

Ideas and Proposals
for advancing work on the

International Peoples Treaty on the Control of Transnational Corporations

Base Document for Global Consultation

**DISMANTLE
CORPORATE
POWER**
AND STOP IMPUNITY!



December 2014

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International Peoples Treaty on the

Base Document for Global Consultation

INTRODUCTION

I

Social movements, indigenous people, trade unionists, experts, activists and communities affected by the practices of transnational corporations have participated in the elaboration of this INTERNATIONAL PEOPLES TREATY ON THE CONTROL OF TRANSNATIONAL CORPORATIONS.

The main objective of this initiative is to subordinate the juridical-political architecture that sustains the power of transnational corporations to human rights norms and rules.

This Treaty was not designed according to the classical juridical logic of international law. Numerous institutional, social and trade union sources, as well as opinion tribunals and the experience of affected communities have confirmed the persistence of systematic human rights violations committed by transnational corporations in a regime of permissiveness, illegality and generalized impunity.

The Treaty aims to bring together the accumulated experience of various struggles against transnational corporations, and against States and financial institutions acting in complicity with TNCs. It is a collective effort.

The proposals of social movements and communities must take precedence over legal debates. They must also be able to interpret and propose international human rights norms "from below".

The debate between technical and political aspects is directly pertinent to work to characterise control over transnational corporations. The technical language and specialised knowledge of experts masks the political nature of their interventions and their efforts to represent hegemonic interests, and tends to displace or distort the participation of social organisations, movements and communities.

A simplification of reality based on technical capacities, skills and processes, together with control over knowledge must not mark the Treaty's future. Alternative proposals on controlling transnational corporations are not to be discussed only by law firms or international affairs experts. Fundamentally, they must be proposals from below.

To advance towards a Treaty to control transnational corporations, we must engage in confrontation and base our work in a very different kind of regulatory logic. This logic is reflected in the context, the background and the justification of the Peoples Treaty.

There are obvious difficulties in establishing precise obligations and harmonizing the numerous existing relevant norms in one single treaty: labour law; human rights law; humanitarian law; environmental law; consumer rights; corporate rights; the recognition of transnational corporations' obligation to respect international human rights norms, and their civil and criminal liability in violations of these rights; the civil and criminal liability of their directors; the primacy of human rights and public interest over economic interests; the obligation of transnational corporations to pay their suppliers and subcontractors reasonable prices for their products and services; the creation of a World Court and regulations on extraterritorial obligations...touch upon a wide range of issues and the juridical logic underlying them varies significantly.

While these are not insurmountable difficulties from a legal-technical point of view, political will and a shift in the balance of power in favour of the peoples are needed to overcome them. The current international context demands that we decide between one of two possible road maps or paths: either we advance with a radically different framework in which the peoples and communities pressure for a binding framework to control transnational corporations, or we continue to deal with the condescending voluntarism of transnational corporations and bet on instruments like Corporate Social Responsibility, the Global Compact and the Ruggie framework, among others.

Control of Transnational Corporations

II

The title we have adopted for this document is quite important, as it contains a series of "Ideas and Proposals for advancing work on the INTERNATIONAL PEOPLES TREATY ON THE CONTROL OF TRANSNATIONAL CORPORATIONS (TNCs)". It is set of rules for regulating transnational power and, as its final provision states, it "is a treaty of treaties or a framework treaty. Regulations must be further developed for many of its provisions in order to guarantee their full consolidation. This mandate coexists with obligations and rights that are effective immediately.

The development of regulations should not be left entirely in the hands of States and international institutions. Organisations, social movements and affected communities are both actors and subjects of the processes linked to the elaboration of the International Peoples' Treaty."

Furthermore, the final paragraph of the Preamble affirms, "We proclaim the International Peoples Treaty and call on the UN General Assembly to adopt it as a common standard for all States and institutions in relation to transnational corporations and urge that the rights, responsibilities and proposals recognized in this Treaty be transformed into new legislation, mechanisms and institutions at the national, regional and international level and that their implementation be promoted among all peoples and States".

In order to confront the architecture of impunity in favour of transnational corporations, we must build an architecture of human rights in favour of the social majorities.

III

In regards to this proposal, we still need to elaborate a strategy for implementing the Peoples Treaty, which involves different stages: the development of a code to control transnational corporations, which takes into account experience in the past with the Norms on the Responsibility of Transnational Corporations and Other Business Enterprises, approved by the Sub-commission for the Promotion and Protection of Human Rights in 2003 and later discarded by the United Nations; the elaboration of regulations for the various bodies mentioned, giving special attention to the World Court on Transnational Corporations and Human Rights; regulations on economic, corporate and ecological crimes; and, finally, various proposals in relation to States and economic-financial institutions.

IV

Finally, the Peoples Treaty contains a section on Alternatives that will serve as a basis to indicate the framing and construction of new relations between peoples and nature and lead to the creation of new alternative economies and politics that put people and the planet - not corporations - first.

Ideas and Proposals for advancing work on the International Peoples Treaty on the Control of Transnational Corporations

A CONTEXT AND BACKGROUND

The international community has avoided up until now its obligation to create specific binding legal norms for transnational corporations (TNCs) within the framework of international human rights law, despite the seriousness of the human rights violations that transnational corporations commit in total impunity.

In the 1970s, one of the priorities of the Commission on Transnational Corporations of the United Nations' Economic and Social Council (ECOSOC) was to investigate the activities of TNCs and to create an international code of conduct in order to regulate their activities. The draft code was debated for a decade, yet it never saw the light of day, mainly due to opposition from rich countries and transnational economic power.

In 1974, the Commission on Transnational Corporations and the Centre for Transnational Corporations were created by the United Nations. In 1976, the Organisation for Economic Co-operation and Development's Guidelines for Multinational Enterprises were published and in 1977, the International Labour Organisation launched its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies. Both the Commission and the Centre for Transnational Corporations were dismantled by the UN in 1994.

In 1998, the UN Sub-commission for the Promotion and Protection of Human Rights adopted a resolution to create a Working Group to assess the activities of TNCs and business practices in relation to the enjoyment of the economic, social and cultural rights and the right to development. The resolution noted that one of the obstacles to exercising those rights is the concentration of economic and political power in the hands of large transnational corporations.

The Working Group elaborated a draft set of norms for transnational corporations, called the Norms on the Responsibility of Transnational Corporations and Other Business Enterprises of the United Nations. The Sub-commission approved the draft in 2003.

Transnational corporations reacted strongly against the Sub-commission's draft through a document signed by the International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE) - institutions that represent the interests of major corporations from around the world. The ICC and IOE's document asserted that the Sub-Commission's draft undermined human rights and the rights and legitimate interests of private enterprises. They also argued that human rights obligations are to be met by the States and not by private actors, and they exhorted the UN Commission for Human Rights to reject the Draft approved by the Sub-commission.

In 2005, the Human Rights Commission finally gave into pressure from transnational economic power and completely ignored the draft of norms. Instead, it approved a resolution that invited the UN Secretary-General to appoint a special rapporteur on this issue of business and human rights. The role of special rapporteur was assumed by John Ruggie who officially became the Secretary General's Special Representative on the issue of human rights, transnational corporations and other businesses.

Ruggie is the author of the *Guiding Principles on Business and Human Rights: Implementing the United Nations*, adopted by consensus by the Human Rights Commission in 2011. In July 2012, a report published by the UN Secretary General was presented to the Human Rights Council (UNHRC) in its September 2012 session. The title of the report was "Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights." The report states that the Guiding Principles do not create any "new international law obligations", thereby confirming the principles' non-binding character.

In 2013, a Declaration introduced to the UNHRC by Government of Ecuador and signed by the African Group, the group of Arab Countries, Pakistan, Kyrgyzstan, Sri Lanka, Bolivia, Cuba, Nicaragua, Venezuela and Peru expressed the concerns of countries from the Global South regarding the flagrant human rights violations caused by TNCs' operations, which have gravely affected local communities and peoples, including different indigenous peoples. This declaration affirms that the Guiding Principles will not have any real impact unless a framework based on legally binding instruments that regulate and sanction the illegal actions of transnational corporations is created.

B JUSTIFICATION

Over the past 40 years, transnational corporations and the States that support them - both host states and home states - have built what can be called an 'architecture of impunity,' which can be understood as an extensive and binding legal framework made up of trade and investment treaties and agreements including resolutions of international institutions like the World Trade Organisation, the World Bank and the International Monetary Fund, and investor-state dispute settlement mechanisms. This architecture confers tremendous economic, legal and political power on transnational corporations.

International Human Rights Law, on the other hand, is the result of the struggles of millions of people and thousands of organisations all around the world. It is within this framework of international norms that the International Peoples Treaty is rooted. Building and analysing international law "from below", from the point of view of social movements and of resistance struggles of men and women - and not from the economic and political elite's State-centred vision - is the methodology for working on this Treaty. Numerous international norms have arisen from the pressure and mobilisations of local, national and global movements, and not only from the centrality of power.

The Peoples Treaty is a radical alternative proposal. Its objectives are, on one hand, to propose control mechanisms to halt human rights violations committed by transnational corporations and, on the other, offer a framework for exchanges and the building of alliances between communities and social movements in order to reclaim public space currently occupied by corporate power.

The Treaty is a regulatory project that draws its meaning from concrete examples of resistance and alternatives to corporate power. As such, it is different from other international efforts that tend to limit the focus of their action to concrete legal alternatives. This proposal is a work-in-progress. One of its objectives is to strengthen global actors who are fighting for change while reclaiming their legitimate space.

The consolidation of this process is crucial not only for the establishment of legal mechanisms to control major corporations, but also for the strengthening of the Treaty's second purpose, which is to reinforce social movements' demand for the respect of the commons and their opposition to the expansion of transnational corporations into sectors that should be controlled by communities and citizens. The treaty process will unite voices demanding binding rules on transnational corporations and the approval of norms - by governments - that exclude the private sector from areas that are key to human dignity and the survival of people and the planet.

Thus, the re-appropriation and re-elaboration of classic juridical instruments represent a challenge to the dominant paradigm of the legal-political order. The meaning of the right of indigenous peoples to free prior and informed consent, regulated by international human rights law, is redefined and reconstructed through assembly processes held for ongoing consultation. The people are constituent subjects of international law and can propose and enact new rights.

The International Peoples Treaty will be a treaty of the present and the future, based on the responsibility and ethics of present and future generations, in the obligation to protect the Earth and its peoples.

C PREAMBLE

THE PEOPLES AND THE NATIONS:

BEARING IN MIND THAT in several resolutions of the UN General Assembly, such as Nº 32/130, 43/113, 43/114 and 43/125, as well as the Declaration on Human Rights from the Tehran (1969) and Vienna (1993) Summits, the United Nations stresses that all fundamental human rights and freedoms are indivisible and interrelated. As such, the enforcement, promotion and protection of civil, political, economic, social, cultural and environmental rights must be given equal attention and urgent consideration.

Affirming that human rights violations are systematic practices used by transnational corporations in their global expansion.

Affirming the moral and legitimate authority of the people, as key protagonists in the opposition to this state of affairs, to create new norms and rules that reinforce the primacy of human rights, and their right to demand that States apply them in all areas of political, economic, social, environmental and cultural activity.

Affirming that effective respect of human rights by transnational corporations, States and international economic-financial institutions is linked to the respect for the people while taking into account the Universal Declaration of the Rights of Peoples of 1976.

Affirming that all peoples have the right to self-determination, to freely establish their own political, economic, social and cultural fate, and to freely exercise their right to autonomous, harmonious, sustainable, self-directed and inclusive development of their own territory, along with their right to live well, and to have access to public services and the commons.

Reiterating that sovereign equality between States, between peoples and between men and women, together with an equitable distribution of wealth and respect for nature constitute the principles upon which a new international political, economic and legal proposal must be built within the framework of international solidarity between peoples and individuals.

Reiterating that for fundamental human rights to be respected, a new democratic and egalitarian world is needed. The United Nations Charter, the Universal Declaration of Human Rights, the International Covenants on Human Rights and their respective Protocols, together with human rights treaties - general or specific ones -, international custom and general principles of law constitute the basic pillars for the construction of a new international legal system.

Maintaining that it is crucial to re-found the texts that constitute the normative human rights framework and that a new constituent process that collects the demands of men and women and of social movements, that protects new rights related to peace, solidarity, the good life, nature, food sovereignty, democracy and the State, international migration, sexual health and women's reproductive health, the rights of indigenous peoples and minorities is needed.

Recognising affected communities' visibility and sustained resistance to the violations of human rights committed by transnational corporations and the impunity with which they operate - facts that have been substantively documented in reports from social movements, NGOs and observatories, and through the testimonies of affected communities' members and representatives, and United Nations rapporteurs - and judged in several opinion tribunals, including the Permanent People's Tribunal, and sanctioned in various national and international courts.

Observing the growing and systematic impunity with which TNCs operate and pursue their profits, which results in threats and attacks on human rights defenders, trade unionists, indigenous peoples, Afro-descendants, peasant farmers, children, and other affected groups, while TNCs continue to accumulate extraordinary profits.

Recognising that in recent years, transnational corporations and the States that support them - both states of origin and host states - have strengthened a new *lex mercatoria* made up of a set of multilateral, regional and bilateral trade and investment contracts, conventions, treaties and norms which include the regulations, structural adjustment policies and loans conditions of institutions like the World Trade Organisation, the International Monetary Fund and the World Bank, as well as investor-to-state dispute settlement (ISDS) mechanisms, which confer enormous political, economic and legal power on transnational corporations;

Outraged with the normative asymmetry that exists between international human rights law and international corporate law that protects the rights of transnational corporations in an imperative and coercive way.

Witnessing that Corporate Social Responsibility and *ad hoc* systems of control over transnational corporations including the International Labour Organisation's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies, the Organisation for Economic Cooperation and Development's Guidelines for Multinational Enterprises, and the United Nations' Global Compact and Guiding Principles are paradigmatic expressions of soft law, and that the set of codes of conduct and voluntary, unilateral and unenforceable agreements that constitute them are leading to the atrophy, colonization and corporate capture of international institutions.

Recognizing the absence of effective regulation on the territorial and extraterritorial obligations of States in relation to transnational corporations' responsibilities at the national, regional and international level.

Recognising that home states protect the interests of their transnational corporations and put them before human rights, and that host states do not guarantee the rights of the peoples and favour the interests of transnational corporations by legislating in their favour or by ratifying free trade and investment agreements.

Re-affirming the body of international laws and norms on human rights as a starting point, and building on the opinion of international experts, communities in resistance, affected peoples and social movements, this International Peoples Treaty asserts the primacy of human rights in the construction of economic, political, social and cultural paradigms.

Expressing deep concern with the complicity between States and transnational corporations and the subordination of States to the abuses of major corporations that limit the protection of peoples' rights and access to justice and the victims' right to compensation;

Noting the urgent need to take decisive collective action to dismantle the power of transnational corporations and end corporate impunity;

We proclaim the International Peoples Treaty and call on the UN General Assembly to adopt it as a common standard for all States and institutions in relation to transnational corporations and urge that the rights, responsibilities and proposals recognized in this Treaty be transformed into new legislation, mechanisms and institutions at the national, regional and international level and that their implementation be promoted among all peoples and States.

D LEGAL DIMENSION

1 THE SCOPE OF THE TREATY

1.1 Transnational Corporations (TNCs)

Transnational corporations are individual entities, or groups of economic entities, that conduct activities in more than one country, regardless of the legal framework they adopt in the country of origin and the country where they carry out their activity, and that are considered both as an individual and a group. A transnational corporation is any company that is made up of a parent company established according to the laws of the country in which it was created, which sets up operations in other countries through foreign direct investment or other economic-financial practices, without creating a local company, or through subsidiaries registered as local companies in accordance with the host country's legislation.

Like all legal persons, transnational corporations have the obligation to respect the rule of law and must face international sanctions if they do not, both at the national and international level, as confirmed through the analysis of existing international instruments, including those relevant to human rights. The recognition of the obligations of private individuals - including legal persons - in relation to human rights and their responsibility when a violation of these rights occurs is enshrined in Article 29 of the Universal Declaration of Human Rights and entrenched in the doctrine and numerous international conventions, especially those related to the protection of the environment.

1.2 International Economic-Financial Institutions

Free trade and investment agreements, treaties and norms, together with the provisions, structural adjustment policies and conditioned loans approved by international economic-financial institutions strengthen the power of transnational corporations.

As international legal entities, these institutions - and the members of their decision-making bodies (single-person or collegiate) - are legally liable for the violations of civil, political, social, economic, cultural and environment rights that they commit, or help to commit, either through their actions or by omission.

The International Monetary Fund and the World Bank are specialised organisms of the United Nations system and as such, their decisions must be adjusted to ensure that they respect the Charter of the United Nations. However, like the World Trade Organisation (WTO) and regional banks, they are at the service of transnational capital¹.

The WTO does not only regulate global trade of goods and services, it imposes intellectual property norms and restrictions on national regulations in many other policy areas. As such, it constitutes an institutional mechanism of the deregulatory neoliberal model. This model weakens the function of public authorities in the State, as well as the State's capacity to negotiate externally and the peoples' right to self-determination.

1.3 States

States must develop, implement and comply with international civil, political, social, economic, cultural and environmental rights treaties, agreements and rules which will be more powerful than international rules pertaining to trade, investment, finance, taxation and security to international human rights norms.

The fact that a human rights violation is committed by private actors does not exempt the State from its obligation to guarantee, protect and promote these rights, and to provide affected communities with access to compensation through adequate judicial means.

¹ The International Monetary Fund and World Bank's ways of functioning and decision-making processes, as well as the guidelines they impose on economic policy, structural adjustment policies and foreign debt are in conflict with the international human rights system. The privatisation of public services, cutbacks in social spending, increases in the tariffs on public services, labour reforms, among others, clash directly with civil, political, social, economic, cultural and environmental rights.

2 GENERAL PRINCIPLES

First section. Human rights, States and transnational corporations

- 2.1 All human beings, wherever they are, are born free and equal in dignity and are entitled, without discrimination, to all human rights and freedoms - both individually and collectively - which are inherent to their condition as human beings.
- 2.2 All citizens, and especially the most vulnerable groups, must have effective participation in decisions that affect their lives and their surroundings.
- 2.3 All States have the obligation to promote, respect, protect and guarantee human rights, including civil, political, social, economic, cultural and environmental rights, both within their territories and extra-territorially.
- 2.4 Human rights and the set of norms on their implementation, are universal, indivisible and interdependent.
- 2.5 International human rights law is structured around the Universal Declaration of Human Rights, together with the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and its Optional Protocols - which all together make up the International Bill of Human Rights - as well as declarations, guidelines, observations and principles adopted at the international level.
- 2.6 The system of sources of international law has been brought together in Article 38 of the Statute of the International Court of Justice and is composed of international conventions (general or particular); international custom; the general principles of law, recognised by judicial systems around the world as both the main sources and creators of judicial norms; and the judicial decisions and teachings of the most highly qualified publicists, recognised as auxiliary sources and references for interpreting existing norms. In international law, custom has the same legal value as international treaties and customary international law is binding and in effect. The International Bill of Human Rights is part of this law and is an actual peremptory norm *jus cogens* that embodies and protects the essential interests of the international community. According to Article 53 of the Vienna Convention on the Law of Treaties, it also establishes that no derogation from a peremptory norm is permitted and this kind of norm can only be modified by another norm of the same character.
- 2.7 Transnational corporations and the international economic-financial institutions must respect the sovereignty of the people and of States, which is coherent with respect for the right to development, buen vivir and the commons.
- 2.8 Transnational corporations and States must respect and comply with the conventions, recommendations and declarations that are part of international human rights law.

Second section. Human rights and trade and investment norms

- 2.9 International human rights law - including international labour law and international environmental law - is hierarchically superior to national and international trade and investment norms, due to its binding nature and as *erga omnes* obligations - that is, as obligations to the international community as a whole and as an obligation of all members of the international community.
- 2.10 Free trade and investment treaties and agreements give priority to the privileges and profits of investors and transnational corporations over the peoples' rights and international human rights law. However, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and other international human and environmental rights treaties and conventions qualify as peremptory norms and general international law norms. Therefore, invoking the pre-eminence of these hierarchically superior norms results in the nullity of free trade and investment treaties and agreements.
- 2.11 The legal principles linked to free trade and investment norms - national treatment, most favourable nation, most favourable treatment, fair and equal treatment, the investment concept, the concept of indirect expropriation, limitations on imposing performance requirements, retroactive application of the treaty, free availability of foreign currencies, umbrella clause, stabilisation clause and survival clauses, etc. - must be subordinate to the host state's national norms and to international human rights norms. Submitting an investor-State dispute to an arbitration body must not be allowed under any circumstances, as it undermines the protection of State sovereignty and the rights of individuals and peoples that are already guaranteed under international human rights law.

- 2.12 The international, universal uses and principles – like those agreed upon by the parties (*pacta sunt servanda*), the principles of equality, good faith, abuse of law, unjust enrichment, the fundamental change of circumstances modifies the parties' obligations (*rebus sic stantibus*), force majeure and state of necessity – must be interpreted in a combined and complementary manner that favours the rights of the social majority. Legal guarantees for investments must not be interpreted as being the equivalent of the *pacta sunt servanda* principle, but rather as the requirement to respect all of the principles mentioned. The international principle of the primacy of the victims must prevail over trade and investment rules.²
- 2.13 Social, labour and environmental clauses incorporated into trade and investment treaties and agreements are more declarative provisions than mandatory ones. These clauses are subordinate to the protection of trade and investment. Their regulatory weight must be changed to make them hierarchically superior to the principles related to trade and investment norms. Trade and investment rules that are incompatible with the full respect of all human rights must be eliminated.

