

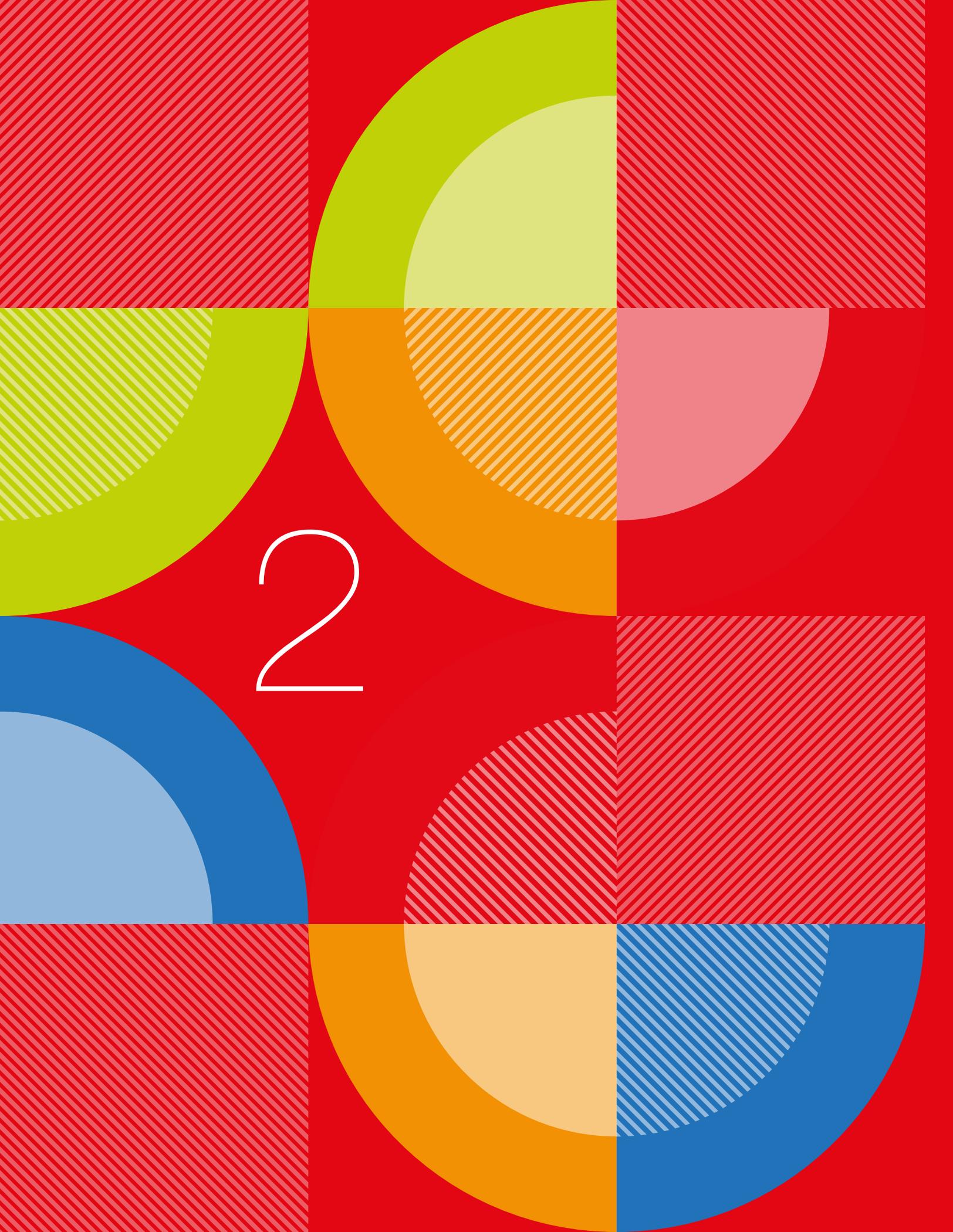
RIGHTS at RISK

Time for Action

Observatory on the Universality of Rights Trends Report
2021



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Chapter 2: Understanding the Context of Anti-Rights Threats

Nationalism and Ultra-nationalism

– Isabel Marler
AWID

Undermining the Authority of International Human Rights Systems

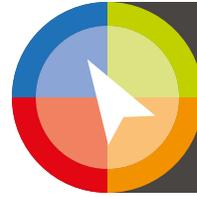
As ultra-nationalist leaders and agendas increasingly take up national offices and positions of influence, we see further undermining of human rights systems. While much of this is done from within, we are also seeing more outright attacks on, and withdrawal from, the framework of international human rights.

In June 2018, the United States withdrew from the Human Rights Council, citing what it called the council's anti-Israel bias. The announcement came amid criticism of the Trump administration's policy of separating children from their parents at the US-Mexico border.⁶⁸ Such a move aimed to undermine the council's importance and stability, and to detract from its investigation of and international sanction for human rights abuses committed by states – including the US itself.⁶⁹ The withdrawal was a part of the United States' broader systematic attack on multilateralism under the Trump administration. In January 2019, it was revealed that the US had not responded to any formal queries from the UN Special Rapporteurs since May 7, 2018, with at least 13 requests unanswered.⁷⁰

The US is not alone in its work to undermine multilateralism. Its exit from the council was applauded by Israeli Prime Minister Benjamin Netanyahu. However, Israel continues to engage at the Human Rights Council, using its platform to continually claim anti-Israel bias and undermine efforts for the promotion of human rights for Palestinians.⁷¹ The Philippines also threatened to remove itself from the United Nations following the passing of a Human Rights Council resolution to investigate human rights violations tied to President Rodrigo Duterte’s “war on drugs.”⁷²

The trend amongst these nationalist leaders is to make claims that the UN is biased, and that it is overstepping its mandate and interfering with their national affairs. Often, they will also claim the organization is in collusion with progressive civil society and pushing “foreign” influences upon their countries. This is consistent with the trends of delegitimization, persecution, and criminalization of human rights organizations in multiple countries.⁷³ It is notable that US ambassador Nikki Haley blamed human rights organizations for the US’ withdrawal from the Human Rights Council, citing their lack of support for the country’s proposed changes to the council.⁷⁴

The attacks by nationalist and ultra-nationalist governments upon multilateral systems, while at the same time cracking down on human rights defenders domestically, aim to take away one more important front where states can be held accountable.



