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## **'ONE TREATY TO RULE THEM ALL' EMPOWERING CORPORATIONS TO HALT ENERGY TRANSITION**

In JR Tolkiens' 'The Lord of the Rings'. we read the line, *One Ring to rule them all*. The One Ring, secretly forged by Sauron in the heart of Mount Doom, had the power to . dominate the other nineteen Great Rings. It is from here that this article aptly draws its title.

### **Energy Charter Treaty (ECT)**

We believe that, if we are to overcome Climate Change, we must keep coal, oil and gas in the ground. However, the fossil fuel industry has a secret powerful weapon to keep cooking the planet. It is called the Energy Charter Treaty (ECT) and it is on the brink of massive geographical expansion into Africa, Asia and Latin America, threatening to bind more countries to corporate-friendly energy policies.

Appearing in the early 1990s, without significant public debate, the ECT acts like a secret 'one Ring to rule them all'. It grants corporations enormous powers over energy systems including the ability to sue governments, and obstruct the transition from climate-wrecking fossil fuels to renewable energy.

Today the ECT applies to 53 countries stretching from Western Europe through Central Asia to Japan and Africa. The Investor-State Dispute Settlement (ISDS) is the ECT's cornerstone. Its provisions give foreign investors sweeping rights to sue states directly in international tribunals of three arbitrators (private lawyers). No Investment Treaty anywhere in the world

has triggered more investor states lawsuits. Companies can be awarded huge sums in compensation for government actions that have allegedly damaged their investments. For example:

- there are 16 ECT lawsuits in which investors, have sued for US \$1 billion or more;
- Germany was sued for over US\$5.1 billion for its exit from nuclear power;
- the largest ever ISDS case awarded US 50 billion to Yukos Oil against Russia ;
- Rockhopper Exploration (gas and oil company) is not only claiming US\$40 – 50 billion from Italy over oil exploration rights in the Adriatic sea, but also US\$200-300 million for hypothetical lost profits because Italy banned new oil and gas projects off the coast; and
- at last official count, the ECT has triggered 134 corporate claims filed under the treaty.

Spain and Italy head the list of the most sued countries. Outstanding ECT claims have a collective value of US\$35 billion – far more than the estimated annual amount of money needed for Africa to adapt to climate change.'

### **A treaty largely unknown**

The ECT and its profiteers have largely escaped public attention. Many investor lawsuits under the treaty remain secret. In countries in the process of acceding to the

ECT, hardly anyone seems to have even heard of the agreement, let alone thoroughly examined its political, legal, and financial risks. The Corporate Europe Observatory (CEO) and other critics consider the ECT to be **the world's most dangerous investment treaty to date**.

The proponents of the ECT claim that the world needs more energy investments, but studies have found no evidence of this. They claim that it could be the key to unlocking Africa's investment potential and that the treaty boosts security of supply. There is no evidence that joining the ECT has led to a reduction in energy poverty. They claim that ECT is particularly valuable for countries that are not in the highest stage of development. To the contrary, future ECT member states risk years and years of costly lawsuits in private arbitration tribunals. Becoming a member of the ECT is unlikely to produce any benefits.. The ECT actually restricts the ability of governments to fight energy poverty and regulate energy prices; and makes it more difficult to undo failed privatizations or to expand public sector involvement.

The ECT is dominated by Western fossil fuel interests and lawyers with an interest in costly ECT lawsuits against states. It is not an appropriate forum in which to tackle questions of sustainable energy for countries

in the Global South. There are other more inclusive and truly global forums, where conversations about energy occur. One such example is the **International Renewable Energy Agency**, which has a much wider membership and is focused on supporting the roll-out of renewable energies, including facilitating investment,.

In 2020, more than 600 trade unions and environmental, health and development organizations from 93 countries called on governments to stop signing treaties with extreme investor privileges; and to end existing ones. Hundreds of economics and law professors have signed letters highlighting the problems in the system, many stating that investor-state dispute settlement is 'incompatible with international human rights law and the rule of law.'

The ECT locks countries into its provisions for decades. It undermines democracy and puts the brakes on climate action. It limits sovereignty and policy space to regulate in the public interest, including for affordable energy.

Sources: 1) 'One Treaty to Rule Them All' by Pia Eberhardt, Corporate Europe Observatory (CEO) with Cecilia Olivet and Lavinia Steinfort, Transnational Institute (TNI), 2018.  
2) 'The Energy Charter Treaty', by Pia Eberhardt, CEO and Cecilia Olivet, TNI, October 2020. Compiled by Mary Boyd.

## SITUATING OUR MISSION

### 'The strength of the excluded'

We in The Grail are encouraged to act in coalitions with other social movements. as appropriate/ These empower us to achieve important transformational goals.

Did any of us participate in *The Strength of the Excluded: World Meeting of Popular Movements* at the Vatican, October 27 – 29, 2014? Pope Francis convened this meeting with almost 100 grassroots movements and organizations from around the world. The

themes were *Land, Housing and Work*, with cross cutting themes of *Environment and Peace*. The meeting included groups of landless peasant farmers and sharecroppers, seasonal farm workers, subsistence fishers, slum dwellers, squatters, day labourers, domestic workers, junk dealers, waste pickers, urban recyclers, street and other subsistence vendors, windscreen washers, victims of trafficking, and more.

