

Research and Publishing Centre on Europe Third World Relations

EDITORIAL

Once again, the Human Rights Committee session has been the theater of confrontations between Northern and Southern countries. The article below tries to bring to the subject some elements of analysis.

In keeping with its commitment to the promotion and defense of human rights, CETIM, in collaboration with other NGO's, denounced the negative effects of the opening of markets on the agricultural world, the massive violations of human rights in Turkish prisons, and neo-colonial American politics in Latin America and Africa. This bulletin presents a summary of the conferences and declarations that have dealt with these subjects.

Moreover, questions concerning the control of activities of transnational corporations or those linked to the application of the Declaration on the right to development were also raised¹. We shall come back to these subjects in later bulletins, for they appertain to two of the main subjects of discussion at the HRC and the HRSC.

CETIM and the AAJ started an international petition on the right to life, within the context of the struggle against HIV/AIDS and against intellectual property rights. 37 NGO's accredited to ECOSOC have joined us. You will find a copy of this text at the end of the bulletin. CETIM will pay particular attention to the question of commercial rights versus human rights.

57th Session of the Human Rights Commission (19 March - 27 April 2001)

THE DISSATISFACTION OF SOUTHERN COUNTRIES²

For several years now at the Human Rights Commission (HRC), we have witnessed a confrontation between Northern and Southern countries on certain subjects.

Northern countries tend to favor individual rights, exemplified by civil and political rights, to the detriment of collective rights, discreetly targeting their condemnations – according to the “*need of the moment*” – of certain countries like China and Cuba. And Southern countries have become defenders of collective rights such as economic, social and cultural rights (ESCR) and of the right to development.

Of course, the credibility of these countries could also be questioned, given the complicity of most of the leaders of these

countries with Northern powers in the exploitation and repression of their own citizens. This attitude, for some of them, may be purely tactical, that does not diminish the importance of the defended case, for the individual as well as the collective aspect of ESCR and the right to development are as important as the individual aspect of civil and political rights. In a “*globalized*” world where Southern populations are more affected by violations of ESCR and development rights, the respect of these rights is of vital importance.

The range of resolutions adopted during this session of the HRC clearly shows the position (and interests) defended by each side. As an example, the resolution on globalization, in stressing the obligation of states to defend and protect the enjoyment of human rights against globalization, shows the dissatisfaction of Southern countries with being systematically excluded from decisions on economic questions made at the international level. Thus, the Commission “... *invites the institutions of international economic governance to promote a broad participation in the decision-making processes*”. This resolution was adopted 37 to 15, with 1 abstention. The vote had been requested by the US, which voted against it, along with the countries of the EU and those of Eastern Europe – with the exception of the Russian Federation, which voted in favor. South Korea was the only country that abstained.

Exemplary Vote on Aids

The resolution on access to medicine for aids shows, in spite of the reference made to WTO agreements, the determination of Southern countries to act in the interests of their own survival against the money-making interests of transnational pharmaceutical corporations. This resolution stresses access to medical technology and medicine at an affordable price. Notwithstanding a broad consultation, which resulted in support from 50 co-sponsors, as well as its purely humane character (it didn't even allude to the lawsuit by transnational corporations against the government of South Africa, nor to the challenge to Brazil by the US at the WTO), the US requested a vote on this text. It was adopted by 52 votes (the US abstained). In the voting explanation, the US emphasized that the text calls into question agreements on intellectual property. As for the EU, although they voted in favor, they stressed that this resolution should not be interpreted as limiting or undermining the agreements on intellectual property (TRIPS).

We could further extend the list of resolutions to show the reluctance of Northern countries to deal with certain subjects with regard to ESCR and development rights, but we shall limit ourselves to citing only a few of them.

The resolutions on external debt and structural adjustment programs and on dumping waste and toxic products, were accepted by vote, as in the past. The vote for both was requested by the EU, arguing that the HRC was not competent to handle these subjects. As for the resolution on the right to food, it was also adopted by 52 votes to 1, with no abstentions.

¹ Within a few weeks all written and oral declarations of CETIM will be available on our website: www.cetim.ch.

² The entire version of this text has been published by *Le Courier* of 26 May 2001.

The US was the only country to oppose this text, arguing that, on the one hand, it is the biggest “donor” in the struggle against hunger and, on the other hand, that the solution of this problem lies in the opening up of markets – those of the South, of course...

Northern Offensive

In fact, beyond the advanced “official” statements, the real reason for the opposition of Northern countries to the resolutions on ESCR and on development rights is that they don't want the effects of their economic and human rights policies questioned or scrutinized, as the discussion preceding the adoption of the resolution on the right to development clearly showed.

