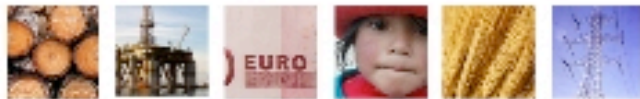


TPP



Tribunal Permanente de los Pueblos

Lima, Perú, 2008.



Tribunal on european transnational corporations
in Latin America and on neoliberal policies

Bi-regional network Europe, Latin America and Caribbean 'Enlazando Alternativas'
Working Group on transnational corporations - "Permanent Peoples' Tribunal"

Acción Ecológica (Ecuador)
Alianza de Pueblos del Sur Acreedores de Deuda Ecológica
Asamblea del Pueblo Guaraní Itika Guasu (Bolivia)
Asociación Aurora Vivar (Perú)
Asociación de Usuarios del Agua de Saltillo (México)
Associações de Pescadores Artesanais da Baía de Sepetiba (Brasil)
Asud (Italia)
ATTAC Argentina
Campaña Internacional: La Ir-Responsabilidad Social de Unión Fenosa. Capítulo I: Nicaragua a oscuras
Campaña por la Reforma de la Banca Mundial CBRM (Italia)
CAVE - Colectivo Alternativa Verde (Brasil)
Ceiba (Guatemala)
Censat Agua Viva – Amigos de la Tierra (Colombia)
Centro de Documentación e Información de Bolivia – CEDIB (Bolivia)
Centro de Estudios Aplicados a los Derechos Económicos, Sociales y Culturales CEADDESC (Bolivia)
Centro de Políticas Públicas para el Socialismo – CEPPAS (Argentina)
Centro Ecoceanos y Sindicato Eicosal 2 de la Multinacional noruega Marine Harvest (Chile)
Colectivo SKAMSKA (Suecia)
CONACAMI (Perú)
Confederación General de Trabajadores- CGTP (Perú)
Confederación General del Trabajo - CGT (Estado español)
Corporate Europe Observatory (Holanda)
Ecologistas en Acción - Ekologistak Martxan (Estado español)
Federación Nacional de Sindicatos de Unilever Chile- FENASIUN (con el apoyo de la CUT Chile y la Confederación Sindical de las Américas- CSA)
Foro Ciudadano por la Justicia y los Derechos Humanos –FOCO
Fórum de Meio Ambiente e de Qualidade de Vida do Povo Trabalhador da Zona Oeste e da Baía de Sepetiba (Brasil)
France Amérique Latine (Francia)
Friends of the Earth-Europe
Fundación de Investigaciones Sociales y Políticas – FISyP (Argentina)
Fundación Solón (Bolivia)
Institute for Policy Studies (Estados Unidos)
Instituto de Ciencias Alejandro Lipschutz (Chile)
Instituto de Políticas Alternativas para o Cone Sul – PACS (Brasil)
Jubileo Sur (Perú)
Movimento dos Atingidos por Barragens (MAB) (Brasil)
Movimiento Social Nicaragüense
Observatorio de Multinacionales en América Latina – OMAL- Paz con Dignidad (Estado español),
Plataforma Interamericana de derechos Humanos, Democracia y Desarrollo
Red Brasileira por la Integración de los Pueblos (REBRIP) (Brasil)
Red Caribe de Usuarios de Servicios Públicos Atrarraya en Defensa del Agua y la Energía (Colombia)
Red de Acción en Agricultura Alternativa – RAAA (Perú)
Red Latinoamericana contra las Represas (REDLAR)
REDES Amigos de la Tierra (Uruguay)
SETEM (Estado Español)
Shell to Sea (Irlanda)
Sindicato dos Trabalhadores no Comércio de Minérios e Derivados de Petróleo no estado de São Paulo – SIPETROL (Brasil)
Sintraelecol (Colombia)
SITECASA (Perú)
SOMO (Holanda)
Terra de Direitos (Brasil)
Transform (Italia)
Transnational Institute (Holanda)
Via Campesina (Brasil)
Xarxa de l'Observatori del Deute en la Globalització - XODG (Cataluña, Estado Español)

Permanent Peoples' Tribunal: Second Session on european transnational companies in Latin America and on neoliberal policies

From 13th to 16th of May, the bi-regional network Europe-Latin America and Caribbean is convening a session of the Permanent Peoples' Tribunal (PPT) within the Peoples' Summit "Enlazando Alternativas 3".

Accused and judged before the Tribunal are european transnational companies in Latin America as well as the national and international mechanisms (financial, media, legal, etc.) and actors (the EU, the governments of its member states as well as the governments of Latin American countries, WTO, World Bank) which enable, legitimate and support the companies in their actions. With this Tribunal session, we are continuing and deepening the research of the PPT on the conflict between economic system and human rights.

The final resolution based on the accusations, evidence, documentation and the witnesses heard in the hearing – which was initiated in Lima in May 2006 and will continue in Lima – aims to expose the structural human rights violations committed by these companies, supported by the neoliberal system. Furthermore, we aim to advance in the search for alternatives that re-create the rights of peoples as opposed to companies' rights.

History of the Permanent Peoples' Tribunal

The Permanent Peoples' Tribunal (PPT) was established in Italy in 1979, 3 years after the adoption of the Universal Declaration of the rights of Peoples (July 1976). The proponent of the Tribunal was Lelio Basso, an Italian Senator and one of the leaders of antifascist resistance in Italy. A member and rapporteur at the Russell Tribunal on Vietnam and at the Russell II Tribunal on Latin America (1974-1976), Lelio Basso realized how urgent it was to set up a Permanent International Tribunal of judges that could redress institutional shortcomings in the international juridical order. As a matter of fact, no international body exists nowadays to judge violations of international law by States.

The International Court of Justice (ICJ) jurisdiction is relevant only for States that have voluntarily accepted its competence. Only States and organizations that they control can solicit ICJ assistance. The majority of United Nations' bodies can be accessed only by States and not by Peoples or other collective actors. This is the gap the Tribunal intends to bridge. Hence, the Tribunal's work is directed not only to States but also to Peoples and their petitions. The examination of the cases and the issuing of statements and sentences are inspired by the peoples' rights to self-determination and their civil and political rights.

The authority of the Tribunal's decisions is guaranteed by the integrity of the jury. Recent sessions held in Latin America brought evidence of a growing number of violations of fundamental rights. In this context, the need for a People's Tribunal is further confirmed, together with its institutional mandate. In 2006 the European-Latin American bi-regional network Enlazando Alternativas 2 convened a session of the PPT on the policies and activities of transnational corporations in Latin America and their impact on sectors such as services, energy, infrastructure, finance, and telecommunications.

The claims were related to issues such as political sovereignty, sustainable development and state of law. In Lima the PPT will be asked to issue a final resolution based on the materials, evidence and documentation gathered in the hearing process started in Vienna in 2006. In conformity with its bylaws the PPT has accepted Enlazando's claim for the following reasons. Firstly, because the peoples, movements and various actors of the Enlazando Alternativas network represent one of the major expressions of the struggle in the name of peoples' rights as defined in the Algiers Universal Declaration of People's Rights (1976). Additionally because the claims represent an important opportunity to follow-up and further define the PPT inquiries and research on the conflict between economy and human and peoples' rights.

Since the 70's the PPT has judged cases tabled in a number of sessions, among others the sessions on impunity in Latin America (Bogotá, 1991), on the conquest of the Americas and international law (Venice, 1992), the Permanent People's Tribunal on Global Corporation and Human Wrong (Warwick, 2000), and sessions on neo-liberal policies and European Transnational Corporations in Latin America and the Caribbean (Vienna, 2006; Managua, 2007), and on "Transnational Corporations and Peoples' Rights in Colombia - 2005-2008" (Berne, 2005; Bogotá y Medellín, 2006; Chocó e Bogotá 2007; Bogotá, 2008).

