

After Enron, WorldCom, etc.: Unity Platform on Corporate Accountability

As concerned individuals and peoples' organizations representing workers, environmentalists, consumers and citizens across the U.S. and around the world, we are responding to the collapse of Enron and other companies by calling for a fundamental transformation of the relationship between corporations and society.

We are outraged by the way that Enron ran roughshod over ordinary people around the world. It manipulated energy markets to hike up rates that devastated working people and senior citizens in the United States and other nations. It evaded taxes in ways that enriched executives. It bought and sold politicians and attempted to write our nation's energy policy. Its executives made millions while it deceived and impoverished its own workers and countless people who owned its stock. It used taxpayer money to expand overseas in ways that hurt people, abused human rights, and despoiled the environment. Even more damaging, many of Enron's activities have been copied by other firms all over the world, and almost all of this was legal.

Since Enron, a seemingly endless number of corporate scandals have unfolded, revealing the systemic nature of the crisis. In July, WorldCom, the second largest telecommunications company in the U.S., filed the largest corporate bankruptcy in history, twice the size of Enron. Nearly every energy trading company - from Enron to CMS to Dynegy to Mirant to Reliant - is under investigation or has admitted to bogus trades that deceived shareholders and ripped off consumers. Other companies embroiled in investigations for various alleged corporate crimes include AOL/Time Warner, Adelphia, Citigroup, Dynegy, Global Crossing, IMClone and Tyco. The list goes on and on.

This debacle marks a defining moment regarding the nature and role of the corporation in society. During the 20th century, there were at least three political moments in the US where significant efforts were made to reign-in corporate power -- the movement to curb corporate mergers through anti-trust laws at the onset of the last century; the rise of the labor movement and the regulatory state as a counter-balance to corporate power in the 1930s; and the creation of a broad range of consumer, environmental and labor regulations in the late 1960's and 1970s.

As the 21st century begins to unfold, it is all too clear that these measures have had only a marginal effect on reining in corporate power, largely because they neglected to define corporations as entities subservient to a sovereign people. What the recent corporate scandals do is provide a political moment to rethink and remake the role of the 'corporation' and of 'democracy,' not just in the U.S., but, necessarily, throughout the world.

To move in this direction, we propose the following 10-point platform as a common base for unity and action:

- **Strengthen Political Democracy:** The Enron case shows how deeply entrenched corporations have become in shaping political life in the U.S. and other countries. Enron's political campaign contributions covered the landscape of Washington, D.C.'s politicians, from the President to most members of the Senate and House of Representatives. The company's influence over numerous state-level governments was

equally pervasive. Enron's Board of Directors also contained well-placed political figures and several past and present members of President Bush's Cabinet. Numerous other high-level members of his administration have been on Enron's payroll. Meanwhile, Enron has been a key player in some of the strongest political lobby machines, including the U.S. Coalition of Service Industries, the National Foreign Trade Council and the U.S. Council for International Business. And Enron is just one company; the unmitigated influence that corporations have over the legislative and regulatory system in the U.S. and other countries derives from their financial might and their political rights under law (such as free speech and property protections as corporate persons) and has not changed since Enron's collapse. The result is that while modest campaign finance reforms have been enacted in the wake of the Enron debacle, it is not at all sufficient and there have been few other significant reforms. *We, therefore, call for the phase-out of big business financing of electoral campaigns, the development of a public financing plan for elections in the future, restrictions designed to slow down and stop the 'revolving door' of personnel moving between corporations and governments --- plus similar measures separating corporations and the state in global institutions like the World Trade Organization, World Bank, International Monetary Fund and the United Nations.*

- **Reassert Democratic Authority over Electric Utilities and other Natural Monopolies:** It is well known that Enron played a pivotal role in bringing about the deregulation of electricity in California that, in turn, provoked an energy crisis in that State. By exerting political influence over state legislatures, Congress and state and federal regulators Enron was able to effectively remove government oversight of its own trading and marketing practices. By removing government oversight, Enron ensured it would be able to make far more money trading energy than it could by actually producing electricity at a power plant. By manipulating both prices and supply of electricity, Enron was able to gouge consumers in California and reap billions of dollars in revenues and profits. Despite the California fiasco, the Bush Administration has gone ahead with the wholesale deregulation of energy utility markets and promoting the construction of new power plants throughout the country. *We, therefore, insist that concerted steps be taken to restore public ownership of vital services such as energy and water through such means as the municipalization of electric utilities, and support the reregulation of energy markets. Most importantly, energy policies must be changed to favor conservation and renewable sources of energy.*
- **Redefine Financial Accountability:** It is now clear that Enron's accountants, Arthur Andersen Inc., were caught cooking the corporation's books to provide a false report of debts and profits, and that other accounting firms performed similar activities for other companies. Today, accounting firms like Andersen tend to lose their independence by providing both accounting and consulting services to the same corporate clients, thereby creating inherent conflicts of interest and undermining their effectiveness as professional watchdogs. What's more, full public disclosure of a corporation's finances is not possible as long as companies are not required to account for the social and environmental costs of their operations. *We, therefore, call for the enactment of new rules governing the accounting industry, including: stronger oversight measures by the Securities Exchange Commission, such as publicly-administered audits; criminal penalties on culpable companies and their personnel for false reporting; full separation of accounting and consulting practices; and full cost accounting of social and environmental impacts in financial reports.*
- **Make corporations pay their proper share of taxes.** After the 2002 tax cuts, U.S. corporations will pay close to the lowest rate of taxes as a share of the economy that they have paid in 60 years. Nevertheless, corporations continue to demand more, while