Read more about the **range of inside-outside tactics of anti-rights actors** in Chapter 5

Key Elements of Nationalist and Ultra-nationalist Discourse

Threat to the Nation

Ultra-nationalist actors evoke national sovereignty discourses to undermine the very idea of international community and international human rights by juxtaposing the future of the nation with the human rights of those placed, physically or politically, outside it. For example, at the 39th session of the Human Rights Council in September 2018, Hungary’s Foreign Minister Peter Szijjarto stated, “Hungary will never be a nation of migrants,” and “migration is not a human right.” His speech presented migrants as an inherent threat to Hungarian culture, identity, and heritage, claiming that Hungarian people have “the right not to allow those persons to enter our own country who would disrespect these factors,” referencing the country’s “Christian culture and traditions” as well as appeals to national security.⁷⁵

Echoing local and national dynamics, (ultra-) nationalism on the international stage constructs threats to the imagined entity of the nation from “outsiders” – primarily migrants and refugees – as well as from unwanted “insiders”: people of colour, ethnic and religious minorities, political dissenters

– including feminists – and people of sexual orientations, gender identities and expressions outside of the dominant norm.

(ULTRA-)NATIONALISM CONSTRUCTS THREATS TO THE IMAGINED NATION FROM “OUTSIDERS”

At the World Congress of Families in Verona in March 2019, Sandro Oliveri of the Federation of Italian Pentecostal churches and Fondazione Chàrisma clearly indicated his view of who does and does not constitute the nation: “We should be talking about Italians, not about homosexuals!” The context was a speech calling for increased heterosexual marriages and higher birthrates.

Similar discourses are used across different contexts to construct national identity and the institution of citizenship as gendered,

racialized, and of a particular ethnicity or religion, thereby marginalizing or excluding all others in law and/or in practice.

Life-Family-Nation: How Nationalism Interacts with the Gender Regime of Anti-rights Actors

The control of women’s bodies and policing of gender and sexuality have always been central to national projects.⁷⁶ At the same time, nationalism has always been baked into patriarchal fundamentalist discourses, ideologies, and agendas, albeit with differing levels of visibility. Buddhist nationalist discourse in Myanmar, for example, depicts Muslim men as a rapacious menace to Buddhist women, and interfaith marriage as a demographic threat to the nation.⁷⁷ Similarly, caste, gender, religion, and nation all intersect in India’s resurgent Hindu nationalism, as illustrated in the conspiracy theory of “love



The nation and the family

Anti-rights actors make strong parallels between the nation and the family as patriarchal and heteronormative institutions. Both are constructed in exclusionary ways that reinforce social hierarchies and norms of gender, sexuality, race, ethnicity, and often class. In this ideology, a deviation from the norms of the patriarchal and heteronormative family is perceived as a form of national threat or betrayal. Once the nation is imagined as a single homogenous social unit of kinship, particularly when grounded in racial ideologies of shared origin and supremacy, the nation and the family become almost interchangeable.

jihad” – the narrative that there is a covert campaign of Muslim men luring Hindu women into marriage in order to convert them.⁷⁸ When it comes to the United States’ Christian fundamentalism, the movement’s historical underpinnings in struggles to retain racial segregation are key to understanding its current agenda as a place where patriarchy and white supremacy meet.⁷⁹

THE TRIAD OF “LIFE-FAMILY-NATION” IS A CORE FOUNDATION FOR INTERNATIONAL ANTI-RIGHTS ALLIANCES, INCLUDING WITHIN UN SPACES

The triad of “life-family-nation” is a core foundation for international anti-rights alliances, including within UN spaces. It allows a “broad church” of ultra-conservative actors to coalesce around shared concerns.⁸⁰ In various anti-rights forums we are seeing discourse focused on “the family” which is inextricably linked to xenophobic and/or white supremacist ideology.

For example, at the 2019 World Congress of Families (WCF) in Verona, Ed Martin from the ultra-conservative US-based Eagle Forum⁸¹ declared that “the world needs Europe great again, the world needs America great again, the world needs the family great again!” He emphasized “we have to have borders, we have to be a nation [...] what happens when countries are overrun is that our families are destroyed.”⁸² At the same event Nicholas Bay,

general secretary of the far-right French party National Rally (previously National Front), reinforced that “family is best for the future of the nation. It generates security and safety. This is better than migration.”⁸³ Meanwhile co-founder and president of Family Watch International⁸⁴ (FWI), Sharon Slater, made similar connections: “Family is the beating heart that keeps the nation strong. If families fail, then nations fall. If we are to save the world, we must save the family.”⁸⁵

When it comes to arguments linking a particular conception of family (read: patriarchal, heteronormative, nuclear, married, reproduction-oriented, and often of particular ethnicity, class and religion) and a sense of national strength, **there is a direct line between spaces like the WCF and the discourses put forward by anti-rights actors in international human rights forums.** For example, at the 63rd session of the Commission on the Status of Women (CSW), Family Watch International held an event in collaboration with Qatar, Gambia, and Pakistan entitled “Social Protection: Making it work for families to achieve gender equality and the empowerment of women and girls.” Despite the rights-based language of the title, the event focused on the connection between “strong families” (narrowly conceived as above), and prosperous nations. Slater made claims that families with two parents (man and woman, implicitly cis-gendered) make for stronger children and nations. The “natural family” was put forward (by Qatar as well as FWI) as a defense against a wide range

of social ills including malnutrition, maternal mortality, and “drug abuse.”⁸⁶

In this vision for society, married, heterosexual, reproductive relationships are the only ones of value, and women’s primary role (while they may have additional ones) is to reproduce the nation, the race, and the religion. Meanwhile trans, non-binary and gender diverse people, as well as lesbian, gay and bisexual people, are seen as deviants threatening the “natural” family and not serving the nation’s “preservation or renewal.”

This is evident in the discourse, rampant across anti-rights spheres, of “civilizational decline” and “demographic winter.” At both the 2018 and 2019 World Congress of Families, in Chisinau and Verona respectively, anti-rights figures repeatedly returned to the idea that a low birth rate was responsible for the economic, social, and moral decline of nations, especially in North America and Western and Eastern Europe. Many speakers blamed low birth rates on declining religiosity and, depending on the economic ideology of the speakers, some also blamed state welfare provisions for removing the need for children, who otherwise would provide the labour of caring for their parents in old age.⁸⁷

At a session at the Verona WCF, speakers lauded Hungary as a global leader for its policies of tax breaks, interest-free loans, and housing help for families with multiple children.⁸⁸ While such policies on the face of it could seem beneficial for the people,

there is a catch. First, this pro-birth agenda has clear aims of increasing white European Christian populations in order to do away with the “need” for migration to feed the labour force of European countries. This vision also involves white Christians gaining demographic advantage over other religions and cultures (and implicitly, racialized groups), as well as non-religious “liberal” populations.⁸⁹ Secondly, these incentives and benefits are not accompanied by a deliberate progressive policy that responds to people’s social and economic needs. On the contrary, they are a band-aid for an otherwise neoliberal agenda that deepens poverty and increases socio-economic inequalities.⁹⁰

**THERE IS A DIRECT LINE
BETWEEN SPACES LIKE THE WCF
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ACTORS IN INTERNATIONAL
HUMAN RIGHTS FORUMS**

In addition, imagery of civilizational and religious conquest is never far away from such discussions of demography. Allan Carlson, in his opening remarks to the WCF in Chisinau, declared: “We are in a moral and social crusade!”⁹¹ In Verona, Patriarch Ignatius Joseph III Yonan, the Syrian Catholic Patriarch of Antioch, asked the audience: “Isn’t it time to firmly declare [...] that Christian culture must be defended and celebrated throughout the world?” “Your brothers and sisters are being threatened [with disappearance]. This will be

not only for Christians in the Middle East but the entire church and world.”⁹²

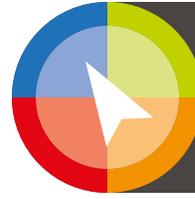
According to its proponents, opposition to this worldview is seen as at once “anti-national” and “anti-family.” Feminists and others who defend bodily autonomy, those supporting the rights of migrants, and leftists in general, are then traitors to both the “natural order” and “national interests.”

