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## **‘Opinion Court’ Slams Biotech Giant Monsanto for Rights Violations**

*by Andrés Gaudín*

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A citizens’ tribunal set up in The Hague at the behest of more than 1,000 civil society organizations from around the world has determined that the multinational agrochemical and biotech corporation Monsanto is responsible for “ecocide,” among other things.

The so-called International Monsanto Tribunal (IMT)—a body the company dismisses as partial—defined the crime as actions “causing serious damage or destroying the environment, so as to significantly and durably alter the global commons or ecosystem services upon which certain human groups rely.”

Ecocide doesn’t exist in international law. The IMT thinks it should, and has called on the UN to incorporate ecocide as a criminal offense in the Rome Statute, the treaty that established the International Criminal Court (ICC) in The Hague. The ICC is a global justice tribunal with jurisdiction to prosecute people for the international offenses of genocide, crimes against humanity, and war crimes. The IMT also urged that “non-state actors”—corporations, in other words—be held accountable for their actions under international human rights law.

Monsanto was accused of genetic manipulation of organic products (seeds), and the production of chemical products harmful to the environment. The tribunal was made up of five environmental law experts, Eleonora Lamm (Argentina); Dior Fall Sow (Senegal); Jorge Fernández Souza (Mexico); Steven Shrybman (Canada); and Françoise Tulkens (Belgium). It held hearings in the Dutch city of The Hague in October 2016 but waited until April 18 to present its conclusions.

In a 60-page “advisory opinion,” the IMT determined that in addition to ecocide, Monsanto engages in practices that have a negative impact on people’s rights to a healthy environment, food, the highest attainable standard of health, and to freedoms indispensable for scientific research. It based its conclusions on various international agreements, including the UN Convention on the Rights of the Child and the International Covenant on Economic, Social, and Cultural Rights.

The IMT also examined the possibility that Monsanto is complicit in war crimes based on its record of supplying the US military with Agent Orange, a toxic defoliating chemical used extensively in the Vietnam War. But in what seemed like an anticipated response to the corporation, which accused the body of bias, the tribunal acknowledged that in “the absence of specific evidence” it could not “give any definitive answer to the question.” Monsanto’s Global Human Rights Steering Committee responded to the Advisory Opinion by calling the IMT proceedings “staged by a select group of anti-agriculture technology and anti-Monsanto critics who played organizers, judge, and jury.”

Before reaching its conclusions, the five IMT judges considered testimony from nearly 30 witnesses from the Americas, Africa, Asia, Europe, and Australia, as well as written evidence presented by environmental organizations across the world. The tribunal’s findings don’t have legal standing,

but they do have symbolic and ethical value. “They can also help boost legal procedures against Monsanto in individual countries,” Fall Sow, the Senegalese judge, told reporters. “It can serve as a precedent because it is based on the law and scientifically proven.”

The expert said that when it comes to corporate economic rights versus basic human rights, courts ought to prioritize the latter. For her part Lamm, the Argentine judge, said that even if the IMT’s findings aren’t legally binding, “historically, these kinds of opinion tribunals are important because they put the problem in plain sight and generate major social pressure.”

### *Growing body of evidence*

In South America, the five countries that together make up the world’s leading production area for soybeans and other grains grown from genetically modified seeds—Argentina, Brazil, Bolivia, Paraguay, and Uruguay—have become a veritable field laboratory for Monsanto ([NotiSur, Nov. 22, 2013](#)).

The techniques involved in growing genetically modified organisms (GMOs), promoted by Monsanto and other transgenics producers, has led to the abusive use of glyphosate, a defoliating herbicide Monsanto manufactures under the brand name Roundup. Experts complain that there hasn’t been enough research done on GMOs and glyphosate but say the evidence that does exist points to severely negative effects on land, water supplies, and human health. In its advisory opinion, the IMT reinforced that argument by highlighting a number of examples around the world.

Citing testimony from farmers and experts, the tribunal noted that in India, the use of genetically modified cotton seeds has not—despite Monsanto’s promises to the contrary—helped growers increase their yields. Instead, the opposite has occurred, because the seeds are ill adapted to the Indian environment. Monsanto pressured farmers into using the seeds regardless, with the result that some small farmers had to abandon their fields. “And some of them had lost their livestock, which had forced them to retreat to neighboring countries,” the opinion reads.

The IMT also noted the case of honey producers in Mexico who lost access to the European market because their bees, by extracting pollen from genetically modified soy, contaminated the honey, thus making it ineligible for export ([SourceMex, Nov. 18, 2015](#)). And in Argentina, an agricultural model based on the combined use of GMOs and glyphosate is affecting the health of rural residents and creating a substantial change in soil composition, according to observers. An Argentine grower told the tribunal that, with transgenics and glyphosate, farmers don’t have to till the land as much. As a result, the earth has gotten more compact and doesn’t have the same water absorption capacity. That, in turn, has led to frequent flooding and crop loss.

### *Going after glyphosate*

The last few months have been difficult ones for the US multinational, which is being managed, as of last year, by the German corporation Bayer. On May 20-21, protesters took to the streets in hundreds of cities around to world to participate in the fifth annual “March Against Monsanto.” In all of the countries, activists turned new attention to a report issued two years ago by the International Agency for Research on Cancer (IARC) of the World Health Organization (WHO). The March 2015 report classified glyphosate as a “probable” carcinogen ([NotiSur, July 1, 2016](#)). The study said there is “limited evidence of carcinogenicity in humans for non-Hodgkin lymphoma” but “convincing evidence that glyphosate also can cause cancer in laboratory animals.”

For that reason, organizers used last month's global protests to again demand that authorities follow the "precautionary principle," meaning they should take measures against the product now and not wait until definitive proof emerges—and more people get sick. Ideally activists would like a total ban on glyphosate, something a federal prosecutor in Argentina has demanded, albeit unsuccessfully so far.

On April 25, a week after the IMT published its opinion, Colombia's highest court—the Corte Constitucional de Colombia—issued a unanimous ruling affirming that the Monsanto herbicide is dangerous in multiple ways. The constitutional court ruled that, "glyphosate is a substance that can potentially affect the environment and human health as a probable carcinogenic agent."

Starting in 1999, as part of Plan Colombia, the drug-fighting agreement it reached with the US, Colombia began using glyphosate in aerial sprayings to eradicate coca plantations ([NotiSur, Aug. 26, 2005](#)). The policy proved to be a failure, and a dangerous one at that, given evidence of the health problems it caused among rural residents. In late 2015, the aerial sprayings were suspended. Now, given the possibility that authorities will try to go back to using glyphosate, but in land spraying as opposed to aerial fumigations, the high court called on the Colombian assembly to urgently pass legislation outlawing the product.

The extensive Corte Constitucional ruling also touches on an issue uncovered by journalists with the weekly newsmagazine *Semana*, who found that in 2005, the Carijona indigenous community in the eastern department of Guaviare, in Colombia's Amazon region, "was at the point of disappearing, victims of the constant aerial sprayings of glyphosate." The ruling found the Colombian state responsible for "compromising the health, food security and the environment" of the indigenous group and ordered they be given economic reparations.

The actions "not only left the community in a position of defenselessness, with a high risk of extinction, but also violated its fundamental rights to ethnic and cultural integrity, self-determination, prior consultation, and health in connection with life and a healthy environment," the Corte Constitucional concluded.

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