Third section. States and international entities: general regulatory framework

- 2.14 States must respect, defend, promote and guarantee the implementation of international law uniformly and abandon their attempts to avoid obligations stipulated in human rights treaties.
- 2.15 State responsibility extends to the acts and omissions of non-state actors that are following orders or acting under the guidance or control of the State.
- 2.16 States must guarantee and protect communities and individuals affected by the practices and operations of TNCs that violate civil, political, social, economic, cultural and environmental rights, and guarantee the affected communities' access to justice and right to compensation.
- 2.17 States are often liable for failing to guarantee the rights of individuals and 'the people,' as their actions favour transnational corporations. Host states can be denounced - for necessary involvement – in human rights violations committed by transnational corporations if they have legislated in their favour or ratified free trade and investment agreements that facilitate the activities of transnational corporations. They could also be denounced for complicity for failing to prevent the violations from happening. The obligation to respect international human rights law - including international labour law and international environmental law - applies to free trade zones, special economic zones and "maquilas".
- 2.18 States where transnational corporations' headquarters are based may be charged for criminal involvement and liability in human rights violations when they pressure or try to force countries to sign trade and investment agreements that do not protect the rights of citizens and peoples, or if they do not incorporate complaint mechanisms when the implementation of the treaties generate such violations.
- 2.19 According to international human rights law - including international labour law and international environmental law, the direct and indirect relations of States where transnational corporations' headquarters are located oblige them to ensure that their political and economic practices conducted within and beyond their jurisdiction do not violate civil, political, social, economic, cultural and environmental rights and to guarantee that corporations do not contribute to human rights violations in other countries.
- 2.20 According to the Maastricht Principles on the Extraterritorial Obligation of States in the area of Economic, Social and Cultural Rights, States have the obligation to respect, protect and fulfil civil, political, social, economic, cultural and environmental rights, both within their territories and extraterritorially. Failure to meet this obligation may compromise a State's international liability. In the absence of the recognition of these extraterritorial obligations, human rights cannot assume their rightful role as the legal base for regulating globalisation and guaranteeing the universal protection of human rights.
- 2.21 State mechanisms to support the internationalisation of corporations - including export credit agencies and banks, trade promotion, trade diplomacy, financial instruments, instruments of international aid policy, direct logistical support and foreign expansion - must be subordinate to the international human rights protection system. Through their departments responsible for international cooperation and human rights, States must establish guidelines for programs on the internationalisation of corporations that guarantee respect for human rights.

² According to the current regulatory model, any advantage conceded to national investors and companies must be extended to foreign investors, that is, national investors and companies cannot receive any State assistance, as it would mean going against the principle of national treatment. However, this principle does not apply to migrants and refugees who are subject to highly restrictive migration and refugee laws. The proposal must be to protect all people, regardless of where they live, and put them before the interests of transnational corporations.

- 2.22 Universal and collective goods and services - such as food, health, education, culture, water, nature, etc. - must not be privatised, directly or covertly. In cases where they are privatised, States will be obliged to establish participatory and socially controlled assessments of the impacts of privatisation on human rights, and impose conditions like availability, access - physical, economic and to information - and quality that the States must respect and guarantee when initiating privatisation processes.
- 2.23 States must prohibit the entry and establishment of investments that clash directly with human rights - the arms industry, nuclear energy, among others - and limit practices that, though legal, generate liability for their negative impacts on the development of the peoples and the good life of the communities. Channels for social participation should be created in order to establish new parameters for the concepts of development, trade and investment.
- 2.24 States must not seek to resolve economic and/or financial crises by eliminating, suspending, or limiting progress towards achieving the full realisation of economic, social and cultural rights. Once all other possible alternative proposals have been exhausted, it may limit progress - as opposed to adopting regression - through specific, temporary, proportionate and non-discriminatory measures. The essence of economic, social and cultural rights must be respected in all cases. General arguments on the need for fiscal discipline and reductions in public spending cannot be used to justify regression.
- 2.25 States and international institutions' humanitarian aid policies must be aimed at saving lives, relieving suffering and maintaining human dignity. The economic interests of States, these international institutions, corporations or all of the above must not be allowed to influence the design or condition humanitarian aid policies.
- 2.26 In order to guarantee freedom of speech and the right to objective and impartial information, States must prohibit the establishment of corporate media monopolies and the formation of groups and inter-company agreements, etc. between media corporations and other industrial, commercial and financial sectors. The State must guarantee the genuine plurality of service providers.³
- 2.27 The practice of off-shoring - the transferral of tasks to affiliated firms located abroad or indirectly, through the purchasing of intermediate goods and services from foreign suppliers with which they have no relations of dependency - demands the adoption of international labour standards that will: prohibit layoffs motivated by the desire to increase profits through outsourcing; prohibit the closure and relocation of profitable work centres; give workers representatives the power to suspend restructuring plans until they obtain the information they need to assess a corporation's economic and financial situation; give workers the right to veto measures that eliminate jobs and off-shoring plans; impose tax levies on goods re-imported from relocated businesses; demand the reimbursement of State aid received by companies that have relocated offshore; and extend TNCs' shared liability to their affiliates, suppliers, subcontractors and licensees.⁴
- 2.28 The practices of banks and other financial corporations geared towards speculating on and intervening in the commodities market - that is, on raw materials and agricultural products - must be prohibited.
- 2.29 Tax havens and speculation on sovereign debt must be prohibited. Also, public debt that is declared illegitimate - according to international human rights law - will be cancelled, and a substantial amount of the remaining debt of highly indebted countries will be eliminated.

³ Although there appears to be a certain level of diversity in the ownership and control over media, they are highly concentrated in the hands of oligopolies, or even monopolies. An oligopoly is a situation where a market is dominated by a reduced number of retailers or service providers. Since there are few participants in this type of market, they may establish agreements among themselves to create a situation where everyone benefits and to avoid competition, even if this is detrimental to consumers or users. A monopoly is a privileged legal situation in which there is only one producer with significant market power, who is the only one in a given industry to have a certain, distinct product, good, resource or service.

⁴ From a labour perspective, changes to the business unit are affecting workers' rights. Outsourcing and organisational decentralisation are being accompanied by regulatory changes to workers' protections. National laws are incapable of controlling the economic activity of corporations that operate in a globalized framework characterized by the de-territorialisation of their operations and the divying up of operations into several regulatory spheres.

In this context, the emergence of Global Framework Agreements represents an improvement in the evolution of codes of conduct, as there is a shift from the codes' unilateral character towards participation and collective bargaining. Unilateral and voluntary codes of conduct are being replaced by mechanisms of dialogue and trade union participation. They have the force of a contract between signatory parties, but they do not have an impact on regulations. There are proposals to strengthen the enforceability of global framework agreements and, in cases involving a failure to comply, to permit individuals to file a complaint with the legal authority of the host State against the TNC in question. If this fails, the case can then be presented to the legal authority of the home state where the agreement between parties was signed.

- 2.30 “Revolving doors” (the free circulation of top-level executives and political representatives between the public and private sector), the capture of public policy decision-making processes (cooperation on regulations, joint elaboration of legislation, standard rules or draft bills), bribery and other forms of corruption must be prohibited.
- 2.31 Governments and parliaments will consult - online or in public hearings - companies, interest groups, social movements, trade unions, NGOs, indigenous peoples, among others, on decisions that will affect their interests.
- 2.32 Genetically modified organisms and all attempts to patent the various forms of life that exist in nature must be prohibited. In relation to findings that are fundamental to health, laws that give preference to the public domain must be established.
- 2.33 The complex network of banks, corporations, investors groups, agencies, consultants, commission agents and other actors that operate in the financial markets must be regulated. Norms on the transparency of financial practices; capital controls and financial services; control over hedge funds; fraud and fiscal evasion; rating agencies; executive compensation; and banking secrecy; and sanctions on illicit capital flows must be approved. Rules on taxing capital flows and progressive taxation on income, assets and corporate profits must be elaborated.
- 2.34 A transition process towards a new mechanism for regulating international trade that will substitute the World Trade Organisation must be launched. The General Agreement on the Trade of Services, agreements that lead to the elimination of small farm operations and peasant farmers, and the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) must urgently be repealed, and the International Union for the Protection of New Varieties of Plants must be rejected by member states. The latter are particularly beneficial to transnational corporations and negatively affect the right to health, access to pharmaceutical products and the rights and traditional knowledge of indigenous peoples, among other elements.

3 LEGAL PREMISES AND PROPOSALS ON TRANSNATIONAL CORPORATIONS

- 3.1 National and international legal norms are binding for natural and legal persons.
- 3.2 Transnational corporations are legal entities and as such, they are both subjects and objects of the law. Therefore, international human rights law - including international labour law and international environmental law - are binding for transnational corporations.
- 3.3 The directors of transnational corporations are natural persons and they are also bound by prevailing legal standards. Current tendencies, especially those in civil and criminal law, as reflected in national legislations, recognise the liability of legal entities. They also recognise the principle of double indictment – that is, the legal entity, on one hand, and the individuals (company directors) who made the incriminating decision, on the other, can be indicted.
- 3.4 There is a shared liability between transnational corporations and their subsidiaries (de jure or de facto) and their chain of suppliers, licensees and subcontractors. As they are connected to the TNC through their economic practices, they share liability for violations of civil, political, social, economic, cultural and environmental rights. This shared responsibility of major transnational corporations with their subsidiaries, suppliers, subcontractors and licensees is a key issue, as it is common practice for TNCs to externalise costs, risks and thus the liabilities – which are assumed almost entirely by their subsidiaries, suppliers, sub-contractors and licensees – while they continue to earn exorbitant profits.⁵

4 THE SPECIFIC OBLIGATIONS OF TRANSNATIONAL CORPORATIONS

- 4.1 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must recognise the principles of the primacy of human rights and public interest over private economic interests.
- 4.2 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect civil, political, social, economic, cultural and environmental rights and fulfil their tax obligations so that States may guarantee the right to development, adequate food, food sovereignty, health, a healthy environment, housing, education and land.

⁵ Shared liability is based on an objective guarantee obligation. Shared liability - incurred by action or omission - is generated for all those who contributed, in one way or another, to causing the harm or damage in question. The victim who has right to compensation can file a complaint against all parties involved at the same time, or one-by-one, or only some of them, and if they are bankrupt, charges will be laid against the one that is responsible and still solvent. There is several national and international laws that touch upon and regulate the levels of liability - in labour, environmental, financial, criminal issues - in causing harm.

- 4.3 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees will not commit acts that constitute war crimes, crimes against humanity, genocide, torture, forced disappearances, forced or compulsory labour, hostage taking, displacements, summary or arbitrary executions and violations of international humanitarian law, nor will they act as accomplices, collaborators, instigators, backers or accessories to such acts.
- 4.4 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect all international and national norms that prohibit discrimination on the basis of race, colour, sex, religion, political opinion, nationality, social origin, social status, belonging to an indigenous or Afro-descendant people, disability, age or any other condition that is not related to the requirements for doing one's job and must use affirmative action, when foreseen in the law and/or regulations.
- 4.5 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect women's living conditions, must not exploit them or contribute to the perpetuation of violence against them. They must not make false allegations against women community leaders, nor collaborate in the destruction of decent living conditions for women, within their cultural sphere, including their right to their language and transcendental references. They must not obstruct the political participation of women leaders in public affairs and the community. Also, intensive export industries - textiles, flowers, agribusiness, maquilas, etc. - perpetuate wage gaps, the sexual division of labour, the invisibility and devaluation of reproductive and care work.
- 4.6 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must respect the rights of women as regulated by international human rights law, with special reference to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the declarations and final documents from the world conferences on women in Mexico, Copenhagen, Nairobi and Beijing; the World Conference on Human Rights in Vienna; the International Conference on Population and Development in Cairo, and the different conventions in which women share situations of discrimination with other social groups.
- 4.7 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must not use State armed or security forces, or hire private militia. In relation to the hiring of private security services, these services must be subject to strict regulations that guarantee the proper execution of their functions, clearly define the conditions for the use of force and ensure adequate supervision by authorities. Security services must not be allowed to operate outside of the site of the corporation they work for.
- 4.8 TNCs, their subsidiaries (de jure or de facto) and their suppliers, subcontractors and licensees must abstain from all forms of collaboration (economic, financial or of services) with other entities, institutions or people who commit human rights violations.
- 4.9 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must engage in fair practices in the area of commercialisation and marketing and adopt all reasonable provisions to guarantee the safety and quality of the products and services they offer. This includes respecting the precautionary principle and other international and national norms with the same objective. Furthermore, they must not produce, sell or market products that are dangerous or potentially dangerous to people, animals or nature, like transgenic crops and seeds.
- 4.10 In all of the countries they operate in, TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must conduct their activities in accordance with the laws, regulations, administrative practices and national policies on environmental protection, while complying with international agreements, principles, norms, commitments and objectives relative to, respectively, the environment and human rights, public health and safety, as well as bioethics and the precautionary principle. A regulatory framework on minimum standards that is universal, mandatory and coercive in nature and prohibits environmental dumping is required.
- 4.11 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees that are responsible for environmental liabilities - such as water, soil and air pollution caused by the exploration of hydrocarbon fields and mining, and the destruction of ecosystems through the construction of large hydroelectric dams, and the emission of greenhouse gases above permitted levels - must provide compensation for the peoples and communities affected by the damage caused and, where appropriate, repair the damages by restoring the environment to the state it was in prior to the invention.
- 4.12 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must abstain from resorting to using forced or child labour. They must provide a safe and healthy work environment. They must pay a wage that guarantees a decent life to men and women workers and guarantee trade union freedom, the effective recognition of collective bargaining and the right to strike. A universal, mandatory and coercive regulatory framework that establishes minimum standards and prohibits social and wage dumping is needed.

- 4.13 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees that develop any of the crimes described in section 5 of this Treaty in free trade zones, special economic zones and maquilas must be punished, as they must respect human rights regulated by national and international laws.
- 4.14 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect the rights of migrant workers regulated by international human rights law, especially the Migration for Employment Convention (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Migration for Employment Recommendation (No. 86) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 4.15 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must pay reasonable prices to their suppliers and subcontractors, which allow them to pay decent wages that allow them to have decent work. The royalties TNCs receive from licensees must remain at reasonable levels.
- 4.16 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect the indigenous and Afro-descendant peoples' territorial rights and their ownership over natural resources and genetic wealth that are both renewable and non-renewable resources and are found underground or on the surface.
- 4.17 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must respect ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples. The right to consultation and participation are inalienable, non-delegable and binding for the building of relations with States, corporations and other actors. In accordance with Article 27 of the Vienna Convention on the Law of Treaties, one cannot invoke internal law provisions to justify failure to comply with a treaty.⁶
- 4.18 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must comply with legal and regulatory tax provisions in all the countries they operate in and contribute to host countries' public finances by paying their tax liabilities on time.
- 4.19 In the countries where transnational corporations carry out any kind of commercial and/or financial activity, they must publicly identify their subsidiaries, suppliers, subcontractors and licensees, as well as the legal framework of their participation in other companies or legally registered entities.
- 4.20 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must subordinate their activities to the policies and plans in the area of intellectual property, science and technology of the countries they operate in and international human rights norms.
- 4.21 TNCs, their subsidiaries (de jure or de facto), suppliers, subcontractors and licensees must rapidly, effectively and adequately compensate individuals, entities and communities that have been harmed by their practices, providing compensation, restitution, retribution and rehabilitation for all harm suffered or all goods that have been depleted, that are at least equivalent to all damage caused.

5 INTERNATIONAL CRIMES

The practices of transnational corporations, or the individuals that act in their name, and States and international economic-financial institutions, as well as the natural persons responsible for them, that commit acts or act as accomplices, collaborators, instigators, backers or accessories and that commit grave violations of civil, political, social, economic, cultural and environmental rights may be classified as international economic, corporate or ecological crimes. A crime is understood to be international when the criminal conduct affects the collective security interests of the international community or violates legal property recognized as fundamental by the international community. The World Court, regulated by article 6.5 of this Treaty, will be responsible for judging these international crimes.

5.1 Economic crimes against humanity

The practices of natural or legal persons that violate economic, social and cultural rights regulated by the United Nations Charter, the International Covenant on Economic, Social and Cultural Rights and other United Nations resolutions and declarations qualified

⁶ According to Article 27 of the Vienna Convention on the Law of Treaties on internal law and observance of treaties, "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

as *ius cogens* will be treated as economic crimes against humanity when circumstances defined by article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide⁷ and the destruction of political groups and ethnocide.

5.2 International corporate crimes

The practices of TNCs, or of individuals that act in their name, that may qualify as corruption, bribery, organised crime, human trafficking, embezzlement of funds, money laundering, tax fraud, insider trading, market manipulation, organised fraud against clients, small shareholders and public shareholders; falsification of financial statements, among others, will be classified as international corporate crimes.

5.3 International ecological crimes

Ecological distribution conflicts generated by the practices of natural or legal persons include the grabbing of land and territories, privatisation, the contamination of water sources and the destruction of the entire water cycle, the devastation of forests and biodiversity, biopiracy, climate change, and the massive contamination of seas and the atmosphere, and ecocide, among others. The distribution of the impacts and the load of pollution and encroachment are deposited in the territories and determine the configuration of natural devastation that results from them. This is directly linked to the rights of nature and, in turn, human rights and the possibility of enjoying a healthy environment. This final premise is fundamental for guaranteeing the remaining rights enshrined in national and international norms.

6 BODIES

- 6.1 States must guarantee compliance with international human rights law within their jurisdictions and provide effective legal protection to people, putting them before TNCs. They must also guarantee the impartial, rigorous and efficient functioning of their courts of justice, by providing political and economic support.
- 6.2 States must approve internal norms that regulate extraterritorial responsibility for the practices of transnational corporations, their subsidiaries (*de jure* or *de facto*), suppliers, subcontractors and licensees, and that allow the communities affected by such practices to bring charges against them in courts in the home state.
- 6.3 Under universal jurisdiction, States must commence proceedings on and receive denunciations of genocide, crimes against humanity and other crimes regulated by the Rome Statutes that are committed by natural and legal persons on their territory or extraterritorially.
- 6.4 A Public Centre for the Control of Transnational Corporations responsible for analysing, investigating and inspecting the practices of transnational corporations must be created. Government officials, social movements, trade unions and indigenous peoples will participate in the management of the Centre. Its primary functions will be to investigate denunciations submitted by groups and organisations affected by the practices of the transnationals. If the denunciations submitted are accompanied by evidence indicating their veracity, the burden of proof will be reversed - that is, transnational corporations will be obliged to prove that they did not violate civil, political, social, economic, cultural and environmental rights.
- 6.5 A World Court on Transnational Corporations and Human Rights must be established. It must be complementary to universal, regional and national mechanisms and guarantee that affected individuals and communities have access to an independent international legal body in order to obtain justice for violations of civil, political, social, economic, cultural and environmental rights. The Court would be responsible for receiving, investigating and judging complaints against transnational corporations, States and international economic-financial institutions for human rights violations and for civil and criminal liability in international economic, corporate and ecological crimes.⁸

⁷ Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide states, "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

⁸ The International Tribunal for the Law of the Sea and the proposals commissioned by the Swiss Initiative - a project led by Mary Robinson and supported by the governments of Switzerland, Norway and Austria to commemorate the 60th anniversary of the Universal Declaration of Human Rights - and elaborated by the United Nations Special Rapporteur on Human Rights, Martin Scheinin, and Special Rapporteur on Torture, Manfred Nowak, serve as a reference on how a World Court on Transnational Corporations and Human Rights could function..

- 6.6 The World Court on Transnational Corporations and Human Rights will have its own autonomous way of organising and functioning and will be totally independent of the executive bodies of the United Nations and the respective States.
- 6.7 TNCs, States and international economic-financial institutions are civilly and criminally liable for crimes and infractions they themselves commit - directly or in complicity, collaboration, instigation, or acting as backers or an accessory - as well as those committed by their directors, managers and members of bodies (single-person or collegiate) who make the decisions. According to the principle of double indictment, both the legal entity and the individuals who made the incriminating decision can be indicted for violations for which they are liable. Sanctions for legal persons may be in the form of fines, public dissemination of the ruling, confiscation of the instruments used in the crime or its product, or the dissolution of the corporation in question, among others.
- 6.8 The rulings and sanctions of the World Court on Transnational Corporations and Human Rights will be enforceable and binding⁹
- 6.9 The committees for the Human Rights Covenants and other quasi-judicial and international jurisdictions should accept, as part of their mandate, the possibility of directly receiving complaints against transnational corporations and international economic-financial institutions and submit them to the World Court on Transnational Corporations.
- 6.10 Disputes between transnational corporations and States cannot be brought before arbitration tribunals. It is national courts that have jurisdiction over such conflicts. Regional and international courts - with the exception of the trade and investment arbitration tribunals - will act as complementary bodies once the internal resources of the State involved in each case have been exhausted, or when there is excessive delay in judging the case.
- 6.11 Trade relations between States and peoples must be based on the sovereignty of States and people, equality, solidarity, reciprocity and complementarity. They must satisfy the needs of the peoples at all times. Trade-related conflicts between States must be resolved through diplomacy, mediation and, when appropriate, arbitration based on fair and balanced rules.

