

CIADI/Telecom Italia: i hands off Bolivia!

“Some multinational companies take over our natural resources, privatize basic services, fail to pay taxes and then, when they have no arguments in their defense, they go to the so-called ICSID. And then, in that World Bank tribunal, no country wins against the multinationals. So why do we need an ICSID where only the multinational companies can win?” – President Evo Morales of Bolivia

Page 1: Another World Bank/Multinational Attack on Bolivia – Stop ICISD and Telecom Italia

Once again, Bolivia is under attack by multinationals and the World Bank. In 2000, the people of Cochabamba, Bolivia took back their water system after it was privatized to US based Bechtel Corporation, and prices were hiked up to 300%. Bechtel struck back, suing Bolivia through the World Bank’s International Centre for Settlement of Investment Disputes, or ICSID. But pressure from citizens and social organizations around the world succeeded in forcing Bechtel to back off – and the suit was finally dropped.

Now, Telecom Italia – one of the world’s largest telecom operators and the dominant telephone company in Bolivia – has followed suit. The public phone company in Bolivia, ENTEL, was taken over by the Italian company in 1995.

When Bolivia suggested that Telecom Italia has provided faulty service, has not reinvested profits from Bolivia to benefit Bolivians, and then set up a commission to explore recovering control of the once-public company, Telecom went to the World Bank to sue Bolivia. At ICSID Telecom is claiming Bolivia has “destroyed” it’s investment – even though the company continues to operate and make money.

Bolivia, having learned from it’s lessons from Cochabamba, pulled out of ICSID on May 2, 2007. Yet the World Bank’s ICSID still admitted the case on October 31st

After decades of privatizations and corporate privilege, Bolivia is saying “enough” – enough corporate profit before public service, enough World Bank providing private “justice” for multinationals, at the expense of countries like Bolivia.

Bolivia needs your help. Learn about the case, and fight back:

1. Learn more about the Telecom case at ICISD, and how international law and the World Bank/ICSID give corporations “super powers” that can trump people’s rights and development, and why Bolivia left ICSID.

2. Join in calling on ICISD and Telecom Italia to back off

Page 2: The case in Brief: ICISDI and Telecom Italia against Bolivia

On 12 October 2007, Euro Telecom International (ETI), a wholly owned subsidiary of Telecom Italia S.p.A. and controlled by Italian and Spanish capital, initiated legal action against Bolivia. ETI charges that the Bolivian Government's attempts review past performance and initiate negotiations for increased control over the country's primary telecommunications company had "destroyed" their investments - a patently exaggerated claim, as the company continues to operate and generate profits.

Telecom Italia/ETI initiated the process through an international arbitration panel, the International Centre for Settlement of Investment Disputes (ICSID), a controversial World Bank institution that provides multinational companies extraordinary powers to sue and constrains countries that pursue reform. Telecom Italia/ETI filed its case *after* Bolivia withdrew consent to have cases tried under ICSID jurisdiction on May 2nd, 2007 - yet ICSID has accepted the case anyway.

The case clearly highlights the international legal framework that has consolidated the rights of multinationals' over the rights of citizens, indigenous peoples, developing countries and the environment, and undermines sovereignty and democracy by making responses to popular demands for economic and social change an actionable offense.