The Different Faces of Nationalism

Using outright nationalist and ultra-nationalist rhetoric is not the primary *modus operandi* of anti-rights states and their non-state allies at the UN. Select examples like those above notwithstanding, what we see is the use of more subtle discourses which ultimately serve the same ends.

**WE SEE THE USE OF MORE
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As outlined in Rights at Risk (2017), anti-rights actors have, for some time now, used national sovereignty in international human rights spaces to undermine the universality of human rights, and limit state responsibility to respect, protect, and fulfill rights.⁹³ This discursive strategy continues to be employed, often in tandem with the co-optation of the language of cultural imperialism, cultural sensitivity, and other related concepts such as “ideological colonization.”



Read more about **discourses of “ideological colonization” and “cultural imperialism”** in Chapter 3 of this report



Read more about **anti-rights use of “national sovereignty” discourse** in the first edition of this report

Understanding this as an issue of co-optation is critical since national sovereignty has a different meaning in contexts of liberation from colonialism and neo-colonialism. In anti-colonial and post-colonial struggles, concepts of cultural imperialism and ideological colonization have emancipatory meanings. However, in anti-rights discourses they are instrumentalized for opposite purposes, as a means of attack on human rights.

**UNDERSTANDING THIS AS
AN ISSUE OF CO-OPTATION
IS CRITICAL**

It is common to hear from certain states, seeking to undermine human rights standards, that they “retain the right to interpret the provision [of a resolution] on the basis of our international legal obligations and domestic legislation.” The same is often heard from anti-rights actors from civil society. During the 63rd session of the Commission on the Status of Women (CSW) held in New York in March 2019, CitizenGo, an ultra-conservative petition

platform, launched petitions railing against references to abortion, sexual orientation, gender identity, and comprehensive sexuality education in CSW documents. One petition claimed that, “including this language in international documents is culturally insensitive and impedes the local sovereignty of United Nations member states.”⁹⁴ Such claims falsely suggest there is one homogenous (regressive, patriarchal) “culture” in certain (implicitly Global South) contexts, and erases struggles for rights and justice led by communities and movements across the Global South.⁹⁵

ARGUMENTS BASED ON NATIONAL SOVEREIGNTY STRATEGICALLY EVOKE DIFFERENT NATIONAL CONDITIONS AND LAWS TO WEAKEN MULTILATERAL AGREEMENTS OR ATTEMPT TO “OPT-OUT”

Arguments based on national sovereignty strategically evoke different national conditions and laws in order to weaken multilateral agreements or attempt to “opt-out” of them. While this discourse is more subtle than outwardly nationalist or ultra-nationalist, it has the same aims and seeks to advance them under the political conventions of the policy space.



Read more in the first edition of this report, in sections on “National Sovereignty and Anti-Imperialism” and “State Reservations”

Anti-rights Bedfellows: Links Between Religious Fundamentalist and Ultra-nationalist Actors

Though religious fundamentalist, nationalist, ultra-nationalist and fascist⁹⁶ actors do exhibit ideological divergences and differences in their priorities and the framing of their agendas, **there is extensive cross-over in worldview, personnel, and resources, as well as strategic collaboration and alliances, between these forces across local, national, regional, and international levels.**

The global trend towards the mainstreaming of extreme nationalist ideologies has created fertile ground for increased alliances between anti-rights actors who foreground gender and sexuality on the one hand, and those focused on racism and anti-immigration on the other. Anti-rights actors often purposefully obscure these connections and practice strategic distancing in attempts to present themselves as “apolitical.” They frequently distance themselves from more outwardly extreme elements, while presenting their agendas in the language of rights and freedoms.

The 2018 and 2019 World Congress of Families (WCF) exhibited the convergence of global ultra-conservative Christian agendas with ultra-nationalist actors within Europe and beyond. In WCF Verona in March 2019, speakers from groups representing fundamentalist Catholic, Mormon, Orthodox, and Evangelical agendas (from North America, Western and Eastern Europe, and Africa)

sat on panels and networked over coffee with far-right politicians, businessmen and aristocrats from countries including Hungary, Italy, Georgia, Russia, Brazil, the Netherlands, the United Kingdom, France, and Serbia. Clergy from various denominations and staff of organizations doing missionary and campaigning work, mingled with individuals like Levan Vasadze, the Georgian tycoon who recently vowed to violently oppose Tbilisi Pride.⁹⁷ After the Congress, some participants took part in a “March for the Family” through the streets of Verona, reportedly joined by extreme elements of the Italian political landscape, including Forza Nuova and other fascist groups.

As detailed below in Chapter 4, CitizenGo has been shown to be supporting Spain’s far-right party Vox. The petition platform’s director described plans to attack Vox’s political opponents through advertisements, and a senior Vox member compared CitizenGo to a “Super PAC” for the party. A separate investigation also found that CitizenGo’s affiliate HatzeOir has connections to the ultra-right Mexican Catholic group El Yunque.⁹⁹



Read more about
CitizenGo in Chapter 4

**ANTI-RIGHTS ACTORS OFTEN
PURPOSEFULLY OBSCURE
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Ultra-conservative religious groups active in international and regional human rights systems have also been operating in alliances with local ultra-nationalist actors. For example, the international arm of the US-based strategic litigation organization, Alliance Defending Freedom (ADF), spearheaded an (unsuccessful) campaign in Romania for a constitutional amendment to effectively block marriage equality. ADF collaborated with local groups led by extremist Christian nationalists, some of which are linked to white supremacist and fascist actors.⁹⁸

Corporate Capture: Untamed Corporate Power is Putting Rights at Risk

– Felogene Anumo and Ana Ines Abelenda
AWID

Corporate power can be defined as the excessive control and appropriation of natural resources, labour, information, and finance by an alliance of powerful corporations and global elites, in collusion with those in power. Read AWID and Solidarity Center’s report, *Challenging Corporate Power: Struggles for Women’s Rights Economic and Gender Justice*, for a detailed feminist analysis on corporate power.¹⁰⁰

Corporate capture refers to the increasing influence and leadership of large businesses and transnational corporations in multilateral policy-making spaces, including the United Nations, with tremendous impacts on how human rights for all can be achieved.