7 FINAL PROVISION

The International Peoples Treaty is a treaty of treaties or a framework treaty. For many of its provisions, regulations must be developed further in order to guarantee their full consolidation; this mandate coexists with obligations and rights that are effective immediately.

The development of regulations of this Treaty should not be left entirely in the hands of States and international institutions. Organisations, social movements and affected communities are both actors and subjects of the processes linked to the elaboration of the International Peoples' Treaty.

The list of specific criminal offences, international crimes, and the rights recognised in this text is not exhaustive, but rather enumerative and by way of example. The other existing rights and crimes are implicitly recognised by and incorporated into the Treaty.

⁹ The sentences and enforceable and binding sanctions will be established by using the WTO dispute settlement system (DSS) as a model. The DDS is considered to be the most effective international jurisdictional mechanism that exists. The fact that its sanctions are coercive makes it, in practice, a real international court, just like the resolutions of the ICSID and other arbitration tribunals.

E ALTERNATIVES DIMENSION

INTRODUCTION

Orientation and scope of Alternatives

The International Peoples Treaty is understood both as a framework and a process towards putting in place binding juridical human rights obligations and instruments to end the impunity of Transnational Corporations (TNCs). The alternative regulatory framework must necessarily go together with the strengthening of communities and social movements in order to reclaim the peoples sovereignty and the public space now occupied by corporate power, as stated in the justification for the Treaty. It is therefore essential to reflect the scope of the alternatives, the transitional measures and the resistances being forged on the ground in the midst of resistance to corporate power and domination in almost all spheres of life and society.

The dimension dealing with alternatives and resistances in the Peoples Treaty is complementary to the juridical dimension, and is likewise built from the sustained and accumulated experiences of multiple struggles against transnational corporations in all parts of the world, especially in the Global South. Faced with capitalist logic, alternatives and resistances seek to build new spaces and practices, not governed by the maximum profit possible, but by cooperation and solidarity. They ultimately assert multiple options that question the current corporate neoliberal paradigm, and reveal that this paradigm is incompatible with social justice and all processes that make life on the planet possible.

The International Peoples Treaty as a whole is constructed as an alternative to the corporate power regime which is hegemonic in this era. It emerges from a commitment to profound system change – economic, political, legal, social and cultural. Only in this way will it be possible to advance towards the profound juridical changes that are needed to place human rights as the cornerstone of regulatory systems, and displace TNCs from their central role in the system.

Social movements, peasants, trade unionists, women, indigenous peoples, environmentalists, migrants, critical scholars, activists and affected communities who are in resistance to Transnational Corporations articulate alternatives in many varied spheres. Their struggles and practices are generating diverse alternatives on the ground. They are reclaiming and building a world which the Zapatistas call “a world where there are many worlds”.

The building of alternatives is very challenging and is taking place in a deeply hostile environment of multiple crises and runaway corporate power. TNCs have captured democratic decision making and are rendering sovereignty meaningless. At the same time, through the political power they hold, TNCs have the legislative and executive capacity of (often complicit) governments at their disposal, which enables them to prioritize corporate privileges and profits over their obligations to uphold the human rights of people.

However in many spheres, local alternatives – still works in progress – are being linked up on regional and global levels and linkages and cross-fertilisation are also being made across various movements and networks. Despite this, there is a great need to intensify these alliances for transformative action and to achieve significant convergence of counter-power to current TNC domination.

This dimension on alternatives and resistances presents some examples regarding the principles and values that must govern alternative models, while at the same time setting out transition proposals. Theories and practices have been built drawing from intense confrontations with corporate power, in the areas of Democracy and Corporate capture, Food, Water, Energy, Land, Territories and the Commons, Work, Investment and Trade, Finance and Economy. This is only the beginning of a work that will be completed in the future, and which aims at including a wide range of approaches that, in some cases, might reflect diverging nuances with regards to the role of the State, for example. These are presented in some cases as they are formulated by the movements involved in drafting the Treaty, and in others as experiences and practices of concrete struggles and alternatives.

The structure of the Alternatives dimension is divided into three sections. The first section sets out the principles and values that should govern a radical and participatory democracy. It also presents reflections and proposals to undermine the power of corporations, and reclaim the public space putting it at the service of social majorities and nature. The second section addresses experiences of resistances, alternatives and transitional measures to protect and prioritize collective rights and the commons. Finally, the third section provides an overview of alternative economic paradigms, such as economies for life, solidarity economies and feminist economies.

It is anticipated that many existing alternatives in several other fields will be documented in the Peoples Treaty consultation process. Both in the juridical as well as the alternatives and resistances dimension, the Treaty process is an open invitation to contribute to and participate in the struggles that aim to reclaim peoples sovereignty, dismantle corporate power, end impunity, and create the conditions to ensure the commons of humanity.

1 Reclaiming Democracy and Re-signifying the Public Interest: Principles and Proposals for Transition

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1.1 Ending corporate capture of political decision-making*

The political influence of large corporations, both on national level and in international institutions and negotiation forums, has reached levels where it deeply undermines the democratic process. This is the combined result of the massive investments multinational corporations make in order to capture political decisions - and of privileged access and influence granted to them by governments (and decision-makers more generally). In the US and many other countries, election results are increasingly impacted by corporate elites spending enormous amounts on campaign finance donations and advertising.(1) Current corporate investments in lobbying means that industry lobbyists are massively outnumbering and marginalising other interests in the political process. Governments provide big business with privileged access to decision-making, for instance by allowing advisory groups to be dominated by industry lobbyists. The revolving door spins faster and faster in many countries, enabling TNC's top executives to take high-responsibility positions in public office and vice versa, when former government officials start working as advisors and consultants for TNCs after their mandate expires. Corporate interests are thus given priority and more power. Parliamentarians with side-jobs on corporate boards is another example of the dangerous blurring of the border between politics and business.(2)

Social movements around the world are demanding an end to corporate capture, through a range of measures that help curb excessive industry lobbying influence. Strong transparency rules, for instance, enable public scrutiny, help expose illegitimate influence, spark public debate, and strengthen momentum for change. Ambitious ethics rules can help close the channels of corporate influence. Here, there follows an overview of examples of such measures.

Corporate money out of political elections: strict limits should be introduced on the role of private money in elections, preventing that corporations and wealthy elites control election outcomes and 'buy' elected officials (expecting favours in return for donations made). The alternative is public funding for election campaigns.

Mandatory lobbying transparency: high-quality mandatory lobby transparency systems are needed to enable citizens to see who is influencing decision making, on which issues, on whose behalf, and with what budgets. Registration and disclosure should become an obligation for all lobbyists (including law firms and think tanks).

Pro-active lobbying transparency: in addition to lobby transparency registers (through which lobbyists report on their activities), governments should pro-actively report on who has been consulted. This should include publishing (online) of lists of all meetings with lobbyists. As part of freedom of information (FOI) laws and the citizens' right-to-know, governments should provide citizens with far-reaching access to documents, including minutes of meetings with lobbyists.

Safeguards against corporate capture of advisory groups: Governments must deliver full transparency regarding the membership of advisory groups and introduce effective safeguards against corporate capture of these bodies.

Closing the revolving door between the governments and industry lobbies: clear and effective limits must be introduced to avoid conflicts of interest when ministers and governments officials move into new jobs, including posts that may involve lobbying. A cooling-off period of at least three years is needed for ministers and for high-level officials (i.e. those officials with policy-making responsibilities) moving into industry jobs that involve potential conflicts of interest. Equally, strict 'reverse revolving door' rules are needed to prevent the appointment of officials who may have conflicts of interest.

Effective conflicts of interest rules for government officials: in addition to stricter 'post-employment' rules, governments need strict rules to prevent a wider range of possible conflicts of interest, particularly regarding gifts and hospitality offered by lobbyists.

Independent monitoring and enforcement: to secure credible enforcement, independent assessment is needed, for instance by an independent ethics committee. Such committees should be given the mandate to investigate and report publicly on conflicts of interest.

Strong transparency and ethics rules for Parliaments to prevent conflicts of interest: parliaments need strong transparency and ethics rules, for instance to ensure that MPs do not receive money, gifts, or hospitality from industries they are regulating. MPs should not have a financial interest in the industry affected by the legislation at stake.

Ethics rules for lobbyists: strict ethics rules for lobbyists are needed to prevent unethical lobbying, with external oversight and effective sanctions. Rules should prevent lobbyists from exercising undue influence via offering money, gifts, or inappropriate hospitality to decision makers.

Protecting democratic processes from dirty industries - lessons from the UN's Tobacco Treaty: The UN's 2005 Framework Convention of Tobacco Control (FCTC) provides an important precedent for limiting the political influence of harmful industries. As a response to decades of deceptive lobbying by the tobacco industry against regulation of their deadly product, the FCTC includes strong principles designed to limit interactions between decision-makers and the tobacco industry.⁽³⁾ Article 5.3 in the World Health Organisation (WHO) Convention and the accompanying guidelines says that decision-makers "should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products." The guidelines state that "where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently". This points to an approach of only consulting with the tobacco industry in formal hearings (when this is unavoidable as part of preparing new legislation), with full online disclosure (minutes). Governments should be reminded of their obligation to fully implement these rules. ⁽⁴⁾

Moreover, the logic behind the FCTC rules for contacts with tobacco lobbyists could equally well be applied to many other sectors of industry. The fossil fuel industry, for instance, has a long track record of misleading lobbying and propaganda to delay, water down or block regulation that is needed to prevent catastrophic climate change. Their efforts, including front groups and other deceptive lobbying, have proven a serious hurdle for securing the much-needed ambitious climate policies. There is a fundamental and irreconcilable conflict between the commercial interest of these industries in continuously digging and pumping up fossil fuels and the need to keep these in the ground to stabilise the climate. There is a strong case for a new approach that drastically limits the role of fossil fuel lobbying in national and global decision-making on climate change policies.⁽⁵⁾

Citizens' democracy versus corporate capture: beyond the types of rules outlined above, far broader changes in its decision-making practices are needed in order to prevent privileged access and policy capture by industry lobby groups. Rolling back undue industry influence requires a broader democratisation that empowers the engagement of citizens' groups in decision making.

* Corporate Europe Observatory (CEO)

Endnotes:

1 Public Citizen is one many US groups campaigning for strict limits on money in politics: <http://www.citizen.org>

2 For examples of these problems in EU capital Brussels, see the website of Corporate Europe Observatory (CEO) www.corporateeurope.org or the book "Bursting the Brussels bubble: the battle to expose corporate lobbying at the heart of the EU" (2010), published by the ALTER-EU coalition <http://www.alter-eu.org/sites/default/files/documents/bursting-the-brussels-bubble.pdf>

3 See for instance this flyer by Corporate Accountability International: <http://www.stopcorporateabuse.org/resource/article-53-flyer-protecting-against-tobacco-industry-interference>

4 The European Commission, for instance, currently fails to properly implement these UN rules: <http://corporateeurope.org/power-lobbies/2014/07/ombudsman-investigates-eu-commissions-failure-implement-un-tobacco-lobby-rules>

5 See for instance " Stop Fossil Fuels Setting the Climate Agenda - Lessons from international tobacco law: protecting public policy from vested interests" (December 2013), published by SatuHassi: http://www.satuhassi.net/wp-content/uploads/2013/11/Stop-Fossil-Fuels-Setting-the-Climate-Agenda_Report_Dec2013_FINAL.pdf

1.2 Asserting Citizens Sovereignty and Reclaiming the State *

Reclaiming the state from corporate capture is fundamentally about democracy but at the same time it has to be about the urgent renewal or radicalisation of democracy. For the very fact of corporate capture is itself an indication of the failure of democracy as we have known it. Democracy (literally 'rule by the common people, 'kratos' by the 'demos) should ideally have the institutional strength to protect itself against threats of oligarchic or authoritarian rule. And when it fails to do so, we need to inquire into what has gone wrong and what can be done for democracy to strengthen itself.

Weak democracy versus the growth of corporate power

More countries than ever have formally democratic systems of government. Yet, at the same time, there is increasing disillusionment with the limits of representative democracy.

Democracy today has been reduced to the formal procedure of voting and the rituals of increasingly powerless legislative assemblies. Voters face a narrow choice between political elites. They have little access to information, few opportunities for deliberation or reflection, and negligible power over the decisions that determine their lives.

This hollowing out of democracy is a product of many processes. The most obvious has been corporate-driven globalisation and the shift of power away from the nation-state as well as from more local levels of government.

The process has been two-sided: on the one there has been a process by which governments have increasingly lost capacity (most notably to tax and hence to fund the provision of public goods and ensure a thriving, highly valued public sphere. The UK's National Audit Commission for example, calculated in 2007 that one third of the country's 700 largest companies did not pay the due corporation taxes. This tax avoidance was accomplished through manipulation of transfer pricing (two thirds of the world's cross border trade takes place within transnational companies) and the use of tax havens. Over half of all banking assets and a third of foreign direct investment by multilateral corporations are routed offshore.

On the other hand has been a growth in the leverage of corporations over government and becoming directly or indirectly involved in government, through making political parties dependent on corporate funding, in more or less explicit exchange for pursuing corporate interests. This has been extensively documented for the UK and the US. It is also striking and perhaps especially significant in the relatively 'modern' institutions of the European Union. Research published by Corporate Europe Observatory (CEO) reveals corporate dominance of all the Expert Groups that advise the European Commission (EC). The research shows that in the department responsible for tax (DG Taxation and Customs Union, TAXUD), almost 80% of stakeholders represent corporate interests, with only 3% representing small and medium-sized enterprises (SMEs) and 1% representing trade unions. In the Secretariat-General (SG) of the European Commission (EC), the figure for corporate interests is 64% and in DG Enterprise and Industry (ENTR) it is 62%. Across all groups recently created by the EC there are more representatives of big business than all other stakeholders combined. The report also highlights the troubling implications of corporate-dominated expert groups through several case studies, for example where tax dodgers advise on tax reform, giant telecommunications companies dominate the debate on data privacy, or a closed shop of pro-big business 'experts' monopolise advice on tackling the eurocrisis.

The self-imposed limits of social democracy

But these objective economic factors do not provide a full explanation. National political actors could have responded to global corporate power differently. It is important also to focus on the political thinking of the governmental parties of post-war social democracy to explain their general acquiescence to the corporate market and to shareholder primacy.

Two features of social democratic thinking are important here. First, its assumption that wealth production is best left to private capital, whose profits are then taxed to fund the welfare state, has meant that social democratic parties did not sufficiently seek their own allies in the production of wealth and the control of corporations.

Second, as described by Robert Michels, the culture of social democratic parties from their origins has been one in which socialism "does not signify everything by the people, but everything for the people". A narrow understanding of knowledge led the leadership of these parties to undervalue the experience-based knowledge and capacity of their supporters. Hence they turned their backs on a potentially significant force for sustaining the substance as well as the form of democracy: the democratizing capacity of the labour movement, and all workers, to govern at the level of the workplace. Yet it is to workers, organised and unorganised to which these parties generally owed their electoral power.

This absence of an independent productive and management base helps to explain how the institutions of formal democracy were so hollow and fragile that they could be rolled over by the juggernauts of corporate power.

How democracy can match up to corporate power

In the face of this replacement of democracy with the rule of corporate oligarchy, the radicalisation of democracy involves a return to the historical roots of democracy in popular capacity. It therefore requires organisations through which this capacity is realised, rendered powerful as the basis of government, without blockages and mediations that weaken its expression and efficacy. Radical democracy cannot be designed from first principles but is rather the product of a constant process of struggle and experimentation in popular control. Three necessary conditions of radical democracy are emerging from this historical process:

- Popular participation in the implementation and administration of legislative decisions, through citizens participation in planning, budgeting and administrative scrutiny, in order to overcome the inability of representative democracy to control the state apparatus and all the private interests that insert themselves in it. An example here would be the experiments in participatory budgeting worldwide, from Brazil, through Europe to the Philippines.
- Workplace democracy in the internal management of public services, utilities and enterprises so that the knowledge and capacities of public sector workers contributes to maximise public benefit. Examples of this has emerged out of 'transformative resistance' to privatisation in which workers not only defended the public sector but worked to improve it. The defence of water as public good is exemplary of this process of democratisation of the public sector.
- The creation of an alternative, 'democracy friendly' basis for production and wealth creation, so that governments are not vulnerable to capture and blackmail by private corporations. Examples here include the strategic development of public enterprises as means of economic development and the realisation of social goals. (The experience of Uruguay is exemplary in this regard). Another approach, not necessarily in conflict is the development of the solidarity economy through networks of co-operative and social enterprises linked sometimes, through an alternative currency and the support of a democratic, supportive municipality.

In conclusion, it is not that the radicalisation of democracy is an end state for which there can be a blueprint. Rather, it is a process of transformation, already underway, from a global context in which the possibility of alternatives had been excluded, to a situation in which the dominant global order is being constantly contested with alternatives pressed in immediate practice and in visions for the future. This 'transformative resistance' has all the richness of deriving from experience, testing plural sources of power that can achieve change, rather than searching for one 'true' way.

It involves engaging with representative democracy, rather than dismissing it. But it does not rely on it. It grounds representative forms in participatory, direct forms of democracy at the level of both governments and workplaces, often formed through struggles over urgent social and economic needs.

For example, recently the United Nations Human Rights Council (UNHRC) voted to appoint an Inter-governmental Working Group (IGWG) to initiate the process of establishing a Binding Treaty imposing human rights (which includes labour rights) obligations on transnational corporations. This came about as a result of Ecuador and other governments working with a transnational alliance of more than 600 civic organisations. It is a modest and precarious victory, which cannot be left with the UNHRC to implement. Radical democracy thrives through such successes both in and against existing representative forms of democracy. At the same time, it strengthens autonomous participatory and productive institutions through which the capacity for self-government is developed to further shift the balance of power away from corporations, and to create the space to realise alternatives. It is only on the basis of this radicalisation of democracy, that we can reclaim the state from corporate power.

* Reflections on experiences of Participatory Democracy

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3. Struggles across the world to resist privatisation with democratic alternatives. See 'The Tragedy of the Private; the Potential of the Public. Hilary Wainwright. PSI and TNI. <http://www.world-psi.org/en/tragedy-private-potential-public> see in the uk weownit.org.uk/ a voice for everyone who wants UK public services to be run for people, not profit.

1.3 Re-thinking Transnational Investment and Trade

1.3.1 Building an Alternative Legal framework to International Investment Treaties *

While on the one hand investment is constantly being promoted as a tool for development, there is simultaneously a growing international recognition that corporate activity, and in particular that carried out by powerful transnational investors, can have serious negative and long term effects on human rights, on the environment, and on equitable development that is both sustainable and inclusive. And in many cases these investments don't even generate economic growth and decent significant employment.

Despite this, the set of rules governing the protection of international investment continues to be expanded, guaranteeing an extraordinary, abusive and far reaching frame for investor rights, without in exchange committing to any binding obligation with respect to human rights, environmental rights, and socially sustainable and inclusive development.

The (Bilateral) Investment Agreements (BITs) and the investment chapters in Free Trade Agreements and the WTO are the elements of a framework of impunity that gives the TNCs unprecedented powers to be able to dispute the prerogative of governments to be acting as guarantors for human rights while also guaranteeing that Foreign Direct Investment (FDI) will have a positive impact within a broader plan for national development. The BITs allow companies to evade laws, constitutions, and local and national courts. They also give corporations a green light to sue sovereign States for millions of dollars before private, secretive and arbitrary tribunals associated with the World Bank's International Centre for the Settlement of International Disputes (ICSID), or the United Nations Commission on International Trade Law (UNCITRAL) and the International Chamber of Commerce (ICC), among others.

These international agreements are part of a legal set of rules that have been developed on a parallel track to be made applicable to the international community in its entirety without any consideration of whether there is reciprocity based on mutual consent, or that all are involved (erga omnes obligations) being understood as the international rights that underpin human rights. This parallel track has been used to avoid any discussion of binding international-level norms, which serves well the interests of corporations because it allows them to sue States by avoiding national jurisdictions through the use of BITs' provisions, which are interpreted as strict enforceable laws. Thus the conditions under which the BITs were originally entered into can be ignored, domestic legislation avoided, and even the Political Constitutions of States along with all other existing international laws evaded, resulting in a frame however which enforces obligations on States.

Principles for an Alternative Investment Framework

- National States should take back the ability to implement legislation and public policies so that those investments play a positive role within a long term strategy in a national project agreed to by the population, and one that guarantees absolute respect for all human rights. To achieve this there would need to be a fundamental reformulation of the international legal regime that currently acts like a straitjacket in preventing State action in this area. The Peoples' Treaty legal dimension emerges, amongst others, from the need to break this straitjacket.
- Along with States recuperating their regulatory capacity, it is necessary for people to put into place control mechanisms to be able to deal with their own States using approaches such as direct, participatory, and proactive democracy that include enforceable mechanisms to ensure that social demands are acted on, encouraging the democratic exercise of peoples' sovereignty. The problem rests not only with legislation or institutions: without genuine peoples' participation nothing can be guaranteed.
- It is not enough to rip up or renegotiate international investment treaties and to then implement national regulations. At the moment there is a competition to see who can offer the most concessions and privileges to the foreign investor. What is needed is a legislative framework along with international and/or regional regulations that prohibit unfair competition, all of which can then be applied with specific detail to national legislation.

