



Primary Activity: setting up of an international tribunal to judge the environmental and health damage caused by the multinational Monsanto.

Date and place of the events: 14 to 16 October 2016 in The Hague, Netherlands.

Background:

Indeed, a growing number of the world's citizens consider Monsanto the epitome of factory farming and the polluting chemicals that are accelerating the loss of biodiversity and contributing massively to climate change.

Since the early twentieth century, Monsanto has marketed highly toxic products that have contaminated the environment and permanently sickened or killed thousands of people around the world:

- **PCBs** – of the twelve persistent organic pollutants (POPs), which affect human and animal fertility;
- **2,4,5 T** - a component of Agent Orange containing dioxin which was used by the US military during the Vietnam war and continues to be a major cause of birth defects and cancers;
- **Lasso** –a herbicide, which is now banned in Europe;
- **Roundup** - the most widely used herbicide in the world, cause of one of the biggest health and environmental tragedies in modern history. This highly toxic weed killer is used with transgenic monocultures, mainly soybeans, corn and rapeseed for animal feed or for the production of biofuels.

With 21,000 employees in 66 countries and \$15 billion in revenue (€14.2 billion), Monsanto is a heavyweight in the agro-food industry. It is the source of at least one third of global anthropogenic greenhouse gas emissions; and is largely responsible for the depletion of soil, water and biodiversity and the marginalization of millions of small farmers. It is also a threat to food sovereignty through the use of patents on seeds and privatization of living organisms.

Critics of Monsanto claim that the company has been able to ignore the human and environmental damage caused by its products and pursue its devastating activities through a systematic concealment strategy through lobbying regulators and government authorities, lying, corruption, commissioning bogus scientific studies, putting pressure on independent scientists, and manipulating the press.

Our endeavor is based on the observation that only through civic action will we be able to achieve compensation for victims of the American multinational. The procedures are a veritable obstacle course for the victims. They are reluctant to invest time and money in litigation, especially since there is no reason to believe in a positive outcome. Frequently, when a company like Monsanto is the defendant, the company settles out of court, whereby circumventing the establishment of a negative legal precedent.

Currently, it is impossible under law to bring criminal charges against a company like Monsanto or its management, for their crimes against human health and the integrity of the environment.

Each year, Monsanto spends enormous amounts on legal defense to fend off the cases brought by the victims of its activities. This does not encourage the company to change its practices. So long as it remains more profitable for shareholders to take risks in the community – even if that means compensating the victims occasionally - these practices will persist.

Monsanto's history is a paradigm for the impunity of transnational corporations and their management, who contribute to climate change and the depletion of the biosphere and threaten the security of the planet.

Monsanto is not the only focus of our efforts. Monsanto will serve as an example for the entire agro-industrial system whereby putting on trial all multinationals and companies that employ entrepreneurial behavior that ignore the damage wrecked on health and the environment by their actions.

General purpose of the Tribunal:

To get a ruling – even symbolic - against Monsanto by a bench of real judges, after veritable proceedings in an international court, and contribute to the establishment of international mechanisms to bring justice to victims of multinationals.

Specific objectives:

- Assess the case against Monsanto and the damages caused pursuant to international law;
- Assess Monsanto's actions in relation to the crime of ecocide. Citizens' movements have made an appeal for international criminal law to recognize this as a crime;
- Consider a possible amendment of the Rome Statute establishing the International Criminal Court to include the crime of ecocide, making it possible to try natural and legal persons for this crime.

Expected Results/Impact of the Tribunal:

Public opinion and policy makers will gain heightened understanding of Monsanto's practices and their impact on the environment and human rights. The Tribunal will raise awareness of the dangers of industrial and chemical agriculture and the need a shift in agricultural paradigm.

The Tribunal will contribute to the ongoing debate on what it means to hold a company responsible for violating fundamental rights including but not limited to the right to food, health, information etc.

The Tribunal's work will give victims and their legal counsel the arguments and legal grounds for further lawsuits against Monsanto within their national jurisdictions.

The Tribunal will highlight the need to change international law so that victims of transnational companies have a means to legal redress.

The Tribunal will show, through the example of Monsanto, why the crime of ecocide must be recognized under international law.

How the Tribunal will Function:

⇒ The Tribunal will employ as its legal guidelines: the UN Guiding Principles on Business and Human Rights, adopted by the Council of the UN Human Rights June 2011; the Rome Statute establishing the International Criminal Court (ICC) giving it jurisdiction to try alleged perpetrators of genocide, crimes against humanity, war crimes and crimes of aggression.

