

The Permanent People's Tribunal in Lima



Bi-regional Network Europe, Latin America and the Caribbean 'Enlazando Alternativas'
www.enlazandoalternativas.org

The People's Summit Enlazando Alternativas 3



Hundreds of organisations from Latin America, the Caribbean and Europe presented in Lima their alternatives to the neo-liberal model, consolidating the basis for a new internationalism.

The Summit of the Peoples 'Enlazando Alternativas/Linking Alternatives 3' was celebrated in Lima (Peru) between the 13th and 16th of May, 2008, coinciding with the Summit of the Heads of State of the European Union (EU), Latin America and the Caribbean (LAC),

The bi-regional network *Enlazando Alternativas* was set-up in 2004 in Guadalajara, Mexico as a response to the comprehensive neo-liberal policies and neo-colonial trade agenda of the European Union in Latin America and the Caribbean. The occasion was the Summit of Heads of State of both continents. The *Enlazando Alternativas* network is an open and diverse space which addresses the liberalization and competitiveness agenda that impels the EU through such policy instruments as the Lisbon Treaty, the investment and trade strategy "Global

Europe: competing in the world", as well as its Free Trade Agreements (FTAs).

This innovative network emerges in a bi-regional geopolitical framework, articulating movements, networks, social and political organisations from the rural and urban areas of Latin America, Caribbean and Europe. It also draws lessons from the successful resistance in the Americas which defeated the US FTA and which was forged by the Hemispheric Social Alliance (HSA) in People's Summits (from 1998) as a space of convergence.

However, the official Summits held every two years and the alternative Peoples Summits are only the most visible moments of parallel and divergent political processes. The *Summit of the Peoples Enlazando Alternativas 3* in Lima was dynamised by Latin American and European organisations - from rural, environmental, indigenous, trade

union, feminist, human rights, solidarity, migrant and NGO sectors. Its leit motiv was a distinctly alternative bi-regional integration concept to the current dominant one, which is characterised by the plundering of Latin American natural resources by European TNCs and the diaspora of thousands of Latin American migrants to European cities.

So what happened then during the Summit of the Peoples celebrated in Lima? As always, it needed the dedication of social movements and civil society organisations, some financial and material resources, as well as overcoming the opposition of some governments to the political and democratic development of social movements. It was also a big challenge to the social movements and other participating organisations with very different background and political cultures to learn to work together in a transnational way. The result was a very successful Summit of the Peoples if we consider the broad participation (8.000), the number of self-organised Workshops (more than 100), and the very intense media attention in Peru.

Simultaneously, the Summit also consti-

SUMMARY

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tuted a space where the Peruvian social and political actors of the civil society such as the indigenous movements, urban workers, women and students and so many others were able to come together.

The Peoples Summit took place in the midst of a complex and threatening context of the political panorama in Peru. Several repressive governmental measures aimed to suppress social protest, and moved in the direction of criminalization of the movements. During this period, the Alan García government opened a legal process against 300 people in Piura, 35 of them were accused of the crime of terrorism, for the single fact of being opposed to the mining project of Majaz and for defending the environment. Equally, the government tried to defame the Association for Human Rights (APRODEH) for fighting against impunity and repressive policies as well as unjust detentions.

Additionally, weeks before the Summit, the Government decreed that the army should deal with the ongoing social conflicts, while President García also personally encouraged the police to publicly use their weapons to face those who protest in the public zones "without thinking, since the law protects them". The government responded in this way to the increasing popular dissatisfaction with the deterioration of the standard of living. In fact shortly after the Summit, the main trade union in the country launched a na-



tional protest strike. As with other neo-liberal governments, President García assumes that public policy and public interest consists in primarily attracting foreign investment through selling off the natural resources of the country, especially of the mining sector. It is not a coincidence that Peru is one of the world's notorious places for environmental conflicts generated by big mining exploitation of gold, silver, copper and molybdenum resources.

THE PERMANENT PEOPLE'S TRIBUNAL

The bi-regional network *Enlazando Alternativas* acknowledges that the great majority of the most urgent problems of the humanity today are affected by the operations and activities of transnational corporations (TNCs) and that any project of 'another possible world' will have to keep the issue of corporate power at the center of its vision and work.

With this perspective, the network *Enlazando Alternativas* approached the Permanent People's Tribunal (PPT) to organise a Hearing of the Tribunal on 'Neo-liberal Policies and European transnational corporations in Latin America' in the framework of the Peoples Summit of *Enlazando Alternativas 2*, in May, 2006, in Vienna, Austria. The objective of the Hearing was to examine a series of cases on the operations of European TNCs in several countries of Latin America and to establish a sufficient basis and motivation to summon an official Session of the PPT. The Tribunal of Vienna heard the presentation of cases by more than 50 civil society organisations of diverse nature – from workers unions, coalitions and alliances concerning

public services, organisations of solidarity, trade campaigns and organisations that follow closely the activities of TNCs, rural and indigenous movements, organisations and environmental movements and representatives of affected communities.

The Permanent People's Tribunal, after having listened to the testimonies and gained access to the substantive documentation presented with each case, identified common elements across the cases and underlined the violations of the following rights: to basic essential services, to land, to food sovereignty and food security, to labour rights, to the rights of the indigenous peoples and to the protection of the environment. This is reflected in the Indictment presented by the PPT jurors which states "all of these violations, combined with the erratic behaviour of financial markets and the unbearable burden of the foreign debt, result in a attack on the economic and social rights to development, and hence represent the central core of, and a major challenge for the future work of the PPT". Moreover in its Indictment, the Tribunal also pointed out that besides the responsibility of the TNCs, the governments of the European Union and of Latin America also have responsibility. In view of all these considerations, the PPT therefore concluded that "the complexity and seriousness of the accusations and the corresponding violations of rights require further indepth investigation with a view to also contribute to the development of international legal instruments that would make TNCs truly and effectively responsible and accountable for their practices".

In this sense, the bi-regional network *Enlazando Alternativas* has continued, after Vienna, reinforcing the creation of spaces of political coordination and a joint dynamics of investigation, resistance and exchange of alternatives. It has also pursued the strengthening of strategies to influence public opinion, project current struggles, as well as develop new concepts and innovative legal instruments. The network, together with the PPT and the organisations that presented cases in Vienna, organized a new session of the PPT in the frame of the Peoples Summit, *Enlazando Alternativas 3* in Lima, holding pre-hearings in Colombia, the Spanish State (Madrid and Bilbao), the United Kingdom (Glasgow) and in Nicaragua.

In Lima, some twenty European TNCs were judged by the PPT, in the course of the Hearing organised on the theme 'Transnational European companies and neo-liberal policies in Latin America'. Dozens of



witnesses explained before the Tribunal how the TNCs of European origin have developed their operations in Latin America and what this has meant for the populations and ecosystems of the continent.

In particular, the characteristics of this kind of TNC colonialism, based on the limitless extraction of natural resources with its destructive effects on the environment and the indigenous peoples, was made clear. Strong examples were demonstrated in the cases of Majaz Mining in Peru, the pulp industry Botnia in Uruguay and the petroleum company Repsol YPF in Argentina, Bolivia and Ecuador.

