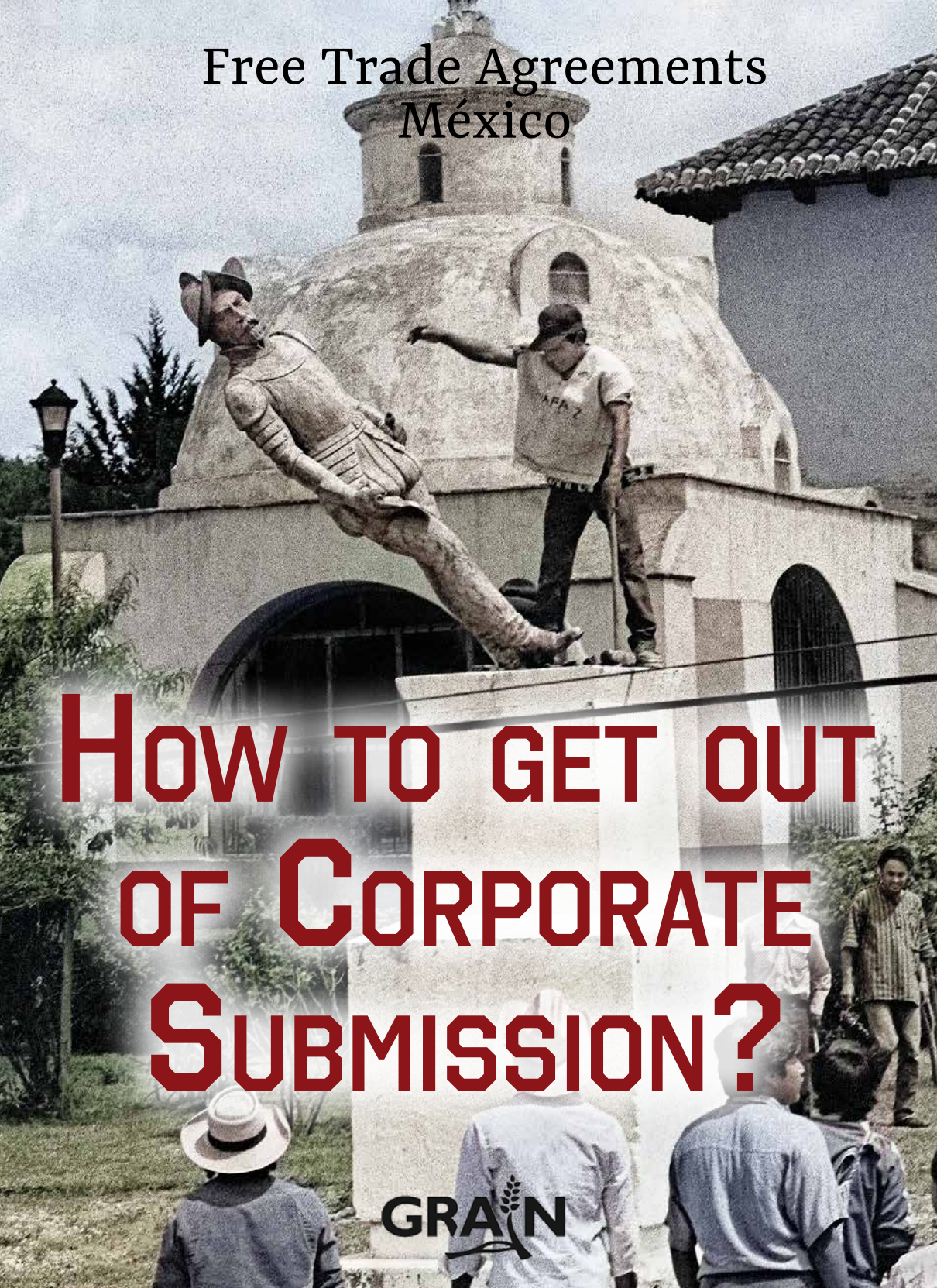


Free Trade Agreements  
México

# HOW TO GET OUT OF CORPORATE SUBMISSION?

GRAIN



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**MISEREOR**  
IHR HILFSWERK



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Migrants ride the train known as La Bestia in Tenosique, Tabasco, Mexico, seeking to reach the US. Photo: Prometeo Lucero





Frequent fires in the hundreds of immense dumpsites (many with toxic waste) that accumulate throughout the country. Photo: Jerónimo Palomares



# WHAT IS AT STAKE

**W**ith this report, told from several different points of view, we attempt to show that the North America Free Trade Agreement (NAFTA), and its eternal wake of treaties and bilateral agreements for commerce and investment, was a milestone that changed the global texture of trade and investment relations, and eventually the entire network of relations between governments, and between them and their societies. This has come to the point of dismantling many legal apparatuses in order to open space for companies to manoeuvre, while closing the legal spaces for populations to defend their interests. The so-called formal democracy thus began to erode and the world entered an unprecedented stage of homogenisation of the terms of reference of its international relations. “Mexico is currently in 12 Free Trade Agreements signed with 46 countries, 32 Agreements for reciprocal investment promotion and protection with 33 countries, 32 Limited Scope Agreements in the Latin American Integration Association (ALADI) framework, and is a member of the Trans-Pacific Partnership Agreement”.<sup>1</sup> Since NAFTA, the proliferation of agreements and treaties is a process that continues to evolve. The T-MEC or USMCA is not new, it is just an evolution of the terms of NAFTA.

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1 <http://omawww.sat.gob.mx/aduanasPortal/Paginas/index.html#!/mapaTratado>

One year after NAFTA was signed (in 1992), the General Agreement on Tariffs and Trade (GATT), in force since 1947, became the World Trade Organisation (WTO). Thus, the international financial and commercial institutions reclaimed the effectiveness and control of free trade agreements as padlocks of the structural reforms promoted since the eighties. FTAs were also promoted because of their potential to gradually subdue national and international legal structures to the discretion of the economic interests of corporations. On its web page, the WTO says:

At the heart of the system – known as the multilateral trading system – are the WTO’s agreements, negotiated and signed by a large majority of the world’s trading economies, and ratified in their parliaments. These agreements are the legal foundations for global trade. Essentially, they are contracts, guaranteeing WTO members important trade rights. They also bind governments to keep their trade policies transparent and predictable to everybody’s benefit.<sup>2</sup>

After the 1999 impeachment of the WTO in Seattle and its supposedly resounding failure in 2003 in Cancun, where the ambition of creating a Free Trade Area of the Americas was discarded, a barrage of bilateral trade agreements followed, multiplying the controls but, above all, the substitutions and parallel lanes of what should be the work of the national congresses and governments in determining public laws, norms, and policies, “What we are looking at is not a WTO failure,” GRAIN was already saying then

but an open attempt to speed through liberalisation measures via bilateral or sub-regional negotiations. The US has been quite explicit in this strategy of «competitive liberalisation». It involves approaching and pressuring the weaker and more submissive countries to sign agreements, keeping momentum going

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2 [https://www.wto.org/english/thewto\\_e/whatis\\_e/inbrief\\_e/inbr\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm)



until the nations more concerned about maintaining some degree of sovereignty give in because they become isolated.<sup>3</sup>

The FTAs (and NAFTA was the first) and the bilateral investment agreements are then revealed as instruments for the “deviation of power”. Moulds for public norms and policies, relation models that, as we said, open up room to manoeuvre for the companies while closing up the legal channels for the people who cannot defend themselves, excluded from legality, marginalised from the possibility of accessing justice.

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3 GRAIN, *The disease of the day: Acute treatyitis - The Myths and Consequences of free trade agreements with the US*. May 5, 2004. <https://grain.org/en/article/122-the-disease-of-the-day-acute-treatyitis-the-myths-and-consequences-of-free-trade-agreements-with-the-us>



The Zapatista Army of National Liberation (EZLN) entering San Cristóbal de las Casas, Chiapas in the early hours of 1 January 1994. Photo: Courtesy of Antonio Turok



# ONE: THE UNIVERSE OF THE IMPACT

**T**he understanding of the damage NAFTA would bring to the country was so conclusive that the most evident symbol of the rejection of its provisions was the uprising of the Zapatista National Liberation Army (EZLN), an indigenous, community-based movement that simultaneously had global frames of reference that fostered its repercussions and influence throughout the world. The same day NAFTA came into force, thousands of Zapatistas declared war on the government of Carlos Salinas de Gortari.<sup>4</sup>

Guillermo Bonfil Batalla, a very well-known anthropologist-historian said it in his last text before he died: the FTAs “prevent the possibility of carrying out our own future (in consequence with our history, our plural reality, with the multiple seeds for the future that stem from the Mexican cultures.” And he added: “Are we Mexicans adopting this model freely and sovereignly?”<sup>5</sup>

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4 <https://enlacezapatista.ezln.org.mx>

5 Guillermo Bonfil Batalla, “Implicaciones culturales del Tratado de Libre Comercio”, *México Indígena* Nueva Época, número 24, septiembre de 1991. Bonfil is one of the Latin American thinkers with the greatest contemporary repercussions, being a historian and anthropologist, he insisted on the “deep Mexico”, that quality that kept the indigenous character in force in our daily relations, although it was made invisible by “modernity”. He is one of the promoters of the indigenous ascent to the national stage and the defence of maize (and the *milpa*, the polyculture plot) as the centre of our civilization.

This entry into force of NAFTA, a “change in the rules of the game” between countries, and between corporations and the population of those affected countries, triggered a movement for the autonomy of peoples and communities that has expanded and continues to expand. From their corners they are beginning to understand the vastness of the repercussions and the truth behind the euphemised objectives that their governments sold as publicity in favour of the agreements and treaties. Therefore, it was essential to understand what was going on. (Among other things, the futility of fighting in favour of nationalism, even the revolutionary kind, if the rules of the game that were starting to become concrete remained intact, first in Mexico, and then cascading into an infinity of bilateral “free trade” and investment agreements throughout the planet.)

Based initially on three countries as a reference, NAFTA had and has world repercussions that are taking place to this day.

The effects of these instruments of power diversion are so negative and far-reaching that communities are unable to fight the FTAs directly. Even for that they take resources, time, travel, sacrifices, lawyers: this is crucial to understand the disparity of means at play. Communities cannot be demonstrating or fighting against FTAs because this disparity is brutal: they are fighting against their negative effects and repercussions (attacks, invasions, dispossession, devastation, disablement) that occur directly in the regions and localities where peasants and indigenous people live. This also applies to the people in the neighbourhoods of the growing cities. (In the end, the changes are more vast and profound, but their logic normalises the effects and makes them invisible.) Seen from Mexico, the most conspicuous are the following:

1. Labour and environmental deregulation as a “comparative advantage” offered by the Mexican government in the unequal relationship between the three countries, but above all regarding the United States. These so-called “comparative advantages,” in fact, represent the collapse of Mexican national sovereignty. Environmentally, the resulting crises respond to the subordination of Mexican environmental



Extreme environmental devastation and drought on the coast of Sonora, Mexico. There are at least 10 other sacrifice zones in the country. Photo: Jerónimo Palomares

policies to the logic of NAFTA, offering scarce to no environmental regulations. For example, since 1994, NAFTA established the possibility of profiting from importing toxic waste<sup>6</sup> and promoted economic policies that led to the propagation of highly damaging and risky processes, sometimes bluntly criminal ones, in the national economic body. This situation plagues and contaminates all the economic spaces for production, exchange, distribution, and consumption with destructive externalities.<sup>7</sup>

2. Concerning labour deregulation, the most severe case is probably represented by the proliferation of “maquiladoras”. They emerged in 1964 but were boosted by NAFTA, which fragmented the production

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6 Asamblea Nacional de Afectados Ambientales, *El colapso ambiental de México*, <http://afectadosambientales.blogspot.com/2009/05/el-colapso-ambiental-de-mexico.html>

7 Fiscalía 2: El desvío de poder económico y crímenes económicos de lesa humanidad, November, 2014. Acusación del grupo de garantes ante el Tribunal Permanente de los Pueblos en el proceso abierto en México entre 2011 y 2014: *Libre comercio, violencia, impunidad y derechos de los pueblos en México*. <https://www.tppmexico.org/fiscalia-2-desviacion-del-poder-economico/>

processes, importing tariff-free raw materials to manufacture parts of products or semi-manufactured products and exporting back the finished products to the country where the raw materials came from, or even exporting them to a third country.

This fragmentation of the industries' production processes and the rise of parts production in the more complex processes in the maquila industry fragmented all the industrial chains into "sweat" workshops that produce unrecognizable parts of products scattered among different workshops and production areas. The above has undoubtedly configured an industry of subservience and the invisibility of what is being produced. In a nutshell, the aim is to reduce costs, fragment processes, and scatter them even among different countries, establishing supply chains; making the most of the inhuman conditions under which female and male workers can be subjected through precarious jobs and contract outsourcing (subcontracting staff through intermediary companies, thus facilitating the dissolution, or precluding the creation of unions and all forms of popular organisation).<sup>8</sup> According to *bilaterals.org* (a team dedicated to dissecting and reporting on trade and investment bilateral treaties and agreements), "NAFTA has also been criticised because it promotes meagre salaries and precarious work conditions, especially along the Mexico-US border, where over 3 thousand maquiladoras employ over a million Mexicans, especially women who earn at most around 5 dollars a day."<sup>9</sup> According to a GRAIN document, supply chains became relevant...:

...since transnational corporations began outsourcing manufacturing to places where extremely low wages, low or non-existing labour safety standards and even slave labour prevailed or were tolerated. While they have existed since colonial times, supply chains have emerged forcefully in their modern fashion as a consequence of free trade agreements. According to different sources, transnational

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8 *México: empresas maquiladoras de exportación en los noventa*, Comisión Económica para América Latina y el Caribe (CEPAL), <https://www.cepal.org/es/publicaciones/7514-mexico-empresas-maquiladoras-exportacion-noventa>

9 *bilaterals.org*, see texts of NAFTA: TLCAN: T-MEC.



Day labourers about to board the bus that takes them to the labour camps in the early hours of the morning, San Quintín, Baja California. Photo: Consuelo Pagaza

Day labourers harvesting celery in northwest Mexico. Photo: Jerónimo Palomares



supply chains currently account for 30 to 60 per cent of all global trade, and depend on the work of over 100 million workers globally.<sup>10</sup>

In the case of Mexico, according to one of the researchers on NAFTA's labour area (and its current restructuring into the USMCA):

In the industrial sector, the manufacturing structure was disarticulated to the exclusive benefit of the maquiladora export sector under the establishment of an export drive with high import content (from the US) and a cheap labour force. Under NAFTA, the economic and political regime of labour super-exploitation – the true foundation of the agreement – redoubled its strength, leading to a deep corrosion of the working class's living conditions for more than two decades. Beyond the false promises of *wage convergence* and *modernisation*, at present the average wage in the Mexican automotive industry is 3 dollars in contrast to that of the United States, which is 28 dollars.<sup>11</sup>

3. There is also a push towards land privatisation and monopolisation (which began concretely two years before the implementation of NAFTA) through the counter-reform of Article 27 of the Constitution, which had established the unseizable, inalienable and indefeasible character of collective land tenure by indigenous and peasant communities. The agrarian regime that emerged from the Mexican Revolution contemplated the indigenous communities —in their ancestral acknowledgment— and *ejidos*: the collective agrarian figure to supply the dispossessed or landless population nuclei with common lands.<sup>12</sup>

The counter-reform explicitly paved the process toward NAFTA, tearing down this non-tariff barrier: that only the *ejido* or communal nucleus can possess these types of lands. With the legal

10 GRAIN "New free trade agreements: normalising the brutality of transnational supply chains", October, 2017, <https://grain.org/en/article/5800-new-free-trade-agreements-normalising-the-brutality-of-transnational-supply-chains>

11 José Luis Ríos Vera, "El T-MEC (USMCA) entre el declive imperial y la amenaza china", July 7, 2020. <https://www.laizquierdadiario.mx/El-T-MEC-USMCA-entre-el-declive-imperial-y-la-amenaza-China>

12 <http://www.ordenjuridico.gob.mx/Constitucion/articulos/27.pdf>



changes, privatisation started, and the barrier mentioned above was demolished. Then the ejidos and communities (the first more loosely, since they weren't necessarily tied to ancestral land properties) could receive foreigners in their midst, allowing for land trading, rent, and other concessions, which was forbidden under the previous legislation.

