

Why is there a need for a Treaty on Business and Human Rights

Some private companies/multi-national corporations are today responsible for a number of serious human rights violations. These range from threats and intimidation, to violent attacks on individuals and communities, such as the land conflicts in Honduras' Aguan valley, where private companies are driving local communities off their lands. Currently, legal systems in the countries where the violations are taking place are unwilling or unable to hold companies (who are often foreign companies with enormous economic power) to account. An international Treaty on Business and Human Rights would be an important step towards holding companies responsible for their actions.

Why does the treaty need to be binding, and what would that mean in practice for communities?

Currently, international human rights law does not recognise private actors as duty-bearers. This needs to change. In a world where some private companies have more power than States, both companies and States have to be held responsible for human rights violations. There are a number of voluntary initiatives to work with companies to ensure they are able and willing to respect human rights, such as the Irish National Action Plan on Business and Human Rights, but while these are an important part of the puzzle, voluntary initiatives alone are not enough. There is a need for legally binding initiatives.

How could/should this treaty be enforced at national and international levels?

Enforcement of international treaties always presents difficulties and an international treaty on business and human rights would be no different. That said it would potentially open up avenues for victims to seek justice that were previously closed to them. As an example, under Irish law, there are currently no practical ways for potential victims of human rights violations by an Irish company overseas to seek justice in Irish courts. An international treaty may open new avenues in this regard.

How could/should this treaty relate to human rights defenders in particular?

Human Rights Defenders are frequently targeted by companies for harassment and attacks, as they stand up for the rights of communities in the face of illegal actions by companies. They often pay with their lives, as was the case for Berta Cáceres who was killed in March 2016 as a result of her work protecting indigenous communities in Honduras from the activities of private companies. A strong treaty will include specific chapters on the important role played by human rights defenders and the need to implement measures to protect them and allow them to do their work without fear of reprisals.

How could Irish/UK companies (directly or through a subsidiary business overseas) be affected by this treaty?

They would be bound by a treaty the same as everyone else. A treaty would create an even playing field, where all companies, regardless of where they are based, would be obligated to abide by the same rules as everyone else in relation to the protection of human rights.

Who and what is likely to challenge or prevent the creation of a binding treaty?

Some private companies will be against a treaty as it would mean they could no longer profit from the violation of the human rights of people, particularly in the developing world. It's important to remember though - a treaty is not about being anti-business, it's about responsible business. It's not anti-profit, it's about ensuring that the hunt for profit does not violate human rights in the process.

What is happening in October 2018 regarding a Treaty on Business and Human Rights?

There is no guarantee a global Treaty on Business and Human Rights will be achieved, unless governments around the world – including the Irish and UK Governments – positively and constructively engage in the process to create it. In October 2018 an international meeting will take place with the purpose of discussing a first draft of a proposed treaty.

What could constructive engagement look like from the Irish and UK Governments?

Constructive engagement could involve the Irish and UK Governments (separately):

- 1) Holding cross departmental meetings to agree an 'all of government' approach to the treaty process
- 2) Attending and participating in the formal discussions in October