

Key messages from the high-level panel debate on
“Business & Human Rights: Roles and prospects for the EU”

organized by CIDSE, Entraide & Fraternité, CIFCA

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Mgr Ramazzini, Bishop of Huehuetenango in Guatemala, shared his experience from the ground where he has witnessed many human rights abuses linked to the activities of transnational corporations. He welcomed the European Parliament’s urgent resolution on the situation of human rights defenders in Guatemala which echoes the Church’s claim for all to live a “dignified life.”

“Business activities should foster better conditions of life and well being for poor people and indigenous peoples. This is a Constitutional principle: States, such as Guatemala, must be organized to protect and fulfil the common good and human dignity. In certain cases we have good laws, but these are not complied with. This is the case with the ILO Convention 169 on indigenous peoples’ right to free, prior and informed consent. In other cases laws are unjust, like the mining laws which allow use of cyanide and ask only 1% royalties, but we have difficulty changing these as our Congress is not working in the common interest. Concerning the Association Agreement between EU and Central America, we witness that the trade chapter prevailed over other chapters such as cooperation and dialogue. We need to change the order. A UN treaty on businesses and human rights can and must address these issues.”

Claire Courteille-Mulder, Director of the International Labour Organisation Office in Brussels, noted instruments and challenges for the protection of labour rights and implementation of ILO conventions.

“It is largely due to weakness of inspectors to control their implementation. We need to strengthen capacities to make sure States and companies comply with their obligations, and contribute to redistribution of wealth in countries such as Guatemala. For that there is a need to ensure coherence and cooperation of different initiatives such as the OECD National Contact Points and the UN Guiding Principles on Business & Human Rights. If we construct a Treaty, we should do it based on existing experiences and investigate how to respond to those. As multinational companies work with subcontractors in global supply chains, legal frameworks are complex. Work on making human rights due diligence a requirement, as France has done, is important. We should also recognize the great power of consumers to influence business practices.”

Markus Krajewski, Chair of Public Law and International Law at the University of Erlangen-Nürnberg, presented the results of his [study](#) commissioned by CIDSE, “Ensuring the Primacy of Human Rights in Trade

and Investment Policies: Model clauses for a UN Treaty on transnational corporations, other businesses and human rights.” He pointed out that in the implementation and practice of trade agreements, there are conflicts with human rights. As reforms in agreements like CETA such as the “right to regulate” clause are insufficient, there are several ways a Treaty could address this.

“The requirements of trade and investment agreements limit policy space of governments to change laws and strengthen legal protection, working as quasi-Constitutional norms.” As it is difficult to change or withdraw from trade agreements, we need to rebalance human needs and the needs of businesses, addressing both rights and obligations of foreign businesses together with principles of fairness and justice in court systems that consider all these elements in a given situation, which isn’t the case today in investment tribunals. This cannot be done only through implementation of existing non-binding instruments like the UN Guiding Principles. The weaknesses of National Contact Points and of domestic laws are at the heart of the issue. We need to establish new rules to ensure that States negotiate trade and investment agreements that ensure the primacy of human rights. Alongside political and moral claims, we can make the legal argument that the EU is obliged by the Treaty of Lisbon to secure human rights and fundamental values in its trade policy, and so should take up an active role in the negotiations on the UN treaty.”

MEP Claude Rolin (EPP, Belgium), Vice Chair of Committee on Employment and Social Affairs, shared his impressions from the recent debate around the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada.

“These negotiations have launched a debate on including human and labor rights in trade agreements. This offers a window of possibilities to ensure that we redress the imbalanced power relations, and to make sure a good living for all citizens. We have to stop opposing voluntary and mandatory measures, they can add to each other in order to complete the respect of human rights. We need to recognize the historic momentum of the UN treaty and the need for the EU to take a proactive role in the negotiations. The economy makes sense only if it brings more value to the human being; the economy must be at the service of human beings, not the contrary!”