Actually, this was the first time since the consensus of Vienna (1993) that the HRC adopted by vote the resolution on the right to development. Several paragraphs were voted on separately [...]. This resolution was finally adopted in its entirety by 48 to 2 (US and Japan), with 3 abstentions (Canada, Korea and Great Britain). In its voting explanation, Canada expressed its reservation on “*the need to evaluate the impact of activities of international financial organizations on the enjoyment of development rights*». For its part, the US provided the final attack on this right by reopening the whole question of the «*need to (re)define the right to development*”.

Answer of the South

If most of the resolutions on ESCR regularly encounter opposition from the North, resolutions on civil and political rights are, in general, adopted by consensus. It was a “*custom*” until now in this body. During this session, after having tirelessly reproached Northern countries for years for being selective and having put them systematically on the spot, the Southern countries presented new resolutions built on amendment proposals, and/or asked for votes on several resolutions concerning civil and political rights. By doing this they abandoned their defensive stance for an offensive one.

As examples, one can cite the resolutions on torture and on democracy. Concerning torture, the Cuban delegation suggested two new paragraphs to be inserted into the resolution draft.

The first comprised a novel and interesting interpretation of the definition of torture, clearly alluding to the consequences of economic sanctions and privatizations of all kind (health, water, etc.): “*all forms of inhuman treatment or collective punishment notably consisting of depriving people of food, medication or water, that are harmful for life, health or physical well being of people, are and remain forbidden, always and everywhere by international law*”. This amendment was rejected by a vote of 14 to 25, with 13 abstentions, on the grounds that the definition as formulated in the convention against torture should be adhered to.

The second paragraph, which recommended prohibiting the manufacture and marketing of all torture material, “*asks all governments to take legal, administrative, judicial or other effective measures to forbid manufacturing, trade, exports and the use of special material especially made to inflict tortures or other cruel, inhuman or degrading treatments or punishments*”. This second amendment was adopted by consensus, causing the US and Japan to withdraw their co-sponsorship of this resolution. These two countries didn't “*understand*» the “*vague*” term of “*torture material*”, because, as they said, “*it's quite possible to torture with a spoon*”.

Two texts on democracy were adopted, bringing into focus two distinct approaches. One, sponsored by Rumania and supported by the western camp, emphasizes the formal aspect

of democracy (free and equal election, etc.) and the role of the UN to be strengthened in some “*fragile*” countries and/or “*in a process to democracy*”.

This text was adopted by 44 votes (9 abstentions). The other resolution, presented by Cuba, carried the evocative title of “*reinforcement of popular participation, equality, social justice and non-discrimination as an essential foundation of democracy*». It stated that, «*if all democracies share common features, no unique model of democracy with a universal character exists*”. It was adopted by 28 votes to 4 (US, the United Kingdom, Germany and Japan) and 21 abstentions [...]

In view of all this, the politicization of the HRC, in particular by the US, seems to be turning against the politicizers. Although the domination of the US in the international financial and trade organizations (World Bank, IMF and WTO) is well known. It is useful to recall here that votes in the World Bank-IMF are determined by the capital a country supplies to them, and at the WTO, in spite of the one-country, one-vote principle, decisions are made in the green room, then presented to the Southern countries *as faits accomplis*. Such decisions - which apply to all spheres of life everywhere in the world - undermine UN principles of good faith and cooperation among countries, for the rules of the WTO are absolute and trigger sanctions when violated. This explains the counter attack of Southern countries, which, seeing themselves being marginalized by the decisions made at the international level on financial and commercial issues, have found in the HRC a forum for expressing their dissatisfaction.

Contradictions

How can we admit the behavior of Northern countries that advocate democracy on a national level in Southern countries but refuse democracy at an international level? Of course, not all Southern states are model democracies. But does this argument justify the discrimination? How can you make others respect certain rules when you don't respect them yourself? And how can you promote human rights and democracy if those primarily concerned (Southern countries) do not participate?

Summaries of Interventions and Conferences

Repression Against political Prisoners and Defenders of Human Rights in Turkey

In collaboration with the OMCT and IRCT, CETIM presented a joint written clarification to the HRC on the alarming situation in Turkish prisons.

On the 19th of December 2000, the Turkish authorities launched a large-scale operation in 20 prisons to end the strike movement started by some thousand political prisoners. This operation, entitled very cynically “*back to life*” by the authorities, resulted in the death of 30 prisoners.

This strike movement followed the creation of a system of isolation cells, type F, which constitute a threat to mental and physical health of prisoners.

The conclusions of the European Committee for the Prevention of Torture (CPT), published following its recent visits to Turkey, recall, as well, that it is imperative that the prisoners be able to take daily exercise for a reasonable time, in the form of certain outside activities. The risk of increase in the number of cases of torture and ill treatment of prisoners is particularly high in these new prisons.

