

Universal Declaration of the Rights of Corporate Power

To be serious about human rights implies radicalising democracy, building collective socio-economic projects, strengthening processes of social self-organisation from the grassroots and reconfiguring new spaces of counter-power at the local and global level.

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Limits cannot be placed on private property and wealth accumulation because the legal security of contracts must be guaranteed. Still, the Spanish government has announced the seizure of a yacht from a Russian oligarch, and the German government has announced the expropriation of the Gazprom subsidiary. It has been said for two months that the energy market must be intervened. It took only a few hours to change the budget to be able to send arms for the war. It is impossible to judge Repsol in Spain for the ecological disaster caused by its oil spill in Peru. Still, the company was able to sue the Argentinean state in international courts when its subsidiary in the country was nationalised a decade ago.



Photo by Benjamin Child in [Unsplash](#)

The manager of the textile workshop in Tangiers, where 28 women workers died a year ago, has been convicted by a Moroccan court. However, the sentence makes no mention of Inditex or Mango, the companies for which the garments were made. Ukraine has every right to defend its national sovereignty against the invasion of Russian troops. In contrast, Western Sahara has to become a province of Morocco because it is the only realistic solution. Large property owners

obtain golden visas unchecked and cheaply on the official market, while millions of people are subjected to migration bureaucracies and trapped in hellish legal limbo.

At the institutional level, the debates focus on the discussion of laws and norms. But in this legal dispute, all that is at stake is a question of political will; in classical terms, of power relations. Normative asymmetry, not in vain, has been the basis of neoliberal globalisation: in the face of the strength of the legal armour built to shield the "rights" of large corporations, the extreme fragility of the mechanisms for controlling their obligations. In other words, while transnational private business is continually re-regulated, the deregulation of the protection of fundamental rights continues to advance.

None of this would have been possible without the formation of a great public-private alliance between central states

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and transnational corporations. And the collapse of global capitalism alone will not change this state of affairs. On the contrary, the flight forward in search of lost profitability will only deepen the logic of expulsion, dispossession, violence, confinement and necropolitics. With all its cataract of global pacts and agreements in defence of human

rights, international law has become a meaningless piece of paper in the face of the war unleashed by the major economic powers to try to secure their share of the spoils in the midst of the perfect storm.¹

The collapse of human rights

The war deepens the dynamics of the energy crisis, rising prices and commodity prices, social inequality, widespread impoverishment and worsening climate disorder. Yet the structural crisis of capitalism goes back even further. Today we talk about the spiral of inflation, indebtedness and undersupply. We have been talking about its causes for a long time: a logic of unlimited growth and impossible accumulation, an unsustainable financialisation model, the emergence of runaway climate change, and the accelerated depletion of energy and materials. As a result, large corporations and global investment funds have embarked on the destruction of any barriers that prevent commodification on a global scale. In this framework, the need to expand corporate dividends leads to extreme practices against people, communities and ecosystems.

Some of these practices affect the very configuration of human rights. This is, after all, necropolitics: letting thousands of racialised and poor people die. There is also the fragmentation of rights according to categories of people, racist and heteropatriarchal practices, the exceptional treatment of certain groups, migration policies with their walls and borders, human trafficking, mass deportations, the criminalisation of solidarity and civil disobedience, and the division of society into assimilables and exterminables.

Others destroy the rights of individuals, peoples and nature en masse. This is the case of the climate crisis and the destruction of ecosystems, the femicides of women and gender dissidents, the hunger suffered by millions of people, the new concentration camps, the persecution and elimination of dissent, the imprisonment of peoples and communities, the tightening of colonial practices and wars of mass destruction.

¹ ↪ Gonzalo Fernández Ortiz de Zárate y Juan Hernández Zubizarreta: [La tormenta perfecta ya está aquí](#) – El Salto Diario, 17 de marzo de 2022.

Finally, there are the practices that affect the core of collective rights. Such as the appropriation of the commons, labour exploitation, the consolidation of precariousness in the constituent body of labour relations, child and slave labour, the capitalist reorganisation of production and reproduction, collective expropriations through debt repayment, the expulsions of millions of people from their territories because large corporations appropriate the commons. Amnesty International² has recently compiled them; the picture is devastating: these are not system failures. It is the advance of global neo-fascism.³

In this context, corporate power is articulated around a set of principles that displace and undermine the foundations of international human rights law. These are formally hidden, unregulated tenets but enjoy maximum imperativeness and transversality. They constitute, in practice, a parallel declaration to the Universal Declaration of Human Rights.⁴ Paraphrasing the thirty articles of the declaration proclaimed by the United Nations in 1948, the Universal Declaration of the Rights of Corporate Power could be summarised as follows.