The UN Guiding Principles on Business and Human Rights is the international authority on the responsibilities of business with regard to human rights. The guidelines state that companies must respect all human rights, including the right to life, the right to health and the right to a healthy environment. They define society's expectations vis-à-vis businesses. They will serve as the basis on which plaintiffs will build their case for demanding compensation from Monsanto for damage caused by the company's activities. The Court will consider whether Monsanto's conduct could be considered criminal pursuant to existing international criminal law, or under the law of ecocide, which is gaining support for consideration as an offence.

⇒ Prior to the event, working groups will study the impact of Monsanto's activities in the following 6 areas:

- 1 - Right to a healthy environment
- 2 - Right to health
- 3 - Right to Food
- 4 - Freedom of expression and academic research
- 5- Complicity in warcrimes
- 6 - Crime of ecocide

The Terms of Reference are as follows:

Question 1: Has Monsanto - through its activities - violated the right to a safe, clean, healthy and sustainable environment, as pursuant to international human rights law (Res. 25/21 of the Council of Human rights, April, 15, 2014), considering the responsibilities of companies pursuant to the UN Guiding Principles on Business and Human Rights, as approved by the Council of Human Rights in Resolution 17/4 of June 16th, 2011?

Question 2: Has Monsanto - through its activities - violated the right to food, pursuant to Article 11 of the International Covenant on Economic, Social and Cultural Rights; Articles 24.2 (c) and (e) and 27.3 of the Convention on the Rights of the Child; Articles 25 (f) and 28.1 of the Convention on the Elimination of all Forms of Discrimination against Women; considering the responsibilities of companies under the UN Guiding Principles on Business and Human Rights, as approved by the Council of Human Rights in resolution 17/4 of June 16th, 2011?

Question 3: Has Monsanto - through its activities - violated the right to the highest standard of health attainable, pursuant to Article 12 of the International Covenant on Economic, Social and Cultural Rights; or the child's right to enjoy the highest attainable standard of health, as guaranteed by Article 24 of the Convention on the Rights of the Child; considering the responsibilities of businesses under the UN Guiding Principles on Business and Human Rights, as approved by the Human Rights Council in its resolution 17/4 of 16 June 2011?

Question 4: Has Monsanto infringed the indispensable right to freedom of scientific research, as guaranteed in Article 15 para. 3 of the International Covenant on Economic, Social and Cultural Rights; and freedom of opinion and expression as enshrined in Article 19 of the International Covenant on Civil and Political Rights; considering the responsibilities of companies pursuant to the UN Guiding Principles on Business and Human Rights, as approved by the Council of Human Rights in its Resolution of 17/4 of 16 June 2011?

Question 5: Has Monsanto be an accomplice to war crime pursuant to Article 8 para. 2 of the Statute of the International Criminal Court, for its role in supplying the United States military for "Operation Ranch Hand" in Vietnam in 1962?

Question 6: Are the past and present activities of Monsanto likely constitute the crime of ecocide, as it is currently understood as causing serious harm to the environment or destroying it such as to seriously and sustainably harm the global commons or the ecosystem upon which some communities depend?

⇒ The Monsanto Tribunal will collect testimonies and an important information gathering effort will be made. Olivier De Schutter, law professor at the University of Louvain, will, with the assistance of forty law students, review the records of all the victims and identify the charges. They will prepare legal briefs that the plaintiffs and their legal representation can use in their arguments.

⇒ Illustrious lawyers and judges from five continents will be involved in the Tribunal's work. The court will have two co-presidents.

⇒ The Monsanto Tribunal will hear the cases of 20 plaintiffs from the South and North Americas, Europe, Asia and Africa. The plaintiffs will have experienced counsel to represent them.

⇒ The Tribunal will comply with the general principles of law of civil procedure. Monsanto will be invited to make submissions. Monsanto - as a defendant - will be heard in response to allegations, to defend the legality of its acts, and to challenge the claims of alleged victims.

⇒ As with the International Court of Justice, the President will receive all documents. Lawyers will prepare and submit their findings to the judges. They will also appear before the judges to plead their case. Victims (or anyone in the audience) may submit documents to the judges and plaintiffs will speak at the hearing. The judges will deliberate and will hand down a decision – based on the evidence - on the 6 questions.

⇒ The court hands down its decision in December 2016.

