



BIMENSUAL NEWSLETTER OF THE OBSERVATORY OF TRANSNATIONAL CORPORATIONS (JULY/AUGUST 2017)

Democracy or corporate power.

Undoubtedly, one of the major challenges facing democracy in this century is the need to **impose limits on corporate power**, subordinating the interests of large transnational corporations to the rights of citizens and the protection and care of the environment.

Among the initiatives that are currently underway to regulate the responsibilities of companies in the field of human rights and environmental protection, the **International Binding Treaty** Initiative is especially highlighted and is being prepared and discussed at the **UN Human Rights Council** in Geneva. This initiative collects, summarizes and synthesizes the diverse proposals, initiatives and experiences developed over several decades by different countries, various social movements, different human rights organizations and many academic, religious or of different types, that have visualized and understood the dangers of the huge power that the corporations have for subdue or subordinate to their desires or interests to governments, people and nature.

In order to strengthen the progress made in the elaboration of the binding treaty, different social organizations, particularly the ESCR-Net (see below) are developing an active program of awareness raising and dissemination on the objectives of the treaty and its importance for society, economy and the care of the environment.

FOCO INPADE actively participates in the initiative in favor of the treaty and has different activities of dissemination and mobilization to support the social and trade union organizations of the country to the initiative of developing an active program of awareness and dissemination on the objectives of the treaty and its importance for society, the economy and the care of the environment.

THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

Another important initiative to place limits on corporate power is the OECD Guidelines on Multinational Enterprises. The OECD Guidelines are a valuable tool for the defense and protection of citizens' and environmental rights that may be affected by the activities of multinational corporations. It brings together a set of rules and principles that companies undertake to adopt in the countries where they operate. It is a progressive and advanced legislation but has as limit the condition of voluntary or non-binding so that its effectiveness depends on the goodwill of companies. These limitations are further accentuated when the national body (National Contact Point) has no interest or ability to influence its decisions in companies' decisions to comply

with the Guidelines. Another important limitation stems from the weakness of the NCP to enforce compliance with the guidelines. Especially in the case of Argentina, the NCP located in the Foreign Ministry does not have the minimum resources necessary to fulfill the functions attributed.

Annual meeting of the Coordination Committee of the OECD WATCH network, Paris.



The last days of June took place the annual meeting of the Committee in Paris. FOCO INPADE was represented by Federico Casiraghi. The network brings together a large number of organizations from different countries that are responsible for monitoring compliance with the OECD Guidelines by companies operating in those countries. The discussion highlighted the need to strengthen OECD NCPs to facilitate the proper implementation of the instrument. Particularly in the case of Argentina it was highlighted the opportunity offered by the government's interest to achieve the incorporation of the country to the OECD to strengthen the participation of social organizations in the NCP and improve the performance of the agency.

The NCP and the Argentine Chancellery.

At the beginning of August, the Argentine Foreign Ministry convened a group of social, business and trade union organizations to inform and collect suggestions on the creation of an advisory council of the PNC. At the meeting, Jorge Carpio, representing FOCO INPADE, stressed the importance of strengthening the application of this instrument as an element in favor of democracy and modernization of the state.

FOCO INPADE at the UN High-Level Political Forum on Sustainable Development, NY 2017



The Sustainable Development Goals (SDGs) seek to eradicate poverty, protect the planet and ensure prosperity for all as part of the new Agenda2030.

Each goal has specific objectives that Argentina will fulfill depending on its economic, social and environmental reality.

The **High-Level Political Forum on Sustainable Development** was held between the 10th and 19th of July at the United Nations headquarters in New York. During the long event 44 countries were presented, 11 from Latin America and the Caribbean (only Trinidad and Tobago was absent for unknown reasons).

The goals evaluated this year were: 1 (End of Poverty), 2 (Zero Hunger), 3 (Health and Welfare), 5 (Gender Equality), 9 (Industry, Innovation and Infrastructure), 14 /Life Below Water) and 17 (Alliances) that is transversal to all the objectives.

The role of civil society in monitoring and enforcing the goals and accountability of actions carried out by our governments is fundamental.

FOCO INPADE participated with the representation of Agustina Carpio, invited to represent the region of Latin America from the platform A4SD (Action for sustainable Development and GCAP (Global Call to Action Against Poverty)).

On the 15th and 16th, the event of both platforms was held for civil society and FOCO INPADE presented its report, which analyzes the performance of the national government in relation to the achievement of the Sustainable Development Goals and Agenda 2030.