Page 3: What Telecom Italia says .. and What's Real

What Telecom will say...	What's real...
Telecom Italia has invested millions in Bolivia and benefitted the country.	Telecom did invest millions, and coverage did increase. However, on balance performance has been at best average for a multinational; there have been many deficiencies in service; and vast amounts of capital have been taken out of the instead of being reinvested in an impoverished country still woefully under served.
Telecom Italia has been unfairly pressured by regulators.	Regulators before and since the election of Evo Morales have called attention to service failures and insufficiencies. It is he Government's obligation to regulate in the public interest.
Telecom Italia had the right to pull millions out of Bolivia	Telecom Italia waited for years to make it's move. Finally, under a lame duck, transitional government, secured highly questionable measures certifying their investments and giving a green light to capital draw-downs. Bolivia has legitimately questioned and legally back the measures of past governments. More importantly, Bolivia has denounced using a captive impoverishes population to milk profits for export.
Telecom Italia is a good company that has done wonders for Bolivia.	Telecom Italia is accused of all manner of foul play and dirty tricks. Today, Telecom Italia faces charges of espionage. Even forming a new board has proven comically complicated.
Bolivia is forcing private foreign investment out.	After more than 2 decades of free reign and great run, investors in Bolivia face a government determined to ensure that investment also benefits a majority impoverished and indigenous citizenry. This means, in the words of President Morales, that companies must be "partners, not bosses". Over 40 contracts were successfully renegotiated with multinational gas and oil companies, to strike this new balance - and none left.

Page 4: Background on the Case

What's the Case About?

Summary

On 12 October 2007, Euro Telecom International (ETI), a wholly owned subsidiary of Telecom Italia S.p.A. and controlled by Italian and Spanish capital, initiated legal action against Bolivia. Telecom Italia/ETI charges that the Bolivian Government's attempts to review past performance and initiate negotiations for increased control over the country's primary telecommunications company had "destroyed" their investments – a patently exaggerated claim, as the company continues to operate and generate profits.

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Context: Privatization, Bolivian style

In 1985, Bolivia became the poster child for economic shock treatment: a population traumatized by instability and hyperinflation was subjected to sweeping neoliberal reforms. Ten years later, a second generation of reforms was launched, to privatize public industries, placing key sectors of the economy under the control of foreign companies.

Supported by millions of dollars in World Bank loans and technical assistance, supporters of the privatizations – in particular then president Gonzalo Sanchez de Lozada – promised privatization would generate economic growth to replace lost state revenues, create jobs, and contribute to robust pension funds and capital markets. None of the promises were fulfilled: the economy languished, job growth stagnated, pensions entered a critical crisis, and state revenues fell. Subsequently, IMF requirements to cut deficits, largely provoked by the privatizations, led to rioting and over 30 deaths in February 2003.

Among the privatized industries was the public phone company, ENTEL. Along with the public gas and oil company YPF, ENTEL had been a major contributor to state revenues, and was one of the best managed and second most profitable of the state industries. STET of Italy, later absorbed by Telecom Italia in 1997, secured a controlling interest with 50% of the shares of ENTEL. Telecom Italia manages ENTEL through a series of shell companies based in the Netherlands; direct management in Bolivia operates through Euro Telecom International N.V. (“ETI”).

Telecom Italia/ETI invested in ENTEL and enjoyed revenues that grew at double digits, though reported profits – the basis of the company’s contribution to state revenues and pension plans – remained modest. Telecom Italia benefited from the effective monopoly that the previous state company had, controlling 80% of long distance calls and 70% of the mobile phone market.

The contribution of this privatization to Bolivian development is, however, uncertain and highly debatable. Telecom Italia’s strategy seems to have been to invest just enough to consolidate ENTEL as the dominant player in Bolivian markets, and a revenue generator for Telecom Italia/ETI. Efforts then shifted to extracting profits from Bolivia. The company was accused of moving resources out of ENTEL and transferring them to wholly owned subsidiaries outside of Bolivia, a practice Bolivia had no ability to challenge.¹

By law, the company was prohibited from shifting resources out of Bolivia until it had fulfilled its investment obligations under the 1995 privatization contract. In May of 2005, the transitory government of President Carlos Mesa made a widely questioned move, giving his Minister of the Economic Development powers to certify that Telecom Italia had fulfilled its investment responsibilities to Bolivia under the privatization agreements – granting regulatory powers to the executive branch. Mesa was replaced on June 9, 2007 by another transitory president, Eduardo Rodriguez. On August 12th, 2005, President Rodriguez’s Minister of Economic Development, Carlos Diaz, proceeded to “certify” that Telecom Italia/ETI had met its obligations, thus giving the company a free hand to shift resources out of the country. A legal challenge to the certification was taken all the way to the Constitutional Tribunal, which decided the measure was constitutional – just hours before newly elected President Evo Morales was sworn in.