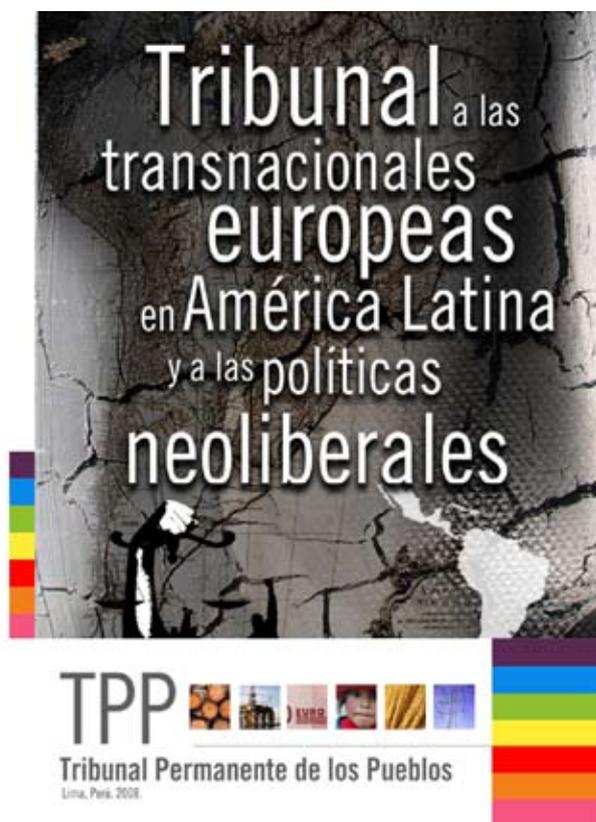
It was also possible to demonstrate how the plundering of the continent is based on the creation of big infrastructures – as in the case of the German company Thyssen Krupp, which is constructing an industrial macrocomplex for the exportation of steel in the bay of Sepetiba, in Rio de Janeiro, and destroying the livelihood of hundreds of artisan fishermen of this zone. The negative impacts of production for export were also shown with its serious effects on labour rights, as shown in the case of the Norwegian company Camposol in Peru, which dismissed many workers to try and prevent unionisation of the workers. The negative impacts of the privatisation of public services was also presented: especially of water – with the cases of Aguas de Barcelona in Mexico and Proactiva (FCC) in Colombia and of electricity, with the cases of Union Fenosa in Colombia, Guatemala, Mexico and Nicaragua.

In supporting this model, the Banks have also entered the arena and finance very aggressive social and environmentally destructive projects - such as the Santander Bank

in the dams of the river Madeira, in Brazil, and the BBVA in the Camisea gas project in Peru. Besides, there is a legal architecture that favours the interests of the transnational corporations, as was presented in the case of the consortium Telecom/Telefónica/ETI.

economic, social, cultural and environmental rights of the communities, nationalities, families and individuals of the peoples of Latin America and the Caribbean”.

It is necessary to emphasize the significance initiatives of this type have in strengthening the current work of *Enlazando Alternativas* and of the broad network of social movements and organisations. It is a space which converges the communities impacted by TNCs as well as the campaign organisations who fight for social and environmental justice - 73 organisations and networks participated in the Lima PPT. This experience therefore further empowers the development of people based transnational strategies of resistance. It also focuses specific attention on the main instruments of the current international institutional architecture that facilitates the impunity of TNCs, particularly the so-called Agreements of Association between the EU and the different Latin American sub-regions. Besides serving to defend the rights of the majority of the peoples on the planet, the People's Tribunal is a vehicle to globalise solidarity, since it facilitates coordination of the dynamics of both denuncia-tion and resistance.



FUTURE CHALLENGES, GOALS AND NEXT STEPS

This consortium brought a case against the Bolivian government to the International Centre for Settlement of Investments Disputes (ICSID) for perceived damage to its business interests.

In responding to the cases presented, the PPT jurors, presided by François Houtart, finalised their Report and in the PPT Ruling they decided *“to morally and ethically sanction and denounce in the international arena those multinational corporations with private and state capital originating in Europe, for serious, clear and persistent violations of the international principles, laws, conventions and covenants that protect the civil, political,*

After achieving the successful process of the PPT in Lima, and its unprecedented media impact, it is important to develop the strategies that build on this “MOMENTUM” and publicly promote the PPT Judgement. This also demands the continuing elaboration of the impacts of the TNCs as well as supporting the resistance generated against these European TNCs. It is also necessary to expose the co-responsibility of the different actors who allow, facilitate, and are accomplices or beneficiaries of the TNCs who operate with impunity.

To concretise further these initial premises, the following strategic considerations are proposed:



1) The TNCs are a main actor in establishing the prevailing neo-liberal economic system. For this same reason, they are directly responsible for the impoverishment of millions of people, and the increasing violence and environmental crisis on the planet. It is therefore necessary to heighten the visibility and public perception and understanding of the character and role of the transnational corporations in the violation of human rights and in the construction of the neo-liberal global system.

2) The TNCs take advantage of a great complexity of mechanisms to achieve legitimacy and to reach their main objective - to maximize profit and expand and grow economically. In confronting this, it is necessary to expose the complete political legal framework of public anti-cooperation policies of: investment, trade, defence, development cooperation, security, migration and borders. Simultaneously, it is also necessary to expose the dominant institutions that facilitate the advance and protect the action of the transnational corporations – the WTO, EU, IMF, IADB, WB, and ICSID among others.

3) It is also important to be alert in the context of the new economic conjuncture of global and institutional crises (economic, financial, food, energy, and climate), which can redefine both the role of the TNCs as well as our current struggles.

In this sense, the bi-regional network *Enlazando Alternativas* has continued reinforcing diverse ways of work, such as the creation of political coordination spaces and a joint dynamic of investigation, resistance and interchange of alternatives. The network has also continued to strengthen its capacity in the further development of strategies to reach public opinion and to make visible the on-going living struggles against TNCs, while searching for innovative and new legal concepts and tools.

COMMON POLITICAL OBJECTIVES

1. *Enlazando Alternativas*, as a network, mobilises different organisations, who undertake the work “to dismantle the power of TNCs”, from different perspectives. One approach is to use the specific expertise of each organisation to develop common political proposals, which are then carried forward by all the organizations in the network, which campaign against TNCs.

2. TNCs intervene at different levels and in different spaces and continue extending the present legal asymmetry (LEX MERCATORIA) that superimposes the protection of



TNCs rights over the Human Rights of people. *Enlazando Alternativas* pursues a common objective to end this global legal asymmetry. Acting in a coordinated way in this direction, we present the Lima PPT judgement and our political demands in different spaces. The PPT is considered as a step in a long process, that achieves the fulfilment of already existing human rights norms, the elimination of unjust laws, as well as advancing to international norms respectful of the rights of peoples and the environment, which corporations and government are obliged to fulfil.

3. *Enlazando Alternativas* aims to expose the existing relation between trade and investment policies whose main beneficiaries are the TNCs. We will also expose the lobby activities which these corporations and their associated bodies carry out at the center of public political power which in turn elaborates, approves and executes policies advocated by TNCs. A coordinated campaign is needed to demand an end to the privileged access and control which big capital exerts over EU trade policy, and to prevent or counter Free Trade Agreements (FTAs) and Bilateral Investment Treaties (BITs) that provide the legal frame which allows TNCs to operate with impunity.

Some of the future activities being considered in this process are: taking the issues to the UN Council of Human Rights – incorporating also the issue of “ecological debt”; preparing a Day of Global Action against TNCs (at local level, decentralized and organised simultaneously); strengthening the campaigns against the Association Agreements

and the policy of *Global Europe: Competing in the world* as well as intensifying the campaign against the ICSID. Toward the end of 2009, a session of the PPT will be organised in Brussels addressing the joint responsibility of European institutions and TNCs in the violations of Human Rights. □

Enlazando Alternativas Contact:

You can reach the nearest contact point of the *Enlazando Alternativas* bi-regional network by visiting the web page: <http://www.enlazandoalternativas.org>. For regular information on the activities of the network you can subscribe to the e-lists of the network: on EU-LAC relations (al-ue@lists.riseup.net) and on TNCs (transnacionales@lists.riseup.net). To make contact with the organisations participating in *Enlazando Alternativas* or to participate in the campaigns, you can write to: red.enlazandoalternativas@gmail.com.



Permanent People's Tribunal

FOUNDER: LELIO BASSO / PRESIDENT: SALVATORE SENESE
FONDAZIONE LELIO BASSO – SEZIONE INTERNAZIONALE (WWW.INTERNAZIONALELELIOBASSO.IT)

RULING

Session on Neoliberal Policies and European Transnationals in Latin America and the Caribbean Lima, 13th-16th May 2008

MEMBERS OF THE JURY: FRANÇOIS HOUTART (PRESIDENT, BELGIUM), VILMA NUÑEZ (VICE PRESIDENT, NICARAGUA), BLANCA CHANCOSO (ECUADOR), MIREN ETXEZARRETA (SPAIN), FRANCO IPPOLITO (ITALY), EDGARDO LANDER (VENEZUELA), FRANCESCO MARTONE (ITALY), LORENZO MUELAS (COLOMBIA), PATRICIO PAZMIÑO (ECUADOR), ROBERTO SCHIATTARELLA (ITALY), GIULIA TAMAYO (PERU), ALIRIO URIBE (COLOMBIA), GIANNI TOGNONI (PPT GENERAL SECRETARY, ITALY).