At the same time, the government enforced the registration of plots and lands in common use, seeking for the ejidos and communities to get individual titles, *de facto* breaking up their lands' collectiveness or communality. They called this *titulación plena* (full allocation), initiated by the so-called Program for the Certification of Ejidal Rights (Procede) and its communal version (Procecom). With the change in land property that was coming, it would become easier to converge "with the neoliberal programs that have been punishing farming production and with the global change that had also been taking place. reorganising the world's and, very especially, U.S.'s agriculture."<sup>13</sup> Moreover, with its peculiar asymmetries, NAF-TA would promote tariff reductions that would encourage direct foreign investment in several economic sectors, mainly rural areas.

To quote Isaías Rivera, ex Agrarian Procurator: "With the reform of article 27 of the Constitution, the issuing of the Agrarian Law and the implementation of the *Procede* programme, the ejido or communal lands were incorporated into the land market through several mechanisms, be it through the celebration of contracts for the alienation of ejido rights (transfer, purchase and sale, donation) or when the ejidos and communities contributed with their common-use lands to civil or commercial associations"<sup>14</sup>

13 See Acusación general de la sociedad civil ante el Tribunal Permanente de los Pueblos. *El despojo y depredación de México. Libre comercio y desvío de poder como causa de la violencia estructural, la impunidad y la guerra sucia ontra los pueblos de México*, 2011, <https://issuu.com/cencos/docs/cencos.org>

14 See: *Tenencia de la tierra y derechos agrarios. pdf*, December 2003. [http://www.sagarpa.gob.mx/sdr/evets/sm\\_jovenes/pdfs/1\\_eirr\\_sra.pdf](http://www.sagarpa.gob.mx/sdr/evets/sm_jovenes/pdfs/1_eirr_sra.pdf). With what Rivera Rodriguez has said, it is no longer necessary to read between the lines of these *Procede* lawyers. Although the titles of Ejido or Communal Goods were the way to ensure a land tenure protected by the Constitution and the agrarian laws, since the counter-reformation of Article 27, there was a wish to encourage the possibility of "alienating the rights" in the nuclei of social property, as the Agrarian Procurator said.

This counter-reform was a direct attack against common areas since it opened up the possibility of exercising individual ownership over what used to be a common good and of selling, buying, and renting collective (*ejido* or communal) lands, dispossessing them of their “unseizable, inalienable and indefeasible” character. The new Article 27 opened the doors to dismantling the indigenous peoples’ territories, their commonality, and the social spirit of organisation shared in the ejidos.

It was an attempt to turn into merchandise “all the joint lands ‘that involve deep social relations.’ Individual certification sought to deactivate the community strategies incarnated in the strength of their assemblies so that each brand new ‘owner’ would stand alone before the law. Although they insisted that the individuation was voluntary, the certification and its privatising nature became clearer: it is a widespread attack against peasants and their ways of life in farming, seeking to separate them from the territories they have guarded for millennia.”<sup>15</sup>

The communities and ejidos overwhelmingly resisted privatisation, and, in fact, the number of *ejidos* and communities, that is, social properties, increased instead of decreasing.<sup>16</sup>

At the end of the Procede program, after promoting a land privatisation program, the agrarian procurator Isaías Rivera acknowledged that “52% of the country’s surface is social property, ejidos, and communities, while 40% is private property; the rest is made up of federal zones, water bodies, coastlines, etc.”<sup>17</sup> More recently, in 2017, the National Agrarian Registry (RAN) ratified this trend by stating that “Ejido and communal property

15 See “Las reformas estructurales y la integralidad del ataque contra la subsistencia”. Relatoría del Eje 5:Violencia contra el Maíz, la Soberanía Alimentaria y la Autonomía de los Pueblos. November, 2014, in Capítulo México del Tribunal Permanente de los Pueblos (2011-2014) *La audiencia final. Sentencia, fiscalías y relatorías*. Editorial Itaca, 2016. See also GRAIN, “Structural reforms, free trade agreements and the war on subsistence”, January 2015, <https://grain.org/en/article/5130-structural-reforms-free-trade-agreements-and-the-war-on-subsistence>.

16 See Ana de Ita, *Impactos del Procede en los conflictos agrarios y la concentración de la tierra*, Centro de Estudios para el Cambio en el Campo Mexicano (Ceccam), 2003. <https://scholar.google.com/citations?user=ry3F-2AAAAAJ&hl=en>. See Ramón Vera Herrera, “Procede-Procecom: las escrituraciones del diablo”, *Ojarasca* 86, June, 2004

17 *Tenencia de la tierra y derechos agrarios. pdf*, December 2003. [http://www.sagarpa.gob.mx/sdr/evets/sm\\_jovenes/pdfs/1\\_eirr\\_sra.pdf](http://www.sagarpa.gob.mx/sdr/evets/sm_jovenes/pdfs/1_eirr_sra.pdf), First Paragraph

represents 50.8 of the national territory, distributed in 29,709 ejidos and 2,393 communities that together occupy some 100 million hectares, over which 5.5 million people have rights.”<sup>18</sup> Mexico is one of the few countries where agricultural social property represents half the national territory. It continues to represent a preserve based on the territorial memory of its peasant communities, many of which are indigenous and ancestral.<sup>19</sup>

The land grabbing promoted by *Procede* and the counter-reform of Article 27 would also affect water directly because the ancestral land-water binomial, which was maintained in the Mexican Constitution, was broken after the reformation of Article 27.

Since then, water grabbing for multiple uses continues unabated, but also in its sacrificial mode, using it to receive toxic waste from industrial processes, including mining, chemical manufacturing, and the textile and automotive industries. According to Andrés Barreda: “the nature of the catastrophe can only be explained by the water policy imposed by NAFTA, which organised a use of water that is systematically discretionary, predatory, corrupt, falsely remedial, privatising and lucrative.”<sup>20</sup> This use is exclusionary and promotes a rigorous criminalisation of any sign of social resistance. The waste and hoarding of water, directly promoted by NAFTA and the countless other FTAs signed by Mexico, encompasses all imaginable activities: mining, oil and shale gas extraction, industries (chemical, automotive, bottling, aviation, electro-computing, textile, maquiladora, agro-industry, greenhouses, construction) “all linked to huge masses of garbage, and the privatised, extended and speculative construction of micro-housing with programmed obsolescence.” This added to the

18 See Registro Agrario Nacional, *Nota técnica sobre la Propiedad Social*, 2017, [http://www.ran.gob.mx/ran/indic\\_bps/NOTA\\_TECNICA\\_SOBRE\\_LA\\_PROPIEDAD\\_SOCIAL\\_v26102017](http://www.ran.gob.mx/ran/indic_bps/NOTA_TECNICA_SOBRE_LA_PROPIEDAD_SOCIAL_v26102017)

19 Upon confirming the strength of the ejidos and communities, the World Bank itself tried to turn the results around, praising collective agrarian strength and thus emphasizing the promotion of associative forms and contracts between companies and communities, ejidos and individual producers. World Bank, *Rising global interest in farmland. Can it yield sustainable and equitable benefits?* September 7, 2010. <https://openknowledge.worldbank.org/handle/10986/2263>

20 Andrés Barreda, “La catástrofe del agua en México sólo la explican las políticas que impuso el TLC”, *Ojarasca* 178, febrero de 2012. <https://www.jornada.com.mx/2012/02/11/ojaportada.html>

unstoppable destruction of forests and rainforests for massive monoculture plantings and population expulsion. In summary:

The levels of overexploitation of aquifers, the pollution of all types of water bodies, the poisoning and massive degenerative diseases, the decrease in the levels of aquifers, and the drying up of rivers, which are hardly observed with such expansion and intensity in other parts of the world, are inconceivable. These relentless destructive activities of water resources are considered strategic for the success and prosperity of free trade policies.<sup>21</sup>

4. These early effects were followed by many others, so many that it's challenging to keep track of each and every one.<sup>22</sup> The most devastating example is the Yucatan Peninsula and the Transisthmian Corridor, where a "multimodal land grab" is taking place. Multimodal because there is investment in windmill fields or in pig farms, fish farms, agro-industrial food systems, greenhouses, maquiladoras, industrial parks, tourist centres, illegal activities, and real estate developments, roads, ports, in soybean, maize, and African palm monoculture, or in population displacement.<sup>23</sup> The rise of organised crime and its cartels also began.

5. Migration soared, mainly due to the eviction of communities and individuals from their lands, but also the violence

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21 *Ibidem*

22 Because of the nature of the industrial agri-food system and its devastating effects on the core of human relationships with nature that allow full autonomy, our text emphasizes what is related to rural areas (and environmental devastation) and perhaps leaves aside some of the specific effects that FTAs have on the economy and the more urban sectors.

23 GRAIN, "The misnamed "Mayan Train": Multimodal land grabbing", February 28, 2020, <https://grain.org/en/article/6423-the-misnamed-mayan-train-multimodal-land-grabbing> and "Zonas de sacrificio, Informe para el Relator Especial sobre Derechos Humanos y para el Relator Especial sobre Sustancias Tóxicas y Derechos Humanos, August 26, 2021". GRAIN, "A food system that kills - Swine flu is meat industry's latest plague", April 28, 2009 <https://grain.org/en/article/189-a-food-system-that-kills-swine-flu-is-meat-industry-s-latest-plague>; GRAIN, January 8, 2010, "Remembering La Gloria. New TV documentary traces the origins of the H1N1 virus pandemic to pig farming in Mexico" <https://grain.org/en/article/202-remembering-la-gloria>; See GRAIN, "Structural reforms, free trade agreements and the war on subsistence", January, 2015, *op.cit.* See Ana de Ita: "Efectos del libre comercio en la soberanía alimentaria, el maíz y la autonomía", unpublished document prepared specifically for the Permanent Peoples' Tribunal. February, 2012.



Women, mostly mothers, search for their missing kin and paste their portraits on the wall of a human rights organisation, Reynosa, Tamaulipas. Photo: Prometeo Lucero

that began to increase as the possibilities for unregulated land grabbing opened up.<sup>24</sup> There are more than 18 million Mexican migrants in the United States, but the figure provided by the Pew report is slightly lower: 11.4 million.<sup>25</sup> The current conditions of the established relationship between Mexico and the United States make Central American and African migration a potential flashpoint due to the U.S. demand that Mexico serve

24 According to official data from the Mexican Ministry of the Interior, through its Unit of Migration Policy, Registration and Identity of Persons, the "Mexican diaspora is one of the largest in the world (13.0 million migrants in 2017), only preceded by that of India (15.6 million), a situation that accounts for the weight and presence of the Mexican population abroad. The majority of our nationals abroad reside in the United States of America (11.6 million), a country with which we form the main migratory corridor in the world" [http://portales.segob.gob.mx/es/PoliticaMigratoria/Panorama\\_de\\_la\\_migracion\\_en\\_Mexico](http://portales.segob.gob.mx/es/PoliticaMigratoria/Panorama_de_la_migracion_en_Mexico)

25 EFE, "Más mexicanos llegaron a EEUU que los que se fueron de 2013 a 2018", *Los Angeles Times* <https://www.latimes.com/espanol/mexico/articulo/2021-07-09/mas-mexicanos-llegaron-a-eeuu-que-los-que-se-fueron-de-2013-a-2018>

as a guardian of U.S. immigration policy on the southern border.<sup>26</sup> In the meantime, detention centres and private prisons, which establish a system of semi-slavery heavily subsidised by the U.S. government, are growing throughout the U.S. borders, either on land, sea, or air.<sup>27</sup>

6. With NAFTA, maize imports were boosted, despite the fact that maize is a staple food for the Mexican population and despite all the asymmetries in productivity and subsidies between U.S. and Canadian producers and Mexican producers. Although the agreement set a 15-year deadline for the complete liberalisation of the foreign maize trade, the Mexican government unilaterally

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26 Carlos Ogaz, "Más de 70 organizaciones europeas exigen al gobierno mexicano el fin de la represión contra caravanas migrantes", *desinformémonos.org*, September 8, 2021, <https://desinformemonos.org/mas-de-70-organizaciones-europeas-exigen-al-gobierno-mexicano-el-fin-de-la-represion-contra-caravanas-migrantes/>

27 Ramón Vera-Herrera, "El lucrativo negocio de vigilar y castigar", *desinformemonos.org*, September 17, 2019, <https://desinformemonos.org/el-lucrativo-negocio-de-vigilar-y-castigar/>



Migrants riding on La Bestia, Tenosique, Tabasco. Photo: Prometeo Lucero

allowed the entry of imports above the quota and without tariffs. This reduced domestic maize prices by 50%, which benefited only the transnational cartels that controlled the grain.<sup>28</sup> According to Ana de Ita, director of the Centro de Estudios para el Cambio en el Campo Mexicano:

The negotiation of the agricultural chapter went against national interests, against food sovereignty, against the peasants who make up the vast majority of the country's producers, and only in favour of transnational corporations, a few corporate farmers, and a small number of export crops. NAFTA is an attack against peasant agriculture, which has no chance of competing in the open market [...]

The State has reduced subsidies and support programs for peasants and small producers, while many programs have been designed to subsidise large producers and the food marketing and processing industries, many of which are transnational. The Mexican government eliminated the state-owned regulatory companies that operated in the agricultural sector. The vacuum left by the state was exploited by transnational subsidiaries of U.S. firms, many of which were linked to the strongest Mexican companies. The integration of the North American market in favour of the transnationals meant a transfer of income from the peasant sector to the business sector through State mediation.<sup>29</sup>

7. The installation of the food industry pushed the immediate marketing, with direct foreign investment, of a world of processed foods, changing consumption patterns, triggering cancer, diabetes, and obesity that became severe health issues.<sup>30</sup> Mexico today ranks sixth in the world in cases of diabetes, but it once ranked

28 The source of these conclusions is the research done by the Centro de Estudios para el Cambio en el Campo Mexicano (Ceccam) for over 15 years. See [www.ceccam.org.mx](http://www.ceccam.org.mx)

29 Ana de Ita: "Efectos del libre comercio en la soberanía alimentaria, el maíz y la autonomía", unpublished document prepared specifically for the Permanent Peoples' Tribunal, February, 2012.

30 GRAIN, "Free trade and Mexico's junk food epidemic", 2015, in <https://grain.org/en/article/5170-free-trade-and-mexico-s-junk-food-epidemic>; GRAIN, "Mexico: The dangers of industrial corn and its processed edible products", March 20, 2018, in <https://grain.org/en/article/5906-mexico-the-dangers-of-industrial-corn-and-its-processed-edible-products>

second in the world. It is still second in Latin America. “In Mexico 73 percent of young people over the age of 20 are overweight, and four out of ten women are overweight or obese.”<sup>31</sup> This is undoubtedly linked to promoting processed food products instead of fresh food. With the free trade agreements and the direct investment they promoted, came a boom of new rules to promote and impose chaining in the transnational supply processes and ultra-processed foodstuffs, a veritable epidemic of junk food.

This food contains a few ingredients as raw materials (high fructose corn syrup, soybean, palm oil, and a few others), but one of them is GM maize. In 2017 a study by a team from UNAM-UAM caused a stir when it found the contamination of processed maize-based foods with “genetically modified organisms” (GMOs) in Mexico. For example, “90.4% of the industrial tortillas analysed contained transgenic sequencing”. Also, “glyphosate was detected in almost a third of the food samples that tested positive for the presence of the transgene that confers tolerance to this herbicide.”<sup>32</sup> Corporations promote industrial maize “corn” (a mixture of yellow maize and perhaps white maize, but which is always a hybrid or transgenic maize planted in monoculture, filled with agrochemicals, promoting land grabbing, environmental devastation, and peasant eviction).

