



- Corporate power in global trade
- Bishops call for controls on global corporations
- Impact of the COVID-19 pandemic on trafficking in persons
- African crisis in the era of COVID-19
- Quotations: Pope Francis and Arundhati Rpy

### CORPORATE POWER IN GLOBAL TRADE:

Will corporations successfully sue states for measures taken to combat COVID-19?

As a result of the COVID-19 pandemic, politicians across party differences are struggling to strike a balance between public health and the 'health of the economy'. By and large, we have seen the scales tip in favour of corporate profits.

There has been a disturbing disregard for the health and wellbeing of workers and the most marginalized communities that has compounded already existing inequalities. At the same time, while some finance and energy companies have experienced temporary losses, the biggest pharmaceutical companies, tech companies and retailers have enjoyed a large jump in profits. The richest have got richer. This situation is not going to end anytime soon. **Ahead lies the risk of unprecedented numbers of corporations suing governments for regulations they introduce to reduce the harm of COVID-19.**

Contemporary international trade agreements, are not just contracts about the exchange of goods and services. Over the past thirty years, they have been more and more concerned with giving priority to corporate rights and profits and protecting these. Written into almost every recent trade agreement is the Investor State Dispute Settlement (ISDS) mechanism, a legal system that allows foreign corporate investors to sue governments for any government action they consider 'interferes' with their investments. These cases are heard before tribunals consisting of three arbitrators, not judges, who may also be lawyers acting for the corporations or governments. Decisions in favour of the investors have required governments to pay millions,

sometimes billions, of dollars in compensation to the companies for their claimed lost profits (future or past). **Note the imbalance: corporations are able to sue governments but not vice versa.** This ISDS provision has punished governments and their people for enacting a wide range of laws and regulations concerning the environment, public health, carbon emissions, indigenous rights, labour rights and other matters.

Public watchdogs, activists and researchers are sounding the alarm that corporations may use this crisis moment to launch ISDS cases against state measures to combat the pandemic, and reap immense monetary damages. COVID-19 has seen states across the world invest heavily in health and social well-being. Now, there is a real chance that much needed public money will have to be spent defending these policy decisions before international arbitration panels set up by so-called 'free' trade agreements.

International law firms, who have a deep interest in ISDS cases because they make millions from their corporate clients, have begun to prepare and advocate for future ISDS claims. They assert that states may be sued for border closures; lockdown; regulations to guarantee access to water, electricity and other essential resources; efforts to acquire drugs, medical equipment and personal protective equipment to ensure adequate domestic supply; export bans on staple foods; tax restructuring and stimulus packages. International tribunals will decide whether, in their efforts to protect people's lives, states will be sued.

Currently, there are 343 ISDS claims pending across the world. At the end of 2018, tribunal decisions in favour of corporations had cost the world's governments US\$88 billion in compensation payments to foreign investors. Argentina has had the highest number of ISDS claims against it. Spain ranks second. The costs of ISDS claims have contributed to the debt burden of the Global South and the pandemic has only worsened it further. Any country will suffer greatly from these legal battles; and for countries like Spain and Argentina, more legal bills and potential settlements could be catastrophic.

We must call for more equitable policies and stronger protections for those most impacted by this pandemic. We must also ensure that

governments can respond to this demand for justice without being threatened by investor-state lawsuits.

Corporations getting richer during a pandemic and law firms preparing their corporate clients to prosecute governments really highlight just how much power corporations hold around the globe. **This supranational legal system of ISDS is designed for and by corporations and systemically provides extreme privileges to foreign investors at the expense of people and the planet. We need to dismantle this unjust system as soon as possible.**

Source: Jesse Wattam, Coordinator Trade Justice Network, Canada, <http://behindthenumbers.ca/> Condensed and slightly edited by Mary Boyd.

## BISHOPS CALL FOR CONTROLS ON GLOBAL CORPORATIONS

Early this month on 6 July, 110 Catholic bishops, from 33 countries in Europe, Africa, Asia and Latin America<sup>1</sup>, issued a Statement deploring the 'abuses' of large 'irresponsible' companies and asserting the urgent need for enforceable regulations to control their behaviour.