1. INTRODUCTION

The Permanent People's Tribunal (PPT), created in 1979 as the successor to the Russell Tribunals on Vietnam (1966-1967) and on the Latin American Dictatorships (1974-1976), has the mission, according to its calling and its Statutes, to raise awareness of all those situations in which the massive violation of fundamental human rights receives no institutional recognition or response, whether at a national or an international level, and to qualify such situations in legal terms. In more than 25 years of history, throughout its 35 sessions, the Permanent People's Tribunal has accompanied, anticipated and given backing to the struggles of people against the broad spectrum of violations of their fundamental

rights, including the denial of self-determination, foreign invasions, the new economic dictatorships and slaveries and the destruction of the environment.

The jury, appointed by the Presidency of the Permanent People's Tribunal was made up of:

- François Houtart (Belgium), President of the Session, Emeritus Professor of Sociology in the Université Catholique de Louvain, Founder of the Centre Tricontinental (CETRI) and the magazine "Alternatives Sud"
- Vilma Nuñez (Nicaragua), Vice President, Lawyer and President of the Nicaraguan Centre for Human Rights
- Blanca Chancoso (Ecuador), Coordinator of the "Dolores Cacuango" School of Women Leaders in the Ecuarrunari

- Miren Etxezarreta (Spain), Emeritus Professor of Applied Economics at the Autonomous University of Barcelona, member of the Euromemorandum Group of European alternative economists

- Franco Ippolito (Italy), Judge for the Supreme Court in Casación, Italy and for the PPT. Ex-President of the Democratic Magistracy and ex-member of the Superior Council of the Magistracy in Italy

- Edgardo Lander (Venezuela), Professor in Social Sciences at the Central University of Venezuela in Caracas, member of the research group on Hegemony and Emancipation at the Latin American Council of Social Sciences (CLACSO)

- Francesco Martone (Italy), Former Italian Senator

- Lorenzo Muelas (Colombia), Former Colombian Senator and current Governor of the Guambiano people. Writer and defender of the rights of Indigenous Peoples

- Patricio Pazmiño (Ecuador), President of the Constitutional Tribunal of Ecuador

- Roberto Schiattarella (Italy), Professor of Economics at the University of Camerino. Researcher on European Transnationals

- Giulia Tamayo (Peru), Human Rights activist in Peru

- Alirio Uribe (Colombia), President of the José Alvear Restrepo collective of lawyers in Colombia. Human Rights defender

- Gianni Tognoni (Italy), PPT General Secretary.





1.1. JUSTIFYING THE EXISTENCE OF A PERMANENT PEOPLES' TRIBUNAL ON EUROPEAN TRANSNATIONALS AND THEIR IMPACT ON LATIN AMERICA AND THE CARIBBEAN.

The opportunity and indeed the need to call for a formal session of the PPT was recognised at the PPT's own hearing in Vienna in May 2006, which concluded that "the complexity and gravity of the accusations and the corresponding violations requires further investigation."^[1]

At the heart of the PPT's concerns is the impact that European economic policy has on living conditions and the validity of fundamental rights for a large part of the Latin American population. Priority seems to be given to the recognition of corporate interests, at the cost of the principles of sustainable development and the human rights of the peoples. This tendency, already clearly demonstrated at the hearing in Vienna, was confirmed by the strategic document "Global Europe-Competing in the world", published in October 2006, which foresees a new generation of bilateral agreements to ensure the interests of European companies abroad.

The network of organisations represented at Enlazando Alternativas 3 (EA3) re-

quested the official convening of the session at the end of 2007. Applying its statutory investigation period, the PPT accepted the request, which was felt to be particularly relevant to the institutional role of the PPT for two basic reasons:

1. The peoples, movements and the diversity of actors participating in (EA3) (see Appendix 2) together represent one of the most important expressions of the struggle for peoples' rights. That struggle is the *raison d'être* of the current session of the PPT, which bases itself on the Universal Declaration of Peoples' Rights, Argel, 1976.

2. The issues included in the request constitute a valuable opportunity to continue and amplify the investigatory function of the PPT into the relationship between economic laws and Human and Peoples' rights.

This has been a work in progress since the creation of the PTT in 1979, based on a series of trials that included issues such as :

- The role of transnational corporations in the Latin American dictatorships (Brussels, 1975);
- The causes of the impunity enjoyed by those who committed crimes in Latin American countries (Bogota, 1991);
- The conquest of Latin America and the origins of International Law (Venice, 1992);
- The Bhopal disaster and corporate irresponsibility (Bhopal, 1991 - London, 1994);
- Transnational corporations in the textile, clothing and sportswear industry and their impact on workers' rights and the environment (Brussels, 1998);
- The malpractices of transnational corporations (Warwick, 2001);
- The role of transnational corporations in Colombia (Bern, 2005 - Bogota, 2006 - 2008).

For more information about the above mentioned processes, see: <http://www.internazionaleleliobasso.it>.

1.2. THE PROCESS

The PPT hearings took place on 13th and 14th May, in three sessions. Eye-witnesses and experts gave oral presentations of the selected cases, presented supporting documents, and responded to questions asked by members of the Jury.

The session also included the contributions of two experts named by the PPT as "amici curiae", Alejandro Teitelbaum and Juan Hernández Zubizarreta.

The European Commission in Brussels, which was notified about the PPT process underway and about the session being held in Lima, responded by justifying their absence from the public debate due to institutional commitments.

Of the companies included in this session of the Tribunal, (Aguas de Barcelona, Bayer, BBVA, Botnia, Camposol, Cermac Mainstream, Marine Harvest, HSBC, Monterrico Metals, Proactiva, Repsol-YPF, Roche, Santander, Shell, Skanska, Suez, Syngenta, Telecom Italia, Thyssen Krupp, Unilever, Unión Fenosa), only the Norwegian company CAMPOSOL was present to testify before the Tribunal.

The Tribunal's deliberation took place behind closed doors on 15th May and continued until the following morning, 16th May 2008.

2. THE CASES

The task of identifying and documenting the cases selected for this session of the Permanent Peoples' Tribunal had to comply with the conclusions formulated in the session in Vienna, in order to go more in depth into types of violations of human and peoples' rights, and the mechanisms that produce them, and to attribute responsibility to the different actors, both private, such as the European transnationals, and public, such as the European and Latin American government entities.

This more in-depth activity, which took place over two years, results in:

- a) pre-hearings considering model cases, such as that of UNIÓN FENOSA in the Central American countries (Managua, October 2007) and that of BBVA (Bilbao, October 2007), and parallel events organised in Glasgow, Madrid and The Hague, the documentation from which has reached PPT and should be considered integral material in this session;

b) The preparation of a very detailed written and visual documentation of the selected cases for presentation at the public session in Lima, which was made available to the members of the Jury weeks prior to the session itself.

As can be seen in the programme and in the documents examined by the Jury (see: www.internazionaleleliobasso.it), the cases can be considered a qualitatively representative 'sample' both of the areas identified in Vienna and of the most critical areas, from the point of view of human and peoples' rights. Such exemplary cases are important in terms of the implications and structural consequences, and in terms of their legal analysis.

In fact, each individual case has clearly demonstrated that the reported violations are no accidents. They are indications and fairly "normal" expressions of how the overall policies and specific practices of European transnationals violating rights can be developed with absolute impunity and/or with the permissiveness of the responsible public authorities (in the countries of origin of the European transnationals and/or in the countries where the victims of the violations are).

The PPT was particularly impacted by the systematic recurrence, perceived despite the diversity of the cases, of disregard for the life and dignity of people and communities, be they women or children, peasant farmers, fisher folk or industrial workers.

