

OCTOBER 29TH, 2021

Comrades past, present and future vs. Unilever

This case indicts Unilever and the Dutch State for committing different types of climate crimes by their destructive activities, such as mercury poisoning of rivers, monocultures of agriculture and the active undermining of democratic institutions, through witnesses from India, the Democratic Republic of the Congo and Kenya.

HEARING II

- 13:00 Introduction
- 13:10 Prosecutor: Daphné Dupont-Nivet
- 13:40 Witness: Nityanand Jayaraman, Vettiver Koottamaippu
Defense Witness | Public Jury #1
- 14:45 BREAK
- 15:05 Witness: Faith Alubbe, Kenya Land Alliance
Defense Witness | Public Jury #2
- 16:10 BREAK
- 16:35 Witness: Jean-François Mombia Atuku, RIAO-RDC
Defense Witness | Public Jury #3
- 17:35 Closing Statements by the Judges
- 18:00 Dinner & Drinks

ACCUSED

Unilever

Unilever PLC is a transnational corporation that owns over 400 brands, with products available around 190 countries. Unilever was originally founded as a Dutch company.

It was registered both in the Netherlands and England until November 2020 when it moved its headquarters solely to England.

AND The State of the Netherlands through the Ministry of Economic Affairs and Climate Policy.

CHARGES

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

Defendant 1 Unilever, jointly and severally with Defendant 2, the State of the Netherlands, is charged with committing crimes under s.3 of the Intergenerational Climate Crimes Act in the Kodaikanal region of Tamil Nadu in India by engaging in the following activities:

It is alleged *inter alia* that:

- (a) In 1983 Unilever set up a mercury thermometer manufacturing factory in Kodaikanal in Tamil Nadu in India after it was banned in the United States of America.
- (b) Unilever discharged levels of mercury in the Pambar Shola Wildlife Sanctuary that were 66 times higher than the levels permissible in the Netherlands and double the levels permissible in the UK.

(c) Together these acts described in (a) and (b) amount to adoption of double standards in Unilever's operations in Tamil Nadu India.

(d) By 2001 the factory discharged an estimated 1.3 tonnes of mercury into the nearby Pambar Shola Wildlife Sanctuary.

(e) The exposure to mercury caused death, disease and injury to the factory workers, and the residents of Kodiakanal, their children, grandchildren and future generations.

(f) The sholakili and other birds, animals, plants, trees, rivers, hills, and other human and non-human species as defined in the Act lost their sanctuary in the Pambar Shola ecosystem.

(g) In the name of restitution, Unilever cut down 425 trees on its factory land in 2020 which caused downstream flooding and further discharge of 100 kilograms of mercury was washed into the ecosystem of the region poisoning the food chain for humans, non-humans as defined in section 2(2) and 2(6) of the Act.

(h) Defendant 2, the State of the Netherlands empowered Unilever to engage in the above crimes by recognising Unilever as a corporate person.

(i) The State of the Netherlands endowed Unilever with human rights and property rights, knowing that they were not natural persons.

(j) The State of the Netherlands actively collaborated with the United Kingdom and other European and American states to establish legal entities such as the Organisation of Economic Cooperation and Development with the aim of empowering corporations like Unilever with the authority to commit crimes against humans and non-humans, past, present and future, in the Kodaikanal region.

(k) The State of the Netherlands benefited from the activities of Unilever in Kodaikanal and elsewhere by receiving revenues, taxes, takings and direct and indirect benefits flowing from the destruction of ecologies and communities in the Kodaikanal region.

(l) The State of the Netherlands actively promoted and recognised the freedoms of Unilever but took no steps whatsoever to recognise the self-determination and will of the people of Kodaikanal and the well-being of non-human species in the region.

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 THE LOKUTU, YALINGMBA AND BOTEKA REGIONS OF THE DEMOCRATIC REPUBLIC OF CONGO UNDER S.3 OF THE INTERGENERATIONAL CLIMATE CRIMES ACT.

