

Corporate Accountability: Binding Rules for Big Business

Participants on this panel on corporate accountability were Meena Raman, director of SAM/Friends of the Earth Malaysia; Hans Engelberts, General Secretary of Public Services International, France; David Petrasek of Amnesty International, and was moderated by Matt Philips of Friends of the Earth EWNI, UK.

The panel explored the calls for international binding corporate accountability that are increasingly being heard, and addressed what role governments should be taking to bring such regulations about. Matt Philips opened the discussion with a reminder of how many times in the past large corporations have signed up to agreements that would guarantee they acted as good corporate citizens, but then proceeded to carry on with business as usual the following day. He pointed to several corporate leaders who will be giving presentations on corporate accountability at this year's WEF, as they have done at past international conferences, but who are among some of the worst corporate offenders globally. Nestle, one such company, was singled out as an example of a company that has made such pledges, and then turns around and demands compensation from the government of Ethiopia for the nationalisation of its operations in that country, carried out by a previous government, years ago and that will take desperately needed funds away from the struggle to end hunger in Ethiopia.

Meena Raman also mentioned Nestle in her discussion of the experiences of people in the South with the kind of corporate malpractice that binding international regulation would seek to end or at least to punish. She drew our attention to the number of instances that chemicals banned in the North are still being sold and used in the South, and poisoning people in just the way regulatory authorities in the North that banned them said they would. She referred to cigarette companies that, seeing their markets in the North, threatened through government regulation and public health campaigns, have turned to emerging markets in the South and Eastern Europe to make up the shortfall in their sales. Meena illustrated through these examples and a case study of Mitsubishi Chemicals her conclusion that „TNCs have no conscience,“ and that as long as shareholder gains remain the bottom line, i.e. profits, companies cannot be expected to live up to international standards without regulation.

But, Meena reminded us, national governments have been creating exactly the opposite environment through the rules enshrined in bodies such as the WTO and Nafta which have encouraged a competitive race to the bottom. The removal of regulations governing the international economy have made it too difficult for most national governments to stand up to TNCs or international finance.

The subject of what binding regulation could achieve that voluntary agreements cannot was taken up by David Petrasek in relation to business practices and human rights. He argued that most regulatory efforts by business and politicians over the last decade or two have been directed at creating voluntary codes, but that the time has come to bring law to centre stage in the struggle to ensure corporate accountability.

He then proceeded to outline the case against voluntary codes and reminded us that „power must be constrained by law.“ David suggested that law while it has a deterrent effect, it also opens up the way for those harmed by a particular practice to seek redress through the courts, something that is not possible with merely voluntary codes. He continued by stressing the fact that although international law will never replace national law it can act as a backstop for the latter. In this way international law would set a benchmark to which national law could refer, and universal human rights law would be the vehicle because it already enjoys universal acceptance, in the form of the UN Convention on Human Rights.

Hans Engelberts from Public Service International began his presentation with a clarification. He said, „We are not anti-globalisation, as our critics charge. We are ourselves a global organisation. We are in favour of a global social movement.“ He then went on to explain how Public Service International supports Friends of the Earth's call for binding regulation because corporations cannot be trusted without such a framework. Enron appeared in public to be doing all the right things, and indeed won awards for good corporate citizenship, but was able to get away with murder until it all collapsed, through the courage of some of its employees, not through the workings of the shallow regulatory system in place in the USA. He concluded with the statement that it must be our goal to „democratise globalisation.“