In total the Tribunal considered 21 cases of transnational companies from 12 sectors (mining, oil, the logging and pharmaceutical industries, telecommunications, agro-foods, the iron and steel industry, electricity, water, agro-chemicals, banking and financial instruments, and genetically modified seeds) operating in Latin American countries. These companies seem to behave according to similar patterns and conducts that have a significantly negative impact, particularly in areas such as:



a) Labour relations: through the casualisation and exploitation of labour, the criminalization of social protest, characterised by violent repression that has reached the extreme of causing numerous violations of the individual's right to life and liberty, as well as criminal charges ranging from crimes of association to terrorism. The persecution of trades unions with unjust mass dismissals was made particularly evident in the case of the agro-foods company CAMPOSOL, through actions that constitute regular practice, including the mass dismissal in December 2007 of 385 workers, 80 per cent of whom were unionised.

b) The Environment: particularly, although not exclusively, the mining and oil industries, that continue to contaminate water supplies, and cause soil degradation, deforestation and in some cases even desertification, with an enormous and irreversible impact on biodiversity in many of the regions in which they operate. An emblematic case is that of the Mining Company MAJAZ, which, if it continues to expand, would affect the Amazon Basin. Many cases have also dramatically documented the impact of environmental crimes on food security, access

to water, and forced displacement from living spaces. Here we must cite THYSSEN KRUPP, paradigm of the model of investment that pollutes and excludes, made possible thanks to the indifference and absence of the Brazilian State.

c) Transgenic seeds: the case of SYNGENTA, presented to the PPT by Via Campesina and Terra de Direitos, clearly documents how the 'old' mechanisms of massive contamination, violent repression by paramilitary forces, the assassination of workers, and the absence and even complicity of the State, and the criminalization of opponents, remain unchanged in the mechanisms that are presented as the 'future'.

d) People's health: the PPT has received convincing evidence of direct damage caused by contamination of aquifers and poisoning by insecticides. Two cases are particularly exemplary: a) the poisoning of 44 children from the Taucamarca community by the German company BAYER's Paration, and the resulting deaths of 24 indigenous children; b) the poisoning caused by the pesticide Nemagon, widely distributed by the SHELL OIL COMPANY, in open violation of market regulations, particularly

Picture Below: Valmir Mota de Oliveira, a militant youth of the MST Via Campesina, who was brutally assassinated by security agents of Syngenta, on the 21st of October of 2007.



in Honduras and Nicaragua, with dramatic consequences including illness and deaths (which are yet to be adequately recognised, at least in terms of financial compensation).

The Tribunal also received accusations against ROCHE for their corporate conduct in Brazil. Witnesses denounced the violation of citizens' rights to health and access to generic pharmaceuticals resulting from the application of intellectual property rights by transnationals. They also highlighted how the conduct of ROCHE is attacking (using judicial actions, among others) the sustainability of the programme for universal access to medical treatment in Brazil and the rights recognised in the country's federal Constitution.

e) Corruption, which has become an almost common mode of operation in all these processes, in which the different actors are implicated through the granting of concessions to explore and exploit, and the privatisations imposed as a requirement of agreements with other countries or by the international financial organisms. Particularly clear examples can be found in the cases of UNIÓN FENOSA, in their process of privatization of energy distribution in Nicaragua, and of the Swedish construction company SKANSKA, accused of being involved in acts of corruption and the payment of surcharges in Peru, in the plan to widen the Camisea Gas Pipeline.

f) The Financial System: the general mechanisms and specific cases relating to this sector, which has an increasingly significant impact on the global economic situation, have been documented through the analysis of three cases, of which one in particular (that of HSBC) has given the PPT a clear view of the complexity of the conflicts of interests between private and public actors, individuals and collectives, that have been present over long periods in the history of a country such as Peru. It is clear that processes of this kind affect democracy and the sovereignty of States: those responsible for government become the accomplices of the private actors, be they national or international, and in this way, they tacitly renounce their duty to apply the internal legislation that ought to protect their inhabit-



ants. When the opposite is the case, and national governments decide to demand their own economic sovereignty and public control of strategic sectors, the transnational companies have other options ways to protect their own interests.

The case of TELECOM-ITALIA confirmed the role of international arbitration bodies such as the ICSID in defending the exclusive interests of transnational companies that have taken advantage of the process of privatization of public services in Latin

America, in this specific case, the telecommunications sector in Bolivia. It is important to emphasise that in this case the Bolivian government did not recognise the authority of the ICSID, withdrawing its participation from the body, which it considered to be anti-democratic and biased.

2.1. THE TRIBUNAL ALSO EXAMINED A NUMBER OF CASES RELATED TO VIOLATIONS OF THE RIGHTS OF COMMUNITIES, PEOPLES AND INDIGENOUS NATIONS AND AFRICAN DESCENDENTS, IN WHICH THEY CONDEMNED:

Firstly: The destruction of the natural environment, source and space for life, and for that reason, sacred. This is not just a question of physical aggression through contamination of soil and water, the erosion of lands and the destruction of the forests. It is also a moral aggression against Mother Earth (pacha-mama), as she cannot be made the object of exploitation. She must be respected. In the indigenous peoples' cosmovision, human beings, children of the water and the land, live in symbiosis with nature from whence they take the means to live. For that reason, the destruction of the Earth is a lack of respect for life itself. It is a work of death. This was demonstrated, for example, in the case of the Spanish company UNION FENOSA with the SALVAJINA Dam in the Cauca (Colombia) and in the River Anchicaya, Cauca Valley, with the destruction of biodiversity and the contamination of the water; with the operations of the British mining company MAJAZ, in the

North of Piura, in Peru with the destruction of biodiversity and the contamination of the water; with the Spanish oil company REPSOL, causing serious damage to the ecosystems of various regions of Colombia, Ecuador, Bolivia and Argentina.

Secondly: The expulsion of communities from their lands, often accompanied by violence on the part of the army, the police or other unregulated armed groups. In a number of cases abuse of authority was also proved, and even the indifference, inaction and sometimes complicity of certain judicial bodies. Cases of buying off people's consciences and co-opting individuals or communities were also found in a number of the testimonies, such as those presented in the case of UNION FENOSA operating in Colombia, Guatemala, Mexico and Nicaragua, which did not honour the commitment it had made to compensate displaced indigenous, peasant farmer and African descendent populations. In the case of SHELL, this Dutch-British company turned to illegal repression of Brazilian and Argentinean communities in Loma de la Lata and in Neuquen; REPSOL were pointed out as being responsible for the failure to respect the rights of the Paynemil and Kaxipayin Mapuches of Argentina, Bolivia and Ecuador.

SHELL was also accused of requesting that the same repressive practices be used against communities defending their environmental rights in a European country (Ireland).

Taking into account the serious consequences that tend to be generated by the activities of multi-national companies in territories occupied by indigenous and African-American communities, and considering that in the vast majority of the cases the resulting crimes are irreversible and irreparable, it is essential that the competent authorities take measures to prevent them.

3. AN ECONOMIC PRACTICE THAT ERODES RIGHTS

The specific cases that have been submitted to the PPT are not isolated practices. They reflect extended patterns of conduct that require more general reflections and analysis. The operation of business in local areas is demonstrated in all its harshness, and this enables a clearer perception of the aims and general parameters of that behav-

our. However, these local cases are merely specific manifestations of broader logics that form the framework of action for the local agents of Transnational Corporations in the field. Therefore, based on specific experiences, it is necessary to abstract the behavioural guidelines and the patterns that reflect the more general tendencies of global competitiveness that govern the world today.

The European transnationals' search for profits, and the centrality given by specific policies and the wider economic culture to corporate interests, result in:

The commodification of all aspects of social life, geared to strengthening the right to private property and the accumulation of capital.

Changes to the role of the State:

§ The convergence of private and public interests. Companies try to make sure that their corporate interests are identified with public interest in such a way that corporate decisions based on corporate aims are considered the same as general welfare.

§ The connivance and complicity of States and national oligarchies, if not their total alliance in the application of these rules of engagement.

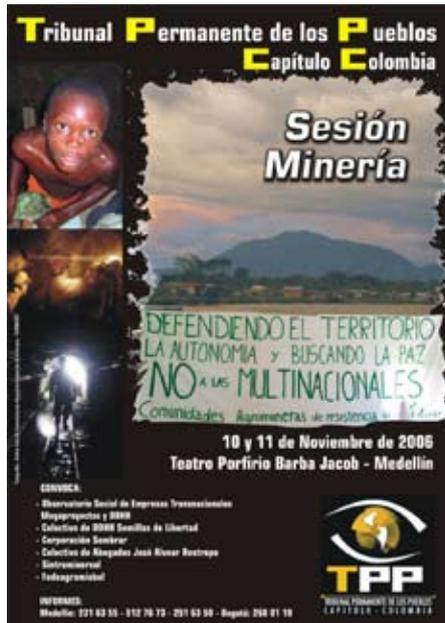
§ The abandoning of the idea of an independent project, as States accept that the interests of business coincide with the general interest. The State loses its role as guarantor of human rights and general welfare.

