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CETIM

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" There is no such thing as a developped and an under-developed world, there is only a single, badly developed world. "

EDITORIAL

Mobilization paid off! In June, following a proposal by Ecuador and South Africa, a majority of the members of the Human Rights Council voted in favor of new binding international norms concerning the human rights responsibilities of transnational corporations. The mobilization of hundreds of social movements and organizations in Geneva and around the world was critical, at a time when the pressures of western countries and the lobby of transnational corporations were undermining the support of some states. It is obviously only the beginning of the process. Negotiations will be long and complicated, and the final result is still uncertain at this stage. But this is nevertheless a historic and promising decision. Achieving it took more than 40 years, during which all attempts at promoting it, until now, met with failure. Further, what weak regulations were in place were dismantled one after the other. In the era of triumphant neoliberalism, states seemed to be satisfied with voluntary codes of conduct to control the acts of the most powerful actors of the globalized economy. But in the meantime, the financial and economic crisis occurred and shook our beliefs. The experience showed that we could not count on transnational corporations to self-regulate. Examples of crimes committed by transnational corporations and remaining unpunished are many, especially when the victims are poor people living in countries of the Global South. Tax avoidance, public policies attacked in international arbitration tribunals... states themselves are more and more victims of the appetite of transnational corporations. The time may have finally come to correct those imbalances within the international system that benefit a minority of investors to the detriment of the majority of the population – in the Global North as in the Global South. While resistance against the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Service Agreement (TiSA) is increasing, here is in any case a proposal that deserves very broad support.

RIGHTS OF PEASANTS

INCREASING SUPPORT IN FAVOR OF THE DECLARATION

The Human Rights Council decided in June to renew the mandate of the intergovernmental working group mandated with the development of a UN Declaration on the rights of peasants! We reproduce below the joint CETIM, Uniterre and l'Autre syndicat press release.

The Human Rights Council has adopted a resolution allowing the continuation of the process toward the adoption of a UN Declaration on the rights of peasants and other people working in rural areas (pastoralists, agricultural workers, nomadic people, fishermen, indigenous people, landless people...). Bolivia is in charge of starting informal consultations with states and civil society and to organize a second session of the intergovernmental working group in November 2014. The adoption of such a Declaration can potentially contribute to better protect the rights and improve the livelihoods of millions of peasants and other people working in rural areas.

As a reminder, this project of Declaration originated from the international peasant movement La Via Campesina, comprised of more than 164 peasant organizations across 73 countries, and that has been working on this issue for more than 10 years. With the support of the CETIM and FIAN International, La Via Campesina has presented this proposal to the Human Rights Council in 2009. [...] In September 2012, the Human Rights Council adopted a resolution tabled by Bolivia, Cuba, Ecuador, and South Africa that established an intergovernmental working group to develop and adopt a Declaration on the rights of peasants and other people working in rural areas. This working group held its first session in July 2013 and completed a first reading of the draft Declaration.

"Switzerland co-sponsored the resolution"

During its 26th session, the Human Rights Council was to examine the report of the first session of the working group and to decide on the renewal of its mandate so that discussions could continue based on a revised draft Declaration. Members states of the Human Rights Council responded positively to the demands of peasants organizations and accepted to renew the mandate of the intergovernmental working group by an overwhelming majority. The resolution tabled by Bolivia was adopted by 29 votes in favor, 13 abstentions, and 5 votes against.

Uniterre, the CETIM, and l'Autre syndicat are extremely pleased with this result as it demonstrates an increasing support for the process (in 2012, the result was 23 in favor, 16 abstentions, and 9 against). We can only regret the uncompromising and nonconstructive attitude of the United States, Great Britain, South Korea, the Czech Republic and Romania, that have voted against the resolution again. However, it is important to note that countries like France, Austria, Germany, Italy and Ireland have decided to abstain although they were previously opposed to the resolution. It is not only the result of an intense advocacy workby peasants organizations of the European Coordination Via Campesina and other civil society organizations but it is also an encouraging sign that now governments look at peasant agriculture with a more positive attitude. During the session, delegations of La Via Campesina have also come to pursue the advocacy work.