Market fundamentalism refers to the strict and literal adherence to the principles of free market capitalism in which economic growth should be prioritized over all else, including people’s health during a global pandemic, undermining the primacy of human rights and threatening the planet.

As a result of decades of global capitalist expansion, the wealth of corporations is on par with some of the largest economies in the world: Walmart’s revenue exceeds the GDP of Spain and Australia, for example. This has given them immense power to influence decision-making (i.e. how much tax to pay) and public policy, while keeping accountability minimal and voluntary.

**THE WEALTH OF CORPORATIONS
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THE WORLD**

In recognition of their economic power and in the name of inclusion and “multi-stakeholderism,”¹⁰¹ large businesses, particularly transnational corporations, are occupying seats at the negotiating table and taking recurrent leadership positions in a number of multilateral institutions, including the United Nations. This corporate capture is having a tremendous impact on whether human rights for all can ever be achieved.

**IN THE NAME OF
“MULTISTAKEHOLDERISM,”
TRANSNATIONAL CORPORATIONS
ARE OCCUPYING SEATS AT THE
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LEADERSHIP POSITIONS**

At the national level, large corporations are exerting their economic power by demanding

massive bailouts from governments to weather the global recession.¹⁰² From tax incentives, to direct loans, to demands for flexibility in labour and environmental standards, particularly in the Global South, the results are millions in precarious or underpaid jobs, weak public revenues that are unable to sustain essential public services like health care, and climate disasters. Through Investor State Dispute Settlement (ISDS) mechanisms embedded in investment and trade agreements, companies are even able to sue governments¹⁰³ when they deem that measures to protect the people endanger their profits.

**CORPORATIONS SUPPORT
ANTI-RIGHTS ACTORS IN OFFICE
AS A MEANS TO CONSOLIDATE
POWER, YET THEY ARE RARELY
UNDERSTOOD IN SUCH TERMS**

Policymakers and civil society in multilateral, regional and other policy spaces are generally aware of the active presence of the private sector and corporate interests, yet the full scope of their influence and the extent to which it undermines human rights, is never transparent. Understanding corporate capture and visualizing the risks and threats to human rights that it represents is what this chapter is about.

Corporations have always been on the radar of gender justice activists as potentially **anti-economic rights actors**. This has manifested in the rise of the one percent (1%) and their

contribution to widening global inequalities, the gender wage gap, the normalization of deplorable working conditions, illicit financial flows, liberalizing trade and investment, the lack of access to quality public services, the appropriation of land and natural resources, and the invisibility of women's care work.

Corporations support anti-rights actors in office **as a means to consolidate power, undermining the protections of human and environmental rights in the interests of profit**. Yet they are rarely understood in such terms, nor held accountable for their complex role in the erosion of human rights and standards.

The rise of the right globally has strengthened the influence of anti-rights actors in economic policy-making. Yet while a lot of attention has been paid to the manifestations of cultural and religious fundamentalisms, less attention has gone to the purveyors of market fundamentalism. Former United Nations Special Rapporteur on Freedom of Association and Assembly, Maina Kiai, defined market fundamentalism as “the belief that free market economic policies are infallible, and consequently are the best way to solve economic and social problems.”¹⁰⁴ He emphasized that fundamentalisms of any kind pose a great threat to human and environmental rights, especially *when they become closely allied to power or are used as a tool by those in power* in institutions such as the state, religious groups, local government structures, militia groups, and political parties – to name a few.¹⁰⁵

Market fundamentalism is powered by an economic – mostly corporate – elite that undermines the realization of human and environmental rights by exerting undue influence over domestic and international decision-makers and public institutions. The Economic, Social and Cultural Rights Network (ESCR-net), who runs a research project to support collective action to address this phenomenon, describes this influence as corporate capture.¹⁰⁶

CIVIL SOCIETY AND SOCIAL JUSTICE MOVEMENTS HAVE LONG SOUNDED THE ALARM ON CORPORATE CAPTURE'S THREAT TO THE UN

Is the rise of anti-rights groups linked to a growing corporate influence in multilateral spaces? How are corporate interests preventing the advancement of human and environmental rights worldwide? Looking at corporate influence in multilateral spaces well beyond funding, these questions are briefly addressed in this section.

A Growing “Formal” and “Shadow” Power in Decision-making Spaces

In 2019, the United Nations made an unprecedented move by striking a partnership with the World Economic Forum, positioning corporations as best placed to find solutions to key global challenges. The partnership was denounced by hundreds of civil society organizations¹⁰⁷ who argued in a letter that the

agreement grants transnational corporations preferential and differential access to the UN system at the expense of states and public interest actors.¹⁰⁸

Civil society and social justice movements have long sounded the alarm on corporate capture's threat to the UN. A report by Friends of the Earth International ahead of the 20th anniversary of the UN Conference on Environment and Development, also known as the Rio Earth Summit of 2012, laid bare this worrying trend. This observation feels sadly relevant today:

“We are experiencing a corporate takeover of the UN, as big business exerts its influence in a number of ways. There is increased business influence over the positions of national governments in multilateral negotiations; business representatives dominate certain UN discussion spaces and some UN bodies; business groups are given a privileged advisory role; UN officials move back and forth to the private sector; and – last but not least – UN agencies are increasingly financially dependent on the private sector.”¹⁰⁹

The International Organization of Employers (IOE) describes itself as a “global voice of business”¹¹⁰ and holds formal UN consultative status across a wide range of UN agencies and international organizations, including the G20 intergovernmental process on labour and social policy. The International Trade Union Confederation (ITUC) and the International

Transport Workers' Federation criticized the IOE for "trying to block progress towards a UN treaty which would bring the international operations of multinational companies under the rule of law."¹¹¹

The International Chamber of Commerce (ICC) is a lobby group based in Paris with over 45 million corporate members and is similar to the IOE in its goals. The ICC holds observer status in the UN, giving the body a privileged position in formal negotiations compared to civil society, human rights, and labour rights organizations.¹¹² The group has a long history of lobbying around international regulations intended to hold companies accountable. Examples include the Kyoto Protocol, the Convention on Biodiversity, and the Basel Convention against trade in toxic waste, where the ICC conducted what has been referred to by Corporate Europe Observatory as "obstructive lobbying" intended "to weaken international environmental treaties."¹¹³ Climate negotiations are another one of its main areas of influence: The ICC is an admitted observer of the United Nations Framework Convention on Climate Change (UNFCCC), while it is governed by executives from some of the world's largest fossil fuel companies, like BP Group, Shell, and Exxon Mobil.¹¹⁴