§ Public policy is built and articulated around the interests of business instead of the general interest. An example of this tendency can be found in the conditions of favouritism conceded by governments in order to attract foreign investment, or certain forms of labour legislation favourable to business.

Current European Union policy, which uses bilateral negotiations with peripheral States to stimulate the economic interests of European transnationals, and to defend them as belonging to the EU countries. It is also important to remember the role of the other international organisms such as the WTO, IMF, World Bank, OCDE, IDB, and the Andean Development Corporation (CAF) who collaborate with the European transnationals along the same lines and which have already been amply commented on during other sessions of the Tribunal.

The current functioning of the economic and social system means that it is always a few, and the number gets smaller and smaller, people and agents who decide about the living conditions and existence of the majority. This is even more evident with the current growth of financial capital and their domination of the world economy, and their profit requirements. Large financial interests hang in many different ways over all aspects of economic life, introducing technological innovations that tend to reinforce their profit margins and their dominion over the global economy.

The redefining of the public sphere and the privatization of public services leads to cutbacks to the already very weak wel-



fare state. The obligations of the European transnationals are transferred to the public sphere and people's rights are subordinated to global competitiveness.

The current financial crisis and serious economic turbulence this is creating in all fields, clearly shows that the system brings with it cycles of high economic and social costs on its own terms. This means that it is increasingly being questioned by its own

promoters at a theoretical level (although it continues to be applied, with increasing intensity, in practice).

The system that is intrinsically and increasingly inefficient, except for those who control the global economy, whose profits increase while the rest suffer from increasing inequality and poverty. Several of the cases submitted to this Tribunal show the persistence and deepening of inequality in terms of gender and the failure to protect human rights for women. These gender inequalities are made even more serious when they coincide with other inequalities. The evidence of the tremendous negative impact of these strategies is overpowering. Today, more than ever, voracity and the thirst for profit has exposed those who suffer discrimination to extreme limit-situations. Far from implementing policies to fight this and guarantee these people's rights, States tolerate and encourage that their lesser social power and vulnerability be taken advantage of.

The complicity of current economic theory in legitimising this dynamic cannot be ignored, given that ideological elements are presented as scientific facts, in order to justify the actions desired by the dominant economic interests.

The ideas presented within the framework of this Tribunal raise the need to consider renewed scope for reflection, taking other elements into account:

§ Given the weakening of the State, it is imperative that existing methods for defining collective interests and the role of new social organisations in constructing those general interests be explored. This means making local interests and specific experiences compatible and articulating them with general interests, building a public interest that does not deny the local, but which is not reduced to merely local issues. It is also necessary to articulate the framework of general interests with the welfare of the populations and local territories affected, in a way that combines a diversity of levels of social action and which assures the rights and welfare of the local populations. Specific political struggles are one of the crucial ways of building more generalised strategies.

§ The European transnationals claim the right to incorporate the general interest into their actions through their own rules of conduct (corporate social responsibility).

This is unacceptable, not only because it serves to falsely legitimise corporate interests, but also because public interests cannot be left in the hands of the managers of any kind of private interest, much less with the voluntary focus given by European corporations.

3.1 THE DEBTS OWED TO THE INDIGENOUS PEOPLES AND AFRICAN-AMERICANS

We recognise the existence of an historic debt to the native peoples of what is now



called the American continent. This debt was generated by the invasion, conquest and colonisation of their territories by European nations, starting in the 15th century. They stole the lands and enslave the indigenous peoples to work in the mines, plantations and farms. They also caused massive deaths among the native population and the brutal interruption of those peoples' own process of development. A civilisation, with its knowledge, science and wisdom, was erased. Only traces remain, in the rocks and archaeological finds. The meanings and many of the values of these civilisations were lost. It is no longer possible to rescue the treasures of these oral cultures. The devastation was also a cultural genocide. The indigenous peoples lost the flat lands, forced to take refuge in the mountains and forests. Today these areas are being made the object of plunder. There will come a day when they no longer have anywhere to live. These are historical forced displacements, which are a crime against humanity. The peoples of African descent, who were taken to America as slaves to fill the gaps left by the genocide, suffered a similar fate.

The ecological debt, which affects all humanity, is particularly serious for the Indigenous Peoples and peoples of African descent. Mother Earth (pacha-mama), origin of life, and therefore inviolate, has been destroyed: the rivers are polluted, the soils are filled with chemical products, the wa-

ter loses its purity, as it is mixed with pesticides, the birds and butterflies disappear from the monocultural plantations of palm and soya, the forests die as the Earth heats up, biodiversity is under threat, as a result of expansions in livestock farming, sugar cane, and plants destined to produce agro-fuels, as a result of mining, the expansion of oil extraction and the mega-transport and tourism projects. Each year tens of species of fauna reach extinction. All this for the immediate advantage of large national and international companies that serve a minority



of humanity. Even the coca plant, most sacred to the Indigenous Peoples for its power and virtue (wisest of the wise), has been appropriated by economic and criminal powers in order to transform it into drugs. This is not the fault of the indigenous peoples and they should not be punished for it. The ecological debt is continually growing and it means that most indigenous peoples and communities of African descent, who could be the best protectors of biodiversity, are condemned to disappear.

Justice for these peoples should mean not only the recognition of these debts, but also their compensation and indemnification.

4. VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW AND OF NATIONAL LAWS DETECTED IN THE CONDUCT OF THE ACCUSED EUROPEAN TRANSNATIONALS

The PPT considers that responsibility to promote, respect, guarantee and enforce human rights falls principally on States, according to the International Declaration of Human Rights (IDHR) and it recognises, based on the cases presented to this Tribunal, that there are private actors, such as transnational companies that have been shown to systematically violate human rights.

In the last decades, the exorbitant growth of companies' economic power makes them

larger than many State economies. This makes it very easy for them to avoid the judicial and political control of nation States. It is necessary that national and international public institutions ensure compliance with existing rules, and that they dictate internationally binding rules, so that these companies apply the same standards wherever they are, in terms of human rights, regardless of the country in which they are operating.

The current differences in legal frameworks, due to some States' failure to ratify international agreements, or to the lack of vigilance on the part of other States, allow the European transnationals to undertake massive speculative operations, making use of this lack of regulation.

In terms of the activities of transnational companies and human rights, the PPT identifies various levels of responsibility. On the one hand, there are the States who have a duty to prevent, protect and sanction violations of human rights by their own agents or private actors (above all the most powerful, such as European transnationals). This creates liability by omission in the case of negligence in the duty to protect rights against the conduct of the European transnationals; liability by commission when they actively stimulate the presence of these European transnationals, granting operating licences, increasing flexibility of labour, environmental and tax laws to favour the interests of these companies.

It is important to be clear that the liability corresponds both to the State of origin or parent company of the transnational corporation (be that the location of their main headquarters or the country where the bulk of their capital resides) and to the State or States where they develop their operations.

It is necessary to reaffirm the existence of a hierarchy of laws, based on the principle that the rights of the human being are at the pinnacle of this legal pyramid, and the rights and interests of private interests are subordinate to these.

Human rights play a fundamental role in guaranteeing human dignity. They are above the property rights of the powerful and they are above economic freedom. However, the status quo described here gives primacy to private interests over human rights.

There is an international United Nations (UN) system that proclaims human rights and is legitimised by achieving peace and

the validity of all human rights. However, at the same time, there are instances in which UN practices are in conflict with that, as is the case with the practices of the World Bank, the International Centre for Settlement of Investment Disputes (ICSID) and the International Monetary Fund (IMF), which are governed by norms that prevent the full exercise of human rights. This is also the case with other instances, such as the World Trade Organization (WTO), which have the market and free market competition at their centre, without taking human rights into consideration.

This is combined with circumstances in which the European Union and the international financial institutions become facilitators or accomplices to the activities of the European transnationals. The principal criteria for their policies becomes the principle of global competitiveness, which is in direct conflict with the effective application of human rights.