These processed foodstuffs are introduced into neighbourhoods through supermarkets, but primarily through convenience stores; true viruses that disrupt local commerce and establish a tight control of the availability of food, something that has created an epidemic of junk food in entire countries. This is a factor of obesity and various diseases, particularly diabetes. The imposition of food availability is equally severe because it implies an increasingly greater control over populations and their food. According to estimates, each convenience store leads to the dismantling and bankrupting of the “traditional” local stores

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31 <https://sectei.cdmx.gob.mx/comunicacion/nota/mexico-segundo-pais-en-america-latina-con-prevalencia-de-diabetes>

32 GRAIN, “Mexico: The dangers of industrial corn and its processed edible products”, March 20, 2018 in <https://grain.org/en/article/5906-mexico-the-dangers-of-industrial-corn-and-its-processed-edible-products>; E. González-Ortega, E. Piñeyro-Nelson, A. Gómez Hernández, E. Monterrubio-Vázquez, E. Arleo, M., Dávila-Velderrain, J., y Elena Álvarez Buylla, “Pervasive presence of transgenes and glyphosate in maize-derived food in Mexico.” In *Agroecology and Sustainable Food Systems*, 2017, 41(9-10), 1146-1161.



and markets. The imports of industrial maize, mostly genetically modified, the import of agrochemicals (among them the controversial glyphosate), and the push for the implementation and use of GMOs in Mexico, transgenic maize, soybean, and cotton deserve to be considered a separate case.<sup>33</sup> Since 2001, the establishment of NAFTA and its transformation into the now-called USMCA has caused a struggle against (and in favour of) transgenic maize in the centre of origin and diversity of maize.<sup>34</sup>

According to *MexicoNow*, Mexico is the eighth largest producer of processed foods in the world and the third largest in the Americas, after the United States and Brazil. In a scenario where in 2014 the value of world production was equivalent to 4 trillion 900 billion dollars, and it was stated that it would be worth 7 trillion 850 billion dollars by 2020, it is imperative to clarify that saying “Mexico” under the conditions of all the trade, cooperation and investment agreements the country has signed, is a mask to cover the transnational corporations that operate from México due to comparative advantages. (Read this as the conditions under which room for manoeuvre is systemically opened to corporations while the institutional channels through which people can defend themselves are closed: this is starting to be named “power diversion” or even “deviation of power”).<sup>35</sup>

The enormous growth of so-called convenience stores, particularly Oxxo (a subsidiary of Coca-Cola-Femsa), stands out. A *BBC Mundo* article headlined: “A new store every 8 hours: how Mexico’s Oxxo became Latin America’s largest retailer”.<sup>36</sup> In a 2015

33 GRAIN, “Free trade and Mexico’s junk food epidemic”, 2015, *op.cit.*, and “Los peligros del maíz industrial y sus productos procesados”, *op.cit.* Esther Vivas, “Cuando es más fácil comprar una pistola que un tomate”, 2015, <https://esthervivas.com/2015/01/07/cuando-es-mas-facil-comprar-una-pistola-que-un-tomate/>

34 Colectivo por la Autonomía, Casifop y GRAIN, *El maíz no es una cosa, es un centro de origen*, Editorial Itaca, 2012. Colectivo por la autonomía, Grupo ETC y GRAIN, 2014, *Que no toquen nuestro maíz. El sistema alimentario agroindustrial devasta y los pueblos resisten*, Editorial Itaca, 2014; Ceccam, “Alerta roja: maíz transgénico en México”, in *El Surco* No. 2, pág. 11, 2013. Available in <http://www.ceccam.org/node/774>

35 Sergio L. Ormelas (2016), “Inside Mexico Processed Food Industry”, *MexicoNow* núm. 79, April 19, 2016 <http://www.mexico-now.com/index.php/past-issues/27-mexiconow-issue-79>.

36 Cecilia Barría (2017), “Una nueva tienda cada 8 horas: cómo la mexicana Oxxo se convirtió en la mayor tienda minorista de América Latina”, *BBC Mundo*, October 2, 2017. <https://www.bbc.com/mundo/noticias-41418644>

report, GRAIN documented that these small stores in neighbourhoods established strict control over food availability in specific areas, imposing de facto consumption of processed food products, fried foods, snacks, corn chips, sodas, and bottled water. According to the most recent accounts, Oxxo has now 20 thousand stores, mainly in Mexico. Therefore, it is urgent to review the safety criteria of the transgenic industrial maize in processed foodstuffs in urban neighbourhoods and rural Mexican towns.<sup>37</sup>

8. The increase of monoculture plantations reaffirms the model established since the Green Revolution, which is immovable (thanks to the FTAs). Now this model has been reinforced by the public policy system, with its hybrid seeds and agrochemicals, and seeks peasant's dependence on companies and government programs. The effects of the so-called structural reforms with their expansive promotion of dependency and restrictions are massive. They provoke a process of disablement of peasants, who end increasingly cut off from their subsistence environment while they are, at the same time, restricted in exercising strategies to solve what matters most to them.<sup>38</sup>

9. These are public policies that interfere with agricultural production criteria, force the standardisation of production methods and the acceptance of products, impose sanctions for not following or complying with treaty parameters, promote inequality, and marginalise peasants, and independent entrepreneurs and producers.<sup>39</sup>

10. Industrial Property and Intellectual Property Rights are being promoted, including plant breeders' rights on plant materials and seeds and monopolising the same. It directly pushes for the adoption of the Convention of the International Union for

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37 GRAIN, "Free trade and Mexico's junk food epidemic", 2015, *op.cit.*

38 GRAIN, "Structural reforms, free trade agreements and the war on subsistence", January, 2015, *op.cit.*; GRAIN, "Grow-ing disaster: the Fortune 500 goes farming", January 19, 2017, <https://grain.org/en/article/5622-grow-ing-disaster-the-fortune-500-goes-farming>; Grupo ETC, "Who Will Feed Us? The Peasant Food Web vs. the Industrial Food Chain", 2017, in <https://www.etcgroup.org/whowillfeedus>

39 GRAIN, "The great food robbery, a new book from GRAIN", <https://grain.org/en/article/4501-the-great-food-robbery-a-new-book-from-grain>

the Protection of New Varieties of Plants (known as UPOV, for its French acronym) that promotes the intellectual property and the privatisation and monopolisation of seeds and plant varieties, which is a direct threat against independent agriculture (i.e., that which communities and peoples exercise on their terms, without depending on corporations or governments to set their goals, although they may receive subsidies from conscious governments).<sup>40</sup>

11. The clauses and chapters of the FTA that open dispute settlement mechanisms between investors and States are biased in favour of investors, going against the established law that should regulate their activities. They impose a paralegal environment because they subject any investors and the government to artificial equality of rank at the discretion of commercial “courts” that are, in reality, adjudicators, not even judges, nor are they acknowledged in the national or international legal structures. These are mechanisms established by NAFTA itself (or other treaties), where investors have already won multiple million-dollar sums in lawsuits brought against the Mexican State for expected profits that could not be realised due to the restrictions or regulations imposed by the Mexican government.<sup>41</sup> The first cases in Mexico occurred almost simultaneously; in November 1996, Robert Azinian *et al.* sued the Mexican government for:

...a concession granted by the municipality of Naucalpan for garbage collection, sanitation of a sanitary landfill and construction of a new one, as well as the construction of a plant to generate electricity from the biogas produced in the landfills, which was annulled by the City Council due to irregularities related to the

40 Alianza Biodiversidad, Colectivo de Semillas de América Latina, GRAIN. UPOV: the great seeds robbery. *This is why we must defend them* <https://grain.org/en/article/6644-booklet-upov-the-great-seeds-robbery>, Colectivo de Semillas de América Latina, GRAIN, *La estafa de la propiedad intelectual*, <https://www.biodiversidadla.org/Agencia-de-Noticias-Biodiversidadla/Cuaderno-Biodiversidad-6-La-estafa-de-la-Propiedad-Intelectual>

41 The WTO only has a State-State arbitration mechanism. The investor-state dispute settlement mechanism came with the world of Bilateral Investment Treaties (BITs) in 1959 and was later incorporated into FTAs.

technical and financial capacity of the concessionaire and deficiencies in the provision of services.<sup>42</sup>

A month later, Metalclad, a toxic waste disposal company, expressed its intention to sue the Mexican government over a toxic waste dump in San Luis Potosi.<sup>43</sup> The state government opposed, sided with the people, and the federal government backed this state response. Metalclad sued and took almost 20 million dollars from Mexico for what it could have won.<sup>44,45</sup>

12. With NAFTA, a general reconsideration of the nation's legal structures was opened, and a legal dismantling began, lacerating the laws and constitutional articles that defended collective or community rights (including labour rights in the reforms to Article 123 of the Constitution and the agrarian rights of peasants in Article 27, whose counter-reform we have already mentioned).<sup>46</sup>

42 For the Azinian case, [https://www.economia.gob.mx/files/comunidad\\_negocios/solucion\\_controversias/inversionista-estado/casos\\_concluidos/Azinian/I\\_Azinian\\_20080603.pdf](https://www.economia.gob.mx/files/comunidad_negocios/solucion_controversias/inversionista-estado/casos_concluidos/Azinian/I_Azinian_20080603.pdf)

43 For the Metalclad case, [https://www.gob.mx/cms/uploads/attachment/file/42025/Ficha\\_tecnica\\_Metalclad.pdf](https://www.gob.mx/cms/uploads/attachment/file/42025/Ficha_tecnica_Metalclad.pdf)

44 Juan Hernández Zubizarreta and Pedro Ramiro said: "In the new global corporate law, while the obligations of transnational corporations are referred to national legal systems subjected to neoliberal logic, to a manifestly fragile international human rights law and to a voluntary, unilateral and unenforceable corporate social responsibility (CSR) (soft law), their rights are protected by an international legal system based on trade and investment rules - the contracts signed by large corporations; the rules and provisions of the World Trade Organization (WTO), the International Monetary Fund (IMF) and the World Bank; the WTO Dispute Settlement System and arbitration tribunals - of a mandatory, coercive and enforceable nature (hard law)". *Tribunales de arbitraje, el TTIP y la privatización de la justicia*, <https://www.lamarea.com/2015/06/26/tribunales-de-arbitraje-el-ttip-y-la-privatizacion-de-la-justicia/>

45 Comisión de Medio Ambiente y Recursos Naturales, con punto de acuerdo a fin de que se realicen de inmediato los trabajos para la remediación de la zona afectada por la empresa Metalclad Corporation [http://sil.gobernacion.gob.mx/Archivos/Documentos/2005/12/asun\\_2211366\\_20051206\\_1133900512.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2005/12/asun_2211366_20051206_1133900512.pdf). See also, Fernando Bejarano, "El conflicto del basurero tóxico de Metalclad en Guadalcázar, San Luis Potosí." <https://docplayer.es/15393998-Fernando-bejarano-gonzalez.html>

46 This dismantling is not just any old thing. In the formal Petition for the intervention of the Permanent Peoples' Tribunal in Mexico, as in the indictment of the Mexican State issued as part of this process, there are extensive mentions of this dismantling, including environmental deregulation, i.e., very lax legislation, norms and regulations. To give a few examples "there are no regulations for the use of water; for the use of chemicals"; almost no regulations for pig farms. Regarding labour; between 1995 and 2001 Mexico became a maquiladora paradise, lowering wages to the minimum possible, until China entered the WTO and lowered the wages of its workers even further. Researcher

13. There is subservience to the logic outlined in the treaty itself and the opening to all possible treaties, including bilateral investment treaties or agreements. Following the logic of the treaties, this entails a gradual renunciation of national sovereignty.<sup>47</sup>

14. The promotion of companies that devastate the environment without consideration has led to very blunt sacrificial zones in Mexico. The extreme toxic contamination of at least six Mexican regions (there are more than 10) speaks of the extreme living conditions in the places where the treaties operate.<sup>48</sup>

15. However, extractivism (the invasion of territories to extract raw materials that include from hydrocarbons such as oil and gas minerals through mining, water plundering, and even the

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Octavio Rosas-Landa, member of the National Assembly of Environmentally Affected People, who in conjunction with Andrés Barreda prepared the lawsuit presented before the Latin American Water Tribunal denouncing the systematic destruction of the national water system, told us in a personal interview that "Article 27 of the Mexican Constitution establishes that the Mexican State is responsible for guaranteeing the conservation of the natural resources for present and future generations, but nevertheless, the Mexican State itself has been acting in such a way that it ultimately acts as an official defender of the transnational companies that are trying to build dams, highways, mines, unsustainable housing units of 20 or 30 thousand houses without any type of public service or space for coexistence. For more on the harmful effects on the community spheres and collective rights, see the general accusation of the civil society before the Permanent Peoples' Tribunal titled *El despojo y la depredación de México: Libre comercio y desviación de poder como causas de la violencia estructural, la impunidad y la guerra sucia contra los pueblos de México*, 2011, <https://issuu.com/cencos/docs/cencos.org>. See also Petitoria formal al Tribunal Permanente de los Pueblos (Fundación Lelio Basso), encaminada a instaurar un Capítulo México donde podamos ventilar los nexos entre el Libre comercio, guerra sucia y derechos de los pueblos, febrero de 2011. [www.tppmexico.org](http://www.tppmexico.org) [the Formal Petition before the Permanent Peoples' Tribunal (Lelio Basso Foundation), aimed at establishing a Mexico Chapter where we can share the links between Free Trade, Dirty War and the peoples' rights, February 2011. [www.tppmexico.org](http://www.tppmexico.org)]

47 GRAIN, "Acuerdos con la Unión Europea: ¿firmar la renuncia a la soberanía nacional? <https://grain.org/es/article/92-acuerdos-con-la-union-europea-firmar-la-renuncia-a-la-soberania-nacional>; Latin America's free trade agreements with the European Union: an agenda for domination, <https://grain.org/en/article/139-latin-america-s-free-trade-agreements-with-the-european-union-an-agenda-for-domination>

48 Asamblea Nacional de Afectados Ambientales, *El colapso ambiental de México*, op.cit.; Ramón Vera-Herrera, "Caravana sobre los impactos sociales ambientales y sociales de empresas transnacionales y el libre comercio en México: el cotejo de la sociedad civil", Desinformémonos.org, November 18, Transnational Institute, November 21, 2019, <https://www.tni.org/es/articulo/caravana-sobre-los-impactos-sociales-ambientales>; "Una probadita del infierno", desinformémonos.org, 1 December 19, 2019, <https://desinformemonos.org/una-probadita-del-infierno/>

degradation of soils with agrochemicals for huge industrial monocultures) is also rampant. Dispute resolution mechanisms, those parallel courts that have nothing to do with justice, have allowed mining to grow and establish itself without consideration.<sup>49</sup>

**A**fter 28 years of NAFTA, the Mexican population is defenceless. The consequences of this deed can be measured in the number of assassinations (more than 150,000 in six and a half years), including all the women senselessly murdered with impunity; in the number of disappearances (98 thousand since 2007 according to UN recent accounts), in the number of the malnourished, the number of the hungry, the number of the imprisoned, the number of environmental disasters, the number of its military, police or repressive troops, the time they remain active in the streets, the cases of impunity, the health problems, the deficiencies in education. Although we have already said that there are more than 18 million Mexican migrants in the United States, the most appalling figure is that of the displaced populations. According to Insight Crime: “Although figures vary on the number of people who have been internally displaced, according to the office of the United Nations High Commissioner for Refugees (UNHCR), 160,000 people were internally displaced in Mexico in 2011 alone.”<sup>50</sup>

