BRICS and the New American Imperialism

Seipato, Keamogetswe, Majumdar, Nivedita, Kato, Karina, Garcia, Ana, Gallas, Alexander, Chase-Dunn, Christopher, Carroll, William K, Bond, Patrick, Amin, Samir, Adam, Ferrial, Satgar, Vishwas, Satgar, Vishwas

Published by Wits University Press

Seipato, Keamogetswe, et al.
BRICS and the New American Imperialism: Global rivalry and resistance.
Project MUSE. muse.jhu.edu/book/89567.

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THE CAMPAIGN TO DISMANTLE CORPORATE POWER

Keamogetswe Seipato

The growing power of transnational corporations and their extension of power through privatization, deregulation and the rolling back of the State also mean that it is now time to develop binding legal norms that hold corporations to human rights standards and circumscribe potential abuses of their position of power.

Jean Ziegler (2003)

The terms ‘transnational corporation’ (TNC) and ‘multinational corporation’ (MNC) are often used interchangeably, but there are key differences between them. Transnational corporations are corporations that have headquarters in one country, mostly in the global North, and operate in the global North and the global South. The corporation based in the global South is not necessarily a subsidiary of the mother company. It can be autonomous from a branding perspective and/or a production perspective. A good example is Coca Cola, which is based in several countries around the world, where some of the beverages sold by the corporation are either country or region specific. A multinational corporation, on the other hand, is based (has its headquarters) in one country and operates or has subsidiaries in other countries. Often, headquarters are in the global North and the subsidiaries are in the global South. An example of this is Apple Inc., which has
iPhones designed in California, assembled in China, and sold globally. However, the differences between TNCs and MNCs have disappeared with the introduction and intensification of globalisation and the mobility of capital.

The earliest historical origins of TNCs can be traced back to the sixteenth century with colonial and imperial expeditions to countries outside of Europe, for example the British East India Company. TNCs have provided one key avenue through which capitalism has spread, in the process causing massive destruction, all in the name of profit. When states from the global North could no longer play a direct role in the extraction of resources and the exploitation of people through slavery and colonisation, TNCs and the Bretton Woods Institutions became the new instruments to accumulate wealth within the context of globalisation.

This chapter looks at how the power of TNCs has been left unchecked and shows how the masses seek to roll back corporate power and replace it with people’s power. There is a plethora of examples of corporate abuse around the world, but the gross human rights violations and economic repercussions of corporate abuse are particularly jarring in southern Africa and in the African continent as a whole. After giving an historical account of the rise of TNCs, the chapter brings to the fore the invisible structure that exists solely to facilitate corporate impunity. In order to highlight the immense material implications of corporate abuse, the chapter also examines cases such as the Marikana Massacre that took place in 2012 in South Africa. People’s power and resistance globally and in the southern African region is foregrounded as part of the conclusion.

**THE BRETTON WOODS BROTHERS AND GLOBALISATION: FERTILE SOIL FOR MULTINATIONAL CORPORATIONS**

After World War 2, Europe had to rebuild itself and countries like Britain were no longer at the top of the global economic food chain. While the whole of Europe was at war with itself, the United States was growing, building its industries and becoming an economic superpower, which made it a natural strategic ally in the eyes of the British. Both the US and Britain agreed that the world economy had to be a stable one, unlike its unstable condition during the pre-World War 2 era (Buckman 2004: 23).

As a means to rebuild the economy, an Anglo-American agreement was established between Britain and the United States. The agreement led to the Bretton Woods Conference of 1944, attended by 730 representatives from 44 countries around the world, which gave rise to institutions such as the International Monetary
Fund (IMF) and the World Bank. During the Bretton Woods Conference, it was determined that these institutions would be the pillars of the new world economy and would work towards a prosperous global economy.¹

To ensure that money flowed beyond just loans to countries, trade became key. A body to ensure cross-border trade also became pertinent, thus the General Agreement on Trade and Tariffs (GATT) was established. It was created to regulate world trade in an effort to aid economic growth.² Due to the limitations of GATT and the initial idea of forming a third institution to complement the IMF and World Bank, the GATT was replaced by the World Trade Organization (WTO) in 1995.