We would like to congratulate Switzerland in particular which, without having the right to vote at the Human Rights Council this year, has cosponsored the resolution tabled by Bolivia and has engaged in all the discussions in a very constructive manner! It reflects the good advocacy work done by the civil society and the constructive dialogue engaged with the government.

In the coming months, Via Campesina and its allies will double their efforts to try and convince states that are still reticent to the idea of such a Declaration. A UN Declaration is essential for protecting at the international level the whole peasant agriculture that is responsible for the production of more than 70% of food while having access to barely 25% of the land. By strengthening the rights of those playing a decisive role in the global production of food, this Declaration will reinforce food sovereignty and security for the entire population. There is no gap between the Global North and South, La Via Campesina is a proof of it.

On behalf of La Via Campesina, we would like to thank Bolivia, South Africa, Cuba, and Ecuador for the efforts they have produced to facilitate a constructive work and process on this issue at the Human Rights Council.

Geneva, July 3, 2014.

TRANSNATIONAL CORPORATIONS

THE HUMAN RIGHTS COUNCIL ACTS AGAINST IMPUNITY

Historic: the Human Rights Council decided in June to start negotiations on new binding international norms on the huamn rights responsibilities of transnational corporations! We reproduce below an extract of the press release of the CETIM.

The Human Rights Council just adopted a resolution presented by Ecuador and South Africa that establishes an intergovernmental working group with the mandate of developing an international legally binding instrument to regulate the activities of transnational corporations.

"This is a historic decision that can potentially contribute to end the impunity that transnational corporations too often enjoy for the human rights violations committed, in particular in developing countries, and ensure access to justice for the victims of their activities", said Melik Özden, Director of the CETIM, that has been fighting for many years for new binding norms.

The western countries have attempted till the last minute to oppose this resolution using all means available to pressure other member states of the Human Rights Council. The vote was requested by the US delegation. The resolution was finally adopted by 20 votes in favor, 14 against and 13 abstentions. All western states members of the Human Rights Council voted against the resolution. The great majority of developing countries, including most of African states as well as China, India and Russia, voted in favor.

"We can only regret the non-constructive attitude ow western countries that choose too privilege the interests of transnational corporations over the protection of human rights", added M. Özden. "They have also already announced that they will not participate in the work of the intergovernmental working group."

The working group will held its first session in 2015 to define the elements, the scope, the nature and the form of the future international instrument. "This is only the beginning of the process, but that represents already a big victory for the peoples of the world, and in particular for the victims in developing countries, that have been demanding binding norms to end corporate impunity since many years", highlighted M. Özden.

While TNCs have a number of binding laws, mechanisms and instruments available to defend their interests, only voluntary codes of conducts and soft laws exist to control their impacts on human rights and ensure access to justice for the victims of their activities. "It was time for the Human Rights Council to act to correct this asymmetry in the international system that affects primarily the poorest and weakest countries", said M. Özden.

Since several months hundreds of civil society organizations and social movements in the Global North as in the Global South are mobilizing to support this initiative. A number of them gathered in Geneva for a week of mobilization from 23 to 27 June. Many delegates from the Global South and representatives of the victims came to demand new binding norms to end corporate impunity. The CETIM has been strongly involved together with the Global campaign to dismantle corporate power and stop impunity. The cases of Chevron in Ecuador, Coca Cola in Colombia, Shell in Nigeria, Glencore-Xstrata in the Philippines, and Oceana Gold in El Salvador, among others, have been presented to demonstrate the need for a new international instrument.

"After 40 years of failed attempts, the process is finally launched"

"In 60 years of oil exploitation in the Niger Delta, local communities have known no rest", said Godwin Ojo, of Friends of the Earth Nigeria. "Shell has systematically violated human rights and destroyed the environment as well as the livelihoods of communities but neither international campaigns nor national laws and regulation agencies have been able to end those practices. This level of impunity demonstrate the need for a binding international instrument that forces TNCs to respect human rights." [...]

The journey will still be long but today, and after nearly 40 years of discussions and failed attempts at the United Nations, the process is finally launched! The CETIM would like to congratulate the governments of Ecuador and South Africa for their leadership, as well as all other states that voted in favor of that resolution in spite of the numerous pressures received.