49 See Jen Moore and Manuel Pérez Rocha, *Extraction Casino: Mining companies gambling with Latin American lives and sovereignty through supranational arbitration*, June 11, 2019. *Extraction Casino: Mining companies gambling with Latin American lives and sovereignty through supranational arbitration*; By 2017, the area under mining concession decreased from 31 million to 22 million hectares (in a country with more than 200 million licensable hectares according to the National Mining Service plus some portions of the sea). “La minería industrial en territorios bioculturales de los pueblos indígenas. El despojo de los indígenas de sus territorios en el siglo XXI”, *La Jornada de Oriente*, May 26, 2020. <https://www.lajornadadeoriente.com.mx/puebla/la-mineria-industrial-territorios-bioculturales/>; the President of the Republic himself recognises that there are “25,267 concessions in an area of 21.3 million hectares”, that is, Eckart Boege’s figures are higher; “which is equivalent to 10.6 percent of the surface of the national territory, although historically 117 million hectares had been ceded, which is equivalent to more than 50 percent of the country’s territory”, says AMLO. [https://www.cronica.com.mx/notas-mas\\_de\\_50\\_del\\_territorio\\_nacional\\_estaba\\_concesionado\\_a\\_mineras\\_aml-1141344-2019](https://www.cronica.com.mx/notas-mas_de_50_del_territorio_nacional_estaba_concesionado_a_mineras_aml-1141344-2019)

50 Insight Crime, *Los desplazados internos en México, un problema invisible*, July 25, 2014. <http://es.insightcrime.org/analisis/desplazados-internos-mexico-problema-invisible-informe>

The number of missing persons continues to increase in Mexico. According to the latest figure offered by the Undersecretary of Human Rights, Alejandro Encinas, 73,201 people have not been located since 1964, although the great majority are from after 2006, the year in which former President Felipe Calderón declared the “war against drug trafficking.” According to this registry, between 1964 and June of this year, 177,844 people were reported missing. Of these, 104,643, 58.84%, were found, and 73,201 remain unaccounted for. Of those found, 98,242 were found alive, and 6,401 had died.<sup>51</sup>

But on May 2022, the Committee on Enforced Disappearances (CED) and the Working Group on Enforced or Involuntary Disappearances (WGEID) expressed grave concern about the growing numbers registered by Mexico’s National Register of Disappeared Persons. They issued the following joint statement: “More than 100,000 disappeared people officially registered in Mexico is a heart-breaking tragedy. The figure speaks for itself and is an unmistakable warning.”<sup>52</sup>

Despite the deployment of almost 100,000 members of the National Guard and the social demobilisation and confinement caused by the health pandemic, in 2020, homicides remained at the same record levels of the last two years, and murders even increased in eleven states. The latest update of crime incidence published by the Executive Secretariat of the National Public Security System (SESNSP) with data at the end of November shows a total of 32,759 murder victims in the country (homicides and femicides). This is equivalent to an average of 98 people murdered daily in 2020, four new homicides or femicides committed every hour, and a new crime every fifteen minutes in the country.<sup>53</sup>

“According to the Committee to Protect Journalists and Reporters Without Borders, Mexico is one of the most dangerous countries in the world for journalists, comparable to war zones

51 En México hay 73 mil desaparecidos y 3 mil fosas clandestinas. July 13, 2020. <https://www.animalpolitico.com/2020/07/mexico-73-mil-desaparecidos-fosas-clandestinas/>

52 OHCHR, Mexico: dark landmark of 100 thousand disappearances reflects pattern of impunity, UN experts warn”, <https://www.ohchr.org/en/statements/2022/05/mexico-dark-landmark-100000-disappearances-reflects-pattern-impunity-un-experts>

53 <https://www.animalpolitico.com/2020/12/violencia-2020-mexico-record-11-estados-aumento-asesinatos/>




Organised mothers arrive at the La Sagrada Familia shelter in Tlaxcala to look for their children.  
Photo: Prometeo Lucero

such as Syria and Afghanistan in the number of murders of journalists. According to the CNDH, 24 journalists have been murdered since López Obrador took office. In 2019, journalists registered 609 threats, attacks, or other forms of aggression. That would be the year with the highest number recorded so far.”

Authorities don't usually investigate crimes against journalists, often prematurely ruling out that the crimes are linked to their profession. “Since its creation in 2010, the federal Special Prosecutor's Office in charge of investigating aggressions against journalists has initiated more than a thousand investigations, filed charges in 217 criminal cases, and obtained 14 convictions. However, faced with the lack of investigation of acts of violence, many journalists resort to self-censorship.”





Even when this is already so high, new reports find that perhaps AMLO's period in office is the time when more journalists have been killed. Thirty seven (37) since the beginning of AMLO's regime. Twelve only this year 2022. According to data from the NGO *Article 19*, 22 journalists were murdered during the government of Vicente Fox Quesada; in Felipe Calderón Hinojosa period, 48 journalists were killed; Peña Nieto's government accounted a total of 47 killings. These 37 journalists killed during AMLO's regime have died in only three and a half years.<sup>54</sup>

Mexico is also one of the most dangerous countries in the world for human rights defenders. "In 2019, the Office in Mexico of the United Nations High Commissioner for Human Rights reported 20 murders of human rights defenders in the country. Yet, as in the case of journalists, acts of violence against human rights defenders are seldom investigated or prosecuted."<sup>55</sup>

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54 Alejandra Ojendi, "Asesinatos de periodistas: el sexenio de AMLO se perfila como más mortífero que el de Calderón o el de Peña", *El Financiero*, <https://www.elfinanciero.com.mx/nacional/2022/06/29/asesinatos-de-periodistas-sexenio-de-amlo-se-perfila-como-mas-mortifero-que-los-de-calderon-y-pena/>

55 Human's Right Watch, *World Report 2021, Our Annual Review of Human Rights Around the Globe*, <https://www.hrw.org/es/world-report/2021/country-chapters/377395>

The San Isidro Ejido presents its case in the voice of its lawyer, Carmen Figueroa, and members of the community at the pre-hearing of *Territoriality, subsistence and dignified life*, San Isidro, Jalisco, Permanent Peoples' Tribunal, Mexico Chapter, June 2013.







Members of the Jury in the pre-hearing about Extermination Policies Against the Maya People in Maní, Yucatán: Luis Macas, Ernestina López Bac, Sylvia Marcos, Carlos Vicente, Gloria Muñoz, Andrés Carrasco, Sara López and Raúl Lugo, November 2013. Permanent Peoples' Tribunal, Mexico Chapter

## TWO: A STRATEGIC MOBILISATION

If the Zapatista uprising made the world understand that the logic of the nation was becoming atomised and dislocated and that NAFTA was subjecting Mexico to unknown, alien, and voracious dependencies, it also positioned communities and organisations against globalisation: the factual search for autonomy became crucial.

Various media and leftist circles have repeatedly insisted that the free trade agreements in Mexico have not been challenged as in other Latin American countries; that the mobilisations have put the focus elsewhere. And the answer given in the communities and organisations, especially in the indigenous peasant world, is that the effects are so vast and penetrating, so forceful in their display, that many people repeats more and more: “We are not mobilising against the treaties directly, but against their effects, which we suffer in our places and our regions. These are struggles that we cannot evade. They are inescapable, unavoidable struggles”.<sup>56</sup>

Since 2001, many grassroots movements in Mexico had tightened their fabric of articulation, and since 2008 began conversations

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56 Ramón Vera-Herrera, “Treinta años de políticas atroces y resistencias puntuales”, *Ojarasca* 272, December, 2019, <https://www.jornada.com.mx/2019/12/14/ojarasca272.pdf>

with the epidemiologist Gianni Tognoni, secretary general of the Permanent Peoples' Tribunal (PPT), a tribunal heir to the Russell Tribunal that both Bertrand Russell and Jean-Paul Sartre made legendary in the sixties and early seventies by judging the Vietnam War and the South American dictatorships. It would not have been possible for the Tribunal to intervene in Mexico without the previous work of many people, from below, from the very core of towns and communities, from affected regions, processes, and conflicts alive at least since 1968 in different streams: the struggles of workers' and teachers', oil workers, telephone workers, electricians, maquiladora workers, sex workers, gender organisations, migrants, coffee growers, peasants and indigenous people. Struggles against the monopolisation and pollution of land, water, and air; struggles to heal regions described as "zones of acute environmental devastation" after years of local or regional research by inhabitants alarmed by the situation caused by the FTAs and their environmental deregulation and labour precariousness criteria; the disabling of peasants and the war on subsistence; the fragmentation and eviction of multitudes; the permanent harassment to impose industrial corridors, greenhouses and monocultures with their trail of subjugation and semi-slavery. A crucial struggle was that in favour of native seeds and in defence of vast territories.

In the sphere of the native peoples, these struggles were fermented in the very rich and foundational San Andres Dialogues, carried out in 1995 and 1996 between the EZLN and the government, today one of the most original, horizontal, self-managed, and vast processes of collective reflection and decision making, encompassing diverse and crucial layers of the rural and urban civil society.<sup>57</sup> Only in this way, with this evidence, the petition for the TPP to intervene in Mexico became possible.

Requesting the Tribunal's intervention was an innovative form of social mobilisation that, instead of taking to the streets (or in addition to taking to the streets), focused on opening spaces for dialogue and reflection, delving into the memory of the people, and requesting a grassroots systematisation of all the

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57 Luis Hernández Navarro y Ramón Vera-Herrera (compiladores), *Acuerdos de San Andrés*, Ediciones ERA, 1998.

grievances suffered in their history, their living history. Soon a group promoting the TPP's Mexico Chapter was formed, and the effervescence began to build from various corners of the country suffering the severe effects of the Free Trade Agreement (and the other free trade agreements signed by Mexico that exerted negative synergies of subjugation, attack, and invasion of their living environments). For the promoting group, it was evident that the focus had to be on free trade. On understanding what the effects of the treaties were and what was or is their profound nature. In contrast to many other tribunals of "opinion" or "conscience," such as the one in Colombia, which focused on the criminal responsibility of corporations, it was decided that the focus would be on the Mexican State and its government agencies and that sooner or later, corporate responsibility would also come to the surface when its complicity was checked against that of the State.<sup>58</sup> Thus, there was a question as to whether the institutional, executive, legislative, or judicial structures were subservient to economic interests, disfiguring the flow of the public sphere. The group placed the focus on "free trade, violence, impunity and peoples' rights in Mexico." And that was the name of this process, which began in 2011 with an introductory workshop inaugurated in Ciudad Universitaria at the end of that same year; later launching a first hearing at the border in Ciudad Juarez, one of the most violent cities in the country, where, in an exercise of integrality, all the open processes were introduced.

Achieving the intervention of the TPP and exercising the opening of local spaces for the systematisation of grievances during three years, is the most forceful mobilisation against any free trade agreement, at least in Mexico.

The rulings of each pre-hearing, and then the sentences of each of the eleven hearings plus the final sentence, were woven

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58 The Permanent Peoples Tribunal is claimed to be a court of "opinion" or "conscience", because in principle it is not binding, and its sentences or rulings may or may not be obeyed by the accused governments or corporations. As we know, its strength lies precisely in the fact that because it is not binding, the moral force of its arguments, which are always woven from below, gathered from among the aggrieved people, can bring to the surface a fullness and complexity that brings us very close to an accurate portrait of reality.

from below by the aggrieved people in three years of TPP, so they hold a depth and clarity that today helps us to understand what for years seemed invisible and normalised: the suffering of such extreme and repeated punishment in so many areas of human activity. This systematic and bottom-up look collected throughout the corners of Mexico, this comprehensive account of the damages, constitutes several local or regional investigations from the social base and therefore constitutes a serious struggle against NAFTA, against FTAs. The PPT's presence provoked, encouraged and hosted these investigations and systematisations. This presence served as mirror and comparison for the people due to the presence and proximity of examiners and jurors, people of recognised moral quality and specific experience in many different issues from Mexico and from all over the world.<sup>59</sup>

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59 Between October 2011 and November 2014, a process was agreed upon from the social base where hundreds of communities from 23-25 states in the country systematised their grievances in front of a well-defined backdrop: what processes had free trade unleashed (structural reforms, free trade agreements and their concrete effects on violence, impunity and the undermining of the rights of the peoples).

In a self-managed process that involved 150 workshops, 6 forums, 38 pre-hearings, 2 post-hearings and 12 hearings before people who came from outside the situation (or the country) to serve as a mirror of the problems, conflicts and grievances presented by the populations, 526 cases about all kinds of situations were aired. From repression and murders to the subordination of rights to the economic interests of corporations – something that the Permanent Tribunal has insisted on highlighting when confronting “free trade” – and the “free market”.

Thus, among the people who presented their cases in pre-hearings (including 2 in the United States, one in New York and another in Seattle), post-hearings and hearings (plus the 196 judges and the 85 jurors of the TPP and the participation of 430 organisations), a final sentence was reached that is a very precise diagnosis of the situation that Mexico was experiencing at that time, and which has undoubtedly continued to worsen since then. The subtitle “In the shadow of Ayotzinapa” was added to the final sentence of the Court in 2014, because two months before the final session, in Iguala, Guerrero 43 students of the Ayotzinapa rural school for teachers disappeared after a massacre perpetrated by the Army, the police and unknown gun-men took place.

The opened trials were: 1. Dirty war as violence, impunity and lack of access to justice. 2. Migration, refuge and forced displacement. 3. Femicide and gender violence. 4. Violence against workers. 5. Violence against maize, food sovereignty and autonomy. 6. Environmental devastation and peoples' rights. 7. Disinformation, censorship, and violence against communicators. 8. Repression of social movements. 9. Violence against education. 10. Destruction of youth. An initial comprehensive hearing was held with all the trials and a final hearing. An estimated 20,000 people were directly involved (data from the political secretariat of the Mexico Chapter). See *Capítulo México del Tribunal Permanente de los Pueblos (2011-2014), La audiencia final. Sentencias, fiscalías y relatos*. Editorial Itaca, México, 2016.





Members of the pre-hearing *Devastation of community life* in Acatepec, Hidalgo: Abad Cruz, Iván Hernández Baltazar, José Guadalupe Marroquín, Concepción Hernández, and Mauricio González.

Moreover, the promoting group prepared a full report on the violence perpetrated by NAFTA in all the differentiated areas, and the PPT promptly pointed out the global shift that came with the FTAs to subsume the sphere of the law to the field of economic powers. Undoubtedly, the Tribunal's accusations, reports, and sentences are first-hand material to ascertain the damages, the magnitude, the deployment, and the meanings of free trade agreements. In the final sentence the Tribunal pointed to the structural, systemic, programmed, and long-term conditions suffered and expressed by the people. The introduction to the sentence had already pointed out that:

Mexico's insertion into neoliberal globalisation is associated with an extraordinary increase in the suffering of the Mexican people. Neoliberal globalization generates strong imbalances between the market and human rights. The economy is globalized,

and the democratic institutions that protect the rights of the majority are placed in a subordinate and marginal space; globalised institutions replace democratic control with the opaque regulation of global commerce.

Neoliberal law protects the accumulation of wealth and the concentration of economic and political power in contrast to the elimination of the “losers.” Moreover, it is based on the architecture of impunity built in favour of multinational corporations and capital. Inequality and asymmetry are constitutive elements of it. The Mexican government has intervened to facilitate the transformation and compulsive elimination by economic means of broad masses of the urban and rural population deemed “unnecessary” or “superfluous.” Mexican governments have used the state’s power to accelerate this elimination by direct acts of dispossession of the means of production or distorting interventions in the subsistence economy.

Free trade agreements are part of a legal-political framework of domination. There is no crossover between human rights and corporate rights; there is a profound rupture in the hierarchy and normative pyramid of the human rights protection system. It is crucial to understand that NAFTA and the other neoliberal institutions are not designed to promote the social good [...] They are agreements that elevate the legal status of large investors and simultaneously align the economic power of the State with their interests while eroding the commitment and options of nation states to protect the citizenry. A central purpose of these trade agreements has been to disarm peoples by stripping them of the tools of identification, expression, resistance, and transformative capacity that national sovereignty and the existence of a legitimate state can provide. In the case of Mexico, the disarmament of the State in the face of international corporate interests has acquired tragic characteristics. The amputation of economic sovereignty began long ago through a variety of mechanisms.<sup>60</sup>

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60 Tribunal Permanente de los Pueblos capítulo México (2011-2014), “Libre comercio, violencia, impunidad y derechos de los pueblos, sentencia final, apartado 3.2. ‘Las transformaciones neoliberales en México y el Tratado de Libre Comercio de América del Norte’”, México, November 12-15, 2014. Both quotations shown are from here.