All three of these bodies – the IMF, the World Bank and the WTO – can be seen as the engines of globalisation. They laid a concrete foundation for corporations based in the North to advance into other markets beyond their home country borders. The cross-border flow of goods, services and money facilitated by all three of these bodies gave rise to modern economic globalisation. The fertile trade and investment soil created by economic globalisation nurtured the growth of TNCs and corporate power.

THE FIRST BATTLE AGAINST MULTINATIONAL POWER:
THE NEW INTERNATIONAL ECONOMIC ORDER

Dependency theorists like Raúl Prebisch and Hans W. Singer in the 1950s postulated that development taking place in the First World was happening at the expense of countries in the Third World, and in addition, the economic growth in the First World depended on the grotesque extraction of natural resources in the Third World, with no benefit to these Third World states. Theories about the world system, such as dependency theory, and the dysfunctional economic growth of former colonies in comparison to that of imperial powers provided the political and economic impetus to create the demand for a New International Economic Order (NIEO) in the early 1970s. The NIEO came into existence as a result of a sequence of events between the 1950s and the early 1960s that organised the power of the global South within the decolonising world order. This included the launch of the Non-Aligned Movement (NAM) in 1961. The NAM was a multilateral rejection of the Cold War bilateral alliances that continued to enforce the unequal development paradigm of that time. Moreover, the establishment of the United Nations Commission on Trade and Development (UNCTAD) was crucial. It was created to deal with matters related to international trade and industrialisation to ensure
inclusion of the Third World in the international trade system – not only as the cogs but also as beneficiaries of the system.

NAM, UNCTAD and the NIEO can be viewed as the global South’s first step in challenging corporate power – the corporations that were central to the global North’s success in the economic growth race. These platforms, particularly UNCTAD and the NAM, were spaces where the growing power of corporates was exposed and challenged. UNCTAD released a series of World Investment Reports assessing international development and policy and tracking key trends in relation to TNCs and their power. Through its reports and under its auspices it created the framework that highlighted the growing disparities in development and growth between the First World and the Third World. The eminence of corporate power led the G77 and Third World countries to call for a special session of the UN General Assembly. Resolution 3201 – a declaration on the establishment of an NIEO – was tabled at this special session.

In 1974 the General Assembly adopted the declaration. It was an extremely progressive declaration in relation to matters of corporate power. It wanted TNCs to be regulated and supervised. To achieve this principle, it was resolved that an international code of conduct for TNCs should be formulated and adopted. This led to the ‘Draft United Nations Code of Conduct on Transnational Corporations’ in 1983. The draft code of conduct established the means by which TNCs could be regulated by stipulating the responsibilities of TNCs around matters such as environmental protection and respect for the domestic laws of the host country in which the TNC operates. What is particularly interesting is that it also addressed matters of taxation and transfer pricing, which tackles issues related to illicit financial flows.

Much can be said about the success of the NIEO, the demands it put forth and how they were implemented. Many speak of how most of the demands of the NIEO were a push to radicalise the world system. However, those in power would not allow that disruption and/or there was lack of political will to implement the demands. The leaders in the North treated the NIEO as a general crisis of the economic system of the time, and individual leaders in the North viewed the NIEO in the same way as they had viewed domestic unrest (as a revolt in a colony) and tackled the demands as such (Gilman 2015). The fire started by the NIEO was extinguished by the economic crisis that followed in the mid- and late 1970s. Many of the Third World elite that had propagated Third Worldism were silenced. The deepening crisis pushed the global South into the hands of the same institutions that they were fighting; the global North and its Bretton Woods Institutions were able to push many countries into debt traps with structural adjustment programmes.
THE UNITED NATIONS AND ITS SHIFTS:
THE RISE OF CORPORATE POWER

Before the 1970s, the world’s general view of TNCs had been a fairly positive one: TNCs were seen as a means to accelerate development (Emmerij and Jolly 2007). This changed in the early 1970s when the involvement of the International Telephone and Telegraph Corporation (ITT) in presidential politics in Chile and the matters of bribery by TNCs around the world were exposed. These scandals provided the first glimpse of the extent to which corporations wielded power. It revealed that TNCs can meddle in politics to ensure that their interests are protected.