Geneva, June 26, 2014

TRANSNATIONAL CORPORATIONS

THE CASE OF COCA COLA IN COLOMBIA

Wide scale layoffs, workers killed, threatened with death, exiled, displaced or imprisoned on false charges, broad-based implementation of temporary work, proven links with paramilitary groups... The history of Coca Cola in Colombia is that of a permanent attack against human rights, labor rights and trade union rights. The Sinaltrainal union is first in the line of fire and is paying a heavy price.

Sinaltrainal is a long time partner of the CETIM. It requested us to present this case to the Human Rights Council, and that was done through the submission of a written statement in June 2014, which we reprint below in its entirety.[1] It is the fruit of a joint effort by Sinaltrainal and the CETIM. In June we were able to have Sinaltrainal's president, Javier Correa, come to Geneva to present the case of Coca Cola to the Human Rights Council and participate in a week of mobilization against the impunity of transnational corporations. Efforts are now underway so that the Human Rights Council, through its Special Rapporteurs, may intervene with the government of Colombia to end attacks against Sinaltrainal and bring those responsible for the assassinations to justice.

WRITTEN STATEMENT OF THE CETIM TO THE HUMAN RIGHTS COUNCIL

The transnational corporation Coca Cola, settled in Colombia in 1940, through a franchise granted to the Indega S.A. bottling company in the central area, northern coast and north-eastern area of Colombia. The bottling companies under Indega S.A. were bought out in 1995 by Panamco Beverages, Inc., with 25% of its shares held by Coca Cola. In May 2003, Fomento Mexicano S.A. bought Panamco through the Coca Cola Femsa S.A. franchise, with Coca Cola retaining 31,6% of the shares. This is the company that holds the franchise in Colombia, and through which it operates in most Latin American countries.

Through this off-shore legal framework, Coca Cola produces and sells its products keeping ownership of the brands, capital control and a presence on the board of directors of the local enterprises. It also controls all the processes regarding raw materials, supplies, production, distribution and labour policy, avoiding liability for the human rights violations committed.

Coca Cola's activities in Colombia affect the environment and health, among others. But, above all, the history of Coca Cola in Colombia is that of a permanent attack on labor and trade-union rights, including the killing of at least ten trade unionists and links with paramilitary groups.

Working time extensions and pace-of-work increases have allowed the transnational corporation to operate with 5 Coca Cola Femsa bottling plants and close 11 in 2003, laying off hundreds of workers. Sinaltrainal members started a hunger strike in March 2004, in order to try to avoid the wide-scale lay-off of workers. In 2014, with the opening of the gigantic bottling plant that the company is building in Tocancipá, Cundinamarca, new bottling plant closings and lay-offs are planned.

According to company documents known to Sinaltrainal union leaders, such as “Dia D”, “Plan Pandrino” and “el Corrientazo”, Sinaltrainal is considered as an obstacle to reducing labour costs, since it opposes subcontracting, which accounts for some 70% of the over 7,000 workers involved in the company's production. Such subcontracting is carried out through front companies, many of which belong to the transnational corporation itself, among which:

"permanent attacks against labor rights and union rights"

Atencom S.A.S., Imbera, OXXON, FL Colombia S.A.S. They simulate direct working contracts, thus preventing the paying of benefits provided for under the collective labor contract. Sinaltrainal is opposed to the so-called positive human resources plan, which is how the company weakens the trade union (that at present has only 287 affiliated workers), in order to eliminate the collective labor contract and to put illegal pressure on the workers so as to make them give up their work contracts.

Attempts to liquidate the union

On 10 August 2004, the transnational corporation, with the consent of the Ministry of Labour, revoked Sinaltrainal's by-laws, thus hindering membership by outsourced workers. The company tried to persuade judges to declare illegal Sinaltrainal sections in Bogotá, Girardot, Santa Marta, Cali and Villavicencio, among others, but it did not succeed. It has tried this several times, and now we face case N° 0240-2012 in the Bogotá Labor Court, where the Coca Cola Villavicencio bottling plant is again requesting that the union be declared illegal. Coca Cola has also tried – with no success – to get a permit from judiciary to fire labor leaders.

