



**MADGE**  
Australia Inc.

**For Immediate Release 19th April 2017**

Companies must be held accountable for human rights abuses Monsanto Tribunal judges stated in their legal opinion, released last night. "Radical advancements" in the rights of companies granted by the WTO, trade treaties, investment law and Investor State Dispute Settlements (ISDS) clauses mean people's fundamental rights to food, health, a safe environment and freedom of expression are effectively being ignored. Companies can sue governments but, as non-state actors, are not directly required to uphold human rights, which are voluntary and unenforceable.

The Monsanto Tribunal judges heard the testimony of twenty eight witnesses from around the world in October 2016. For decades Monsanto has manufactured and promoted the use of dangerous substances including PCBs, Agent Orange, GM crops and glyphosate-based-herbicides like Roundup. Monsanto's chemicals have resulted in the mass poisoning of people and communities. Its aggressive promotion of GM seeds and the use of patents has denied farmers access to seed, interfered with the ability of people to feed themselves, threatened biodiversity and undermined food sovereignty.

GM crops have vastly increased the use of Roundup, which the WHO's International Agency for Research on Cancer found to be a probable carcinogen in March 2015. The Tribunal was extremely concerned about the corporate capture of science and the intimidation of scientists. They noted a current court case in the US last month revealed allegations that Monsanto manipulated science and regulators to retain approval for Roundup. Freedom of information and science are basic to the ability of people and communities to know what they are exposed to and how to protect themselves. Monsanto's bullying tactics, as exposed by scientist witnesses, put this at risk. Roundup has been found in food, water, air and the bodily fluids of most people tested. Its use has rapidly increased and it is likely that a huge proportion of the world's population is exposed to this chemical making this a global human health and rights concern.

The Tribunal's judges strongly encouraged legal and civil society to use the Advisory Opinion to advance international law to put human rights above corporate rights. Just as the Nuremberg Trials were created to bring war criminals to justice, International law needs to be expanded to make corporations like Monsanto accountable for their actions. The Tribunal recommended that the crime of Ecocide be added as the fifth Crime Against Peace in the Rome Statute of the International Criminal Court.

For Comment contact:  
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## **Overview of the Monsanto Tribunal:**

### **Why?**

It was created by civil society as current laws are unable to hold companies like Monsanto to account, especially since the vast increase in their power due to changes in trade and investment law.

### **Judges:**

Françoise Tulkens, Belgium, President of the Monsanto Tribunal. From November 1998 to September 2012, she was a Judge in the European Court of Human Rights, serving as section president from January 2007 and as vice-president of the court from February 2011. In September 2012, she was appointed to the United Nations Human Rights Advisory Panel for Kosovo. Since June 2013 she is a member of the Scientific Committee of the European Union Fundamental Rights Agency (FRA), of which she is currently the vice-chair.

Dior Fall Sow, Senegal, is a consultant to the International Criminal Court, a former Advocate General at the International Criminal Tribunal for Rwanda, and founding member and honorary chairwoman of the Senegalese Lawyers Association (AJS).

Jorge Fernández Souza, Mexico, is currently Judge at the Court of Administrative Litigation of Mexico City.

Eleonora Lamm, Argentina, is the Human Rights Director for the Supreme Court of Justice of Mendoza. She has been officially appointed by the President of the Argentinean Supreme Court to participate in the commission created by Law Decree 191/2011 to reform and update the Civil and Commercial Code of Argentina.

Steven Shrybman, Canada, is a partner in the law firm of Goldblatt Partners LLP and practices international trade and public interest law in Toronto and Ottawa.

## **The Terms of Reference:**

**Question 1:** Did the firm Monsanto violate, by its activities, the right to a safe, clean, healthy and sustainable environment, as recognized in international human rights law (Res. 25/21 of the Human Rights Council, of 15 April 2014), taking into account the responsibilities imposed on corporations by the Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in Resolution 17/4 of 16 June 2011?

**Question 2:** Did the firm Monsanto violate, by its activities, the right to food, as recognized in Article 11 of the International Covenant on Economic, Social and Cultural Rights, in Articles 24.2(c) and (e) and 27.3 of the Convention on the Rights of the Child, and in Articles 25(f) and 28.1 of the Convention on the Elimination of All Forms of Discrimination against Women, taking into account the responsibilities imposed on corporations by the Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in Resolution 17/4 of 16 June 2011?

**Question 3:** Did the firm Monsanto violate, by its activities, the right to the highest attainable standard of health, as recognized in Article 12 of the International Covenant on Economic, Social and Cultural Rights, or the right of child to the enjoyment of the highest attainable standard of

health, as recognized by Article 24 of the Convention on the Rights of the Child, taking into account the responsibilities imposed on corporations by the Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in Resolution 17/4 of 16 June 2011?

**Question 4:** Did the firm Monsanto violate the freedom indispensable for scientific research, as guaranteed by Article 15(3) of the International Covenant on Economic, Social and Cultural Rights, as well as the freedoms of thought and expression guaranteed in Article 19 of the International Covenant on Civil and Political Rights, taking into account the responsibilities imposed on corporations by the Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in Resolution 17/4 of 16 June 2011?

**Question 5:** Is the firm Monsanto complicit in the commission of a war crime, as defined in Article 8(2) of the Statute of the International Criminal Court, by providing materials to the United States Army in the context of operation "Ranch Hand" launched in Viet Nam in 1962?

**Question 6:** Could the past and present activities of Monsanto constitute a crime of ecocide, understood as 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?