Francesco Martone, jury of the Permanent Peoples' Tribunal

The Jury of the TPP in Lima

President	François Houtart (Belgium) is a catholic priest and sociologist, founder of the Tricontinental Centre (CETRI) based in the Catholic University of Louvain, and founder of the magazine "Alternatives Sud". He is a well-known personality in the alternative globalisation movement. Doctor in sociology at the University of Louvain, where he was a professor from 1958 until 1990.
Secretary General	Gianni Tognoni (Italy) . Doctor in philosophy and Medicine. One of the world's greatest experts in sanitary politics and permanent adviser to the World Health Organization.
Jury (Europe)	Miren Etxezarreta (Spain) . Doctor of Economy of the London School of Economics, member of the Euromemorandum group for an Alternative Economic Policy, author of numerous books in Spain and internationally.
	Franco Ippolito (Italy) . Judge at the Surpeme Court of Casación in Italy. President of the Democratic Magistracy and of the Italian Association of Democratic Jurists.
	Roberto Schiattarella (Italia) . Economist, professor, researcher on transnational companies, structures of production, labour market, among others.
	Francesco Martone (Italy) . Ex Senator of Italy. Graduate in Private International Law with a thesis on TNCs in developing countries and investment protection agreements.
Jury (Latin America)	Giulia Tamayo (Peru) . Feminist lawyer specialized in human rights, member of the Commission of Truth in Peru, member of Amnesty International.
	Alirio Uribe (Colombia) . President of the lawyer's collective José Alvear Restrepo, reknown defender of Human Rights and one of the key figures of the Colombian chapter of the PPT on transnationals and mega-projects.
	Lorenzo Muelas (Colombia) . Ex-senator of Colombia, currently governor of the Guambiano People. Writer, defender of internationally acknowledged indigenous rights.
	Blanca Chancoso (Ecuador) . Formerly leader of the Conaie y Ecuarunari people, and currently coordinator of the School of women leaders "Dolores Cacuango" of the Ecuarunari.
	Patricio Pazmiño (Ecuador) . Doctor of Jurisprudence. Member of the constitutional Tribunal of Ecuador, author of numerous publications and panel speaker in many countries.
	Vilma Nuñez (Nicaragua) . Lawyer specialised in Human Rights and criminal law. Ex-Vice-President of nos y Derecho Penal. Ex- Vice-Presidenta of the Supreme Court of Justice in Nicaragua and currently president of the Nicaraguan Centre of Human Rights.
	Edgardo Lander (Venezuela) . Professor of Social Sciences at the Central University of Venezueal in Caracas. Member of the research group on hegemony and emanzipation of the Latin American Council on Social Sciences). Member of the Latin American Network of Modernity and Coloniality.
Experts advisors of the PPT	Juan Hernández . Ex-dean of the University School of labour relations of the University of the Basque Country (UPV/EHU) and of the Social Council. Professor of labour law of the same university. Vice-Rector of research of the University of Hegoa. member of the basque economic and social council.
	Alejandro Teitelbaum . Argentinian lawyer, expert in international economic relations of the University of Paris. Representative of the International Federation of Human Rights and the American Association of Jurists before the United Nations in Geneva from 1986-2006.

The cases of european companies presented before the PPT in Lima

Key issue area	Sector	Transnational corporation (TNC)	Home Country/ies	Host country/ies	page
Natural resources and Neocolonialism	Mining	Monterrico Metals (Majaz)	Great Britain	Peru	6
	Oil	Repsol-YPF	Spain	Argentina, Bolivia, Ecuador	7
		Shell	Great Britain-Netherlands	Argentina, Brazil	8
	Cellulose-Forestation	Botnia		Uruguay	9
New Constitutionalism and privatization of Justice	Pharmaceuticals	Boehringer, Roche	Germany, Switzerland	Brazil	10
	Telecommunications	Telecom Italia – Telefonica	Italy-Spain	Bolivia	11
Privatization of public services and violation of fundamental rights	Electricity	Unión FENOSA	Spain	Colombia, Nicaragua, Guatemala, Mexico	12
		Suez	France	Brazil	13
	Water	Aguas de Barcelona	Spain	Mexico	14
		Proactiva – Veolia-FCC	France-Spain	Colombia	15
Infrastructure for exploitation	Steel industry and Infrastructure	Skanska	Sweden	Argentina, Ecuador	16
		Thyssen Krupp Vale do Rio Doce	Germany, Brasil	Brazil	17
Precarisation and labour exploitation	Agro-alimentation	Unilever	Great Britain-Netherlands	Chile	18
		Marine Harvest	Norway	Chile	19
		Cermaq Mainstream	Norway	Chile	20
		Camposol	Norway	Peru	21
Financial system and economic crimes	Banks and other financial instruments	BBVA, HSBC, Santander	Spain, Great Britain	Peru, Peru-Brazil	22-24
Criminalization of resistance and use of violence	Genetically modified seeds	Syngenta	Switzerland	Brazil	25
	Oil	Shell	Great Britain-Netherlands	Ireland	8
	Agrochemicals	Bayer	Germany	Peru	26

Majaz criminalizes protest in Peru and negatively affects water, environment and life

The mining corporation Minera Majaz S.A., an enterprise developed in Peru by British transnational corporation Monterrico Metals, is being questioned for its exploration activities and the planned open-pit mining project called Rio Blanco. The project affects the peasant community in the northern Piura region, by polluting the water, affecting the agriculture activity and the health of thousands of residents, and causing desertification as a result of the large amounts of water being used. There is also a high risk of destruction and irreversible impact on the biodiversity in the Paramo region and the fog forest. The impact of the mining project extends to the neighboring Cajamarca region and it could affect the Amazon river basin.

The actions of the company and of the Peruvian government show a series of vices related with mining development in Peru. Among those vices are the fact that the company has failed to respect the right to consultation of the communities where it operates, and it obtained a license with incomplete documentation. That means that it is operating illegally in the territory of the communities affected by its operations, by imposing its “development” model to the residents.

Furthermore, the legitimate protests of the population have been violently repressed several times. Two people were killed so far (in April of 2004 and August of 2005), tens of people were injured and nearly 200 villagers were reported before the authorities. Witnesses talk about torture in the company’s facilities. Some villagers were falsely accused of terrorism and of affiliating to extremist parties.

Also, under the pretext of purported drug trafficking the government has significantly increased the police presence in the area, by forbidding the villagers to come close to their own territory, protecting the mining camp and the mining activities. The State, under pressure from the business sector, is using the legal system to create a climate of fear, and to repress any social organization that potentially opposes the company’s interests.

The mining project violates important international instruments that guarantee the rights enshrined by the United Nations, and it even contradicts the citizen guarantees provided under the Peruvian Constitution. The right to life, to physical, moral and psychological integrity, to the existence of the communities, to choosing one’s own development, to the autonomy of the communities in their organization and in the free disposition of their lands, to freedom of information, to a previous and informed consultation, to the property over the communal lands, to association, to social protest, to live in a healthy environment and to peace and quiet, are violated.

The Peruvian legislation guarantees the participation and consultation to the peasant (indigenous) communities, so it demands a social license for the local communities to be able to grant a permit to a company to carry out activities in communal lands. But in the case of Majaz, the communities have expressed their rejection many times. However, the Minister of Energy and Mining granted the necessary permission to the company to carry out exploration activities. The government has a clear position in favor of the mining project: the corporate interests seem to be above the public interests. For this reason the case is filed before the PPT.

Key issues: Natural Resources and Neocolonialism

Denouncing organizations: Confederación Nacional de Comunidades del Perú Afectadas por la Minería – CONACAMI Perú

REPSOL YPF Violates Human Rights and Pollutes the Environment

The Spanish transnational corporation REPSOL YPF is being questioned for its social, environmental and cultural effects on the peoples and ecosystems of the regions where it operates. The company is accused of a series of human rights violations, for its social and cultural impacts on indigenous peoples, for the pollution of the environment and of water sources, for tax fraud, loss of biodiversity and deforestation in Argentina, Bolivia and Ecuador.

Repsol YPF is one of Latin America's largest oil and gas corporations and a leading hydrocarbon corporation. It operates in 14 Latin American countries. In this session of the Peoples' Permanent Tribunal in Lima, cases on the impacts of Repsol YPF's operations in Argentina, Bolivia and Ecuador will be filed.

The effects of the company's operations in Colombia have already been analyzed during the Session on oil corporations of the Peoples' Permanent Tribunal – Colombian charter (Bogota, 2007).

In **Argentina**, the governments have allowed transnational corporations to control the oil market since 1989, handing over the country's energy sovereignty. Repsol YPF's largest field in Argentina is in Loma de la Lata (Neuquén), where the Mapuche communities Paynemil and Kaxipayiñ live. The company's operations have contributed to the reduction of grazing land area, to the loss and fragmentation of natural areas, the extinction of medicinal plants and the disappearance of native species such as guanacos and choiques. In 1995, pollution with condensed gas in the freatic layers was found in the Paynemil community, causing the chronic intoxication of the residents. Hydrocarbons cause vertigo, weakness, nervousness, pain in extremities and dermatitis, irritability, headaches, insomnia, disturbed dreams, fatigue and spontaneous abortions.

In **Bolivia**, the company has been operating in the country for over ten years. This has resulted in a constant damage of different kinds: In environmental terms, the company is accused of over ten cases of pollution and environmental degradation. In legal terms, Repsol YPF acted with an illegal and unconstitutional contract until May 1st, 2007. In financial terms, under jointed venture agreements it failed to fulfill the investment levels promised and it sped up the depreciation rate to avoid paying a tax on profits. In operational terms, the company has incurred in smuggling and tax fraud.

