



# CLOSE THE ACCOUNTABILITY GAP

CORPORATIONS, HUMAN  
RIGHTS AND POVERTY

HUMAN RIGHTS =  
LESS POVERTY

**AMNESTY  
INTERNATIONAL**



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DEMAND DIGNITY (( DEMAND DIGNITY )) DEMAND DIGNITY DEMAND DIGNITY DEMAND DIGNITY



**GLOBALIZATION HAS BROUGHT UNPRECEDENTED POWER AND INFLUENCE FOR CORPORATIONS, ALONG WITH JOBS AND INVESTMENT RETURNS FOR MILLIONS. BUT WHEN CORPORATIONS' ACTIVITIES VIOLATE HUMAN RIGHTS AND DRIVE PEOPLE DEEPER INTO POVERTY, THERE IS OFTEN NO EFFECTIVE MEANS TO HOLD COMPANIES TO ACCOUNT OR TO ENSURE REDRESS FOR THOSE AFFECTED.**

When a dam ruptured at a gold mine operated by Omai Gold Mines Ltd in Guyana in 1995, one of the country's largest rivers was contaminated and communities living along the river bank were severely affected. A number of legal cases were initiated seeking redress, including a lawsuit in Québec against Cambior Inc., the majority shareholder in the mine. The lawsuit was dismissed. Legal efforts to seek redress in Guyana were unsuccessful.

Companies have an enormous impact on the rights of individuals and communities. This impact is often positive. For example, successful companies create jobs. They increase state revenue, which can be used to fund basic services and other initiatives.

But some companies also undermine or abuse human rights, either through lack of foresight and proper planning or because of deliberate actions. In addition, some states renege on their obligation to protect people within their territory from human rights abuses – or states may themselves violate human rights – in the pursuit of valuable resources. Those affected have little recourse to redress, and their attempts to secure justice can be thwarted by corruption, self-interest, or ineffective legal systems.

Community livelihoods are threatened or destroyed, pushing people further into poverty. In Papua New Guinea, for example, the Ok Tedi copper mine dumped millions

of tons of mining waste. The waste contaminated the river system, causing widespread environmental damage and disrupting the livelihoods of communities living down river. The then majority owner of the mine, the Australian-British company BHP Billiton, transferred its stake in 2002 to another company under an agreement that made BHP Billiton exempt from legal liability for the damage.

As with the Ok Tedi mine, projects are often undertaken without adequate assessment of the potential impact on human rights, including environmental and social impacts. Communities may be forcibly relocated from their lands, and traditional livelihoods – and lives – can be destroyed or threatened as land is contaminated and water supplies are polluted.

Affected communities are frequently denied access to information about the impact of company operations and excluded from participating in decisions that affect their lives, exacerbating insecurity and deprivation. If abuses occur the situation is compounded when communities are denied access to justice, and governments cannot or will not hold companies to account for their actions.

The consequence is continued abuse, further entrenching the cycle of poverty and reinforcing the obstacles people face in their right to access basic services such as education and health care, and their right to pursue a livelihood.



## GLOBALIZATION: WINNERS AND LOSERS

Corporations have benefited from economic globalization. Trade deregulation, opening markets to foreign investment, and other market freedoms advocated by the World Trade Organization, the World Bank Group, and others have increased the power and influence of companies.

But there has been little corresponding binding regulation of these companies to ensure that they are held accountable for the impact of their operations. Far too often, human rights abuses involving companies are perpetrated with impunity – with states unable or unwilling to prevent and punish such actions. The transnational nature of many powerful corporations and the legal complexities of their operations are particular challenges for corporate accountability.

Weak and poorly enforced domestic regulation and corporate double standards combine with the lack of effective international accountability mechanisms to devastating effect in developing

**Two boys collect water at Sunder Nagar, Bhopal, 2004. The government has painted the pump red to show the well has been contaminated by the Bhopal disaster.**

countries. It is frequently those living in poverty who suffer the consequences of corporate bad practice and abuses.