In order to terrorize workers so they either do not join Sinaltrainal or give up such membership, they use the ploy of criminalizing the victims: the corporation administration carries on systematic stigmatization campaigns against Sinaltrainal memberss by publishing images of workers and their families, accusing the union members of vandalism and damage to property, or gathering workers against their will so as to show them “graphics” accusing members of Sinaltrainal of being the guilty ones.

They have caused moral and material damages, putting life and the integrity of several members of Sinaltrainal at stake, because they have been involved in criminal cases charging unionists with slander, calumny, damage to property, conspiracy to commit crime, rebellion and terrorism, among other things, with at least 12 leaders of Sinaltrainal unfairly imprisoned. An arrest warrant was issued against them, and the corporation took advantage of this to give them notice of dismissal for “just cause”. But the company was compelled to rehire them when they were acquitted.

"widespread use of sub-contracting"

In order to hinder freedom of association, the transnational corporation militarizes repression for protesting. As in many other cases, there are the events that happened in the Medellín bottling plant on 17 December 2010, where police entered with armored cars to force removal of subcontracted and Sinaltrainal affiliated workers that refused to move the distribution vehicles. Some individuals, on behalf of Coca Cola and escorted by policemen, went to the workers' homes with dismissal notices for them.

The social, political and armed conflict that continues in Colombia after more than 50 years is used as a pretext by the state and by transnationals such as Coca Cola to carry out an anti-trade union policy, aiming to link trade union activities, workers' claims and protests with actions by outlaw organizations or organizations guilty of violent crimes.

Several members of Sinaltrainal that work for Coca Cola bottling companies have been unjustifiably accused by the Administrative Department of Security (DAS) of being a danger for national security. Coca Cola has been implicated in having links to and supporting the war that the state security forces are carrying on. An example of this is the gathering of people from Coca Cola bottling plants in February 2010 on the military base of Tolemaida. Under the slogan “Guided by Pride” and dressed in military uniforms, they participated in war maneuvre training.

Also worth noting are the 68 workers, members of Sinaltrainal working for Coca Cola bottling plants since 1984, who have receiving death threats, those exiled and displaced with their families that the company refuses to relocate to other cities, workers imprisoned under false charges and the 11 that were killed, five of whom worked in the Carepa Antioquia bottling plant. One of them – Isidro Segundo Gil – was killed inside the premises on 5 December 1996, the day for the company to start negotiations on Sinaltrainal's list of demands. The same killers knocked down the doors of Sinaltrainal headquarters and burnt the facilities.

"eleven workers members of Sinaltrainal murdered"

On 26 December 1996, another Coca Cola worker in Carepa was forcibly removed from the bottling plant by presumed members of the paramilitary forces and was killed near the Chigorodó cemetary (Antioquia). In the case of the murder of Adolfo de Jesús Munera López, a single person was convicted, in the other case the investigations resulted in no convictions.

In 2002, a criminal complaint against Coca Cola, directed at its head office in Atlanta, was filed before a judge of the Court of Miami District, for the company's supposed involvement in the killing of Colombian trade unionists.

"We want justice and want the people to know the truth about what happened in Colombia against Coca Cola workers", said Javier Correa, president of the Colombian Sinaltrainal. The complaint is linked to the killing of Segundo Gil in 1996, not long after Richard Kirby, the North American owner of a bottling plant in Carepa, Antioquia, said that he would do anything necessary to kill and make disappear workers that tried to join trade unions and is said to have made an agreement with gunmen to this end.

The main question, says Terry Collingsworth, a jurist of the International Labor Rights Fund, is: "Why didn't Coca Cola intervene to put an end to the violence?" And he adds: "Coca Cola, like many other companies, controls the product and gathers the profits, but states that it has no liability as regards workers".

Impunity of the crimes committed

The answer by Coca Cola was to file a complaint against workers of Sinaltrainal before the public prosecutor, because they had brought the case to US courts. and on 11 August 2009, the United States judge Thomas K. Kahn Clerck dismissed the case against Coca Cola, declaring he lacked jurisdiction to hear it.