The SDGs and the Argentine government.

The Argentine government presented its official report on the 18th. This presentation did not report on the realities and the current situation of the country, avoiding several issues discussed during the days prior to the event. Nor was it concrete at the time of the 2 questions that were authorized to representatives of the organizations of the civil society to realize in the frame of its presentation.

The perspectives from the United Nations on the representation and participation of civil society in these spaces were discussed and conversed during the work sessions that they had with the platform A4SD Global, which resulted in a Ministerial letter to ECOSOC showing them the importance of keeping open channels of communication between and for organizations representing citizens.

FOCO INPADE and the meeting of the working group of the ESCR-Net, Mexico 2017

From August 29th to 31st, 2017, a strategy meeting was held in Mexico City, led by the Corporate Capture Project Advisory Group (Above Ground, Citizen News Service, Defend Job Philippines, Habi Center for Environmental Rights, PODER and Sierra Leone Network on the Right to Food) of the ESCR-Net.

The corporate capture project addresses the undue influence that companies exert on public institutions and decision making, manipulating governments to act in accordance with the limited private interests of corporations and investors. Corporate capture undermines the public interest and integrity of systems that safeguard human

rights, democratic participation and the environment. Members have begun to define key categories of corporate capture, including: community manipulation, economic diplomacy, interference in the judicial system, political and legislative interference, privatization of public security services and "revolving door" practices.

The Global Strategy Meeting of ESCR-Net identified corporate capture as a shared global challenge in the Common Charter for collective struggle and develop strategies for collective action:

- 1) popularize the concept of corporate capture to engage broader audiences and increase understanding of human rights impacts;
- 2) develop community-led mobilization and documentation strategies;
- 3) develop legislative and policy proposals, strengthen national frameworks to regulate and prevent such practices;
- 4) to design selective campaigns and incidence to face the corporate capture.

Epidemiologist questions the business of medicine



In an interview with *Página/12*, the prestigious doctor Jaime Breith, a recognized theoretician as one of the main promoters of a new vision of critical epidemiology (fundamental in the new public health) and promoter of the systematic application of the category "social determination of health, questioned the traditional model of public health. He argues that traditional public health does not look at the social context. In the case of the infant populations in Latin America, these have been subjected to chemicals since intrauterine life and rescued the figure of Andrés Carrasco. Breith's approach differs from public health in the sense that the latter, for example, discovers that there are many anemic boys in Latin America, and treats them with iron supplements, whereas the collective approach, in addition to treating anemia calls to suspend the fumigations and seeks to cut the cause. However, the prevailing model, the pharmacobiological, is very powerful. It does not study health problems as a whole and it divides everything, giving one medicine to each serving. In the end, power matrices determine defense capabilities and problems. In this way, agriculture becomes the economy of death by ecological destruction. Natural resources are only used to do business as in the case of extractive mining, agribusiness with transgenics, linked to large interests. In the latter case, the so-called toxic bonfire is produced, which is to trigger the effects of global warming in increasingly smaller areas. Monoculture raise income but will generate huge costs to public health showing that the current model does not work.

That is why he proposes to change the object of health. Work on the disease process, how and why people get sick. He cites the example of dengue and the difference between studying it and combating it and understanding it in relation to the production systems that cause the vector to proliferate. In the end, the social determinants of health are the social and economic conditions that influence individual and collective differences in health status. They are risks that are associated with living and working conditions such as income distribution, welfare, power, rather than individual factors linked to individual lifestyle or genetic inheritance. To change this paradigm it is necessary to change the concept of academic wealth since not all university models are equally valid in all circumstances. That is why we must achieve a university open to the community, which provides critical thinking, not only data, generate a metacritical of capitalist power, with the articulation of "good knowledge."

Massive layoffs in the Macri era.



The crisis in Adidas in Argentina has resulted in layoffs and suspensions, and fear for a potential closure of one of Esteban Echeverría's plants, which threatens more jobs. In Lanús, the company closed a factory in which there were 35 employees.

The German firm is importing finished sneakers when much of the local production has to do with the assembly, that is, the parts were imported but they were finished assembling in Argentina. By 2015, some 24 million pairs of shoes would have entered the country, increasing this figure by 26% during 2016, due to the decision to start entering finished products, thus deteriorating the jobs of employees dedicated to manufacturing and assembling sneakers.

Months ago, President Mauricio Macri decided to open the import, the company chooses to buy the finished product in China with foreign labor and taking out the local production.