Many economic experts argue that hundreds of thousands, if not millions, of people have been lifted out of poverty as a direct consequence of globalization. But the true impact of globalization on reducing poverty remains contested. Well before the current economic crisis, there was evidence of deepening inequalities. For example, the number of people who suffer from chronic hunger has increased since 1992. By the end of 2008, more than 963 million people went hungry each day.

As the current global economic crisis has made all too clear, gains from globalization in eradicating poverty have proved fragile. The World Bank's revised poverty estimates reveal

## CASE STUDY: THE BHOPAL DISASTER

Just before midnight on 2 December 1984, around half a million people were exposed to poisonous gas when thousands of tons of toxic chemicals leaked into the air from Union Carbide's pesticide plant in Bhopal, India. Plant officials waited several hours before alerting the authorities to the disaster.

**Between 7,000 and 10,000 people died within days. At least a further 15,000 died of related causes over the following 20 years. More than 100,000 people suffered chronic, debilitating illnesses for which treatment is largely ineffective.**

The Bhopal disaster shocked the world and raised fundamental questions about the accountability of corporations. Nevertheless, a quarter of a century later, and with the company concerned now a subsidiary of Dow Chemical Company, many survivors are still waiting for adequate compensation. The Bhopal site has never been properly cleaned up. US and Indian courts have failed to deliver justice and a full, independent investigation has never been held.

## CASE STUDY: OIL, POVERTY, AND HUMAN RIGHTS IN THE NIGER DELTA

The Niger Delta in Nigeria has massive oil deposits, which have generated billions of dollars in revenues. Yet the majority of the Niger Delta's 30 million people live in extreme poverty. The contrast between the Delta's impoverishment and the wealth its oil generates is one of the starkest and most disturbing examples of the "resource curse".

The oil industry in the Niger Delta has brought little benefit to the region and pushed many deeper into poverty. Widespread human rights violations connected to oil extraction have undermined traditional livelihoods, polluted the environment, damaged people's health, and contributed to conflict.

Community activists who protest face violence. For example, in May 1998 some 120 youths from

the Ilaje ethnic group occupied Chevron's Parabe oil platform, demanding financial compensation and other reparations for environmental damage to water supplies and fishing grounds. Chevron requested the assistance of the security forces, and three days after the protest began Chevron's head of security accompanied police and naval personnel to the platform in helicopters. The security forces shot dead two protesters, Aroleka Irowainu and Jola Ogungbeje, and wounded several others.

Those living in the Niger Delta have been systematically denied access to information about how oil exploration and production will affect them. They have seen their human rights undermined by oil companies and been repeatedly denied access to justice as the government fails to hold companies to account.

that 1.4 billion people in the developing world – more than one in every four people on the planet – live on less than US\$1.25 a day. At least an additional 100 million people were plunged into poverty due to the food, fuel and financial shocks of 2008. In the wake of the global economic crisis, we can expect further increases in poverty and hunger as export markets shrink and foreign direct investment slows down in light of wealthy countries' own economic constraints.

## THE RESOURCE CURSE

Many of the world's poorest countries are also the richest in resources. Twelve of the world's most mineral-rich states, and six of the world's most oil-rich states, are classified by the World Bank as "heavily indebted poor countries" and are among the world's worst for standards of living, health and education.

It should be possible, as many companies in the extractive sector contend, for investment in natural resource extraction

to make a significant contribution to poverty alleviation and sustainable development. But it is undeniable that decades of natural resource extraction and the enormous revenues it has generated have all too often fuelled conflict and human rights abuses, increased poverty, and undermined sustainable development.

## HUMAN RIGHTS DENIED

Companies may be complicit in, and sometimes directly responsible for, a range of human rights abuses. Allegations of human rights abuse are particularly high in extractive operations compared with most other industries. This is not surprising, given the impact that such operations have on land and water resources. Communities may be forcibly relocated to make way for extractive activities. Pollution or overuse of water resources can damage local communities' access to clean water. Heavy-handed security operations to protect extractive industry sites have been a recurring problem – often in countries or areas already affected by conflict.