In 1972, against the backdrop of these scandals, Philippe de Seynes, the Under Secretary General of the UN's Economic and Social Council, worked on tabling a resolution that called together a Group of Eminent Persons who were tasked with looking at the impact of TNCs on development and international relations. Their work was housed at the UN’s Economic and Social Council (Moran 2009).

The group’s goal was to develop a new international economic world order and its work led to the establishment of the United Nations Commission on Transnational Corporations (UNCTC) in 1974. The focus of UNCTC was on forming a code of conduct to regulate transnational corporations (UNCTC 1983). The body of the UNCTC’s work took place at the time when there was a growing Third World movement that found expression through the development of the NIEO. This fuelled the UNCTC’s work, which reached its apex with the drafting of the ‘Draft United Nations Code of Conduct on Transnational Corporations’ in 1983. Instead of intensifying the powers of the UNCTC and setting it up as a regulatory body that could hold TNCs accountable in the wake of the above scandals, the UNCTC was abolished and its functions dissolved into UNCTAD in 1993 (Emmerij and Jolly 2007).

The change in economic landscape in the late 1980s saw the proactive stance that the UN had taken towards TNCs and their impacts on the world dissipate. The change may be attributed to the move toward neoliberal economic policies in countries that are key players in the UN. Therefore, actively working to curtail the power of TNCs was not in the interests of the UN. A key example, indicative of this shift, is demonstrated by the standing ovation that the General Assembly gave to Salvador Allende’s speech in the 1970s asserting that ‘the world community, organised under the principles of the UN, does not accept an interpretation of international law subordinated to the interests of capitalism’, while in the early 2000s it was content to hear Ban Ki-moon say, ‘Now, a new set of crises requires a renewed sense of mission . . .’ and thereafter called his audience to sign up to inclusive capitalism: ‘a new constellation of
international cooperation – governments, civil society and the private sector, working together for a collective global good’ (Zubizarreta and Ramiro 2016: 9).

The power of TNCs accelerated in the 1980s – they became stronger global actors without the limitations of international law that block nation-states from directly being key players in the global economic playing field. The rise in the power of TNCs is mapped out in the World Investment Reports of UNCTAD. The 1991 report, which used a substantial amount of data produced in the 1980s, reveals that TNCs dominated the foreign direct investment flows amounting to US$196 billion in 1989 (UNCTAD 1991). The report also mentions that TNCs played a major role in the international trade of high technology products, which, since technology is a key determinant of economic growth, means that TNCs played a significant role in shaping and controlling the economic landscape of the 1980s.

One might argue that a key reason for the clear shift in the UN’s approach to TNCs is based on the fact that they were major global actors within the process of privatisation. Countries in Africa were facing major economic challenges and in order to qualify for bailouts they had to implement structural adjustment programmes. One of the many policies the Bretton Woods Institutions implemented through these programmes is the privatisation of public services/goods. This, in turn, made it possible for TNCs to virtually run the economies of these countries because they were the largest suppliers of the foreign direct investment that created an inflow of money for any crisis-ridden country. The excitement around the economic prosperity guaranteed by TNCs is seen in the language used in the World Investment Reports of UNCTAD. The 1992 report illustrates this through a diagram that positions TNCs at the centre of economic growth of any ‘host economy’ in which they operate (UNCTAD 1992: 13).

THE ARCHITECTURE OF IMPUNITY

‘The evolution of global capitalism from the mid-nineteenth century to the present has served to consolidate and strengthen the pivotal role of TNCs in the global economy, as well as their increasing dominance over multiple areas of life’ (Zubizarreta 2015: 7). To believe the notion that corporate abuses and crimes are just a phenomenon and that only a few outlier corporations are implicated is naïve, when there is a structure of corporate law and trade treaties designed to protect the interests of corporations, above even human rights.