With this 11th hour, and highly questionable, “green light” in hand, the company promptly drew down capital, paying out hundreds of millions to its owners overseas – while in Bolivia telecommunications and information services were and are still woefully insufficient. The privatization was touted as “capitalization” in 1995; by 2005 it had turned into a “decapitalization”. While in some measure less

¹ Just over 47% of shares were ostensibly in the hands of Bolivians, held and managed by multinational Pension Fund Agents (AFPs) from Spain and Argentina. The AFPs had a minority of seats on the board of ENTEL, but little in the way of oversight powers, and quite removed from, and unaccountable to, the Bolivian population.

disastrous than privatizations carried out in other sectors (such as aviation, gas and oil, and water), it was clearly not a “capitalization” of an industry, nor a contribution to development in Bolivia, which to this day remains one of the hemisphere’s most impoverished countries, and where many citizens still lack access to telecommunications.

Telecom Italia sues Bolivia: the issues

On 12 October 2007, Telecom Italia, through its shell company Euro Telecom International N.V. based in Holland, submitted a request for arbitration at the International Center for the Settlement of Investment Disputes (ICSID), a branch of the World Bank, claiming a violation of their rights under the Bolivia-Holland Bilateral Investment Treaty (BIT).

ICSID provides a forum for “settling” such disputes – often with disastrous effects for developing countries, and fairness in international law. Using bodies like ICSID, and Bilateral Investment Treaties (BITs) or investment chapters in multilateral agreement like NAFTA or the Energy Charter Treaty, multinational corporations can file charges against governments and secure huge awards on sensitive public policy matters such as management of water systems (as in Bolivia or Tanzania); refusal of permits to dispose of toxic waste (as in Mexico), respect for indigenous lands (as in the US and Guatemala), or emergency measures to confront crisis (as in Argentina’s response to the economic and fiscal crisis of 2001). In ICSID and under the BITs, the rights of international investors trump the rights of affected nations. International laws on human and indigenous rights, as well as the right to development, are systematically excluded, while the rights of investors are expanded to the extreme, limited only by the imagination of highly paid corporate lawyers.

What is ETI’s claim against Bolivia?

In 2006, Evo Morales, an Aymara farmer and union leader became Bolivia’s first indigenous president, elected by an unprecedented majority to carry out political program that, responding to popular demands, called for recovering control over state industries for the benefit of Bolivia’s impoverished indigenous majority.

In 2006, the Morales government reviewed the Telecom Italia/ETI privatization case, observing various non-compliances with regulations and indicating that taxes were owed on the capital draw-down transaction noted above. In March and April 2007, the Morales government issued three executive orders: one created a commission to study and recommend proposals for recovering ENTEL for the public interest; another shifted management of ENTEL shares held in the name of adult Bolivians from foreign pension fund managers to public management in Bolivia; and one rolled back a previous decree that led to the questionable certification of ENTEL’s investments in Bolivia. All were constitutionally sanctioned public actions, before which investors have effective local regulatory and legal remedies.

Telecom Italia/ETI, however, preferred to use ICSID – the preferred “playing field” of the multinationals and their corporate lawyers. In their October 12, 2007, letter, Telecom Italia/ETI claimed that Bolivia’s actions had “destroyed the value” of its investment. The charges are unfounded: to this day ENTEL continues operating, aggressively advertising, establishing products and services, generating revenue, and drawing profits via its dominant position in wireless and other telecom markets in Bolivia – hardly a “destroyed” investment.

