

**LAST CETIM PUBLICATIONS**

*Efficace, neutre, désintéressée?*  
**Points de vue critiques du Nord sur la coopération européenne**

Joint publication

Ecological crisis, spread of viruses... in spite of its carefully established borders, the North now realizes that we all form one world. "Let us make a clean sweep of our responsibilities and unite ourselves to better experience the decades to come!" the defenders of a new Overseas Development Aid (ODA) appear to be suggesting.

A technical ODA, neutral, which could support an optimal functioning of the markets and protect the famous "global public commons". Thus does the mainstream message come across.

But is this the purpose of development aid? Can development aid remain an instrument of domination or become a tool of cooperation, with all that this implies, among all peoples, placed on equal footing? Isn't it imperative to reflect upon what "other" Europe – Switzerland included – we want? What other North/South relationships we also wish?

Responding to an article by Jean-Michel Severino (the current Director General of the French Development Agency) that illustrates the mainstream thinking about ODA, the authors of this piece offer us avenues for envisioning another type of European international cooperation and solidarity policy.

Price: CHF 10.- / 6 €, 192 pages, ISBN: 978-2-88053-074-7, PubliCetim n°33, October 2009. It can be ordered from CETIM.

**THIS BULLETIN IS ALSO AVAILABLE IN FRENCH AND IN SPANISH**

*En finir avec la dépendance à l'aide*  
by Yash Tandon (traduction of *Ending Aid Dependence* by CETIM)

This is certainly not a question of the upteenth book on development aid. The originality of this book, its force and its radicality, are summarized in its title: ending aid dependence (implied development aid). Yash Tandon, former director of the South Centre in Geneva, an intergovernmental organization of developing States, offers us a compassionate and healing reflection (in the sense of inspiring optimism), a view point for changing the South, destined for all those who interest themselves in questions of bad development. He draws his inspiration from Julius Nyerere, the first President of Tanzania, to propose another definition of development summarized by the following mathematical formula: development = SF + DF – IF; here SF represents the Social Factor (the indispensable well-being of a person), DF the Democratic Factor (the right of people to participate in decisions that affect them), and IF the Imperial Factor (the right of nations to govern themselves and to be free of all imperial domination). This formula contrasts the one generally accepted (and used by agencies of the UN): development = growth + accumulation of riches.

Yash Tandon writes without falling into demagogy or the "leftist" utopian ideas... Long from condemning all types of outside aid and using all the necessary nuances, he proposes, for seeing more clearly in the industry of aid, a classification of aid following five colors (as a glimpse at the classifications of subventions, authorized or not, by the WTO).

Finally, Yash Tandon dedicates an entire chapter to a realistic and feasible strategy for putting an end to aid dependence in seven steps, pointed out in proper order, the most important of which consisting of radical changes of the mentalities (of the South and North) and the revitalization of the national project (a term wrongfully tarnished in our days).

In sum, a practical book, written simply, without stonewalling, which has the advantage of proposing concrete solutions to escaping from bad development, and running completely against pseudo technical and cosmetic measures adopted by the signatories of the Paris Declaration on the efficiency of aid (which increases dependence). A book that should make its mark.

Price: CHF 12.- / 8 €, 200 pages, ISBN: 978-2-88053-075-4, PubliCetim n°34, October 2009. It can be ordered from CETIM.

