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# CETIM

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

## EDITORIAL

The process of peasant rights within the UN has entered a new phase. The Intergovernmental Working Group, meeting last May for its third session, continued its second reading of the draft declaration on the rights of peasants and other persons working in rural areas.

Some articles continued to present problems, but the atmosphere was constructive and there was active participation by States. Representatives of organizations of peasants (led by La Vía Campesina), fishermen, nomads, indigenous peoples and agricultural workers were present in large numbers and made their demands heard. They emphasized the urgent need for the Declaration to be adopted and demanded that the pace of negotiation be stepped up.

As for the negotiations on binding standards for transnational corporations (TNCs), these are still

at the stage of discussion of the legally binding outlines of the future international treaty. However, substantive issues have been addressed: obligations of States hosting TNC headquarters to regulate their activities in third countries, joint and several liability between parent companies and their value chain, establishment of an international tribunal on TNCs, etc.

A week of rallies saw more than 100 representatives of civil society organizations members of the Global Campaign to Dismantle Corporate Power and Stop Impunity, descend on Geneva to present their claims in many different ways. There are still deep divisions between the States (mainly from the South) that are in favour of this process and those that are against (especially in the North).

You will also find in this issue a presentation of the new CETIM publication on the Tricontinental Conference and reading notes on two books on TNCs published by third parties.

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## PEASANT'S RIGHTS

# FURTHER PROGRESS AT THE THIRD SESSION OF THE WORKING GROUP ON PEASANTS' RIGHTS

*The third session of the Intergovernmental Working Group on the Rights of Peasants and Other People Working in Rural Areas was held in May in Geneva. The CETIM was present with a major delegation of peasants from La Via Campesina (LVC) and other organizations of fishers, shepherds, nomads, foresters, indigenous peoples and social organizations.*

The adoption by the United Nations of a declaration on the rights of peasants and other people working in rural areas is a historic LVC project, impelled by the necessity of protecting peasants' rights from the ravages of the neo-liberal system. The CETIM and FIAN International, as organizations committed to the defense of people fighting for their rights, are supporting and aiding this campaign. The goal is to have the United Nations adopt international norms protecting these actors essential to food sovereignty, the fight against climate change and biodiversity conservation.

In September 2012, the Human Rights Council set up an intergovernmental working group mandated to draft and adopt a declaration on the rights of peasants and other people working in rural areas.

Since first two sessions of the Working Group (July 2013 and February 2015), the project has made considerable progress. The draft declaration revised in February 2015 effectively in-



The representatives of peasants and other persons working in rural areas, in Geneva.

cluded the majority of the proposals formulated by the peasants and other persons working in rural areas. The third session was held under the direction of the chair-rapporteur of the Working Group, the new Bolivian ambassador, Nardi Suxo Iturre, replacing Angélica Navarro Llano.

The session opened by a panel discussion by Sue Longley (International Union of Food and Agricultural Workers), Elizabeth Mpofu (LVC Secretary General), Sofia Monsalve (FIAN International) and Sangeeta Shashikant (Third World Network). The panel tackled several basic points of the declaration: social security for peasants, the right to seed and to biodiversity and states' obligations.

The discussions dealt with the blocks of five articles. Contrary what had happened at the first two sessions, countries that had been hesitant about the process (in particular the countries of the European Union) participated constructively. This new attitude can be attributed primarily to the mobilization work of the peasants and the support movements in these countries.

Melik Özden (CETIM), Elizabeth Mpofu (Secretary General of La Via Campesina) and Ibrahim Coulibaly (ROPPA).





The parallel conference panel co-organized by the CETIM at the United Nations.

Nonetheless, fundamental divergences persist among some of the EU countries. It should be noted that, in the absence of a common European position, the Netherlands delegate, in his capacity of coordinator for the EU and representing the EU hard line, felt free to insist on several points. For example, the delegate continued to refuse the word peasants, in his opinion an inadequate term. Further, he expressed reservations on the articles of the declaration that "ignore the reality of the market economy". In other words, for this delegate, the articles calling into question free trade, the interests of the European powers and their economic and political elites and their corporations should be amended or removed. The EU in particular affirmed that it would under no condition accept Articles 19 through 24, to wit the new rights sought by the peasants, such as the right to land, to means of production, to seeds, to biodiversity. The United States, for their part, continued to oppose the project of a declaration, questioning its real necessity.