Furthermore, the transnational corporation operates in Communal Lands of Itika Guasu origin, where it entered indigenous territory without carrying out a previous consultation under ILO's 169 Convention, which became law in Bolivia in 19991. It directly or indirectly committed the following human rights violations: discrimination of Guaraní workers (who lack social security and earn lower salaries); pollution and wearing out of water sources; systematic logging without reforestation; change of behavioral patterns; and promotion of new settlements that endanger the collective property of the territory.

In **Ecuador**, Repsol YPF is the concessionarie in the Ecuadorian Amazon within Yasuni National Park and the Yasuni Biosphere Reserve. Its activities have polluted water, soils, have caused the loss of biodiversity, deforestation, soil erosion and noise in the protected areas. It has also caused social and cultural impacts to the Waorani people and the peoples who live in voluntary isolation like Tagaeri and Taromenane, ancient owners of this land. The impacts include the displacement of communities, changing of the cultural patterns, creating dependence on the company, health damages, division of the communities and labor conflicts. Other consequences of the presence of Repsol YPF in the Ecuadorian region are the extraction of wood to build roads and camps, tax evasion or having turned the Ecuadorian Army into an "armed group" at the service of the company.

REPSOL YPF has incurred in many violations of laws on the responsibility of transnational corporations, including the following: the UN rules on corporate social responsibility, ILO's 169 Convention, the UN Declaration on the Rights of Indigenous Peoples and the national constitution of Argentina, Ecuador and Bolivia.

Key issues: Natural Resources and Neocolonialism

Denouncing organizations: Acción Ecológica (Ecuador), Asamblea del Pueblo Guaraní Itika Guasu (Bolivia), Centro de Documentación e Información de Bolivia – CEDIB, Centro de Estudios Aplicados a los Derechos Ec. Soc. y Cult. CEADESC (Bolivia), Ecologistas en Acción / Observatorio de Multinacionales en América Latina – OMAL- Paz con Dignidad, Ekologistak Martxan (Estado español), Foro Ciudadano por la Justicia y los Derechos Humanos -FOCO/ Fundación de Investigaciones Sociales y Políticas – FISyP (Argentina)

Shell Violates Human Rights and Pollutes the Environment

British-Dutch company Shell is accused before the PPT of violating labor rights and polluting the environment in Argentina; of affecting the health of local residents in Brazil with chemical and heavy metals deposits; and of repressing, with the help of the police, the opposition of the community and local activists in Ireland.

Royal Dutch Shell is a British-Dutch company devoted to energy as well as chemical production. It was created in 1907 when the Royal Dutch Petroleum Company and Shell Transport and Trading Company Ltd merged their operations to compete against the then US giant Standard Oil. The company is currently present in 140 countries. In Latin America, it has subsidiaries in Argentina, Chile, Mexico and Brazil, and until mid 2005 it also operated in Uruguay, Paraguay and Colombia.

It has 112,000 employees, its income in 2005 was 380 billion dollars and its revenues were 26.2 billion dollars. This global group of companies carries out oil and gas exploration and production, it generates electricity, fuels, oils and other oil by-products, chemical products and it sells energy, hydrocarbons and its by-products.

Shell has been in **Argentina** for over 90 years. There, it has been responsible for the spill of hydrocarbons in the Madgalena coasts in 1999, and the constant pollution to which the residents of Dock Sud (commonly known as Inflammable Town) have been subjected to for decades. Other aspects should also be mentioned such as the company's working conditions, the outsourcing commercialization policies or the setting of prices.

In May of 2006, several NGO filed a claim before the Dutch and the Brazilian National Contact Point (NCP) for the OECD guidelines (for multinational corporations) regarding Royal Dutch Shell's operations in **Brazil**. The case refers to Shell's refusal to comply with a petition of the Brazilian government in January of 2005, requesting the company to put an end to the deposition of chemicals in and under its facilities, a practice that the company has been carrying out for over twenty years. The government also urged Shell to provide assistance to the workers and local residents whose health has been affected by the high concentration of chemicals and heavy metals in their blood. Shell has shown little concern for its own workers and for the local residents, and it fails to implement plans and adopt technologies to mitigate potential risks in its oil deposit. It has also failed to provide relevant information on the impact of its operations on the environment, health and security.

In **Ireland**, the company has a natural gas reserve (Corrib Field) 80 kilometers off the east coast in county Mayo. This project aims to take gas to the coast to then pump it unrefined 9 kilometers inland, where the gas would be cleaned and depressurized to be sold and exported. The project has met with the opposition of the local community since the details of the project came to light for the first time in 2000. Activists of the community argue that if the refinery is built it will have a negative impact on the local environment and therefore on the community, it will pollute the water and air which are now clean, and it will have a negative effect on health, family economy and the fauna, implying an unacceptable security risk. The residents have reported that they have never been consulted about the project, which is currently operating without the community's consent.

Key issues: Natural Resources and Neocolonialism

Denouncing organizations: CAVE - Colectivo Alternativa Verde, Sindicato dos Trabalhadores no Comércio de Minérios e Derivados de Petróleo no estado de São Paulo – sipetrol (Brasil), Shell to Sea (Ireland)

Pulp Mills Damage Food Sovereignty in Uruguay

The installation of several pulp mills in South America's Southern Cone is consolidating a production model that damages the region. This model based on large extensions of land devoted to forestry monocultures for pulp production has caused a series of negative economic, social, environmental impacts as well as impacts on political and food sovereignty. In this international context of unbalanced production and consumption growth, transnational corporations Botnia, Ence and Stora Enso installed their facilities in Uruguay.

Botnia is a Finnish transnational corporation (member of the group Metsa Botnia), founded in 1973. It has 5 pulp mills in Finland and it is the world's second pulp mill producer. In South America it is only present in Uruguay, producing different kinds of pulp. Botnia's subsidiary in Uruguay Compañía Forestal Oriental S.A. (COFOSA), owns 170,000 hectares of land, supplying the mega pulp mill with raw material. The construction of the pulp mill ended in September of 2007 and the plant began operating in November of that year. The pulp mill has a production capacity of a million tons of cellulose per year. The investment was of nearly 1.1 billion dollars. The plant – built in the town of Fray Bentos - represented the largest industrial investment in Uruguay's history. It is also Finland's largest investment in the private industry sector abroad.

The installation of Botnia's pulp mill has different consequences on Uruguay's and on the region's productive model. It increases land concentration and foreignization in the hands of few transnational corporations like Botnia, Ence or Stora Enso. Nowadays these corporations have 170,000, 150,000 and 45,000 hectares respectively, destined to forestation.

The transnational corporations invested in Uruguay because they can reduce the production costs, they can operate almost without paying taxes, they employ few people and in bad working conditions (in the plantations) and they have free access to productive resources such as land and water. Besides, the companies are protected under bilateral investment treaties signed by Uruguay in the 90s and until 2005 (precisely with countries like Finland, Spain, Portugal and Sweden), which have secured these companies the monopoly since it is very hard to change this model by imposing substantially different tax, environmental, productive or labor regulations.

Impacts on the water supply to produce food on a small scale are already seen in the regions where forestation is moving forward, and also on the natural ecosystem of the meadows as a result of soil erosion. In the plantations, agrottoxics are used extensively, affecting the health of forestry workers.

The main instruments on which Botnia bases its power position to obtain profits are Bilateral Investment Protection Treaties between Uruguay and the countries of origin, the threat to sue the Uruguayan state before international tribunals like ICSID (International Center for the Settlement of Investment Disputes, a World Bank agency), free trade zones and an aggressive Corporate Social Responsibility campaign. The main players involved in this case are the successive Uruguayan administrations since 1985 to the present time, as well as the Finnish government, international financial institutions like the World Bank (and World Bank agencies like ICSID and the International Finance Corporation), the European Investment Bank and the Northern Investment Bank, the European Union and clearly the transnational corporations themselves, which strengthen each other.

A case is filed before the PPT against pulp and forestation transnational corporations as the players that have advanced their power most: economic, political, financial power, power to impose a certain productive model, and last but not least, cultural and ideological power.

Key issues: Natural Resources and Neocolonialism

Denouncing organizations: REDES – Amigos de la Tierra/Friends of the Earth Uruguay, ATTAC Argentina, FISYP Argentina

Pharmaceutical companies are accused of violating health rights in Brazil

Pharmaceutical companies Roche (Switzerland) and Boehringer Ingelheim (Germany) violate the right to public health in Brazil, under rules that protect intellectual property rights.

The Working Group on Intellectual Property (GTPI) of the Brazilian Network for the Integration of the Peoples (REBRIP) will file a lawsuit before the Peoples' Permanent Tribunal (PPT) against pharmaceutical companies Roche and Boehringer Ingelheim, which they question for violating the right to public health in Brazil. In both cases, the right to health is violated under rules that protect intellectual property rights, and more specifically under the new legal framework that regulates this matter at an international scale, with clear benefits for oligopolic practices.