*'The root cause of the business and human rights predicament today lies in the governance gaps created by globalisation ... How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge.'*

John Ruggie, Special Representative of the UN Secretary-General on Business and Human Rights, 2008

Wilfully or through a lack of due diligence, extractive companies often divide communities and play one group off against another. The arrival of well-resourced companies seeking to win over local communities can lead to increased violence and social conflict, particularly when those who are excluded from the benefits of economic development feel they have not



Indigenous groups protest against environmental damage associated with oil production in Ecuador. Banner reads: 'Texaco never again!'

**CASE STUDY: MEXICO**

In March 1998, following concerns about the diminishing water supply, local farmers in the Sierra de Petatlán and Coyuca de Catalán, Guerrero State, Mexico, filed a report against a company for exploitation of resources and campaigned for illegal logging to be stopped. Members of the Mexican army detained and tortured two of the farmers, accusing them of being part of a guerrilla group. The two farmers were later convicted on fabricated criminal charges of planting drugs and possession of arms. They remained in prison for four years before being released on the orders of the President. Other local activists who have highlighted the environmental impact of excessive logging in the region have also faced reprisals and imprisonment, but no one has ever been held to account for these crimes.

gas development on their land led to a sharp decline in wildlife and severely disrupted hunting, trapping, fishing, and the gathering of food and medicinal plants. With the collapse of the traditional economy, the percentage of Lubicon families dependent on federal social service payments as their primary source of income rose from 10 to 90 per cent in the first four years of oil development on their land. In 2007, the UN Special Rapporteur on adequate housing found that the Lubicon “are being actively pushed out, lands are being taken away, the area is being polluted”.

received their fair share. The lack of transparency in the way companies award community contracts and payments can also fuel conflict within and between communities.

Similarly, negotiations with governments around particular extractive projects are often not transparent. There is frequently no adequate consultation with communities. There is a yawning gap between the rhetorical commitment to “participation” and the reality, as corporations frequently do not make relevant information available to communities, and when they do so, it may be no more than an exercise in public relations. In addition, many poor communities may not know the information is available or may be unable to read it.

**WOMEN – DOUBLE JEOPARDY**

For women, the effects of extractive operations can be exclusion and abuse. Too often, when companies do seek to interact with communities in relation to extractive operations, women are left out of the process.

The influx of a largely male workforce into small communities can have social impacts leading, for example, to increased substance abuse, sexual violence, sexually transmitted diseases, and other health problems, often placing enormous strain on existing health or other social services.

**INDIGENOUS PEOPLES – WITHOUT CONSENT**

The impact of extractive operations and other development projects can be devastating for Indigenous Peoples. The situation faced by the Lubicon Cree in western Canada is all too common. The Lubicon’s traditional territory is in an area of the province of Alberta rich in oil and gas deposits and has been the source of an extraordinary regional economic boom. When the Alberta oil boom began in the 1970s, the Lubicon lived almost entirely off the land. Trapping provided a modest income, and the forest and the waters provided virtually all of the Lubicon’s subsistence needs. Large-scale oil and



**Top:** Ok Tedi copper mine near Tabubil, Papua New Guinea. Millions of tons of mining waste was dumped into the river system causing widespread environmental damage.

**Above:** A disused Lubicon trapper's cabin overshadowed by an oil well, 2008. Large-scale

oil and gas development has destroyed the traditional way of life of the Lubicon Cree in western Canada.

**Cover photo:** Burning gas from oil exploration in the Niger Delta, February 2008. The oil industry in the Niger Delta has pushed many deeper into poverty.

