

OCTOBER 28TH, 2021

Comrades past, present and future vs. the Dutch State

This case will indict the Dutch State for establishing Bilateral Trade Agreements as a legal framework for the benefit of transnational corporations and the state itself. Bilateral Trade Agreements will be explained, and evidence will be presented on the ecocidal, social impacts of such agreements on ecosystem communities in Bolivia, Peru and Mongolia.

HEARING I

- 13:00 Introduction
- 13:10 Prosecutor: Bart-Jaap Verbeek, SOMO
- 13:40 Witness: Sukhgerel Dugersuren, OT Watch
Defense Witness | Public Jury #1
- 14:45 BREAK
- 15:05 Witness: Marcela Olivera, Blue Planet Project
Defense Witness | Public Jury #2
- 16:10 BREAK
- 16:35 Witness: Alfonso López Tejada, ACODECOSPAT
Defense Witness | Public Jury #3
- 17:35 Closing Statements by the Judges
- 18:00 Dinner & Drinks

The Dutch State

Through the Ministry for Foreign Trade and Development Cooperation and the Ministry of Economic Affairs and Climate Policy.

CHARGES

THE STATE OF THE NETHERLANDS IS CHARGED WITH COMMITTING CRIMES UNDER S.3 OF THE INTERGENERATIONAL CLIMATE CRIMES ACT ON THE BASIS OF THREE COMPLAINTS FILED BEFORE THIS COURT.

THE COMPLAINANTS HAVE MADE THE FOLLOWING ALLEGATIONS AGAINST THE STATE OF THE NETHERLANDS:

FIRST CHARGE CONCERNING COMRADES, PAST, PRESENT AND FUTURE IN BOLIVIA

(a) That the State of the Netherlands abused its authority to make laws for the benefit of human and non-human inhabitants of the Netherlands by using those powers to recognise corporations as legal persons, issuing malicious fiats that such artificial legal persons are endowed with human attributes, and enabling, aiding and abetting such artificial legal persons to impersonate natural Dutch persons.

(b) That the State of the Netherlands used the artificial legal persons established and recognised by it, to violate the sovereignty of weakened states and communities around the world, and to expropriate lands, waters, forests, labours around the world, with the aim of profiting from revenues, taxes, goods, commodities, and other direct and indirect benefits accruing from the expropriation.

(c) That the State of the Netherlands created Bilateral Investment Treaty as the legal framework for the benefit of corporations in the Netherlands, Europe and around the world to enable artificial legal persons to expropriate land, water, forests, labours from humans and non-humans around the world.

(d) That pursuant to the framework, the State of the Netherlands signed a Bilateral Investment Treaty with Bolivia in 1992 fraudulently representing to the State of Bolivia that the Treaty would bring benefits to the humans and non-humans living in the Cochabamba region of Bolivia.

(e) That the State of the Netherlands was aware that an American artificial legal person named Bechtel Corporation had expropriated the water sources and supplies, depriving the humans and non-humans of Cochabamba of drinking water, and that it knowingly allowed the American national Bechtel Corporation to migrate to the Netherlands under the cover of the Bilateral Investment Treaty to help the legal person to escape responsibilities to Bolivia, and the human and non-human residents of Cochabamba.

SECOND CHARGE CONCERNING COMRADES, PAST, PRESENT AND FUTURE IN PERU

(f) That the State of the Netherlands signed a Bilateral Investment Treaty with the State of Peru in 1994 fraudulently representing to the State of Peru that the Treaty would bring benefits to the humans and non-humans residing in Amazonia including the First Nations of Achuar, Kichwa and Quechua.

(g) That the State of the Netherlands, contrary to its representation, colluded with the artificial legal person called Pluspetrol who is a national of Argentina, by granting residency to Pluspetrol in the financial district of Amsterdam, and aiding and abetting Pluspetrol to expropriate the lands, waters, forests, and labour in Peru and repatriate the benefits from the expropriation to the Netherlands.

(h) That the State of the Netherlands offers immunity for intergenerational climate crimes to Pluspetrol under the Bilateral Investment Treaty with Peru in order make it possible for Pluspetrol to extract fossil fuels, destroy local ecology, including the rivers and coastal ecologies of Ecuador, destroy human and non-human lives and the livelihoods of First Nations of Achuar, Kichwa and Quechua in the Amazonian regions of Peru.