Pepsico also has been in trouble for months. On June 20, when employees on duty at the Florida-based plant, Vicente Lopez, found a sign on the door announcing the closure of the plant. The company argued that it did so "because of the inherent obstacles to the location of the plant in a largely residential area, its complex cost structure and extensive logistical requirements." In that context, it also announced that it will change the production of snacks to Mar del Plata and, out of a total of 691 workers at the plant, will relocate only 155 workers and indemnify the rest.

Since then, employees are struggling to sustain jobs that could be wiped out if the move is consummated. At first the factory was taken, and the owners of the firm in our country asked the Justice to evacuate the plant. At 8 am on 13 July about 200 gendarmes were made at the plant and began evicting the factory. The police entered the place and arrested 10 people, who were released progressively.

In that context, the employees issued a statement denouncing the company's violent request. "The employers of PepsiCo who had already denounced the workers for the peaceful stay we do at the plant, finally asked the prosecution for the violent eviction of it," said the workers. They continued: "This is a reckless order of a company that is in the most open illegality and that was already denounced by lock out offensive, emptying and discrimination. The prosecutor of the case was originally issued in favor of the request. It remains to know the resolution of the Court of Guarantees." Finally they affirmed: "We call for solidarity to all the workers, the guilds that supported us these days, the human rights organizations, Legislators and political and student organizations and to be alert and mobilized to prevent a violent and repressive resolution to a struggle for the basic right to be able to feed our families from our work."

When the OECD guidelines are not enough: ACIJ vs. MAN Ferrostaal Argentina S.A.



In March 2011, the Argentine National Contact Point (NCP) received a request for review by the Civil Association for Equality and Justice (ACIJ) alleging that the multinational company MAN Ferrostaal Argentina SA, controlled by the MAN Ferrostaal AG group in Germany, had violated the general policies and the fight against the provisions of bribery, subrogation and extortion of the OECD Guidelines in Argentina. The complaint alleged that the company bribed members of the Argentine army, public officials and lawyers, to secure a contract for the design of maritime patrol vessels. The complainants requested that Ferrostaal Argentina SA recognizes the OECD Guidelines, explain its policy and measures taken to combat corruption (internally and externally) to collaborate both in the courts and in the specific instance and explain its position in relation to the complaint.

In May 2011, the Argentine NCP offered its good offices to the parties to undergo mediation. In August 2011, Ferrostaal Argentina S.A. requested the end of the specific case, for the following reasons:

- a) Although they believe that they comply with the Guidelines, they are not legally binding;
- b) Criminal proceedings are ongoing in relation to the case;

c) The Ferrostaal Group and Ferrostaal Argentina S.A. Allegedly took preventive measures and procedures in their new code of conduct, to combat corruption. The National Contact Point of Argentina, after gathering information on the status of the process, consulted the Civil Association for Equality and Justice to know its intention to continue the procedure.

Finally, on November 11, 2016, the Argentine NCP closed the case, stating that it tried to bring the parties together to encourage dialogue, but no agreement was reached. They said that because of the lack of progress "in the steps taken to have the two sides sit at a dialogue table, the ANCP considers that it can not effectively fulfill its role of facilitator." It is not clear if any mediation meeting was ever held, and if so, what was discussed. In closing the complaint, the ANCP encourages the two parties to consider finding a way to work constructively to solve the problems that are occurring.

LATIN AMERICA

Attack on Colombian militants



The Socio-environmental Youth Collective of Cajamarca (COAJUCA) reported that on July 28 at 19:30 hours in the vicinity of the urban area of Cajamarca, exactly the veredal road that leads to the paths Rincón Placer and Ciudadela Ismael Perdomo in the Municipality of Cajamarca, 2 members of that organization were victims of a firearm attack, fortunately they were not injured by any of the two shots that were made from a house in the vicinity of Carrera 9. Both were carrying out activities within the framework of Human rights and the defense of territory and water.

Previously, COAJUCA had lost two partners: Juan Camilo Pinto in 2013 and Daniel Humberto Sánchez in 2014, and for 4 years have been victims of all kinds of threats for defending their territory of the mining project La Colosa, belonging to Anglo Gold Ashanti, a mining multinational South African. If the company can obtain the necessary environmental licenses, it plans to mine 33 million ounces of gold. In the last decade, Anglo Gold Ashanti and its subsidiaries obtained the majority of the mining titles in 20 of the 32 departments of Colombia. The corporation had the dubious distinction of being qualified with the Public Eye Award in 2011 for its land contamination and poisoning of people in Ghana. In addition, in the Democratic Republic of Congo, the company was accused of financing paramilitary groups, and in South Africa a court made the historic decision to allow a collective trial for miners to seek redress for medical expenses, damages and loss of wages due to unhealthy working conditions.

