

October 2016

Dr Gwynn MacCarrick amicus curiae to the International Monsanto Tribunal on the question of Ecocide



International Monsanto Tribunal In The Hague - October 2016

PRAYERS TO THE TRIBUNAL – TERMS OF REFERENCE 6

INTERNATIONAL MONSANTO TRIBUNAL, HAGUE - OCTOBER 2016

PRAYERS TO THE TRIBUNAL

The Plaintiffs calls upon the Tribunal to speak on behalf of all humanity. Civil society, jurists, scientists, United Nations agencies, individual citizens and nation states, cognisant of the environmental degradation of their territories, combine to express a groundswell of support for the urgent creation of a normative threshold regarding environmental violence.

In this context;

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The Plaintiffs seeks: A statement that confirms the emerging environmental legal norms relating to the legal protection of the Environment. This will entail the enunciation of new laws in addition to clarifying existing law.

The Plaintiffs seeks: A statement that existing customary international law, as provided for in treaties, state practices, decided case law, have risen to such an extent as to recognise Ecocide as a *jus cogens* crime.

The Plaintiff seeks: A positive statement with regard to the inclusion of the crime of Ecocide into the *Rome Statute* and a recognition that it is now a *jus cogens* crime.

The plaintiffs seeks: A declaration that recognises the need for restorative justice and equitable remedies for victims that have suffered harm associated with and/or directly caused by the Defendant Monsanto's conduct including, but not limited to;

- (a) Manufacture, provision and prolonged exposure to, the aerial spraying of Agent Orange defoliant laced with dioxins used by the US Government in military operations in the territories of Vietnam, Cambodia and Laos.
- (b) Manufacture and supply and aerial application of concentrated mixes of glyphosate herbicide used by the US and Colombian Government in the war on drugs via Plan Colombia
- (c) industrial scale use of agrochemicals in agriculture and associated environmental and human health risks
- (d) engineering and introduction and release of transgenic crops and associated environmental and human health risks

- (e) contamination of genetic plant diversity and associated environmental and human health risks
- (f) introduction of a persistent organic pollutant PCB into the environment and associated environmental and human health risks

The plaintiffs seeks: A positive finding that Monsanto committed Ecocide by aiding and abetting the US and Colombian governments in implementing Plan Colombia, which caused significant and durable harm to the ecosystem/s (or ecosystem services) of areas effected by aerial spraying, thereby undermining, or creating an increased risk of undermining, the continuing survival or wellbeing of the populations so effected.

The plaintiffs seeks: A positive finding that Monsanto committed Ecocide by aiding and abetting the US military in implementing a prolonged aerial spraying campaign of the territories of South Vietnam, Cambodia and Laos with a chemical defoliant known as Agent Orange laced with dioxins, during the Vietnam war (1961-71) which caused significant and durable harm to the ecosystem/s (or ecosystem services) of areas directly and indirectly effected by aerial spraying , thereby undermining, or creating an increased risk of undermining, the continuing survival or wellbeing of the population/s so effected.

The plaintiffs seeks: A positive finding that Monsanto committed Ecocide by engineering, introducing and releasing genetically modified seeds that have resulted in the contamination of GM-free genes and a loss of ecosystem biodiversity, thereby causing significant and durable harm to the ecosystem/s (or ecosystem services) undermining, or creating an increased risk of undermining, the continuing survival or wellbeing of the population/s reliant upon

The plaintiffs seeks: A positive finding that Monsanto has committed, and continues to commit, an act of Ecocide by promoting an industrial model of agriculture that necessitates the pervasive use of the herbicide Glyphosate with uncertain ecological and human health impact, in direct violation of its international obligation to take precaution.

The plaintiffs seeks: A positive finding that Monsanto committed Ecocide by causing the manufacture, introduction and release of a persistent organic pollutant PCB which caused, and continues to cause, significant and durable harm to the ecosystem/s (or ecosystem services) of areas directly or indirectly effected by the pollutant, thereby undermining, or creating an increased risk of undermining, the continuing survival or wellbeing of the population/s so effected.

The Plaintiff also seeks: A statement calling for the need to clarify, disseminate, implement, and enforce international law, as it relates to the

protection of the global commons and earth resources of common interest and concern vital to the survival of human populations.

The Plaintiff seeks: A statement with regard to the need for international cooperation on the issue of; recognising, defining and including the crime of Ecocide and providing for international enforcement machinery under the existing international criminal law framework.

Plaintiff also seeks: A statement recognising the need for an international mechanism for monitoring, lending support for the UNEP recommendation that '[a] permanent UN body to monitor violations and address compensation for environmental damage [...] be considered'.

Plaintiff also seeks: A statement recognising the novel form of criminal liability that attached to natural and fictitious persons under international law.

The Plaintiff seeks: A statement recognising the need to address the accountability and governance gaps in current international environment law and the need for a separate international convention for Ecocide with its own secretariat, enforced either under the Rome Statute and its existing framework or by its own court.

The Plaintiff seeks: A statement recognising the merits of broadening the application and utilisation of the Common Heritage of Mankind principle to protect ecosystems and ecosystem services relied upon for human well-being and survival.

Plaintiff seeks: An endorsement of the work of lead environmental organisations such as the International Law Commission (ILC), UNEP, and End Ecocide on Earth Campaign (EEE).