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*It is in the enlightened self-interest of progressive companies to work with Governments, NGOs, trade unions and other businesses to mainstream human rights within the normal practice of business.*

Business Leaders Initiative on Human Rights

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## THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT

The principle of free, prior and informed consent requires the participation of Indigenous Peoples at all stages in the decision-making, planning, implementation, and evaluation of any activity that affects their rights and interests. Their consent must be sought and obtained without recourse to coercion.

The process of obtaining consent must allow sufficient time for all concerned to learn about the process, obtain information, engage in full discussion, and reach an agreement. All relevant information must be made available to the community. Consent must be clearly demonstrated, in keeping with the decision-making structures of the Indigenous Peoples involved.

The principle of free, prior and informed consent is set out in the International Labour Organization Convention on Indigenous and Tribal Peoples in Independent Countries and the UN Declaration on the Rights of Indigenous Peoples. It is also developed in documents issued by the UN Committee on the Elimination of Racial Discrimination.

## POVERTY AND PRIVATIZATION

In the name of economic efficiency, states have privatized many state services, including those critical for the realization of human rights, such as the right to education, health, and water. Too often, the process of privatization has failed to ensure that these services are provided without discrimination. For example, ActionAid found in 2004 that privatized water delivery in Dar es Salaam, Tanzania, did not supply poorer communities and led to increased costs in the areas that were served without improvements in delivery or quality.

In addition, states have increasingly weakened their oversight of these services. Deregulation based on the premise that private service providers will police themselves has created an environment which burdens those who are already marginalized. Poor communities living in a slum can pay more for unsafe water that needs to be delivered by truck than affluent communities pay for clean water piped directly to their homes.

Without an incentive, for-profit companies are unlikely to service low-income communities. When they do, they may adopt unduly onerous, discriminatory, or predatory practices toward members of these communities.

When states do privatize services, they cannot contract away their obligations to respect, protect and fulfil human rights. The state must observe these obligations scrupulously in every case in which it privatizes water, security or any other state function.

Privatization need not come at the expense of human rights, if every public service contract includes sufficient safeguards to ensure that private companies work within the bounds of human rights law. Moreover, companies that provide services critical to the realization of human rights must be strictly monitored by states to ensure they do not discriminate against people who are

less able to pay for these key services. Above all, public service contracts cannot be a way to enable states to contract out of their human rights obligations.

## IN PURSUIT OF JUSTICE

In 2008, the UN Development Programme Commission on Legal Empowerment of the Poor concluded that roughly two-thirds of people in the world have no meaningful access to justice. The failure of states to build and maintain effective justice systems undermines the rule of law and violates the right of victims of human rights abuses to an effective remedy.

In December 2008, the UN General Assembly adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Protocol is a major step because it established an international mechanism that provides an avenue of redress for those who are unable to seek justice in their home countries.

## A PROTECTED FUTURE

Economic globalization has given companies unprecedented access to new territories, and expanded their reach across national borders. However, regulation of companies, including transnational regulation, to ensure respect for human rights has failed to keep pace.

All companies must be regulated effectively in order to prevent the pursuit of profit at the expense of human rights. To be effective, regulation must provide for appropriate investigation, sanctions, and redress for harm.

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**Right: Gas flares, Niger Delta. Communities have serious concerns about the possible health damage caused by the gas flares.**



# DEMAND DIGNITY

## IMMEDIATE ACTION REQUIRED

- **End corporate impunity – close the accountability gap**

States must adopt stronger legal and policy frameworks at the national and international levels to hold corporations to account for their abuse of human rights. These steps must include greater scrutiny, appropriate regulation of companies' operations, and greater international co-operation among states to ensure accountability.

- **Ensure access to justice for all people whose rights have been abused by companies**

Those whose human rights are abused by companies must be able to seek justice and receive redress. Where appropriate, they should have recourse to justice in the corporation's home state.

- **Ensure communities are able to participate in decisions that affect their lives**

States and companies must ensure that communities and people affected by company operations have full access to adequate information. States and companies must enable communities and individuals to participate meaningfully in decision-making processes.

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