They refer to corporations' scandalous evasion of taxes that could build and maintain public services such as hospitals and schools, their polluting of soils, water and air, their land grabbing, deforestation and other forms of environmental degradation, as well as their complicity in gross human rights violations in their supply chains around the world, such as forced labour of adults and children, even killing of human rights defenders. The

bishops also protest against the Investor State Dispute Settlement (ISDS) provisions in trade agreements that protect corporate profits, despite these injustices. (See report above.)

They assert that guidelines and standards dependent on voluntary compliance have failed to bring change. **Now is the time, they say, for the European Union to lead the way to establishing global legislation that holds companies accountable for the damage they have caused and are causing.**

Source: Ref. [www.cidse.org/2020/07/06/](http://www.cidse.org/2020/07/06/) Available in *Deutsche, Español, English, Français, Italiano, Português*. This statement, briefly reviewed here by Alison Healey, is strong, clear, and unequivocal.

The overriding consideration, never to be forgotten, is that we are all members of the one human family. The moral obligation to care for one another flows from this fact, as does the correlative principle of putting the human person, rather than the mere pursuit of power and profit, at the very centre of public policy.

*(Pope Francis to the World Economic Forum, Davos, Switzerland, 24 January 2020.)*

<sup>1</sup> Argentina, Austria, Belgium, Bolivia, Brazil, Central African Republic, Chad, Colombia, Democratic Republic of Congo, Ecuador, Egypt, Ethiopia, France, Germany, Guatemala, Honduras,

India, Italy, Luxembourg, Malawi, Mexico, Morocco, Myanmar, Netherlands, Paraguay, Peru, Philippines, Portugal, South Africa, Sri Lanka, Switzerland, Uganda.

## IMPACT OF THE COVID-19 PANDEMIC ON TRAFFICKING IN PERSONS

Everywhere governments are adopting unprecedented measures to ‘flatten the curve’ on the graph showing the rise of COVID-19 infections. They include enforced quarantine, curfews and lockdowns, travel restrictions and limitations on economic activities and public and social life. These regulations and increased police presence at borders and on the streets seem to be deterring crime; at the same time they can drive crime further underground.

Criminals who traffic persons are adjusting their business practices to the new conditions, particularly in their abuse of modern communications and technology. COVID-19 also interferes with the capacity of state authorities and non-governmental organizations to provide essential services to the victims of this crime. Most importantly, **the pandemic has exposed and worsened the deeply entrenched, systemic social and economic inequalities that are major causes of human trafficking.**

Identifying victims of trafficking is difficult even in normal circumstances, because:

- they are often exploited in illegal, informal or unregulated sectors of our society, such as petty crime, the sex industry, drug cultivation and trafficking, agriculture, building construction, domestic work;
- organized crime is skilled in hiding its aspirations in plain sight;
- victims are unwilling or unable to report their victimization; and
- law enforcement has limited ability to detect this crime.

Now, COVID-19 is making the task of identifying and helping victims of human trafficking even more difficult. As well, their situation may expose them to contracting the virus and they have less access to healthcare to ensure their recovery. Offering them practical support has become a challenge, because the pandemic has caused countries to change their priorities during this time. Dramatic increases in unemployment and reductions in income, especially for low-wage and informal-sector workers, mean that large

numbers of people who are already vulnerable find themselves in even more precarious circumstances. In the garment industry, agriculture and farming, manufacturing and domestic work - the sectors where trafficking is most often found - millions of people who were living in subsistence conditions have lost their wages. Those who continue to work in these sectors may face even more exploitation, because their employers want to lower production costs to cope with economic difficulties, and there is less control by authorities.