The amount of power that corporations wield has led to an asymmetrical legal system known as the *lex mercatoria*. The *lex mercatoria* is characterised by several
trade treaties – multilateral and bilateral trade agreements, investment protection agreements, policies imposed by the IMF, conditional loans by the World Bank, investor–state dispute settlement systems and trade measures enforced by the WTO (Zubizarreta and Ramiro 2016).

Looking into the history of the WTO reveals that each ministerial meeting enforced trade rules in areas that contributed to the growing power of TNCs. These rules were designed to ensure that the goods and services of TNCs were not undercut by the availability of cheaper goods and services in poor countries (Buckman 2004: 48) The investor–state dispute settlement mechanism is a cog in the huge machinery of the \textit{lex mercatoria} which allows TNCs to sue a government for passing laws that can affect their future or present profits. The grounds on which a TNC can sue are very fluid. For example, in cases where corporations have taken governments to court for passing laws or measures that could harm their present or future profits, the cases are heard, regardless of how ludicrous their grounds are (George 2016).

The Transatlantic Trade and Investment Partnership (TTIP), which has been negotiated behind closed doors, is one of the crudest examples of these trade agreements that form the basis of corporate impunity. Once the TTIP is signed, it is set to lead to the abolishment of 'barriers' to corporate profits and to allow US-based companies to sue the UK government or any other government in the EU through arbitration courts. The trade agreement is forecast to lead to a race to the bottom in food, environmental and labour standards in the EU (War on Want n.d). In essence the TTIP looks as promising as the North American Free Trade Agreement (NAFTA) looked – on paper. NAFTA promised prosperity and economic growth for Mexico, Canada and the US, but in Canada, for example, the agreement brought nothing but a US$250 million lawsuit after the people of Quebec voted against fracking and a company sued the Canadian government for loss of profits (War on Want n.d).

Rules such as the most-favoured-nation principle of the WTO ensure that 'everyone is treated equally', which means that no country can legislate any law to guarantee that national corporations will receive subsidies from their governments, and also prevents any preferential treatment of national corporations within a specific market in which a TNC is also operating in that territory. In addition, the existence of international arbitration tribunals and the effectiveness of their rulings strengthens corporate law (Zubizarreta and Ramiro 2016: 17). This strength, juxtaposed with corporate social responsibility, codes of ethics and international human rights law, relegates the protection of nature and society as a whole to the status of soft law. It is particularly interesting to observe that most disputes are raised by TNCs
in the extractive industries which of course are not interested in the development of countries in the global South.

There are three key tools that help build and strengthen the *lex mercatoria*, namely lobbying – when experts and lawyers work on moulding national and international policies in favour of the revolving-doors interests of TNCs, thus enabling high-level people to move between the public and private sectors without problems related to a conflict of interest; corporate diplomacy and bribery. Often a corporation seeking to operate in new territories offers the officials in the potential host countries ‘financial incentives’ or bribes to facilitate its operations. Several high-level cases of bribery or corporate corruption have been reported over the years. For instance, in 2008 Siemens was ordered to pay the US government US$1.6 billion for violating the country’s anti-corruption laws. The assistant attorney general at that time was quoted in a newspaper as saying ‘Bribery was nothing less than standard operating procedure at Siemens’ (O’Reilly and Matussek 2008).