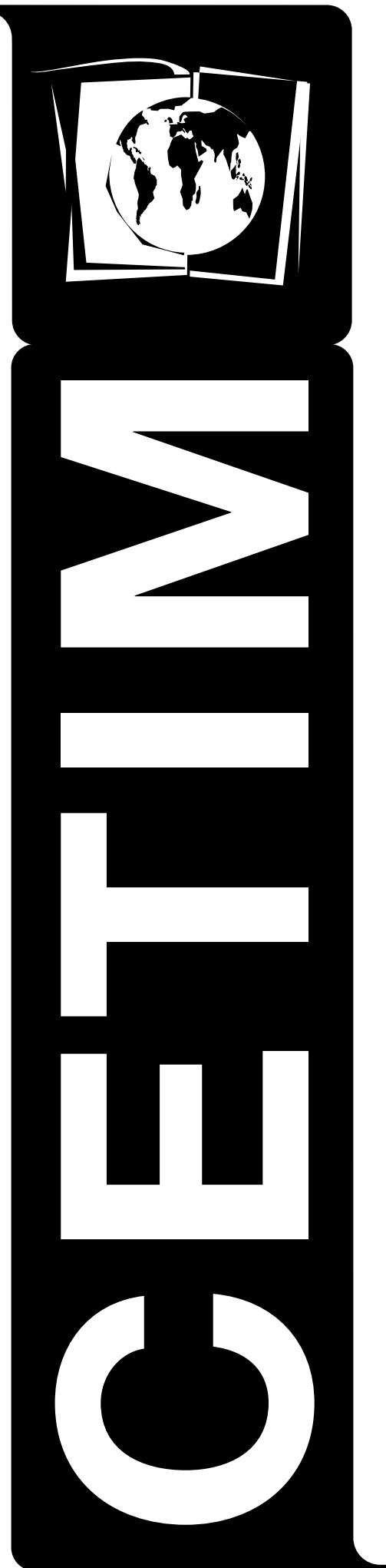
*Ending Aid Dependence*, original English version, 144 pages, ISBN: 978-1-906387-31-0, Ed. Fahamu Books (www.fahamu.org) and South Centre (www.southcentre.org), September 2008.

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**EDITORIAL**

As denounced by the Belem World Social Forum, the economic and financial crisis is a systemic crisis occurring within the context of both multiple global crises (climate, food, energy, social...) and a new balance of powers. It is the result of thirty years of income transfer towards capital, a tendency that must be reversed. It is the consequence of a system of capitalist production based on laissez-faire that feeds on the accumulation of short-term profits by a minority, international financial imbalances, the unequal distribution of wealth, an unjust trading system, the perpetration and accumulation of irresponsible and illegitimate debt, the pillaging of natural resources and the privatization of public services. This crisis has affected all humanity, beginning with the most vulnerable (workers, unemployed, peasants, women...) and the countries of the South, victims of a crisis for which they bear no responsibility.

It is obvious that this multi-dimensional crisis (involving finance, currencies, economics, ecology, energy, food, culture, civilization) is profoundly detrimental to the enjoyment of human rights, in particular economic, social and cultural rights, as was formally acknowledged by the Human Rights Council (HRC) during its special session on the financial and economic crisis (February 2009). In this regard, it is enlightening to consider the convergent analyses of the various Human Rights Council mandate holders in the area of economic, social and cultural rights, taken up by the Council during 2009. Without ignoring the responsibility of governments, these analyses share common ground by highlighting the increasing and ever greater systemic responsibility of transnational corporations (TNCs) in human rights violations as well as the incompatibility of neo-liberal economic policies with human rights.

We note with satisfaction that the analyses of the Human Rights Council special rapporteurs on the right to adequate housing, to health, to food and on toxic waste (summarized in this issue) coincide with those that the CETIM has been propounding for several years. There is also a brief report on the special session of the Human Rights Council on the international financial and economic crisis.

And the reader will find in this issue a historical analysis of the causes underlying the violations of the human rights of the Kurdish people of Turkey, an analysis submitted to the HRC within the framework of the Universal Periodic Review.

## Responsibility of TNC in Violations of Economic, Social and Cultural Rights

The increase in the power of Transnational Corporations (TNC) has not been matched by the creation of national and international controls over the effects of the harmful activities of these entities on human rights, something that the CETIM has deplored for many years. This absence of regulation and control has allowed TNCs a wide berth to exploit people and natural resources, to engage in speculation, indeed to be implicated in armed conflicts, all while increasing their pressure on natural resources and arable land.<sup>1</sup>

In their respective annual reports, the following four Special Rapporteurs analyzed the increasing role of TNCs in violations of economic, social and cultural rights.

Thus, the Special Rapporteur on the right to adequate housing demonstrated the fundamental faults of the current economic system and its housing policies by analyzing in particular the damage done by banks and transnational financial establishments in the area of sub-prime mortgages.

The Special Rapporteur on the right to health denounced the strangle-hold of transnational pharmaceutical corporations, through patents, on the access to medicines and, thus, on the right to health.

The Special Rapporteur on the right to food deplored the control of transnational agribusiness corporations on food production and trade and their speculation on arable land.

Finally, the Special Rapporteur on toxic waste analyzed the role of transnational corporations in the production and transfer of toxic waste and products.

These analyses are discussed in detail below.