On the other hand there is the flagrant culpability of private agents or actors, such as the transnational companies, who, with their behaviour, clearly demonstrated in the cases dealt with by this Tribunal, produce violations in these same rights. These agents should be made accountable for their actions and for the consequences of their actions, before the internal legal bodies within each of the countries.

Faced with the practices of the European transnationals, society as a whole should adopt an ethical and judicial position that rejects hunger, homelessness, the lack of education, health or employment, the lack of food security and, in general, the sub-human conditions of poverty and extreme shortages that impede the dignified development of individuals, and peoples. That is to say, an attitude similar to that taken in the face of actions of torture, extra-judicial executions, forced disappearances, or arbitrary detentions.

This vision implies a rejection and condemnation of those State policies that give priority to global competitiveness, the privatisation of public goods, the casualisation of labour, and of the behaviour of transnational companies in relation to the rights and interests of their peoples and the exercise of human rights. In the same sense, the non-State actors, such as transnational companies, should be identified and condemned in the way in which they generate and stimulate these kinds of violations, im-

posing their policies on governments that are sometimes weak, and at other times complicit in their behaviour.

We understand that guaranteeing human, economic, social, cultural and environmental rights is a fundamental State obligation. The State should design adequate public policies, tax laws and legal, judicial, administrative and other measures, in order to guarantee the respect, satisfaction and protection of all human rights. This means exercising effective control over the operations of transnational companies.

International human rights law, and the



Constitutions and laws in the respective countries should prevail to prevent the transnational companies from violating the rights of all humanity, which include the right to self-determination of peoples, the right to development, sovereignty (over defining public policy and the use of natural resources); to avoid privatisation of common goods such as water, energy, personal security, gender discrimination; to guarantee access to land and homes, defend the right to health, culture and education, bring and end to the criminalization of protests and forms of social resistance; avoid the use of force (military, or paramilitary) against the communities, and the corruption of public policies; effectively guarantee the rights

to life, development, integrity, territory and personal freedom, to a healthy environment, and to a fair economic and social order, access to justice, labour rights and trade union freedom.

States should respect international law and directly ensure that transnational companies respect it, independent of the location of their headquarters or centres of operations. The European transnationals should also respect the legal regimes of the States where they operate and all the international treaties ratified by those countries, including: the Slavery Convention (1926); the Convention on the Prevention and Punishment of the Crime of Genocide (1946); the Universal Declaration of Human Rights (1948), the American Declaration of the Rights and Duties of Man (1948); The ILO Convention on Freedom of Association and Protection of the Right to Organise (1948); The C-98 Right to Organise and Collective Bargaining Convention (1949); The International Convention on the Elimination of all Forms of Racial Discrimination (1965); The International Covenant on Economic, Social and Cultural Rights (1966); The International Covenant on Civil and Political Rights (1966); C-135 Workers' Representatives Convention (1971); The Universal Declaration for the Eradication of Hunger and Malnutrition (1974); the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind (1975); The Universal Declaration of the Rights of Peoples (1976); Convention 151 Labour Relations (Public Service) (1978); The Convention Against Torture (1984); Convention 87 on Freedom of Association and Protection of the Right to Unionize (1984); The Declaration on the Right to Development (1986); The Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (1988); Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); The Convention on the Rights of the Child (1989); The Inter-American Convention on the Forced Disappearance of Persons (1994); The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (1994); The Inter-American Convention Against Corruption (1996); The European Penal Convention on Corruption (2002) and the Declaration on the Rights of Indigenous Peoples (2007).

In the cases brought before this Tribunal

some mechanisms for impunity have been identified, favoured by the mobility of capital and the outsourcing of transnational corporations that prevents the determining of the persons or offices to be held responsible; the use of affiliates and subcontractors hides the culpability of the EUROPEAN TRANSNATIONALS; the existence of voluntary codes of conduct makes them feel no responsibility for the positive rights enshrined in State and International Laws; they also elude national jurisdictions by way of arbitration or through the ICSID, that aims for the creation of a private international law, unconstrained by human rights.

It is very important that the States and the International Community recognise the mutual liability that transnational companies share with their de facto or official affiliates and with their providers, contractors, subcontractors, licensees and franchises, a lack of recognition of this creates impunity.

Peoples and individuals have the right to justice, that is to say, they have the right to see their rights guaranteed. The State is obliged under international law to guarantee the right to justice, that is to say the provision of resources to make the system efficient and ensure the independence of the judges from other State or economic powers. The State should prevent, investigate and sanction crime with an independent judicial system, capable to pass judgement and apply national and international law. There is no such thing as a Democratic Constitutional State if it does not investigate and punish crime according to due process; impunity in itself therefore represents a serious violation of that law. The State cannot renounce nor evade the exercise of the duty to bring to trial, by way of amnesties or other forms of impunity. The victims and society have the right to know the truth and to full reparation.

The Tribunal observes that in many of the cases examined the judicial systems have not acted independently, impartially, promptly and effectively to guarantee the rights of the victims affected by the illegal activities of the transnational corporations.

5. RULING

The Permanent Peoples' Tribunal, following a process of investigation and public hearings that began in Vienna in 2006 and continued through various working sessions in Nicaragua, Bilbao and parallel events in



Glasgow, Madrid and The Hague and in the Colombian chapter of the PPT;

After having heard, in a public hearing, the social and workers' organisations, NGOs, rural communities and indigenous nations of the Latin American and Caribbean countries, and, after having analysed the accusations, statements and petitions and the defence arguments presented;

Under the protection of the principles and rules of international public law, the Universal Declaration of Human Rights, the international Human Rights Conventions and Covenants and the Universal Declaration of the Rights of Peoples;

Using the powers established in its statutes and by the disposition and authorisation of the peoples, communities, organisations and peoples participating in the session;

RESOLVES

1. To morally and ethically sanction and denounce at a global level, the political, economic, financial, productive and judicial conducts and practices of the neoliberal model, implemented and permitted by the States and institutions of the European Union, under the aegis of promoting growth and economic development to fight poverty and achieve sustainable development;

2. To morally and ethically sanction and denounce in the international arena those multinational corporations with private and state capital originating in Europe, for serious, clear and persistent violations of the international principles, laws, conventions and covenants that protect the civil, political, economic, social, cultural and environmental rights of the communities, nationalities, families and individuals of the peoples of Latin America and the Caribbean;

3. To call on the United Nations Human Rights Council to designate a Special Rapporteur to present a report as soon as possible to the General Assembly that contains the proposal to begin to use the concept of an illegitimate ecological and historical debt, and the legal analysis of violations of economic, social and cultural rights against individuals and peoples, by governments, financial institutions and multinational corporations, and to this effect constitute an International Tribunal to judge the economic and ecological crimes, to which individual and collective victims can turn as legitimate plaintiffs;

4. To call on the governments and States

of the European Union and their community organisms:

4.1. To submit their international economic relationships and their decisions on economic policy and international cooperation to the binding standards of primacy, guarantee and respect for conventions, international agreements and the ILO declarations and rules on the issues of fundamental rights, human development, and environmental protection;

4.2. To ensure that judicial systems recognise the right to appeal directly before the justice Tribunals and demand responsibility and reparations for possible infringements of those rights by companies, public and private financial institutions, for illegal acts committed outside the national territorial boundaries;

5. To demand that the multinational corporations and financial institutions of European origin, be they international, commercial or of private or State capital, abandon their double standards and commit to making policies that prioritise respect for international law and human rights effective, obligatory and non-discretionary;

6. To urge the States and governments of Latin America and the Caribbean that:

6.1. Within the framework of relations of cooperation and economic, commercial and corporate integration with the European Union, the sovereignty and dignity of peoples be guaranteed over the economic interests of the private sector, preventing the privatisation of basic resources necessary for life such as water, air, land, seeds, genetic heritage and pharmaceuticals, and assuring universal access to public services;

6.2. Rapid and efficient access to justice be assured, prioritising the application of conventions, international agreements, declarations and rule of the ILO and human, environmental rights in general, and the rights of peoples, communities and indigenous nations;

6.3. They encourage and support the judicial system, providing all the necessary resources in order to carry out investigation processes and punish crimes, particularly those committed in violation of the rights of peoples and communities, achieving integral material and moral reparations for the grave damages and prejudices caused to the many victims of violations of rights;

6.4. They apply measures inspired by the internationally recognised principle of the free, prior and informed consent of



the social actors, local communities and indigenous peoples, and by the cautionary principle, when proposing the application of agreements and development and capital investment policies that may produce negative effects on these peoples' land, living space and fundamental rights.