The representatives of millions peasants, grouped within a single joint delegation of LVC, ROPPA, FIMARC and other food producers (such as fishers and nomads) provided an attentive and assiduous participation throughout the session. In all, more than 60 oral interventions were made in the course of the negotiations. Owing to these interventions, the peasant delegates were able to make their voices and their demands heard. The accent was on six aspects in particular that constitute – for the peasants – the backbone of the declaration: the right to land, to seeds, to biodiversity, to means of production, states' obligations and access to justice for the victims. A parallel conference devoted to these themes, organized by the CETIM, FIAN International and LVC, was held at mid-week, followed by a public conference in town in Geneva. As has been the case since the beginning of the process, the LVC delegation was supported by the CETIM's expertise, in both logistics and in overall preparation of the session.

In the course of the coming month, the Working Group's chair-rapporteur, after consultations, will propose an updated version of the draft declaration, based on discussions held during the third session. This new version will be presented to the Working Group's fourth session in 2017.

## PRESENTATION OF THE REPORT OF THE WORKING GROUP'S CHAIR-RAPPORTEUR

*The Bolivian Ambassador Nardi Suxo Iturre presented her report on the third session of the Intergovernmental Working Group on the Rights of Peasants and Other People Working in Rural Areas to the thirty-third session of the Human Rights council in September 2016.*

A delegation from La Via Campesina, backed by the CETIM, took advantage of this event to come to Geneva and reaffirm its firm support for the process. In the course of the presentation of the report, the African peasant leader Ndiakhate Fall addressed the Council's plenary in the name of the CETIM. N. Fall emphasized that the African peasant organizations wish that the essential content of the draft be maintained (notably the recognition of the right to land, to water, to seeds, to biodiversity, to adequate income, to food sovereignty) and that some of its articles should be reinforced, in particular the right to participate in decision-making and the right to information, cultural rights and traditional knowledge as well as the article on the right to land. This article must, imperatively, include agrarian reform, the prohibition of latifundia (vast holdings), the recognition of the social function of land and states' extraterritorial obligations.



Ndiakhate Fall, Elizabeth Mpofu, Evo Morales, Diego Montón, Sandra Moreno.

Also within the context of the thirty-third Human Rights Council session, the president of Bolivia, Evo Morales Ayma, one of the founders of La Via Campesina, came to Geneva to address the Council, insisting on the importance of adopting an instrument that will protect the rights of peasants. On this occasion, the four representatives of La Via Campesina had the opportunity of meeting with the Bolivian president to discuss the future of this historic process.

## TRANSNATIONAL CORPORATIONS



# TOWARD HOLDING TRANSNATIONAL CORPORATIONS ACCOUNTABLE

*The content of a legally binding treaty on transnational corporations (TNCs) was discussed during the second session of the United Nations Intergovernmental Working Group.*

The second session of the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights was held in October 2016 in Geneva. The first session had been held in July 2015. This working group, created by a Human Rights Council resolution in 2014, was chaired by the Ecuadorian ambassador María Fernanda Espinosa.

The discussions were organized around six themes (and several sub-themes) in the course of which some thirty panelists (politicians, lawyers, international organization members, academicians and representatives of both civil society and business) took the floor. They spoke on the content, the scope and the implementation mechanism of the future treaty. The accent was on the human rights repercussions and legal problems posed by TNCs, the extraterritorial obligations of states, the responsibilities and obligations of TNCs, the scope of the future treaty's implementation, and access to justice and to compensation for the victims.

Numerous social movements (notably peasants and trade unions) and organizations from affected communities, members of the Global Campaign to Dismantle the Power of Transnational Corporations and End Impunity (of which the CETIM is a member) were present to support the process, make their demands heard and formulate concrete proposals. Besides the six written statements (in three languages), a total of more than 40 oral interventions were made by the CETIM and other Global Campaign organization members. The content of these

interventions referred to the concrete proposals submitted by the Global Campaign to the Working Group, in the form of written statements (see the summary on page 6). These statements constitute the guidelines of the Global Campaign, which demands their inclusion in the treaty-drafting process in order that it reflect the needs of the peoples who daily suffer from the actions of TNCs.

Many state delegations also participated in the session and its discussions. The European Union, which last year had tried to derail the process and had left the room, was among the participants this time.

**" Making the rights of TNC victims a central part of the treaty by assuring them an avenue of effective redress at both the national and international level. "**

Yet, the failings of these guidelines and their voluntary character have long been discussed and denounced by the Global Campaign and other civil society organizations as well as by several countries of the Global South.

Whether or not to bring all business enterprises (particularly small- and medium-size businesses) under the

## TRANSNATIONAL CORPORATIONS



scope of the treaty was also discussed. As national small- and medium-size businesses already come under national legislation, the speakers (states and civil society), with rare exceptions, defended the idea that only TNCs and the elements of their value chain having transnational scope, hence benefiting from the absence of legislation, should come under the purview of the treaty. In fact, only TNCs benefit from special statutes allowing them to escape from legal action in the event of problems and only they can force states into litigation before private arbitration tribunals.