In April 2006, the Peoples Permanent tribunal, Colombia chapter, found Coca Cola and other transnational corporations, among which Nestlé, guilty of violating workers' human rights and of attempting to destroy Sinaltrainal, as well as of the pillaging Colombia's natural resources, in particular water.

Owing to international pressure, the Carter Center in the United States met with representatives of Coca Cola and Sinaltrainal and negotiations with the company started in 2007, but the company was just buying time, seeking to diffuse the pressure of the claim against it and influence the conditions of any future settlement.

Sinaltrainal has addressed the ILO Committee on Freedom of Association with a complaint that has been expanded several times for human rights violations committed by Coca Cola in Colombia, and the recommendations that were issued have not been respected since they are not binding.

Given the harassment that workers of Coca Cola bottling plants are facing, and the danger for their life and physical integrity, the Comisión Interamericana de Derechos Humanos, has ordered precautionary measures for 26 Sinaltrainal members.

On 9 October 2012, the European Center for Constitutional and Human Rights (ECCHR) and the Colectivo de Abogados José Alvear Restrepo (CAJAR) of Colombia, with the support of the Central Unitaria de Trabajadores (CUT), submitted a communication to the Office of the Prosecutor of the International Criminal Court (ICC) in The Hague, requesting the opening of a criminal inquiry with respect to anti-trade union violence in Colombia. Among the cases that were submitted are several of the murders of Sinaltrainal leaders.

In 2008, the ILO conducted a mission in Colombia in order to assess the situation but did not take into account past facts: killings, death threats, attacks, kidnapping attempts, attacks on the union, lay-offs en masse, environmental damage; nor did it accept or consider any evidence of those facts submitted by Sinaltrainal.

"Coca Cola denies any responsibility"

The impunity that continues to benefit Coca Cola for the human, labor and trade union rights violations in Colombia shows the need for a legally binding international instrument making it possible to control activities of transnational corporations and their impacts on human rights as well as to guarantee justice and redress for victims.

Binding Norms

Only a legally binding international instrument for transnational corporations can generate the legal, social and political pressure on them to put an end to their continuous behavior of extermination of trade unions and of increasing precariousness of work, and oblige the state of Colombia to judge and punish those liable for harassment of Colombian trade unionists.

For all the above mentioned reasons, the Europe–Third World Center (CETIM) urges the government of the United States to comply with its duty to make sure that transnational corporations based within its territory do not violate human rights, in particular while carrying on their activities in other countries and, should that be the case, to grant victims access to justice. We appeal in particular to the government of the United States to intervene in order to put an end to the incessant attacks by Coca Cola on human, labor and trade union rights in Colombia, and to assure that victims obtain justice and redress.

The CETIM also requests the Colombian government to

comply with its duty to grant respect and protection of human rights in Colombia, in particular labor and trade union rights and the freedom of peaceful association, and to take, urgently, all necessary measures so as to guarantee the security and physical integrity of Sinaltrainal's trade unionists. We appeal in particular the government of Colombia to put an end to Coca Cola's permanent attacks against human rights in Colombia and to guarantee justice and redress for the victims of its activities.

The CETIM requests the Special Rapporteur on Extrajudicial Summary or Arbitrary Executions and the Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association to monitor this case closely and to pay a visit to Colombia.

Further, the CETIM requests the Human Rights Council to create an intergovernmental working group with the mandate to develop a binding international treaty in order to monitor transnational corporations and to guarantee access to justice for the victims of their activities.

[1] The statement was submitted in three languages (English, French and Spanish). Footnotes and references are not reproduced here for lack of space but are all included in the original document, that is available on our website among others.

IN BRIEF

THE PRESIDENT OF THE CETIM HONORED IN ARGENTINA

On 6 June 2014 in Buenos Aires, Hector Timerman, the Minister of Foreign Affairs of the Republic of Argentina, named the president of the CETIM, Cruz Melchor Eya Nchama, Comendaror de la Orden de Mayo. The award recognizes his commitment to human rights and in particular the support given to the Grandmothers of the Plaza de Mayo at the United Nations in Geneva.