Some concrete alternatives

The following is a listing of concrete proposals to achieve the pre-eminence of human rights over investor rights and to establish the obligations of transnational corporations with regard to the observance of human and environmental rights

- It is necessary to overcome the current asymmetrical relation between investor rights and human rights.
- Investors should be held accountable for reporting on their corporate initiatives not only in their country of origin but also in those countries where they invest.
- transnational investment proposals need to be preceded by an evaluation with social participation that would include a socio-environmental and human rights impact assessment.

Alternative dispute settlement solutions

- It is imperative that current clauses dealing with Investor-State Dispute Settlement (ISDS) be annulled, particularly those that allow investors to challenge and sue host States via international arbitration over governmental regulatory actions that they perceive to be harmful to their particular interests.
- Investor-State disputes should be settled before national tribunals, in accordance with the host country's legislation.
- These new regional/international dispute settlement mechanisms should be two-way. That is to say not only investors but also States, communities and citizens can originate a legal challenge.
- It is necessary to guarantee that any appearance before a public international/regional tribunal allows access and equitable participation for the communities impacted, that the procedures be conducted publicly, and no additional special rights be accorded foreign investors.
- In the case of human rights violations by an investor or company, the investment treaties should explicitly respect the rights of the affected individuals or communities to seek additional recourse at the international level, as outlined in International Law governing Human Rights.

Abolish the privileges of foreign investors

- Guarantee states the space to be able to implement public policy and special and differentiated treatment, guaranteeing that the principle of equality supports national priorities.
- Eliminate the current arrangements of National Treatment, Minimum Standards Treatment, and Most Favoured Nation (MNT) Treatment.
- Eliminate the concept of indirect expropriation and restrict the definition of investment.
- Eliminate the ultimate arbitrability clause as well as retroactivity.
- Permit the implementation of capital controls and performance requirements; stop the flow of illegal funds and tax evasion, and privilege productive over speculative investment.

* Network for Justice in Global Investment (NJGI)

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1.3.2 Constructing an Alternative Trade Mandate: Time for a new vision *

Trade should be about exchange, with ecologically and culturally distinct regions equitably sharing their products, skills and creativity. But in recent decades, trade has become less about exchange of goods and more about eliminating social and environmental safeguards in pursuit of corporate profit. The proposed EU-US free trade agreement – the Transatlantic Trade and Investment Partnership – is a good example: while the elimination of trade barriers between Europe and the US is touted as a way out of the economic doldrums for these two blocs, in reality it is set to seriously erode social, environmental and labour rights.

A new vision for trade is not only possible but absolutely necessary. It must be based on a new set of principles, and respect the EU's international commitments and legal obligations to ensure coherence in its policies, be they on democracy, cooperation, public participation, human rights, social justice, gender equality or sustainability.

Convinced by this need, over 50 European organisations – representing farmers, trade unions, human rights advocates, environmentalists, fair trade networks and development workers – have come together to develop the Alternative Trade Mandate.

The Alternative Trade Mandate has been developed in extensive civil society consultations all over Europe. The members and supporters of the Alternative Trade Mandate Alliance do not necessarily agree with each and every detail in this paper, but support the general line of thinking. We also consider it a living document and an invitation for others to join the debate on the future of EU trade and investment policy.

The Alternative Trade Mandate Alliance is an alliance of development and farmers' groups, Fair Trade activists, trade unionists, migrant workers, environmentalists, women's, human rights, faith and consumer groups from all over Europe, developing an alternative vision of European trade policy that puts people and planet before big business.

This calls for an overhaul of the trade regime – one that leads to real workable alternatives, where trade works for everyone, and the environment.

Core Principles

Democratically controlled trade and investment policies lie at the heart of the Alternative Trade Mandate. Our mandate demands trade and investment policies that allow:

Core Principles

- human rights, women's rights, labour rights, indigenous rights, and the protection of our environment to take priority over corporate and private interests.
- structural transformation, universal access to quality public services, social protection, higher labour and environmental standards, democracy and transparency.
- governments to regulate imports, exports and investments in pursuit of their own strategies for sustainable development.
- countries, regions and communities to regulate the production, distribution and consumption of their own goods and services.
- European trade policy to respect the right of countries and regions to develop – and give priority to – local and regional over global trade (for example, in the food sector).
- European governments and parliaments to hold their corporations to account for the social and environmental consequences of their operations in Europe and elsewhere.
- food sovereignty to be respected, allowing countries and communities to prioritise local and regional food systems.
- an industrial policy to be promoted, to favour a just transition towards a different development model.
- binding social and environmental regulations to be strengthened, and full transparency in global value chains.
- a fair distribution of income within global value chains, guaranteeing a stable and decent income for producers and workers, and affordable prices for consumers, particularly for necessities such as food and medicines.
- governments, parliaments and public authorities to have full rights to regulate financial markets and the financial services sector, in order to protect social rights and welfare, secure sustainability, safeguard democratic control, and ensure financial stability (including restricting capital flows).
- the exchange of, and free access to, knowledge – e.g. through open source systems, seed exchange initiatives or patent pools, and open licensing to promote innovation and access to medicines.
- for certain sectors, such as public goods such as water, health and education, or financial services, to be excluded from European trade and investment negotiations.
- common but differentiated responsibilities to be recognised for developing countries, and special and differential treatment to be ensured for the poorest ones.
- the precautionary principle (where responsibility is taken to protect the public from suspected, if not proven, harm), to be applied in all regulation and trade and investment rules.

* Alternative Trade Mandate Alliance

References:

Trade: Time for a New Vision: <http://www.s2bnetwork.org/cat/issues/alternative-trade-mandate-for-the-eu/>

Other documents and resources:

www.alternativetrademandate.org

1.4 Challenging Financial Corporate Power through Citizens and Official Debt Audits *

Public debt and financial power

According to Costas Lapavistas, professor of Economics at the School of Oriental and African Studies (SOAS), University of London, “the presence of finance in contemporary capitalist economies is extraordinary in terms of magnitude, penetration and influence over policy” (1). This influence has generated a period of extraordinary exploitation and inequality, wiping out the gains of equality achieved in some countries, during the decades immediately after the Second World War, and further threatening the livelihoods and commons of vast populations, particularly in the global South.

Over recent years, capital has appropriated an ever larger part of annual output at the expense of labour. New forms of profit have emerged as the liberalization and diversification of financial transactions have facilitated the transfer of income and wealth from the public to the private sphere, and directly from households and other wealth holders. The stimulus of public and personal indebtedness has come to play a privileged role in this process, contributing to the financial expropriation of countries and large layers of the population by small groups of economic agents that are strategically located within large corporations and financial institutions.

This process has been boosted, as well, by States and International Financial Institutions that vigorously advanced a regulatory framework that not only does not prevent financial institutions from engaging in activities that could potentially lead to crisis, but that has actively promoted such activity. Time and again, from the debt crisis of the '80s to the crisis of 2007-9, these institutions have intervened in numerous ways to guarantee the solvency of private banks. This shows clearly the class interests of finance being defended by the state, at the cost of peoples' livelihoods, sovereignty, and the environment. Structural Adjustment Programs (SAPs) and the mercantilization and privatization of fundamental human rights such as water, healthcare and education, together with massive public subsidies to banks and other financial actors, are among the policies that have been imposed systematically to favour lenders and other transnational financial and economic interests, over people.

The system of public indebtedness has long been recognized by popular movements and organizations throughout the South as a mechanism of domination by lenders and borrowers. It has been used to impose policies and programs that generate impoverishment and a loss of economic, social and cultural rights, restructure entire economies, undermine democratic principles and institutions and contribute to the loss of sovereignty, control over territories and the commons. More often than not, these policies have been adopted without the knowledge or consent of the peoples and communities that are forced to suffer the consequences.

The expanding role of finance in the contemporary world economy has now spread these impacts and consequences throughout the North as well. Cuts in the welfare state, privatisations, further economic and financial liberalisations are the clear demonstration that those policies are made in favour of the 1% to the detriment of the remaining 99%. As if that were not enough, these measures hit more violently those sectors of the population more vulnerable, such as women, migrants and the impoverished poor - the groups most affected by the cuts in salaries and social services.

Debt Audits

In the face of the human and ecological costs of this burgeoning public debt and the necessity to address its cancellation or rejection, popular movements from different countries have set out different strategies. These include the realization of participatory and comprehensive debt audits. These audits, in their various formats, aim to evidence the illegitimacy and illegality of debt, gathering proof and strengthening arguments for challenging the domination that the debt exercises and advancing strategies of non-payment of illegitimate debt.

Official debt audits, such as that conducted in Ecuador via Presidential decree, or the Citizens' audits initiated in Brazil or Philippines, have focused attention on the right of all citizens to transparency. They are a response to the need to know the origins, use, and impacts of the public debt as well as identifying the mechanisms, institutions and people responsible. This is understood to be a fundamental step not only to expose the workings of corporate financial power and the system of indebtedness, but also to strengthen the processes of challenging them and building alternatives of financial sovereignty.

In that sense, calls for the realization of Debt Audits, whether official or citizen, are also calls for a major participation of citizens in decision-making on economic policy, starting from the decisions around debt. For instance, movements such as the Spanish

citizens' audit platform (PACD) are working to audit different public sectors at different levels, to bring out information about the causes of indebtedness and their impacts. And this information is used, in turn, in the struggles to defend public welfare in each sector.

Finally, Debt Audits are a tool for recovering peoples' sovereignty, and the capacity to understand and decide about economic processes. The practice of Debt Audits are also a means to demand access to information and empower societies to denounce the irresponsibilities, illegitimacies, and illegalities of financial power and to build alternative economic models that put people at the centre, not banks or finance.

Mobilization for Debt Audits

Debt movements and networks have been promoting the realization of debt audits for well over a decade now. One of the more known global campaigns is Jubilee South, which has been denouncing the illegitimacy of the debts of the South for years and which has supported various debt audit experiences.

More recently other networks have emerged, such as the International Citizens' Debt Audit Network (ICAN) that involves activists and groups from 12 European and North African countries, whose goal is to share and coordinate their respective experiences on the struggles against austerity and illegitimate debt.

The aim of these efforts is to promote the identification and denunciation of illegitimate debts with the ultimate aim of cancelling, abolishing or repudiating them. At the same time, it is recognised that debt cancellation or repudiation is a necessary but insufficient step as an exit strategy from the crisis that puts people first. It also calls for a major involvement of citizens in the financial management of public administration (at city, region and country levels) and includes full transparency and citizen participation in the definition and control of the public budget.

* International Citizen Debt Audit Network (ICAN) and Jubilee South Americas (JSA)

Endnotes:

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ICAN: <http://www.citizen-audit.net/> <http://cadtm.org/ICAN>

Jubilee South Americas: <http://jubileosuramericas.net/>

Jubilee South - Asia Pacific Movement on Debt & Development: <http://www.apmdd.org/>

1.5 Reclaiming Public Services and Public Enterprises for the Common Good *

The relevance and weight of state enterprises and public services

Despite the waves of privatisation that shocked the world since the 1980s, the state holds main responsibility for the provision of essential goods and services, both in the North and in the South. State-owned enterprises (SOEs) in countries of the Organisation for Economic Cooperation and Development (OECD) are worth around \$2 trillion, to which minority stakes in companies in utilities and other assets held by local governments, worth \$2 trillion more, should be added. Moreover, the value of "non-financial" assets—such as buildings, land, and subsoil resources—is worth \$35 trillion across the OECD, according to calculations published by the International Monetary Fund (IMF); being equivalent to three-quarters of GDP on average in the richest economies. (1)

Recently published research has focused on the degree of public ownership among the world's 2,000 largest companies—those included in the *Forbes Global 2000* index—and their 330,000 subsidiaries. (2) The findings are striking: more than 10 per cent of the world's largest companies (204 firms) in 37 different countries are state-owned or state-controlled, with a total value of sales

amounting to US\$ 3,600 billion in 2011. This turnover represents more than 10 per cent of the combined sales of all the *Forbes Global 2000* and is equivalent to 6 per cent of the global GDP, exceeding the gross national product of countries such as Germany, France or the United Kingdom.

The growing importance of public enterprises has revived the interest in privatisation (as evident today in many European countries under the combined pressure of the agencies that make up the so-called “troika”—the European Commission (EC), the European Central Bank (ECB) and the International Monetary Fund (IMF), but has also raised relevant questions among progressive researchers and activists around the world: what is the real meaning and significance of *publicness*? Why do states still own productive capital and are responsible for the provision of public services?

The global trend towards republicisation

In the 1990s, at the height of the Washington Consensus, the responses to such questions were straightforward. The hegemonic ideology held that state-owned enterprises (SOEs) were inherently inefficient and should be privatised. Just before the eruption of the current crises, one of the world’s most influential economists still insisted: “increasing evidence indicates that most public enterprises either do not contribute strongly to development or perform their public service functions ineffectively or inefficiently” (3).

In more recent times, we can clearly see an increase in the number of analysts that emphasise the positive aspects of state ownership and management and recognise the significance of public enterprises in fostering economic growth and social development. As a renowned international expert in development policy has noted, “despite popular perception, encouraged by the business media and contemporary conventional wisdom and rhetoric, SOEs can be efficient and well-run” (4).

In recent years, both in countries of the North and of the South, we can discern a trend towards the *republicisation* of formerly privatised enterprises (5), which expose the failure of privatisation, concessions and other forms of private capital involvement in the delivery of water, electricity and other public services. Local and national governments worldwide, following in many cases civic campaigns and the active mobilisation of social organisations, have recognised that it was not in the public interest to maintain the hegemony of the market in the provision of essential services. This has become more evident in the wake of the financial and economic crises that exploded in 2007-2008, when the ‘emergency nationalisation’ of large corporations in the United Kingdom and the United States (even if admittedly as exceptional and temporary measures) was performed in a way similar to the creation of many SOEs during the Great Depression in the 1930s.

Republicisation can take different forms, including *remunicipalisation*—the case of water services in Paris is the clearest example—and *renationalisation*—as it has happened in Bolivia, with the national state retaking full control of the electricity system, including both generation and transmission and distribution of power during the past four years. The trend of renationalisation is most visible in Latin America, where progressive or left governments have chosen to reverse privatisations of companies operating in industrial activities, the energy sector and public services.

Empirical evidence supports the more progressive perspectives on SOEs and public services. Research carried out by the Municipal Services Project (MSP, a global network focused on alternatives to the mercantilisation and privatisation of health, water and energy services) (1) shows that there is no reason to believe that private companies are more efficient than public enterprises, and confirms that new and more detailed studies that compare the welfare consequences/effects of publicly and privately owned entities are still much needed.

The case of Uruguay

The progressive role that SOEs can play in the promotion of social development and inclusive growth can be observed in Uruguay, a relatively small Latin American nation that in 1992 became the first country in the world where in a referendum the citizens voted massively against privatisation. In 2005, a left government initiated the current cycle of transformation of public enterprises. At the opening session of an international seminar held in Montevideo in October 2012—jointly organised by TNI and the Uruguayan government—the Minister of Industry and Energy, Roberto Kreimerman, argued that “public companies are an opportunity for national progress because they enable innovation and development in various sectors”. He stated that public enterprises “should function well, be efficient, innovative, offering high quality and productivity; but being public entities they must also catalyse development and social inclusion”. Further, according to Kreimerman, the Uruguayan government “believe[s] that public enterprises, besides their key role in areas such as telecommunications, water and energy, should be a tool for social cohesion within the framework of a long-term national project”.

In the telecommunications sector, the state-owned ANTEL has positioned the country at the forefront of technological innovation, despite having to operate in a liberalised market in competition with the two transnational corporations that have oligopolised the telecom sector throughout Latin America: the Spain-based Telefónica and the Mexico-based America Móvil. Despite the liberalisation of the national telecom market, the public enterprise continues to be the main and most efficient—in both economic and social terms—provider of telephony (fixed and mobile) and Internet services. The nation-wide extension of the fiber optic network, combined with affordable plans for residential and commercial users, has enabled ANTEL to offer the fastest and cheapest Internet access in Latin America. The average peak connection speed in Uruguay rose 206% over the past year to 45.4 Mbps, placing the country in the Global Top 10, ahead of the Netherlands (45.2), the United States (40.6) and Canada (39.7). (7, 8)

Uruguay is also internationally recognised as the first country in the world where the citizenry passed a constitutional amendment, in a referendum held on October 2004, that reaffirmed the exclusive provision of water and sanitation services by the state and established that access to such services is a basic human right. The National Water and Sanitation Company (OSE) is a very efficient public enterprise that provides universal coverage, which led to the creation of the ‘Coalition for Water and Life’, a plural space where several Uruguayan social organisations successfully converged to defend the ‘commons’ against the interests of private capital. (9)

In the energy sector, the existence of two state-owned enterprises, UTE and ANCAP, has enabled Uruguay to implement what has been called a true ‘renewable energy revolution’. (10) The South American nation, with 3.2 million residents, has no proven oil or natural gas resources, and has invested heavily on renewable energy infrastructure. Uruguay has defined a long term (with horizon in the year 2030) National Energy Policy, approved by consensus by all political parties. By prioritising renewable energy sources and technologies such as hydropower, wind farms and biomass cogeneration reached a 46 per cent share of renewable energy in the 2011 energy mix, up from 30 per cent in 2005. (11) This has greatly enhanced Uruguay’s energy sovereignty, sustainability and security’ and has repositioned the country as a trend-setter in the global energy transition.

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1.6 Democratizing Work and Production: PLADA – Development Platform of the Americas *

The Platform we present here embraces our decades-long resistance against neoliberalism and reclaims some of the arduous processes of building progressive political and social alternatives. The direction is to identify and systematize the challenges we must face so as not to lose the social gains and generate a region where development is sustainable, socially inclusive, politically democratic and based on the inalienable right of peoples to decide their own future.

The PLADA is the continuation of the work initiated in 2005 with the launching of the Labour Platform of the Americas and the founding of the Trade Union Confederation of the Americas (TUCA) in 2008 as a broad-based unitary space for hemispheric trade unionism. However, the PLADA is more than a mere continuation: it is the result of the dialogue of the trade union movement at the continental level led by the TUCA and based on a broad agenda and construction process in conjunction with environmental, rural and women's organizations of Latin America. The TUCA intends to extend this dialogue to new areas, as part of the agenda of the collective construction of Another Possible America.

The new political cycle that we stand for must be marked by the broadening and deepening of political democracy. The long period of neoliberal domination was characterized by the imposition of corporate business decision-making power on the institutions of representative democracy. Overcoming this entails the return of popular sovereignty.

For this we need to establish a new relationship between society, the State and the market. The State must be a tool for the active participation of workers in public arenas to regulate the market to meet current social needs and look out for future generations.

We do not call for a paternalistic and authoritarian State, but for a new democratic State that has been deeply reformulated through instruments of popular consultation and direct participation.

Firstly this requires, reforming the political and judicial systems to prevent the interference of corporations in decisions; and secondly, the democratization of the mass media to prevent economic monopolies transforming them into political instruments to advocate for and promote their private interests.

This new political cycle must be based on social and trade union participation in decision-making in each country, as well as in regional integration processes. We emphasize that the greatest challenge is the self-reform of unionism in order to streamline the functioning of trade unions themselves through unity, internal democracy, and by expanding and strengthening representativeness based on freedom of association.

Advancing in democracy involves respect and recognition of the plurinationality and cultural diversity within nation-States.

Economic Dimension

We stand for the strengthening of genuine regional and subregional integration processes as a tool for the development of our peoples. This requires overcoming the legacy of the neoliberal period of free trade agreements that deepen international asymmetries and deteriorate the social and environmental fabric of each country.

The cycle of sustainable development which we advocate is driven by the fair distribution of income and wealth, permanently burying the neoliberal view that concentration of wealth with economic growth eventually “spillover” and reach the vulnerable population.

A new regional financial architecture at the service of development with social equality is necessary, as is infrastructure based on sustainability and the promotion of complementarity between our economies and fostering regional integration. Foreign investment should be steered by national and regional development plans. A new progressive taxation system should allow States to boost this new cycle of sustainable development.

Special attention must be given to the conquest of food sovereignty and food security threatened by the booming production of agricultural commodities for export under the control of multinational companies. A comprehensive agrarian reform and the gradual elimination of the monopoly of transnational corporations over agriculture are part of the new development model.

Lastly, the common denominator of this new economy must be the building of new capabilities for research and transfer of technology focused on the needs of our nations.

Social Dimension

Regional unionism stands for the right to decent work based on equality between genders, ethnic groups and generations, without discrimination due to disability, sexual orientation or gender identity. However, there will be no decent work without respect for freedom of association and collective bargaining.

The starting point of this new stage should be the repositioning of a universal and solidarity social security system to remove the threat of poverty from the lives of workers, and ensure that production is carried out in safe and healthy workplaces.

This requires protecting the commons from the voracity for profit of private companies. Health, education, housing and urban transport are fundamental rights that are not for sale. Therefore the social dimension of the new model must leave behind the legacy of patriarchal oppression systems, and promote the equalization of responsibilities of care and domestic work between genders.