The signatory countries of the World Trade Organization (WTO) have been forced to adapt their domestic laws to recognize the patents on technology, thus reducing the autonomy of the states to legislate in that field. This led to an increasing power of transnational corporations of the sector – some of them accused before the PPT- and of their influence on the implementation of public policies at a national level.

In the case of Brazil, the plaintiffs fault Roche and Boehringer Ingelheim for violating research ethical standards; for restrictions on the access to technology and basic goods; and the threat to the national sovereignty. REBRIP emphasizes that this kind of practices have also taken place in other countries where the pharmaceutical companies are based.

Roche is a corporation with presence in 150 countries. The Brazilian network is accusing the company of aiming to interfere in the national legislation by means of legal actions.

In the case of Boehringer Ingelheim, which has 137 subsidiaries in 47 countries, the company is questioned over the violation of ethical standards in the research on human beings and for refusing to ask the registration in Brazil of drugs tested on Brazilian population.

Exposing these corporate abuses is a way of exposing the threats suffered by developing countries when the interests of corporations are not a priority for the authorities. Also, raising awareness on these cases contributes to the debate on intellectual property rights and the people's access to basic medicines. For this reason the case is filed before the PPT.

Key issues: New Constitutionalism and privatization of Justice

Denouncing organizations: Red Brasileira por la Integración de los Pueblos (REBRIP)

Telecom Italy/Telefonica vs. Bolivia: Corporate Power vs. People's Sovereignty

In April of 2007, the Bolivian government announced its intention of renegotiating the terms of privatization of telecom corporation Entel, which had benefited Italian company STET since 1995 (today Telecom Italia, in which Spanish corporation Telefonica has 10% of the shares). This is a strategic sector for the social and economic development. For this reason the government determined the need to have a greater participation in the company to manage it according to the public interest. Telecom Italia appealed to the Investment Protection Treaty signed between Bolivia and the Netherlands and the International Center of the Settlement of Investment Disputes (ICSID) a World Bank's secret arbitration panel, which has traditionally favored transnational corporations.

On April 23rd 2007, the Bolivian government ordered to transfer 47% of Entel's shares to the Ministry of Public Works. These shares belonged to Bolivian public pensions fund, ran by Zurich Financial Services and Prevision (AFP), a subsidiary of Spanish bank BBVA. The government began a negotiation with ETI Entel to buy 3% of its remaining shares in order to have 51% of ownership in the company and to be able to manage it. Telecom Italia, through Euro Telecom International SV (ETI), a company registered in the Netherlands but directly controlled by the Italian transnational corporation, protested over a threat against its economic interests.

A month later, on May 2nd, 2007 the Bolivian government announced that it did not recognize the ICSID jurisdiction over its territory, something which had to enter into force after six months. On October 12th, 2007, just after the 6 months period expired, ETI filed a lawsuit against Bolivia before the ICSID and asked for the opening of an arbitration case to request compensations for the losses implied by the Bolivian decision and over the investments the company had supposedly made in the country. On October 31st, two days before Bolivia's withdrawal from ICSID was officially announced, Ana Palacio (former Foreign Minister under José María Aznar administration) the then ICSID Secretary General, filed ETI's case and began the arbitration process, in which Bolivia refused to participate.

The case ETI vs. Bolivia before ICSID shows how the companies fail to comply with the national environmental and health laws in these countries, besides appealing to the ICSID, a body which lacks a democratic process. But on top of this, this case does not respect Bolivia's sovereign decision of withdrawing from ICSID.

ETI claims that it invested millions of dollars in Bolivia and that it has improved its services. However, and despite not having obtained high profits, the company has failed to fulfill with tax payments in the country and it owes Bolivia over 100 million dollars (for unpaid taxes and for evading taxes when it was privatized).

Meanwhile, Entel's privatization has caused a large number of labor conflicts (working conditions worsened) and conflicts with the users (since the company failed to make the investments it had promised). It is worth noting that both Spanish company Telefónica, which has failed to take responsibility in this case (although it has 10% of the shares in Telecom Italia), and Telecom Italia, have a long record of social conflicts in Latin America, Spain and Italy.

A network of 11 organizations operating in Italy, the Netherlands, Spain, the US and Bolivia are filing this case before the Peoples' Permanent Tribunal, accusing four main actors: Telecom Italia, the government of the Netherlands, Telefónica and ICSID for having a negative impact on the right of the Bolivian people to a sovereign development and for acting in the economic interests of corporations with a clear corporate social responsibility.

Key issues: New Constitutionalism and privatization of Justice

Denouncing organizations: Observatorio de la Deuda en la globalización ODG (Cataluña, Estado Español), Transnational Institute/ Corporate Europe Observatory CEO/ SOMO (Holanda), Campaña por la Reforma de la Banca Mundial CBRM, Asud, Transform (Italia), Fundación Solón (Bolivia), Institute for Policy Studies (Estados Unidos)

UNIÓN FENOSA Violates Human and Environmental Rights in Latin America

Spanish corporation Unión Fenosa is being accused before the Peoples' Permanent Tribunal of serious human rights violations and serious environmental and social impacts in Colombia, Guatemala, Mexico and Nicaragua. The local governments and oligarchies as well as the International Financial Institutions and the Spanish government, have also been accused of connivance with those crimes.

Union Fenosa is a Spanish transnational corporation that works on the electric sector and has a leading position among electricity corporations in Mesoamerica and Colombia. Its control in these regions was built through the purchase of former state-owned corporations for a low price. Also, the purchase of these companies enabled Union Fenosa to settle in most of the countries under a monopoly regime, such is the case of Nicaragua and Dominican Republic, or almost in a monopoly as in the case of Guatemala and Colombia.

In **Nicaragua and Guatemala**, Union Fenosa is accused of flagrant human rights violations: it violated the concession contract, it failed to invest in the electric network and public lighting, which causes the death of human lives, cuts in the electricity supply, discrimination in the rationing, abuses against the users (high tariffs, undue collection, high billing) and violation of Labor and Trade Union rights. It is worth noting that these impacts in the case of Nicaragua are not limited, as in other cases filed before the Tribunal, to an area or community: it affects almost all the territory and population of the country.

In **Colombia**, in its electricity generation activities, Unión Fenosa is accused in the case of Salvajina reservoir, of not answering for the social and environmental impacts caused to the indigenous, afro descendants and peasant communities and of the compensations provided under the 1986 Act.

Unión Fenosa takes advantage of its position of power in Colombia to promote a legislation that goes against the interests of the Colombian population, by failing to contemplate the distribution company's obligation to improve and expand the electric distribution network, by not forcing the universalization of a basic service like the access to electricity, by violating the fundamental right of having access to an adequate standard of living.

In **México**, Union Fenosa is accused of contracting an ecologic debt for the construction of La Venta Eolic Park in the Isthmus of Tehuantepec, with over 500 aerogenerators and the occupation of over 1,000 hectares, causing the resistance of the communities and the civil society, which have aimed their struggle at the project, not only because of what it means in terms of human rights abuses, but because information has been manipulated from the beginning to deceive the communities and conceal the actual social and environmental costs for the region.

Key issues: Privatization of Public Services and violation of fundamental rights

Denouncing organizations: Movimiento Social Nicaragüense, Campaña Internacional: La Ir-Responsabilidad Social de Unión Fenosa. Capítulo I: Nicaragua a oscuras (ODG y OMAL-Paz con Dignidad), Red Caribe de Usuarios de Servicios Públicos Atarraya en Defensa del Agua y la Energía, Sintraelec, Censat Agua Viva – Amigos de la Tierra (Colombia), Ceiba (Guatemala), Alianza de Pueblos del Sur Acreedores de Deuda Ecológica y Red Latinoamericana contra las Represas (REDLAR)

Suez Privatizes Territories to Profit with Energy in Brazil

The energy sector of French corporation Suez, has applied a strategy that consists in transforming territories into spaces to produce commodities in Brazil. It did so by means of participating in electricity generation projects leading to environmental degradation, loss of biodiversity, water privatization through the building of dams. All this in violation of the rights of the local and indigenous peoples, and applying a policy of repression and criminalization of the social movements that oppose to it, such as the MAB (Movement of Dam-Affected People).

The Working Group on Services of REBRIP (Brazilian Network for the Integration of the Peoples), is filing an accusation before the PPT based on the impacts of the construction of two hydroelectric dams: Estreito and Cana Brava. In Estreito, Suez caused the loss of the quality of the water of the Tocantins river after the construction of the dam. There was a reduction and extermination of fish, turtles (tracajás) and small cetaceans, families living by the river were displaced without any plans of resettlement, there was a direct and indirect impact on indigenous lands of the Avá Canoeiro, Krahô, Funil, Xerente, Apinayé, Krikati and Mãe Maria and Gavião communities. Cana Brava is a key dam for the construction of another 14 hydroelectric dams in the Araguaia-Tocantins system, with a great impact on the ecosystem of Cerrado and the Amazon. 986 families were displaced, and only 25% of them were compensated unfairly. The vegetation in the whereabouts of the dam was not eliminated, causing the pollution of the lake's water.