SECOND CHARGE CONCERNING COMRADES, PAST, PRESENT AND FUTURE IN THE KERICHO AND BOMET REGIONS OF KENYA

Defendant 1 Unilever, jointly and severally with Defendant 2, the State of the Netherlands, is charged with committing crimes under s.3 of the Intergenerational Climate Crimes Act in the Kericho and Bomet regions of Kenya by engaging in the following activities:

It is alleged *inter alia* that:

(a) The State of the Netherlands allowed Unilever to double-up as a British corporation in the late nineteenth century, by recognising multinational corporations as a single legal entity even when they are located in two different political jurisdictions, with the sole purpose of benefitting from the British Empire.

(b) As an ally of the United Kingdom, the State of the Netherlands colluded in confiscating land, everything beneath and above it from the human and non-human residents of Kericho and Bomet with the sole purpose of handing over the seized lands to Unilever, in their capacity as a legal person recognised by the State of the Netherlands.

(c) The colonial land leases given to Unilever ended in 2009, that Unilever was required by the Kenyan state to produce their land leases for verification, and that Unilever has failed to comply with the directions of the State of Kenya, and that the State of the Netherlands has taken no measures whatsoever to direct Unilever to comply with the directions of the State of Kenya.

(d) Acting under corporate laws established by the State of the Netherlands, Unilever split itself into two legal entities, Unilever and Brooke Bond, so as to avoid the directions of the State of Kenya for verification of land leases and the claims for restoration of the lands to the people of Kericho and Bomet, illegally seized by the United Kingdom during the colonial era.

(e) The State of the Netherlands took no action against the United Kingdom for failure of Unilever to return the lands confiscated by the United Kingdom’s British Empire.

(f) Unilever established tea plantations on the land confiscated from the people of Kericho and Bomet for the sole purpose of making profits from trading in tea around the world for the benefit of its shareholders, and the State of the Netherlands.

(g) Unilever introduced mechanisation on the plantations which has destroyed livelihood, ecology and health of humans and non-humans in Kericho and Bomet with lasting impacts on future generations as defined in s.2(3) of the Act.

(h) Unilever knowingly used Round-Up, a deadly poisonous fertiliser, that has caused extensive damage to the health and well-being of humans and non-humans of Kericho and Bomet.

(i) Unilever used aerial spraying on the plantations established on confiscated land which has resulted in permanent damage to the ecosystems of Kericho and Bomet.

(j) Unilever continuously rationalised its management practices to deprive people of Kericho and Bomet of their livelihoods with the intention of making profits for its shareholders and the State of the Netherlands.

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 THE KERICHO AND BOMET REGIONS OF KENYA UNDER S.3 OF THE INTERGENERATIONAL CLIMATE CRIMES ACT.

THIRD CHARGE CONCERNING COMRADES, PAST, PRESENT AND FUTURE IN THE LOKUTU, YALINGMBA AND BOTEKA REGIONS OF THE DEMOCRATIC REPUBLIC OF CONGO

Defendant 1 Unilever jointly and severally with Defendant 2, the State of the Netherlands, is charged with committing crimes under s.3 of the Intergenerational Climate Crimes Act in Lokutu, Yalingmba and Boteka regions of the Democratic Republic of Congo by engaging in the following activities:

It is alleged *inter alia* that:

(a) Unilever expropriated land and established large plantations for palm oil, cocoa and coffee production by making false representations to the previous generations of communities in the Lokutu, Yalingmba and Boteka regions that they and their future generations would benefit from the plantations, knowing that the representations were false.

(b) Unilever occupied the lands granted to it after the State of Belgium colonised Lokutu, Yalingmba and Boteka regions and confiscated the lands from human and non-human communities who resided in those regions.

(c) In order to establish palm oil, cocoa and coffee plantations on the colonised and confiscated lands, Unilever denuded and destroyed forests that were home to the Okapi known locally as the Mindonga and other species native to the region that became extinct due to loss of their homelands.

(d) Unilever appropriated the labours of the communities of Lokutu, Yalingmba and Boteka, forcing them to work under slave-like conditions denying them decent lives and livelihoods.

(e) Unilever funded and raised private security guards and corrupted the State of Congo’s national police and army through bribery and inducements, to threaten, intimidate, terrorise and kill the communities in Lokutu, Yalingmba and Boteka regions who claimed the return of the lands of their ancestors that was wrongly expropriated by the State of Belgium and Unilever.