Article 78/3, of the official Regulations of prisons, adopted

in 1989, has established the status of political prisoners, and at the same time, the discrimination in the treatment of prisoners.

The most alarming example of this discrimination concerns as much the convicted person as the indicted defendant, who, in accordance with the anti-terrorism law, must be incarcerated in a cell type prison. In addition to these provisions, in practice correspondence is forbidden between political prisoners, release on parole is made more difficult, visits by close relations beyond the first degree are not allowed, and the transfer to open or semi-open prisons is impossible.

The project of setting up type F prisons, pursued by the Turkish authorities since 1991, has pushed prisoners to start major protest movements – leading to unlimited hunger strikes – in order to draw attention to their conditions within the system, as well as to the increased risks of torture in isolation cells. These movements have met with systematic and violent repression by security forces, leading to the death of several prisoners, both indicted and convicted.

CETIM and the NGO's cosigning this declaration ask, among other things, that the HRC encourage Turkey to undertake as soon as possible an independent and impartial inquiry into the repeated interventions of security forces in prisons since 1995; to abandon type F prisons; to conform to international and regional human rights instruments.

During the conference on this subject, Mr. Boran Çiçekli, secretary of the Ankara section of the "Association of Contemporary Lawyers", drew attention to the repression of human rights defenders and declared that, "in spite of its engagements to respect the human rights section of the "Copenhagen" criteria in the process of adherence to the European Union, Turkey continues to pursue a policy of harassing members of NGO's, lawyers and political prisoners as well as doctors".

**Africa Growth and Opportunity Act:
A new African MAI!**

In a declaration written together with WILDAF³, CETIM expresses concern about the disastrous consequences which the "Africa Growth and Opportunity Act" (AGOA) will have on the African populations. This projected trade agreement is a new form of colonization through which the US plans to intensify its accumulation of wealth drawn from the African continent.

The AGOA was voted in May 2000 by the US Congress and regulates, until 2008, the economic and trade relations between the US and 48 African countries (with exception of the Maghreb countries). The title of this law suggests a better future for the "beneficiaries", but the following analysis draws a different conclusion.

The AGOA does not aim for democratic development. Its main purpose is to impose on the peoples of Africa trade and financial relations on the free trade model. Since the economy must thus function on a capitalist basis and there must be privatization of important sectors, such as water, electricity, telecommunications and social services. In order to perceive how African countries will be "beneficiaries" of this law, all one need do is look at the conditions imposed on them: acceptance of a market economy, reductions of tariff and non-tariff barriers, establishment of free trade zones, elimination of state subsidies and price controls, and the equal treatment of foreign and national investors.

The vast majority of African citizens are not aware of the consequences that this law will have on their lives: massive layoffs, uncertain working conditions and an increase in poverty.

An end to state subsidies and price controls by African countries will force an abandonment of national agriculture and

local production, for they can not compete with the products of the North-American transnational corporations (TNCs). Similarly, equal treatment of foreign and national investors means in essence turning these countries over completely to the TNCs and thus putting an end to all hope for economic and political independence. The North American TNCs emerge as the real – and major – beneficiaries of the AGOA.



Graphics of Plantu from the Journal 'Le Monde' and covered in the last publication of CETIM

The Consequences of Plan Colombia and the Involvement of the TNCs

Both CETIM and the AAJ worked on "Plan Colombia" and presented a written intervention to shed some light on the real purposes of this plan.

The USA and the Colombian Government presented "Plan Colombia", a "plan for peace, prosperity and the strengthening of the state", as a fight against drugs trafficking and the armed resistance movement (especially the FARC), but in reality it is a military operation against the Colombian people.

This plan is much less promising than the American and Colombian authorities suggest, as evidenced by its objectives: to strengthen, equip, and train the Colombian army to fight against the guerillas, in particular against the FARC, in order to regain control over the areas the FARC occupy; to proceed to chemically and biologically destroy the coca-fields; to suppress social movements (farmers, indigenous peoples, fishers, trade unions, etc.); to strengthen the military hegemony of the USA in the region; to assure United States control over Colombian oil; to allow US TNCs to exploit the natural resources of the country on a large scale and without restrictions for the protection of society and the environment; to accelerate the expansion of land development – all aims designed to reinforce the privileges of the local oligarchy.

In this respect, Ms. Belen Torres, in charge of international relations of the *Asociación Nacional de Usuarios Campesinos (ANUC)*, Colombia, and coordinator of the *Misión Campesina Colombia* in Brussels, has referred to Plan Colombia at a conference organized on this subject as a "plan for war" against the farmers. The purpose of the plan is "the concentration of the best land in the hands of the big landowners". For the small farmers, "the plan Colombia means the expulsion from their land and leaving them with no other

³ Women in Law and Development in Africa, an NGO based in Zimbabwe.

alternatives than to swell the population of the slums or to work for the big landowners at starvation wages”.