We seek to implement policies to prevent and eradicate all forms of violence and conquer regional citizenship and rights for migrants.

Environmental Dimension

The environmental crisis, and effectively and urgently addressing it, is a top priority of the international political agenda. All nations are entitled to sustainable development which today requires addressing the asymmetries between North and South, and the asymmetries between social classes within each country. This involves curbing predatory consumption in the North and in the wealthy classes, and lifting the majorities to new levels of consumption and satisfaction of their needs based on a new paradigm.

We argue that the commons of humanity - biodiversity, water, seeds, forests, energy and knowledge - should not be subjected to private profit, but instead should be used responsibly for the common good.

We advocate the strengthening of social and economic relations promoting socio-environmental balance with social involvement and participation, and the development of technologies preventing climate change and desertification.

Platform of a new Model

Neoliberalism, large multinational corporations and international financial capital put the world on the brink of economic and environmental catastrophe, and workers on the brink of social hardship. Our peoples have responded with enduring resistance and then, even in that highly adverse economic context, have been electing post-neoliberal proposals.

The PLADA starts here, where the struggle of the working class becomes a tool of continental unionism to advance towards the definitive conquest of a new model of sustainable development. The key to victory lies in broadening and strengthening democracy, overcoming the blackmail of corporations and markets.

* Trade Union Confederation of the Americas (TUCA)

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Full text in French, Spanish, English and Portuguese at: http://www.csa-csi.org/index.php?option=com_docman&task=cat_view&gid=382&Itemid=181&lang=pt

2 Building Peoples Sovereignty and Defending Collective Rights: Resistances, Transitional Measures and Alternatives

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2.1 Implementing Food Sovereignty, Agrarian Reform and Agroecology *

Today, food and common goods needed for its production are intensively concentrated in a single production matrix – fewer than 50 corporations control most of the world’s seed production, agricultural inputs and food distribution worldwide. And in the case of Brazil for instance, the 50 biggest foreign and domestic agribusiness corporations control practically all agricultural commodities trading and indirectly the composition of agricultural production in the country.

In the face of the massive destruction of the rural world by neoliberal policies, land grabs, dispossession by corporate extractivism, toxification of land and water systems, deforestation, depletion of bio-diversity, peasant and small farmer movements have arisen globally to claim back the land by agrarian reform and for food sovereignty. The past decades, have witnessed a continuity in the land and agrarian struggles for justice that have marked earlier stages of history. The producers of over half the world’s food – peasant, family farmers and farm workers - have not only battled the corporate dominance of the agribusiness and food chain but have developed a platform of Food Sovereignty and Agrarian Reform as a political platform.

In its 6th Congress (June 2013) La Via Campesina re-iterated its fundamental opposition to the domination of Transnational Corporations in the food system and in all the spheres of life. It underlines the need to strengthen the global resistance in coordinated campaigns on different issues-the extractive industry, food sovereignty, seeds, public services, and financial corporations among others. It also denounces the legitimization of TNCs through the FTAs, BITs and WTO as well as through the rhetorical narratives of the green economy and corporate social responsibility.

In 20 years of its existence, Via Campesina has made major contributions in the development of alternatives to the neoliberal model of economy with its key pillars of Food Sovereignty, Agrarian Reform and Agroecology .

Food Sovereignty

The new concept of food sovereignty was introduced by La Via Campesina (LVC) in 1996 replacing the earlier official concept of food security (formulated by governments and the Food and Agricultural Organisation (FAO) – Montecinos 2010). It includes a conviction that the production and distribution of food is a question of sovereignty. Besides to the notion of access to food, sovereignty adds the right to produce food in the ways that are good for the environment and appropriate to communities and nutritional needs. As the Nyeleni declaration says (2007): “Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations” .

Food Sovereignty is a vision for changing society and, from a broad social and community perspective, an alternative to the neoliberal policies. It is the right of Citizens to determine food and agricultural policy and to decide what and how to produce and who produces,

It is the right to public resources such as water, land, and seeds. Food sovereignty calls for policies based on solidarity among citizens and between producers and consumers. It demands the regulation of markets because it is impossible to maintain agrarian policies based on market liberalization. Food sovereignty brings together movements from the global South and the industrial North as well as from rural and urban areas. Food sovereignty has now become an integral demand from many social movements around the world who are building alliances for transformative action.

Agrarian Reform

The new agrarian reform should be a fundamental pillar not only in the construction of food sovereignty, but also in the democratic transformation of society to develop new civilizations that will put an end to hunger and poverty, and to respect and protect Mother Earth. It goes against the current commodification and privatisation of land and puts communities at the centre of decision-making on Land.

Appropriation influenced by states pressured by financial institutions (such as creditors and input suppliers) should be guarded against. These policies based on "use it or lose it" enforce farmers to obtain credits and leave them indebted, leading to the dispossession of their land, and paving the way for big agribusiness companies to extend their territories and leave communities impoverished. Governments should ensure that domestic food production and food sovereignty for all its citizens is promoted through agrarian reform.

In early 2014 The Movement of Landless Workers (MST) have proposed a People's Agrarian Reform, a new thinking on Agrarian Reform based on the new world situation:

- a) A classic agrarian reform is not enough. We now must defend a new project for people's agrarian reform. All that classic agrarian reform can do is divide up land ownership and integrate the peasants as suppliers of raw materials and food for the urban industrial society.
- b) In the face of agribusiness power, the need arises to build alliances among all peasant movements, the working class, and other popular social groups fighting for structural change.
- c) The struggle for agrarian reform now becomes part of the struggle against the capitalist model. This stage in our struggle is marked by greater and more complex challenges than before. Today, the scene looks different than that during the phase of industrial development (1930-1980) when the agrarian reform settlements in unproductive lands were linked to employer-driven agriculture geared primarily toward agroexports.
- d) The confrontations with capital and its agricultural model extend from disputes over land and territory. But these widen into disputes over control of seeds, agroindustry, technology, nature, biodiversity, water and forests.

Agroecology

Agroecological peasant agriculture is a key element in the construction of food sovereignty. It is also central to resistance in, and the defence of, our territories. It has been amply demonstrated that ecological farming, based on agroecology, on the recovery and use of ancestral knowledge, and on peasant seeds, helps farming families and communities build autonomy from those market forces that threaten them, and allow escape from the farmer debt trap, helps us live in harmony with Mother Earth, makes us more resilient to climate change and other external shocks, helps cool the planet, restore degraded soils, helps us to produce healthy food for our peoples, and can be far more productive than industrial agriculture, without resorting to toxic agrochemicals or GMOs.

Particularly high on the agenda of Food Sovereignty and Agrarian Reform is the practice of Agroecology. Agroecology has been promoted within La Via Campesina (LVC) as a paradigm for achieving food sovereignty. "Agroecology can double food production in entire regions within ten years, while mitigating climate change and alleviating rural poverty." This is the conclusion of Olivier de Schutter, U.N. Special Rapporteur on the Right to Food, in the presentation of his report in March 2011. This statement is based on his research around the world. In the report, he forcefully called upon states to adopt ambitious public policies for supporting agroecology.

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2.2 Fighting for the Rights of Peasants – Women and Men *

Introduction

Almost half of the people in the world are peasants. Even in the high-tech world, people eat food produced by peasants. Small-scale agriculture is not just an economic activity – it means life for many people. The security of the population depends on the well-being of peasants and sustainable agriculture. To protect human life it is important to respect, protect and fulfill the rights of the peasants. In reality, the ongoing violations of peasants' rights threaten human life.

Violations of Peasants' Rights

- Millions of peasants have been forced to leave their farmland because of land grabs facilitated by national policies and/or the military. Land is taken away from peasants for the development of large industrial or infrastructure projects, extracting industries like mining, tourist resorts, special economic zones, supermarkets and plantations for cash crops. As a result, land is increasingly concentrated in a few hands.
- States neglect the farm sector and peasants receive inadequate income from their agriculture production.
- Monocultures for the production of agrofuels and other industrial uses are promoted in favor of agribusiness and transnational capital; this has devastating impacts on forests, water, the environment and the economic and social life of peasants.
- There is an increasing militarization and a number of armed conflicts in rural areas with severe impacts on the full realization of civil rights of peasants.
- As they lose their land, communities also lose their forms of self-government, sovereignty and cultural identity.
- Food is increasingly used for speculation purposes.
- The peasants' struggle is criminalised.
- Slave labor, forced labor and child labor are still found in rural areas.
- Women's and children's rights are the most affected. Women are victims of psychological, physical and economic violence. They are discriminated in their access to land and productive resources, and marginalized in decision making.
- Peasants have lost many local seeds. Biodiversity is destroyed by the use of chemical fertilizers, hybrid seeds and genetically modified organisms developed by the transnational corporations.
- Access to health services and to education is decreasing in rural areas and peasants' political role in society is undermined.
- As a result of these violations of peasants' rights, today millions of peasants live in hunger and suffer malnutrition. This is not because there is not enough food in the world, but because food resources are dominated by transnational corporations. Peasants are forced to produce for export instead of producing food for their communities.
- The crisis in the agricultural sector causes migration and the massive displacement and disappearance of peasants and indigenous people.

The policies of neo-liberalism worsen the violations of Peasants' Rights

The violations of peasants' rights are on the rise because of the implementation of neoliberal policies promoted by the World Trade Organisation (WTO), Free Trade Agreements (FTAs) and other institutions and many governments in the North as well as in the South. The WTO and FTAs force the opening of markets and prevent countries from protecting and supporting their domestic agriculture. They push for the deregulation in the agriculture sector.

Governments of developed countries and transnational corporations are responsible for trade dumping practices. Cheap subsidised food floods local markets thus forcing peasants out of business.

The WTO and other institutions force the introduction of food such as GMOs and the unsafe use of growth hormones in meat production. Meanwhile, they prohibit the marketing of healthy products produced by peasants through sanitary barriers.

The International Monetary Fund (IMF) has implemented structural adjustment programs (SAPs) leading to massive cuts in subsidies for agriculture and social services. Countries have been forced to privatize state companies and to dismantle support mechanisms in the agricultural sector.

National and international policies directly or indirectly give priority to transnational corporations or food production and trade. TNCs also practice biopiracy and destroy genetic resources and biodiversity cultivated by peasants. The capitalist logic of accumulation has dismantled peasant agriculture.

The struggle of the Peasants to uphold and protect their Rights

Facing these realities, peasants all over the world are struggling to live. All over the world, thousands of peasant leaders are being arrested because they are fighting to protect their rights and livelihood. They are being brought to court by unfair justice systems, incidents of massacre, extrajudicial killings, arbitrary arrests and detention, and political persecution and harassment are common.

The global food crisis in 2008 precipitated and exacerbated by policies and transnational corporations (which unilaterally act according to their own self-interest) clearly shows the failure in promoting, respecting, protecting and fulfilling the rights of peasants. This affects all people in the world, in developed and developing countries. While peasants work hard to ensure the sustainability of seeds and food, the violation of the rights of peasants damages the world's capability to feed itself.

The struggle of the Peasants is fully applicable to the framework of international human rights which includes instruments, and thematic mechanisms of the United Nations Human Rights Council (UNHRC), that address the right to food, housing rights, access to water, right to health, human rights defenders, indigenous peoples, racism and racial discrimination, women's rights. These international instruments of the UN do not completely cover nor prevent human rights violations, especially the rights of the peasants. We see some limitations in the International Covenant on Economic, Social and Cultural Rights (ICESCR) as an instrument to protect peasants' right. Also, the Charter of the Peasant- produced by the UN in 1978, was not able to protect peasants from international liberalization policies. The other international conventions, which also deal with peasants' rights, cannot be implemented either. These conventions include: ILO Convention 169, Clause 8-J Convention on Biodiversity, Point 14.60 Agenda 21, and Cartagena Protocol.

The Peasants need an International Convention on the Rights of Peasants

Because of the limitations of those conventions and resolutions, it is important to create an international instrument to respect, protect, fulfill, and uphold peasants' rights - the International Convention on the Rights of Peasants (ICRP). There are already Conventions to protect vulnerable groups of people, such as indigenous peoples, women, children and migrant workers. The ICRP will articulate the values of the rights of peasants, which will have to be respected, protected and fulfilled by governments and international institutions. The ICRP will be supplemented by optional protocols to ensure its implementation.

During the Regional Conference on Peasants' Rights in April 2002, Via Campesina formulated the Declaration of the Rights of Peasants through the process of a series of activities, including the Workshop on Peasants' Rights in Medan North Sumatra, in 2000; the Conference of Agrarian Reform in Jakarta April 2001; the Regional Conference on Peasants' Rights held in Jakarta in April 2002 and the International Conference of Via Campesina also held in Jakarta, in June 2008. This Declaration on the Rights of Peasants should form the basis of the ICRP, to be elaborated by the United Nations, with the full participation of Via Campesina and other representatives of civil society.

We are looking forward to the support of the people who are concerned with the peasants' struggle and the promotion and protection of the rights of peasants.

* La Via Campesina

References:

The text of the Declaration forming the basis of the International Convention on the Rights of Peasants (ICRP) is available at: <http://viacampesina.net/downloads/PDF/EN-3.pdf>

2.3 Achieving Water Justice and the Human Right to Water *

The high-profile failure of water privatization in major cities of the south, provides ample evidence that the water needs of people should not be left in the hands of profit-driven, transnational water corporations. Almost without exception, global water corporations have failed to deliver the promised improvements and have, instead, raised water tariffs far beyond the reach of poor households. The rise of grassroots anti-privatisation campaigns in countries around the world is starting to turn the tide against free-market fundamentalism.

Viable alternatives both to profit-driven corporate control and to often bureaucratized and ineffective state-run water utilities are developed in many parts of the world. Building alternatives takes diverse forms depending on the socio-political context, but in many cases there are shared core principles of 'public-ness', based on not-for-profit management in the public interest, equity, accountability and democratic control. Genuine citizen and community participation is an essential form of democratic water provision. Alternative water provisions lead to community development, in which women play an important role and have ownership. Conservation of water resources is preferred over expensive high-tech solutions.

Public-Public Partnerships (PUPs)

Public-public, public-community and community-community partnerships (PUPs) are emerging as a superior alternative to privatisation or Public Private Partnerships (PPPs) for developing capacity and achieving water for all. Going beyond a narrow definition of 'public', PUPs are framed as a concrete tool to connect different actors to share experiences and knowledge to improve public water systems. While PUPs are flexible and diverse, there are clear characteristics such as serving the public interest, while being strictly not-for-profit. Public-ness should be central to the spirit of partnerships to ensure that they lead to community development. Community development is not something to be decided on externally but should be discussed locally in a genuinely democratic manner. Partnerships are about solidarity, not profit, about collaboration, not competition. Trust and openness, not secrecy, creates real opportunities for knowledge transfer and experience-sharing.

From a war-torn utility, Phnom Penh Water Supply Authority (PPWSA) is now considered as one of Asia's outstanding public utilities, with a growing reputation for organizational excellence, customer-oriented service, and a high-level of service performance. It has increased water supply coverage from 20% to 90% between 1993 and 2010. These outstanding drastic improvements were brought about by a series of Public-public partnership projects (not-for-profit cooperation between water utilities).

Remunicipalisation

Remunicipalisation is now a growing political trend not only in the water sector but also for electricity and other essential services in Europe and elsewhere. More than 180 cities all over the world remunicipalised water services during the last 15 years.(1)

After decades of privatisation, water delivery in Paris was successfully transferred to public management in 2009-2010 with impressive results on many fronts, from increased transparency and cost savings to improved water resource protection. It is the largest remunicipalisation in Europe to date and was by no means a simple matter, due in part to the fact that the city's water supply was run by two private water firms (Suez and Veolia), each covering half of the city. Thanks to remunicipalisation, the city saved approximately €35 million in its first year and was able to reduce the water tariff by 8%.

Human Right to Water, European Citizen Initiative and The Blue Community Project

The campaign for the recognition of the 'human right to water' is one of the examples of a collective victory that was achieved. The 2010 Resolution by the UN General Assembly on the human right to water and sanitation (A/64/292) was a very significant achievement, but the struggles and conflicts over water continue.

The success of the European Citizen Initiative (ECI) on the right to water (Right2Water) (2) is another example where the right to water is applied as a political tool empowering people rather than merely as a legal tool. In November 2013, Right2Water successfully made the first European Citizen Initiative by collecting 1.66 million valid signatures from 28 EU countries.

The Blue community Project (3) born in Canada is another example, in which municipalities declare they recognise the human right to water and pledge to implement it actively. 15 municipalities in Canada have declared as Blue community. The wave has crossed borders and the Swiss city of Bern has become the first blue community in Europe, joined by Cambuquira in Brazil as the first one in Latin America.

Some examples of democratization of public water provision

Community Collaborative Water Management in Colombia: The National Network of Communal Aqueducts in Colombia was successfully established a few years ago. Communal aqueducts (community-based water systems) are bridging the gap in water service delivery in rural areas where no state utilities or public authorities serve the population and are key for poorest communities. They are a key reference for the defense of territories and from the mining companies backed by the national government, which contaminate and deprive water sources from communities. The participation of women in such initiatives is not merely symbolic, on the contrary, it shows the sense of commitment that women have towards their communities.

Tamil Nadu state water Company: In India, the Tamil Nadu state water company (TWAD) in the early 2000s committed itself to improve access to water in about 500 rural villages, that had been neglected for decades.⁽⁴⁾ TWAD actively engaged the communities in decision-making about water solutions – and supported with funding and expertise – helped the villages recover and protect water sources, introduce easy-to-maintain, low-cost technology, and prioritise access for indigenous people and other marginalised water users. Their efforts also helped the region to build resilience at a time of climate change, which threatens food security. Over 3695 democratically elected water users associations (representing 1.85 million farmers) played a key role in rehabilitating canal systems, reinventing water harvesting structures and water-saving sprinkler irrigation systems, and helping diversify farming.

* Reflections on struggles for Water Justice – Reclaiming Public Water Network and Transnational Institute

Endnotes:

1 <http://www.tni.org/briefing/here-stay-water-remunicipalisation-global-trend>

2 <http://www.right2water.eu/>

3 <http://www.canadians.org/bluecommunities>

4 More details to be found at <http://www.tni.org/work-area/water-justice>

2.4 Building Energy Sovereignty *

The total, integrated current energy system, understood as a complex of relationships linking humanity as such to nature, and which is determined by the existing relations of production, is much broader than the structure or matrix of energy production and consumption. It also includes a set of relations such as the different public policies, sectoral conflicts, geopolitical alliances, business strategies, sectoral demands, oligopolies, the relationship between energy and wealth distribution, technological developments, and relations with the production model, among others.

Given the characteristics of the global energy system, such as:

- High concentration regarding the ownership and management of conventional energy resources;
- High levels of conflict over access to energy sources;
- Strong impacts on affected populations throughout the chain of exploration, extraction, processing and use of energy;
- High environmental impacts on biodiversity in rural and urban areas;
- The use of conventional sources of energy in the cause of two-thirds of the emissions of greenhouse gases, causing global warming process and climate change;
- The impacts of large scale energy infrastructure in every link of the chain, on the territories, biodiversity and affected communities;
- Inequities related to the characteristics of ownership of energy and its benefits throughout the supply chain;
- The private appropriation of energy goods and services for profit and the commoditisation of the energy chain in all its stages;
- The lack of public participation in the construction of energy policies and especially the possibility to decide on land use as an inherent feature of the current energy system;

The change of the energy matrix to a matrix which depends much less on fossil fuels and relies on renewable energy is only a necessary condition to respond in particular to the pressing climatic situation, but is also clearly insufficient.

Contesting the concept of energy sovereignty, surpassing those views linked only to energy security or exclusionary nationalist energy security considerations, requires a broader approach to the problem, where it is essential that the following topics are addressed.

Deconstructing

This means challenging the idea that the amount of energy needed by society must always be expanding. The idea of infinite growth in material goods and energy needs to be disarticulated – contesting the cultural mechanism for achieving the satisfaction of the needs and imagination of human happiness.

De-privatize and de-concentrate the energy system

It is essential to advance a process of de-privatization of those spaces occupied by the private sector so that its place is occupied by the different forms of public ownership. This comes in addition to a decentralization and de-concentration of the energy sector, promoting the development of distributed energy generation systems.

Decommodifying energy system

The market logic imposed on the sector, mainly from the period of the neoliberalism onslaught, is the main obstacle to end consideration of energy as a commodity and to transform it into a right as part of the extended rights, which defines energy not as an end in itself but as a tool to improve the quality of life of the peoples. It is essential to build a logic of rights about energy.

Democratizing energy system

Few sectors today are so far removed from the decision of the people as the energy sector. Disputes around aggressive infrastructure projects are examples. But all the chain of decisions about energy policies, projects and options are highly centralized and have low participation of society. A strong process of democratization of energy policies is required.

The development of local energy policies

The appropriation of such policies by local communities seems to be an alternative to this strong centralization. They have substantive weight in the development of municipal and communal policies around energy. The appropriation of this alternative approach by communities, if it can have a role in the contestation for another energy model, it can also generate a better correlation of power in the contestation at higher political levels.

Promoting efficiency and the sustainable use of renewable sources

It is essential to change the energy matrix displacing fossil fuels with renewable energy sources. Today conditions of technological and economic maturity can facilitate adoption of such renewable resources. But renewables are not a panacea and should be analyzed in each case in order to develop applications that are not only environmentally sustainable, but are also sustainable in relation to social and political considerations. In this way, energy efficiency should be considered a source of energy and therefore must be pursued and implemented.

