

SOUTHERN AFRICA BINDING TREATY INDABA, 27-28 JULY 2022

“Towards a legally binding instrument on corporate accountability for human rights”: Lessons learnt from the pandemic

Resolutions

Having met as social movements, affected communities, scholar-activists, trade unions, civil society, lawyers and interested persons,

Having deliberated on the current Southern African socio-economic context, the role of powerful corporations therein, and the extent to which the COVID-19 pandemic served to exacerbate these ills,

Having recognised the pervasive poverty and inequality across our region, and the primary role that corporations have played in entrenching the neo-colonial world order,

*Having considered the process to draft a legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises (“**the Binding Treaty**”) from 2014 to date,*

We hereby resolve as follows:

1. To retain the primacy and amplify the voice of affected communities in the Binding Treaty and its drafting process;
2. To recognise the extent to which the Binding Treaty drafting process is an opportunity to be ambitious in entrenching the duties of corporations to promote and fulfil human rights;
3. To use these processes and forums to bring workers and affected communities together towards the shared goal of ending corporate impunity;
4. To call for the express recognition and incorporation of gender rights, labour rights, environmental rights, indigenous rights, and migrant and refugee rights in the Binding Treaty;
5. To demand that the Binding Treaty recognise and address the primary role that corporations play in neo-colonialism;

6. To support efforts by states to insulate themselves from the weapons employed by corporations to entrench their impunity – the Binding Treaty will be useless if states are able to avoid its jurisdiction;
7. To support the institution of transparent and legitimate mechanisms to ensure the enforcement of the Binding Treaty and its principles; and
8. To affirm the strong role that South Africa has played in beginning the process towards the Binding Treaty, and to support its continued role in delivering an ambitious treaty.

We therefore call for:

9. Communities' **right to say no** to be enshrined in the Binding Treaty, alongside the existing language providing for free, prior and informed consent (FPIC);
10. The Binding Treaty to further entrench transparency, including –
 - 11.1. a more specific definition of “information” held by companies; and
 - 11.2. detailing what level of such information is publicly accessible;
11. The Binding Treaty to detail express punitive legal measures in response to corporate violations of human rights;
12. Clear procedures for and guidelines to accessing remedies and attendant compensation for corporate violations to be included in the Binding Treaty;
13. Enforcement mechanisms to be included in the Binding Treaty;
14. An assessment tool to be included in the Binding Treaty, which provides for the analysis of the Treaty's implementation in domestic jurisdictions; and
15. Current draft Articles 7 and 8 of the Binding Treaty to be more specific.

We accordingly undertake to:

16. Continue engaging with the South African state, including making suggestions and proposals on the text of the draft Binding Treaty, article by article; and
17. Continue engaging with partners across the continent to advance an African voice on the Binding Treaty.

ENDORSED BY:

- MINING AFFECTED COMMUNITIES UNITED IN ACTION
- AFRICAN COALITION FOR CORPORATE ACCOUNTABILITY
- AMADIBA CRISIS
- CENTRE FOR HUMAN RIGHTS
- CRAAD-OI MADAGASCAR

- ALTERNATIVE INFORMATION & DEVELOPMENT CENTRE
- SOUTH AFRICAN TRANSPORT AND ALLIED WORKERS UNION
- LAWYERS FOR HUMAN RIGHTS
- ROSA LUXEMBURG
- SOUTH AFRICAN FEDERATION OF TRADE UNIONS
- CENTRE FOR APPLIED LEGAL STUDIES

ENDS.