Major Dates and Activities:

⇒ Setting up a Monsanto Tribunal website in 10 languages

⇒ A documentary on the Monsanto Tribunal covering the entire process from start to finish

⇒ Setting up the Monsanto Tribunal and the prosecution of Monsanto

⇒ Peoples Assembly 14-16 October 2016
- Seeds Festival

- Thematic meetings with support of associations
- Photo Exhibition
- Screenings of documentaries
- Theatrical performances
- Concert

Schedule (main events):

Website Design and Launch: December 2015;

Call for papers for the organization of the Monsanto Tribunal: December 2015/October 2016;

Campaign to rally and enlist civil society organizations interested in the Monsanto Tribunal: December 2015/October 2016;

Outreach/Information campaign about the Monsanto Tribunal – citizen mobilization: December 2015/October 2016;

Preparation of the Monsanto Tribunal terms of reference: February 2016;

Case review: February/May 2016;

Selection process for plaintiff's counsel: March 2016;

Recruitment of judges: April 2016;

Determining and recruiting plaintiffs: May 2016;

People's Assembly: 14 to 16 October 2016;

Monsanto Tribunal: 15 - 16 October 2016;

Monsanto Tribunal Ruling: December 2016;

Expertise Opinions to the service of the Tribunal:

Members of civil society from different professional backgrounds who all have expertise in relation to the subjects and issues to be addressed by the Tribunal Monsanto took the initiative to organize the Tribunal. This group has rallied representatives of civil society with relevant expertise to the effort. They form the Monsanto Tribunal organizing committee, essentially all volunteers who are willing to provide their expertise for this project. (A list of the members of the organizing committee can be found in the appendix).

The members of the organizing committee include, *inter alia*:

Vandana Shiva founded the Navdanya movement in 1991, which aims to protect the diversity and integrity of living resources, especially native seeds, and promote organic farming and fair trade. She also initiated Diverse Women for Diversity, a worldwide women's movement working in the areas of food, agriculture, patents and biotechnology.

Corinne Lepage became a lawyer in 1975, specializing in environmental issues. Former Minister of the Environment minister, she was a Member of the European Parliament

from 2009 to 2014. She is an Honorary Chair of the Independent Research and Information Committee on Genetic Engineering (CRIIGEN).

Marie-Monique Robin is a journalist, director and writer. She has filmed numerous documentaries in Latin America, Africa, Europe and Asia for which she has received thirty international awards. She is the author of the bestselling book *The World According to Monsanto*. The film, based on the book, was broadcast on fifty international channels and the book has been translated into 22 languages, and is published in the United States. She is the main sponsor and a leading figure of the Monsanto Tribunal.

Olivier De Schutter, is a professor at the University of Leuven and served as UN Special Rapporteur on the right to food from 2008 to 2014. He is now a member of the UN Committee for Economic, Social and Cultural Rights. He co-chairs IPES-Food, the independent panel of experts on sustainable food systems.

Gilles-Éric Séralini has been a professor of molecular biology since 1991 and a researcher at the Fundamental and Applied Biology Institute (IBFA) in Caen University – France. He is also co-director of a multidisciplinary department known as the *Quality Risk and Sustainable Environment Hub* of the Human Sciences Research Center (a branch of CNRS). He became a household name thanks to his studies on GMOs and pesticides and in particular a toxicological study on rats published in September 2012, with the support of CRIIGEN, which questioned the safety of the GM maize NK 603 and Roundup.

Hans Rudolf Herren is president and founder of BioVision and CEO of the Millennium Institute. He coordinated the chapter on farming for two separate UNDP reports: the Green Economy (2011); and one on the ecological basis of food security (2012). He was selected as a participant in high-level UN consultation on hunger, food security and nutrition in the post-2015 development program.

Arnaud Apoteker, after participating in numerous campaigns for Greenpeace, developed the anti-GM campaign in France, which later became one of the priority action areas of Greenpeace France. He led the GMO campaign for the Greens/EFA group in the European Parliament and is the author of *Du poisson dans les fraises, notre alimentation manipulée*, Paris, Discovery, April 1999.

Valerie Cabanes, a lawyer specialized in international law, consultant and trainer, is the spokeswoman for the global citizen movement "End Ecocide on Earth", which aims to add ecocide to the list of the most serious international offences.

Ronnie Cummins is the international director of the Organic Consumers Association in the United States as well as its Mexican subsidiary *Via Organica*. He is a member of the steering committee of Regeneration International, an NGO, which works to curb global warming and farmer poverty. He is also global coordinator of the campaign "Millions against Monsanto", he participated in the book "Genetically Engineered Food: A Self-Defense Guide for Consumers."

Andre Leu is president of IFOAM Organics International and founding member of Regeneration International. He is the author of "The Myths of Safe Pesticides". He teaches, lectures at conferences, seminars and working groups as well as at United Nations events.

Students from the following universities will also bring their expertise to the endeavor by taking part in the research and case review phase:

- University of Louvain (Belgium)
- Yale University (United States)

- University of Bordeaux (France)

Civil society: see attached list

Civil Society Organizations from five continents will contribute to vetting judges, lawyers, plaintiffs and witnesses.

They will be invited to participate in outreach and awareness raising activities in their respective countries and citizen mobilization.

They will be active in organizing the People's Assembly, which will be organized as a side event to the Monsanto Tribunal.

Appendix:

List of members of the organizing committee

List of associative support