In Brazil, Suez Energy (ex Tractebel), was one of the transnational corporations that benefited the most from the first privatization cycle in the 90s. In the aforementioned cases (Estreito and Cana Brava) the company was directly involved in the election and post-election funding of political authorities of Goiás and Tocantins states. Authorization and operation processes of those dams are therefore questioned over lack of transparency and corruption. These hydroelectric dams strengthen the model of predation and concentration of the territory since they supply the electro-intensive industrial chain with cheap energy.

In its operations in Brazil, Suez Energy has violated international conventions on cultural rights; water, sanitation and human settlement commitments, the Brazilian Federal Constitution, the ICESCR (International Convention on Economic, Social and Cultural Rights), such as for example the rights to a standard of living, adequate housing, the right to water. The Criteria, guidelines and recommendations of the World Commission on Dams (2000) have also been overlooked.

The filing of the case before the PPT also aims to raise awareness on the role of corporations that seek to control and manage our natural resources and our territory, thus contributing with linking the local struggles with continental strategies of resistance against transnational corporations and framework agreements that favor them.

Key issues: Privatization of Public Services and violation of fundamental rights

Denouncing organizations: Movimento dos Atingidos por Barragens (MAB) y Red Brasileira por la Integración de los Pueblos (REBRIP)

Aguas de Barcelona in Mexico; water not drinkable, expensive and only for a few

In Saltillo, Mexico, drinking and waste water service has been concessioned to the spanish company Aguas de Barcelona, a subsidiary of the french Suez. Under the name of Aguas de Saltillo, it offers expensive water that doesn't even fulfil basic drinking water requirements. Furthermore, the company does not comply with the contractual obligation of expanding the service network.

The User's Association of Aguas de Saltillo (AUAS) is following the activities of the company and has found that in some of the water sources that supply the city with drinking water, the levels of arsenic exceed the allowed maximum.

In fact, the company has not even obtained the sanitary certificate for drinking water required by the Health Secretary. Of the 46 parameters of water quality which have to be verified for this certificate, Aguas de Saltillo verifies only total and faecal coliform bacteria, as well as free residual chlorine. At the same time, AUAS confirms that Aguas de Saltillo is over-exploiting the aquifers for its supply.

AUAS is also denouncing unjustified price increases: for example, between May 2002 and August 2004, the prices increased by approximately 68%, while the National Consumer Price index increased only 10,67% in the same period.

Aguas de Saltillo has ignored resolutions of the City Council, requiring the company to lower service fees. Following this, a group of users presented a collective complaint before the Federal Administration for Consumer Protection (PROFECO) in November 2004. The complaint was ruled in favour of the users on May 15th 2006, obliging the company to pay a fine of 1,6 million mexian pesos. However, Aguas de Saltillo appealed the decision, and the Federal Tax and Administrative Court decided in the company's favor in June 2007 saying that PROFECO's decision was taken and notified past the deadline foreseen in the Federal Law for Consumer Protection.

This case illustrates how often the juridical systems installed to protect company rights violate human rights. In this sense, the case is presented before the PPT.

Key issues: Privatization of Public Services and violation of fundamental rights

Denouncing organizations: Asociación de Usuarios del Agua de Saltillo (México)

Veolia and FCC violate human right to access to water in Colombia

Under the name PROACTIVA Medio Ambiente, the spanish company Fomento de Construcciones y Contratas (FCC) and the french Veolia Environmental have taken advantage of the privatization of public services such as water, sanitary services and waste management in the Colombian Caribbean, thereby violating the human right to access to water of a large part of the local population.

In Colombia, PROACTIVA reflects the two sides of water privatization in the country: on the one side, the privatization of water sources via the concession of the Tibitoc plant near the capital Bogota, and on the other side the privatization in terms of management as is the case in the cities of Monteria and Tunja, the San Andres Archipel, and the municipality of Tocancipa in the Department of Cundinamarca.

Both the national government as well as the local governments have supported PROACTIVA's engagement by offering significant concession contracts to the company, not only for the operation of drinking water and sanitary services in cities like Montería, but also concessions for important aquatic sources near Bogota.

CENSAT - Agua Viva Friends of the Earth Colombia denounces PROACTIVA before the PPT for violating the constitution, as well as different national laws and decrees.

PROACTIVA is endangering public health by installing waste water pumps in residential areas instead of in the periphery. Furthermore, the company has ignored debt cancellation agreements established between the former public service companies and the consumers, and is now demanding the payment of invalid invoices. As large parts of the local population have been unable to pay these invoices, they have been left without basic services.

Furthermore, the company has not complied with any of the commitments to expand and restore the networks in broad areas. In spite of this, water and canalisation services services have been charged in areas which even in the companies' own registers do not appear as areas in which any services are being provided.

Key issues: Privatization of Public Services and violation of fundamental rights

Denouncing organizations: Censat-Agua Viva – Friends of the Earth Colombia

Swedish construction company accused for contamination and corruption

The operations of the Swedish construction company Skanska in Peru, Argentina and Ecuador are in the spotlight for contaminating impacts, violation of human rights and dubious transparency.

Skanska's construction and infrastructure projects as well as its oil and gas explorations have grave impacts on natural resources, workers, indigenous communities and public finances. The denunciation before the Permanent Peoples' Tribunal (TPP) is presented by the Centre for Investigation and prevention of criminality (CIPCE), a programme of the Centre for public politics for socialism (CEPPAS).

Skanska is one of the 10 biggest construction companies worldwide, managing projects in Bolivia, Brasil, Chile, Czech Republic, Denmark, Finland, Hungary, Mexico, Norway, Poland, Sweden, UK, US, and Venezuela.

In **Argentina**, Skanska won a concession to expand the gas network in the whole country within the frame of the Initiative for the Integration of Regional Infrastructure in South America (IIRSA). One of the projects carried out within this plan was the "Deán Funes" project for the further development of the Northern Gas Pipeline. In 2005, this project ended up in court for tax evasion and setting up of and illicit tax association. The investigation found, among other irregularities, the issuance of false invoices and payments to a "ghost company". Charges of corruption involving high-ranking government officials are still under investigation. Unjustified price surcharges and payment of improper commissions which were used to channel bribes to public officials, together with the evasion of taxes clearly affected the Exchequer, depriving it of resources to finance public politics. It is estimated the Skanska is responsible for a loss to the State of at least 20 million pesos, plus the total amount of taxes evaded.

In **Peru**, the Swedish company was involved in the expansion plans of the Camisea gas pipeline. Additional to denunciations of corruption and payment of surcharges, Skanska is accused for its responsibility for irreparable damage to the ecosystem, caused by non-compliance with technical specifications and lack of a protection system for the pipes resulting in multiple explosions. Among other damages, at least four liquid gas spillages were recorded. These were registered among the worst ever environmental disasters in the Amazon among the biggest worldwide.

In **Ecuador**, Skanska was in charge of the road infrastructure for an exploration project of Brazilian oil company Petrobras, situated in the Huaorani territory within the Yasuní National Park. Following complaints by the Huaorani and environmental organizations about the impacts on this important biodiversity centre, the government withdrew Skanska's license. However, negotiations are still ongoing and the possibility that Skanska takes up its activities again cannot be ruled out. Furthermore, Skanska is accused of fraud, illegal gas flaring, discharge of waste water and gender discrimination, among others. The claimants affirm that it is difficult to investigate these activities since the zone is militarized and Skanska disposes of its own private security guards.

These cases are examples of the privatization of justice and the impunity which the company enjoys despite the infringements it commits. This is facilitated by various facts: the national norms do not oblige companies to be accountable; the control bodies, judges and attorneys are not independent; and the company has links to and influence on local political powers. For these reasons, the case is presented before the PPT.

Key issues: Infrastructure for exploitation

Denouncing organizations: Centro de Políticas Públicas para el Socialismo – CEPPAS (Argentina), Colectivo SKAMSKA (Suecia)

Thyssen Krupp is Responsible for Environmental Destruction in Brazil

The facilities of German corporation Thyssen Krupp have led to the environmental destruction of Sepetiba bay in Brazil, causing serious impacts on local fishery.

Local fishermen associations of Sepetiba Bay, to the west of Rio do Janeiro, Brazil, are accusing the industrial steel conglomerate Companhia Siderurgica Atlantico (CSA) made up by the privatized corporation companhia Vale do Rio Doce (CVRD) and German company Thyssen Krupp Steel (TKS).

This group of corporations is building a mega steel plant -and a port terminal- where 4.8 million tons of steel will be manufactured every year to export mainly to Europe and North America.