Disputing the future

Future scenarios are currently monopolized by energy agencies linked to transnational corporations and governments. There is a need to find the mechanisms to develop alternatives to the business as usual scenarios of the companies and governments who see only more fossils, more concentration, more business and more energy poverty.

Defining energy sovereignty

In a period of indignation at the abuse of power by an oligarchy, society demands a new wave of democracy in the energy world (as in other spheres). If sovereignty refers to power, energy sovereignty refers to where power resides in energy affairs. Facing an approach such as state sovereignty, based on the legitimacy of States even if they have been co-opted by extractive elites, peoples'

sovereignty defends the right of individuals, communities and peoples to decide on the issues which affect them and to do politics on a daily basis. The energy sovereignty to which we refer distances itself from border defence and the interests aligned with those of the elites, denounces a culture that promotes delegating decisions to the assumed neutrality of experts, their technocratic planning and decision making from the top. Furthermore, it opposes the exclusion of traditional knowledge and promotes active participation of citizens and co-responsibility.

So inspired by the definition of Food Sovereignty of La Via Campesina, energy sovereignty can define itself as the right of conscious individuals, communities and peoples to make their own decisions on energy generation, distribution and consumption in a way that is appropriate within their ecological, social, economic and cultural circumstances, provided that these do not affect others negatively.

Each person and each community has the right to the amount and type of energy necessary to sustain itself and its group, and the necessary resources to sustain it, provided it does not externalise negative environmental, social or economic impacts. In conclusion, if it does not generate anti-cooperation.

In the same way, state sovereignty refers to energy independence and security as the use of an undetermined quantity of resources that are considered necessary to keep domestic economies running at full power - satisfying all types of consumption without consideration of its origin. In contrast for peoples' sovereignty, energy sovereignty means that all people have the right to access energy in sustainable conditions and in sufficient and equal amount.

The 'culture of experts' tries to improve the public's 'energy literacy' (energy understood as an abstract entity, homogenous, to be speculated upon) via a vertical, hierarchical and one-directional learning process. On the other hand, from the standpoint of energy sovereignty, 'energy' is understood as a complex reality, multidimensional and asymmetric taking into account the perspectives of all the agents affected. It is necessary therefore to de-monopolize speculation and to generate an extended community of equals formed by all those who wish to begin a dialogue and decide on the future of energy. Participants in this process would provide their facts, which include essential knowledge, so as to provide the energies necessary to satisfy the peoples' needs. It would refer to specific and diverse energies, distinct from the commodified energy originating in oligopoly.

Furthermore, reaching energy sovereignty means that communities can decide on energy matters without interference and servitude like those required by increasing profits and satisfying shareholders to which private enterprises are currently tied and which is the result of the commodification of energy. To prioritize the peoples' control over a commons such as energy, it is necessary to go beyond the dilemma between the public and private sector - a logic from which all other viewpoints are excluded. On the contrary, structures and economic actors should be promoted that liberate us from the aforementioned servitude and permit the population to make their own decisions freely and among equals following the example of current cooperatives which commercialize energy.

Energy sovereignty (of the peoples) is also a concept that defends the sovereignty of all communities. Consequently, respecting the energy sovereignty of all peoples involves saving and rationalizing the use of common resources so as not to interfere negatively in the energy sovereignty of other communities. It also demands respect for the needs of future generations by not creating environmental problems - such as climate change or generation of highly radioactive residue - or by 'resource grabbing', or war.

For this, it is necessary to relocate the processes of energy generation and distribution in a double sense: physically bringing this closer to the area of use as well as facilitating the participation of the people in the decision making process.

Energy sovereignty is the path towards social empowerment that will transform the structures of oligopoly and create new realities from below, by those at the bottom for those at the bottom - including in energy.

* Energia y Equidad Magazine Editorial Collective -Thinking and Acting on Energy and
Xarxa per la Sobirania Energètica
www.energiayequidad and www.xse.cat

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2.5 Recognising the Rights of the Affected Communities *

The definition of “peoples affected by corporations” and their rights

Throughout history, movements of people affected by transnational and national corporations (workers, peasants, indigenous peoples, women, people affected by dams, mining and extractive activities) have been the protagonists of many struggles and had numerous victories. However, the gains and advances they have won through decades of mobilising have not been converted into rights. This allows the “same affected peoples” to be treated differently in “different” States by “different” corporations (which are often “the same ones”) that commit grave human rights violations.

In Brazil, for example, the National Council on the Defence of the Rights of the Human Person (CDDPH for its acronym in Portuguese) recognised that “despite provisions guaranteeing the economic, social, cultural and environmental rights of affected people, these rights have only become effective due to pressure from social movements”. The Council’s report notes that, “it can be concluded from the case studies that the current pattern of building dams has repeatedly caused serious human rights violations, whose consequences end up exacerbating the already grave social inequalities, leading to poverty and social, family and individual breakdowns”. (1)

The narrow and limited definition of the concept of people affected by corporations and the different forms of redress awarded in each case can be explained by the lack of recognition of affected peoples’ gains as rights: there is no national or international legal framework to guarantee these rights. Using the case of dams in Brazil again as an example, it is worth highlighting that Decree-Law N° 3365 of 1941 is the only law on the rights of affected people in place. The decree only recognizes the owners of land expropriated for a project as “affected” people, and establishes that the landowners’ only right is to monetary compensation. This decree does not guarantee the collective negotiation of prices, resettlement, or the right to free choice. It also denies the “rights” of “non-owners” and all other people affected by infrastructure works or projects: teachers, business owners, settlers, indigenous people, fisherfolk and municipalities, to mention a few. Thus, the decree recognises the rights of landowners, while denying all others their economic, social and cultural rights.

Furthermore, one finds the corporate capture of the State, in total asymmetry: all the rights of corporations have been fully regulated at both the international (investment treaties, WTO) and national level (where laws guarantee funding from public banks, subsidies for corporations and the power of the police). This is why social movements affected by transnational corporations all over the world are mobilising to obtain redress for the violation of their economic, social and cultural rights, and to have the concept of the rights of affected people by corporations regulated at the national level.

It is thus essential that a chapter dedicated to this concept, the forms of redress for violations and the rights already won through struggles in various countries be included in a Peoples Treaty. Rights are built socially, but they have not been incorporated into national and international legal frameworks. The creation of a legal framework that recognises the rights of affected peoples (by dams, mining or other activities) would represent a victory for various local and international movements. In numerous countries, social movements are already demanding that their social gains be legally recognised as rights.

The recognition of the rights of affected people by a national law or treaty is of utmost importance, as it would represent a major victory for the movements. We are aware, however, that being recognised by a law does not mean that this law will be “effective”.

The Movement of People Affected by Dams proposes that the Peoples Treaty contemplate the experience accumulated and the social struggles developed until now by including the following elements:

- 1 – definition of the concept of affected people
- 2 – definition of forms of redress
- 3 – definition of the rights of affected people
- 4 – redress for violations committed in the past.

The mobilisation and support of all allies involved in building the Peoples Treaty for the incorporation of this chapter – which would mean transforming local gains won via struggles in different parts of the world into a legal framework – would represent a new type of victory: that of earning rights!

* Movement of People Affected by Dams – MAB / Vía Campesina

Endnotes:

1 Movement of People Affected by Dams (2011). Relatório da Comissão Especial do Conselho de Defesa dos Direitos da Pessoa Humana 2010: <http://www.mabnacional.org.br/content/relat-rio-da-comiss-especial-do-conselho-defesa-dos-direitos-da-pessoa-humana-2010>

2.6 Defending Territories and Community Rights against Extractivism and “Green Economy” *

The current financial capitalist model needs unlimited growth of extraction rates to feed corporations greed: extraction of profit, of labour force and rights, of conventional and unconventional fossil fuels, and infra structure to distribute and use them, of minerals, and energy to process them, of agricultural commodities, and water to produce them. But this is not enough. Beyond extractivism business as usual fostered by speculative markets around resources reserves, new financial mechanisms are developed in order to generate more financial flows and to sustain the dominant economic system, as well as to finance, or justify, the so called ‘development’ projects themselves.

What we call false solutions for climate and environmental justice are true solutions for the financial system, especially after the recent crisis of 2008. Under the ‘green economy’ brand, or under an infinity of names for trendy approaches and mechanisms (1), transnational corporations pave their way as ‘key actors on sustainable development’. With a leading role on shaping market based environmental policies to hide or offset their pollution, corporations need states on service to secure their investment rights, while criminalizing environmental defenders, militarizing territories and watering down peoples rights and social policies.

But both extractivism and financialisation of nature have land in common as a building block. And this is what peoples are defending worldwide: resisting landgrabs and building strategies to free territories, to reinforce collective rights and to protect livelihoods and the commons that are essential for humanity and for all living beings to live well, with justice and dignity.

Liberating territories

Environmental justice struggles to defend territories from corporate landgrab articulates resistance from affected communities blocking large scale projects, dirty energy, plantations or mineral resources exploitation, to national and global mobilizations for public policies and international agreements. Based on international law provisions, such as ILO 169, indigenous peoples, other traditional communities and local authorities defend people’s sovereignty over their territories and the right to decide their own path towards development. In Guatemala, more than 40 municipalities have been declared free from mining and “development projects”. The national law of Costa Rica in 2010 defined the country free from mega mining. There are 15 countries and many states and municipalities free from GMOs in the world. Legislation in France in 2011 secured a ban on shale gas exploitation. Numerous regions in Europe, US and Australia have locked the gate - declaring areas free of fracking based on local communities struggles. The Frente de Organizaciones Populares Unidas declared Chicomuselo, in Chiapas, Mexico, a territory free of mining and dams during a big demonstration November 2014.

Environmental Defenders

The Special Representative of the UN Secretary General on Human Rights Defenders recognizes the connection between environmental activism and human rights issues, such as on land rights and natural resources, closely linked to the rights to health, food and water. These rights are outlined in the International Convention on Economic, Social and Cultural Rights adopted by the UN General Assembly in 1966.

Global Witness quantified 711 individuals reported killed between 2002 and 2011 defending their human rights or the human rights of others related to the environment, specifically land and forests, in incidents related to clashes between communities and State security forces; disappearances followed by confirmed deaths; deaths in custody, or one-off/multiple targeted assassinations. In a period of only 2 years, between 1 November 2011 and 31 October 2013, Friends of the Earth International recorded more than 100 attacks on environmental defenders in 27 countries. More than half of the deaths recorded were targeted assassinations of peasant leaders and deaths of peasants during violent confrontations regarding land disputes, often involving the protection of peasant territories from polluting development projects such as hydroelectric dams, monoculture plantations or the extraction of oil, gas and minerals.

These are not isolated numbers. The risks that environmental defenders face, when defending their rights and territories, is an alarming picture that calls for urgent action to stop the sources of institutional and corporate violence against communities and nature, and violence against the defenders of human rights and the rights of nature, including to their right to defend rights. States must promote and agree upon mandatory human rights standards for corporate behaviour and legally binding enforcement mechanisms to compel transnational corporations to respect the rights of nature, of peoples, and of rights defenders. For this to happen, it is crucial also that multilateral institutions maintain their independence from corporate interests and fulfil their mission of protecting those vulnerable to rights violations.

Challenging the corporate-led neoliberal model and fostering an enabling environment for communities and nations to exercise their self-determination and pursue sustainable livelihoods is part of the alternatives to ensure the enjoyment of human rights and respect for the rights of nature. Strong international campaigning to address global trends and link the sources of corporate and institutional power to the violations that are committed in territories is needed in order to transform the system and achieve social and environmental justice. A tighter web of protection based on international solidarity is also required to keep environmental defenders safe and it is rapidly growing among different movements and sectors of civil society.

Community rights vs corporate wrongs – Community Based management of territories

The respect and enforcement of community rights is promoted as a means to resist corporate power and create social change. Mobilisation and resistance against corporate led globalization opens up space for more progressive demands and practices to unfold.

Community rights are means that strengthen community-based forest governance (CFG) and refer to the regulations and practices used by many communities for the conservation and sustainable use of the forests with which they coexist. This type of governance and land management is communal and is traditionally identified with the protection of the forests in contrast to their industrial and commercial use. It is identified with traditional knowledge as an alternative to classic 'forest science', based on simplified models, which assume that destruction is 'reversible' and which have facilitated multiple cases of forest devastation as well as severe social injustice. CFG is a concept that opens new horizons and spaces for communities to exercise political control over their territories and resources through horizontal decision-making and transparent mechanisms.

Communities that have successfully organised and sustainably governed their forests share a series of characteristics, such as clarity on community forest area boundaries, to ensure greater confidence about 'communities' land tenancy, and local knowledge of the sustainable planning and use of forests and biodiversity resources; high levels of participatory community engagement, for both younger and older generations, are also supportive of the regulation of and respect for natural resource use; capacity for conflict resolution, including mechanisms to encourage dialogue, monitoring and accountability, all help to enable the community to resolve internal conflicts in a creative and transparent manner.

Legal recognition by the state and national legislation are not a condition for CFG, but are important when they guarantee land tenure and customary rights and that governance is decentralised towards communities in public-community models for sustainable resource use and livelihoods.

Building peoples power to dismantle corporate power – some examples

Many examples of local community defeating corporations are rooted on peoples power to defend their territories and their practices of community forest and land management. The Subanon Indigenous communities in Mindanao, in the Philippines, with the support of church groups and other civil society organisations, have stopped a mining concession and accompanying militarisation within their ancestral lands. In Sarawak, Indigenous communities displaced by a mega-dam are having their case heard, thanks to sustained legal support. In Indonesia, exclusionary conservation measures and alarming rates of deforestation, largely driven by expanding palm oil plantations, are being countered by communal forest management practices and proposals. Shell has been shut out of Ogoniland in the Niger Delta since 1993 when there were mass protests, and its past and present environmental and human rights abuses are being challenged through legal cases brought by affected communities. In Cameroon, Bagyeli Indigenous communities have been thrown off their land and denied access to hunting, gathering and sacred sites, in order to make way for a national park from which they have been excluded. Now they are threatened further by expanding plantations, yet they continue to assert their rights and are working to demarcate ancestral territories. This has earned them the right to hunt and gather in certain 'protected' areas and is also opening up more opportunities to directly negotiate with the government to secure their customary rights.

Protecting the commons from corporate green grab – resisting Financialisation of Nature

Financialisation can be seen as one of the possible answers to a crisis of capital accumulation, hence the need to create new physical assets through new enclosures and privatisation of what used to be the commons, and related financial assets in which to invest. It is still an unfolding process which requires strong state interventions in order to build, shape and activate large enough capital markets able to couple with spot market infrastructures and allow an extra-extraction of surplus value.

In this trend, new commodities have been created as part of the financialisation logic since their conception. This is the case of “carbon” and upcoming “ecosystem services”, created by law. Although they might be seen as “virtual”, whose creation and trade has real effects on the ground, as communities transfer, through private contracts, their right to use or not to use their own land to the hands of corporations and banks that trade titles to offset or allow pollution and environmental degradation.

These experiments have been highly controversial so far and not so successful from a long term perspective – see the collapse of the Emission Trading System (ETS) in Europe – but have allowed in the short-term the generation of new extra-profits for a few actors, in particular within the financial sector. But as Jutta Kill writes, this is not a linear process, or an irreversible one: “Historical forms of commodification of life were either abolished or socially contested, including slavery or the practice of selling indulgence letters’ (2).

The growing resistance to financialisation of nature is strongly expressed in the political agenda of diverse social movements and sectors since the convergences against the commodification of nature in defense of the commons at the Rio+20 Peoples Summit, but also earlier, with the critique of carbon markets by the Durban Group and as an outcome of the Cochabamba Peoples Summit in 2010. It has also generated regional initiatives articulated globally, such as ‘Scrap ETS’ and ‘Nature is Not for Sale’ campaigns against European policies on carbon and biodiversity offsets; the No REDD African Network (NRAN) and the Belem Letter Group in Brazil. Defeating the financialisation of nature is part of the struggle to challenge financial and corporate power, and can only be built from the ground, by those defending commons and community rights *from* financial markets and *in* harmony with nature, and building peoples power to dismantle corporations.

* Friends of the Earth International

Endnotes:

1 Green Economy mechanisms or approaches include: carbon markets, Reduction Emissions from Deforestation and forest Degradation (REDD), Payment for Environmental Services (PES), Biodiversity Offsets and other ‘No Net Loss’ approaches, Natural Capital accounting, Green Bonds, Biodiversity Mitigation Banks, etc. Currently there are 45 existing compensatory mitigation programs around the world, another 27 programs in various stages of development or investigation. Within each active offset program, there are numerous individual offset sites, including over 1,100 mitigation banks worldwide. The global annual market size is USD 2.4-4.0 billion at minimum, and likely much more, as 80% of existing programs are not transparent enough to estimate their market size, according to Madsen, Becca, Nathaniel Carroll, Daniel Kandy, and Genevieve Bennett, 2011 Update: State of Biodiversity Markets. Washington, DC: Forest Trends, 2011: http://www.ecosystemmarketplace.com/reports/2011_update_sbdm

2 Jutta Kill, Economic Valuation of Nature: the price to pay for conservation? A critical exploration, Rosa Luxemburg, 2014, p13

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2.7 Proclaiming Indigenous Peoples “Buen Vivir” to set Mother Earth free from the capitalist plunder *

The model of exclusion and the looting of the commons

There are more than five thousand indigenous groups worldwide and they represent an average population of 370 million people. In Latin America, Indigenous peoples are more than 45 million people.

We, Indigenous Peoples, resist and will keep on resisting from our territories by following our particular ways of living that aim at Buen Vivir (living well) in the face of the historic exclusion practiced by states and the dominant societies and the systematic violation of our collective rights. Departing from Buen Vivir, we are fighting the neoliberal economic model which is currently the only paradigm that governments are engaged with and which others cannot escape from. This model imposes on us policies of dispossession and plunders the collective goods in our territories (i.e. land, water, forests, biodiversity, air and knowledge(s)) through juridical mechanisms such as Free Trade Agreements (FTAs) and Bilateral Investment Treaties (BITs), private contracts and multinational corporations.

Nowadays, we can see that governments through the neoliberal economic project have deepened their extractivist economic policy in alliance with transnational corporations relying on national oligarchies to promote the continuity of the capitalist model. In addition, territories are becoming militarized, protests have been criminalized and Indigenous peoples’ mobilizations as well as other social groups manifestations have been dealt with repression and persecution. Indigenous’ leaders and chiefs and other social leaders have been going through a judicialization process, carried on as state policy, with the one and only objective of warranting the looting and depredation of our collective resources. The destructive and irrational model of exploitation puts in jeopardy the continuity of every being’s life in this planet. Until now, governments do not have policies or strategies to counteract the impacts and consequences of climate change. In addition to this, their solutions to their crises includes transferring the impacts to our territories. They make agreements based on the concept of “green economy” and trade even the scenic beauty of our moorlands, our forests, rivers, lagoons, traditional knowledge and integral conservation spaces such as the non-contacted peoples’ territories. In this way, they make our territories and every particular way of living vulnerable through deceptive methods, neither consulting our communities nor having our peoples’ consent.

The indigenous alternative: the Buen Vivir (living well)

The model of exclusion and looting has found resistance in Indigenous peoples and communities who believe activities connected to this model violate our rights and stand against the ways of living represented by Buen Vivir. We take the Buen Vivir as a daily search for respect, harmony and balance with everything that exists within our territory and beyond. As Indigenous peoples, we conceive that everything in our territories is interrelated and interdependent. This way of living has allowed us to live in harmony with territories and ensure our survival, pointing also to the reciprocity present in the collective way of living which characterizes the lives of indigenous men and women. In this sense, the logic of development centered on the extractivist policies promoted by governments breaks with the ways of living of Indigenous peoples and communities that rely for the life on territories.

The Andean Coordination of Indigenous Organizations (CAOI, Spanish acronym) understands that through the Buen Vivir, “we develop ourselves in harmony with everyone and everything; it is a process of living together though we all care about everyone and everything that surrounds us.” It also reaffirms that the ways of living based on Buen Vivir “are to live in community, in brotherhood and especially in complementarity. It is a communal life, harmonious and self-sufficient. Buen Vivir means complementing each other and share without competing and living in harmony between people and with nature. It is the basis for the defense of nature, of life itself and of all mankind”. By following this, Indigenous peoples are opting for affirming community life in harmony and complementarity as the path for the realization of Buen Vivir in contrast to the individualistic and competitive logic of capitalism as the current dominant model. In the same way, Buen Vivir contrasts with the logic of mercantilization or over-exploitation of collective resources in indigenous territories as well as in the Global South by raising the issue that harmony also refers to being in harmony with nature. Therefore, human activities must respect the natural cycle of nature and its capacity to restore itself.

The pledges of Buen Vivir based on Indigenous Peoples’ cosmovisions seek to break the structures and values of the current dominant model and to call the attention of social movements throughout the world to adopt it as the new paradigm to follow. In

societies in constant crisis (economic, environmental, climatic, energy), Indigenous Peoples' ways of living based on Buen Vivir emerge as the option for transiting from within the community level to the national and global levels by becoming, at the same time, an alternative to overcome those crises. The Buen Vivir must become the inspirational proposal for the response to the crisis that the current model is leading us to. We, Indigenous Peoples bring to the modern world a proposal based on our ancestral and daily way of living that respects and lives in harmony and balance with everything that exists in Mother Earth. We believe that the western life model and the infinite economic growth have reached its peak and in order to heal Mother Earth it is necessary to go back to the culture of life, to Indigenous Peoples' Buen Vivir.