THIRD CHARGE CONCERNING COMRADES, PAST, PRESENT AND FUTURE IN MONGOLIA

(i) That the State of the Netherlands signed a Bilateral Investment Treaty agreement with the State of Mongolia fraudulently representing to the State of Mongolia that the Treaty would bring benefits to the human and non-human residents of the Gobi Desert in Mongolia.

(j) That the State of the Netherlands allowed Rio Tinto and Turquoise Hill Resources to use the Bilateral Trade Agreement with Mongolia as legal cover to carry out mining activities that have disembowelled the earth, depleted water sources and made the Gobi Desert uninhabitable for its human and non-human residents.

(k) That the State of the Netherlands colluded with the International Monetary Fund and the World Bank and engaged in lending practices that have left the State of Mongolia with a large national debt.

(l) That by allowing legal persons to operate under the cover of the Bilateral Investment Treaty, the State of the Netherlands allows legal persons to avoid paying taxes and benefits from the circulation of money within the Netherlands.

(m) That the State of the Netherlands permits legal persons to sue Bolivia, Peru and Mongolia for failing to comply with the provisions of the Bilateral Investment Treaty, and at the same time denies Bolivia, Peru and Mongolia the authority to sue the legal persons or the State of the Netherlands for wrongdoings.

THESE ACTIVITIES, IF PROVED TO BE TRUE, CONSTITUTE INTERGENERATIONAL CLIMATE CRIMES AGAINST PAST, PRESENT AND FUTURE GENERATIONS OF HUMANS, NON-HUMANS, CULTURES AND ECOSYSTEMS IN BOLIVIA, PERU AND MONGOLIA UNDER S.3 (A), (B), (C) AND (D) OF THE INTERGENERATIONAL CLIMATE CRIMES ACT.

PROSECUTOR

Bart-Jaap Verbeek, SOMO

Bart-Jaap Verbeek joined SOMO in 2018, where he specialises in the transnational governance of trade and investment and the impact on labour, environment, democracy, and human rights. He is currently conducting a PhD research at the Radboud University in Nijmegen on the politics of transnational investment regulation, with a special focus on EU trade and investment policy.

Bart-Jaap holds a master in Latin American Studies from the University of Amsterdam and a master's in Human Geography and Spatial Planning from Utrecht University. SOMO (Stichting Onderzoek Multinationale Ondernemingen - The Centre for Research on Multinational Corporations) is a critical, independent, not-for-profit knowledge centre on multinationals, which began in 1973.

WITNESSES

Sukhgerel Dugersuren, OT WATCH

Sukhgerel Dugersuren is the Chair of Oyu Tolgoi Watch (OT Watch), a Mongolian NGO dedicated to monitoring investment in the Oyu Tolgoi copper, gold and silver mine in the South Gobi province. Sukhgerel has worked as a civil society activist since 2006, motivated by the adverse impacts of development organisations and projects in the countries where they operate, as well as the alarming pace of environmental degradation caused by development processes. OT Watch supports communities affected by projects financed by EBRD, IFC and World Bank in Mongolia in extractive, energy and infrastructure sectors in the use of MBDs' grievance mechanisms seeking remedy for harm caused by extractive projects.

Marcela Olivera,

BLUE PLANET PROJECT

Marcela Olivera is a water commons organiser based in Cochabamba, Bolivia. Since 2004 she has been helping to develop and consolidate an inter-American citizens' network on water justice named Red VIDA. She is also member of the Platform for Public and Community Partnerships of The Americas (PAPC), an organisation that promotes knowledge exchange among water utilities based on solidarity and horizontal cooperation. She currently works at Blue Planet Project, which focuses on the protection water for people and nature for generations to come. This includes working with local organisations and activists on grassroots struggles to protect democratic, community control of water, and building a movement to see the full implementation of the human right to water and sanitation.

Alfonso López Tejada,

ACODECOSPAT

Alfonso López Tejada is President of ACODECOSPAT, a Kukama Indigenous federation from the Marañon River in Peru. ACODECOSPAT gathers more than 60 communities, some of which are affected by oil operations in Block 8, which was recently abandoned by oil company Pluspetrol. Alfonso joins to represent Pueblos Indígenas Amazónicos Unidos en Defensa de sus Territorios (PUINAMUDT), an indigenous platform united to develop an agenda in defense of the territory and life in Amazonía. PUINAMUDT currently integrates the federations: Federation of Native Communities of the Corrientes basin - FECONACOR; Organization of the Amazonian Kichwa Indigenous Peoples of the Peru-Ecuador Border - OPIKAFPE; Quechua Indigenous Federation of Pastaza - FEDIQUEP; and the Cocama Association for the Development and Conservation of San Pablo de Tipishca - ACODECOSPAT, from the Marañon river basin.