the global race to the bottom has established a competition among countries to further reduce taxes as the price of keeping companies from fleeing. Many U.S. corporations are shifting their headquarters to nominal mail-drop locations in tax haven countries in order to further reduce or avoid paying taxes. Even without moving their headquarters offshore, many companies have found ingenious ways to avoid paying taxes. Enron, for instance, set up over 800 subsidiaries in offshore tax havens to fraudulently hide its debt and reduce its tax payments. The company also deducted billions of dollars of stock option gains and used other techniques to avoid paying taxes entirely in four of the last five years before it filed for bankruptcy. *We call for a reversal in the trend towards corporate tax avoidance. U.S. corporations should pay the equivalent of what they paid in the 1950s (4.5 percent of the U.S. GDP during the Truman and Eisenhower years versus 1.3 percent after the 2002 cuts). Congress needs to end international tax dodges, like offshore reincorporation, and stop giving government contracts to companies that have already relocated offshore. Local, state and federal governments also need to end the many forms of corporate tax welfare that come in the form of subsidies, loopholes and escapes (e.g. accelerated depreciation for oil, mining and gas). Further, it is time to establish new forms of taxation (e.g. the Tobin Tax) to reduce the incentives for excessive speculation.*

- Crack Down on Corporate Crime:** The Enron scandal shows what happens when, with the help of members of the legal profession, publicly traded corporations acquire, under the law, special rights and protections which effectively put them, beyond the reach of other laws and liabilities to which ordinary citizens are subject. In effect, the CEO, officers and shareholders of a corporation like Enron have enjoyed virtual immunity when it comes to legal responsibilities for harms committed against workers, communities or the environment. As a result, Enron's management, officers and major shareholders may be immune from prosecution for the company's actions ranging from consumer price-gouging in California and manipulation of their workers' pension fund investments to the repression of human rights in India or environmental destruction in Bolivia. *We, therefore, insist that the civil and criminal liability of a corporation's top management and directors be legally established or strengthened for corporate wrongdoing, both in terms of the company's domestic and overseas operations. At a minimum, companies that repeatedly break the law should be barred from receiving government contracts. Recidivist corporations with an endemic culture of corruption should have their charters revoked, or at least be placed into receivership until such corruption is eradicated. In addition, laws that shield accountants, bankers and lawyers from civil charges for colluding with corporate executives in corporate crimes, such as the Private Securities Litigation Reform Act of 1995, need to be repealed.*
- Strengthen Labor Rights and Environmental Obligations:** Enron's own track record regarding labor and the environment shows the urgent need to establish a new set of legal obligations for corporations, including a new set of rights for workers on the job. Enron's record on workers' rights, ranging from its job-slashing practices after company takeovers to its manipulation of the 401-k pension funds of its workers, has been appalling. So, too, with Enron's environmental track record, for example, in regards to nitrogen oxide emissions from its methanol plants. *We, therefore, call strengthened whistleblower protections, respect for independent worker organizations and an end to the routine violation of labor rights in the U.S. and around the world. Employees should have the freedom of speech and association, as well as other rights of protection on the job. As institutions that are distinct from natural persons, corporations should not be protected by Fourth Amendment rights, which in the past have been used to protect them from unannounced inspections by EPA and OSHA. In addition, the framework for environmental regulation must be shifted from the current command-and-control model to one that favors the use of the precautionary principle. Finally,*

corporations should be subject to much stronger disclosure obligations.