### And further ahead:

A deformed reconstruction of export agriculture supplanted the traditional agriculture and food sovereignty that existed before NAFTA was signed. As a result, Mexico lost its sovereignty in most of its basic areas: grains, legumes, vegetables, fruits, meat, processed foods, etcetera. Today the country imports ten million tons of maize while subordinating the new agricultural production to the tastes of the U.S. market: vegetables, berries, avocados, tropical fruits, marijuana, poppy, etcetera. All programs that support rural production have been dismantled, and the main laws protecting the ejido (collective) land ownership, encourage its privatisation. This could advance primarily in the centre of the country. Even so, most rural land ownership remains in the north and south of the country, in the hands of collective owners who resist the private registration of their land. It is symbolic in this context, that NAFTA expressly requested the disappearance of the ejido even before its discussion and approval, and the subtraction of the rights of indigenous peoples to communal land. This opens the door to the loss of the collective use of land, a fundamental principle and basis of social organisation in Mexico.<sup>61</sup>

The Tribunal's Sentence carries the weight of its precise words. Based on them, it is possible to establish a baseline that helps us understand the disproportionate growth of violence, the land grabbing, the substitution of peasant agriculture and native seeds, the theft and pollution of water, and the advent of greenhouses as a synonym for corporate presence with a model anchored in dispossession. With this model, there is a reconversion of the forest, the bush, the diverse milpas, into grain or vegetable monocultures dependent on pesticides, promoters of hybrid and transgenic seeds, in an industrial model that promotes a job precariousness bordering on semi-slave labourers<sup>62</sup> —who

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61 *Ibidem.*

62 In some pre-court hearings, as in the extensive reporting in 2013, there is mention of subhuman conditions, which the people reporting describe as semi-slavery: "The contractor who hooked Josefina worked for Bioparques de Occidente, a company incorporated in Sinaloa and with fields in Jalisco that presumes to be socially responsible, but has a long

are perhaps the same people who have been impoverished and dispossessed, expelled from their lands. This export agriculture does not care about anything except generating dividends, which can lower its costs because it can count on the main government subsidies for agriculture (according to testimonies, it can obtain at least 196 thousand Mexican pesos per hectare as a subsidy).<sup>63</sup>

This contrasts with the subsidies or direct payments granted to the peasantry in this six-year term [barely 60,000 pesos in one year for 2.5 ha. in the Sembrando Vida program]. Speaking of basic grains, Olivier de Schutter, the former Special Rapporteur for Food, made a similar remark in his final mission statement between June 13 and 20, 2011, shortly before the start of the Permanent Peoples' Tribunal: "less than 8% of the expenditure [of the Special Concurrent Program for Sustainable Rural Development] is directed to agricultural programs, in a country where 80% of farmers have less than five hectares [...] Agricultural policies favour the richest states, the richest municipalities, and the richest local producers. In 2005, the six poorest states received only 7% of public agricultural spending despite being home to 55% of the population living in extreme poverty."<sup>64</sup>

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history of labour violations against its workers. In June 2013, in the same field where the young Guerrero woman worked, the authorities rescued 275-day laborers who were working in conditions of "semi-slavery", as announced at the time. The Attorney General's Office reported then that following a complaint from three-day labourers who managed to escape, state agents went to the facilities of the company dedicated to the cultivation and packing of greenhouse tomatoes, where they found that they and their families were living in indignified conditions. The 275 workers from San Luis Potosí, Veracruz, Hidalgo and Guerrero were housed in groups of ten people in 8 square meter rooms and some of their children suffered from malnutrition. The authorities questioned the workers and they told them that in some cases they worked for up to twelve hours a day for 100 pesos (US\$5.5). Other employees who had not been paid for three months and the foremen would not let them leave even though their contract had ended. Those who tried to escape were beaten. In the operation, five foremen of the company were arrested and imprisoned for the crimes of illegal deprivation of liberty and human trafficking". Zorayda Gallegos, *Enganchadores. Los traficantes de jornaleros*, 2018, <https://elpais.com/especiales/2018/campo-mexicano/jalisco/enganchadores.html>

63 "The cost of cultivating one hectare of cranberry is 672,800.00 pesos with subsidy for plant purchase. Without subsidy it increases to 868,800.00 pesos," said producer David Gutierrez Hernandez. See "Cuanto cuesta producir una hectárea de arándano", *Tierra Fértil*, 6 de junio de 2017, <https://www.tierrafertil.com.mx/cuanto-cuesta-producir-una-hectarea-de-arandano/>

64 Olivier de Schutter; Special Rapporteur on the Right to Food, *End of Mission Statement June 13-20 2011*, United Nations, Mexico City, <https://www.ohchr.org/en/statements/2011/06/end-mission-mexico-mexico-requires-new-strategy-overcome-twin-challenges-food>

This whole situation, states the Collective Complaint presented by the Mexico Chapter in 2011, is concurrent with urban and industrial growth, which is exceptionally aggressive, increasing its territorial voracity and uncontrolled metabolism every year, taking vital resources and water from the countryside, only to return greater waste, with all kinds of toxic poisons in the air, water and land. At the same time, all kinds of mining, energy, and hydrological megaprojects (dams, diversions, mega-drains, etcetera), infrastructures [roads, bridges, container storage facilities, with cranes, forklifts, real dry ports, satellite networks, railroads], plantations and mega-farms are expanding all over the world.<sup>65</sup>

When the Mexican society called for the Permanent Peoples' Tribunal, it insisted that one of the grievances suffered by the Mexican population was that the State was undertaking structural reforms according to the guidelines of the International Monetary Fund, the World Bank, and other international organisations, turning them into laws that opened the way for companies to dispossess the nation's territories of oil, mining and water resources at will, and to appropriate more segments of the agri-food system. For those who called for the TPP, the so called "natural boom" of globalised modernity clearly indicated the subjugation of legality and law to economic interests, as the tribunal already pointed out in its sentence.

In a workshop held in Rome between different processes of the Permanent Peoples' Tribunal and other Tribunals of conscience, the Mexico Chapter declared the following in its presentation:

The corporations, together with the Mexican State, infringe upon the subsistence environments of the peoples (their territories with their land, water, forest, and common goods) and undermine their means of subsistence with authoritarian crop intensification programs and industrial means of production that propitiate monopolisation, deforestation, land use changes, water privatisation and pollution, the loss of native seeds, the criminalisation of their

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65 See the General Accusation presented by the Mexico Chapter of the Permanent Peoples' Tribunal at the Introductory General Hearing in Ciudad Juarez in 2012. <https://issuu.com/cencos/docs/cencos.org>

guardianship and exchange while imposing laboratory seeds. They promote agro-toxins with their wake of death, propitiating population expulsion and the ulterior devastation at the hands of extractive projects such as mining, oil, and bioprospection. They inundate the communities with garbage and promote senseless urbanisation through highways, real estate and touristic developments and the disappearance of endemic species.<sup>66</sup>

Throughout the Tribunal process, in the different hearings with their pre-hearings, especially those on *Environmental Devastation* and *Maize, Food Sovereignty and People's Autonomy*, the communities de-kernelled their grievances and made very specific diagnoses of the local impacts that follow specific global trends. At the Cherán Pre-hearing in Michoacán, the people complained of

... the expropriation of land for intensive cultivation of export crops,” which was rapidly increasing activities related to avocado, strawberry, raspberry, and similar crops. People highlighted “the expropriation of indigenous lands and the change of land use from traditional agriculture to industrial agriculture, the use of highly hazardous pesticides – prohibited in other countries but considered legal in Mexico – and their consequent impact on the health of agricultural workers, including pregnant women and children, and the intensive contamination of water sources for large sectors of the population.<sup>67</sup>

Besides the deforestation of Michoacán's forests, they also denounced “the complicity of the three levels of government [...] resulting in the impunity enjoyed by the local, national, and transnational companies involved in plundering indigenous lands to

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66 *Desvío de poder: violencia, despojo, fragmentación y devastación como programa de gobierno?*: Presentation by the Operational Secretariat of the Mexico Chapter of the Permanent Peoples' Tribunal, at a seminar by the Lelio Basso Foundation, in Rome, at the workshop on courts of conscience organized in September 2013 where the Tribunal's progress of the Tribunal was revised, and in Mexico based on the pre-hearings of Cherán, November 9, 2012; Tepoztlán, November 24, 2012; San Isidro, Jalisco, June 28-30, 2013.

67 Pre-hearing on Environmental Devastation and Peoples' Rights in the state of Michoacán, San Francisco Cherán, Michoacán, November 9, 2012.

establish industrial avocado plantations for production and distribution in the international market, generating the negative impacts mentioned above”.

All this, while obstructing the agricultural administrative processes for the legalisation of land and covering up the invasions, the dispossession of communal goods such as water and forest, and “the destruction of cultural and ancestral relations of the peoples for whom the territory is the main basis for their development and survival.” As if this were not enough, “national and international agrarian policies have been allowed to weaken traditional agriculture and favour the importation of basic food products that were previously produced locally.”<sup>68</sup>

From the local pre-hearings, articulated around their grievances with other nuclei of systematising communities, the process moved on to hearings at the national level, comparing the inertias and the substantial power diversions. Thus,

The suffering of communities does not occur randomly but on an increasingly systematic basis since the signing of NAFTA. Industrial water pollution from mining, oil, and industrial agriculture is spreading on a massive scale as rivers are being dammed to transfer, through giant pipelines, fresh water from peasant lands dedicated to food production to the mega-cities for industrial production.<sup>69</sup>

It is certain that this is accompanied by the harassment, repression, imprisonment, murder, or disappearance of anyone who resists this logic, where the imposition of agribusiness and heavy industries means invading with devastation, seeking to impose an urban logic on the countryside.

The new land use design ignored protected areas, indigenous territories, food production zones, and sites of historical and cultural importance to impose intensive and extractive uses for the benefit of external markets. The presentations on regional

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68 *Ibidem.*

69 *Ibid.*



Jury members at the *Territoriality, subsistence and dignified life* pre-hearing: Dora Lucy Arias, Fernanda Vallejo, Alfredo Zepeda and Jean Robert. The community of San Isidro presents its case, June 2013.





Tribunal Permanente de los Pueblos, Capítulo México  
Pre-audiencia integral:  
territorialidad, subsistencia y vivienda  
San Isidro, Jalisco  
28, 29 y 30 de junio

Movimiento de los Pueblos

pre-hearings in the eastern zones of the State of Mexico, Michoacán, Morelos, Valle de Lerma, Pueblo-Tlaxcala, Jalisco and Veracruz are evidence of this.<sup>70</sup>

The pre-hearing that brought to light the metabolism and the web of agribusiness and its dispossession, devastation, eviction, pollution, fragmentation, and homogenisation was probably the pre-hearing on *Territoriality, Subsistence and Dignified Life* held in San Isidro, Jalisco, in the territory of an ejido that is struggling against three industrial giants of actual greenhouse cities: Nutrilite, a Monsanto-Bayer experimental field, and the so-called Bioparques, a conglomerate of greenhouses that meet all the aggravating factors and has somehow deprived us of the possibility of exercising life in the terms communities long for when they claim their autonomy. In their accusation, the organisers said:

Corporations (reinforced by neoliberal policies and endowed with governmental instruments of manoeuvre, such as free trade agreements that legalise and strengthen these policies and make them immovable), have tried to uproot us from our sources of subsistence – from the land, water, forests, seeds – that is, from our territory. They erode and snatch our means of subsistence (our strategies and knowledge) with which the communities have managed for centuries to seek and defend our centre of reference, our life, history, justice, and destiny as communities and peoples.

People migrate (in search of life elsewhere) because what they achieved in their place of origin has lost its meaning. And power profits from the acquired fragility of those expelled. This people swell the army of precarious workers, increasing the urban population and the growth of cities with their problems. At the same time, the territories are invaded to serve agribusiness, extractivism (especially mining), real estate and financial speculation,

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70 Tribunal Permanente de los Pueblos, Dictamen de la audiencia temática "Devastación ambiental y derechos de los pueblos", en el proceso *Libre comercio, violencia, impunidad y derechos de los pueblos*, 15-17 of November 2013. <https://www.tppmexico.org/dictamen-de-la-audiencia-tematica-devastacion-ambiental-y-derechos-de-los-pueblos/>

bioprospecting, green economy, tourism development and criminal economy. They also become the destination of toxic waste. The resulting extreme devastation is the sum of the crises it triggers.

All this destruction makes it impossible to resolve the sustenance and care of individual and collective life – and its transformation towards an open, just, and dignified future – by our means.

This is the primary offence: we claim that the conditions imposed between the State and the corporations prevent us from resolving by ourselves what fundamentally concerns us, our livelihood, and everything that gives us personal and common sense. They prevent us from defending the territory that we claim: the environment for the recreation and transformation of our existence: the space to which we give whole meaning through our shared knowledge.<sup>71</sup>

The PPT pre-hearing reviewers concluded that

... the State itself undermines its legitimacy, weakening the content of human rights – by constantly violating them – and dismantles the rule of law, allowing for the consolidation of a growth model that brings with it environmental devastation, the rupture of natural metabolic cycles, biopiracy and the erosion of agrobiodiversity, thus accelerating the process of breaking up the peasantry and annihilating indigenous communities, destroying the social fabric, their knowledge, and traditions. [...] We would like to issue a warning: “if Mexico loses the war against subsistence, the de-peasantised peasants would be added to a dispossessed mass vulnerable to all sorts of manipulations and captive to those who would grant them the means for a miserable survival.” We would fall into a situation worse than the dawn of the industrial era, when it could be declared: *hunger will tame the most indomitable individuals and force them to work*. Only this time, there will be no work for most of them.<sup>72</sup>

71 Specific accusation of the *Territorialidad, subsistencia y vida digna* Pre-hearing, San Isidro, San Gabriel Municipality, Jalisco, 28-30 de junio de 2013. See *No toquen nuestro maíz*, GRAIN, Itaca, México, 2013.

72 Tribunal Permanente de los Pueblos Dictamen de la preaudiencia *Territorialidad, subsistencia y vida digna*, 28-30 de junio. *No toquen nuestro maíz, op.cit.*



Greenhouse complex known as Bioparques, in the south of Jalisco, where there have been documented reports of labour abuse and semi-slavery conditions. Photo: Oswaldo Ruiz

The central question that was the rationale of the formal petition to the Tribunal, but also to the Hearing on *Maize, Food Sovereignty and People's Autonomy* is the following:

What conditions lead a government like the Mexican government (which has ancestral systems of 10 thousand years of certainty in its territory, with agricultural biodiversity capable of feeding the communities, and with the potential to produce the basic food to feed the entire population in its national territory), to decide to dismantle this traditional system, to punish the



support of domestic agricultural production, to criminalise the ancestral free exchange of seeds and knowledge, and to directly attack maize, one of the most important crops of humanity whose centre of origin is precisely our country?<sup>73</sup>

We understand the Tribunal as a dialogue, a conversation that systematised the grievances, concerns, and questions, establishing a precise diagnosis of the effects of free trade agreements. In November 2013, the opinion of the final hearing on the *Violence against Maize, Food Sovereignty, and Peoples' Autonomy* axis stated:

There is an open war, of a criminal nature, against the autonomous subsistence of broad groups, among them predominantly indigenous peoples and peasant communities. By stripping them of their autonomous livelihoods, it condemns them to migration, dependence on welfare programs, misery, marginalisation, and death... The imposition of an intensive agro-industrial model – of which GMOs are one of the most extreme instruments – by the Mexican State and corporations such as Monsanto, Syngenta, Dow, BASF, or Cargill constitutes not only an attack on a culture but also a real war against subsistence, driven by the fabrication of laws that prevent the defence of peasant agriculture and independent [food] production.<sup>74</sup>

For the PPT, the public policies and laws (arising from NAFTA) privilege corporations while eroding the general profitability of agricultural activities, threatening the food security of the population, facilitating land and water grabbing, imposing laboratory seeds (hybrid and transgenic) and highly toxic inputs,

73 *Petitoria formal al Tribunal Permanente de los Pueblos, Fundación Lelio Basso, Roma, Italia, encaminada a instaurar un Capítulo México donde podamos ventilar los nexos entre Libre comercio, guerra sucia y derechos de los pueblos*, Promotion Committee of the Mexico Chapter, February 2011. See also the *Universal Declaration of the Rights of Peoples*, Algiers, July 4, 1976.