### The Right to Adequate Housing and Sub-prime Mortgages

The annual report of the new Special Rapporteur on the right to adequate housing,<sup>2</sup> Ms Raquel Rolnik, is devoted to the effect on the right to adequate housing of the crisis that has hit the United States real estate sector (sub-prime mortgages).

Analyzing the economic and financial decisions and approaches underlying this crisis, the Special Rapporteur demonstrated how the market revealed itself to be incapable of assuring the right of adequate housing for all.

For the Special Rapporteur, one of the fundamental errors was considering housing as a simple commodity and a financial asset. In fact, this area was left in the hands of the private (commercial) sector,

and the belief that the market would regulate this area led to a progressive withdrawal of government intervention. The result was a significant reduction of national and public funds budgeted for housing and especially for housing for the poor. Rather, the governments bent their efforts to favor an attractive environment for investors, whereas it is the governments that are best positioned to assure the right to adequate housing. The Special Rapporteur drew attention to the negative effects of such policies, such as the rise in the cost of housing, which have had a disastrous effect on the poorest categories of the population. Speculation and the creation of neighborhoods specially designed for the rich (gated communities) have had as a consequence segregation within towns and cities.

The Special Rapporteur recalls moreover that the right to adequate housing implies also the right to benefit from good infrastructure and basic services, so often lacking in neighborhoods inhabited by the poor and in slums. She stated that the financial crisis has only exacerbated these problems. Access to adequate housing has become problematic not only for the poorest but also for those of moderate income.

Analyzing more particularly the recent sub-prime mortgage crisis that has shaken the real estate sector, the Special Rapporteur emphasized that governments, by seeking to facilitate access for all to property, allowed entire sectors of the population to be exposed to unethical behavior of private agents. In many cases, the seizure of real estate has meant for many persons the loss of their only home, not to mention the disastrous physical and mental consequences of an eviction. She noted that the loss of stability and the rupture of social links following and eviction create numerous other problems.

In order to avoid a repeat of the same errors and to assure the right of adequate housing for all, the Special Rapporteur recommended, inter alia, that governments enact regulation and strict oversight of those active in the commercial sector, including financial establishments and real estate promoters.<sup>3</sup>

### The Right to Health and Patents on Medicines

The annual report of the new Special Rapporteur on the right to health,<sup>4</sup> Mr Anand Grover, deals with the links between the right to health and intellectual property rights, especially as regards access to medicine. Within this context, the Special Rapporteur examined the effects of both the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the rules of TRIPS-plus on the access to medicines as they relate to the right to health.



Turkey lacked a solid foundation on which to build a nation-state, and that the empire in question had been based on religious unity (Islam) of which the Sultan was both the spiritual and political leader.

The Armenians and Greeks, two of the key nations that had composed the Ottoman Empire, were already eliminated, expelled (population exchanges with Greece) or forced into exile. For the most part in the early twentieth century. The new Turkish state focused on assimilating the Kurdish people who formed the largest homogeneous group;<sup>5</sup> hence the creation (as of 1930) of an ad hoc ideology and of institutions to magnify the Turkish race. Turkish culture is affirmed as the mother of all great civilizations and the Turkish language as the language of origin of these civilizations: The proposition of Turkish history and the theory of languagesun.” This ideology provided the base for denying the existence of the Kurdish people, of the Kurdish language, and of Kurdistan. In conformity with this ideology, which still constitutes the fabric of modern Turkey, policies of assimilation and repression have been implemented against the Kurdish people with their retinues of serious violations of human rights: large-scale massacres, disappearances, torture, rape, mass deportations, expropriations, assimilations, destruction (villages, forests, crops, livestock), deprivation of fundamental rights.

Between 1924 and 1945, Turkey was ruled by a single party (Republican People's Party, CHP). The Kurdish language was banned in 1924,<sup>4</sup> as were the Kurdish names of places and of first names. The same applied to the right to freedom of opinion and expression and of association to demand the basic rights of the Kurdish people. Turkish Kurdistan was declared a prohibited zone for foreigners until the mid-1960s. The Turkish authorities imposed martial law in Turkish Kurdistan in 1978, followed a coup d'Etat in 1980<sup>5</sup> with a state of siege. The latter was turned into a state of emergency in 1987 in the 13 Kurdish provinces. It is in this context that the armed struggle of the Workers Party of Kurdistan (PKK) intervened in 1984, followed by people's uprisings in Turkish Kurdistan in the 1990s. The Turkish authorities' response was violent, as much in regard to human rights defenders, particularly of the Kurdish people, as against the opponents to those in power.

