



# General Assembly

Distr.: General  
9 September 2011

English and Spanish only

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## Human Rights Council

### Eighteenth session

Agenda item 5

### Human rights bodies and mechanisms

## **Written statement\* submitted by France-Libertés Fondation: Danielle Mitterrand, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 August 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Transnational, trade and security corporations, states and the rights of indigenous peoples\*\***

### **I. General Concept**

Transnational enterprises (TNCs) are to be understood as monopolies of power and economic entities with a range of action in various countries that takes diverse juridical forms of exploitation: hydrocarbon, mining, food, pharmaceutical products, chemicals, earth (natural resources), wood, timber, water, seeds (biotechnology); also business and security contractors, defined as of individual or collective interests and connected to commercial and security activities. The present document refers to the International Bill of Human Rights, international humanitarian laws, the « Tripartite declaration of principles concerning multinational enterprises and social policies » of the International Labour Organization (ILO) and instruments of Working Groups, Sub-Commissions, Special Rapporteurs and draft rules, ethic codes, in the framework of the United Nation's system.

### **II. Analysis and framework**

The struggles waged in the world by original peoples, ethnic, religious, racial majorities and minorities, States, governments, communities as well as victims of environmental atrocities and cultural plundering by the TNCs, are getting timid recognition of their rights to territory, autonomy, culture, language by governments and the international community, though making inroads into legislation for the respect of these rights in the midst of a so-called globalization that needs and requires alternative integral processes in the affected communities accompanied by cooperation so as to reduce abuses by the big business and their interests. This struggle ought to demand respect for diversity, accompanied by internal States' laws in agreement with those of the Indigenous peoples both for their benefit and to enhance local, municipal and regional powers. The development of their knowledge, language, customs must be assured, i.e. through interculturality in their own areas without needing to wage wars, undergo physical elimination or exchange of different kind which, through the so-called trade or plundering of wealth, are imposed by private security contractors of TNCs. Their actions go so far as to become crimes against humanity, either by action or by omission by States and governments, either directly or indirectly. This demands to be investigated because their economic patterns are humiliating, perverse as well as deadly; only seeking to enhance their markets; the link being made through both the World Trade Organization and cooperation and development organizations.

We salute the report by Leonardo Boff in the Latinamerican Contribution for a Geosociety (2011—08-05), who underlines the resistance present everywhere in the world against the system of domination of the globalized capital created by big multilateral companies stepping over nations, people and nature. Somehow or other, there begins to appear an environmental friendly orientation in practices and projects which already leads the way to the new. The basis is always solidary economy, respect of the cycles of nature, synergy with Mother Earth, i.e. a kind of economy which respects life and opposes pure profit, a policy substantiated in hospitality, tolerance, collaboration and solidarity among the most diverse peoples, thus doing away with the very bases for religious and political fundamentalism and terrorism which we witnessed in the United States and recently in Norway.

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\*\* Bureau International pour le Respect des Droits de l'Homme au Sahara Occidental-BIRDHSO, an NGO without consultative status, also shares the views expressed in this statement.

Among the many existing projects in Latinamerica, such as economic solidarity, family organic agriculture, alternative clean energies, Via Campesina, the Zapatist Movement and others, we would like to underline two for their outstanding universal pertinence and as an expression of a new kind of social living together respectively: : “Vivir bien” and “Democracia comunitaria y de la tierra”.

The “Vivir bien” is present in the whole continent Aby Yala (indigenous name for the Southamerican continent), from the extreme north to the extreme south, under many different names, among which the two most known are: suma qamana (of Aymara culture) and sumy kawsay (of quechua culture). Both mean “the process of fullness of life”.

### III. Experiences and examples

Reports by the United Nations Environment Programme, NGOs, world media, all draw attention to the preoccupying, slow and massive pollution produced by Shell through extensive spilling of crude oil, burning of gas in the exploitation of oil fields in Nigeria, first producer in Africa, with 115 million tons last year. A multinational company protected by the high corruption levels that takes also the form of capital flight. In a recent report, the UN has indicted this enterprise requesting it a 30 years' clean-up operation of he Ogoni country, where 800 000 persons live who have suffered repression for their just demands as well as the aftermath of four civil wars.