74 *Tribunal Permanente de los Pueblos, Dictamen sobre Violencia contra el Maíz, la Soberanía Alimentaria y la Autonomía de los Pueblos*, third thematic hearing in the framework of the process on Free Trade, Violence and Peoples' Rights in Mexico (2011-2014), Mexico City, November 19-21, 2013. See [www.tppmexico.org](http://www.tppmexico.org).

criminalising native peasant seeds and their inherent thread of relationships, and promoting vast intellectual property systems. Corporations take over the entire food chain (from land to retail) and invade empty territories with extractivist, real estate, tourism, pseudo-conservation, garbage, and other projects. Environmental devastation spreads.

The various organisations and communities presented their cases with a comprehensive and panoramic vision of what this attack means for agriculture and independent food production. The rulings show us the strength of this integral approach in the different spaces.<sup>75</sup>

The evidence from the cases (of groups and communities) allowed for the configuration of a central grievance, which was taken up by the general hearing's final ruling in November 2013 and the PPT's final sentence or judgment in November 2014. In the Tepoztlán pre-hearing, the rulings were as follows:

The aim of the attacks [by corporations and the government] is total dispossession, to take away from the people their knowledge, their means of constructing their own way of seeing, their meaning and acting, their ways of living together, and, of course, their means of subsistence. The objective is to turn us into isolated individuals, without social ties, without roots in a territory, to the land or a neighbourhood, dependent when it comes to feeding and working, leaving us with no other alternative but to turn us into a submissive, cheap, and disposable labour force.<sup>76</sup>

75 Permanent Peoples Tribunal, Tepoztlán Pre-hearing, *Colisión campo-ciudad*, November 24, 2012; San Luis Beltrán, Oaxaca, Pre-hearing, *La contaminación transgénica expresa encontrada en el maíz nativo mexicano*, April, 2013; San Isidro, Jalisco, Pre-hearing, *Territorialidad, subsistencia y vida digna*, June 28-30, 2013; Maní, Yucatán, Pera-hearing *Políticas de exterminio de del pueblo maya*, November 10, 2013; *Cultivos transgénicos, el caso de México con énfasis en el maíz* Pera-hearing, Mexico City, November 12, 2013; See complementary hearing in de Acatepec, Hidalgo, *Devastación de la vida comunitaria*, November, 2013.

76 Sentence presented in the Pre-hearing: *Colisión campo-ciudad, Tepoztlán, Morelos*, November 24, 2012; San Luis Beltrán, Oaxaca, pre-hearing *La contaminación transgénica expresa encontrada en el maíz nativo mexicano*, April, 2013; San Isidro, Jalisco, pre-hearing *Territorialidad, subsistencia y vida digna*, June, 28-30, 2013; Maní, Yucatán, pre-hearing *Políticas de exterminio de del pueblo maya*, November 10, 2013; *Cultivos transgénicos, el caso de México con énfasis en el maíz*, pre-hearing, Mexico City, November 12, 2013; See complementary hearing in Acatepec, Hidalgo, *Devastación de la vida comunitaria*, November, 2013, [www.tppmexico.org](http://www.tppmexico.org)

In their verdict, the jurors at the Maize Final Hearing emphasised that:

When the Green Revolution was extended to peasant areas and maize, it occupied a central place in a policy explicitly committed to expelling peasants from the countryside to supply cheap labour to the cities that had entered the accelerated industrialisation process. At the same time, hybrid seeds and their agrochemicals were progressively extended to rainfed and irrigated agriculture areas traditionally cultivated with native or creole seeds in areas unsuitable for this type of monoculture.<sup>77</sup>

The promotion of the cultivation and commercialisation of hybrid seeds, transgenic seeds and more, threatens the knowledge of traditional peasant and agroecological agriculture; it threatens the trusted channels of custody, selection, and ancestral exchange; manufactures laws that privilege large corporations with legal certainties of ownership (of land, water, seeds, knowledge, and biodiversity) through agrarian titles, intellectual property rights, patents, plant breeders' rights, sanitary regulations, "good agricultural practices," minimum volumes for commercialisation, payment terms, etcetera; and of course, continues with the dismantling of support for the countryside, promoting unfair imports and more.<sup>78</sup>

In its final sentence, the PPT stated:

The Mexican government must adopt all necessary measures to guarantee the conservation of native maize as the main food source and as a cultural element of social cohesion and

77 Permanent Peoples' Tribunal, *Dictamen sobre Violencia contra el Maíz, la Soberanía Alimentaria y la Autonomía de los Pueblos*, op.cit.

78 Two compelling examples are the *Ley de Bioseguridad de Organismos Genéticamente Modificados*, or "Monsanto Law" and the *Ley Federal de Producción, Certificación y Comercio de Semillas*. See also GRAIN, "Leyes para acabar con la producción independiente de alimentos", in GRAIN, *The great food robbery*, Pambazuka Press, 2012. See also the *Reforma a la Ley Federal de Variedades Vegetales*. See GRAIN's review of this law—against which there is already a protest letter — "Alto a la embestida privatizadora sobre las semillas", which is circulating in social media, see [www.biodiversidadla.org/content/view/full/70743](http://www.biodiversidadla.org/content/view/full/70743)

articulation. Furthermore, as Mexico is the genetic reservoir of this pillar of world food security, planting transgenic maize in the country should be forbidden.<sup>79</sup>

In 2010, Pat Mooney, director of ETC Group [an independent non-governmental centre investigating the erosion of biodiversity and knowledge, the problems with technological innovation and corporate concentration, with significant international moral authority], said: “If you lose the battle in the centre of origin of maize, then we will lose the centres of origin of agricultural diversity around the world. We cannot win if you lose”.<sup>80</sup>

Extreme violence is imposed on communities and peoples, thus affecting multiple long-lasting historical processes. Threats, coercion, imprisonment, disappearances, and assassinations of community leaders and members of peasant and indigenous civil organisations are increasing at the hands of paramilitary groups and hired killers encouraged by agricultural, mining, forestry, infrastructure, and other companies to terrorise or disappear opponents.<sup>81</sup> At the pre-hearing in Maní, Yucatán, the examiners emphasised that:

There is a much broader process of land and common property grabbing, socio-environmental and territorial destruction, and annihilation of the social fabric that is part of an orchestrated plan for the displacement and emptying of territories. The dispossession process also includes a mechanism for the destruction of the communitarian fabric of indigenous peoples. It is aimed to encourage community division and the co-optation of leaders. [...] Sometimes complicit and sometimes protagonists, it is almost impossible to find a line that divides the interests of the State and those of the national or foreign businessmen who want the territory.<sup>82</sup>

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79 Communiqué from the ETC Group, “Tribunal internacional ético demanda la prohibición del maíz transgénico en México”. December 5, 2014. <http://www.etcgroup.org/es/content/tribunal-internacional-etico-demanda-la-prohibicion-de-maiz-transgenico-en-mexico>

80 Pat Mooney (ETC Group), “La FAO contaminada transgénicamente”, in GRAIN, Coa, Casifop, *El maíz no es una cosa*, 2012.

81 Sentence from the pre-hearing: *Colisión campo-ciudad*, *op.cit.*

82 Sentence from the pre-hearing on *Políticas de exterminio contra el Pueblo Maya, Táan U*



The final sentence of the November 2013 Maize and Food Sovereignty Axis established that the grievances suffered by the communities:

...are being exerted through various forms of systematic violence, whose purpose seems to be to instil general and deep terror, creating an atmosphere of chaos and causing confusion and continuous anxiety". The jurors noted that "one of the most far-reaching privatisation attempts is the attempt to privatise intellectual rights and, in particular, seeds, so that the heritage of humanity and of peasant and indigenous cultures, which represent collective work carried out over millennia, becomes a private source of wealth for a few. The process, moreover, has an immense environmental cost, to the point of increasingly endangering the survival of the human race."<sup>83</sup>

And further on, "the laws and the judicial apparatus are being used to circumvent the principles of law and the people's fundamental rights. The 2007 Seed Law turns into a crime what people have been doing for millennia to care for, improve, multiply and share their seeds".<sup>84</sup>

It is important to dwell on the hearing's ruling on environmental devastation: one of the bulwarks of the "comparative advantages" offered by Mexico to make NAFTA worthy of signing. The Tribunal says:

... we hear, that the suffering of communities does not occur randomly but on an increasingly systematic basis since the signing of NAFTA; that industrial water pollution from mining, oil and industrial agriculture is spreading on a massive scale as rivers are dammed to transfer, through giant pipelines, fresh water from peasant lands dedicated to food production to mega-cities for industrial production.... that 30% of the Mexican territory has been franchised

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Xu'Ulsaj K-Kuxtal, Maní, Yucatán, *op.cit.*

83 Permanent Peoples Tribunal, Sentence on *Violencia contra el maíz, la soberanía alimentaria y la autonomía de los pueblos*, *op.cit.*

84 *Ibidem*



Central American migrants who could not board La Bestia walk along "La 72" avenue in Tenosique, Tabasco.  
Photo: Prometeo Lucero



to transnational mining companies without the consent of the communities, and mountains and sacred lands are destroyed as a result; ... that massive housing complexes are built along highways and roads on farmland, while buildings in old cities collapse, and toxic clouds from over industrial areas generate multiple life-threatening diseases such as cancer, without the government intervening to protect the people. ... When individuals and communities defending their social and environmental rights are confronted with police repression and treated as criminals, we must ask how and to what extent these conditions are or have been created or reinforced by neo-liberalism and the free trade agenda. [...]

NAFTA's rules, in effect, constitute a four-pronged power toolkit: (a) to reduce the force of economic, social, and environmental laws, policies, and programs that might restrict the operations of transnational corporations; (b) to ensure that governments cannot impose performance standards on foreign-based corporations operating in their territories; (c) for the privatisation of public services and weakening or eliminating state-owned enterprises; and finally, (d) to allow corporations to sue governments directly for violating its rules. In many ways, NAFTA was designed to provide conditions for the domination of transnational corporations and the dictatorship of investment.<sup>85</sup>

Having established through multiple testimonies the government's and State's responsibility for the environmental devastation and abandonment of the population suffering such devastation, the jury at the environmental hearing formulated the following points in the indictment of the Mexican State:

For the massive and systematic violation of the right to a healthy and suitable environment for the sustainable development of humanity; for the failure to comply with their duties of care over the natural conditions for the dignified life of peoples and communities. For the imposing and opaque manner that has

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85 Tribunal Permanente de los Pueblos, Dictamen de la audiencia temática "Devastación ambiental y derechos de los pueblos", November 15-17, 2013. *op.cit.*

characterised the formulation, implementation, and evaluation of government policies related to environmental management and the regulation of activities for the exploitation of natural resources, as well as for the deliberately contradictory regulation or frank indifference to the basic principles of environmental law, which result in their distortion, suspension, and *de facto* annulment. This is the consecration of a perpetual state of environmental exception.

Because of the violence unleashed against different indigenous, agricultural, and urban-popular populations, that forces them to live in deteriorated environments or to a total exodus making effective the massive dispossession of their territories. For its structural incapacity to guarantee access to justice for those affected by the environment, specifically to make effective the jurisdictional protection of the environmental rights of the population and the integral reparation of ecological damages and the derived and related grievances caused, as well as to ensure the integral compliance with the sanctions, penalties and security measures necessary for the non-repetition of such acts.

For the repressive policy of criminalisation and judicialisation of social conflicts as a mechanism to hide and dismantle environmental protest. For the use of public force and the use of violence against those who peacefully defend nature, territories, and the environmental conditions of their own lives and those of others, through traditional practices, local knowledge or scientific knowledge, and legal strategies—for allowing, favouring, and developing an architecture of impunity that leaves unpunished crimes committed against peoples and nature without allowing access to justice or the acknowledgment of the aggressors' responsibility. For the imprudent, permissive, or omissive attitude concerning the increase in the levels of vital and socially tolerable environmental risk, which also leads to the increase of irreparable ecological damage or damage that is difficult to repair and the impossibility of preventing environmental catastrophes. For the commission of intentional, deliberate, and flagrant ecocide or murder of the earth

to increase the profits of specific companies and corporations as it is reflected in multiple ecological damages.<sup>86</sup>

All of the above makes the Mexican State responsible for the environmental devastation of Mexico, the signatories of NAFTA (the United States and Canada) that participate in and promote its imposition, and of course, accusing as co-responsible both Mexican and foreign companies and private organisations (petrochemical, mining, agrochemical, seed, agro-industrial, pharmaceutical, food, automotive, maquiladora, paper and tourism companies, construction, and tourism companies), mining, agrochemical, seed, agro-industrial, pharmaceutical and food, automotive, maquiladora, trading, paper and tourism companies, and real estate companies, housing and road construction companies “that carry out projects that devastate Mexican ecosystems. Just with parties, media, professional associations, and scientists that are not committed to society, through action or omission.”<sup>87</sup>

At the end of 2019, five years after the end of the TPP in Mexico, a caravan was carried out through six areas of intense environmental devastation in Mexico, taking advantage of all the work done to systematise the extreme intoxication and poisoning suffered by truly sacrificial areas, “trying to make visible the systematisation of several processes of environmental devastation and violence against the individual and collective health of the populations that suffer the irresponsible attacks of companies, laboratories, industries, which in their processes of extraction, production or processing, literally flood the regions with poisonous by-products that make life in those regions unviable.”

<sup>88</sup> The social and environmental impacts are so profound that we

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86 *Ibidem.*

87 *Ibid.*

88 “Among the organisations that promoted the Caravan from abroad are the Transnational Institute, Corporate Accountability, the Taula per Mèxic, UDAPT, OPSUR, Acció Ecològica, the Argentinean Campaign Gane quien Gane / the Multisectorial Anti-extractivist, Ekologistak Marxan, Mexico Via Berlin and OMAL, several of which are part of an active movement in different countries and at the international level to achieve binding norms that compel transnational corporations to respect human rights”. See “El cotejo de la sociedad civil, *desinformemonos.org*, November, 2019, *op.cit.* and “Una probadita del infierno”, *desinformemonos.org*, December, 2019, *op.cit.*

are facing the presence of at least 40 toxic substances in the water, soil, and air, the impact on millions of people, the complex increase in devastated regions, the increase in the number of industrial companies (more than 20,400) diversified into automotive, steel, wood, paper, chemical, petro- and agrochemical, food, and beverages, ceramics, plastics, and textiles, all of them causing devastation and ultimately social, labour, and environmental impacts that must be documented, understood and stopped.

Among the objectives pointed out by the convening bodies is to show how free trade and the free trade agreements (as locks of the structural reforms) have caused too many harmful impacts in the “industrial paradises” where they operate. The UMSCA or T-MEC, and the Free Trade Agreement between Mexico and the EU. (EU-Mexico FTA), especially promote this environmental and labour deregulation that generates specific violence against workers in factories or processing plants but also pollution that can be as deep as the groundwater. The most extreme symptom is the murders and disappearances, the direct repression against those who oppose this degrading situation that they seek to normalise.