Despite the overtures by of the Turkish government and negotiations undertaken during a number of months with the Kurdish guerrillas, the human rights violations continue unabated. In fact, during the first nine months of 2009, the Association of Human Rights in Turkey (IHD) has found about 13,000 violations of human rights in Turkish Kurdistan in 25,000 arrests, 950 detentions, 70 summary and extrajudicial executions, 25 deaths due to antipersonnel mines, about 1,000 persons subjected to torture and ill treatment.<sup>6</sup>

The current Constitution of Turkey (3<sup>rd</sup> edition) was developed by the military, authors of the coup d'Etat, and was adopted 1982. As the preceding ones, this also denies the fundamental rights of the Kurdish people. Articles 3, 42 and 66 preach the superiority and the monopoly of the Turkish race and language. Article 4 states that amendments to Article 3 can never be proposed. The Turkish penal code, borrowed from Mussolini's fascist Italy, still contains many anti-democratic articles used as a sword of Democles against the Kurds, political opponents and human rights activists.

The official concept of the struggle “against terrorism” aims he Kurdish people directly. Each Kurd claiming his identity is considered to be a political opponent or a potential “terrorist”. For example, leaders and members of pro-Kurdish parties are routinely subject to repression (murders, kidnappings, arrests, intimidation ...). These parties are also routinely prohibited. Their successors suffer the same fate.

It is therefore not surprising that the European Court of Human Rights (ECHR) has condemned Turkey 1'668 times (between 1998 and 2008) for serious violations of human, such as the right to liberty and security (329 times) or for the practice of torture (144 times).

<sup>1</sup> V. AFP dispatches of 11 and 12 December 2009.

<sup>2</sup> V. AFP dispatches from 30 November to 14 December 2009 and Özgür Politika of 12 December 2009.

<sup>3</sup> With no official census, estimated today the number of Kurds in Turkey to more than twenty million.

<sup>4</sup> Although a state television channel, broadcasting in Kurdish, was launched earlier this year, children and young Kurds are still denied education in their mother tongue and the use of Kurdish is banned in the public administration.

<sup>5</sup> These last 50 years, the Turkish army has carried out three coups (1960, 1971 and 1980).

<sup>6</sup> V. Agence ANF dispatch of 27 October 2009.

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The main problem with a great number of the boats that have outlived their usefulness is that they contain enormous quantities of toxic substances and materials. These are responsible for a considerable number of deaths and illnesses as well as environmental damage. Moreover, many substances or materials used in the 1970s and 1980s are today subject to restrictions or outright prohibition. It is obvious that any activity dealing with them is unhealthy and dangerous.

Considering that the provisions of the International Convention for the Safe and Environmentally Sound Recycling of Ships are insufficient, the Special Rapporteur recommended that governments adopt and implement a series of complementary measures to deal with the harmful effects of dismantling ships.<sup>11</sup>

In its joint oral statement, the CETIM emphasized that the dismantling of ships has been the source of numerous problems for years. The response to these problems was the adoption by the International Maritime Organization of the International Convention for the Safe and Environmentally Sound Recycling of Ships. Like many other conventions dealing with the environment, this convention has lacunae.

For CETIM, the adoption of conventions in various sectors concerning toxic and dangerous waste, their transfer and recycling, is not enough in and of itself and remains generally ineffective. In fact, these conventions often ignore the human rights dimension and do not protect the rights of victims. Further, these conventions are often not observed in practice, given the complex structures set up by TNCs dealing in these products, the frauds, and the lack of means and technical capacity of the victim countries. These constitute so many obstacles in trying to trace the chain of responsibility to its source.

It should be emphasized that these conventions are intended to “manage” toxic and dangerous products and waste; they do not address the causes of the problems, which are weak or non-regulation as well as production processes and technologies generating such residues. Moreover, we are constantly confronted with the creation of new products whose effects –in the long term– on health and the environment are unknown, not to mention the unbridled exploitation of non-renewable resources.

In the context of the current environmental and economic crises, we are of the view that governments should take radical and effective measures in order to protect the right to life, to health and to a healthy environment of present and future generations. Among these measures, priority must be given to a drastic regulation of production processes and technologies generating toxic and dangerous waste, a binding legal context at the international level for the activities of TNCs and technical and economic aid to countries of the South.