So, what is at issue? Some suggest Telecom Italia/ETI wants out of Bolivia for more lucrative markets elsewhere, and is using ICSID to leave with as much money as possible – resources that are vital for telecom development in Bolivia. At ICSID, Telecom Italia/ETI can sue not only for alleged damages, but for lost “*future*” profits, which could mean a charge of hundreds of millions of dollars to the hemisphere’s most impoverished country.

In Bolivia, for the first time there is a democratically-elected government willing and able to examine how privatized operations have been managed, and make necessary adjustments that defend and promote the public interest. This is what President Morales means by seeking “partners but not bosses” in relations with foreign companies. Part of establishing relations between “partners” means re-establishing necessary balances – in this case, ensuring that resources generated in Bolivia are directed toward Bolivian development goals.

This is why on May 2, 2007, Bolivia announced its considered and legal withdrawal from the ICSID Convention, and is carefully reviewing its investment treaties with various countries. With denunciation of the ICSID Convention, for administrative purposes Bolivia remained a member of ICSID until November 3, 2007. However, drafters of the ICSID Convention and other legal experts have unequivocally stated that Bolivia’s *consent* to arbitration – absolutely necessary to establish ICSID jurisdiction over a case – ended May 2nd, when Bolivia quit ICSID. This is common sense: from the moment Bolivia withdrew from the treaty, it was clearly and legally saying “enough”. It is important to note that while Bolivia has clearly quit ICSID, it still offers national and international legal remedies to investors.

Nonetheless, in a desperate last minute move, ETI requested arbitration on 12 October 2007 under the Bilateral Investment Treaty between Holland and Bolivia, and ICSID accepted. On October 31, 2007, the case was formally registered by Ana Palacios, Secretary General of ICSID and previous Spanish Minister for Foreign Affairs under Aznar’s government, despite the fact that Bolivia had denounced the Convention, and thus left the case clearly outside the jurisdiction of ICSID, months earlier.

In summary, the “dispute” consists of series of false or exaggerated charges, for which there are administrative and legal remedies available in Bolivia. Telecom Italia/ETI wants out, and with millions in hand. To get it, they have sought an

international “facility” that is, in effect, the preferred tool of investors. And the World Bank/ICSID is happy to oblige.

Page 3: The Companies

What are the Companies involved?

Telecom Italia and its wholly owned subsidiary are the key companies involved, as well as Telefonica of Spain, as a new and key player in Telefonica Italia.

Who controls ETI/Euro Telecom International N.V?

Today, Euro Telecom International N.V., is in name Dutch but in reality controlled by Italian and Spanish capital. The shell company based in Holland ("ETI") holds a controlling 50% of ENTEL shares; ETI in turn is wholly owned by another Dutch company, International Communication Holding (ICH) N.V. ICH is in turn 100% owned by Telecom Italia International N.V., also a Dutch company, in turn owned 100% by Telecom Italia S.p.A., an Italian company. The details:

Telecom Italia S.p.A.

Piazza degli Affari 2
20123 Milan, Italy

... owns 100% of ...

Telecom Italia International N.V.

Strawinskylaan 1627
1077XX Amsterdam
KvK nummer: 33254142 0000

... owns 100% of ...

International Communication Holding (ICH) N.V.

Strawinskylaan 1627
1077XX Amsterdam
KvK nummer: 33281086 0000

... owns 100% of ...