It is no surprise that in the tour, in which organisations from Mexico, Latin America, and even parliamentarians from the European Union participated, it was found that the regions visited were also areas of social and labour exploitation (Mexican, German, French and Spanish companies).<sup>89</sup>



Central American mothers looking for their kin put candles for the 43 Ayotzinapa students who disappeared in Iguala in 2014, Tenosique, Tabasco, November 2014. Photo: Prometeo Lucero





# THREE: THE ATTACK IS INTEGRAL

**T**he Permanent Peoples' Tribunal, a tribunal of ethics and conscience, is concerned about what it calls "a subjugation of legal structures and the rule of law to the interests of the economy throughout the planet" and identifies FTAs as instruments that trample on the rule of law of the signatory nations. As such, it is the first legal tribune at the international level to acknowledge the comprehensive nature of the attack on peasant life and rural areas, independent food production, and communitarian organisational structures that defend self-government and territories. Furthermore, it is understood that the transformations promoted by FTAs are part of the global framework that the Peoples' Tribunal contests. In its November 2013 sentence, it stated:

The imposition of this model by some of the most powerful States is based on the conjunction of different international actors, such as the agencies that control the commercial, financial and monetary aspects of the system as well as large transnational companies that control a large part of world production and trade and, of course, with the connivance of the national governments that in so many parts of the world, with the support of



# TRIBUNAL PERMANENTE DE LOS PUEBLOS CAPÍTULO MÉXICO



Andrés Carrasco, Gustavo Esteve, Antoni Pigrau, Camila Montecinos, Philippe Texier, Marcelo Ferreira, Luis Macas, Jean Robert and Pat Mooney, jury members of the hearing Violence against Maize, Food Sovereignty and Peoples' Autonomy, November 2013.

the most powerful sectors in each country, adopt the necessary regulations and policies to facilitate the implementation of the model and the repressive measures necessary to confront popular resistance.

[...] This Tribunal condemns the successive governments of Mexico that have promoted the processes denounced herein and the large companies that concentrate their activity in the market of transgenic products and related agrochemicals (Monsanto, Dow Chemical, Dupont, Bayer, Syngenta, Basf), the food processing or marketing companies (such as Nestlé, Cargill or Pepsico) and the trade policies of the United States and Canada, promoted through NAFTA.<sup>90</sup>

The Tribunal's ruling emphasised that the grievances presented by Mexican organisations and communities "have their roots in the current model of neoliberal regulation of international economic relations, governed by mechanisms that are often opaque and alien to the control of citizens and that respond only to the logic of monetary profit, without taking into account the interests and rights of people and communities."<sup>91</sup> The jurors insisted that the free trade agreements function as administrative and operative instruments that reaffirm the validity of structural policies in favour of corporations and to the detriment of the population. The Tribunal's sentence in the final hearing on maize grouped the grievances into four series: [1]. An attempt to exterminate maize and the cultures, worldviews, and ways of life that were mutually created with it, which corresponds to the rupture of a civilisational matrix. [2]. The systematic attempt to destroy the territories, which is the wholeness that hosts the spiritual and concrete life of the peoples, through processes of fragmentation, disaggregation, reduction, privatisation, exploitation, and contamination, in fact, through dispossession.[3]. The clear and systematic intent to destroy and end the capacity of peoples and communities to autonomously ensure their subsistence and

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90 Permanent Peoples'Tribunal, dictamen sobre *Violencia contra el maíz, la soberanía alimentaria y la autonomía de los pueblos*, op.cit.

91 *Ibidem*.

livelihoods. [4]. The destruction of the original peoples and the organisational fabric of the communities, their assembly and *cargo* systems, replacing them with terror and distrust.<sup>92</sup>

Their initial purpose was to be padlocks that prevent the modification or reversal of the so-called structural reforms of the World Bank and the IMF, agreed upon in the Washington Consensus (reforms that dismantled all public policies that for years had defined a certain horizon of development with justice). Today, they are supplanting national legislations for the sake of clauses agreed upon outside the legislative chambers, in the areas of trade and investment, opening more and more room for manoeuvre to corporations while weaving norms and laws that close the legal sphere to the affected population, which is left defenceless.

FTAs are instruments for the “deviation of power”, and NAFTA was the original model from which they started and refined their subjugation of the law. Over the years, bilateral or multilateral agreements are still being signed, “characterised by their breadth and their open and ‘ongoing’ nature, compelling the signatory countries to periodically expand what has been agreed and to undertake an indefinite number of legal, administrative, economic and social reforms in the coming years aimed at granting increasingly favourable conditions to corporate investments. ‘Gradual’ legal reforms defined at the ministerial level, far from any follow-up by parliaments, legal bodies, or public opinion in each country, lead the regulations derived from ‘trade’ or ‘cooperation’ agreements to prevail, to the detriment of national legality and the rights of the population.”<sup>93</sup> Whether they are “cooperation or trade or cultural or technology transfer” agreements, they establish a series of rules, procedures, programs, projects and budget allocations, including the management of vast segments of government activities such as administration, intellectual property, food safety, labour or environmental regulations,

92 *Ibid.*

93 GRAIN, “Latin America’s free trade agreements with the European Union: an agenda for domination, <https://grain.org/en/article/139-latin-america-s-free-trade-agreements-with-the-european-union-an-agenda-for-domination>; “La enfermedad del momento: trataditis aguditis, mitos y consecuencias de los tratados de libre comercio con Estados Unidos”, mayo de 2004, [www.grain.org](http://www.grain.org).

quality standards and, above all, the competence of the courts to settle crucial matters.

With such agreements, companies can monitor the drafting of policies and regulations affecting their partner countries, to the point of submitting their claims to Investor-State Dispute Settlement (ISDS) in private tribunals.

The treaties give transnational corporations (TNCs) special rights to submit governments to binding arbitration whenever they feel they have been mistreated. TNCs can “sue” governments on equal terms when they adopt protective policies or regulations that affect TNC investments and profits. Local companies are not granted these rights.<sup>94</sup>

Today, bilateral or plurilateral FTAs, not just NAFTA, are advocating for a never-ending legal dismantling of all laws fostering collective rights and protecting the commons, particularly the territories of indigenous peoples and peasants, their lands, seeds, and waters, mountains, minerals, and forests. But they also give corporations access to new markets, intellectual property rights (IPR), telecommunications, and energy. They allow unprecedented environmental devastation and the precarious labour close to slavery that is crucial to them. Signatory governments are forced to reform their laws with binding commitments not to backtrack.<sup>95</sup>

All this and much more is being inserted with the most terrible privatisation: the promotion of government management that privatises an operation that should be in public or, better still, in community hands with its human-scale *autogestión*, this self-management.

As free trade agreements are instruments for power diversion, we find ourselves in the scenario where governments increase the privatisation of their most elementary or delicate functions, including incarceration and, of course, the administration of

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94 Nyeleni Newsletter number 29, “FTAs and agriculture”, <https://nyeleni.org/en/category/newsletters-nyeleni-in-english/newsletter-no-29-ftas-and-agriculture/>

95 *Ibidem*.

prisons, renewed centres where a new form of slavery is established outside the radar of public supervision.

A very severe scenario is that the people's instances of discussion and evaluation of the concrete management of government's and corporations' affairs are diminishing. The worst is that any invocation of these bodies of civil society that investigate, denounce, criticise and carry out public acts and legal actions appears as an interference in the management and administration of governments and corporations when these are precisely the most concrete actions of people's participation in governing.

As noted by the team at [bilaterals.org](http://bilaterals.org), a digital platform that gathers and systematises information on free trade and investment treaties and agreements around the world: "Genuine politics of genuine of resistance needs to be very wary of smooth-talking neoliberal centrists who present their commitments to liberalisation and market economy as a cosmopolitan, democratic antidote – and a real alternative – to the right-wing exclusionary populism".<sup>96</sup>

And while these people seek to superficially reform such free trade and investment agreements, including protections for labour rights, human rights, environmental standards, and reforms that end the protections and privileges of capital, we must insist that "the exploitation of workers and environmental destruction are not unfortunate by-products of free market capitalism, but rather what it is based upon."<sup>97</sup> Today, [bilaterals.org](http://bilaterals.org) says:

...the militancy in the more critical strands of climate justice struggles – particularly the inspirational collective leadership of indigenous peoples' resistance based on anti-colonial politics and worldviews – offers real hope for possibilities beyond pragmatic liberal reformism to solve the climate crisis. Resistance to capitalism and racism is also coming from migrant workers organising across the world, often at significant risk. Indeed, it's not even possible to understand migration without looking at

96 [bilaterals.org](http://bilaterals.org). "Trade politics in flux. What social movement responses?" <https://www.bilaterals.org/?trade-politics-in-flux-what-social>

97 *Ibidem*.



November 2014: a march protesting the disappearance of 43 students from the Normal Rural de Ayotzinapa in Iguala, Guerrero, on September 26 of the same year. Photo: Prometeo Lucero

the imperialist exploitation and undermining of many societies in the global South.<sup>98</sup>

They have caused “the structural conditions of dispossession, disablement, poverty and inequality – and, often, conflict – which drive many people to migrate in search of work and survival”.<sup>99</sup> For all these reasons, *bilaterals.org* insists, “one should be careful about proposing “people-centred” trade alternatives which accommodate rather than confront capitalism. [...] without serious organising, movements cannot be built, and changes won’t

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98 *Ibid*

99 *Ibid.*



happen. A commitment to long-haul organising to bring about systemic change is crucial.” In third place, they conclude,

...though useful tools, the Internet and social media cannot substitute for the ways that strong movements are built from slow processes of nuts-and-bolts political organising, relationship and trust building, and collective struggles waged by people on the ground.

Despite ongoing repression and criminalisation of social movements, the political disruption and distraction caused by right-wing populists and neoliberal centrists across the world opens up space to be bold about what we are fighting for. We need radical political imagination.<sup>100</sup>

This account seeks to be part of the indispensable quest to strengthen the autonomy and organisation of peoples and people in the countryside and the city.



100 See "Trade politics in flux: what social movements responses?" <https://www.bilaterals.org/?trade-politics-in-flux-what-social>





Group of aggrieved individuals and communities prepare their case at the pre-hearing *Devastation of community life*, in Acatepec, Hidalgo, November 2013.



One of the many trees called Bojon in the Mayan territory of the Yucatan Peninsula, symbolising the struggle against the dispossession and devastation that the Mayan Train and the Transisthmian Corridor will bring.  
Photo: Haizel de la Cruz

# ANNEX 1.

**T**he USMCA (T-MEC in Mexico) is an update of the terms of NAFTA. The Trump administration arrived at its refusal of NAFTA after complaining for years about the unequal terms of the agreement (as if it had benefited Mexico in all its terms). Mexico rushed to acknowledge the T-MEC, endorsing “the meagre cost of Mexican labour as a fundamental mechanism to attract mainly U.S. investments and deepen its labour-commercial-financial integration to the ‘North American’ bloc in the face of new poles that ‘threaten world hegemony,’” meaning China.<sup>101</sup> A key point in all this discrepancy of visions is the industrial deterioration suffered by the United States as a result of the processes and policies unleashed by US “globalist” companies in their “industrial and therefore labour relocation” and “the establishment of new value chains.”<sup>102</sup> As we have said, NAFTA promoted processes of “productive segmentation: fragmentation of the phases and stages of design, research, manufacturing, assembly, and marketing of products, giving rise to a new capacity for flexibility and articulation at a global scope.”<sup>103</sup> The productive dislocation of companies spread across the planet and gave rise to the peak of Asia, Eastern Europe, and Latin America

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101 José Luis Ríos Vera, “El T-MEC (USMCA) entre el declive imperial y la amenaza china”, *op.cit.*

102 *Ibidem.*

103 *Ibid*

as advantageous scenarios, the advantages being always for the companies, wherever they are in the world. Trump insisted on his rhetoric of reindustrialising the United States by modernising its infrastructures, recovering jobs, and manufacturing, especially in the automotive sector, a banner of the Trumpist discourse. However, reindustrialisation did not create the promised jobs in the US “From the first year of the Trump administration (2017) until January 2020, less than 500 thousand jobs were created in the sector. In contrast to these three years, with the pandemic crisis, in March, more than 1.2 million manufacturing jobs were destroyed”.<sup>104</sup> In summary, one of the many aspects that the new USMCA seeks to restrict is productive dislocation at a time of declining manufacturing weight on the GDP, particularly in the automotive branch, demanding the return of investments to the US and the impulse of production within the U.S. However, as we insist, there was no great boom in job creation during Trump’s term.<sup>105</sup>

All of this is just a red herring. The reality is that the USMCA retains all the disadvantages of NAFTA against Mexico and adds new elements, including intellectual property aspects, especially in pharmaceuticals and agriculture, to increase the privileges and market dominance of the transnational corporations that dominate both sectors. New sections have also been added, such as that of agricultural biotechnology, aimed at increasing and facilitating the importation of maize and other GMO into Mexico and pressuring the country to accept their planting and consumption. This must be explained because it is already a controversial element due to the US insistence that Mexico complies with its obligations.

The section on biotechnology in Chapter 3 on Agriculture includes *agricultural biotechnology* as “technologies, including modern biotechnology, used in the deliberate manipulation of an organism to introduce, remove or modify one or more inheritable characteristics of a product for use in agriculture or aquaculture

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104 *Ibid*

105 *Ibid.*

and which do not consist of technologies used in traditional breeding and selection.” *Modern biotechnology* means

...the application of: in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (recombinant DNA) and the direct injection of nucleic acid into cells or organelles; or the fusion of cells beyond the taxonomic family, which overcome the natural physiological barriers to reproduction or recombination and which are not techniques used in traditional breeding and selection.<sup>106</sup>

Although Article 3.14(2) (Trade in Products of Agricultural Biotechnology) expressly states that “this “section does not require a Party to issue an authorisation for a product of agricultural biotechnology to be on the market,” what it does insist is that each Party continue to

encourage applicants to submit timely and concurrent applications to the Parties for the authorisation, if required, of agricultural biotechnology products; (i) accept and review applications for authorisation, if required, of agricultural biotechnology products continuously throughout the year, (ii) adopt or maintain measures to allow for the initiation of domestic regulatory approval processes for a product that has not yet received approval in another country”, which effectively implies that the parties are committed to continuously encourage applications and approvals of biotechnology products.<sup>107</sup>

The USMCA also compels Mexico to join the 1991 version of the Union for the Protection of New Plant Varieties (UPOV 91) convention within four years. This, as we have said, “criminalises and prohibits farmers and peasants from replanting from their harvest or exchanging registered seeds and restricts their use

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106 Organisation of American States, Foreign Trade Information System (SICE), the USMCA, full text with its 34 chapters, three annexes and its Parallel Letters, chapter 3. [http://www.sice.oas.org/Trade/USMCA/USMCA\\_ToC\\_PDF\\_e.asp](http://www.sice.oas.org/Trade/USMCA/USMCA_ToC_PDF_e.asp),

107 *Ibid*

for public research, even though those privatised seeds may be derived directly from native or publicly produced seeds.”<sup>108</sup>

Speaking of intellectual property beyond UPOV, the T-MEC extends all property, including copyrights, to the digital realm. Some of the many provisions include that FTA signatory countries with the United States are required to provide an additional twenty years of copyright protection after the author’s death, raising the minimum term of intellectual property rights to seventy years from the author’s death. There are also new trade secret provisions. NAFTA required each party to provide the legal means to prevent trade secrets from being disclosed without the consent of the person legally controlling the information and prohibited limiting the duration of trade secret protection. The T-MEC also requires each party to provide civil and criminal protection and penalties for unauthorised and wilful misappropriation of trade secrets. Unauthorised disclosure of trade secrets by government officials in a legal or regulatory capacity outside their official duties is prohibited.<sup>109</sup>

The entire economic transformation and integration between small domestic producers and huge transnational corporations in terms of inequality, already established by NAFTA, will be deepened by the USMCA.

The crucial point is Good Regulatory Practices, something that, Inside US Trade analysts insist, emerged from the model of the Trans-Pacific Partnership (TPP) and the negotiations between the US and the EU in the TTIP (Transatlantic Trade and Investment Partnership), which reinforces what is being said loud and clear: the texts of agreements and treaties are becoming more similar, and gradually more harmonised.

