

Research and Publishing Centre on Europe Third World Relations

EDITORIAL

As usual, the CETIM has been very active during the last session of the Sub-Committee of human rights, which took place from the 31st of July till the 18th of August 2000. It has presented written and oral interventions, coorganised two parallel meetings, one about the embargo against Iraq, and the second one about transnational companies, and has led a *lobby* on the main questions about the right to drinking water and about the impact of transnational companies on the violation of human rights.

In this bulletin you will find developed two problems that have been largely discussed by the experts of the Sub-Committee: the economic sanctions and their legitimacy; the transnational companies and their impact on human rights in a perspective of globalisation. Besides, the CETIM has published a brochure on the last item, together with the American Association of Lawyers (AAL), Ficat Barcelona and Pax Romana. This brochure can be commanded at the CETIM secretariat¹.

Highlights of the 52nd Session of the Sub-Commission for the Promotion and Protection of Human Rights

This year, many questions denounced long time ago by the CETIM, have been at the centre of the debates, namely the legitimacy of the embargos against Iraq and Cuba, and the impact of economic neoliberal globalisation on human rights.

In this way the working paper of the SCHR on the *harmful consequences of economic sanctions on the use of human rights*² brings up very important questions with regard to the legitimacy of embargos, the choice of their targets, and the duration of the sanctions. Yet we regret that the expert didn't go all along with his analysis by questioning firmly the practice of embargos. Nevertheless, with regard to the sanctions against Iraq, the author concludes that the system of the sanctions is incontestably illegal in the eyes of international humanitarian right and norms relative to human rights. And he denounces these sanctions as aiming deliberately at total or partial physical destruction of the Iraqi people. With regard to the unilateral embargo against Cuba, this UN document suggests to

reexamine the sanctions to avoid *"the same disastrous consequences as in Iraq"*.

Moreover, a decision adopted by the SCHR asks for the lifting of the sanctions against Iraq, by the Security Council³. For the first time the delegations of the US and the UK find themselves completely isolated on this subject.

About the questions on the impact of the *globalisation and its effects on the full use of human rights*⁴, the preliminary study of the SCHR defines the World Trade Organisation (WTO) as an institution favoring dominant corporatist groups and representing *"a real nightmare"* for certain southern countries and population groups. It underlines the democratic deficit and the lack of interest of the World Bank and the International Monetary Fund in questions related to human rights.

Finally, the authors ask themselves: Can we leave international economic forces, created by state actors and private actors, to fall down on humanity without regarding human rights? Their answer is no, and they ask States and economic actors to honor and make respect these rights as well as international standards. Because if we would give them all their liberty *"the spectre of massive violations of human rights causing serious social and political turbulences will become reality"*.

If we should congratulate ourselves with the position taken by the Sub-Committee on the above questions we can't say, as new worrying trends are coming up, especially with regard to the right to intellectual property, which is looked at as a merchandise, or the right to return of displaced people, which will become a moneymaking right.

Because, in the adopted resolution, the SCHR makes a strange combination between the right to intellectual property and the commercialisation that results from it⁵.

Putting trade and human rights at the same level only aims at legitimating and giving a free pass to transnational organisations to exploit without limits the world, its resources, and its people. It means abandoning every consistent step to subordinate trade to human rights. It has absolutely to be prevented that the interpretation of right to the protection of moral and material interests, declared by the Universal Declaration of human rights and reaffirmed in the international Pact regarding economic, social and cultural rights, does not derive to the profit of private interests.

In a project of a rejected resolution⁶, the SCHR suggested to change the right to property of displaced persons for a financial compensation or another good in their new locations. Certain experts have qualified this resolution as *"sale of the right to*

³ *Humanitarian situation of the Iraqi population*, E/CN.4/Sub.2/DEC/2000/112.

⁴ Re.E/CN.4/Sub.2/2000/13

⁵ *Intellectual property rights and human rights*, E/CN.4/Sub.2/RES/2000/7.

