

# Corporate Accountability at the United Nations

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## Progress on corporate responsibility since Rio

Not surprisingly, corporations continue to be one of the main forces underlying the globalization of unsustainability. While some exceptional companies sincerely try to operate on principles of social and environmental responsibility, the vast number of corporations operate simply to maximize profits and market shares, externalizing their costs to the environment and communities.

Today, five years after the Earth Summit when the proposed Code of Conduct for Transnational Corporations was tabled, we should see the report card on the promise that was made: that corporations could be trusted to regulate themselves without public oversight, that they would voluntarily move towards just and sustainable practices if left alone. The NGO Taskforce on Business and Industry (ToBI) was created with the specific mission of reminding the governments of this promise and their own responsibility to ensure that such promises are kept.

Five years later, during the General Assembly Special Session, we see neither the report card nor evidence that TNCs have done much more than fine-tune their equipment and public relations. Meanwhile, in a church across the street from the United Nations, presentations by local communities and indigenous people from around the world to the International Peoples' Tribunal on Human Rights and the Environment<sup>2</sup> revealed a common underlying theme. Corporations continue strip-mining the land and contaminating fresh water with mine tailings and cyanide, poisoning the people who live there. Soldiers continue forcing indigenous peoples off their ancestral farms and homelands, which are then plundered by companies feeding industrialized society's fossil-fuel addiction. In general, the evidence points to a world in which corporations continue to place

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<sup>1</sup> Prepared for *Northern Lights*, July 18, 1997. This paper is adapted from ISF's contribution to the Statement of the International Peoples' Tribunal on Human Rights and the Environment, as well as from Maria-Elena Hurtado's speech for ToBI to the UN Commission on Sustainable Development, April 1997.

<sup>2</sup> See also final report of the International Peoples' Tribunal on Human Rights and the Environment.

profits above human rights and environmental integrity, while governments either look the other way or add to the problem.

Five years after Rio, the corporate world has shown some progress on ecoefficiency and in some cases a greater awareness of environmental and social impacts. However, the record of abuses and the efforts by corporations to avoid responsibility for their actions cannot be ignored any longer.

## What is government's role?

As to the governments which should hold these corporations accountable for their actions, we discover a deadly silence. At the CSD Intersessional, CSD-5, and the UN General Assembly Special Session (UNGASS), the NGO Taskforce on Business and Industry mounted a continuous campaign to engage government delegates in a dialogue with NGOs on the topic of corporate responsibility and accountability. The main question was: What is government's role in ensuring that corporations do not harm human communities or the environment?

In our statement and report, *Minding Our Business: The Role of Corporate Accountability in Sustainable Development*, we identified the problem of society's inability to adequately deal with those corporations which refuse to be responsible, and pointed out the responsibility of government to address this problem. We gave three case studies illustrating the problem: the tragedy of Union Carbide in Bhopal, of Royal Dutch Shell in Nigeria, of the Freeport-McMoRan mining company in Irian Jaya. In public panels and in government briefings we continued to raise the question of the need for governments to define their responsibilities to the public; we proposed the creation of a UN Subcommission on Corporate Accountability at the CSD to explore these issues and identify solutions. In the so-called NGO Dialogue with Government,<sup>1</sup> Maria Elena Hurtado of Consumers International again raised the question of the Subcommission, but there was no dialogue, not one single word from the government delegates who heard her speak.

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No one overtly recommends that corporations should have no regulations or oversight at all, that they should not be answerable to the law, or that the current laws should not be enforced. However, the trend is clearly towards increased promotion of corporate rights and less government "interference." Many government representatives at the UN give the impression of being seduced or intimidated by the power and influence of the corporate sector. For many delegates it is perhaps political suicide to criticize or suggest holding such economic giants accountable. Should it be surprising that so many delegates avoided and essentially remained silent in response to our questions?

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<sup>1</sup> See "Dialogue sessions with Major Groups: Summary report of the dialogue session with non-governmental organizations," Commission on Sustainable Development, 18 April 1997, E/CN.17/1997/L.7.

## Surrendering responsibility

Behind this silence lies a dangerous situation: governments are voluntarily giving up their national sovereignty to corporations, while corporations refuse to voluntarily give up their unsustainable practices.

This surrender by government of their responsibility to people and planet can be heard in the official chorus of calls for more deregulation and free trade, in providing more corporate rights and “breaking the barriers” of communities trying to protect themselves from what amounts to corporate colonialism.

While individual citizens remain accountable to the laws of their national governments, transnational corporations are increasingly allowed to operate in a global realm above all laws. It should not be surprising that there was little discussion of corporate accountability at the UN Special Session: instead of accountability, the trend is toward corporate immunity. Governments should realize that this trend of giving up their responsibility also means giving up their legitimacy.