Good Regulatory Practices imply that any restriction sought to be imposed by a country that feels it is being overpowered by

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108 Silvia Ribeiro, “T-MEC: al peor postor”, *La Jornada*, 22 de junio, 2019, <https://www.jornada.com.mx/2019/06/22/opinion/019a1eco>

109 Kiyoshi Tsuru Technical sessions on the USMCA, chapter on intellectual property, [http://comisiones.senado.gob.mx/economia/TMEC/docs/TMI\\_110419.pdf](http://comisiones.senado.gob.mx/economia/TMEC/docs/TMI_110419.pdf); Organisation of American States, Foreign Trade Information System (SICE), the USMCA, full text with its 34 chapters, three annexes and its Parallel Letters, three annexes y and parallel letters [http://www.sice.oas.org/Trade/USMCA/USMCA\\_ToC\\_PDF\\_s.asp](http://www.sice.oas.org/Trade/USMCA/USMCA_ToC_PDF_s.asp)



the corporations of any of the other signatory parties must open a period for “notice and comment” when “any regulatory body is issuing any regulation under normal circumstances.”<sup>110</sup> This notice implies that “regulatory bodies make public the proposed draft text, with an impact assessment and an explanation of why the regulations are required, their objectives; an explanation of what data, additional information, and analysis underpin the regulation and much more.” This, of course, ensures that “the regulatory body will open up the possibility for anyone to have the opportunity to submit written comments on the issues identified as problematic, and submit them for consideration by the relevant regulatory authority of the Party in question...”<sup>111</sup> In addition to the cumbersome process involved, there is also a requirement that if any of the parties affected by the regulation “detect that the regulation has an impact on trade,” more time is allowed for notice and comment and “informational responses” can be made. “Additionally,” the Inside-trade analysts commented, “countries now have the means to challenge regulations across borders because the good regulatory practices chapter of the USMCA is covered by Chapter 31 on dispute settlement.”<sup>112</sup> Thus, “Article 28.20 of the USMCA grants each of the parties recourse to the State-State settlement mechanism ‘to address the recurrent and sustained course of action or inaction inconsistent with the provisions of the BPR chapter’” (Article 28.20 of the T-MEC).<sup>113</sup>

This renewed NAFTA tightens the shackles on governments trying to strengthen their environmental, health, animal welfare, and consumer protections. The chapter on Good Regulatory Practices and the Regulatory Cooperation Council (RCC) creates new avenues for the industry to lobby with more instruments to “tear down technical barriers to trade (TBT),” adhere more to so-called “scientific decision making,” with customised dispute settlement mechanisms [although it is said that the notorious

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110 Analysts: USMCA good regulatory practices chapter a baseline for EU deal, November 15, 2018. <https://insidetrade.com/inside-us-trade/analysts-usmca-good-regulatory-practices-chapter-baseline-eu-deal>

111 *Ibidem*.

112 *Ibid*.

113 *Ibid*.

ISDS between investors and States will no longer exist] and that “risk management measures should not be more trade restrictive than what is required to achieve the appropriate level of protection.” Thus, the USMCA insists on reaching international standards, with transnational standardisation bodies, an emphasis on voluntary measures, periodic reviews of any regulations, and the requirement that labels do not pose unnecessary obstacles to trade.”<sup>114</sup> According to Stuart Trew, editor of *The Monitor at the Canadian Centre for Policy Alternatives*, “governments need to be primarily concerned about the trade impacts of new regulations, and the preferred option is less restrictive trade. That companies seek ‘transparency of the regulatory process means that foreign and domestic governments and individuals can be involved, preferring international over domestic approaches ‘wherever possible’ and limiting the number of specific domestic regulatory requirements. They want ‘alternative instruments’ to always be considered to meet policy objectives (i.e., voluntary measures, or ‘do nothing’).”<sup>115</sup>

Put this way, NAFTA re-loaded becomes, more than ever, a living agreement that updates its premises to suit what corporations (and, ultimately, those who govern the US) want. According to Sharon Anglin Treat of the Institute for Agriculture and Trade Policy (IATP), all of the above means “crippling regulations with analysis and bureaucratic obstructionist practices,” “adding costs to any regulatory procedure,” and “prioritising commercial and market considerations over the public interest – with criteria such as ‘regulations not being more burdensome than necessary’ and avoiding ‘unnecessary restrictions on competition’: those ‘unnecessary regulatory differences.’ This clearly means corporations can interfere, mediate, lobby, and move more freely. Arbitration mechanisms will then be crucial whenever “a sustained or recurring course of action or omission occurs that is inconsistent with a provision of the BPR chapter,” much stricter than the Trans-Pacific Partnership itself. For the USMCA T-MEC, Good

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114 See *New NAFTA: New Red Tape for Regulators?* Institute for Agriculture and Trade Policy (IATP), November 16, 2018, <https://www.iatp.org/blog/new-nafta-new-red-tape>

115 Ibid

Regulatory Practices involve neither regulating nor restricting business action and promoting all dilatory and obstructionist measures to any regulation or restriction invoked by either party.<sup>116</sup> This chapter may be the most damaging in the deepening deviation (or diversion) of power we have discussed throughout this document.

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116 *Ibidem.*



Ding-Don: People knock down the statue of Diego de Mazariegos, San Cristóbal de Las Casas, Chiapas, 12 October, 1992. This is how several organisations proclaimed their rejection of the recently announced NAFTA.  
Photo: Courtesy de Antonio Turok

## ANNEX 2:

**T**he EU-Mexico FTA. Agreements and disagreements between Mexico and the European Union. As with the United States, negotiations with the European Union were conducted amidst great secrecy, preventing the respective parliaments, citizens, and social movements from obtaining the relevant information. This confidentiality is aimed at preventing social mobilisation against the agreements, which could lead to the failure of the negotiations, as happened with the FTAA (Free Trade Area of the Americas) in 2005.

The process of updating and renegotiating the European Union-Mexico Agreement (EU-Mexico FTA) makes it clear that the European Commission has proposed to Mexico the division of the agreement into three themes: cooperation and political agreement; trade; investment. Moving forward only on trade would speed up the approval of the European Parliament without going through all the national parliaments. This has already happened with the Andean and Central American countries. If the division is accepted, it would significantly limit the possibilities of fighting against it. The European and Mexican organisations are concerned about the subsequent signing of some version of the EU-Mexico FTA. So far, the Mexican government has not accepted the division of the agreement. But the rumour is that it is about to accept it.

It is a fact that “several European companies have a long history of human and environmental rights violations,” including the

Spanish Unión Fenosa in the Isthmus of Tehuantepec “to water grabbing companies such as Aguas de Barcelona, in Coahuila.”<sup>117</sup> Also terrible is “the extensive violation of human rights of the indigenous peoples in Unión Hidalgo, Oaxaca,” due to the wind energy project of *Électricité de France* (EDF).

The new agreement will strengthen investor protection. Such an agreement could replace bilateral investment protection agreements with a framework agreement that promotes investor protection across the entire scope of the EU-Mexico FTA. The chapter on dispute settlement with investor-state arbitration mechanisms will be one of Mexico’s most critical and disadvantageous points. It is even said that given the reforms that the USMCA inaugurates, such as ending investor-State arbitration in favour of State-State settlement mechanisms, companies will legalise their status in Europe “by simply opening a postal address” to continue benefitting from such arbitration mechanisms.<sup>118</sup>

This allows corporations to stop public interest legislation and “places Mexico at risk of being the target of a new wave of lawsuits from European investors,” oil and gas companies, water management or bottling companies, and other energy companies, according to the letter signed by civil society organisations that participated in a tour of Mexico’s sacrificial zones.<sup>119</sup> These same organisations noted

An alarming situation of environmental and sanitary urgency: the systematic pollution of air, water, and soil; the destruction

117 Cecilia Olivet y Manuel Pérez-Rocha, *Desenmascarados: los derechos corporativos en el renovado TLCUEM*. Institute for Policy Studies y Transnational Institute, junio de 2016, [https://www.tni.org/files/publication-downloads/mxeu\\_briefinges\\_0.pdf](https://www.tni.org/files/publication-downloads/mxeu_briefinges_0.pdf)

118 Manuel Pérez-Rocha, Riesgos en la renegociación del TLC con la UE, *La Jornada*, 2 de agosto de 2021 <https://www.jornada.com.mx/2021/08/02/opinion/016a2pol>

119 Letter from European civil society organisations participating in the Caravan on Social and Environmental Impacts of Transnational Corporations and Free Trade with Mexico, concerned about the closure of the renewed trade agreement between the European Union and Mexico, and calling for a radical change in European trade policy, 29 April 2020. <https://www.stopcorporatimpunity.org/acuerdo-ue-mexico-profundamente-preocupante-para-la-sociedad-civil-europea/?lang=es>

of rivers, lakes, forests, and farmland; processes of wild urbanisation, and the proliferation of garbage dumps and highly hazardous toxic waste disposal sites, as well as the destruction of health and community networks. According to information gathered from toxicological reports released during the tour, the inhabitants of the visited regions have various diseases, such as liver, kidney, skin, and stomach cancer, as well as leukemia, genetic mutations, miscarriages, kidney failure, dental and skeletal fluorosis, all linked to the operations of companies in different sectors.<sup>120</sup>

For these organisations, “The European Union has always been characterised by the application of a soft law policy vis-à-vis the rights of individuals and demanding and binding rules when it comes to protecting transnational companies.”<sup>121</sup> On the other hand, Manuel Pérez Rocha says:

The current global agreement with the EU, which includes the EU-Mexico FTA, has a democratic clause that could have led to the suspension of the agreement for recurrent human rights violations. However, in the 20 years since it entered into force, the EU and Mexico have ignored them. Suppose Mexico and the EU wish to modernise their relationship. In that case, it should be to correct this imbalance in favour of the transnationals and not increase their privileges, especially by granting the right to resort to secret supranational tribunals designed to suit them, such as the World Bank’s International Centre for the Settlement of Investment Disputes (ICSID).

As in NAFTA and other treaties, companies sue for “losing what they could have gained,” compensations for “loss of expected profits, even for investments they have not even made.”<sup>122</sup> Thus Abengoa earned Mexico \$40.3 million because the municipality

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120 <https://www.gob.mx/semarnat/dialogosambientales/articulos/toxitour-mexico-un-registro-geografico-de-la-devastacion-socioambiental>

121 Letter from the organisations, *op.cit.*

122 Manuel Pérez Rocha, *op.cit.*

of Zimapán in Hidalgo refused to grant a license for a waste deposit 2 kilometres from a nature reserve and half a kilometre from a ñahñú community.<sup>123</sup>

However, the agreement expands the investment protection system to 12 more EU states, and as the Agreement locks in Mexico's 2014 energy reform that opened it to foreign investment, this will impact any changes or reversals Mexico seeks to undertake. In contrast, "people affected by human rights violations or environmental pollution have no access to any arbitration tribunal."

Mexico is the EU's second-largest trading partner in Latin America, and its main export products to Europe are "mineral raw materials," optical and photographic devices, machinery, and machinery parts. Despite this, it maintains a historical "chronic" trade deficit of some 13.3 billion euros as of 2019, maintaining a trading volume of 61.8 billion euros. In addition to the possibility of its investors suing the Mexican government in paralegal courts, it establishes the protection of 340 European products through indications of geographic origin and opens the market for public procurement and bidding. But the agreement implies that 99 percent of tariffs will be free of charge, which implies a plunge in revenues (some 100 million euros) that Mexico received in previous versions of the agreement. And while Mexico will increase its exports by up to 32.5 percent, the EU will increase its exports to Mexico by up to 75 percent, particularly dairy, beef, and sugar, worsening the balance of payments and putting national companies and the sustainability of peasant production at risk. Furthermore, the EU demands strict intellectual property rights, including adherence to UPOV 91. "The German company AlzChem exported in 2019-2019 700 tons of pesticides not authorized in the EU, in particular cyanamide. Bayer and BASF had 7.75 tons of unauthorized pesticides they exported to Mexico." We are talking about 5 thousand tons of unauthorized pesticides sent to Mexico in 2018-2019.<sup>124</sup>

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123 *Ibidem*.

124 Power Shift show the relationship between the big seed producers (Bayer, Syngenta, BASF, Dow Dupont) and the exportation to Mexico of non-authorized pesticides (5 thousand tonnes in 2018-2019). ¿Todo el poder a?...¡Los inversionistas! <https://power-shift.de/wp-content/uploads/2021/04/GuiaUEMexico.pdf>, ver p. 12 y 13



Official EU documents state that trade negotiations must be compatible with the EU Security Strategy, which states that the greatest threats to European security are outside Europe.<sup>125</sup> Thus, in addition to trade privileges, the agreements with the EU compel Third World countries to cooperate in political, military, and internal control aspects, including repression under anti-terrorist laws. A GRAIN document declares that

A fundamental characteristic of treaties with the EU is that they are not only broad in scope but also designed to be extended. In addition to specific and detailed clauses, there are very general and open clauses that can be interpreted in many ways or require future reformulation and expansion, always intending to facilitate European company operations. These are the so-called “progressive” or “review” clauses. In other words, the agreements with the EU are more than a series of specific agreements: they are an indefinite commitment to change national ways of life and societies to provide European companies with increasing guarantees. The power and obligation to make and implement future changes remains in the hands of governments. Parliaments and social movements are denied a chance to reject the changes, exercise effective control, or even participate. This means that countries are giving up both the right to exercise national sovereignty and the obligation to respect the right of society to participate in decision-making.<sup>126</sup>

For all this, although the EU’s conventions, treaties, and agreements seem softer than those of the United States, in reality, they imply a great deal of protectionism toward private interests against the populations and governments of their counterparts. Thus, the EU seeks to reduce import and export tariffs as much as possible. Without these “cumbersome customs procedures for the export, import, and transit,” it opens countries to

125 [http://www.consilium.europa.eu/cms3\\_fo/showPage.asp?id=266&lang=en](http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=266&lang=en)

126 GRAIN: Latin America’s Free Trade Agreements with the European Union - An agenda for domination, *op.cit.*

uncontrolled flows of goods.<sup>127</sup> It denies a country the possibility of regulating or influencing its international trade, promoting specific processes, or protecting its population. It also seeks to change quality standards and technical norms, eliminating as many as possible potential “barriers” to trade.

“The EU wants gradually to reduce each country’s capacity both to draw up and to enforce rules on the quality, security and safety of imports, exports and the economic activity of European companies within its borders.”<sup>128</sup> The same is true of sanitary and phytosanitary measures, and one comes to understand that the USMCA and the agreements with the EU tend to be similar in their push for “good regulatory practices,” that is, to diminish and reduce any restriction that affects the interests of their companies. “They are especially used with foods, medicines, and agrochemicals and are already strongly biased in favour of agribusiness and pharmaceutical companies.”<sup>129</sup> Of course, it is unacceptable for the EU to restrict “access to raw materials, especially mineral resources. The EU considers it unacceptable for countries to impose ‘restrictions on access to raw materials, particularly restrictive export practices, including export taxes, which drive up prices for products such as ... key mineral and metal goods.’ In other words, it wants unrestricted access to the natural resources of countries signatory to trade agreements. This includes access to biodiversity and a total opening of territorial waters to European fishing vessels”<sup>130</sup> One of the most severe aspects, with the most repercussions, which underscores everything that we have been pointing out throughout this document, is the opening of all sectors of the economy and all aspects of national life to European investment.

Its most extreme version would allow the direct or indirect privatisation of all public companies and state services, including armies and police forces. It would be similar to current practice in

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127 *Ibidem*

128 *Ibid.*

129 *Ibid.*

130 *Ibid.*

the United States. In the immediate future, it will open up mineral and natural resources, water, transport, communications, electricity, health, education, pension funds, banks, and the management of national parks, ports, and airports to European companies. If states privatise their services through “outsourcing,” European companies will be able to tender. The review clauses ensure that the opening gets more and more extensive. It will not be possible to place limits on foreign property. As a result, European companies will gain monopoly control of basic sectors of Latin American economies.<sup>131</sup>

Today, there is still great resistance among conscious civil society on both sides of the Atlantic, who have even signed a letter to te Méxican and EU legislatures urging them to reject the Global Agreement EU-Mexico. The coin is in the air but the position of this civil society is to continue refusing this imposition.<sup>132</sup>

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131 *Ibid.*

132 See: No a la ratificación del Acuerdo Global UE-México. [https://docs.google.com/forms/d/e/1FAIpQLSeubjHfplgwRIhk-86i4\\_DQoyotcgZq5vpykmjzSdyuV4Gj0A/viewform](https://docs.google.com/forms/d/e/1FAIpQLSeubjHfplgwRIhk-86i4_DQoyotcgZq5vpykmjzSdyuV4Gj0A/viewform)



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