There is already evidence that the ICC's narrative on private sector-led economic recovery is permeating the UN's COVID-19 efforts. Together with the United Nations Development Programme (UNDP) and the UN Global Compact (which the ICC itself

helped found in order to strengthen the business agenda at the UN level), the ICC is leading the "COVID-19 Private Sector Global Facility" inviting corporate giants DHL, Microsoft and PwC as "strategic partners" to – in their own words – "ensure that immediate stimulus efforts flow into the real economy."¹¹⁵ Such neoliberal, corporate-led narratives of economic recovery at the UN are cause for concern. They go against feminist movements' demands for a human rights-centred economic recovery that prioritizes the well-being of people and the planet over corporate profits.¹¹⁶

CORPORATE-LED NARRATIVES OF ECONOMIC RECOVERY AT THE UN ARE CAUSE FOR CONCERN

Corporations also have formal power within the International Labour Organization's (ILO) tripartite structure, where employers, workers and states are represented. However, corporate influence in the UN is much more ambitious than what the ILO's formal tripartite structure can accommodate. **In reality, the private sector – and especially transnational corporations (TNCs) – are more insidiously involved in UN negotiations, and operate as a "shadow power."**

Working with their interest groups and industry associations, TNCs have adopted various strategies to undermine democratic policy-making. For example, in the process to secure

a legally-binding treaty that will regulate corporations with respect to human rights, both the IOE and the ICC have taken a vocal role. At the fourth negotiation session on the draft treaty on transnational corporations and other business enterprises and human rights, the ICC and IOE released an analysis of the draft zero, stating their general lack of support for the text and the draft optional protocol.¹¹⁷ Corporate Accountability explains how “given [their] ties to abusive industries, the ICC and the IOE have vested interests in blocking, weakening, and delaying the negotiation and implementation of the present draft treaty and other regulatory processes that might impact their members’ bottom lines.”¹¹⁸

TNCs often work in co-operation with powerful member states.¹¹⁹ This is particularly pervasive in cases of TNCs that would be most affected by regulatory efforts, such as those in the infant food, pharmaceutical, tobacco and alcohol industries, and most recently digital companies.¹²⁰ **In 2018, Ecuador tabled a resolution at the World Health Assembly supporting breastfeeding.**¹²¹ **In response, the US government threatened countries with trade sanctions and withdrawals of military support if they endorsed it.** It also threatened to cut funds to the World Health Organization (WHO). The resolution ultimately passed with US support, but only after the Russian government reintroduced a modified text.¹²² It is reported that the US government was acting in favor of a \$70-billion-dollar USD infant food industry.¹²³

Corporate “shadow power” often takes the shape of promoting one-size-fits-all discourses on women’s (economic) empowerment. In these narratives, there is no alternative to the market economy. Women’s economic rights are reduced to microcredit schemes and entrepreneurship, rather than labour market restructuring and decent employment opportunities. The definition of work is reduced to waged labour and denies the value of the reproductive labour and care that sustains human life. **Challenging the neoliberal discourses that urge women, trans and gender diverse people to seek individual fulfillment through self-exploitation is part of challenging corporate power.**

TRANSNATIONAL CORPORATIONS HAVE ADOPTED VARIOUS STRATEGIES TO UNDERMINE DEMOCRATIC POLICY-MAKING

Corporate capture is more than how corporations wield their economic power; it encompasses the capture of public discourse and policy agendas. It is used to influence government policies and multilateral spaces, such as through the United Nations (UN) and private foundations, so that they serve corporate interests rather than the public good. This growing influence is transforming international development and human rights policy and practice, directly affecting the rights of women, girls, gender diverse, migrants and people of colour, Indigenous peoples, and ethnic and religious minorities.

The Blue-washing of Corporate Human Rights Violations

Blue-washing is a term referring to companies' tendency to use the United Nations' positive image to improve their brand.¹²⁴ This practice was legitimized in 1999 when former UN Secretary-General Kofi Annan tabled the idea of the Global Compact, a cooperation between the United Nations and the private sector. The compact is a voluntary mechanism for companies to align their business operations to ten principles covering human rights, labour standards, the environment, and anti-corruption practices.¹²⁵ One of the criticisms

of this UN-corporate partnership includes the tendency of corporations to misuse the Global Compact for marketing purposes and to "blue wash" their image and/or reputation without substantially changing their harmful practices.¹²⁶ Such partnerships are a wound to the United Nations' legitimacy to uphold and advance human rights.

An example is the partnership between the Anglo-Australian mining giant BHP Billiton and UN Women to advance vocational learning programmes even though BHP Billiton has been accused of human rights abuses and

Risk of Corporate Capture of the UN

Sold to the highest bidder

Corporate capture refers to the increasing influence of large businesses and transnational corporations in multilateral policy-making spaces, including the United Nations.* The risk is fueled by market fundamentalism as well as by the defunding of the UN by Member States.

* <https://www.escr-net.org/corporateaccountability/corporatecapture/manifestations>



environmental violations.¹²⁷ Another example is corporations investing billions of dollars to advance “climate denialism” narratives and stop any real climate action or mitigation.¹²⁸ A 2019 report from Influence Map revealed that the top five oil and gas companies (BP, Shell, Exxon Mobil, Chevron, and Total) spend approximately \$200 million USD a year on lobbying to block, control or delay the adoption of legally-binding climate policies.¹²⁹

DO CORPORATE PARTNERSHIPS CONSTITUTE A FORM OF COMPLICITY OF UN AGENCIES IN THE CONTINUATION OF HUMAN RIGHTS VIOLATIONS?

At the 59th session of the Commission on the Status of Women (CSW) in 2015, trade unions, feminist and women’s rights organizations, and international non-governmental organizations opposed UN Women’s proposed partnership with Uber, forcing the agency to end the partnership.¹³⁰ In a letter to UN Women, the International Transport Federation (ITF) highlighted Uber’s lack of job protection, its poor safety record for women, trans and gender diverse persons, and noted that the proposed partnership would reinforce systematic inequalities. The ITF wrote that the ambition to create one million Uber jobs would “not contribute to women’s economic empowerment and represents exactly the type of structural inequality within the labor market that the women’s movement has been fighting for decades.”¹³¹

Another example of blue-washing is the partnership between pharmaceutical corporate giant Bayer, and the UN in the Every Woman Every Child (EWEC) Initiative.¹³² The EWEC initiative, as per its own website, advocates for the health of women, children and adolescents everywhere. However, Bayer – along with BASF (also a EWEC partner), ChemChina and Corteva (Dow-Dupont) – controls the majority of the world’s seeds and pesticides. In 2018, Bayer acquired the controversial Monsanto, known, among other things, for legal disputes with small farmers over seed patents,¹³³ and for its harmful pesticides.¹³⁴ Around the world, women farmers, particularly indigenous women, are on the frontlines denouncing corporations like Bayer-Monsanto for the appropriation of native seeds. They are also resisting these corporations’ land grabbing and agribusiness practices which threaten their health and their communities’ right to exist.

