

How ruthless drug companies carry out clinical trials in India

An encouraging development: there is a growing number of judgments being handed down by courts in the Global South on damage caused by the corporate activities of European and North American companies, from human rights violations to pollution. Predictably, this development has not been so warmly welcomed by the companies involved or by the states where these firms are based. Perhaps the most extreme example is the decision from the Supreme Court in Quito, Ecuador, ordering US oil firm Chevron to pay €9.5 million in compensation after an environmental disaster in the Amazon region. A US court is refusing to enforce the judgment, claiming that the Ecuadorian judges' decision was influenced by bribery. It doesn't come as a great surprise that these cries of corruption and concern for the rule of law are only expressed by states following decisions by foreign courts that are damaging to the business interests of the former.

This is the very essence of colonialism.

But even well-intentioned lawyers and human rights organizations in the West need to be cautious: whether it's the Pinochet case or US compensation suits, we are often too quick to decide that the solution to human rights problems can be found in our courtrooms, that these (far from perfect) legal proceedings are the only way to determine the difference between justice and injustice.

We would do well to pay more attention to the example set by the Supreme Courts in India and South Africa. Time and again, they actively engage with the fundamental and often existential problems facing their societies. They have taken the initiative in a number of cases and have in the past defined the right to food and the right to access to water.

This week, lawyers in Delhi are attending a hearing on the widespread violations of the rights of girls and young women committed in the course of clinical drug trials. Over the last few years Der Spiegel has run a hard-hitting series of articles detailing the clinical trials carried out in India that have caused hundreds of deaths. Many western pharmaceutical firms outsource their obligatory drug trials to India, where testing is cheaper and less stringently controlled. The current legal proceedings concern the vaccinations administered against the human papillomavirus, which can cause cervical cancer, to 24,000 girls in the Indian states of Gujarat and Andhra Pradesh. A governmental inquiry committee found a number of irregularities with the trials, including the fact that the young women were not adequately informed about and did not give adequate consent to the trials. Part of the girls, aged between 10 and 14, came from indigenous groups and spoke indigenous languages. There was a failure to provide the girls and their parents with comprehensive information in their native language and at a level appropriate to their level of education. In a number of cases school directors gave consent on behalf of their pupils.

This case, on the face of it, is about breaches of the state's obligations to protect its people. But for the Human Rights Law Network (HRLN) in New Delhi there are other important aspects to this case: they want to see further investigations into the liability of the pharmaceutical companies that profit from these trials; the resources for the mass immunization were provided by the Bill & Melinda Gates Foundation, the vaccines came from pharmacy giants GlaxoSmithKline and Merck. At the request of the HRLN, ECCHR has submitted a brief to the court in this case. Our aim is to provide legal support in the Indian proceedings to those affected by the drug trials, but also to pave the way for future suits in the countries where these firms are based. Administering a vaccination with controversial health effects without adequate patient consent amounts to bodily harm. Western drug companies freely concede this to us – so why won't they concede it to the people of India?