General principles

1. Life is to be commodified. Everything can be bought and sold. Human rights and collective rights, including the natural environment, are subject to the rule of supply and demand.
2. Private property and speculation have no limits whatsoever. And both are placed at the apex of the normative hierarchy.
3. Private ownership prevails over public-community rights. Privatisation takes precedence over the commons; market logic takes precedence over the commons.
4. Inequality is consolidated as a central element of the corporate architecture of domination.
5. The despotic freedom to "do what I want, when I want and how I want" and equality as mere "equality of opportunities" act as ethical-legal values that sustain the different spaces of domination of social relations.
6. Structural violence, the pedagogy of submission and the logic of war underpin the corporate power structure.
7. Institutional racism permeates the entire global legal order.
8. Nature is conceived as an instrument at the service of capitalism and without any rights.
9. The sexual division of labour is reinterpreted and legally consolidated.
10. Unvalued community work, work within the home and care for dependents, although essential to daily life maintenance, are placed outside the normative pyramid.
11. Neo-colonialism is incorporated into the global legal-economic order.

Human rubbish

12. Human rights are vacated as a substantive category as they lose normative space in the face of the commodification of life.
13. There is a radical and progressive decomposition of the central nuclei of rights. Peace, democracy, food, housing, education, culture, work, migration, care and health are all shifting towards legal rhetoric.
14. Mass deregulation of rights, elite expropriation of collective assets and the global destruction of rights substantially reshape human rights.
15. Human waste replaces human dignity.

² ↪ Redacción del Salto: [Avaricia de vacunas de países ricos, legislación represiva y conflictos violentos marcaron 2021](#), según Amnistía Internacional – El Salto Diario, 29 de marzo de 2022.

³ ↪ Pedro Ramiro y Juan Hernández Zubizarreta: [Hacia un nuevo espacio neofascista global](#) – El Salto Diario, 16 de noviembre de 2022.

⁴ ↪ Naciones Unidas: [La Declaración Universal de Derechos Humanos](#) – Organización de Naciones Unidas, 10 de diciembre de 1948.

Corporate re-regulation

16. The commodification of legal norms means that economic aspects appear as self-sufficient, self-regulating and legally shielded, while human rights appear as empty aspirations.
17. Global corporate law is equivalent to universal constitutional law. The supposed fragmentation of legal systems is not so, as wealth accumulation is placed at the apex of the normative hierarchy, displacing human rights to the regulatory margins.
18. Private law prevails over international human rights law and constitutional norms on rights and freedoms.
19. Corporate power is built on the re-regulation of rights, which means more power, more protection, more rules and institutions playing in its favour, with more rights and more wealth in fewer hands.
20. International human rights law is interpreted in favour of corporate power. It only applies to transnational corporations through state action: corporate rights are protected in national, regional and international frameworks, consolidating legal asymmetry as a universal corporate principle.
21. A new expertocracy is consolidated, creating ad hoc contractual schemes and reinterpreting legal norms according to the new demands of capital and elites: consultancy firms, rating agencies, big law firms, and arbitration tribunals are instruments for displacing the public by the private.

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The legal architecture of impunity

22. The rights of transnational corporations are protected by a global legal system based on imperative, coercive and executive trade and investment rules (hard law), while their obligations are subject to national legal systems subjected to neoliberal logic, to a manifestly fragile and fractured international human rights law, with no enforceability or justiciability, and to voluntary, unilateral and non-legally enforceable "social responsibility" and due diligence (soft law).
23. The counterbalancing character of law is blurred in favour of corporate power, modifying the formal guarantees of democracy. The pulverisation of legislative law, the privatisation and contractualisation of law and economic relations, the prevalence of annexes to rules in trade and investment agreements, the destruction of uniformity of forms, the inflation of administrative regulations, the breakdown of the rule of law, the priority of the legal security of contracts over the protection of individuals and communities are widespread.
24. The lex mercatoria is made up of rules that subordinate the public to the private, and the constitutional to the purely administrative, colonising all normative spheres and pushing human, social and environmental rights to the margins of the normative hierarchy.
25. Trade and investment treaties, investment protection and promotion agreements operating and marketing contracts, adjustment policies, conditional loans, arbitration tribunal rulings, national, regional and multilateral provisions protect private property and transnational business, shaping a global economic constitution.
26. An economic constitution is imposed that is not formalised in any legal text. It is a sum of rules, norms, provisions, decisions, pacts, treaties, judicial decisions, plans, recommendations, bailouts, sovereign debts, country-risk indicators and arbitration awards. All of them are intertwined, "stacked", and superimposed in such a way that the rules of normative hierarchy, the separation of powers and the rule of law are decoupled.