That is why, and much more, cause great concern the negative impacts that this activity can provoke in this territory recognized as the "agricultural pantry of Colombia", as it is the first producer of the root arracacha of the country, occupying the position 69 of the 1.123 Colombian municipalities in agricultural production, that is, in a region that supplies food to the main markets in the cities of Ibagué, Bogotá and Cali. On the other hand, it enjoys strategic ecosystems of páramos and high mountains, that possess a great biodiversity in fauna and flora. There are rivers and streams that supply one of the most important rivers of Tolima, the Coello River, which benefits the rice production of the Plan of Tolima. This project was stopped thanks to a Popular Consultation on March 26, 2017.

"The Shadow Report" denounces Glencore in Latin America.



The Shadow Network is a network consisting of several organizations from Latin America and Europe. Its objective is to monitor the actions of the transnational mining company Glencore in the various Latin American countries in which it operates. In April it published a report in which it details serious practices of the company in the territories.

The work, entitled "Shadow Report on Glencore Operations in Latin America" was widely presented in Europe to a variety of social organizations, but also to the shareholders' meeting of Deutsche Bank, which finances this company and the same shareholders' meeting of The transnational, in Switzerland, where it has its headquarters.

The Glencore Shadow Network is monitored mainly in Colombia, Peru, Bolivia and Argentina and consists of investigations, advocacy actions and proposals that contribute to the defense of the rights of the peoples and territories impacted by the mining activity of that Company seeking to support global initiatives, such as the construction of a Binding Treaty on Transnational Corporations and Human Rights, to hold corporations accountable for the actions they take in the places where they operate.

This report, which constitutes a baseline from which the Shadow Network intends to monitor Glencore's actions in the following years, was also presented in several Latin American countries in order to denounce the transnational and generate pressure on the Governments and states where it operates, but also in its headquarters and the banks that finance it, so that the corporate practices of that mining company are known in detail.

Source

Condemnation against Aymara leader in Peru.



In June 2017, 18 Aymara leaders faced the final stage of a trial that contemplated the possibility of sending them to prison for up to 28 years, in addition to paying huge fines, for their alleged roles in the social mobilization of 2011 known as the "Aymarazo", against the "Santa Ana" silver mining project, located near the border between Peru and Bolivia. The leaders were charged criminally for alleged crimes of obstruction to the operation of public services, riot and aggravated extortion against the state.

Seventeen defendants were acquitted of all charges. However, on July 18, Walter Aduviri was sentenced to seven years in prison and ordered to pay a fine of 2 million soles (over \$ 600,000). His lawyer, Martín Ticona, denounced irregularities in the judicial process, reason why appeals the sentence of Aduviri. The prosecutor, Juan Monzón Mamani, also manifested his plan to appeal.

Since 2004 Santa Ana mine plans to settle in the area. The communities began to worry immediately about the mining project because of its location in a very vulnerable area. As it is known, the mining operations are intensive in the use of the water. In this way, Santa Ana could not only have used scarce water resources in the region, but could also contaminate water in the area, affecting agriculture, livelihoods and food security for hundreds of people. The Callacami river runs through the area and could be contaminated until reaching the town of Desaguadero, where Lake Titicaca is. The whole aquatic zone could be contaminated affecting the entire region.

In 2007, the government authorized the operations of the Santa Ana mine. Then communities began to make a series of public petitions, administrative complaints and procedures directed at local, regional, and environmental authorities. After their concerns were not addressed, they began to organize and demonstrate in their communities and villages along the shores of Lake Titicaca, near the border with Bolivia, but also in the city of Puno, where resistance and the *Aymarazo* reached their peak between March and June 2011..

In February 2011 the public presentation of the environmental impact study of Bear Creek Mining Corp., a poorly translated document to the Aymara and presented in a very small auditorium where people could not fit, only deepened the population's fears. This study contemplated that three communities were affected, but in fact they were many more (those that were going to be affected). The protests continued and had their culminating moment in May 2011, in Puno, where more than 15,000 people from Aymara origin came from all over southern Peru. Protests paralyzed parts of the

city for several days. The communities demanded not only the cancellation of this mining project, but all mining concessions existing in the region and future.