Let us also underscore the danger of genetically modified products, especially in Brazil, where, due to the interests of the TNCs and manipulation of the mass media, these very same big TNCs business intend to impose transgenic seeds as if they were a necessity, a question of progress. The same occurs in other Latinamerican countries where the aim is to undermine national food sovereignty through profit as well as through the monopolistic control of seeds by companies such as Monsanto, Cargill, Bung, Du Pont, Syngenta and Bayer. The other side of the coin is the neglected interests of both honest farmers and Brazilian people.

Less than 10% of the cultivated area of the world uses genetically modified seeds whilst only three countries produce 95% of them: USA, Canada and Argentina where the market is controlled by the great US transnationals.

Everywhere in the world and more specifically so in Europe and Asia, the majority of consumers object to the consumption of genetically modified goods; their harmless effect on health being far from ascertained. We do not oppose biotechnology as empirically practiced by agriculturers all along the history of mankind but, a responsible biotechnology, mindful of human beings as well as of the future of environment. Definitely not a biotechnology stepping over the interests of states, governments, ancestral as well as autonomous territories and communities of the world.

As an example let us quote the pernicious effects caused to the peoples of Guatemala some forty years later by the discovery of oil near Rubelsanto in 1974. During this span of time explorations have been carried out, in some cases initial production was started by enterprises of the major groups such as Texaco, Exxon, Shell, Elf Aquitaine, Hispanoil. Noteworthy, in 1980-81 Texaco discovered the production capacity of the area of Xan, yet, due to considerations related to its own policies (including the quality of crude oil, its weigh, high sulfur content) it gave the area back to the State

Due to this state of affairs, we increasingly witness in North Africa modern pillage, regional wars, and impositions under the pretext of “democracy” without any respect for the free determination of the peoples. The interests of the TNCs, central core of both the great capital and the European and US governments in Chad, Central African Republic, Ivory Coast, Gabon, etc clearly prevail.

As stated in the recent report (19/08/10/) by the Interamerican Platform of human rights, democracy and development, the European Union as well as its member States are accomplices of very serious violations of fundamental human rights perpetrated by European Transnational Corporations in the countries of Latin America. According to the Permanent Peoples Tribunal (PPT) such violations could be qualified as “crimes against humanity”. After a long process of investigation and public hearings which started in Vienna at the end of 2006 and continued through further thematic hearings between 2006 and 2008 in Colombia and Lima, the PPT finally met in the Facultad de Matemática de la Universidad Complutense of Madrid from 14th to 17th of May 2010 and issued a verdict of guilty specifically aimed at the activities by European TNCs in Latin America, in particular against Spanish enterprises responsible for 50% of the investments in Latin America.

**IV. France-Libertés, urges:**

- The appointment of a mechanism guaranteeing compliance with the rules relating to the liabilities of TNCs, business and security contractors in the field of human rights;
- That the social code of conduct be concretely transformed into agreements, covenants or further binding instruments between the concerned parties;
- Respect for the dignity, territory, culture, languages, activity, autonomy and rights of the original, indigenous, ethnic, tribal, religious peoples of Latin America, Asia, Africa and Oceania;
- The promotion and creation of international compensation funds for damages due to contamination, environmental damages, disappearance of indigenous, tribal communities as well as ethnic groups and further members of minority communities;
- The refusal of regional or bilateral free trade treaties setting terms that would be detrimental to peoples or communities;
- Respect of the right to be consulted by the government in power in case of megaprojects by the TNCs and business enterprises, thus establishing an international framework of guarantees;
- The end of impunity for those international crimes committed by TNCs which can well be assimilated to war crimes, crimes against humanity and environment, controlling at the same time contractors offering security services,
- The definition of the historical-juridical responsibility of the TNCs and business enterprises for the situation of hunger, diseases and poverty in Asia, Africa and Latin America.