- **Make Overseas Operations More Accountable:** Enron's operations in other countries, especially in the developing countries of the South, raises serious questions about how to effectively monitor and enforce obligations on U.S. corporations abroad. In India, for example, when villagers protested against Enron's investment in the Dabhol Power Plant which threatens local livelihoods and the environment, the company paid state government security forces to crack down on the dissenters, using brutal tactics. In Bolivia, Enron is the key player in the construction of a gas pipeline across the only protected area for the world's largest, intact, dry forest area. In both cases, Enron used the offices of the U.S. Trade Representative and the National Security Council in dealing with the Indian and Bolivian governments. This is common practice for many U.S. corporations in their overseas operations. *We, therefore, insist that U.S. corporations adhere to U.S. environmental and labor standards in their overseas operations and that they be held liable in U.S. court for any civil or criminal violation of such standards. Corporations should also be bound by international human rights law and subject to sanctions for violations in U.S. courts. In addition, corporations should be bound by an international code of conduct which requires them, among other things, to disclose key information to the public about their environmental, labor, and human rights practices from their operations around the world. Meanwhile, new national laws should be established requiring that U.S. corporations meet certain social obligations in their overseas operation, and existing laws, such as the Foreign Corrupt Practices Act, need to be strengthened to close loopholes used to excuse the bribing of foreign officials. We also call on the UN Human Rights Commission to establish a Special Rapporteur to investigate Enron's global practices and to make recommendations on how corporations can be held accountable globally.*
- **Eliminate International Corporate Welfare:** To expand its international operations, Enron received over \$7 billion in government assistance from the U.S. Overseas Private Investment Corporation [OPIC] and other public sources, including the World Bank and other multilateral financial institutions. Yet, Enron is by no means the only profitable multinational corporation on state welfare roles today. *We, therefore, call for the elimination of the OPIC, and the World Bank's private-sector lending arm (IFC) and insurance guarantee agency (MIGA), and the fundamental restructuring of the ExIm Bank and other public agencies.*
- **Control Speculative Investment:** The Enron story also reveals how corporations, fueled by the deregulation tidal wave and encouraged by their investment banking partners, are channeling more and more capital into speculative investments and away from the production of goods and services. The deregulation of financial services has pulled down the firewalls that protected investors from the dangers of speculation while increasing the use of certain kinds of unregulated securities, such as derivatives. With their compensation increasingly tied to short-term stock performance and the disbursement of stock options, corporate executives have increasingly cooked the books to prop up the company's share price and bet the company store on speculative ventures that conflict with the long-term interests of their own employees and shareholders. Meanwhile, Wall Street banks themselves have underwritten many dubious ventures while puffing up the value of the companies' stock to unsuspecting investors through their own analysts' unwarranted boosterism. In addition, the housing of brokerage, underwriting and analyst banking services under one single corporate roof (which occurred in the late 1990s, along with the repeal of the Glass-Steagall Act) has resulted in insurmountable conflicts of interest within the big banks. We, therefore, call for structural banking reforms that address these conflicts of interest such as a separation between commercial and investment banking. *We also call for a transaction tax to*

encourage genuinely productive investment rather than mere speculation and in order to raise revenues for the protection of consumers, children, public health and the environment. In addition, regulatory changes are necessary to make financial markets more stable and transparent, including capital requirements on derivatives dealers, collateral requirements on transactions, and registration and reporting requirements for over-the-counter derivatives. Countries must also be free to maintain capital controls, debt-to-asset ratio limits, and limits and regulations on capital flows. In addition, government-backed guarantees for bank loans to corporations for speculative kinds of investment must be eliminated.

- **Renegotiate Trade Rules:** The Enron story further demonstrates how global trade rules are being designed as tools for corporations to pry open markets in public services, such as health, electricity and water, on a for-profit basis. As a multi-sector service corporation with powerful connections in Congress and the White House, Enron positioned itself to play a major role in writing new global rules for cross-border trade in services through the GATS negotiations [the General Agreement on Trade and Services]. Once these negotiations are completed, the new GATS rules will come into effect and be enforced by binding mechanisms in both the World Trade Organization and the Free Trade Area of the Americas. *We, therefore, call for a halt to the negotiations for WTO expansion and the FTAA. In place of negotiations to facilitate corporate globalization, countries should negotiate a convention on corporate accountability with binding enforcement powers.*
- **Overhaul Corporate Governance:** Finally, the Enron debacle illustrates how distorted the corporate model of governance itself has become, wherein all authority and accountability resides with the chief executive officer, directors, and major shareholders, and the only purpose of a corporation is the pursuit of profit. A corporation is composed of many stakeholders besides its senior management and major investors, including its workers, customers, suppliers, creditors and the communities in which it operates. Yet, these other stakeholders are excluded from the model of governance that prevails today. *We, therefore, insist on the need for an overhaul of corporate governance laws, concerning both publicly and privately held corporations, to ensure that all the main stakeholders of a corporation --- including its minor shareholders, workers, community, and customers --- are represented in the exercise of authority and accountability with regards to decisions affecting the company's operations. The sovereignty of people over corporations should be established by a periodic review and, if necessary, revocation of corporate charters - the basic instruments of their creation -- by the governments which grant them.*

In our efforts to build a better world, we hereby pledge ourselves to vigorously promote this common plan of action as an antidote to the systemic concentrated greed, power and control by enveloping corporate power that is relentlessly eroding our future as democratic societies under the sovereignty of their people.

See [the list of organizations](#) that have signed on.

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