Finally, the government repealed Decree 083 authorizing Bear Creek to operate the project, postponing it indefinitely. This derogation gave way to an international claim. In 2014, the company filed a claim of \$ 1.2 billion against Peru at the International Center for Settlement of Investment Disputes (ICSID). Bear Creek contends that Peru violated the terms of the Canada-Peru Free Trade Agreement by not allowing it to operate the mine.

Source

REST OF THE WORLD

News from the ESCR-Net Working Group

The participation of FOCO INPADE in the meeting of the Corporate Capture Project of the ESCR-Net to be held in Mexico was already mentioned above. Other novelties of the network are:

- Binding Corporate Regulation and Effective Remedies. The ESCR-Net Corporate Accountability Working Group (CAWG) continues to participate in the United Nations process to develop a new treaty to regulate transnational corporations and other companies. Members will focus advocacy at the third session of the United Nations Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (IGWG) in Geneva in October 2017, as well as with their governments. Members are also using the process to foster discussions and changes at the national and regional levels in order to strengthen corporate regulation and effective resources.

A two-year project of the Treaty Initiative, led by the CAWG together with the International Federation of Human Rights (FIDH), included three regional consultations and strategy workshops in Asia (May 2015), Africa (October 2015) and Latin America (May 2016), the creation of regional advocacy platforms and the drafting of "Ten Key Proposals for the Treaty". On this basis, the CAWG made a joint presentation at the second session of the IGWG (October 2016). The statement outlines a number of common positions including the need to incorporate a feminist analysis into the treaty, address the security of human rights defenders, and address corporate capture.

During the 35th session of the Human Rights Council (June 2017), PODER represented the CAWG in a side event along with other members - IFJ and FIDH - on "Corporate Responsibility to Respect Human Rights - Challenges and Opportunities Six Years After the Adoption of the UN Guiding Principles". The event discussed the future of the corporate agenda and human rights, the challenges of voluntary measures and the role of the UN Working Group on Business and Human Rights. In addition, ESCR-Net Members, including PODER, AWID and AltSEAN Burma and their allies continued discussions on deepening a feminist approach to the treaty. On the other hand, in attempting to strengthen mobilization at the regional level, the CAWG discussed the coordination of a session at the General Assembly of the The African Coalition for Corporate Accountability (ACCA) (17-19 October 2017 in Nairobi). Finally, in order to

strengthen broader partnerships, CAWG has co-founded and continues to participate actively in the Treaty Alliance, bringing together human rights, environmental, development, religious and social justice organizations in general to achieve great impact for a common treaty.

As an important step in moving towards such a treaty, the General Comment on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities provides useful guidelines on the implementation of the ICESCR on corporate accountability. Among other issues, it covers privatization, types of resources, the centrality of indigenous peoples and extraterritorial obligations of States (OTS), including human rights due diligence issues, supply chains, practices and international cooperation.

- Strategic Case Support. The CAWG provides periodic strategic support for member-to-member cases in response to current or anticipated large-scale corporate human rights violations. At times, this implies an ongoing commitment by a group of members through CAWG, following an evaluation by the Steering Committee that determines if it agrees with our criteria for case selection. Collective action offers opportunities to share strategies and lessons across regions..

As two brief updates, the CAWG celebrated POSCO's formal withdrawal from Odisha, India, in March 2017, following the dedicated PPSS struggle and the commitment of some 20 members. However, the state government still retains the confiscated lands, continued to criminalize leaders of grassroots organizations and seems ready to welcome the JSW Group in order to continue the massive steel project that would displace 20,000 people in violation of the National and international law.

Second, PODER, CIEL and IDI are working with Defend Job to set up a map of development lenders and private investors involved in the Manila Bay Recovery Project in the Philippines as potential advocacy targets. In collaboration with the Working Groups on Women and ESCR and Monitoring, the next step will be to explore the possibilities of expanding documentation and community-led mobilization, incorporating analysis of the different and disproportionate impacts women suffer.

Work exigency in Nigeria.



On Friday, 11 August, hundreds of Nigerian citizens demonstrated for jobs and infrastructure investments at an oil-flow station owned by the Shell company in the Niger Delta region.

Demonstrators complain that they are not benefiting from the oil facility in their region, a repeated complaint in this area that produces most of Nigeria's oil. In addition, they demand that the pollution caused by oil in the region be stopped. Military and security guards have not dispersed protesters when they have entered the Belema Flow Station in Rivers state, a facility that supplies oil to Bonny's export terminal, also from the same company.

Source

TEAM OF COORDINATION, EDITION OF THE NEWSLETTER

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