The balance of power within a neoliberal framework guarantees that the interests of TNCs are central and assures legal certainty for their business, at the cost of protecting the fundamental rights of the majority. Examples of how Chevron has taken Ecuador to several international arbitration tribunals because Chevron was required to pay compensation to those impacted by its pollution in the Amazon is a clear depiction of this (Zubizarreta and Ramiro 2016: 7). The strength of the *lex mercatoria* is reinforced through the Chevron case, which started in 1993 and has led to back-and-forth court battles with Chevron losing each time. However, the mere fact that Chevron has been to several international arbitration tribunals to fight this over the past 25 years, highlights how the corporation trusts the process and believes that it will win. In 2018, there were several judgments that found Chevron guilty, but they have been overruled by the Permanent Court of Arbitration in the Hague. The judgment stated that the Ecuadorian government was liable for ‘denying’ Chevron justice and violating the company’s fundamental procedural rights (Business and Human Rights Resource Centre 2018).

**CORPORATE IMPUNITY: THE CASE STUDY**

On 16 August 2012, South Africa witnessed the Marikana Massacre, in which 34 striking mine workers were gunned down by police. The mine workers at Lonmin Platinum were on strike for a wage increase, demanding a living wage. After the massacre then President Zuma called for a commission of inquiry, which revealed what had taken place on 16 August and the days leading up to the massacre. It became
clear that the police had been working with Lonmin Platinum and that high-level officials at the time gave police orders to squash the strike. Recordings and emails presented as evidence during the Farlam Commission of Inquiry implicated several government officials, including then deputy president, Cyril Ramaphosa.

Lonmin Platinum is a TNC that operates in South Africa, with its main headquarters in London and its operational headquarters in Johannesburg. Founded in 1909 as part of the London and Rhodesian Mining and Land Company Limited, Lonmin PLC was the mining division of the company. In 2012, the deputy president had acquired a large shareholding in the company through a loan from the mother company in London. When the miners started striking for a living wage and the company started losing revenue the investors became uneasy and, in the true fashion of corporate impunity and revolving doors, the deputy president had to intervene and send direct orders to the minister of police to do something about the strike. State resources like helicopters were used to fly over the area and the company’s security worked together with the police.

The epitome of soft-law practices is the establishment of truth commissions or commissions of inquiry that lead to no prosecutions and end with recommendations – the Farlam Commission of Inquiry falls perfectly into this category. Under the guise of corporate social responsibility, Lonmin promised to start an education fund for the children of those who were deceased. The company promised to give jobs to those who had lost their loved ones and to build new houses (houses that were already meant to have been built back in 2006). On the seventh anniversary of the massacre the CEO of Lonmin spoke in a radio interview on a local radio station. He mentioned the progress that Lonmin had made since 2012 (Magara 2018). However, the widows and mine workers who were injured during the strike have not yet received any reparations.

The fact that Lonmin was given access to state resources like the police services and that Cyril Ramaphosa felt that it was necessary to send out a direct order to the police minister to do something about the strike speaks directly to how corporate power works and how those that benefit from it will protect the interests of big business, by any means necessary. The fact that the company was not held accountable for the mine workers’ deaths also highlights how the architecture of impunity is designed.

IN THE ABSENCE OF A REGULATORY BODY: PEOPLE’S POWER

In 2000, after the abolishment of the UNCTC in 1993 and in the absence of any regulatory body to monitor the activities of TNCs, the then Secretary General
of the UN, Kofi Annan, launched the Global Compact. The Global Compact is a voluntary partnership between the UN, corporations and NGOs that embraces the ten principles (Emmerij and Jolly 2007). The ten principles fall within four categories derived from the UN bodies’ principles and declarations, such as the United Nations Convention Against Corruption.

In the millennium the matter of TNCs and their power came into question once more, so in 2005 John Ruggie was mandated by the UN Secretary General to look at matters of business and human rights because TNCs were not satisfied with the draft ‘Norms and Responsibilities of Transnational Corporations and other Business Enterprises’. TNCs stated that the norms placed the responsibilities of states on corporations and that the norms undermined the interests and rights of private enterprises. Ruggie concluded his findings in 2011, publishing a report calling for the implementation of the ‘Protect, Respect and Remedy Framework’ through the UN’s Guiding Principles on Business and Human Rights (Zubizarreta 2015).