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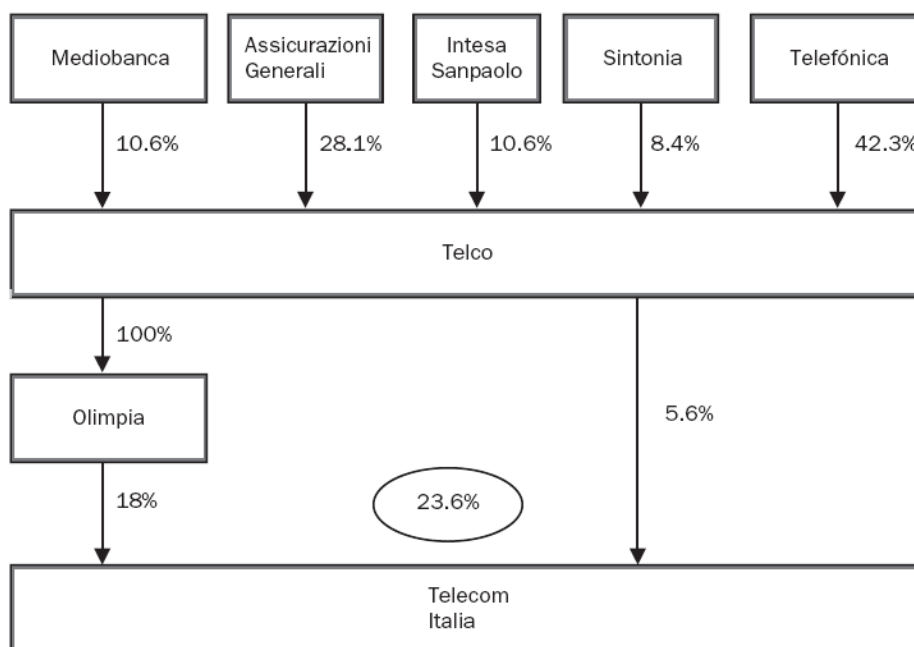
... owns 50% of and has management control over ENTEL S.A. in Bolivia

Who controls Telecom Italia S.p.A?

Telecom Italia S.p.A. is going through changes in effective ownership. A proposal from April 2007 that would see Telefonica of Spain secure management control – or at least real power within Telecom Italia – was finally put into practice in October 2007, after Anatel, the Brazilian telecom regulators, approved the deal. Today, Telecom Italia and Telefonica of Spain compete in the Brazilian and Argentinean markets, thus raising serious anti-trust issues in those two countries.

While details of the deal are pending, if the deal goes through as planned, Telecom Italia – and thus ENTEL in Bolivia – will be controlled by a new company, Telco S.p.A. With 23.6% of shares in Telecom Italia S.p.A., Telco S.p.A. would effectively hold managerial control. Within Telco S.p.A., the largest share holder with effective managerial control would be Telefonica of Spain; the other four minority investors are Italian (Assicurazioni Generali S.p.A., Intesa Sanpaolo S.p.A., Mediobanca S.p.A., and Sintonia S.A.). Telco's shares in Telecom Italia are comprised of direct shares brought by investors, and 100% ownership of Olimpia, which holds 18% of Telecom Italia. The result would look like this:²

Ownership of Telecom Italia, S.p.A. - work in process



² United States Securities and Exchange Commission, Form 20-F, Annual Report Pursuant to Section 13 Or 15(D) Of The Securities Exchange Act Of 1934, for the fiscal year ended: December 31, 2006. Commission file number: 1-13882, Telecom Italia S.p.A., page 186.

Page 4: The “Court” - ICSID

The International Centre for Settlement of Investment Disputes (ICSID) is an international arbitration body created in 1965, based in Washington, DC. It is one of the five institutions which make up the World Bank Group, and serves as a mechanism for multinational companies to file charges against states that allegedly take measures affecting their investments.

The power of multinationals has grown dramatically in recent decades, particularly in developing nations. This increasing power rests on three pillars: *structural adjustment*, *investment agreements*, and *arbitration*.

- *Structural adjustment programs* imposed by international financial institutions like the World Bank forced governments to privatize their national industries and establish new rules facilitating introduction of foreign investment in national economies. This ushered in waves of multinational takeovers of key industries, led to mergers and consolidation under multinational control, and resulted in a loss of national regulatory capacity.
- Rules for foreign investment and for multinational activities are codified in *investment agreements* such as Bilateral Investment Treaties (BITs) and Free Trade Treaties (FTAs). These agreements grant international investors and multinational companies rights greater to and above those enjoyed by citizens and local businesses, and gives them real power to threaten, challenge and reverse public policy measures.
- Finally, multinational power is consolidated by *international arbitration tribunals* like ICSID. These tribunals, like “courts”, are where companies can file charges and secure awards against states if states take measures which may affect their business.