The installation of this consortium implies the bay's environmental destruction, as well as the dismantling of a vast area of mangroves, even though they are considered Permanent Protection Areas by the Brazilian law.

However, the most concerning aspect of the fishermen's accusation is the discharge of mud polluted with heavy metals into the water, where it forms islands of sediment in the mouth of rivers that flow into the bay. Also, they report the obstruction of rivers and canals with iron plates, which prevent fishing in places that have been used by local fishermen for over 200 years.

These incidents have affected several fundamental rights in the communities living by the bay. Not only to their right to work, but also the right to free circulation, since the obstructions prevent the residents of the area from coming and going through the mirror-still water.

Even worse, according to the plaintiffs, Brazilian politicians have turned a deaf ear to the demands of the fishermen and environmental organizations, arguing that this project is Brazil's largest private investment and it will therefore imply the creation of jobs. What is more: the project has many tax exemptions, which makes the business even more profitable for the corporations.

The case filed before the PPT implies a reflection on the exclusive and polluting economic model adopted in Brazil and in other countries of the South whose basic economic scheme is blackmail: the creation of jobs is conditioned to economic growth without limitations, both in terms of social and environmental damages.

Key issues: Infrastructure for exploitation

Denouncing organizations: Instituto de Politicas Alternativas para o Cone Sul – PACS, Associações de Pescadores Artesanais da Baía de Sepetiba, Fórum de Meio Ambiente e de Qualidade de Vida do Povo Trabalhador da Zona Oeste e da Baía de Sepetiba (Brasil)

Unilever Violates the Rights of Chilean Workers

The National Federation of Trade Unions of Unilever Chile (FENASIUN) with the support of the Unitary Workers' Central (CUT) and the Trade Union Confederation of the Americas (TUCA), accuse British-Dutch corporation Unilever of violating the rights of Chilean workers through its anti-unionist policies, by failing to provide them with information about the closing down of its factories and by preventing the workers to make the company's decisions public.

Unilever is world leader in the production, distribution and commercialization of food, personal care and cleaning products.

In 2000, the company began a restructuring process worldwide, including the outsourcing of production, delocalization and flexibilization of work. In 2007, Unilever announced the closing down of 50 factories and the reduction of over 20,000 jobs by 2009.

In Chile the reforms had begun in 1997, when the company acquired and restructured several factories, closed down six of them, leading to the firing of 2,000 workers and the disappearance of 15 trade union organizations.

When Chile entered the OECD (Organization for Economic Cooperation and Development) as an observer in 2001, the country created the National Contact Point (NCP) as an instrument of local action with regards to the OECD Guidelines for Multinational Enterprises. The CUT decided to file the case of Unilever before a local court on June 6th, 2005 and a few days later in Paris, during the OECD's Trade Union Advisory Committee's annual meeting.

The lawsuit argued that several points of the Guidelines were being violated, including giving the workers periodical and true information about the planned changes and trade union freedom. The company was also accused of preventing the workers' right to communicate the company's decision to the public opinion. Also, Unilever told a small group of employees from the affected sections that they would not be fired if they opposed to the actions of the trade union.

The transnational corporation has consistently avoided any attempt to reach an agreement with the National Federation of Trade Unions. At the beginning of 2008, there is an alarming lack of response from the local management of the company to the workers' organizations, the Chilean state and the community. This leaves the workers clueless as to the company's future decisions.

Key issues: Agroalimentation

Denouncing organizations: National Federation of Trade Unions of Unilever Chile (FENASIUN) with the support of the Unitary Workers' Central (CUT) and the Trade Union Confederation of the Americas (TUCA)

Marine Harvest Violates Environmental and Labor Laws in Chile

The Center Ecoceanos and Eicosal trade union of Chile, are accusing fishing and salmon Norwegian transnational corporation Marine Harvest (in Chile Marine Harvest Chile SA) for the systematic pollution of the aquatic ecosystems and for the repeated violations of the environmental and labor laws in Los Lagos and Aysen regions in Chile.

Marine Harvest (MH) is responsible for the health, environmental and labor crisis in the southern regions of Chile, where it has begun to close down salmonculture centers and factories, firing thousands of workers.

MH is the result of the association -in December of 2006- of Norwegian companies Pan Fish and Fjord Seafood , which acquired the samonculture section of Dutch company Nutreco, thus creating MH Group.

The company is installed in Chile, which besides having exceptional natural conditions, it has one of the laxest legislations in terms of foreign investments, leading to an uninterrupted growth of Chilean salmon production in the past fifteen years (it grew 15% annually on average, multiplying its exports volume by thirteen). Furthermore, the revenues would reach 3 billion dollars annually by 2013, turning Chile into the world's first producer and exporter, even before Norway.

All this growth was possible at the expense of lowest labor and environmental standards registered in this industry. Besides the long working days, low salaries, higher accident rates and death rates, the high rate of violations to labor, health and environmental rights, plus the anti-unionist practices, the violation of gender rights, such as the lack of protection to maternity; conflicts with coastline communities, native peoples, craft fishing, tourism agents; destructive occupation of highly vulnerable ecosystems such as lakes and fiords; illegal cultivation centers; irresponsible use of antibiotics; use of banned chemicals”, such is the case of malachite green oxalate (a banned fungicide) and/or colorants.

So much so, that in February of 2007, the United Kingdom decided to put under “quarantine” and to freeze the imports of maritime products from Chile when it found banned chemical substances in MH salmon.

The fear of world consumers before these cases led to the closure of several markets for Chilean products, causing the closing down of several factories “and the firing of thousands of workers in Puerto Montt, Chiloe and Aysen”.

For this reason it demands the Chilean authorities to establish a “moratorium” on the granting of aquiculture concessions, until the State has regularized the use of antibiotics and chemicals used by the salmon industry.

Key issues: Precarization and exploitation of labour

Denouncing organizations: Centro Ecoceanos y Sindicato Eicosal 2 de la Multinacional noruega Marine Harvest (Chile)

Norwegian Group Violates Labor and Environmental Rights in Chile

Mainstream Company – a member of the Norwegian group CERMAQ – is being accused before the PPT of human rights violations and of damaging the environment in Chile.

The company that operates in the Chilean food industry – salmon culture - is being questioned mainly for the ecologic and labor impacts caused by its operations. Unlike the water pollution and the intervention on the wild marine flora and fauna, which are widely known, the exploitation of the workers has not yet been widely publicised.

A report published at the end of 2007 by the Committee on Fisheries of the Norwegian Confederation of Trade Unions claims that the salaries are so low that it can be called social dumping. There is no health insurance in case of accidents at work. The employers do not recognize professional illnesses, and in case of illness, employees lose their attendance bonus. The occupational diseases in the salmon industry are numerous, including arthritis in hands and arms, cuts with knives and colds from working in wet places and freezers.

Mainstream is well known for its anti-union practices. It persecutes both the leaders that represent the workers and the employees who become members of trade unions. There is a systematic practice of firing workers who are union members.

Mainstream is a classic example of the neoliberal model, through a model of industrial relations that intensively exploits labor and natural resources under a lenient legal framework (it is worth noting that a powerful business partnership called “Salmon Chile” was created in the country, which gathers transnational corporations like Mainstream and renowned national businessmen that jointly defend the corporate interests).

Given the complicity of the Chilean State, the pressure of international agencies such as the PPT can have effects that other mechanisms have not achieved.

Key issues: Precarization and exploitation of labour

Denouncing organizations: Instituto de Ciencias Alejandro Lipschutz (Chile)

Norwegian Corporation Violates Labor Rights in Peru

Agrifood corporation CampoSol – a subsidiary of Norway corporation Dyer Coriat Holding – has arbitrarily fired workers for creating trade unions.

In 2002 Felipe Ecobedo was fired for leading the creation of a trade union. In May of 2007, the company fired workers for reading flyers that promoted the creation of a trade union in the company.

This situation caused a series of demonstrations and mobilizations that led to a strong police repression. Four workers were kidnapped and tortured and others were injured by bullets. In August of 2007, the Workers Trade Union of Camposol Corporation (SITECASA) was finally created. But in December of the same year the company fired 385 workers. 80% of them were members of the union.

Despite the mediation of the Minister of Labor and Employment Promotion of Peru and the successive negotiations with the work administrative authority, only 50 of the fired workers have recovered their jobs.

The Association Aurora Vivar is filing an action against the company before the PPT for violating human and trade union rights in Peru.

CampoSol is leader in growing, harvesting, processing and commercializing fruit and vegetables in Peru. The company has over 15,500 hectares of land on the northern Peruvian coast, and 1,060 hectares of leased land.

CampoSol covers the whole production chain, from the production of raw materials in the countryside to the processing in the industrial plants and the subsequent commercialization in Europe and the United States. Exports to the US have been favored by the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

Since its creation 10 years ago, CampoSol has had a sustained growth with exports that went from 500,000 US dollars in 1999, to more than 100 million dollars in 2006.