These illustrative examples call for deep examination of the impact corporate partnerships are having on human rights and the achievement of the Sustainable Development Goals (SDGs). Even more urgently, it forces us to ask: do corporate partnerships constitute a form of complicity – unwilling as it may be – of UN agencies in the continuation of human rights and environmental violations?

The UN itself has reflected on the risks of idealizing partnerships with businesses, showing that it is capable of critical self-appraisal. A 2006 paper by the United Nations

Research Institute for Social Development (UNRISD) programme conceded that “focusing on foreign direct investment, linkages between transnational corporations (TNCs), small and medium-sized enterprise, and privatization as an objective or outcome of partnerships, is problematic from the perspective of equitable development.”¹³⁵ Realizing the political implications of such partnerships and allowing for internal critique is a step in the right direction towards reclaiming the UN’s mandate to support and uphold human rights for all.

UN Corporate Funding and the Love for Public-Private Partnerships

In October 2019, the United Nations Secretary-General held a press statement to announce that the UN is facing “severe shortage of cash of \$230 million [USD]” and may be unable to carry out its mandate due to almost one third of member states failing to honour their funding commitments.¹³⁶

CHRONIC UNDERFUNDING HAS RESULTED IN A GREATER UN DEPENDENCE ON A LIMITED NUMBER OF DONORS, INCLUDING PRIVATE FOUNDATIONS

Chronic underfunding of the UN can be seen as a deliberate tactic by some states to undermine the multilateral system. This has resulted in a greater UN dependence on a limited number of donors, including private

foundations. For example, the UN Foundation – a private foundation – raises funds from corporations and other private funders to support the UN system. It also brokers “global partnerships” between UN agencies, corporations, governments, and civil society.

In view of such funding shortages, it is not surprising that the UN has been a key proponent of public-private partnerships (PPPs), which is defined as any collaboration between the public and private sectors to achieve a public policy goal. But evidence suggests that governments continue to bring more financial resources to these partnerships than the private sector, and that PPPs, contrary to their promises, actually threaten the provision of public services.¹³⁷ This suggests that public funds are increasingly being used to finance big development programs that in reality are implemented by corporations.

Yet another example of UN and business partnerships that is particularly concerning for feminist movements in a context of the rise of anti-rights actors, is that of the 25th anniversary of the Fourth World Conference on Women and the adoption of its landmark outcome, the Beijing Declaration and Platform for Action (known as B+25). After suspending large gatherings during the pandemic, the UN began to organize the Generation Equality Forum¹³⁸ around key thematic areas called “Action Coalitions.”¹³⁹ Each Action Coalition – including private actors across the board – was mandated to “launch a targeted set of concrete, ambitious and immediate actions within the period of

2021-2026 to deliver tangible impact on gender equality and girls' and women's human rights.”

PUBLIC FUNDS ARE INCREASINGLY BEING USED TO FINANCE BIG DEVELOPMENT PROGRAMS THAT IN REALITY ARE IMPLEMENTED BY CORPORATIONS

This marks a significant restructuring of UN accountability mechanisms in favor of PPPs and happens to mirror the recommendations in a recent World Economic Forum narrative that argues that governments are no longer the overwhelmingly dominant actors on the world stage.¹⁴⁰ The WEF vision includes a “public-private UN, in which certain specialized agencies would operate under joint state and non-state governance systems.” **This indicates that “formal” corporate power is fully entering the international governance system for women’s rights and gender equality agendas, and as feminists we need to be alert.**

Feminist and women’s rights groups have also critiqued the Addis Ababa Action Agenda (AAAA) and the 2030 Agenda for giving a privileged role to multi-stakeholder partnerships that include the private sector.¹⁴¹ There is even a specific target set on public-private partnerships (PPPs) under Goal 17 of the Sustainable Development Goals. This marked an important departure from the Millennium Development Goals (MDGs) which defined a global partnership as principally

between states. Although the AAAA and the 2030 Agenda acknowledge the existence of human rights standards and norms – including ILO labour standards, environmental safeguards and the UN Guiding Principles on Business and Human Rights – they fail to acknowledge the need for a binding instrument that will provide a mechanism to truly hold corporations accountable. Now the prospects of having such a mechanism are also under threat by corporate actors and allies trying to obstruct the process.

“FORMAL” CORPORATE POWER IS FULLY ENTERING THE INTERNATIONAL GOVERNANCE SYSTEM FOR WOMEN’S RIGHTS AND GENDER EQUALITY AGENDAS, AND FEMINISTS NEED TO BE ALERT

A lack of core funding at the expense of global partnerships and specific programs undermines the UN system as a whole.¹⁴² It leads to fragmentation, competition, and overlap between UN agencies, and elevates priorities set by the corporate sector over and above those set by intergovernmental bodies. As if in a never-ending circle, the rise of corporate power globally is creating a lack of public financing for effective multilateralism to uphold human rights and equality for all.

Corporate Obstruction to Advancing Rights and Accountability

Obstructing a UN Legal Instrument for Corporate Accountability

The non-transparent influence of corporations threatens democratic principles and weakens the sovereignty of member states, particularly when it comes to holding them accountable for human rights abuses and environmental violations.

CORPORATIONS ARE ENGAGED IN BLOCKING EFFORTS AT THE UN HUMAN RIGHTS COUNCIL TO END IMPUNITY FOR CORPORATE ABUSES AND VIOLATIONS

Currently, corporations are engaged in blocking efforts at the UN Human Rights Council (HRC) to end impunity for corporate abuses and violations, such as the destruction of territories, plundering of resources, exploitation of labour, or environmental damages. Currently, companies simply refer to the UN Guiding Principles on Business and Human Rights, which are voluntary. Voluntary principles, to which companies only need adhere to if they wish,¹⁴³ have led to the current state of impunity with local communities offered very little in return for the destruction of their health and livelihoods.

To address these concerns, an international legally-binding treaty on transnational corporations and other businesses in relation

to human rights has been the subject of discussions at the HRC in Geneva since 2014 as part of a historical struggle led by social movements demanding accountability.¹⁴⁴ Including a women's rights and gender justice perspective in the prospective treaty would provide a much needed legal tool to address corporate abuses.