7. In view of the importance and transcendental nature of the lawsuits that have accompanied the presentations, with the aim of encouraging tribunals and administrators of justice to develop the content of the law and achieve an efficient right to justice, resolves to refer the case file, resolution and recommendations to officials and institutions so that they act in accordance with their competences, faculties and attributes:

- Prosecutor, International Criminal Court
- United Nations Economic and Social Council
- United Nations Human Rights Council and to the competent Special Rapporteurs competent in this matter
- European Court of Human Rights
- Inter-American Commission on Human Rights
- Presidents of the constitutional courts and tribunals, Public Ministries, Public Prosecutors and Public Defenders in Latin America and the Caribbean
- Governments of the member States of the European Union
- Governments of the Latin American and Caribbean States

The Tribunal recognises the importance, the difficulties and the risks inherent in the

struggles of social movements, peasant farmers, workers, indigenous peoples, and other grassroots organisations. Furthermore it makes a commitment to continue to use its skills and work - more in depth analysis of the legal responsibility of the European transnationals - to accompany the trajectory of denouncing the violations of peoples' rights by transnational companies, States and international institutions; and to accompany the construction of alternatives. □

Lima, 16th May 2008

Notes: [1] In Vienna the cases of the following companies were considered: Suez, Aguas de Barcelona, Union Fenosa, ING, Rabobank, ABN AMRO, BBVA, British Tobacco, Unilever, Telefónica, Calvo, Marine Harvest, Andritz, Botnia, Ence, Aracruz Celulosa, Monterrico Metals, Benetton, Bayer, Cargill, Bunge, Hendris-Nutreco, Vion Food Group, BP, Repsol-YPF, Consorcio OCP, Riu Resorts, Ibero Star, Oasis, Gaia, Viva, and the German cooperation agency GTZ - for more information see: <http://peoples-dialogue.org/es/node/41>



Appendix 1: Cases presented

1. Natural Resources and Neo-colonialism

1.2. Mining: MONTERRICO METALS (England)

1.3. Oil: REPSOL (Spain), SHELL (Holland-England)

1.4. Forestry- Wood Industrial: BOTNIA (Finland)

2. Neo-Constitutionalism and the Privatisation of Justice

2.1. Pharmaceuticals: ROCHE (Switzerland)

2.2. Telecommunications: ETI TELECOM Italia

3. Casualisation and the Exploitation of Labour

3.1. Agro-Foods and non-Traditional exports: CAMPOSOL (Noruega), CERMAC MAINSTREAM (Noruega), MARINE HARVEST (Noruega), UNILEVER (Holland- England)

4. Infrastructure for Plunder

4.1. Metalwork and Infrastructure: THYSSEN KRUPP (Germany), SKANSKA (Sweden)

5. Privatisation of Public Services and Fundamental Rights

5.1. Electricity: SUEZ (France), UNIÓN FENOSA (Spanish State)

5.2. Water: AGUAS DE BARCELONA, ROACTIVA (France, Spanish State)

6. Ecological and Social Debt

6.1. Agro-chemicals: BAYER (Germany)

7. Financial System and Economic Crimes

7.1. Banking and Financial Instruments: European Union, HSBC (England), BBVA (Spanish State), SANTANDER (Spanish State)

8. Criminalization of Resistance and the Use of Force

8.1. Genetically Modified Seeds SYN-GENTA (Switzerland)

8.2. Oil: SHELL (Holland-England)

-> To download the summaries of the cases presented at the Tribunal in Lima [ES/EN], access the particular accusations, the documents and the contributed proof, as well as to watch the VIDEO on the entire Session including the presentation of cases, the Reading of the Verdict of the Tribunal, please visit the website: <http://www.enlazandoalternativas.org/spip.php?rubrique50>

Appendix 2: Organisations involved in organising the PPT and presenting of cases

BI-REGIONAL NETWORK ENLAZANDO ALTERNATIVAS

Acción Ecológica (Ecuador), Alianza de Pueblos del Sur Acreedores de Deuda Ecológica (Latin America), Friends of the Earth Latin America – ATALC, Friends of the Earth Europe – FoEE, Asamblea del Pueblo Guarani Itika Guasu (Bolivia), Asociación Aurora Vivar (Peru), Asociación de Usuarios del Agua de Saltillo (Mexico), Associações de Pescadores Artesanais da Baía de Sepetiba (Brazil), Asud (Italy), ATTAC (Argentina), ATTAC (Chile),

General del Trabajo - CGT (Spanish State), Confederación Sindical de las Américas-CSA (America), Corporate Europe Observatory-CEO (Holland), Deudos de la Comunidad de Taucamarca (Peru), Ecologistas en Acción – Ekologistak Martxan (Spanish State), Federación Nacional de Sindicatos de Unilever Chile- FENASIUN (with the support of the CUT Chile), Federación de Trabajadores de ENTEL (Bolivia), France – Amérique Latine (France), Foro Ciudadano por la Justicia y los Derechos Humanos –FOCO (Argentina), Fórum de Meio Ambiente e de Qualidade de Vida do Povo Trabalhador da Zona Oeste e da Baía de Sepetiba (Brazil), Fundación de Investigaciones Sociales y Políticas – FISyP (Argentina), Fundación Solón (Bolivia), Fundación Rosa Luxemburgo - RLS (Brazil), Institute for Policy Studies-IPS (United States), Instituto de Ciencias Alejandro Lipschutz (Chile), Instituto de Políticas Alternativas para o Cone Sul – PACS (Brazil), Jubileo Sur (Peru), Land is Life (Ecuador), Movimiento Mexicano de Afectados por las Presas y en Defensa de los Ríos MAPDER (Mexico), Movimiento dos Atingidos por Barragens- MAB (Brazil), Movimento dos Sem Terra-MST (Brazil), Movimiento Social Nicaragüense (Nicaragua), Movimiento de los Afectados por el Nemağón (Honduras), Movimiento de los Afectados por el Nemağón (Nicaragua), Observatorio de Conflictos Mineros, Centro de Ecología y Pueblos Andinos- CEPA (Bolivia), Observatorio de Multinationales en América Latina – OMAL Paz con Dignidad (Spanish State), Observatorio Social de Empresas Transnacionales, Megaproyectos y Derechos Humanos (Colombia), Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo PIDHDD (Americas), Proceso de Comunidades Negras - PCN (Colombia), Red Brasileira por la Integración de los Pueblos - REBRIP (Brazil), Red Caribe de Usuarios de Servicios Públicos Atarraya en Defensa del Agua y la Energía (Colombia), Red de Acción en Agricultura Alternativa –RAAA (Peru), Red Latinoamericana contra las Represas –RED-LAR, REDES Amigos de la Tierra (Uruguay), SETEM (Spanish State), Shell to Sea (Ireland), Sindicato dos Trabalhadores no Comércio de Minérios e Derivados de Petróleo no estado de São Paulo – SIPETROL (Brazil), Sindicato Eicosal 2 de la Multinacional Noruega Marine Harvest (Chile), Sindicato de Electricidad de Colombia Sintraelec (Colombia), Sindicato de Trabajadores de Camposol SITECASA (Peru), Sindicato CERMAC MAINSTREAM (Chile), SOMO (Holland), Terra de Direitos (Brazil), Transform (Italy), Transnational Institute-TNI (Holland), Via Campesina (Brazil), Xarxa de l'Observatori del Deute en la Globalització - ODG (Catalonia, Spanish State).