When a foreign company feels that its investments are being affected by a policy or measure a government has taken, they can take the case to ICSID.

ICSID is essentially a mechanism used by transnationals to discipline states. In these cases, private companies use ICSID as a defensive weapon against states seeking to defend or promote the public interest, as with Guatemala’s attempts to protect indigenous lands, or Bolivia’s own struggle to provide access to water for its citizens. ICSID is also a key piece of the companies’ offensive strategy to intimidate governments, so that they don’t even attempt to introduce reforms that could put national interests ahead of a private company’s.

And today, with the growth of multinational power along with the multiplications of Bilateral Investment Agreements (from 385 multinationals in 1989, today there are

more than 2,500), ICSID has become the multinationals' preferred instrument for international arbitration.

ICSID is legally, economically, and socially unsustainable. Together with structural adjustment and agreements written to benefit multinationals, ICSID threatens the sovereignty of nations by allowing companies to threaten legal action against state policies and to block efforts to construct more just economic models.

Who controls ICSID?

In theory, the "Governors" of the World Bank control ICSID; in fact, President of the World Bank and the Secretary General of ICISD hold key powers.

"Governors" are representative of the owners of the World Bank, usually Ministers of Finance or Development of the governments of countries that own shares in and thus are members of the World Bank. The Board of Governor's deal with ICISD usually just once per year for perhaps 15 minutes at their annual meeting. Many Governor's comment that the when ICSID is discussed at the annual Governor's meetings, they go for coffee or to the bathroom.

In reality, ICISD is run by the Secretary General of ICSID, who is also the World Bank's general counsel, and essentially selected by the World Bank President. While the Secretary General makes huge efforts to insist that the job is really "just secretarial", in fact s/he makes crucial substantive decisions - with little or no oversight.

The Secretary General alone screens cases, determining if they are, or are not, "manifestly" within the jurisdiction of the Centre. The Secretary General also plays a key role in facilitating the process of appointing the third arbitrator where there is no agreement between arbitrators chosen by the contending parties. She or he will also play a decisive role when the independence of an arbitrator is questioned. While the decision to challenge an arbitrator lies with the World Bank President, he³ will rely heavily on the Secretary General's input in making the decision. Finally, by controlling procedures of the cases, the Secretary General plays a large role in achieving consistency - or not, as many critics of ICSID note.

The expenses of the ICSID Secretariat are financed out of the Bank's budget. However, cases are "pay as you go", with companies and countries paying expenses to the Centre.

The President of the World Bank, Robert Zoellick, plays a special role at ICSID. He chairs the Administrative Council, but more importantly, he is the "tie breaker" in the constitution of arbitral panels - the judges and juries of this court. When arbitration tribunal members - one selected by the corporation filing charges, the

³ World Bank Presidents, "by tradition", have only ever been men from the US.

other by the country defending itself – cannot agree on the third arbitrator, the World Bank President makes the designation.

Page 5: Why Bolivia quit the “Court” - ICSID

Bolivia welcomes foreign investment under the ethical principle that sovereign nations require “partners and not bosses”. However, the three instruments of multinational power – structural adjustment, the BITs and arbitration – invariably put foreign investment in the position of boss. This is unacceptable for a sovereign nation.

On April 29, 2007 – at the Summit of the Bolivarian Alternative for the Peoples of Latin America and the Caribbean (*Alternativa Bolivariana para los Pueblos de América Latina y el Caribe*, ALBA-TCP) – President Evo Morales announced that Bolivia had decided to withdraw from the International Centre for the Settlement of Investment Disputes (ICSID), an international arbitration tribunal which is part of the World Bank. The decision was shared by the governments of Venezuela and Nicaragua, and the Bolivian initiative was converted into a joint declaration in opposition to the ICSID.