We, Indigenous Peoples commit ourselves and encourage other movements to organize a Global Call for a Whole Life (Vida Plena) and for the Buen Vivir (Living Well), so that we can move forward on the way to convergence and to the peoples' and nations' government in our territories, at the national, continental and global level. And in this way, we can strengthen and reinvent strategies of resistance against the neoliberal economic model of dispossession. We need to continue with and radicalize actions in the struggle and recovery of the territories stripped by extractivist policies and activities, armed conflict and by the infrastructure megaprojects that affect integrity and break the harmony and Indigenous peoples' life systems. We seek to implement the Buen Vivir (living well) model, as the alternative presented and offered by Indigenous peoples to the entire humanity. In this context, we commit ourselves to building life plans and Buen Vivir projects in each of our communities and nations that relate to territory, education and culture, health, economy and production, institutional development, organization and conflict resolution.

In the same way, we recognize the active and decisive role of women in the resistance to extractivist policies and we will ensure their participation in the exercise of peoples' self-determination, in Indigenous Peoples' structures of self-government. Women's participation is joint/dual/complementary (man-woman), in so far as we believe that the realization of the Buen Vivir is based on the reconstruction of the complementarity between men and women and with all the beings who inhabit the territories for the purpose of revitalizing our values and principles as Indigenous Peoples.

We demand the recognition and implementation of the Plurinational States that involves coexistence with Indigenous Peoples and their nations, within their own life systems, by respecting individual and collective rights. In this context, states should develop policies that recognize diversity, autonomy and self-determination. States should state that Mother Earth and the water and all other elements in the territory are living beings and subjects of rights. At the same time, we call Indigenous Peoples to demand and exercise every right recognized as Indigenous Peoples' rights by states throughout the world, particularly those established by international treaties such as the ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples.

* The Andean Coordination of the Indigenous Peoples (CAOI)

Endnotes:

1 Translator Note: There are a couple of translations for Buen Vivir such as the "good life" or "living well". The first is less used, more technical and less political in terms of the collective rights aspect the terminology wants to promote. The second brings more the holistic idea of the Andean indigenous peoples' imprint on their ways of living as a transformative action of integrating wholly with nature and indigenous life systems. In this sense, we made the choice of translating buen vivir here in their first appearances and, then, left it as CAOI articulated it in their statement.

References:

This document is based on the Maria Piendamó Declaration launched at the V Continental Summit of Abya Yala Indigenous Peoples and Indigenous Nations and on the II Continental Summit of Indigenous Women of the Abya Yala between November 10 and 16th, 2013, in the La Maria Piendamó Retreat, Cauca, Colombia. The Summit minutes are available at: www.coordinadoracaoi.org

3 Envisioning New Economies – in Theory and Praxis

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3.1 Economies for Life: Building Convergences for System Change *

The Vision

Our vision is to build an eco-society that seeks equity within humanity and a balance with nature. We envision an economy that is grounded on the recognition that humans are part of (and not above) Mother Earth. The future depends on our capacity to recover our humanity and preserve the vital cycles of the Earth system.

To achieve this goal, humanity needs a new kind of system and economy that has human rights and rights of nature at its heart. An *Economy for Life in our Earth community* aims to overcome the capitalist, patriarchal, productivist and extractivist system that treats nature and humans as only material for exploitation.

People are custodians and not owners of Mother Earth. The rivers, the glaciers, the mountains, the sea, the forests, the biodiversity have the right to live, to exist, to regenerate, to be free from pollution, to interact and preserve their integrity. For our subsistence, humans need and can be served by Mother Nature, but this has to be done while respecting the vital cycles of nature. We can cut a tree but not destroy an entire forest; we can feed ourselves with plants and animals without exterminating the species; we can use technologies to facilitate our life without affecting the integrity of nature. In other words, *human economic activity should never go beyond the limits, the capacity to regenerate and the vital cycles of nature.* This is the essence of the rights of nature.

Humanity can only flourish with the full implementation of human rights for all: economic, social and cultural rights; civil and political rights; women's rights; children and elder rights; indigenous people, peasants, workers, migrants, fishers, artists and the rights of all communities.

The *Economy for Life* is an economy where the fundamental needs of every being and Mother Earth are guaranteed to promote the creativity, humanity and happiness of life. It is an Economy where solidarity, complementarity, diversity, peace and the well-being of the Earth community as a whole have replaced the greed, ambition, competition, individualism, discrimination, violence and destruction of our Mother Earth generated by the logic of capital.

The Transition

To achieve an *Economy for Life* we need to take several measures at different levels:

Redistribution and complementarity

Replace the paradigm of development with the paradigm of redistribution and equity. To address the basic needs of more than half of the world's population and end the disruption of the vital cycles of the Earth system, global and national economies have to redistribute wealth to reduce asymmetries under the limits of nature. Some sectors and countries still need to improve their well-being while others need to reduce their overconsumption and waste. Well-being for all will only be sustainable when we share what

is possible and available. The real challenge is not only to eliminate poverty but, more importantly, to eliminate the concentration of wealth and power and achieve economic and social justice based on rights.

Take control over, in a democratic and conscious way, the key means of production, finance and trade and establish mechanisms of complementarity, solidarity and redistribution penalizing the over-accumulation of wealth and the destruction of ecosystems.

Bring producers of goods, providers of services and people closer together, promoting self-management, self-emancipation, solidarity and social interaction in harmony with nature. The closer the relation between production and consumption, the more possible it is to *develop democratic control and participation of the people over the economy.* Therefore we need to promote local production and consumption of durable goods to satisfy the fundamental needs of the people and avoid the transport of goods that can be produced locally.

End the system of overconsumption, luxury and waste driven by large corporations. The *Economy for Life* will not seek to sell more to create addicted consumers but instead to satisfy the fundamental and quality needs of all with durable goods that use less natural resources and are reused or recycled, adopting zero waste approaches. Advertising has to be under the control of the society to stop overconsumption.

Transform trade into a vehicle for complementarity and not for competition and profit. Trade should be guided by the need of the people and not by the greed of TNCs, interchanging in the market what a community, region or country produces in excess, after satisfying its local needs or what they cannot produce locally. This involves giving priority to the value of use of all produced goods over their value of exchange. To achieve this *trade rules have to be asymmetric:* more beneficial for the weakest and more demanding for the strongest. The world today is extremely uneven. To apply even rules in this reality only benefits those that have more power. "Special and differential treatment" is not enough at all. Trade agreements should be asymmetric allowing the smallest and disadvantaged economies to use different trade measures to address the needs of their more marginalized population. Several measures can be applied like:

- re-introduction of tariffs and duties on imports of luxury goods and other goods already produced locally as a means of increasing the state's fiscal base, to support local production and to reduce the depletion of nature.
- export or import restrictions, export taxes, increased tariffs, subsidies and incentives for products produced locally, durable goods and low consumption.
- government procurement programs and local, regional and national policies are central to stimulate small and medium-sized local enterprises, cooperatives and social enterprises from different sectors.
- remove agriculture, water, education, health, communication, financing, intellectual property, government procurement, investment, Investor-State Dispute Settlement mechanisms and others from all trade agreements to recover the space that societies need, to define the best policies for the people and nature.

Markets have to serve to exchange what is needed for the common benefit of the Earth community.

Society has to own and democratically control the financial system. Establish international, permanent and binding mechanisms of control over capital flows. Implement an international monetary system based on a new system of reserves, including the creation of regional reserve currencies in order to end the current supremacy of the dollar and to ensure international financial stability. Socialize the money that currently is under the control of central banks that respond to private interests and not social demands. Implement a global mechanism of state and citizen control of banks and financial institutions. Prohibit hedge funds, derivatives and other toxic products. Create people-based banking institutions and strengthen existing popular forms of lending based on mutuality, cooperatives and solidarity. Institutionalize full transparency within the financial system through the opening of the books to the public. Prioritize lending, at minimum rates of interest that are defined through democratic processes to meet social and environmental needs.

Establish progressive taxes as a means for redistribution and to end the concentration of wealth in a few hands. These measures should include taxes to high incomes, movements of capital, luxury goods and profits, financial transaction taxes, taxes on fossil fuels and other polluting activities and the elimination of tax havens.

Promote participatory budget processes at all levels and in all sectors to redistribute taxes and incomes of the state/society assuring that peoples needs are met.

Cancel the debt of countries that were imposed on the people to fulfil corporate and private interests. Establish systems of democratic, accountable, fair, sovereign borrowing and lending that serves the people and nature. Abolish credit and aid conditionalities supporting the sovereign right of the people to decide. Governments and States should no longer assume responsibility for the debts of big corporations and banks.

Equity

Dismantle Transnational Corporations' power in order to achieve equity and justice. To achieve a world without TNCs we need to put in place several measures to limit their power, stop their collusion with governments, and end their impunity. Transitional measures can include, to:

- reduce and eliminate their power: limit their size; increase the taxes they must pay; measures against distorting prices; control of speculative and oligopolistic behaviour; nationalization and socialization in order to place TNCs under the democratic control of the people and allow the emergence of medium and small sized players.
- end the collusion with governments: establishment of strong and independent mechanisms of regulation, transparency and accountability of state officials and corporate representatives; social participation in the regulation process; transformation of the state and the democracy to serve the people.
- end their impunity: inclusion of crimes of corporations in our judicial system; introduction of international binding codes; establishment of mechanisms such as international and regional courts to judge and punish environmental and human rights violations of TNCs.

Return to society the private property controlled by elites, TNCs, big banks', national corporations' and 'sub-national corporations'. Redirect public spending to guarantee basic incomes, social security and finance projects for people and nature. Stop bailouts and subsidies from governments to corporations and banks and support instead those people that are losing their houses, land, workshops and small businesses.

Democratize the management of public state owned enterprises. Encourage public service managers, staff, unions and consumer/ social organizations to collaborate to this end and to sanction corruption and nepotism practices.

* Social Movements for an Alternative Asia (SMAA)

Reference:

This contribution is part of the living document that is a result of an extensive process led by the Social Movements for an Alternative Asia (SMAA), Gerak Lawan, La Via Campesina and the supporters of the #EndWTO Campaign.

SMAA website: www.smaa.asia

3.2 Solidarity Economies: Advancing Regional Perspectives on Post Capitalism

3.2.1 Solidarity Economy as a post-capitalist mode of development *

A post-capitalist world can only be born from two vectors that interweave: one, the contradictions of capitalism, a system that estranges human beings, human communities and nations from themselves and their neighbours, pitting one against the other by means of greed, voracity and competition; the other, the 'national-popular collective will' (Gramsci) that expresses peoples' critical awareness, when mature, in a massive movement for transformation.

Along the centuries since the system of capital gained prevalence in human history, both employed and unemployed workers have sought alternative forms of organizing consumption, production, trade, and access and management of productive goods and resources. We can call it 'an economy of emancipated work' as opposed to 'the economy of capital'. Outstanding experiences emerged in the past, with the Paris Commune, Rochdale, Scotland, and others. They practiced innovative modes of trade, production, distribution and, later, consumption and finance. The challenge for the working classes has been, all along more than two centuries of oppression, exploitation and alienation, not only how to transform the firm at the micro level, but also how to create enabling environments for *the development of systemic meso and macro level forms of organization of the economy* based on the premise that LIFE and its evolution, in the form of autopoietic and cosmopoietic beings, is the true meaning of human knowledge, work and creativity. Working peoples, therefore, must become the meaning and the core agent of socioeconomic relations and practices. The economic empowerment of working women and men is the basis for their political empowerment, and is, therefore, an essential dimension of true democracy.

Latin American experiences

The Solidarity Economy movement in Latin America and the Caribbean has learned from both the indigenous peoples' forms of organization of life and work, and from the European ways of organizing production and economic flows of goods and services on the basis of self-management, cooperation and solidarity. The mapping of Brazilian cooperatives, associative initiatives and consultancy organizations conservatively estimated at almost 20,000 initiatives working in collaborative association, is generating an income per year that in US dollars amounts to at least US\$ 3 billion. Since 2003 the Brazilian Forum on Solidarity Economy (1) has been successful in promoting the autonomous organization of civil society to establish socioeconomic flows, and to maintain a dynamic dialogue with the National Secretariat for Solidarity Economy, of the Ministry of Labour and Employment.

Similar articulations have developed in other countries of Latin America and the Caribbean. The interaction between Solidarity Economy activists, researchers and consultants led to the creation of the Intercontinental Network for the Promotion of Solidarity Social Economy (RIPESS) (2), which is now organized in six continents, including initiatives in Latin America and the Caribbean.

Solidarity Economy Worldwide

Solidarity Economy worldwide is a plural movement, encompassing people who take it simply as a social mechanism to compensate for unemployment and income and wealth inequality, but also people and organizations who promote the potential of Solidarity Economy as a post-capitalist way of conceiving and organizing the production, development and reproduction of life on the Planet, in harmonic balance with the ecosystems.

* Institute of Alternative Policies for the Southern Cone (PACS)

References:

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Arruda, Marcos, 2009, *"Education for a Love Economy: Praxis Education and Solidarity Economy"*, book, Ideas & Letras, Aparecida do Norte, São Paulo

Endnotes:

1 The FBES, Brazilian Forum on Solidarity Economy is organized in the whole country in more than 160 Municipal, Microrregional and state Forums, involving directly more than 3,000 Solidarity Economy initiatives, 500 consultancy organizations, 12 state governments and 200 municipalities through the Public Managers Network on Solidarity Economy: <http://www.fb.es.org.br>

2 See: <http://www.ripest.org/contact-us/?lang=en>

3.2.2 Community Supported Agriculture: between Food Sovereignty and Solidarity Economy*

The end of the 20th century can be characterised by the emergence of both extreme forms of globalisation of trade and of social movements. The spaces in which the latter emerged were not only the World Social Forum, but most specifically the thematic movements that were born from the issues on the ground that resulted from some of the most extreme and negative impacts of globalisation and industrialisation of the 1970s-1990s. Many of these movements focussed on human rights, including the right to healthy, safe food.

Teikei, the Japanese-born Community Supported Agriculture (CSA) movement was born in the 1970s (1). It was the response of Japanese housewives desire to ensure that they could feed their families safe, healthy food, and avoid the terrible impacts of Minemata disease caused by industrial mercury poisoning. It was defined by the Japanese Organic Agriculture Association as follows: "An idea to create an alternative distribution system, not depending on the conventional market. Though the forms of Teikei vary, it is basically a direct distribution system. To carry it out, the producer(s) and the consumer(s) have talks and contact to deepen their mutual understanding: both of them provide labour and capital to support their own delivery system.... Teikei is not only a practical idea but also a dynamic philosophy to make people think of a better way of life either as a producer or as a consumer through their interaction."(2)

It spread to both the USA and Europe at the beginning of the 21st century, and Urgenci, the International Network of Community Supported Agriculture was founded in Aubagne, in France in 2004. According to the association's Bye-laws, Urgenci's mission is "... to further at international level, local solidarity-based partnerships between producers and consumers. We define the solidarity-based partnership as an equitable commitment between farmers and consumers, where farmers receive fair remuneration, and consumers share the risks and rewards of sustainable agriculture". Today there are CSAs and networks in most countries, and on all continents, with Asia, Europe and North America as the strongest.

By definition, such a network has a dual affiliation, the primary being to the food sovereignty movement. Food sovereignty is a term developed by La Via Campesina (LVC) in 1996, which asserts the right of people to define their own food systems. The best definition is that of the global forum that was held in Nyéléni, in Mali in 2007: "Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations" (3). Urgenci therefore considers itself as a social movement, and part of the Food Sovereignty "family". It has been responsible for carrying forward the strand of the Nyeleni Europe process dedicated to Alternative Food Distribution Systems since the important European meeting that took place in Krems, in Austria in August 2011 (4,5). Delegations from 35 different countries came together and worked on concepts and strategies for building policy and actions on all aspects of European food sovereignty. One of the outcomes of this first Nyeleni Europe meeting has been that Urgenci has carried the work on Alternative Food distribution Systems forward in over 20 European countries, both Eastern and Western Europe. Since then two major European meetings have been held to carry forward this Nyeleni Europe strand (Milan 2012 (6) and Villarceaux, the beautiful agroecological farm and seminar centre owned by the Foundation for the Progress of Humankind (FPH) (7) near Paris, in March 2014 (8).

The aim of these meetings was to develop European networking activities, disseminate the CSA concept and share best practice. This work has seen the genesis of several successful joint European Union-funded projects over this period. The conclusions of the Milan meeting are available on the Urgenci website (9).

The second logical affiliation of local solidarity-based partnerships is to solidarity economy.

The idea and practice of "solidarity economics" emerged in Latin America in the mid-1980s and blossomed in the mid to late 90s, as a convergence of at least three social trends. First, the economic exclusion experienced by growing segments of society, generated by deepening debt and the ensuing structural adjustment programs imposed by the International Monetary Fund (IMF), forced many communities to develop and strengthen creative, autonomous and locally-rooted ways of meeting basic needs. These included initiatives such as worker and producer cooperatives, neighbourhood and community associations, savings and credit associations, collective kitchens, and unemployed or landless worker mutual-aid organizations. Many of these, such as cooperatives have existed for over 100 years. However, in response to the economic crises, a whole set of new, transformative initiatives have emerged in most countries

Second, growing dissatisfaction with the culture of the dominant market economy led groups of more economically privileged people to seek new ways of generating livelihoods and providing services. From a largely middle-class "counter-culture"-similar to that in the United States since the 1960's - there emerged projects such as consumer cooperatives, cooperative childcare and people's health care initiatives. These initiatives are complementary to existing national health systems currently becoming eroded by the crisis, housing cooperatives, intentional communities, and eco-villages. There were often significant class and cultural differences between these two groups. Nevertheless, the initiatives they generated all shared a common set of operative values: cooperation, autonomy from centralized authorities, and participatory self-management by the members.

A third trend worked to link the two grassroots upsurges of economic solidarity to each other and to the broader socioeconomic context: emerging local and regional movements began to forge global connections in opposition to the forces of neoliberal and neo-colonial globalization. Seeking a democratic alternative to both capitalist globalization and state socialism, these movements identified community-based economic projects as key elements of alternative social organization (10).

* RIPPES-Intercontinental Network for the Promotion of Social Solidarity Economy

Endnotes:

1 <http://www.joaa.net/english/teikei.htm>

2 Asociación Japonesa de Agricultura Orgánica: In the beginning there was "teikei"

3 <http://www.nyeleni.org/spip.php?article291>

4 <http://vimeo.com/37734507>

5 <http://www.nyelenieurope.net/en/>

6 http://www.gartencoop.org/tunsel/system/files/final%20report_FINAL_AKorzenszky.pdf

7 <http://www.fph.ch/?lang=fr>

8 <http://www.urgenci.net/en-gb/content/2nd-european-meeting>

9 <http://blog.urgenci.net/?p=1139>

10 Miller, Ethan (2006) "Other Economies Are Possible!": Building a Solidarity Economy, Grassroots Economic Organising - GEOCollective
http://www.geo.coop/sites/default/files/Other%20Economies%20Are%20Possible_GEO%20Section%20of%20D&S.pdf

Reference:

The RIPESS – Réseau Intercontinental pour la Promotion de l'Économie Social Solidaire – Intercontinental Network for the Promotion of Social Solidarity Economy - was founded in Lima in Peru in 1997, and is today the leading global network of the solidarity economy movement, with United Nations (UN) recognition.

RIPESS: <http://www.ripest.org/?lang=en>

3.2.3 The Solidarity Economy – as an essential alternative to Corporate Power *

We face a context where investment now has a dynamic disconnected from the real economy of everyday life and need. It is a context where major corporations put their money on the money markets, making money out of money, rather than employing people to produce useful things and services. We face governments handing over of the delivery of services to private companies intent only on guaranteed profits. In this context, many millions of people across the world are self-organising their own and each others' creativity to meet practical needs and to do so in harmony with nature and under humane working conditions. The result is the emergence of an economic logic based on mutuality or solidarity as opposed to the competitive drive to make and accumulate profit.

This idea of a *solidarity economy* is worth exploring as to whether it can provide a framing concept for developing an alternative to corporate power. It is a concept which frames a wide variety of different organisational forms. This variety stems from the fact that principles of mutuality have been experimented with at different historical moments, and are more favoured by some forms of technology than others.

We are just now at a particular moment in the history of technology which provides us with tools that both enhances the creativity of individuals and their direct person to person collaboration *and*, at the same time, extends the possibilities for co-operation and co-ordination on a global scale. The future use of these technologies will be contested – already predatory private corporations can see gold in the knowledge commons being produced through people's habitual inclinations to communicate, socialise and share information. But the key point is that technological tools have been created, influenced significantly by the ambitious co-operative values of the generation of 68, which take solidarity economics potentially to a new level, enabling their rootedness in local mutuality to be foundations for a global alternative. In other words, while production is local, the new communication and information technology (ICT) makes it possible for social, political and economic organisation to be global, and able to create a counter-power at that scale.