The Association Aurora Vivar claims that the growth of the transnational corporation is caused for example by the export of non traditional agriculture products in Peru, based on social dumping. The workers earn less than a living wage, i.e. their salary subsidizes non traditional agriculture exports for nearly 2.5 million US dollars.

Therefore, in 2000, the non traditional agroexporting sector is favored by Law 27360 “Law that approves the Rules of Promotion of the Agriculture Sector”. Besides granting tax benefits to the companies, the law creates an Agrarian Labor Regime that implies less rights for workers: it provides lower salaries than the ones earned by a worker in the private sector, reduces the annual vacation time and makes firings cheaper.

In this scenario, there is an alliance between the big capitals and the ruling government of Peru that favors private investment at the expense of the workers’ rights. There is an official tendency of going backwards in terms of labor rights promoted by the business sector and of fostering business promotion acts. Since the Tribunal is a forum with international participation, the case can become public as well as the violation of the rights suffered by the workers in these sectors.

Key issues: Precarization and exploitation of labour

Denouncing organizations: Asociación Aurora Vivar, Confederación General de Trabajadores-CGTP, SITECASA (Perú)

HSBC and the Corrupt Debt

During the 90s, under Fujimori's administration in Peru, the Hong Kong & Banking Corporation (HSBC) of British, Scottish and Chinese capitals - together with Peruvian and foreign financial institutions – used privileged information from the Ministry of Economy and Finance to benefit from the external public debt of Peru. A series of illegitimate operations resulted in the appropriation of the Peruvian public treasury by the foreign bank and by an advisor of the Peruvian government, who managed to use his political power to become wealthier by selling the country to HSBC. The consequence would be a new debt, a “corrupt debt”, to be paid by the Peruvians.

In 1992, after buying Midland Bank (England), HSBC sent an official to convince the Peruvian authorities of admitting papers of the Peruvian external debt as a form of payment for the selling of public companies in the privatization process. Thus, HSBC made contact with attorney Francisco Moreyra García Sayán, who in 1993 was appointed as advisor to the Minister of Economy Jorge Camet. The proposal consisted in persuading the Ministry of Economy and Finance (MEF) to receive promissory notes of the external debt for 100% of their face value.

The amount agreed for the privatizations between 1991 and 1998 is of 7,7 billion dollars. The Public Treasury obtained 6.1 billion dollars in cash and 229 million dollars in credit reports at a market value equivalent to 343 million dollars of face value. This means that the system of debt documentation as a result of a privatization used only 4,4% of the total sales and concessions. About the external public debt of 25 billion dollars a year in 1991, the impact of the swap was only 1%. This means the mechanism of debt for privatization swap did not result in the reduction of the external debt, but it was only useful for HSBC and its partners to do business.

On July 18th, 1994, the Peru Privatization Fund (PPF) was created. It is a company made up by the US, HSBC and the Credit Bank of Peru with 85.8% of the shares in equal parts of 42.9%; and Chase Manhattan Bank with 14.2% of the shares. Moreyra participated in the foundation of the PPF, as and advisor attorney, while it held its position of advisor of the Ministry of Economy and Finance.

HSBC had a person infiltrated in the direction of the Ministry of Economy and Finance to 1) guarantee that the debt for privatization swap took place and 2) to know the exact moment to do the operations. Moreyra became the PPF's director in 1995. What is worse, the Peruvian state assumed the debt of the Banco Popular. It had credit reports of the HSBC and the Banco de Crédito, which allowed these banks to use 69.2 million dollars in reports that had recovered their value after their devaluation as a result of the bankruptcy and liquidation of the Banco Popular. The two big winners here were the Banco de Crédito and HSBC, which had a direct representative in the Ministry of Economy and Finance.

HSBC and its partners bought credit reports for 125 million dollars, and obtained profits for over twice as much for the credit reports used in the privatization processes. Another part of the reports were sold in the stock exchange.

This case is a violation of economic and social rights of the Peruvian population, enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) «All peoples may, for their own ends, freely dispose of their natural wealth and resources (...) In no case may a people be deprived of its own means of subsistence». Article 1 ICESCR.

Key issues: Financial System and Economic Crimes

Denouncing organizations: Inter-American Platform on Human Rights, Democracy and Development and the Jubilee Network Peru

Banco Santander in Madeira River: A Spring of Ecologic Debt and Environmental Refugees

The Spanish bank Banco Santander Central Hispano (SCH), is currently the largest private bank operating in Latin America and the Caribbean. It is accused of being co-responsible for causing a huge ecologic and social debt associated with the impacts that the construction of four dams and a water way will have on the Madeira River (Brazil and Bolivia) and with the displacement of 5,000 families that will become landless environmental refugees without any compensation whatsoever. As a result of this and of the funding of many irresponsible mega projects, the bank will continue to provide huge benefits to its far-off share holders.

The funding of the Madeira river project is aimed at the construction of two hydroelectric dams: Santo Antonio and Jirau, plus two additional dams that will build a 4,200 km water way, destined to transport soy, wood and minerals from the Amazon to big consumers (US, European Union and China). Banco Santander is the bank behind the project, with plans of funding 20% of its costs (14.2 billion dollars). Madeira River's water way is also part of the IIRSA initiative, led and promoted by the Inter-American Development Bank, several businessmen networks and estate owners and local administrators, and it aims to extract all kinds of commodities to export them according to the needs of the global consumer class, at international market prices. This is the necessary infrastructure for "free trade", which is supplemented with FTAs and is an essential pre-requisite for the exploitation by transnational corporations.

The consequences will extend to both margins of the river, the Bolivian and the Brazilian side.

SCH is accused of being co-responsible of the:

- Displacement of the local population: 1.4 million people live in Rondônia for example, most of them rubber producers, nut collectors and fishermen. It is estimated that nearly 5,000 families living on the Brazilian side will be forced to leave their land without there being plans for their resettlement or compensation.
- Impacts on the people's health: the construction will affect the drinking water of Porto Velho (Rondônia's capital) and it would also increase the cases of malaria.
- Loss of biodiversity and food sovereignty: the interruption of the migration of the dourada (cat fish) will endanger not only the survival of this species but the future of the families of 2,400 fishermen of the region.

Despite its aggressive marketing and corporate responsibility campaign, Santander Group fails to comply -as in this case- with the weak international laws that could govern the actions of an international bank. The OECD Guidelines for Multinational Enterprises, the United Nations ICESCR, ILO's 169 Convention - which provides the consultation to the affected indigenous communities - do not apply, nor do the standards of the finance community such as the Equator Principles, let alone the Collevechio Declaration.

Key issues: Financial System and Economic Crimes

Denouncing organizations: MAB, SETEM, XODG

BBVA: CAMISEA and HOLLOW Corporate Social Responsibility

The Spanish bank Banco Bilbao Vizcaya Argentaria is the second largest bank in Latin America (and it is the leading bank in management of pension and insurance funds in the region). The bank has a long record of human rights violations. In opposition to what is announced in its CSR, BBVA has been accused of buying political support of several governments like the government of Fujimori-Montesinos, money laundry from drug trafficking in Colombia and Mexico, anti-union policies, freezing bank accounts of groups considered subversive such as Enlace Civil (Chiapas, Mexico), funding of projects to manufacture cluster bombs, looting the public treasury by turning the public debt into the collection of high interest rates to be paid by the state, or funding of projects that damage the environment (such as a mega pulp mill in Uruguay or OCP pipeline in Ecuador).

Most of its environmentally controversial projects are associated with mine exploitation (such as in Yanacocha and Antamina mines in Peru), followed by projects linked with the construction of dams, gas and oil projects and big pulp mills. In all of these projects, they provide direct funding by means of the "project finance" formula, in joint venture with other banks. So the bank's responsibility in those cases is clear.

After holding a hearing in Bilbao (Basque Country) last year, where the people's accusations were filed against the BBVA, the Peoples' Tribunal in Lima will address the accusation in the case of Camisea Gas Project 1 and 2 in Peru. (For more information about Camisea, please see http://www.finanzaseticas.org/pdf/Informe_BBVA.pdf).

In 2006, BBVA Banco Continental, the Peruvian subsidiary of BBVA, funded a 35 million-dollar loan to Tecpetrol, one of the leading companies in exploration activities of the Camisea gas project. In this project, gas pipelines have broken down causing gas and oil leaks, and recent studies show that Techint, operator of the gas pipeline and Tecpetrol's parent company, used defective pipes and hired unqualified smelter workers, causing serious problems in the construction of the gas pipeline. The project was also criticized for its impacts on indigenous communities of the area, both in their way of life, livelihood (hunting, collecting) and in their economy (agriculture, cattle growing), and in their health (cancer, skin diseases, abortions, malformations, etc.). In many cases protection rules for Indigenous Reserves were not enforced.