Corporations, however, are actively trying to disrupt this process. A corporate lobby, for example, is directly campaigning against the treaty – mostly through the ICC and the IOE. The IOE released a document targeting states that might be supportive of the treaty, laying out what the organization said were possible major financial losses in exports, investment, and development if the treaty is ratified.¹⁴⁵

IT IS THE WORK OF FEMINIST ORGANIZATIONS ACROSS THE GLOBAL SOUTH, IN ALLIANCE WITH GLOBAL ORGANIZATIONS, TO PEEL BACK THE CURTAIN OF THIS HYPOCRISY

On top of this, is the issue that corporations hold enormous power at the national and global levels. States are under continuous economic and political pressure from corporations and financial institutions, to varying degrees of success. To illustrate, a comparative analysis found that the arguments voiced by the European Union (EU) against the treaty are virtually identical to the arguments put forward by the private sector lobby.¹⁴⁶ A number of EU countries are often

considered “champions of gender equality” in UN deliberations, reporting, and initiatives. However, upholding corporate power in order to protect companies in their home countries clearly fuels gender inequality and rights violations everywhere. **It is the work of feminist organizations across the Global South, in alliance with global organizations, to peel back the curtain of this hypocrisy and demand full support for gender-responsive legally-binding instruments on corporations and human rights.**

Shrinking Civic Space for Feminist and Women’s Rights Organizing

Through multi-stakeholder engagements, PPPs or direct funding, as well as invitations as speakers and “experts,” transnational corporations are increasingly being given a voice in the UN. The expertise of feminist and gender justice organizations and historically oppressed communities – even on matters pertaining to their own lives – are often devalued and marginalized by comparison.

THE DOMINANCE OF CORPORATE VOICES IS NARROWING THE SPACE TO INTERROGATE CORPORATE PRACTICES THAT CONTRIBUTE TO WOMEN’S MARGINALIZATION

To illustrate, only one women’s rights organization is represented on the first UN high-level panel on women’s economic empowerment, while six representatives from either corporations or private foundations are

included.¹⁴⁷ The panel, launched by the UN and the World Bank with the backing of the UK government and the IMF, is co-chaired by the CEO of IKEA Switzerland. **The dominance of corporate and private foundation voices is narrowing the space to interrogate corporate practices that contribute to women’s economic, social, and political marginalization, or to question current economic policies and the dominant economic system at large.**

THE PRINCIPLE OF PRIMACY OF HUMAN RIGHTS OVER CORPORATE INTERESTS - IF IT EVER WAS - IS NO LONGER A GIVEN

In summary, this brief overview of multi-faceted corporate power, influence and capture of the UN makes clear that the mandate to protect and uphold human rights is deeply compromised. **The principle of primacy of human rights over corporate interests – if it ever was – is no longer a given.** It is critical to continue exposing the interference of private sector interests and corporate ideologies in human rights systems, and to hold both states and UN institutions to account when they place these interests above human rights and public interest. In a world where corporations hold more economic power than states, it is not the corporations who rely on the international human rights system for the respect, protection, and fulfillment of their human rights, it is the people.

Reprisals and Closing Civic Spaces for Feminist Activists, LGBTQI and Women Human Rights Defenders

– Verónica Vidal Degiorgis¹⁴⁸

Project on Economic, Social and Cultural Rights
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Since the early 2000s, feminist activists, LGBTQI and women human rights defenders have seen the resources and spaces for their work narrowed and their work increasingly contested at domestic, regional, and international levels.¹⁴⁹ Defenders also face reprisals and intimidation when engaging with international or regional human rights mechanisms to try and hold their states accountable or to push for human rights standards. Pressure from states within the multilateral system has increasingly limited defenders' access to negotiations on human rights, including some forums where civil society presence has traditionally been strong.¹⁵⁰

With events and sessions cancelled or shifted online, the COVID-19 pandemic has created a new barrier for the international advocacy efforts of human rights groups, particularly those based outside of Geneva and New York. In his 2020 report, the Secretary-General noted that cooperation with the UN was significantly altered by COVID-19 and the cancellation of activities required adaptation and new forms of engagement in order for civil society to cooperate freely and safely with the UN.¹⁵¹

It is essential for the voices of feminist activists, LGBTQI and women defenders to be heard and their demands addressed in order to keep governments accountable for their human rights violations and to continue to push the multilateral system to fulfill its mandate. A lack of their participation and access presents a threat to this already fragile system.

The right to defend rights, as well as the rights to protest and to freedom of assembly and association, have been recognized under international law in a number of international and regional human rights instruments.¹⁵² In 2013, the UN General Assembly adopted a resolution focused on the protection of women human rights defenders.¹⁵³ This followed the appeals of feminist, LGBTQI and women human rights defenders for an international instrument that specifically recognized and addressed the differentiated and gendered violence they face. The UN Secretary-General also instructed the Assistant Secretary-General for Human Rights to coordinate efforts to protect defenders engaging with the UN.¹⁵⁴

Despite these advancements in international law, we are seeing that any work related to achieving rights and liberation is increasingly being silenced, attacked, and punished. **The reprisals against women and LGBTQI defenders take many forms: use of legislation to criminalize their work, intimidation, written or verbal threats, online and offline harassment, defamation**

campaigns, travel bans, restrictions on funding, arbitrary arrests, sexual violence, and even murder. Gender-based and sexual violence, and threats to children and family, are also common gender-specific types of violence.

With the alarming escalation of reprisals and intimidation of activists documented in recent years, the 2018 Reprisals Report acknowledged that such incidents “have become increasingly severe in nature”¹⁵⁵ and that cases faced by defenders working on the rights of women or gender issues are under-reported.

Of particular interest is the case of Alicia Wallace, a feminist activist from The Bahamas. Wallace represented her organization, Equality Bahamas, in the review of her country by the Committee on the Elimination of Discrimination against Women (CEDAW) in October 2018.¹⁵⁶ Following this, Rodney Moncur, a local radio personality, made statements about Wallace which, according to the International Service for Human Rights (ISHR), included “drawing false equivalency between LBTQ+ sexual relations and bestiality.”¹⁵⁷ This contributed to an unsafe environment for her and other defenders, as documented by ISHR.¹⁵⁸

Despite The Bahamas subsequently affirming its commitment to protect human rights defenders and ensure that they can engage freely with the UN¹⁵⁹ no measures of remedy and redress for Wallace were ever taken by the government, nor was any follow-up by the UN mentioned in the Reprisals Report

in successive years.¹⁶⁰ Wallace has suffered trauma as a consequence of this reprisal. She subsequently made three demands on her government: (1) to code hate crimes in its criminal legislation; (2) to demonstrate public support for women human rights defenders; and (3) to make a cease-and-desist notification to Rodney Moncur.¹⁶¹ None of her demands were met.

Alicia’s case might be only one of the many cases of documented reprisals, but it exemplifies the challenges and obstacles to the gender-responsive prevention mechanisms that are needed to protect defenders. Meanwhile, reprisals perpetrated by state and non-state actors continue happening both in UN headquarters and local contexts.

The obstacles for NGOs to get ECOSOC consultative status within the UN is another indication of closing space for activists. ECOSOC status provides the ability to pursue advocacy activities, influence agendas, and participate in key negotiations for the advancement of human rights at the multilateral level. The Human Rights Council’s NGO Committee Chair expressed concern that, **“a large and growing number of NGO applications for consultative status continue to be perceived as arbitrarily deferred based on politically-motivated and repetitive questions by committee members.”** This trend threatens the very engagement of civil society with UN bodies and mechanisms.