The Global Compact and the UN Guiding Principles are instruments that could have regulated or even held TNCs accountable, but because they operate within soft law they have no weight in really effecting change or pushing for any form of accountability. The demise of the UNCTC had left a vacuum, and the disappointing guidelines that came out of the Ruggie process – social movements and progressive NGOs had hoped the process would be a concrete step towards halting corporate impunity – pushed NGOs and social movements that had been challenging corporate power and globalisation to work collectively on ways to dismantle and stop corporate impunity.

The Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity (hereafter the Global Campaign) was formed in 2012. The international call to action on the website of the global campaign states: ‘The time has come to unite the hundreds of struggles, campaigns, networks, movements and organisations that are combating the different ways TNCs are appropriating our destinies, natural heritage and rights, dismantling public services, destroying the commons and endangering food sovereignty in every corner of the planet.’5 The Global Campaign is a network of over 200 social movements, networks, organisations and affected communities resisting land grabs, extractive mining, exploitative wages and environmental destruction caused by TNCs. The campaign’s work focuses on developing a virtual observatory on TNCs. Through working with other groups like the Treaty Alliance it participates in campaigns for a binding UN treaty to regulate TNCs and stop human rights abuses. The campaign is also proposing an ‘International Peoples Treaty’, which will epitomise people’s power because usually treaties are signed by states. The treaty aims to create a political framework to
support social and civic movements and communities in their acts of resistance and to support practices alternative to corporate power.

THE CHALLENGES IN DISMANTLING CORPORATE POWER

Mobilising globally has its inherent challenges no matter what the issue might be, but for a campaign that seeks to disrupt the economic foundations that the current system is built on, the challenges are great indeed. Bringing together the voices of diverse people from different corners of the world and making sure that each voice is clearly articulated – even amplified – is a major challenge. However, this is also the challenge of any global campaign.

One of the major stumbling blocks of the global campaign is mapping out what will take place if the process of the open-ended intergovernmental working group (OEIWG) on TNCs and human rights is derailed and the process stops with a draft treaty. In 2017, the positive gains then made seemed a bit murky because of the change in government in Ecuador, which was leading the work of the OEIWG in Geneva, Switzerland. The change in government forecasted that Ecuador would no longer take the progressive stance it had in the previous sessions. This then meant that energy had to be spent on working with another progressive actor within the process, which in this case is South Africa, the second country leading the process of the binding treaty.

This challenge highlights the volatility of working as a campaign at a UN level. It shows that the gains made after years of planning and activity can be lost in an instant if there is no political will. This also then speaks to another challenge that the campaign might face in the long run, if the treaty process becomes a lengthy one. Academics and other groups speculate that we have five to ten years before the treaty is ratified. This can lead to campaign fatigue and a loss of momentum. Thus far, the Global Campaign has been attending each session and organising a ‘peoples’ process outside the Palace of Nations in Geneva, but if this continues for five more years without any major successes, mobilising people to take part in the ‘Week of Peoples Mobilisation’ in Geneva might prove to be extremely difficult because of general campaign fatigue and the high costs of travelling to Switzerland. The Global Campaign and its partners would need to strengthen its interventions to dismantle corporate power from other pressure points, beyond UN lobbying. This could include starting global working groups that would tackle the corporate plunder of key corporations that operate in the same way as Lonmin and that would push for domestic and international means to hold such corporations accountable for their crimes.
PEOPLE’S POWER IN THE REGION

It became apparent that the fight against corporate power could not just take place at a global level with key regional blocks pushing for corporate accountability from their corners of the world. The Southern African Campaign to Dismantle Corporate Power (hereafter Southern African Campaign) was established in 2016 as the regional leg of the Global Campaign. The launch of the Southern African Campaign took place when the campaign hosted the very first Permanent People’s Tribunal (PPT) on TNCs in southern Africa, in Manzini, Swaziland (the second session of the PPT was held in Johannesburg, South Africa in August 2017). The PPT is a public opinion tribunal that is independent from state authorities. Its work is based on the principles of the Universal Declaration of the Rights of Peoples proclaimed in Algiers in 1976. The tribunal applies international human rights law to the cases presented before it. The tribunals serve as platforms for communities and movements to present their grievances and create awareness of their struggles among a larger southern African and global audience.