⁶ *The rights of displaced persons to return*, E/CN.4/Sub.2/2000/L.28. This resolution project has been rejected by 11 votes to 9 and 1 abstention, 4 experts not participating in the vote.

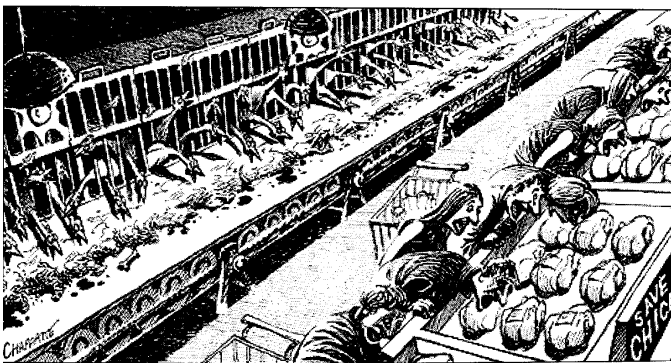
¹ *Transnational Corporations and Human Rights: Case Studies and Responsibilities*, CETIM, July 2000, 176 p., CHF 10.-

² Re. E/CN.4/Sub.2/2000/33.

return" in exchange for money. Indeed, the change of right to return of displaced people against money reflects only the spirit of neoliberal supporters for whom everything is for sale. Still we are in the middle of a subversion of the human rights concept, an effort, that has already made a long way in public opinion, by the promotion for example of the principle of "pollutant-payer". According to this principle, one can commit the worst violations, but the moment he pays a fine (often ridiculously low for organisations playing with billions versus the irreversible damage) everything is back to normal again.

In the case of displaced people, the right to return has been confirmed many times in UN resolutions, including precise cases like the Palestinian. Instead of multiplying the resolutions on this question shouldn't we make sure that the texts adopted by UN authorities are respected and implemented?

For several years we assist to an attempt to pad out the contents of international texts related to human rights. The two here fore cited resolutions are part of this process, even if the second one has been rejected for the moment. Sure, the "primacy of the economy", and not of the right, has been trusted forward since two decades by politicians of all sides. It's therefore not surprising that the supporters of neoliberal politics, having become extremely powerful, try to "adopt" the international legislation concerning human rights to the actual promoted economic system. This takes us in the meantime to question the attitude of certain "independent" experts and of States who are supposed to defend the general interest and not the interest of some private individuals.



Summary of CETIM's Statement at the 52nd Session of the Sub-Commission for the Promotion and Protection of Human Rights

The United Nations and the Private Sector: the Global Compact

The transnational corporations' (TNCs) infiltration of the United Nations with a view to influencing the decisions adopted by its bodies is nothing new. As far back as 1978, the Bern Declaration already denounced the doings of some of these Companies.

The high-handedness of the transnational corporations makes itself felt on the international political scene more and more. One of its first manifestations was in 1993, when the United Nations Committee on Transnational Corporations which had been set up by ECOSOC in 1973 was disbanded. This body's mandate had been to assess the impact of TNCs and to draft mandatory codes of conduct! Since then, this body

has been replaced by a service engaged in liaison with the business community.

The announcement that the UN and the TNCs had entered into a partnership called "Global Compact" constitutes the latest brick in this edifice. This "Global Compact" is supposed to ensure that TNCs observe and respect human rights, based on the idea that "good business" and human rights can but mutually strengthen each other (sic) and that having human rights promoted by private interests can only bring positive results! One of the outcomes of this partnership is the establishment of a Fund for Sustainable Development, managed jointly by UNDP (United Nations Development Program) and the transnational corporations. With a modest contribution of US\$ 50'000, any TNC can become a member of the Global Compact and thus, in exchange for this token "donation", have a say in United Nations decisions, being able to cover up its dangerous and evil activities under the guise of humanitarian assistance.

CETIM considers that this partnership represents a very real threat to the legitimacy of the United Nations and the legitimacy of its activities, as well as to the universal observance and respect for human rights.