According to Mr. Carlos Alberto Ruiz, a Colombian lawyer and sociologist and member of the *Oficina Internacional-Derechos Humanos, Acción Colombi (OIDHACO)*, the plan is *“an initiative from Washington, prepared primarily by the American State Department and accepted by President Pastrana as a bilateral agreement”*. Neither the Colombian Parliament nor other representatives of civil society have had a say in the preparation or implementation of this plan. Nevertheless, this *“program”* involves an expenditure of US\$ 3.3 billion, a cost which the entire Colombian population must bare.

The opening of the agricultural markets and their consequences for the farmers of the South

The opening of agricultural markets has had many catastrophic effects for farmers, particularly those in the South, and consequently on the world economy, as different speakers at the Conference explained. Mr. Marcel Mazoyer, professor at INA, pointed out the importance of the agricultural sector as the main employer in the world, with more than 1,3 billion farmers – half of the world’s working population.

But the big disparities between Southern and Northern farmers are becoming more marked, for *“only 30 million farmers own a tractor today and 600 million have ‘benefited’ from the Green Revolution”*. Further, the arable land owned by Southern farmers is capable of producing limited crops without chemical fertilizers. What follows is an enormous disparity in the productivity of the land, which constitutes according to Mr. Mazoyer *“a gross production gap of 1 to 2000, whereas it was only 1 to 100 at the beginning of the century”*.

Similarly, the decline of prices of natural resources, as well as the policies aiming to reduce food prices have further

damaged the situation of the Southern farmers., *“These policies have had the contrary effect because they have decreased the income of the small farmers and have driven them into a situation of uncertainty.”*

The second speaker, Mr. Henry Saragih, President of the Indonesian farmers’ organization FSPI, denounced the opening of markets and the negative role played by transnationals corporations in the agricultural sector. *“The countries in the South are totally dependent on their exports, and the prices are continuing to fall.”*

The last guest speaker, Mr. Elmano De Freitas Da Costa, leader and lawyer of MST in Brazil, is fighting for a *“global development project”* from which a different, more just society will result.

CETIM, in cooperation with Via Campesina, made an oral intervention in which it demanded that the fundamental rights of farmers to produce, trade and consume according to their own organizational standards be respected.

To Read

Recently, CETIM has associated itself with the magazine *Southern Alternatives*, produced by the Tricontinental Centre (Belgium). Published quarterly by L’Harmattan, these publications have as their purpose *“to disseminate alternative thoughts on the global economic system, which are worked out by Southern society in Africa, Latin America, Asia and the Pacific”*. Subscriptions: CETRI (B-Louvain-la Neuve), CODIS (CH-Lausanne), CEDIDELP (F-Paris), Alternatives (CA-Montréal). Also available in bookshops.

Last issue (2001/1): *Socialism and the Market: China, Vietnam and Cuba.*

International petition launched at the 57th Session of the Commission on Human Rights:

Affirm the priority of the right to life over the exorbitant profits of the TNCs!

During this last Commission, CETIM and AAJ mobilized to denounce, through the launching of an international petition, the scandalous lawsuits against the South African and Brazilian governments. 39 NGOs accredited to the UN signed the petition, which demands that the right to life and fundamental rights (particularly in fighting HIV/AIDS) be acknowledged as having priority over intellectual property rights.

A brief summary of the facts: On 1 February 2001, the USA lodged a complaint with the WTO against Brazil, which had voted a law in 1996 allowing the production of generic drugs at lower net prices than those of transnational pharmaceutical companies. This consequently allowed the poor access to these drugs. Similarly, on 5 March 2001 a lawsuit was opened in Pretoria by 39 pharmaceutical transnationals against a 1997 South African law favoring the importing of generic drugs and price controls of these generics in the fight against HIV/AIDS.

The plaintiffs refer to their intellectual property rights over the drugs in question, protected by patents. Their interpretation of TRIPS is biased in their own interest. Their argument for the protection of patents is that this protection motivates companies to invest in research. But when claiming this, they remain silent about four major aspects of this question. First, a considerable portion of research is funded by governments (that means by the taxpayers), while the laboratories invest more in advertising than in research. Second, profits derived from the marketing of drugs in rich countries very rapidly pay for the companies’ share of research and development costs. Third, the knowledge from which the pharmaceutical companies are benefiting is the fruit of the work of innumerable scientists and technicians, who are part of the historical process of accumulating human knowledge on a collective level. And finally, a right to an excessively long patent (20 years in this case) favors monopolies with their concomitant high prices, which are indisputably disadvantageous for consumers.

But the central question is whether commercial property rights will carry the day over human rights, particularly over those fundamental to life!