Cases presented at the 2016 and 2017 sessions brought to the fore how corporate plunder manifests itself in the region and how it disrupts communities’ way of life. Often the introduction of a development project led by a TNC results in land grabs and the mass displacement of people. From Penhalonga, Zimbabwe, community members gave chilling accounts of how the bones of their loved ones were exhumed, without their knowledge, through the mining process of a Chinese mining company operating on the river bank close to a site that the community used for burials. Community members from Tete, Mozambique, recounted how the government worked with Jindal (an Indian steel corporation) and Vale (a Brazilian mining corporation) to repress the community when it resisted the commencement of their operation in their area.

From Malawi, the Rural Women’s Assembly spoke about how Monsanto (an American mega agrochemical corporation) has captured the Farmer Input Subsidy Programme, making sure that the Malawian government spends the bulk of the funds in the programme on importing and offering only Monsanto’s hybrid seeds to smallholder farmers. One of the major challenges with these hybrid seeds is that they destroy indigenous seed systems. Most of the cases also highlighted how women bear the brunt of corporate impunity. Women from different walks of life spoke in front of each jury panel about how they have to walk for hours to fetch drinking water because a mining company has cut off their access to the nearest water source; how they have to take care of family members who are now ill from working underground and have lost their jobs at the mines due to their sickness.
After each session a juror statement is produced. The statement is a consolidation of the jurors’ deliberations which then gives recommendations on what can be done to hold these corporations to account through international law. The first statement, after the 2016 session, highlighted issues related to women and extractivism and the second statement, after the 2017 session, highlighted issues around development and the environment.6

In addition to the tribunal process, the Southern African Campaign also aims to strengthen the joint struggles fought by communities against TNCs and bring partner organisations, affected communities and movements together to confront and break down the corporate systems which destroy their livelihoods, homes and health and violate their basic rights, as well as the state policies which enable this. Several communities affected by mining are uniting in action against extractivism. During the testimonies made during the sittings of the tribunal it became clear that the Right to Say No campaign, based on the UN-recognised right of indigenous people to Free Prior and Informed Consent (FPIC), has potential to unite a wider range of communities and popular organisations. FPIC places the development decision in the hands of the community.

To realise this right, the community’s decision should be made free from any obligation, duty, force or coercion and must include access to information that is understandable to such a community. Ideally, various development options should be presented to the affected community to ensure that their decision is based on a real choice. An affected community should make development choices without being influenced by decisions already made by government, financial institutions or investors. In other words, the community’s right to FPIC is not realised if they are presented with a project as a fait accompli. Again, access to sufficient information to understand the nature and scope of the project, including its projected environmental, social, cultural and economic impacts is critical. Such information should be objective and based on the principle of full disclosure.

The Right to Say No Campaign resonates with the struggle for alternatives to the current extractive development paradigm. Communities and social movements around the world, and particularly in the southern African region, seek to preserve their sovereignty and protect the environment. Based on this collective energy, the tribunal process of the Southern African Campaign has given way to the development of the Right to Say No Campaign. The voices of community members, movements, peasants and small-scale farmers have been ignored for decades to protect corporate power and to uphold the destructive capitalist status quo, but the dream of a different world fuels those that have been on the oppressed side of capitalism.
The dream of self-determination beyond the nation-state, of a sustainable way of life, a living wage and basic services has fuelled social movements today. The dream of reclaiming people’s power and notions of power from below have gathered enough momentum to build campaigns. Initiatives such as the Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity, and its regional leg – the Southern African Campaign to Dismantle Corporate Power – create platforms where those who have been under the thumb of corporate power and its impunity can unite to challenge these corporations and claim back their sovereignty.

NOTES
2 See https://www.investopedia.com/terms/g/gatt.asp (accessed 4 October 2018).

REFERENCES