BBVA has violated the Peruvian constitution by funding projects that fail to respect the indigenous reserves protected under them and ratified by the corresponding governments: in this case the Nahua Kugapakori Reserve created in 1990, or the violation of the rules to protect peoples like Nahua, Nanti and Kirineri. Camisea also implies a violation of ILO's 169 Convention, under which Peru recognizes the right of the community to give consent to an activity aimed to be carried out by a corporation or a state in its territory.

BBVA Group has violated codes of conduct it signed to wash its image, such as the Principles of the UN World Pact (2002) which includes human rights, labor, environmental rules, the struggle against corruption as an important part of its strategy and of its operations, all aspects that have been clearly overlooked by BBVA.

The adoption of the Equator Principles in 2004 (in projects with funding exceeding 10 million dollars) and its reviewed version of July of 2006, implied a commitment of the BBVA to avoid environmental and social risks in the process of funding projects, an aspect which, according to the accusation, the bank fully violates.

Key issues: Financial System and Economic Crimes

Denouncing organizations: Transnational Institute (Holanda), Ecologistas en Acción/ Observatorio de la deuda en la Globalización / Ekologistak Martxan/SETEM (Estado Español), SOMO (Holanda), France Amérique Latine (Francia), Jubileo Sur (Perú)

Syngenta Pollutes, Persecutes and Murders Peasants in Brazil

In October of 2007, Valmir Mota, a member of La Via Campesina Brazil, was murdered in Santa Tereza do Oeste municipality, in Parana state. Nearly 50 gunmen hired by Syngenta corporation entered a peasant camp and murdered Mota in cold blood, also injuring other seven rural workers. The company is also being accused of intoxication and death for pollution with one of its products, Paraquat agrototoxic, banned in several European countries. Syngenta also illegally cultivated and patented GMO in Brazil.

Syngenta has an illegal GMO testing field in Santa Tereza do Oeste, near Iguazu National Park, in the Park's buffer zone. Cultivating GMOs in buffer zones has been banned in Brazil since 2003. Small ecologic farmers of the region reported the situation with Terra de Direitos in February of 2006. Meanwhile, the Brazilian Institute of Environment and Renewable Natural Resources carried out a control operation in Syngenta's field and verified illegal GMO plantations. So it fined the company for a million reais.

In March 2006, La Vía Campesina occupied the plot of land to expose the illegal activity of the Swiss corporation and to demand the payment of the fine. After 16 months the families of La Via Campesina left the land and with it 40 hectares planted with organic food and native trees. In October of 2007, Syngenta announced it would resume the GM tests in its tract of land in Santa Tereza do Oeste. Subsequently, La Via Campesina peacefully occupied the tract once again, which seems to have been reason enough for the company to wage an armed assault against the peasants, ending in the murder of Valmir Mota.

La Vía Campesina Brazil and the organization Terra de Direitos are accusing the Swiss corporation before the PPT for the serious human rights abuses and violations of the national laws in the country.

Besides Mota's murder, the company is also responsible for intoxication with Paraquat or Gramoxone (an agrototoxic manufactured by Syngenta), which according to the World Health Organization is the most toxic agrochemical produced nowadays. It was banned in Germany, Austria, Denmark, Finland, Hungary, Slovenia, Sweden, Switzerland, Norway and Malaysia. In the lawsuit filed before the PPT, 65 cases of intoxication are reported between 1998 and 2000, besides 3 deaths in 2002.

Syngenta is one of the world's largest transnational corporations devoted to agribusiness. It is well-known for its production of agrochemicals and GM seeds. The company makes a yearly profit of 800 million US dollars from selling agrottoxics and GMO in Brazil, representing 10% of its global profits.

Syngenta has violated the country's Federal Constitution, the environmental laws, the UN Convention on Biological Diversity, the Cartagena Protocol on Biosafety, the International Covenant on Economic, Social and Cultural Rights and other national and international laws.

The Brazilian justice system has not held Syngenta accountable for the murder of Valmir Mota. Quite on the contrary: it convicted two peasants, identifying them as members of the peasant movement. This actions show the justice system acted to secure the privileges and immunity of the transnational corporation by criminalizing the peasants and violating their rights. For this reason, the case is filed before the PPT.

Key issues: Criminalisation of resistance and use of violence

Denouncing organizations: Terra de Direitos y Via Campesina (Brasil)

The Community of Taucamarca Demands Justice in Peru: Bayer Pesticide Killed 24 Indigenous Children

On October 22nd, 1999, 44 children of a Peruvian school of Taucamarca in Cuzco department, were intoxicated for eating a breakfast that was contaminated with a highly toxic pesticide called Parathion, manufactured by Bayer. 24 children died, while the others suffered serious neurological consequences and learning problems.

The Alternative Agriculture Action Network (RAAA) of Peru accused German corporation Bayer before the PPT for violating the Peruvian constitution and especially for its violation of the rights to life, moral, physical and psychological integrity, and the free development and well-being in the Taucamarca community, Cuzco department. The organization also accuses the National Service of Agrarian Health (SENASA), an agency of the Peruvian Minister of Agriculture, for the serious human rights violations.

Bayer introduced Parathion in Peru and commercialized it specifically for Andean crops of small and medium farmers, such as the ones in Taucamarca. According to the RAAA of Peru, the German corporation knew in advance that Parathion would be used by Peruvians, often members of the Quechua People, with a high rate of illiteracy. Bayer could have anticipated the chance that users fail to read the product's label - which did not provide much information anyway- increasing the chance that the poison is used incorrectly. The company did not provide any technical assistance to the users.

The World Health Organization categorized Parathion as an extremely toxic pesticide. Pesticides in this category fall under sales restrictions in Peru, with its commercialization being supervised was restricted by the SENASA. The plaintiffs consider that SENASA is also responsible for the intoxication and death of the children of Taucamarca, for not enforcing adequate control of the applying sales restrictions.

The plaintiffs also consider that Bayer continues breaking the Peruvian laws by failing to withdraw these toxic products from sale. This implies a serious threat to the health of the people of Taucamarca, besides the environmental damage caused by agrottoxics.

The First Criminal Court of Cuzco convicted professor Isaac Villena Nuñez - who provided the polluted food for breakfast – for negligent murder and ordered him to do community service and to pay a civil compensation together with the Ministry of Education, to each of the families who lost their children. In October of 2001 the attorney of the families filed a complaint before the Seventh Special Court of Lima, the Peruvian capital, against the National Direction of Environmental Health, the National Service of Agrarian Health and Bayer. The lawyer asked for a compensation for damages.

In April of 2007, the Judge of the Seventh Civil Court of Lima, of the High Court of Justice, called a settlement hearing, which was postponed at the request of the Ministry of Agriculture. The judge said she would issue a resolution that would guide the process and that she would call another settlement hearing shortly, which she failed to do. Bayer has yet to pay its crimes in Taucamarca.

The actions of Bayer, the National Service of Agrarian Health and the General Direction of Environmental Health, violated the fundamental rights provided under the Peruvian Constitution, such as the rights to life, moral, physical and psychological integrity, and the free development and well-being of the people. The Alternative Agriculture Action Network also recommends to analyze the violation of the right to health and the access to justice of the indigenous peoples.

The legal proceedings over the poisoning of children and the death of 24 of them, has already taken seven years and no judgment has been issued against the defendants. There is a social and environmental debt that Bayer and the state agencies responsible must pay.

Denouncing organizations: Red de Acción en Agricultura Alternativa – RAAA (Perú)

Contacts

More information:

Christine Pohl (English, German, Spanish, French): christine.pohl@foeeurope.org - +51 (1) 989 50 91 97

Carlos Santos (Spanish): carlos.santos@redes.org.uy - + 51 (1) 980 50 28 98

Nick Buxton (English, Spanish): nick@tni.org - +591 725 99 050

Tom Kucharz (Spanish, English, German): agroecologia@ecologistasenaccion.org - + 51 (1) 989 487 238

Claudia Torrelli (Spanish, English): + 51 (1) 989486567

Lieven Pype (Spanish, English, Dutch): + 51 (1) 99 36 37 727

Correo electrónico: cumbredelospueblos.prensa@gmail.com

Página web: www.enlazandoalternativas.org

Credits

This dossier has been prepared by the **Working group on transnational companies - Tribunal of the bi-regional network Europe, Latin America and Caribbean “Enlazando Alternativas”** and the team of **RealWorldRadio** (www.realworldradio.fm), supervised and edited by Carlos Santos (REDES-Friends of the Earth Uruguay) and Christine Pohl (Friends of the Earth Europe) on the basis of information provided by the denouncing organizations. Translation by Mercedes Camps (REDES-Friends of the Earth Uruguay).