To understand and grasp the possibilities, it helps to put the development of the solidarity economy in historical context. The practical search for mutually-based alternatives to competition for private profit is as old as capitalism. Since the 19th century, this social dynamic has produced a varied tradition of *co-operative production*. These forms of solidarity based production have a varied record but there is sufficient experience of sustained success, even under the pressures of a capitalist market to conclude that co-operatives are one element in a solidarity economy alternative to corporate power.

Vital to the dissemination of co-operative forms of production is the level of communication and information technology. The way that digital technology has developed, through the world wide web, has enabled people who share values of egalitarian and open co-operation to take co-operative production, especially cultural production, to a new level of scale and economic significance, through *peer to peer (known as P2P) production*. Globally and locally, productive communities of citizens have been creating vast common pools of knowledge, code (software), and design, which are available to all citizens, enterprises and public authorities to further

build on. Often, these productive knowledge commons are managed by democratic foundations and non profits, which protect and enable the common productive infrastructure of cooperation, and protect the common pool of knowledge from exclusionary private enclosure, most often using open licenses. A recent U.S. report on the 'Fair Use Economy', i.e. economic activities based on open and shared knowledge, estimated its economic weight in that country to be one-sixth of GDP.

Often however, it has been capitalist corporations that have seen the potential of this and have monetarised them and made them a source of profit. Without strong civic institutions committed to the idea of the commons and the public good, open knowledge systems are vulnerable to appropriation and ultimate commodification by capitalist firms as is currently the case with the internet itself. The recent ruling of the FCC in the United States undermining net neutrality is a major development in the privatization of what has until now been an equitably accessible global commons of information. We only have to observe the ability of Google and Apple to profit from the voluntary social labour of open software developers and social networkers to see that this world of P2P exchange is a contested world. Or we can recall the defensive reaction of corporate monopolies of the music industry in the 1990's, threatened by the spontaneous emergence of P2P file sharing, who turned to the state to support their corporate interests against the burgeoning movement to share and create a new public cultural space.

But we are seeing, especially from experiences in Latin America, that the state need not be the custodian of corporate interests. It can be a partner with movements and initiatives for the commons. The experience of Uruguay, following the success of the movement against the privatisation of water and the referendum for the constitution to guarantee the protection of water as a public good, has shown how a government can both protect and expand a natural commons such as water. Similarly regarding the immaterial commons, the government in Ecuador is embarking on an ambitious plan to develop the knowledge commons as the basis of a hybrid economy based on the values of *buen vivir*. Their vision is of the state as an explicitly *partner state*: 'As Michel Bauwen, who is working on this plan for the Ecuador government, puts it: 'The state is no longer a neo-liberal market-state at the service of property owners, but is at the service of civil society, their commons, and the sphere of the ethical economy. It is not at the service of the private capital accumulation of property owners, but is at the service of the value accumulation and equitable value distribution taking place in the commons-cooperative sector. It is at the service of the *buen vivir* of its citizens, and the good knowledge they need for this. Instead of a focus on public-private partnerships, which excludes participation from civil society; a commons-supporting partner state will look at the development of public-social or public-commons partnerships. It is very likely that once the state undertakes the support of a commons-based civic and ethical economy in the sphere of knowledge, that it will also look at the development of institutional commons in the physical sphere. For example, developing commons-based housing development policies, which keep social housing outside of the speculative sphere.'

As the experience of Latin America illustrates most vividly, the solidarity economy emerges partly out of conflict and nowhere is this more the case, across the world, than in the struggle over the public services and utilities. The welfare state and also the creation of public utilities in the post-war period were an attempt by social democratic states to create services and utilities with social rather than private or corporate goals. The social relations of these welfare states tended however to be somewhat paternalistic and technocratic in their forms of management and delivery. Values of solidarity were rarely enacted in the daily life of these institutions, though there were some exceptions, like the National Health Service (NHS) in the UK.

When the livelihoods and work satisfaction of public service workers have been threatened by governments seeking, often under corporate pressure, to privatise the service these workers provided, turning their work for social usefulness into a commodity for corporate profit, public service workers have often resisted. Their resistance however included proposals for reforming the service they provide into one that is based on relations of active solidarity, rather than simply defending the status quo of formal bureaucratic delivery.

This *transformative resistance* through alliances between users and producers is another sphere of the solidarity economy. Some, notably the water activist Tomasso Fattori, have called this the struggle for the 'commonsification' of the state.

Indeed an increasing range of struggles around activities and resources that are considered essential for a flourishing life – frame their visions of co-operative self-government in terms of the commons. As a result there is a rich process of cross-fertilisation across spheres of life – the management of water, the production and dissemination of knowledge, the organisation of reproductive services like health, sanitation and the recycling of waste – in search of the most practically efficient rules of decision making autonomous from and resilient to the post-democratic elite. The result is an increasingly dense network of experiments towards a solidarity economy.

The solidarity economy is clearly emerging as a potential ecology of different economic forms sharing common values; potentially a hybrid system. This possibility influences the nature of our struggles and alliances, pointing to the importance of alliances which

combine oppositional campaigns with practical alternatives already creating positive benefits in the here and now. Such alliances are already evident in movements around food, water and energy, which both expose and oppose corporate power and also build a form of counter power which demonstrates that an alternative is possible and under constructive construction.

* Reflections on Solidarity Economy from different regions of the world

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3.3 Putting the economy at the service of life: Feminism as an alternative *

Equality in all areas of life as the founding principle of the society we aim to build is feminism's contribution to alternatives to the capitalist, patriarchal and racist model, which is strengthened by transnational corporations. This model is based on a sexual division of labour that separates and establishes a hierarchy between work done by men and by women, giving greater value to men's activities. Domestic and care work that guarantees the reproduction of life and involves tasks like taking care of people, food and cleaning is attributed to women, and so-called "productive" work is attributed to men. However, in reality, women conciliate productive and reproductive activities, as they are present in both spheres at the same time.

The division between productive and reproductive labour corresponds to a separation between public and private space, and between commercial and non-commercial activities. Activities that cannot be commodified are not valued and are considered "non work". This is the case of the reproductive work that women carry out in the domestic sphere with a lot of dedicated time and energy, which often remains invisible.

The feminist economy gives women's contribution to the economy and experiences greater visibility, and shows how commercial production (the goods and services that are sold on the market) is interlinked with social reproduction – that is, the production of people and life. This includes everything from pregnancy and giving birth, to taking care of girls and boys, the sick and the elderly, and even adult men so that they are healthy and available to work in the market. When we talk about 'care', we are not referring only to the cooking, cleaning, washing and ironing, but also providing affection, emotional security and sustaining the social network that keeps families, neighbours and communities together. We women produce non-monetary wealth that we redistribute directly (without going through the formal financial system). Starting at a very early age, women dedicate a significant amount of their time to satisfying the needs of society, their family members and their communities.

The feminist economy puts the sustainability of human life and collective well-being at the centre of economic and territorial organisation. It questions the market society in which peoples' relations with other people, with themselves and their body, and with nature is seen as a business in which profit is what matters. From the feminist economy's perspective, we propose a change to what is understood as 'economy', by giving visibility to the set of processes that are necessary for producing life and by questioning the paradigms of the dominant economy. The dominant economy only recognises commercial production, which is understood as the result of the actions of "free and equal" economic actors who give priority to individual interests and seek to maximize profit at the lowest cost. These premises correspond to a white man in his thirties who is in good health and has a good economic position, but not to the majority of humanity. Although they are not based in reality, these are the paradigms that guide the economic policies dictated by the International Monetary Fund (IMF), the World Bank (WB), the World Trade Organization (WTO) and the majority of governments around the world.

Recognizing the interdependence between the production and reproduction spheres is necessary not only because it is in this sphere that the workforce for capitalist production is produced, but also because this set of tasks fulfils key functions in guaranteeing the population's well-being in general. In the market society, a dividing line between the "economic" and the "social" has been established. Neoliberal thought accentuates this division, as if it were possible for social and economic policies to follow independent paths. While macroeconomic policies are guided by market criteria and efficiency targets, social policy is used as compensation. Thus, in many countries, neoliberal policies sought and still seek to privatise and incorporate areas seen as social – for example, health, social security and education – into the market.

Threats to life

Survival strategies used by women in various spaces and territories are constantly threatened by the economic interests of major corporations and capital. These interests exacerbate inequalities, as large infrastructure works – such as hydroelectric dams and highways – prioritise the circulation of capital and goods at the expense of communities' living conditions. Access to water, energy and land for food production and biodiversity are elements that guarantee the sustenance of life. They are of interest to women, who are the first to suffer when they become scarce.

While job creation policies prioritize men's employment, social policies that lead to the implicit "deactivation" of women are implemented in contexts of poverty and economic crisis. At times of economic crisis and unemployment, neoliberal structural adjustment policies impose severe budget cuts to goods and social services, thereby increasing their precariousness and promoting their privatisation and the reduction of their social coverage. As a result, once again, much of the care work must be provided in the home, which falls mainly on women's shoulders. The devastating consequences of this reality have been proven in Latin America, during the Asian crisis and, more recently, in the crisis affecting Europe.

The production of life is also affected by violence, the threat of violence and war. War destroys means of sustenance, leaves entire populations unemployed, keeps women, men and children prisoner in their own homes, and promotes all kinds of fundamentalism. Wars are promoted by the transnational military industry or by interests in peoples' natural resources.

The sustainability of life as a paradigm

With its sustainability of life concept, the feminist economy proposes displacing the centre of economic analysis from the market to the people, and replacing profit generation with care for life and the satisfaction of human needs as the objective of economic and social organisation.

In women's experience, work and life are profoundly interconnected, as it is through work that adequate conditions for the development of life are created. Recuperating women's historical experience in the production of life – in either caring for people or establishing a harmonious relationship with nature – puts the possibility of reorganising society so that it is centred on the satisfaction of men and women's needs back on the horizon. This presupposes the existence of relations of equality, freedom and autonomy. Reflecting on the sustainability of life implies giving visibility to what needs must be satisfied in order to guarantee conditions for a dignified life, as opposed to a society that promotes the capacity to consume as a reference for one's well-being.

We consider that it will never be possible to achieve equality between men and women in the capitalist system, whose true *raison d'être* is based on the exploitation of people and the environment. The objectives of our actions and proposals are to distribute wealth, and guarantee the right of all women and men to employment, dignified conditions for production and commercialisation, opportunities for personal growth, as well as the right to free time.

We want a society with full employment for women and men, in which the youth do not have to start to work at such an early age in order to have an income. We want a society where people have enough free time for themselves and for participating in the community. We want a society where the women and men who want to make a living from agriculture, crafts, small businesses or associative productive groups can sustain themselves without being crushed by banks and large corporations, especially transnational ones that seek to concentrate resources in their hands. We want the State to have policies that guarantee income during times of illness, unemployment, maternity and paternity leave, and retirement (universal social protection). We want domestic and care work to be reorganised so that the responsibility for this work be shared between men and women within the family and the community. For this to become reality, we demand the adoption of public policies that support social reproduction, including day care, collective laundry facilities and restaurants, care for the elderly, as well as the reduction of the workday without reducing wages. We also want an end to the militarization of our countries and our planet, to imperialism, and to the endless conflicts and wars that erupt over control of territories, natural resources, populations and public power. Only when peace is guaranteed can equality between men and women become a reality.

The struggles for food sovereignty, agro-ecology resistance practices historically led by women, the feminist politicisation of the relationship with the body as a construction of women's autonomy, and the centrality of caring for life and nature produce political convergences capable of building a different paradigm for the sustainability of life based on equality.

* World March of Women

References:

Other documents on WMW website: <http://www.worldmarchofwomen.org>

Campaign Call to **International Action** For the Economic, Political, Cultural and Environmental **Sovereignty of Our Peoples**

End the Impunity of Transnational Corporations

Now! The time has come to unite the hundreds of struggles, campaigns, networks, movements and organizations that are combating the different ways transnational corporations are appropriating our destinies, natural heritage and rights, dismantling public services, destroying the commons and endangering food sovereignty in every corner of the planet.

Neoliberal globalization has opened the doors for the savage exploitation of the world by the big economic powers. They have gradually taken over our lives and the planet by creating a blanket of impunity through the dismantling and systematic violation of laws and the signing of international trade and investment agreements, which award investors more rights than citizens. As a result, peoples' rights have been systematically violated, the Earth and its resources destroyed, pillaged and contaminated, and resistance criminalized, while corporations continue committing economic and ecological crimes with total impunity. Driven by their imperative of maximizing profit, TNCs seek to pit workers from different regions against one another in what is a race to the bottom for the world's working people.

The governance and policies of the multilateral institutions (IMF, WB, and the WTO) have long served corporate interests, while the institutions of the UN and the EU have been increasingly captured by TNCs. This is reflected in the policies shaped to satisfy the interests of capital and in these institutions' systematic refusal to impose limits on corporations.

In most countries, governments are at the service of corporate interests and against us, the majority of peoples. Setting aside democratic principles, they usurp institutions and, with the complicity of national elites, succeed in altering laws and policies that allow them to continue plundering the wealth of nations and maintain their predatory relation to nature. In the face of mounting criticism of their operations, TNCs' have designed tools like Corporate Social Responsibility to clean up their image, while allowing them to continue to increase their profits. Furthermore, they control major media agencies, which play a key role in ensuring the continuity of corporate hegemony.

Acting with brutality in the rich countries from which they originate, but especially in countries of the Global South - and increasingly in "emerging" countries like Brazil, India, China and Russia - major corporations are appropriating more and more of our wealth and rights. Their growing economic monopoly, political power and control over the justice system destroy our right to a decent life and dominate our peoples' and nations' cultural habits and consumption patterns.

Transnationals have commodified life and continue to seize our territories, forests and water and transform social and human relations. Health and education, for example, are now considered privileges of those who have money, and are no longer seen as the rights of all people. With the crisis in the U.S. and various European countries, the banks have expropriated thousands of people's houses. In Europe, they have imposed austerity measures, which are a replica of the structural adjustment programs implemented years ago in countries in the South to deal with the so-called "external debt". Today, we are seeing unprecedented attacks on public services, labour rights and social programs, while governments use public funds to save the market's excesses and the financial institutions.

Transnational corporations operate globally, moving from one country to another, while applying the same recipe to generate profit at any cost. It is we, the 99%, who bear the costs. Yet, resistance is growing throughout the world. Every day, there are more communities, movements and peoples struggling against transnationals - often confronting specific companies or sectors and that have won important victories. Even so, we have not succeeded in halting the advance of corporations, as when defeated in one place, they adjust their strategies and move to another, where they confront any obstacle that rises on their path.

Therefore, to confront corporate power and the system that protects and benefits TNCs, it is urgent and necessary to give a systematic response. We must unite our experiences and our struggles, learn collectively from our victories and our failures and share our analysis and strategies for putting an end to the impunity of transnationals. The concrete struggles of our communities against a transnational corporation could be even more victorious if we are able to unite them with the efforts of other people in other countries, regions or continents.

Sharing our experience in developing ways of life that are distinct from the culture of transnational production imposed by capitalism, that now wants to disguise itself as "green", is fundamental for building an alternative society in which we, the people, are the protagonists. We are committed to reclaiming sovereignty over the commons, over natural resources, territories and public services and strengthening our struggles for food sovereignty and for ecological and environmental justice.

We, the undersigned, hereby invite you to join us in collectively building this process of mobilization towards a global campaign against the power of corporations and their crimes against humanity. Dismantling the transnationals' system of power demands coordinated action at the global level: engaging in struggles in various spheres, combining mobilizations on the streets and in territories with popular education and actions in parliaments, media and international forums and organisations.

By creating a powerful movement of solidarity and action against TNCs, their apologists and promoters, we will begin to build a world free from corporate power and greed.

Dismantle Corporate Power!

End the Impunity of Transnational Corporations!

DISMANTLE CORPORATE POWER AND STOP IMPUNITY!



Campaign backed by:

INTERNATIONAL

Bi-regional Europe-Latin America and the Caribbean Enlazando Alternativas Network
Blue Planet Project
CADTM International
Corporate Accountability International
Food & Water Watch
Friends of the Earth International
International Articulation of those Affected by Vale
La Via Campesina International
The International Office for Human Rights Action on Colombia (OIDHACO)
Transnational Institute - TNI
World Forum for Alternatives
World March of Women
World Rainforest Movement

REGIONAL

African Uranium Alliance, Africa
Amigos de la Tierra América Latina y el Caribe - ATALC
CADTM - AYNA, Americas
Coordinadora Andina de Organizaciones Indígenas - CAOI, Andean region
Focus on the Global South, India/Thailand/Philippines
Food & Water Watch Europe
Hemispheric Social Alliance, Americas
International Alliance of Natural Resources in Africa (IANRA)
Jubilee South - Asia Pacific Movement on Debt and Development
Jubileo Sur Americas
Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (PIDHDD), Americas
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Red Latinoamericana sobre Deuda, Desarrollo y Derechos (LATINDADD)
Red Vida
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Southern Africa Faith Communities Environmental Initiative (SAFCEI)
Third World Network Africa
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Young Friends of the Earth Europe

NATIONAL

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Alliance of Progressive Labour (APL), Philippines
Alternative Information Development Center (AIDC), South Africa
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Centro de Documentación en Derechos Humanos "Segundo Montes Mozo S.J." (CSMM), Ecuador
Centro de Estudios para la Justicia Social Tierra Digna, Colombia
Centro de Investigación y Documentación Chile-América Latina (FDCL), Germany
Centro de Investigaciones e Información en Desarrollo (CIID), Guatemala
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Colectivo de Abogados José Alvear Restrepo (CCAJAR), Colombia
Colectivo de Mujeres Hondureñas (CODEMUH), Honduras
Colibri, Germany
Comision Interceslial de Justicia y Paz, Colombia
Comisión Nacional de Enlace (CNE), Costa Rica
Comité pour le respect des droits humains "Daniel Gillard"
Commission for Filipino Migrant Workers - International Office, Philippines
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Fundación de Investigaciones Sociales y políticas (FISYP), Argentina
Global Change Factory, Germany
Grassroots Global Justice, United States of America
Grassroots International, United States of America
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Swiss Working Group on Colombia
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Indian Social Action Forum (INSAF), India
Indonesia for Global Justice, Indonesia
Ingeniería Sin Fronteras, Asturias
Innovations for Change, Nigeria
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Janpahal, India
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MiningWatch Canada
Movimento dos Atingidos por Barragens (MAB), Brazil
Movimiento Rios Vivos, Colombia
Movimiento Social Nicaraguense - Otro Mundo Es Posible, Nicaragua
Multiwatch, Switzerland
National Garment Workers Federation (NGWF), Bangladesh
North East Peoples Alliance, India
Observatório de la Deuda en la Globalización (ODG), Spain
Observatorio de Multinationales en America Latina (OMAL), Spain
Observatorio Petrolero Sur (OPSur), Argentina
Otramerica, Paraguay
Instituto Políticas Alternativas para o Cone Sul (PACS), Brazil
Palenque del Alto Cauca (PCN), Colombia
Partido de la Rifondazione Comunista/ Izquierda Europea, Italia
Pax Romana, Switzerland

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Plataforma Rural - Alianza por un Mundo Rural Vivo, Spain
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Terra de Direitos, Brazil
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UNISON, United Kingdom
Veterinarios sin Fronteras, Spanish State
Xingu Vivo para Sempre, Brazil
War on Want, United Kingdom

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How was this Base Document created?

After a long round of consultations on how to build and adopt norms that hold TNCs accountable for their crimes at the global level, and faced with scepticism on the effective ability of international organisations to do so, the Campaign decided to build what we call a “Peoples Treaty”. This “Treaty” systematises the proposals on regulations and policies that have emerged from the struggles of social organisations, movements and affected peoples to put an end to impunity and dismantle corporate power. We launched a process to elaborate a first draft base document that would serve as a basis for a “Global Consultation” with social organisations and movements, to be held throughout 2015.

Since the Campaign’s launch in June 2012, several of its members had developed a document entitled “*Proposals*”, which brought together an initial set of ideas on opposing, controlling and limiting the power of TNCs. Based on this, we worked on the Treaty’s legal dimension, but we saw that it was also necessary to include an introduction/preamble with our principles, as well as a section on the peoples’ alternatives to the commodification of life proposed by corporate power. Thus, after having agreed on this structure, we gave ourselves the task of elaborating these texts.

The Campaign created the “Treaty” working group to carry out this task. A first version of the preamble and the “legal dimension” was ready in February 2013, and the Working Group initiated a round of consultations with more than 20 specialists/activists. Two months later, a new, more advanced version of the draft was finalised. In the months that followed, a subgroup was given the task of gathering proposals on alternatives elaborated by social movements and organisations linked to the Campaign that were to make up the “Alternatives dimension”. In June 2014, the Working Group consulted the entire Campaign and the first draft presented during the “Week of Mobilization to Stop Corporate Crimes and Impunity” in Geneva (June 23-27, 2014) was approved.

Between July and November 2014, new texts were incorporated into the Alternatives dimension and in a face to face meeting of the Campaign in Geneva on November 28th, 2014 the base document was finalised for the Global Consultation.

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The Peoples Treaty Working Group

December 2014



*collectively building
a global movement*

**to DISMANTLE
THE POWER OF
TRANSNATIONAL
CORPORATIONS.**
reclaiming peoples sovereignty

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