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## Extraordinary Session of the HRC on the Economic and Financial Crisis

Called at the initiative of the African Group and Brazil and supported by a number of Latino-American and Asian countries (including China and India), the HRC held an extraordinary session (February 20 and 23, 2009) to debate on “the Impact of the Global Economic and Financial Crises on the Universal Realization and Effective Enjoyment of Human Rights.”

The experts and the UN High Commissioner for Human Rights declared in substance that, in a context of economic and financial crisis, the States should make more efforts to honour their commitments, as much for the economic, social and cultural rights as for the civil and political rights, in favour of those most affected by the crisis. They also pleaded for international cooperation and aid to the benefit of so-called developing countries hit head on by the crisis.

Mr. Cephas Lumina, independent expert on the effects of foreign debt, indicated in his remarkable intervention that the current system had failed and that its collapse was giving the signal for the implementation of a different and better regulated system; however, he is afraid that the current reflation programs prevent such a reworking and keep the States from providing their populations with basic goods and services.

Several of the countries of the South that spoke found it unacceptable that the poor countries suffer the more from a crisis they are not responsible for.

As for the United Kingdom, one of the rare western countries to speak, it sent back the matter to the G20 that, in its opinion, is working on it.

By the resolution adopted at the end of the debates, the HRC “expresses its deep concerns in

view of the fact that the universal realization and effective enjoyment of human rights come up against multiple, intertwined economic and financial crises at the global level.” In particular, the HRC calls upon the states to refrain from decreasing their public help to development, to respect their obligations towards human rights and to continue their efforts in favour of the universal realization and effective enjoyment of human rights, in particular by giving assistance to the most vulnerable.

Besides, the HRC highlights the urgent need to implement an “international, fair, transparent and democratic system to reinforce and expand the participation of developing countries to the decision making process and to the normative activity in the economic domain.”

The Human Rights Council also highlights the fact that the global economic and financial crisis do not in any way relieve national authorities and the international community from their responsibility to ensure human rights realization and invites them to assist in particular the most vulnerable in this respect. The Council, in this context, urges the international community to support national efforts aimed at, inter alia, put in place and preserve social safety nets to protect the most vulnerable segments of their societies.

EU member states within the HRC and, in particular, Canada, opposed this resolution. The former pleaded that they did not agree with the statement that “the crisis is damaging to, and threatens, human rights.” For the latter, “the resolution deals with questions that are not directly related to the Council’s mandate.”

Following a request for a vote within the Council submitted by EU member states, the resolution was adopted by 31 votes in favor, none against, and 14 abstentions.<sup>12</sup>

Conveying the views of the Global Social Forum, CETIM presented at the aforementioned extraordinary session an oral declaration consisting of two proposals for alternatives emanating from social movements and civil society organizations.

Here is the gist of it:

“The means used so far to go out from the crisis are limited to collectivizing the losses with a view to rescue, without any real compensation, the financial system at the origin of the current cataclysm. Where are the means aimed at the populations that are victim of the crisis? The world is not only in need of regulations, but also of a new paradigm to bring back the financial sphere to the service of a new democratic system based on the satisfaction of all human rights, decent work conditions, food sovereignty, the respect for environment, cultural diversity, a social economy and a new conception of wealth. That is why we are requesting the following:



- put the United Nations at the center of the reform of the financial system as the G20 is not a legitimate forum to bring appropriate answers to this systemic crisis.

- implement international, permanent and binding mechanisms to control capital movement.

- implement an international monetary system based on a new reserve system and including the creation of regional reserve currencies in order to end up the dollar supremacy and to ensure international financial stability.

- implement a global public and citizen control mechanism for banks and financial institutions.

- prohibit speculative funds and markets by mutual agreement on which derivatives and other toxic products are exchanged out of any public control.

- eradicate speculation on primary goods, starting with food and energy products, by the implementation of public mechanisms of price stabilization.

- dismantle tax havens, take sanctions against their users (individuals, firms, banks and financial intermediaries) and create an international fiscal organization in charge of holding down competition and fiscal evasion.

- cancel the unbearable and illegitimate debt and implement a responsible, democratic and fair sovereign financing mechanism submitted to sustainable and fair development.