Campaña Internacional: La Ir-Responsabilidad Social de Unión Fenosa. Capítulo I: Nicaragua a Oscuras, Campaña por la Reforma de la Banca Mundial CBRM (Italy), Campaña en Defensa de la Amazonía y Movimiento de los Damnificados por el Complejo del Rio Madeira (Brazil and Bolivia), Colectivo Alternativa Verde- CAVE (Brazil), Ceiba - Amigos de la Tierra (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 Ecocéanos (Chile), Colectivo SKAMSKA (Sweden), Confederazione dei Comitati di Base-COBAS (Italy), Confederación Nacional de Comunidades Afectadas por la Minería-CONACAMI (Peru), Confederación General de Trabajadores- CGTP (Peru), Confederación

Declaration People's Summit Enlazando Alternativas/Linking Alternatives 3

BI-REGIONAL NETWORK EUROPE, LATIN AMERICA AND THE CARIBBEAN ENLAZANDO ALTERNATIVAS

Social, political and popular movements, workers, migrants, indigenous and campesino communities, women's, youth and trade union movements from Latin America, the Caribbean and Europe, gathered in Lima for the People's Summit, Linking Alternatives III, declare the following:

Cooperation and integration of our peoples is created by constructing a system in which economic, political, social, cultural and environmental rights of the majority are given priority and form the very substance of governmental policies. As a result we reject the project of Association Agreements proposed by the European Union and backed by diverse Latin American and Caribbean governments which only aim to deepen and perpetuate the current system of domination which has caused so much harm to our peoples.

The European Union strategy "Global Europe : Competing in the world" pushes for the deepening of policies of competition and economic growth, the implementation of multinational companies' agenda and the entrenchment of neoliberal policies, all of which are incompatible with the discourse of climate change, poverty reduction and social cohesion. Despite trying to hide its true nature by including themes such as international aid and political dialogue, the core of the proposal is to open up capital, goods and services markets, to protect foreign investment and to reduce the state's capacity to promote economic and social development. This has implications for both regions.

For Latin America and the Caribbean, this strategy reproduces the framework of Free Trade Agreements which the majority of countries in the region have signed with the United States and goes further than the WTO policies that we reject. European multinationals are responsible in large part for the indiscriminate exploitation of natural resources of these countries, displacing entire countries, devastating biodiversity,

exhausting water sources, and impoverishing the workforce. Latin America has been a victim for many years of looting by multinational companies. Now as democratic advances stimulate some countries to seek their own development and integration paths in order to benefit peoples, other governments who continue with free trade

demonstrate what will happen to those who sign similar agreements in Central America, the Community of Andean Nations and MERCOSUR whose negotiations they want to resuscitate. For the Caribbean nations, these agreements, recently signed, will increase the vulnerability and dependence of these economies, whilst also breaking down the dynamic of sub-regional integration.

At a time in Lima when governments talk of social cohesion, climate change, and poverty reduction, it is important to remember that the principal cause of inequality, social polarisation, environmental degradation as well as discrimination, is the placing of the market above people's rights and the granting of guarantees by complicit governments to corporations that eliminate the state's capacity to define national development projects. Multinationals

have double standards, benefiting themselves from the asymmetries that Association Agreements tend to reinforce. The discourse of International Aid and Political Dialogue is merely the sweetener to hide the real interests of these corporations.

In the face of the food crisis which is affecting many countries, we denounce the hypocrisy and policies of multilateral institutions (WTO, IMF, WB, IBD, EIB) who try to hide the real causes : the redirection of countries' production towards exports, the loss of the State's role in food regulation, the conversion of foods into a source of financial speculation, all of which are results of "free trade" policies. It is therefore unacceptable to propose more liberalisation and deregulation as a solution to the crisis. The massive production of agrofuels is also worsening the difficult living conditions for millions of people. We reject again this false solution to the energy and climate crisis.

Confronting this situation, the organisations which make up Linking Alternatives, reiterate that it is possible to create a differ-



recipes are involved in fragmenting the region and causing national and international confrontations.

In Europe, the Lisbon Treaty, one of the biggest threats to democracy, justice, peace and ecological balance, is currently being ratified by elites without consulting the population. We reject this Treaty as we have done before. This treaty reinforces a neoliberal Europe, increases militarisation, exclusion, inequality and commoditisation, as well as hardens repressive, security policies. This is reflected in growing precarious employment, a general attack on social rights, in particular on former labour conquests. At the same time, it is accelerating the construction of a "Fortress Europe," which implies the closing of frontiers, violation of asylum rights, and the criminalisation of migrants and social movements, creating virtual and real walls which are no different from those constructed on the frontiers of North America.

The Association Agreements which the European Union has signed with Mexico and Chile have deepened inequalities and

ent integration based on the free determination of peoples, respect for the environment, respect for human rights, and for the democratic processes led by some governments who are moving away from neoliberalism and looking for equal relations between peoples of the world. This will involve the strengthening of cooperation in all areas between peoples, the re-strengthening of solidarity, the end of all forms of discrimination, and the end of policies that violate a country's sovereignty. As we have shown in the 2nd Permanent People's Tribunal, we are asking for justice and reparations for the offences, harm and damage done by European companies, and the re-definition of relations with these companies in which they take responsibility for their social and environmental liabilities.

We salute the actions of nationalisation of strategic companies and natural resources for national development, resources which belong to the people not multinationals, such as for example the nationalisation of the Bolivian telecommunications company, ETI/ENTEL. We call on governments who promote progressive policies to join in with the process of transformation that we are pushing. We reject the defiant interventions of the US and the European Union against the sovereignty of the peoples. The European Union must take responsibility for the historic debt with the peoples of Latin America and the Caribbean, in particular with indigenous peoples. We call attention to the dramatic situation in Haiti, result of decades of plunder, worsened by the current military occupation. Similarly we denounce the acquiescent European Union policies towards the Colombian government.

The only solution for the Latin American, Caribbean, and European peoples is to unite together in defence of wellbeing and strengthen resistance and mobilisation against neoliberal policies. We can inspire ourselves with the involvement of women, indigenous and campesino and other social

forces, who via their massive presence in the Social Summit, have given an example of the combativeness and the elaboration of alternatives in search of progress based on harmony with nature, human rights and the elimination of all forms of discrimination.

We call on governments to respond effectively to the demands of peoples to construct another type of relationship between regions, based on overcoming a market model. We call on the population not to continue being tricked by authoritarian governments which try to criminalise just civil protest. We call on all peoples of Latin America, Caribbean and Europe to join the ever-growing number of organisations who are looking for a better world for everyone, and to be take on the challenges which today face humanity.

We ask all social and popular movements from both continents to start preparing for the next People's Social Summit, Linking Alternatives IV, which will take place in Spain in 2010. □



Who are we?

The bi-regional network Europe-Latin America and Caribbean "Enlazando Alternativas" (Linking Alternatives) was formed as a result of a growing awareness that the neoliberal policies and trade agenda of the European Union (EU) is being led by powerful transnational corporations and that the EU's objective is to ensure its economies unrestricted access to Latin American and Caribbean markets. The formation of this bi-regional network also reflects the need for Latin American and European civil societies to increase resistance to the "European project", to the transnational companies (TNCs) based in the European Union and to international 'free' trade policies.

The 'Enlazando Alternativas' Network intends to address these issues from a bi-regional perspective, using a combined strategy of resistance and construction of alternatives, focussing both on Europe and LAC and on relations between both regions.

The purpose of this new alliance between organized civil societies from both continents is to construct a world based on the concepts of peace, participatory democracy, social justice, human rights, food sovereignty, sustainability and peoples' rights to self-determination. It is a space to link current struggles, emerging grassroots' resistance movements and visions on alternatives from both regions. The network has opened a political space for joint action and reflection where social movements, NGOs, trade unions, human rights organizations, farmers, ecological and indigenous movements, migrant and refugee groups, as well as men and women in general from both continents, can become involved.

The formation of the bi-regional network 'Enlazando Alternativas' opens a new chapter in relations between peoples as it embraces the concept of solidarity and mutual support. Links of solidarity between both regions date back to the periods of dictatorship, national liberation movements and the struggle against "500 years" of colonization. The essence of this network aims to go one step beyond these movements, recreating these bonds of solidarity but in a global and bi-regional context that corresponds with the current challenges.

How can you participate in the Network?

- There are different **birregional Working Groups** (campaign against the EU-LAC trade agreements, Transnational Corporations/PPT, Alternatives, etc). If you want to contact any of these WGs or participate in them, please write us at red.enlazandoalternativas@gmail.com.
- For **Latin America and the Caribbean**: enlazandoalternativas.alc@gmail.com.
- For **Europe**: enlazandoalternativas.europa@gmail.com.