## Where should society invest its resources?

When governments abdicate their responsibility to protect the people from destructive acts, as witnessed in the current Multilateral Agreement on Investment (MAI), they create a political and moral vacuum. This is a process by which governments, in the name of free trade and economic growth, surrender their responsibility to hold corporations accountable for their actions. In this transfer of rights and responsibilities to the corporate realm, the state essentially bows to corporate lawlessness.

The MAI discussed by the OECD governments and WTO partners promotes corporate rights over human rights and the well-being of local communities. Receiving extremely little coverage by the media, the MAI has been described as a plan to systematically turn the global economy over to a handful of dominant corporations. If allowed to continue on its current course, the MAI will overrule the protests of the Gwich'in, the Dineh, the Ogoni, the Innu, the people of Bhopal and Guyana and other local communities as barriers to investment and trade. The communities that came before the Peoples' Tribunal will have no legal standing before the law of the market. When corporate protectionism in the name of “free trade” is made law, the laws protecting our freedoms will be traded away.

This abdication of responsibility by government is a silent admission of governments' willing role to diminish their own legitimacy and right to govern. The people must not allow their citizenship to be reduced to passive consumerism. When government refuses to lead, leadership must then come from below. The voice of civil society must be clear and strong: people must take priority over corporations.

If we do not act as responsible citizens and engaged members of our communities and the larger world, we cannot expect government or corporations to automatically act in our best interests.

## The campaign for corporate accountability

The campaign to ensure that corporations are accountable to society is also a campaign to make sure governments are accountable to their people. The people in turn, individual citizens and community organizations, the nongovernmental bodies making up civil society, must have a clear understanding of our own responsibility to tell government and business what we want and need from them. As citizens, we must make sure that government does indeed represent our health and well-being; as consumers, we must make sure that business does indeed produce the goods and services that are for the good of people and the environment, and that serve the greater interests of society.

If we do not act as responsible citizens and engaged members of our communities and the larger world, we cannot expect government or corporations to automatically act in our best interests. Without the oversight of the people, the laws of the land will become empty rituals, and government will degenerate to an administrative organ to sort out differences among a small community of corporate giants.

Participation in the further development of the NGO Taskforce on Business and Industry is one type of action which concerned citizens and organizations can take. In the coming year, ToBI will engage in dialogue with Taskforce members, as well as government and business officials on what is needed to ensure responsibility and accountability within business and industry, government, and civil society. We all must follow a personal moral code as well as obey the laws of the larger society; the question is: How can we improve our institutions as well as our individual behavior so that they sustain rather than undermine our communities and environment? ToBI will continue to push for a Subcommission on Corporate Accountability at the CSD; we will relentlessly raise questions based on the ToBI “seven-step agenda;” and we will work to promote the inevitable dialogue, negotiations, commitments, implementation and monitoring that need to take place.

Citizens can also engage in various types of actions and strategies to protest efforts to increase corporate immunity, seen in the MAI and WTO negotiations. Communities can join hands and unite in a common global struggle to reinstate integrity in government and economy. The discussion over the MAI provides a Actions can be aimed at various levels, for example:

How can we improve our institutions as well as our individual behavior so that they sustain rather than undermine our communities and environment?

- **Individual corporations:** Organize or support public pressure on individual corporations known for socially irresponsible practices. Actions can include shareholder initiatives, consumer boycotts, litigation and media campaigns. Highlight how these specific corporations will gain from MAI rulings, in contrast to the losses to communities and environment. Support public campaigns now in progress addressing the abuses of specific corporations, such as Shell, Texaco, Freeport-McMoRan, and others.
- **Industry lobbies:** Help publicize the ways in which industries such as mining, oil, chemicals, agribusiness, and others are corrupting the democratic process through inappropriate financial influence of political

institutions. Support public initiatives calling for the elimination of destructive subsidies, industry tax breaks and other forms of “corporate welfare.” Draw special attention to politicians who have allowed themselves to be corrupted by corporate influences; applaud those with the integrity and courage to resist.

- **National and local government representatives:** Continually question government spokespersons, local and national, as to where their priorities lie, specifically with regard to protecting the public interest in the MAI and WTO proceedings. At every public hearing and gathering, challenge those who claim to be representatives of the people to define and act on their responsibilities to protect the health and well-being of citizens, their communities and environment -- or publicly admit that they put corporations before people.
- **The United Nations:** In particular, the Commission on Sustainable Development (CSD), in its annual meetings to assess progress on the Earth Summit agenda, should be one of the main places where the governments of the world should discuss and agree upon their responsibility to ensure corporate accountability. The proposed Sub-commission on Corporate Accountability can provide an ongoing process through which governments define and act on their responsibility to make sure that corporations are accountable to society. This process of defining the appropriate roles and responsibilities of government and business should include the active participation of NGOs and other members of civil society. After all, government and business are supposed to serve civil society, not the other way around; somewhere this fact has been forgotten.