anti-Bribery Convention, by which OECD member states commit to making bribery of foreign officials by corporations based in the Convention's member countries an offence under national law. This applies the same principles as the Guidelines, in putting the onus on the home state to protect against violations of human rights by their corporations, wherever in the world they may be operating. In a few jurisdictions, this has been well implemented, seeing a significant increase in the number of cases against corporations alleging foreign bribery, but overall enforcement remains poor, with Transparency International estimating that only four of the 38 signatory states were actively enforcing the Convention, and 21 states showing little or no enforcement.⁴⁴

⁴⁴Transparency International, *OECD Anti-Bribery Convention, Progress Report 2009*.

9. COUNTING THE COST

FINANCE AND INVESTMENT

eccr

The Ecumenical Council
for Corporate Responsibility

Church & Society Council
Eaglais Na H-Alba



Banking on Justice: Churches investing for a fairer future

Faith-based shareholders and members of faith communities can be strong and effective advocates for economic justice. Photo: ECCR

‘Companies are not the centre of economic life. Human communities and the environment are.’

The Ecumenical Council for Corporate Responsibility

It is important to bear in mind that the activities of corporations are made possible by their investors. These can include international and private financial institutions, institutional shareholders such as private and state pension funds, and individual shareholders.

These actors have a significant part to play in influencing the behaviour of a corporation, and it is often worthwhile for NGOs seeking to resolve a human rights issue with a corporation to look at how that corporation is financed, and whether pressure can be brought to bear through the corporations’ investors and shareholders.

Financial institutions

There is generally a recognition that international finance institutions must bear responsibility for ensuring that the projects they support are socially and environmentally sound, and do not interfere with human rights. The private sector arms of the World Bank, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), operate a set of seven performance standards which address social and environmental issues, and these are monitored by a Compliance Advisor/Ombudsman, who also accepts individual complaints against a company. The European Investment Bank put in place new Environmental and Social Standards in 2009, and a complaints mechanism in 2010, which allows for the possibility of a complaint being escalated to the European Ombudsman. Other international development banks, such as the Asian Development Bank and the African Development Bank, have put in place similar accountability review mechanisms.

The IFC/MIGA Performance Standards have been adapted to form the basis for the Equator Principles, an initiative to which approximately 70 private banking institutions have signed up. Each member is required to report annually on their implementation of the Equator Principles, but there are no mechanisms for bringing individual complaints.

These principles do not generally refer to international human rights, however, and can sometimes fall short of the highest human rights standards. For example, IFC/MIGA Performance Standard 7 on indigenous peoples states that the consultation process with indigenous people should ensure their ‘free, prior, and informed *consultation*’. This is significantly weaker than the concept of ‘free, prior and informed consent’ discussed in Chapter Five, and which has been accepted by the UN. A consultation process with civil society and other stakeholders to update and improve the Performance Standards is currently underway, with new Performance Standards due to be published in 2011.

**ACTION
POINT 19:**

Find out if the company with which you are concerned is financed by one of the major international development banks. A complaint to any of the IDBs can be initiated simply by writing a letter. See <http://www.cao-ombudsman.org/>

Companies are also financed through their **shareholders**. By buying shares in a company, the shareholder is legally a part-owner of the company and as such, is entitled to participate in decisions about the company and the way it operates. While in practical terms, an individual shareholder is unlikely to be a big enough player to have a significant influence on the company, collective shareholder actions can be very effective. Of particular interest for Trócaire and its partners is the concept of **faith-based shareholder activism**, as described in the case study below.

Case study 13: ECCR Shell shareholder resolution

The Ecumenical Council for Corporate Responsibility (ECCR) is a British and Irish church-based membership organisation, of which Trócaire is a member. In 1997, ECCR sponsored and secured shareholder support for a resolution at the Shell Annual General Meeting. It called for Shell to pay greater attention to environmental and human rights policies, following pollution problems and the summary execution by the Nigerian government of protestors against Shell activities in the Niger Delta.

This was the first ever environment-related shareholder resolution to be brought to a British company. Although the resolution was defeated, it represented an extremely important milestone. The move led to a sea change in corporate attitudes in Britain towards responsible practice, in particular with regard to the environment, and many British companies produced their first environmental reports as a direct result of the shareholder initiative.

**ACTION
POINT 20:**

Contact the ECCR or the ICCR (its sister organization in the USA), to discuss your concerns about a corporation, and to see what support they could offer in engaging with the corporation and its shareholders. <http://www.eccr.org.uk/> <http://www.iccr.org/>

Significant shareholdings are also held by **State Pension Funds**. States must work to avoid complicity in human rights abuses arising from investments they hold in corporations engaged in harmful activities abroad. In order to ensure this, some national pension funds have put in place responsible investment guidelines, and systems to ensure that they are not investing in companies that are engaging in activities contrary to the principles of the state, or which might leave the state at risk of complicity in human rights abuses. A leading example in this regard is the Norwegian State Pension Fund⁴⁵, which manages the risk of complicity and actively engages with companies in its portfolio with a perceived risk of unethical conduct.

**ACTION
POINT 21:**

Investigate which state pension funds have invested in the corporation with which you are dealing. Contact this fund with your concerns. Ask the fund to engage the company on the issue and to press the company to change its behavior or divest if it will not do so. Ireland has a state pension fund⁴⁶, as do other European countries.

⁴⁵ http://www.regjeringen.no/en/sub/styret-rad-utvalg/ethics_council.html?id=434879.

⁴⁶ For a list of all the corporations it currently invests in, visit <http://www.nprf.ie/Publications/2010/NPRFReport2009.pdf>. You can read more on Trócaire's engagement with the Irish state fund at http://www.trocaire.org/sites/trocaire/files/pdfs/policy/Pensions%20Policy%20Paper_0.pdf

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