Philippines : Sovereignty over the Food Supply and Liberalisation of the Agricultural Sector

Five years after the entry into force of the agreement on agriculture concluded under WTO auspices, the Filipino Peasant Movement (KMP) is decrying the disastrous consequences that trade liberalisation has had for the peasants of the Philippines.

The United States of America and the countries of the European Union reaped major benefits under the terms of this agreement, which made possible an expansion of their markets and the disposal of their excess production; reinforced monopoly control by TNCs over the food and agriculture sectors; and the blocking of any steps whatsoever in third-world countries meant to protect their domestic agriculture.

In the Philippines, the terms of the agreement resulted in priority being given to high-value export crops over crops needed for internal consumption, exaggerated advantages being granted to foreign investors, the rescinding of the handful of laws which had protected local agriculture, and opening the borders wide to food imports. As a result, the Filipino markets are flooded with agricultural imports, notably rice, and local food production is continuously falling.

In 1996, the trade in agricultural products registered an annual deficit of US\$ 750 million.

Since the coming into force of the agreement, the living conditions of Filipino peasants have been steadily getting worse. Between 1994 and 1997, the number of poor rural families increased by 300 000. Production costs have been rising, the farmers' income has been falling, cheap imports of subsidised (food) articles from industrialised countries are driving sale prices down. The concentration of lands in the hands of large land-owners and of TNCs, taking place with the Government's blessings, has raised the numbers of landless peasants. There were 1.3 million unemployed in rural areas in 1998. An ever-growing number of peasants are working for a pittance on the farms of large land-owners. Between 1993 and 1997, their number grew by 13%. The WTO agriculture agreement has had a negative impact on the country's autonomy in matters of its food supply and on the Filipino peasants' enjoyment of their economic, social and cultural

rights. These rights can be ensured only by a vast agricultural reform and by fair and democratic economic policies.

CETIM demands, first, that exhaustive studies be undertaken, with the participation of the peasant population concerned, on the effects that the liberalisation of trade in agricultural products has had on them; second, that the agricultural sector be immediately removed from WTO's purview; and finally, that the principle *'land belongs to those who work it'* be translated into reality.

Working Group on Transnational Corporations

Set up under the terms of Resolution 1998/8, the Working Group on "the interrelationship between the enjoyment of economic, social and cultural rights and the right to development on the one hand, and the working methods and activities of Transnational Corporations on the other" held its second session this year. The mandate of the Group, it should be recalled, is first to identify, list and examine the effects of the activities of TNCs on the whole complement of human rights; then, to formulate recommendations in order to ensure that the activities of TNCs do indeed correspond to the economic and social objectives set by the countries where they operate; and generally to promote the enjoyment of all human rights.

The composition of the Group underwent a major reshuffle; all the participants of the Group except the Chairman were replaced. This resulted in precious time being taken up by a discussion of points which had already been discussed at the preceding session. It became painfully obvious that key concepts of crucial importance, even that of "transnational corporation", still lack a precise definition. The scope of the Group's mandate was also repeatedly brought up and there was even an astonishing suggestion, i.e. that the approach in dealing with TNCs should be no different from the approach to just any domestic enterprise.

Very quickly the discussion, which unfortunately monopolised a good deal of the Group's time, focused on the question of a voluntary code of conduct, presented by the United States expert, a new member of the Working Group. Several experts and NGOs, including CETIM, drew attention to the weakness of voluntary codes, which were generally adopted for commercial reasons and were often adhered to only in part, or only part of the time. The question of monitoring was also brought up. In the end, the majority of experts nonetheless expressed support for a legal instrument of a binding nature in the medium term or in the long run, with voluntary codes constituting a temporary stage. The idea was also voiced that the Group recommend to the Sub-Commission to set up a drafting group on this subject.