These poorest of the poor came together in the Vatican making for the most extensive lists of struggling people one could imagine. About 40 % were Catholic and the rest from a variety of faith traditions. 'No one term does justice to the amazing galaxy of initiatives involved.' Called 'popular movements' in Spanish, 'grassroots movements' in English, they may also be referred to as the 'informal economy' or 'informal sector'. The International Labour Organization (ILO) describes these groups as 'lacking formal *legal* coverage and therefore informal.' 'They are marked by 'insecurity and deprivation of rights. They are shut off from the mainstream of economic activity and are usually left out of official statistics.' To encounter them you usually have to leave the 'centre' of the economic system and go to the periphery. Pope Francis has been urging the church to go in this direction since the beginning of his ministry, and chose to invite to the Vatican these organizations of the poor and excluded workers rather than the charities and development non-government organisations (NGOs).

The objectives were :

- to give voice to those who normally are not heard;
- to accompany and encourage them in their daily efforts as protagonists of their own development, appreciating their indispensable contribution towards a society that upholds respect for the human dignity of all its members;
- to examine the models of economic development critically, on the basis of the participants' witness to the harmful consequences of the current dominant model;
- to read *Evangelii Gaudium (The Joy of the Gospel)* together as a basis for seeking inclusive alternatives;
- to promote dialogue and forms of global coordination among grassroots organizations and movements;
- to favour dialogue at the grassroots and stimulate local churches to become involved .

On the first day participants faced reality, 'ever watchful of the signs of the times'. They produced long lists of difficulties, sufferings and challenges they experienced, identifying as well deep connections and similarities. They analyzed the structural causes - the global systemic roots and the local expressions. Speakers and panellists agreed that the roots lay in the predatory nature of the capitalist system that put profit above human beings.

On the second day, after the Eucharistic celebration in St. Peter's, the participants met with Pope Francis for 'an unforgettable historical day.'. He asserted as 'evils' 'the profound injustices in our world , 'that provoke great suffering - uprooting peasants, confiscating even grabbing land, insecure access to water, hunger at the same time as food is thrown away, families without housing, unemployed youth, informal workers deprived of their rights'. They are not inevitable. They are the effect of a throw-away culture that treats human beings as consumer goods to use and then discard. This is a world that has forgotten God.

The Pope acknowledged that 'the poor not only suffer injustice, they also struggle against it'. 'Rather than passively waiting for a solution from on high, you want to be protagonists. You get organized, study, work, issue demands, and, above all, praise that very special solidarity that exists among the suffering and the poor. This generates innovative solutions that other viewpoints cannot conceive of.' Francis keeps alerting the church to these ways of the periphery, in order to re-learn the culture and values 'that have been forgotten in the rich centres.'

Essential to the struggle for justice is the culture of encounter, where nothing is destroyed, nothing is dominated, and everything is integrated Pope Francis concluded that his listeners were practising this culture, 'by accepting his invitation to meet in order to walk together' This is the path towards greater global coordination among the 'experiences of solidarity growing up from

below', However, while more coordination is good, 'it is never good to confine a movement to rigid structures. Worse to attempt to absorb, direct or dominate them. Unfettered movements have their own dynamic.

Sources: (1) Report by Michael Czerny, SJ, now Cardinal Czerny, President of the Pontific-

al Council of Justice and Peace, : and Paolo Foglizzo, Editorial Team, *Aggiornamenti Sociali*, Milan, 2015. See <http://www.jesuit.org.uk/strength—excluded—world-meeting-popular-movements-vatican>.

(2) Address of Pope Francis, World Meeting of Popular Movements, October 28, 2014. Compiled by Mary Boyd

## **.NETWORK PARTICIPANTS : Responses to Questionnaire 2020** From Jen Mitchell, Sarina, Queensland, Australia. Single farmer.

*Please list and explain briefly what you do to advance justice in the world.*

I have tried to fight injustices on a few different fronts over the years. Now I am focussed on the issues of *globalisation* and *climate change*. and am living according to what I think a new just world should be. I dream of a world where we are more equal, where peoples of the Global North work toward a simpler life style; where Global South peoples are not exploited; and all peoples work respectfully together for a healthy standard of living across the globe. What do I do? Does what I do advance justice in the world? Probably not but I am one brick in the wall.

*Climate change:* I use remote solar energy (not connected to the grid) and travel only as necessary. I try to improve my soil, which increases carbon in the soil I do this by rotating my cattle, by more diverse planting and planting trees. I grow bamboo, which produces huge amounts of organic matter, some for the soil, some for food and some for timber. Bamboo has the advantage over trees that its life does not end when the timber is harvested.

*Globalisation:* I milk my own cows. I was extremely upset watching multinational companies exploit dairy farmers until they were driven to the wall. Global big business even controls the starter cultures used to make cheeses. I have learnt how to make my own starters (which are healthier than the global ones anyway). According to a speaker at a Healthy Soils Seminar I attended, Big Agribusiness takes 97% of farm income in Canada, I'm sure it is a similar situation in other countries . Most labour-intensive agriculture in Australia is done by international backpackers or Pacific Islanders on work visas. We have become a nation who can't even harvest its own food. My response to these injustices is a subsistence lifestyle., producing for myself as much as possible,

*Do the Bulletins and Network assist you in your work?*

The Bulletins are pretty much the only current source of information on how unjust our international structures and laws are. The Bulletins inspire me to go on chipping away in my tiny corner of the world

*Any other comments?*

I could write up a list of books I have found informative and inspiring.

[Jen's booklist is attached with the emailed Bulletin, or enclosed with the hard copy of the Bulletin.]

**Contributions to Bulletin and responses to its content are welcomed.**

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The Bulletin is currently produced by two networks: *Justice and Trade Agreements* and *Human Trafficking*.

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