Mr. Eya Nchama decorated with the *Orden de Mayo* on the 6 of June 2014 in Buenos Aires

This organization was created in Argentina in 1977 to find the thousands of children of political opponents stolen by the military dictatorship and to return them to their legitimate families.

At that time, Mr. Eya Nchama was an active member of the International Movement for the Fraternal Union of Races and Peoples, an organization with consultative status at the United Nations. It allowed the Grandmothers of the Plaza de Mayo to make their voices heard at the Commission on Human Rights (predecessor of the Human Rights Council), despite the intimidation and threats of the representatives of the Argentinian military dictatorship, and thus contribute to making known by the international community the reality of the children stolen under the dictatorship in Argentina.

"In this way, he added his name to those that participated from within the United Nations system to the efforts and struggles against the systematic human rights violations in our country," according to Mr. Timerman. The team and the board of the CETIM are proud of this award and can testify to the continuing commitment of Eya Nchama to human rights.

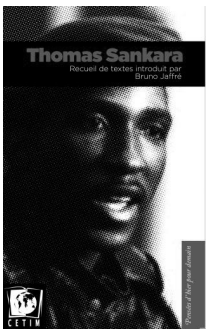
PUBLICATIONS

PENSÉES D'HIER POUR DEMAIN COLLECTION

Africa and Caribbean Serie

This collection of the CETIM offers to the public, the young public in particular, short collections of writings from various actors who, in the past, were at the heart of peoples' struggles for emancipation and whose thinking, today, is still of the greatest importance.

Thomas Sankara
Collected texts introduced by Bruno Jaffré.



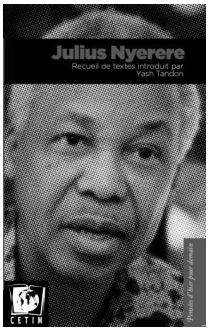
Born in Upper Volta (Burkina Faso) in 1949, Thomas Sankara first embarked on a military carreer, while strivinng to stay in touch with was was the realitiy of life of his people.

He rose to power in his country, changing its name to Burkina Faso ("the country of men of integrity"), in 1983, following an uprising of young officers, in alliance with clandestine Marxist groups. He went on to lead a "democratic and popular" revolution until his assassination in 1987. He put an end to corruption, and experimented with a new model based on autonomous development, with the improvement of his people's living conditions as the major objective. Prematurely interrupted, the revolution nevertheless achieved a number of successes thanks in part to the charisma and vision of Thomas Sankara, but also to the confidence and pride which, through his commitment, he managed to instill in his people.

Internationally recognized for giving voice to the oppressed, Thomas Sankara is one of the best known African revolutionary leaders. He continues to inspire progressive movements in Africa and the rest of the world.

Price: CHF 11.- / € 8,50.-, 96 pages, ISBN: 978-2-88053-104-1, 2014.
Can be ordered from the CETIM. In French only.

Julius Nyerere
Colected texts introduced by Yash Tandon



Julius Nyerere, the "Father of the Tanzanian Nation" was born in 1922. As the head of the Tanganyika African National Union (TANU), he peacefully led the country to independence in 1961. Prime Minister, then President of the new born Tanzania, affectionately titled as the mwalimu (the teacher), he seemed, in many ways, to be a humble "philosopher king". Far from any imported dogmatism, he sought to devise a socialism based on African realities (Ujamaa). Concerned with the influence of foreign aid on national independence, he advocated principles of equality, unity, justice and self-sufficiency for the development of his country. His key word was "self-reliance".

At the international level, Julius Nyerere, as a determined Panafricanist, became a major figure of the Non-Aligned Movement. In 1987, he headed the South Commission to design a fair economic system for the countries of the Global South, and then the South Centre to better organize them.

He died in 1999 from leukaemia and remains a popular figure in Africa. His idea of an African socialism continues to inspire, among others, many young hip-hop artists in Tanzania.

Price: CHF 11.- / € 8,50.-, 96 pages, ISBN : 978-2-88053-106-5,
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