

Greenpeace's 10 Principles for Corporate Accountability

Corporate environmental and human rights violations are not an inevitable aspect of our political economy. What social movements have been saying for years is now recognised by mainstream economists:¹ the governance gaps created by economic globalisation are not a natural phenomenon, but rather a political choice by policy makers, leading to instability and inequality. This means that effective state action could end corporate capture and close these governance gap.

The following 10 Principles for Corporate Accountability are the key to ending corporate impunity:

1 People and the environment, not corporations, must be at the heart of governance and public life.

States should not only regulate but also revoke licenses to operate when corporations violate environmental and human rights standards.

Corporate law and governance statutes should be reformed to create public purpose corporations. For instance, the law should stipulate that management and owners should make decisions that take into account long term environmental and human rights impacts, the interests of the company's workers, and direct and supply chain impact on people and the environment.

TNCs should be treated in accordance with the economic reality that they operate as single firms.

Many detailed corporate governance reform proposals exist.¹ They only need to be implemented.

2 Public participation must be inherent to all policy making.

State institutions should be reformed to ensure that the public interest, rather than corporations, is the dominant influence on policy making.

Civil society's rights to free speech and assembly should be protected from SLAPPs and other forms of corporate repression.

States must respect Indigenous Peoples' right to free, prior, and informed consent (FPIC) for decisions that will affect their interests, including their right to say no.

3 States should abandon policies that undermine environmental and human rights.

State should stop granting corporations (inter)national judicial protection through ISDS mechanisms and undue financial benefits through trade and tax treaties.

States should stop creating loopholes that enable legal tax avoidance, creating tax havens that deprive state coffers of much needed revenue.

4 Corporations should be subject to binding rules both where they are based and where they operate.

States should not think that their environmental and human rights obligations are fulfilled after creating or endorsing guiding (voluntary) principles. Voluntary measures and self-regulation alone do not guarantee corporate liability or effective access to remedy for those affected by corporate misconduct and environmental harm.

States should support a globally binding business and human rights instrument to put an end to companies choosing which set of laws they follow, doing abroad what they would not be legally allowed to do at home.

5 States should require due diligence reporting and cradle to grave responsibility for corporate products and services.

States should impose mandatory national human rights due diligence requirements on companies, to complement the United Nations Guiding Principles (UNGPs) with hard law. This means companies must identify risks related to their activities and relationships, and take steps to prevent infringement of the rights of others; and account for both sets of actions. This should include mandatory climate risk reporting.

Corporations must bear cradle to grave responsibility for manufactured products in line with Extended Producer Responsibility principles.

States should enforce specific environmental due diligence laws, requiring environmental management accounting, and environmental reporting which gives a

clear, comprehensive and public report of environmental and social impacts of corporate activities. This means companies should be obliged to routinely disclose to the public all information concerning releases to the environment from their respective facilities, as well as product composition and upstream and downstream impacts. Commercial confidentiality must not outweigh the interest of the public to know the dangers and liabilities associated with corporate products and services.

States must implement the precautionary principle and require corporations to take preventative action before environmental damage or health effects are incurred, when there is a threat of serious or irreversible harm to the environment or health from an activity, a practice or a product. This includes requiring companies to undertake independent environmental and human rights impact assessments with public participation. Policies should take these impact assessments into account.

6 States should promote a race to the top by prohibiting corporations from carrying out activities abroad which are prohibited in their home state for reasons of risks to environmental or human rights.

States should ensure that corporations adhere to the highest standards for protecting human and environmental rights wherever they operate.²

States should promote a race to the top by prohibiting corporations from operating according to lowering standards in places where public health, safety and environmental protection regimes, or their implementation, are weaker.

7 States should create policies that provide transparency in all corporate and government activities that impact environmental and human rights, including in trade, tax, finance and investment regimes.

States should pursue international economic agreements and institutional reforms that prioritise human rights and environmental sustainability over and above economic gain for corporations.

States should enact effective taxation regimes to make corporations contribute their fair share to public goods, and should end all subsidies for environmentally or socially harmful activities.

Corporations, in all legal forms and in all countries, should be obliged to provide detailed annual financial statements, including country-by-country reporting on assets, staff, sales, profits and tax payments for corporate groups.

States should enforce public registries providing beneficial ownership information on corporations, and end their support for financial secrecy jurisdictions and tax havens. Determining the responsible party and ultimate economic beneficiary of projects should be straightforward.

Regulations should require that all lobbying activity be conducted in an open and transparent manner. Corporate financial support for political parties should be strictly regulated.

8 Corporations and those individuals who direct them should be liable for environmental and human rights violations committed domestically or abroad by companies under their control.

States should ensure that corporations are liable for injury to persons and damage to people's livelihoods, biological diversity, and the environment beyond the limits of national jurisdiction, and to the global commons such as atmosphere and oceans. Liability must include responsibility for environmental cleanup and restoration. Specifically, this means that:

- Corporations, parent companies and subsidiaries, must be held strictly liable for damage arising from any of their activities that cause violations of rights laid down in international and national environmental and human rights conventions and laws, including site remediation.
- States must implement individual liability for directors and officers for actions or omissions of the corporation, including for those of subsidiaries.
- Corporate liability must be extended along the entire supply chain.

9 People affected by environmental and human rights violations should be guaranteed their right to effective access to remedy, including in company home states where necessary.

In addition to global and national binding corporate accountability rules (Principle 4) and liability for parent companies and directors (Principle 8), States should enact specific measures to ensure that all people have access to remedy in the most convenient forum for them. The Swiss Responsible Business Initiative, for instance, recommends that the proposed due diligence law itself would clarify that the due diligence responsibilities it establishes, "apply irrespective of the law applicable under private international law."³

States should ensure that specific public funds are set up that support claimants in human rights cases, to balance the unequal (financial) relationship between people and corporations and thus ensure equality before the law.

10 States must actually enforce the regulatory and policy frameworks they create.

States should adequately resource the enforcement of their laws and regulations. This includes giving strong support and direction to authorities to investigate corporate violations as a matter of priority, ensuring investigators and prosecutors understand how abuses by companies can amount to a rights violation in their legal system.

This means states should ensure there are adequate financial, technical and other resources to successfully investigate and prosecute corporate abuses, encouraging international cooperation and assistance directly with police and judiciary in relevant jurisdictions, including those where abuses are alleged to have been committed.⁴

1 See, for instance, Stephen D. King, "Grave New World. The End of Globalization, the Return of History," Yale University Press, , 2017 or Peter Temin, "The Vanishing Middle Class: Prejudice and Power in a Dual Economy," Massachusetts Institute of Technology (MIT) Press, 2017.

2 These two principles were already proposed in Greenpeace International, "Corporate Crimes. The need for an international instrument on corporate accountability and liability," June 2002, http://www.greenpeace.org/international/PageFiles/26211/corporatecrimes_entire.pdf

3 For detailed proposals, see *ibid*.

4 These recommendations are reproduced from Amnesty International and ICAR's Corporate Crimes Principles: Amnesty International News, "Corporate Crime: New principles will help governments and law enforcement tackle corporate abuse," 6 October 2016, <https://www.amnesty.org/en/latest/news/2016/10/corporate-crime-new-principles-willhelp-governments-and-law-enforcement-tackle-corporate-abuse/>