- establish a new international mechanism for the distribution of wealth by the implementation of a more progressive tax system at the national level and by the creation of global taxes (on financial transactions, on polluting activities and on great fortunes) to finance global public goods.

## Conclusion

Serious violations of human rights committed by transnational corporations, more often than not with the States complicity, remain unpunished due to the weakness of appeal procedures and to the balance of powers.

However, there exists within the Human Rights Council a mandate on transnational corporations and human rights, entrusted to the Special Representative to the General Secretary, Mr. John Ruggie. Despite the fact that Mr. Ruggie is aware of the seriousness of the situation, he does not seem to draw essential conclusions, that is the necessity to establish a binding legal mechanism at the international level to control transnational corporations’ activities; Mr. Ruggie continues to favour non-legal approaches. However, it is an emergency one cannot afford to postpone in the context of financial crisis we are currently experiencing.

<sup>1</sup>For further information, see the CETIM brochure n°2 entitled: Transnational corporations and human rights, 2005, available on [www.cetim.ch/en/publications\\_stn-bro2.php](http://www.cetim.ch/en/publications_stn-bro2.php).

<sup>2</sup>Report submitted to the tenth session of the Human Rights Council (March 2009), UN Symbol: A/HRC/10/7.

<sup>3</sup>Ibid.

<sup>4</sup>Report submitted to the 11<sup>th</sup> session of the Human Rights Council (June 2009), A/HRC/11/12.

<sup>5</sup>According to the TRIPS Agreement, different transition periods are provided for according to the economic development level of countries. The least developed countries (LDCs) had until January 2006 to implement the agreement. Regarding medicines, the Doha Declaration accorded the LDCs a transition period extending to 2016. It should be noted that most of the LDCs were already in conformity with the TRIPS Agreement before their deadlines (v. A/HRC/11/12).

<sup>6</sup>V. CETIM bulletin n°34.

<sup>7</sup>Report entitled: *Crisis into opportunity: reinforcing multilateralism*, A/HRC/12/31.

<sup>8</sup>V. CETIM critical report n°5 on the rights of peasants, [www.cetim.ch/en/publications\\_cahiers.php](http://www.cetim.ch/en/publications_cahiers.php)

<sup>9</sup>Extracts of CETIM critical report n°4 entitled Transboundary transfers of toxic wastes and their effect on human rights.

<sup>10</sup>V. A/HRC/12/26.

<sup>11</sup>Idem.

<sup>12</sup>Germany, Bosnia, Canada, South Korea, France, Italy, Japan, Mexico, Netherlands, United Kingdom, Slovakia, Slovenia, Switzerland and Ukraine.

<sup>13</sup>Held in Belém (Brazil) in February 2009.

## HRC UNIVERSAL PERIODIC REVIEW

### Situation of Human Rights in Turkey

In 2007, the Human Rights Council set up a new mechanism called the Universal Periodic Review (operational since April 2008). As it was already introduced in Bulletin n°29 (September 2007) as well as in our first critical electronic report (February 2008), we shall not deal with its characteristics in the current bulletin.

Within this framework, the CETIM, in collaboration with the Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP-Movement against Racism and for Friendship among Peoples) and the International Association of Democratic Lawyers submitted a written statement (November 2009) in anticipation of the Human Rights Council's 2010 review of Turkey's human rights performance.

You will find below large extracts of our statement. It should be noted that, at the time this bulletin went to press (December 2009), the Party for a Democratic Society (Demokratik Toplum Partisi or DTP) had been prohibited by the Turkish Constitutional Court on the pretense that this party had become a "center of activities harmful to the independence of the [Turkish] state and to its indivisible unity".<sup>1</sup> By this decision, the two co-presidents (Mr Ahmet Türk and Ms Aysel Tugluk) of the DTP not only lost their seats in the Turkish parliament but were also forbidden, along with 37 other leaders of the same party, to exercise their political rights for five years. The property of the DTP was confiscated.

It should also be noted that, during the first two weeks of December, a 23-year-old man, Aydin Erdem, was killed in Diyarbakir, dozens of persons were injured and 924 persons were arrested during demonstrations throughout the country protesting closing of the DTP and the conditions of detention of the PKK leader, Abdullah Öcalan, imprisoned since 1992.<sup>2</sup>

#### Context

The Republic of Turkey was founded in 1923 on the basis of exclusion and discrimination. Indeed, its (first) Constitution (1924) proclaimed that the new state was composed of one people (the Turkish people) speaking one language (Turkish). These principles remain unchanged. A declared objective of the founders of this State was to build a "pure Turkish nation" on the ruins of the Ottoman Empire, knowing that modern



Using WHO data, the Special Rapporteur noted that nearly two billion persons do not have access to essential medicines, primarily because of their cost.