(f) Unilever induced and enticed the Ambassador of Congo to the United Kingdom to exterminate opponents of Unilever in the Democratic Republic of Congo and to acquiesce to its demands to nominate another corporate person, namely Feronia, as heir to its plantations with a view to escaping responsibilities to past, present and future humans and non-humans in Lokutu, Yalingmba and Boteka for intergenerational crimes.

(g) Unilever adopted deceitful tactics to defeat the claims for lands, waters, forests and labours by the people of Lokutu, Yalingmba and Boteka, by nominally selling the plantations to Feronia in 2009 while maintaining its authority and control over the plantations and benefitting from it.

(h) Defendant 2, the State of the Netherlands established the Financieringsmaatschappij voor Ontwikkelingslanden (the Entrepreneurial Development Bank of FMO) as a public-private partnered international financial institution to manage the monies and funds for State of the Netherlands so as to encourage, support and advance Unilever’s expropriation of natures and appropriation of labours in the Lokutu, Yalingmba and Boteka regions, thereby enabling, aiding and abetting Unilever’s intergenerational climate crimes against humans and non-humans under s.3 of the Act.

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 THE LOKUTU, YALINGMBA AND BOTEKA REGIONS OF THE DEMOCRATIC REPUBLIC OF CONGO UNDER S.3 OF THE INTERGENERATIONAL CLIMATE CRIMES ACT.

PROSECUTOR

Daphné Dupont-Nivet,

INVESTIGATIVE JOURNALIST

Daphné Dupont-Nivet studied conflict studies and international relations at Utrecht University and world history at Columbia University and London School of Economics. She is a freelance investigative journalist writing for Investico and De Groene Amsterdammer on the climate crisis, (sustainable) energy, labour markets and political economy and collaborates with European research platform Investigate Europe. In addition, she is a researcher for documentaries and podcasts and is working on a book at Querido Fosfor.

WITNESSES

Nityanand Jayaraman,

VETTIVER KOOTTAMAIPPU

Vettiver Koottamaippu is a Chennai-based voluntary collective that engages people, primarily youth, in extending solidarity to community struggles for social and environmental justice. The collective’s members use arts, law, science and media as tools of advocacy. “Kodaikanal Won’t” is a viral rap video that forced a reluctant Unilever to compensate nearly 600 workers affected by mercury exposure at the company’s now-closed Kodaikanal thermometer factory.

Nityanand Jayaraman is a founder volunteer of the Collective, and a journalist and social activist who was instrumental in exposing Unilever’s crimes in Kodaikanal in 2001.

Faith Alubbe,

KENYA LAND ALLIANCE

Faith Alubbe is the Chief Executive Director at the Kenya Land Alliance. She has been a human rights lawyer and a land justice activist for the last 14 years. She is currently Chair of the Kenya Civil Society Platform on Oil & Gas and Chair Person of the Land Sector Non State Actors.

The Kenya Land Alliance (KLA), formerly a Trust, registered as a NGO in July 2013. KLA was established to create an institutional mechanism to advocate for the reform of land laws and policies in order to ensure secure and equitable access to land and natural resources in Kenya. KLA works to ensure that provisions are made with direct relevance for the lives of millions of women, pastoralists, hunter-gatherers, squatters and Internally Displaced Persons, informal sector residents and traders (hawkers), fisher folks, people living with HIV/AIDS and those living with disabilities.

Jean François Mombia Atuki,

RIAO-RDC

Jean François Mombia Atuku is the founder and President of Réseau d’Information et d’Appui aux ONGs en République Démocratique du Congo – Information and Support Network for NGOs in the Democratic Republic of Congo (RIAO), an umbrella organisation that brings together several dozen NGOs and farmer associations located in various provinces of the country. The aim of this network is to strengthen the capacities of its members, whilst acting as their representative in their dealings with different actors, including the media. Since its creation in 2006, RIAO has been particularly active in the defence of land and resource rights in rural areas of DRC.

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 ManitoKAN) 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).

FRAMER FRAMED

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

Framer Framed
Oranje- Vrijstaatkade 71
1093 KS Amsterdam

OPENING TIMES

Tue - Sun, 12:00 - 18:00

CONTACT

info@framerframed.nl
www.framerframed.nl

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

SUPPORTED BY