JUDGES

Radha D'Souza

Radha D'Souza is a Professor of International Law, Development and Conflict Studies at the University of Westminster (UK). D'Souza works as a writer, critic and commentator. She is a social justice activist and worked with labour movements and democratic rights movements in her home country of India as an organiser and activist lawyer. D'Souza has a BA in philosophy from Elphinstone College (University of Mumbai) and a LLB from New Law College (University of Mumbai), and she completed her PhD in Geography at the University of Auckland. She is the author of *What's Wrong with Rights?* (Pluto, 2018) and *Interstate Disputes Over Krishna Waters* (Orient Longman, 2006) and works with the Campaign Against Criminalising Communities (CAMPACC) in the UK. Together with artist Jonas Staal she co-founded the *Court for Intergenerational Climate Crimes* (2021-ongoing).

Sharon H. Venne

Sharon H. Venne (Notokwew Muskwa Manitakan) is a Cree woman; BA (Hon), LLB, LLM and a PhD candidate in the history department of the University of Alberta. The background research to the many clauses on the Declaration on the Rights of Indigenous Peoples is included in her book: *Our Elders Understand Our Rights: Evolving International Law Regarding Indigenous Peoples* (Theytus Books, 1998). In addition, Venne has written numerous articles and edited materials related to the rights of Indigenous Peoples and Treaty Rights of Indigenous Peoples. Her most recent published article is 'Manufactured Consent – how state governments manufacture consent and use it against Indigenous Nations at the domestic and international level' in *Indigenous Peoples as Subjects of International Law* (Routledge, 2018) edited by Dr. Irene Watson.

Rasigan Maharajh

Rasigan Maharajh is an activist scholar who is primarily based in South Africa. Having occupied leadership roles in both mass democratic and a

national liberation movement, he served as national coordinator of the science and technology transition programme of the first post-apartheid government. After his deployment as Head of Policy at the Council for Scientific and Industrial Research, he is the founding Chief Director of the Institute for Economic Research on Innovation of Tshwane University of Technology since 2004.

From 2014, he has also served as the Node Head of the Department of Science and Technology and National Research Foundation Centre of Excellence in Scientometrics and Science, Technology and Innovation Policy. He is a Professor Extraordinary of the Centre for Research on Evaluation, Science and Technology of Stellenbosch University from 2015. He holds a PhD in Political Economy and Research Policy from Lund University in Sweden.

Nicholas Hildyard

Nicholas Hildyard is a founder and director of The Corner House, a UK research and advocacy group focusing on human rights, the environment, and development. Hildyard has written extensively on environmental and global justice issues. His publications include *Licensed Larceny: Infrastructure, Financial Extraction and the Global South* (Manchester University Press, 2016), *Corridors as Factories: Supply Chains, Logistics* (Corner House, 2019) and *Labour, Energy, Work and Finance* (Corner House, 2014).

CLERK

Jonas Staal

Jonas Staal is a visual artist whose work deals with the relation between art, propaganda, and democracy. He is the founder of the artistic and political organisation *New World Summit* (2012-ongoing). He co-directs the training camp *Training for the Future* (2018-ongoing), and with human rights lawyer Jan Fermon he initiated the collective action lawsuit *Collectivize Facebook* (2020-ongoing). With writer and lawyer Radha D'Souza he founded the *Court for Intergenerational Climate Crimes* (2021-ongoing).

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EXHIBITION DATES

25 SEPT '21
16 JAN '22

Climate Crimes (CICC) is a project by Radha D'Souza & Jonas Staal, commissioned by Framer Framed, Amsterdam.

ADDRESS

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OPENING TIMES

Tue - Sun, 12:00 - 18:00

CONTACT

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OCT 28, 2021
13:00-18:00
Comrades past,
present and future
vs. the Dutch State

OCT 29, 2021
13:00-18:00
Comrades past,
present and future
vs. Unilever

OCT 30, 2021
13:00-18:00
Comrades past,
present and future
vs. ING

OCT 31, 2021
13:00-18:00
Comrades past,
present and future
vs. Airbus

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