He noted that the diseases called the diseases of poverty (communicable diseases, maternal and perinatal pathologies as well as nutritional deficiencies) contribute to about 50% of the morbidity burden of developing countries, in other words nearly ten times more than in developed countries. The Special Rapporteur emphasized that in the past ten years there has been a resurgence of tuberculosis and malaria: 58% of malaria cases occur among 20% of the world's poorest populations, and they cause some 529,000 maternal death every years.

For the Special Rapporteur, it is obvious that health is closely linked to poverty. The public expenditures in the health sector benefit the rich more than the poor, be it in high income or low income countries. Moreover, more than 100 million persons "fall" into poverty each year because they have to pay for health care. In developing countries, patients pay out-of-pocket 50% to 90% of the cost of essential medicines.

It is also obvious for the Special Rapporteur that intellectual property rights influence the right to health through the direct cost of medicine. Patents limit the possibility of making, selling or importing the patented product (by other private or public entities) and result in situations of de facto monopoly. Although generic medicines make it possible to circumvent this problem when the patent has expired, the Special Rapporteur finds it worrying that the primary countries producing these medicines – Brazil, India and South Africa – and the importing countries must now conform to TRIPS, following the expiration of the transition period,<sup>5</sup> with the exception of Cambodia and Nepal, for which the period will expire in 2016.

The Special Rapporteur emphasized that the effective use of the flexibility provided for in the TRIPS Agreement can help countries to carry out their obligations to protect, promote and realize the right to health by improving access to low cost medicines. The Special Rapporteur noted, however, that the use of these flexibilities was highly variable and that an ever greater number of countries of the South were adopting TRIPS-plus rules that could have negative effects on the right to health. He recommended that the revision of trade related agreements take into account their effect on the right to health and, especially, on access to medicines.

#### The Right to Food and Speculation in Arable Land

In his earlier reports, the Special Rapporteur had already emphasized that the realization of the right

to food could be effective only with a decrease in dependence on international trade, while calling for support for small producers and better oversight of the activities of TNC.<sup>6</sup>

In his report to the twelfth session of the Human Rights Council (September 2009) in the context of the follow up to food crisis,<sup>7</sup> the Special Rapporteur on the right to food observed that this crisis is not over, that its consequences are devastating and that it is further exacerbated by the financial, economic and environmental crises that the world is currently experiencing. In his view, the world food crisis must not be considered only as a problem of insufficiency of agricultural production or of a gap between supply and demand; it requires exploring such matters as the organization of food production and the distribution chain, the creation of agricultural systems that are more resistant to climate change, the development of sound social protection systems and the improvement of the protection of the rights of landless agricultural workers.

Moreover, the Special Rapporteur drew attention to the worrying phenomenon of acquisition and leasing of land abroad (in particular in sub-Saharan Africa and Latin America). In fact, several countries lacking in resources but holding substantial monetary reserves have had recourse to vast land acquisition or leasing operations in order to assure their food security. Private investors, including major investment funds, have been acquiring land, at times for strictly speculative purposes.

In concert with the international peasant movement La Via Campesina, the CETIM, in its numerous joint interventions to the Human Rights Council, has deplored in principle the stranglehold of TNCs on the production and the marketing of agricultural products. It has also pleaded for the adoption of a convention on the rights of peasants<sup>8</sup> in order to protect them from serious human rights violations and to support them in their efforts to deal with market rules intended to favor TNCs.

#### Toxic Waste and Products vs Human Rights

As we mentioned in our recent critical report, the activities of TNCs operating in the sector of toxic products and waste not only contaminate the environment and natural resources but also affect health and even endanger the life of workers employed in the production and elimination chain.<sup>9</sup>

The annual report of the Special Rapporteur on toxic waste,<sup>10</sup> Mr Okechukwu Ibeanu, deals with the dismantling of ships. It points out that the challenge that we are confronted with is to manage to assure the protection of the health and security of workers and the preservation of the environment.

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