Also of concern is the “no objection procedure” through which member states have the power to veto any NGO’s participation in certain high-level meetings without providing a reason.¹⁶² Considered alongside the increasing access of anti-rights actors to human rights processes – including via the acquisition of ECOSOC status – it becomes an apparent part of a broader process to undermine human rights and the multilateral system itself.

Similar trends are taking place in regional human rights mechanisms. The Nicaraguan Initiative of Women Human Rights Defenders has documented reprisals against feminists, women and trans human rights defenders. The feminists, trans and indigenous women human rights defenders Lottie Cunningham, Haydée Castillo, Francisca Ramírez, Irlanda Jeréz, and Victoria Obando have been subject to various reprisals related to their engagement with the Inter-American Commission of Human Rights (IACHR) to denounce the current political situation and multiple human rights violations in Nicaragua.¹⁶³

Reprisals are not limited to activists, they also target prominent UN mandate holders. In 2018, the Special Rapporteur on Indigenous Peoples, Victoria Tauli-Corpuz, was accused by the government of her home country, the Philippines, of being a “terrorist,” along with 600 other activists.¹⁶⁴ The Rapporteur has been a key voice in denouncing the attacks on activists in the country and spoke about the atrocities of

the Duterte government against indigenous people defending their land and territories.

A GROWING NUMBER OF NGO APPLICATIONS FOR CONSULTATIVE STATUS CONTINUE TO BE PERCEIVED AS ARBITRARILY DEFERRED BASED ON POLITICALLY-MOTIVATED AND REPETITIVE QUESTIONS BY COMMITTEE MEMBERS

Such an attack, coming as it is from her own government, is aimed at discrediting the Rapporteur’s work and undermining her contributions to human rights. It also exposes her to further risk and attacks.¹⁶⁵ As noted by the International Service for Human Rights (ISHR), attacks on prominent UN experts and ambassadors, with no consequence to the perpetrators, “may deter civil society from engaging with [human rights] mechanisms and is likely to increase fear for those seeking the protection of the UN.”¹⁶⁶

These reprisals are fueled by a global context that is increasingly authoritarian, promoting hate speech and economic, social, religious, and cultural fundamentalist values. Other trends in this context include: online harassment, cybercrime regulations that intensify electronic surveillance, the delegitimization and legal and administrative restriction of civil society, the criminalization of human rights defenders and activists, and limitations on freedom of movement,

international travel and freedom of speech and assembly in different countries all over the world.¹⁶⁷

UN INSTITUTIONS, AND MEMBER STATES MUST HOLD THEMSELVES AND EACH OTHER TO ACCOUNT TO ENSURE THAT HUMAN RIGHTS DEFENDERS AND MANDATE HOLDERS CAN ENGAGE FREELY WITHOUT THREAT OF REPRISALS

The UN must be a space where defenders and communities can speak out freely for rights and justice, particularly with civic spaces closing and the increased repression of human rights defenders around the world. Yet today, defenders are risking their safety and well-being to report human rights violations to UN bodies, with feminist activists, LGBTQI, and women human rights defenders exposed to gender-specific threats and violence as reprisals. UN institutions, regional human rights mechanisms, and member states must hold themselves and each other to account and act to ensure that human rights defenders and mandate holders can engage freely without threat of reprisals.

Movement Resistance Stories

CEDAW's Article 16: A Pathway for Reformation of Discriminatory Family Laws in Muslim Contexts

– Alex McCarthy and Hyshyama Hamin
Musawah

The Convention on the Elimination of Discrimination against Women (CEDAW) is the most important human rights treaty for women's groups in Muslim contexts because of its three key principles: substantive equality, non-discrimination, and state obligation. These enable activists to use the CEDAW reporting process to put pressure on their governments to reform laws and practices that discriminate against women.

Today, CEDAW is the human rights convention with the most state reservations (through a reservation, the state excuses itself from upholding certain provisions of the convention or treaty).¹⁶⁸ Of the 440 reservations entered against the Convention, over 60 percent are based on religion. CEDAW's most reserved article is Article 16 on marriage and family relations. Many reservations come from Muslim-majority countries invoking religion to erroneously excuse discriminatory regulations as *Shari'ah* or "God's divine and unchangeable laws," and justify non-compliance with treaty obligations or their lack of progress on law reform.

Musawah, the global movement for equality and justice in the Muslim family, started submitting thematic reports on CEDAW's Article 16 to the CEDAW Committee in 2011 during different country review sessions. Working closely with national-level activists, lawyers, and civil society organizations, Musawah uncovered both the *de facto* and *de jure* discrimination faced by women under Muslim family laws, as well as *Shari'ah* court systems and community practices.

Musawah has since intervened 38 times for 31 countries in 24 CEDAW sessions, including submitting 34 thematic reports, making oral interventions, and participating in NGO briefings. These reports have been the backbone of Musawah's extensive documentation of the impact of discriminatory Muslim family laws on women and girls, with the identification of 12 principal issues of concern in these laws where women face discrimination. These include:

- Discriminatory legal frameworks
- Male guardianship
- Women's consent and capacity to enter into marriage
- Child and forced marriage
- Divorce
- Polygamy
- Violence against women in the family (including female genital mutilation/cutting and honour-based violence)
- Inheritance
- Nationality
- Post-divorce maintenance
- Matrimonial assets
- Access to justice in *Shari'ah* courts.

Importantly, these reports also outlined examples of positive legal developments in Muslim contexts around the world. Such examples illustrate the range of legal regimes in Muslim-majority countries, and the possibility for reform, showing the fallacy of state arguments that appeal to *Shari'ah* to avoid commitments to women's rights,

thereby strengthening Committee members' questioning of state parties and supporting activists' calls for reform.

For many activists denied the opportunity to raise their concerns about discriminatory laws and practices in their home countries, Musawah's joint engagement with CEDAW has provided a unique platform to be heard. Engagement with the CEDAW Committee and reporting process fulfills a niche need in advancing the rights of women in Muslim contexts. As a result of Musawah's work, there has been more constructive and critical engagement between the CEDAW Committee and reporting governments. This work has also facilitated impactful Concluding Observations by the CEDAW Committee, including urging governments to raise the minimum age of marriage to 18, discourage polygamy, abolish unilateral divorce, provide equal inheritance rights, and appoint women as judges in religious or *Kadi* courts.

In March 2020, Musawah launched a global Campaign for Justice in Muslim Family Laws, bringing together women's rights activists, academics, and policy makers. In addition to strengthening national advocacy and building regional networks for change, Musawah continues to support national activists to engage with CEDAW in order to support the reform of Muslim family laws in their respective countries.

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