It should be noted that in spite of its somewhat disorganised start, the Working Group managed to discuss some substantive issues:

- 1) It was generally agreed that in practice, the TNCs' chase after profits was a threat to human rights; that, owing to their superior position, TNCs could resort to practices with a negative impact on the enjoyment of human rights without being liable for the cost of the material damages they cause.
- 2) The complexity of the problems raised by the TNCs' infringement of human rights would make it necessary to consider appropriate international legal standards while also strengthening national legislation.
- 3) The role and duties of States hosting TNCs and of the States of origin was also among the points raised.

- 4) It was also deemed important that host States consider imposing sanctions and demanding compensation in case of damage, and that they be enabled to have legal recourse.

CETIM's Contribution

Together with AAJ and Ficat-Barcelona, CETIM published a booklet entitled *'Transnational Corporations and Human Rights'*. This publication presents case studies, a discussion on the legal responsibility of TNCs, and arguments in support of the elaboration of binding instruments. This work was commended by a many participants (experts, representatives of NGOs and of Member States) who congratulated and thanked us for this valuable working tool. CETIM also submitted several statements orally or in writing, some of them jointly with others.

It is worth noting that the Working Group's Report gave rise to sharp objections, as its contents did not faithfully reflect what had actually been said during the meetings and its presentation of views was not well balanced. An intense lobbying effort had to be undertaken with the members of the Sub-Commission in order to get this "technical mistake" to be corrected, at least in part.

In our view, a broad consensus needs to be reached on the definition of the key concepts which are utilised by the Working Group in its discussions; first and foremost, of transnational corporation, which must not be confused with any other type of business, especially local enterprises. If the specific characteristics of TNCs are taken lightly, their special position on the world's economic and political scene will go unrecognised, as will the legal vacuum surrounding their practices and policies.

The idealised view of TNCs as a factor in development does not stand up under scrutiny when we look at reality. Therefore it is necessary to monitor them, and to establish legal ways and means to force them to respect human rights. We have seen the limitations of voluntary commitments: numerous case studies are there to back up this view. This is why we consider that it is necessary to establish an international legal framework for the operation of one, or of several binding instruments. We hope that specific proposals to that effect will be submitted, and we welcome the proposal made by one of the Experts, that Member States adopt a Declaration on this subject.

***There is not a developed world
and under-developed world,
but a single world which is badly developed***

Sanctions = Collective torture of the Iraqi people *Conference coorganised the 7th of August 2000*

Three speakers have succeeded one another to denounce the disastrous effects of ten years of economic embargo on the Iraqi people, and to call into question the legitimacy of these sanctions.

The first speaker, M. Hans von Sponeck, former humanitarian Coordinator of the United Nations for Iraq, resigned from his post expressing his indignation for the inhuman living conditions imposed to the Iraqi people by the economic sanctions of the United Nations, as well as by the ongoing bombardments of American and British governments

on this country. The results after ten years of embargo constitute a bitter failure for the western states, because the measures haven't succeeded to overthrow the government of M. Saddam Hussein, defined however as the major objective of the sanctions, and only have aggravated the sanitary and medical situation of the Iraqis.

M. von Sponeck criticises the maladjustment of the UN programme "oil for food" as to the satisfaction of essential needs (food, health, housing, etc.). The amount of humanitarian aid, released by the sale of oil is insufficient, and even ridiculously low. In addition there has been a massive destruction of hospital and administrative buildings etc. As to non-material needs, like the rights to development or the right to education, they hardly exist.

The second speaker, Professor Robert Charvin, professor in law at the University of Nice-Antinopolis, has investigated the geostrategic dimensions of this second Gulf war. He criticises the central role played by the United States during this conflict. Declared only major power following the decline of the soviet empire, the United States have had to "reinvent" new enemies (the regimes of Saddam Hussein and Fidel Castro) to establish and promote their political, economic and military dominance on the world. For Mr. Charvin the destruction and delegitimation of UN structures to the profit of NATO form a full part of this strategy of which the ultimate goal is to privatise "humanitarian interventions" to serve only the American interest.