27. The states where transnationals are headquartered, far from controlling corporate power, create runways for their internationalisation. They support them through subsidies and soft loans, foreign action and political-business missions, revolving doors, lobbying in international institutions and economic diplomacy.
28. Host states articulate landing strips for corporate power, deregulating their obligations and passing rules in favour of their interests. The alliance between governments and business elites consolidates the blank cheque in favour of the accumulation of wealth of the few, as opposed to the rights of the social majorities.
29. The idea of "legal certainty", within the framework of the *lex mercatoria*, is based on the protection of contracts and the defence of the commercial interests of multinationals. It is a concept that only refers to the thousands of rules, agreements and treaties promoted in recent decades by EU institutions and bodies such as the World Bank, the IMF and the WTO.
30. The refusal of transnational corporations to adopt a binding external code of conduct within the United Nations or an international tribunal to monitor their operations, as well as their opposition to the creation of a centre for monitoring their practices, inspecting their non-compliance and articulating complaints, clashes with their repeated calls for respect for human rights and the environment.

Alternative use of law

For some time, the debate on pro-rights legislation has been confined solely to the state. Meanwhile, the global economic constitution, which is not formalised anywhere but is law, is gaining momentum at the international level. Although the succession of declaratory disputes in institutional politics seems to delimit the state as the only possible playing field, the *Universal Declaration of the Rights of Corporate Power* permeates all national legislative texts and imposes itself on all public policies.

However, many rules that, until yesterday, appeared immutable when the needs of capital demanded it have been

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modified. Just look at what has happened with the suspension of the spending ceiling and the limitation of the public deficit (to subsidise large corporations, not to invest in public services), with the express regularisation of refugees (from Ukraine, not from Syria or Afghanistan), with the elimination of administrative obstacles (for builders and property developers, but not for being able to receive

the minimum living income), with the nationalisation of companies and state intervention in the strategic sectors of the economy (to rescue the large owners, not to transform a model specialised in tourism and bricks and mortar).

With the pandemic and the war, state action has become essential to prevent cascading bankruptcies and the collapse of the economic-financial system. But the narrative of the "proposals for the future of recovery", despite all the government rhetoric based on European values and embodied in the *Next Generation* funds,⁵ is to reinforce the legal architecture of impunity and continue with its logic of expulsion, dispossession and necropolitics. As Miguel Mellino⁶ has pointed out, "for the elites and ruling classes, the time has come for the creative destruction of capitalism. They are dismantling old structures to create the basis for a new logic of accumulation".

A phase of capitalist recomposition is at stake, and this is where it is indeed time to intervene. A context where geopolitical rivalries, military conflicts, economic competition, the militarisation of trade and the preoccupation with

⁵ ↪ Erika González, Nicola Scherer, Nuria Blázquez: [Fondos europeos, al rescate del capitalismo español](#) — El Salto Diario, 18 de junio de 2021.

⁶ ↪ Gorka Castillo: ["La guerra en Ucrania es la crisis definitiva del orden neoliberal globalizado"](#) — CTXT, 10 de marzo de 2022.

securing corporate profits all point to new ways of reinterpreting human rights. Many of its universal imperatives connect to the emancipation and resistance of peoples, but others collide with the lack of empathy of categories of rights and ways of understanding human relations.

The alternative use of law involves legal, alegal and illegal use of law; the conceptual reinterpretation of legality versus legitimacy reappears in the framework of the defence of the rights of social majorities. Talking seriously about human rights implies radicalising democracy, building collective socio-economic projects, strengthening processes of social self-organisation from the grassroots without renouncing the dispute for certain institutional spaces and reconfiguring new spaces of counter-power at the local and global level.

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