The obligation of governments to hold TNCs responsible in the event of human rights violations, irrespective of the place where they are committed (covered by the notion of extraterritoriality) was also one of the main subjects under discussion.

Cases of impunity and communities affected by TNCs' activities were presented to illustrate the necessity of a binding treaty. Existing international conventions, covering the obligations of private actors in various areas (e.g. fight against tobacco, environmental standards, law of the sea) were mentioned as an example for the continuation of negotiations.

The Global Campaign also insisted on the necessity of making the rights of TNC victims a central part of the treaty by assuring them an avenue of effective redress at both the national and international level.

Thus, the concrete proposals presented during these two sessions of the Working Group will facilitate the orientation of the future treaty whose first draft should be presented by the Working Group chair at the third session in 2017.

The CETIM and members of the Global Campaign were also very much present outside the United Nations building during a week of mobilization organized on the occasion the Working Group's second session (see beside).



## A WEEK OF MOBILIZATION AGAINST THE IMPUNITY OF MULTINATIONALS

*The second session of the Working Group on Transnational Corporations was held from 24 to 28 October at the United Nations in Geneva. In this context and in support of the victims of violations committed by multinationals, the CETIM co-organized with the Global Campaign two days of information and awareness-raising at the Place des Nations as well as a demonstration in town. Conferences were also held, attended by many.*

Information stands run by militants engaged in the struggle against multinationals' impunity occupied the Place des Nations for two days. Workshops open to the public offered subjects such as the extractive industry, the right to water, the architecture of impunity and global distribution chains. A public conference, "In the name of profit, anything goes?" filled the hall on 26 October at Geneva's Maison des Associations. The panelists presented an overview of the European and United Nations initiatives for multinational regulation. A demonstration in town drew many representatives of the Global Campaign. Starting from the Place Bel-Air, they marched to the Eaux-Vives neighborhood. By this action, the participants gave visibility to the work of the CETIM and its partners in their fight against multinationals' impunity.



## TRANSNATIONAL CORPORATIONS

# DECLARATIONS AT THE UNITED NATIONS

*In collaboration with the Global Campaign to Dismantle Corporate Power and Stop Impunity, the CETIM submitted six written statements on the content, the scope and the implementation mechanism of the future treaty to the United Nations Intergovernmental Working Group on Transnationals Corporations (TNCs) meeting in October 2016 in Geneva. The following are several extracts.*

Extraterritorial Obligations	Transnational Corporations Obligations	Court	Shared Responsibility
<p>It is crucial that states draft national laws dealing with the violations committed by the private sector. Access to an international court or to national courts should be provided for when cooperation mechanisms demonstrate relaxed in order to assure the primacy of human rights and to put an end to the impunity of TNCs and their directors.</p>	<p>It has long been considered that transnational corporations and legal persons in general could not be held responsible for human rights violations. States were considered the only subjects of international law, hence this responsibility was incumbent solely on them. Most bilateral and multilateral trade and investment agreements place TNCs above states and above peoples and citizens. Correcting the defects of international law should be the main objective of the new binding international instrument.</p>	<p>The main obstacle to putting an end to human rights violations committed by TNCs remains the absence of international control mechanisms and implementation. Such a court would allow victims of violations to have access to an independent international judicial instance to seek and obtain, as from a state, reparation from a TNC or from an international (financial) institution and would make it possible to recognize the civil and criminal responsibility of these entities for these violations.</p>	<p>The future treaty must require states to provide in their national legislation for the principle of shared responsibility of the parent corporation and its value chain, as well as the civil and criminal responsibility of both TNCs and their directors. This shared and joint responsibility must apply to both the crimes and infractions committed by the TNCs and those committed by their affiliates and subcontractors.</p>
<b>International Financial Institutions</b>			<b>Regarding the Rights of Persons Affected</b>
<p>The international (financial) institutions such as the World Bank, the International Monetary Fund and the World Trade Organization must respect international human rights and basic freedoms. The future treaty should include provisions for recognizing the responsibilities of these institutions in the event of human rights violations in order to end a system of private arbitration and reaffirm the supremacy of human rights and basic freedoms as well as state sovereignty over the rights of TNCs and investors.</p>			<p>In the perspective of the treaty aiming to regulate the activity of TNCs, it is necessary that the moral and legitimate authority of the persons affected be recognized. A uniform level of protection and reparation must be offered to the persons affected by the activity of these companies. It is thus essential that a chapter of the treaty be dedicated to the concept of affected person, as well as to the various means related to the right to reparation.</p>