At a legal level, the sanctions against Cuba, Iraq, Libya or Yugoslavia, are all attempts to reintroduce collective sanctions whereas laws aim at individualising them! But while these measures are relaxed for several of these states, Iraq continues to undergo a very restrictive embargo. Mr. Charvin sees here the American and Israeli will to limit Iraqi oil production and to keep their political leaders away from the middle east scene.

Mrs. Karen Parker, lawyer specialised in international humanitarian right, and representative of the NGO *International Educational Development*, has pointed at the non-legal character and against international law of the measures taken against Iraq.

30 years CETIM

The Europe - Third World Center was created in 1970 and set up as association five years later. Engaged in several international networks, CETIM has today a French section and contacts in several countries.

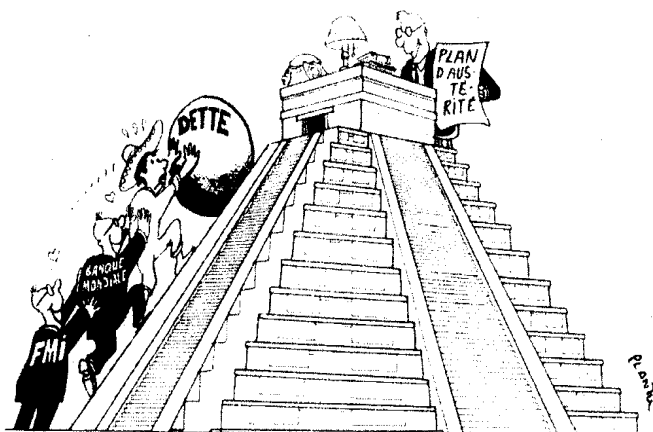
Centre of research and publications, with about 80 titles in its catalogue, CETIM has organised dozens of conferences and seminars, and has participated in numerous colloquiums.

Moreover, since 1981, it is endowed with a consulting status at the Economic and Social Council of the UN, and doesn't count its interventions there anymore... Also, even if an anniversary doesn't mean anything, it is celebrated!

Porto Alegre / World Social Forum

Since the debt crisis, Brazil is submitted to the IMF regulations, to its structural adjustment and free trade politics. Facing this offensive, trade unions organise themselves to create real social movements. Organised for the first time at a regional level in November 1996, the march upon Porto Alegre (Brazilian town of the Rio Grande do Sul state), which has become the march of Sans afterwards, emerges as a reference. Every year several thousands of people come together at Porto Alegre. For more than ten years the city knows another subject of pride, its mayor has set up a participative budget as an instrument of popular mobilisations against neoliberal politics run by President Cardoso.

In January 2001 the first World Social Forum (WSF) will be held in opposition to the World Economic Forum in Davos. Its objective: create a new international space for reflection and organisation for all those who are opposed to neoliberal politics and who construct alternatives to give priority to human development and to end domination by financial markets in all countries and in international relations.



New Publication:

**"FMI: les peuples entrent en résistance"
(IMF: People Enter into Resistance)**

A collection of articles prepared in collaboration with ATTAC and AITEC. A CETIM/Cadtm/Syllepse joint publication.

The idea of this book grew out of a seminar held in Paris from 24 -26 June 1999, on "Resistance Against Structural Adjustments Programs", and which was convened within the framework of the international meeting on "The Dictator of Markets? Another World Is Possible".

Most of the authors who contributed articles to the book participated in the seminar. They come from all continents and describe the fight against the international financial institutions, IMF, the World Bank; and more generally against the "diktats" of neo-liberal globalisation in six countries: South Africa, the Mauritius Islands, Brazil, Algeria, Colombia, and South Korea.

Can be ordered to CETIM via Fax, post or e-mail.

For everyone interested, the entire text of the resolutions and decisions of the SCDH can be obtained on request at our secretariat or by consulting the website of the UN High Commission of Human Rights: www.unhcr.ch

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