Non-government organisations (NGOs) working with the United Nations Office on Drugs and Crime (UNODC) report that: a significant number of those they support have lost their sources of income and access to food staples, as a result of government measures to control the pandemic; and loan sharks promising low interest loans to these people are increasing their prospects of debt-bondage. Thus, a vulnerable population has now become even more exposed to the risks of severe exploitation as they try to find a way to secure their livelihoods.

**Children are at a heightened risk of exploitation:** school closures have impeded their access not only to education but also to a main source of shelter and nourishment. In some countries more children are forced onto the streets in search of food and income, heightening their risk of infection and trafficking.

People are trafficked for many purposes: turning children into soldiers, forced begging, sexual exploitation, forced marriage, selling children, removal of organs, forced labour.

No matter what the effects on national budgets and economies, countries must adjust their assistance programs to the new and extraordinary circumstances created by the pandemic and its aftermath and continue to support anti-trafficking work.

*Source: United Nations Office on Drugs and Crime, Response to COVID-19. Condensed by Mary Bo*

The tragedy is immediate, real, epic and unfolding before our eyes. But it isn't new.  
It is the wreckage of a train that has been careering down the track for years.

Arundhati Roy

## AFRICAN CRISIS IN THE ERA OF COVID-19

The economies of the global economic super-powers have been brought to their knees by the rampaging COVID-19 virus. We are therefore filled with trepidation : what will become of the African economies in the coming weeks?

'Crisis' can mean 'a time of intense difficulty or danger' and it can also mean 'a time when difficult or important decisions must be made'. COVID-19 may be an opportunity offered by the invisible hand of the divine mystery to re-examine the quality of our shared humanity and to choose between global solidarity and global domination. We live in an interdependent world, but whether this reality will underpin global policy is yet to be seen. The Africa Europe Faith and Justice Network (AEFJN) finds reprehensible the decision of the USA to cut funding to the World Health Organisation (WHO) and .equally condemns China's lack of transparency about COVID-19 from the start. When two elephants fight, the grass suffers!

Economic globalisation has its winners and losers because the entrenched global economic mindset does not allow a fair sharing of the dividends. The result is widening global inequality and ever more crushing poverty for Africa. Globalisation has not lifted the fortunes of Africa. **As well as losing in the globalisation agenda, Africa faces socio-economic consequences of the pandemic that are monumental.**

Some socio-economic analysts suggest that more than 50% of the small and medium enterprises (SMEs) in Africa, which provide more than 70% of Africa's employment, could be locked down for several weeks. In this situation, the resulting unemployment and crushing poverty will trigger a new wave of emigration of young Africans to Europe, as well as banditry, communal conflicts, terrorism and other social vices.

**The call of Pope Francis for debt pardon for developing countries is very timely.** The money for debt servicing could then be used to stimulate failing economies and promote genuine global solidarity.

When the nations of the world begin to shut their doors against one another, Africa must recognise that its survival is in its own hands; that she has never been an objective priority for the global North **The pandemic is a golden opportunity to look inward, to be creative.**

More than ever before; the degree of decay in African healthcare and food systems has been exposed, along with the lie that industrial agriculture is the gateway to African food security. Sustainable local food production is the only guarantee of food security in Africa **Now is Africa's chance to unite and protect herself.**

Source: *Chika Onyejuwa* . AENFJ, | May 4, 2020. Edited Alison Healey.

**Contributions to Bulletin and responses to its content are welcomed.**

**Publication bi-monthly from January from office in Sydney. Deadline: 14th of each publication month.**

The Bulletin is currently produced by two networks: *Justice and Trade Agreements* and *Human Trafficking*.

Coordinators: JTA - Mary Boyd ([maryboyd@live.ca](mailto:maryboyd@live.ca)); Alison Healey ([grailsydney@ozemail.com.au](mailto:grailsydney@ozemail.com.au));

HT – Patricia Foito e Camisao ([pcamisao@gmail.com](mailto:pcamisao@gmail.com)); Angelina Kyondo ([mksgrail@yahoo.com](mailto:mksgrail@yahoo.com)).

Design: Thanks to Marian Kelly for her donation of time and talent.