Victor Barbo / Friends of the Earth International

## PUBLICATIONS

**READER'S NOTES**

Without information, democracy cannot exist. We are being confronted with the emergence of new forms of power – economic

powers – that largely escape traditional democratic mechanisms and counter-powers (including the media): transnational corporations. They are having an increasing influence on the world, on our lives and our societies, but we – ordinary citizens, civil society and even public authorities – often lack the relevant information that is required to prompt a genuine democratic discussion on their power, formulate

adequate strategies and regulations, and imagine alternative solutions.

*Democratic Information in an Age of Corporate Power*, the latest issue of the Passerelle series, explores the many issues around the production and dissemination of "democratic information" on corporations, for the benefit of citizens and society at large. The articles in this collection outline the many

obstacles that hinder the production of such information (trade secrets, the repression of whistleblowers, media concentration, to name just a few) and illustrate the limitations of transparency mechanisms and reporting obligations that transnational corporations are currently subjected to – i.e., tax systems, lobbying, public subsidies and product labelling.

To order a paper copy (10 euro): [animation@coredem.info](mailto:animation@coredem.info)  
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**Gilles Lhuilier, *Le droit transnational*, Ed. Dalloz, 2016**

to transnational law.

If its second part (the practice and theory of transnational law), by virtue of its theoretical and technical character, is intended mostly for legal professionals, its first part, on the other hand (the rules of transnational law), comport numerous examples and case studies, and can be read with ease and interest by the general public.

By presenting the rules of transnational private law, the author focuses in particular on the phenomena of off-shoring and sub-contracting, which are inherent in the

organization of contemporary world capital. He cites in this regard the example of the NIKE corporation whose entire production is sub-contracted on a world-wide scale, through a systematic use of subcontracting. This model became current in the 1980s for the major textile corporations. The author demonstrates that these modes of organization are in reality functions of choice of law, the sub-contractors being located in countries where labor laws are the "least costly".

The author devotes considerable and interesting pages to criticism of "public-private partnerships" (PPPs) promoted by the United Nations

since the 1990s, which resulted in the "Global Compact" of 2000, then the 2011 "Guiding Principle on Business and Human Rights", which exhort TNCs to respect human rights on a "voluntary" basis. He also evokes the proposal of the Ecuadorian government, backed by many NGOs (including the CETIM), regarding the drafting of a binding treaty to oblige TNCs to respect human rights and to compensate the victims for harm they have suffered.

This book, comprising some 500 pages, whose author is a professor of private international law specialized in the globalization of law and of international affairs, is the first book in French devoted

## PUBLICATION



Price: CHF 15 / € 13  
 Co-publication CETIM and Syllepse  
 978-2849505-359  
 2016 192 pages

and political world order, conceived in justice and equality and dedicated to solidarity.

The world has changed since the Tricontinental, but the questions asked and the strategies deployed retain their relevance. Knowledge of this period, its hopes, its struggles and its errors is indispensable for today's struggles.

## LA TRICONTINENTALE. LES PEUPLES DU TIERS-MONDE À L'ASSAUT DU CIEL

On 3 January 1966, the Conference in Solidarity with the Peoples of Asia, Africa and Latin America, better known as the Tricontinental, opened in Havana. The Cuban capital was the destination of the representatives of all the Third World's liberation movements and organizations opposing "colonialism, neo-colonialism and imperialism".

VIPs such as the Chilean Salvador Allende and the Guinean Amilcar Cabral were also there. Some of the delegates had left their hideouts in the bush for a few days to take part in this unprecedented gathering. For others, to participate in this meeting of the wretched of the earth while avoiding arrest meant a circuitous trip of several thousands of kilometers.

On the agenda of discussions was solidarity with the Vietnamese people and with other struggles of national liberation. The ambition was also to coordinate the struggles of these three continents. Never had such a gathering aroused such hope for some and such fear for others.

The Tricontinental made decisions and decided to create a tricontinental organization in order to carry them out.

It participated in the political socialization of an entire young generation throughout the whole world. In the streets of Paris and Algiers, from the bush of Angola to the campuses of New York, the echo of the Tricontinental was heard for several decades. It brought the hope of a new economic

## MY DONATION

By making a donation, I am helping to protect peasants. Indispensable actors, they feed the world and preserve biodiversity. However, their rights are systematically violated. Thank you for supporting CETIM's work in favor of the workers and protectors of the earth.

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