Bolivia followed through by officially denouncing the ICSID convention of 1965, becoming the first country to withdraw. What were the reasons?

1. Because ICSID is unjust

ICSID is an unbalanced arbitration tribunal that allows multinationals to file charges against governments yet does not permit governments to effectively take action against multinationals. This was, of course, the intention of establishing ICSID: to allow multinationals to bypass local jurisdictions, and take their cases to friendlier supranational “courts” of their own creation. Of the 232 cases presented to ICSID, all have been cases of multinationals against governments.

In addition, this tribunal admits practices inadmissible in national systems. Jurisdiction is established inconsistently; applicable law is selected at will, effectively excluding human rights, labor and environmental law; countries can be sued and judged twice or more times for the essentially the same case.

2. Because ICSID is anti-democratic

Through ICSID, the multinationals can file charges against governments on sensitive matters of state such as management of water systems (as in Bolivia or Tanzania); respect for indigenous lands (as in the US and Guatemala), or emergency measures to confront crisis (as in Argentina’s response to the economic and fiscal crisis of 2001). Nevertheless, affected social groups – water users, indigenous peoples, citizens at large – are excluded or limited to symbolic appeals that the courts can accept or reject at will. Further, there is no effective process to challenge or appeal ICSID decisions. And although they affect peoples’ lives, all the ICSID trials are carried out behind closed doors. Out of 110 cases resolved by the ICSID, only two

included public hearings, and only four allowed interested parties to present letters for consideration by the tribunal.

3. Because ICSID is expensive

In the ICSID justice is a commodity – and you get what you can pay for. ICSID itself is very expensive, and the international lawyers needed to play the system charge up to US\$800 per hour. For companies, the costs are often marginal, while for countries they can be simply impossible. The revenues of the suing companies are often greater than the GNP of defendant countries. For example, the Aguas del Tunari/Bechtel reported revenues three times greater than Bolivia’s GNP at the time it filed suit against Bolivia at ICSID. Shell, which filed charges against Nicaragua, had revenues 62 times the GNP of that country. The average budget for a minor case which includes the fees of one and a half arbitrators, plus lawyers, experts and travel is about three million dollars. As is the case with Bolivia, developing countries simply do not have sufficient resources to meet costs of arbitration in ICSID. Justice so priced is justice denied.

4. Because ICSID attacks public budgets

ICSID allows multinationals to secure millions in awards. Often, real investment is minimal, and compensation is “lost” future earnings. For example, after investing at most one million dollars in improving local water systems, Aguas del Tunari/Bechtel Company filed charges against Bolivia for a sum of up to 100 million dollars for its supposed lost “future earnings”. Despite this, multinationals generally obtain compensation: 36% of the ICSID cases end with a decision in favour of the multinationals. In another 34% of the cases, the cases were suspended but multinationals were compensated by governments. The remaining 30% of cases are ended for diverse reasons – but in 2/3 or cases, the multinationals secured rewards for their legal efforts. Where governments have not lost (a government, by definition, never wins) redress and compensation for wasted time, resources and policy momentum is not possible.

5. Because there is a conflict of interest

The World Bank is both judge and party to the ICSID processes. The World Bank includes entities (the IBRD and IDA) which have been active in providing conditioned loans to impose structural adjustments on governments that directly favour the role of foreign investors. Sometimes the World Bank is a direct investor itself, through its International Finance Corporation (IFC). To reduce investor risk, the World Bank also has an “insurance company” – the Multilateral Investment Guarantee Agency, or MIGA – that sells protection to foreign investors.

In Latin America, during the 1980s and 1990s privatization was a condition for receiving World Bank loans, as was the case of water privatization in Bolivia. The World Bank financed the privatization process, conditioned loans through the IDA,

and invested directly in Aguas de Illimani (AISA), the La Paz water company through IFC. The World Bank was then in position to host arbitration when Suez, the French transnational company that controlled Aguas del Illimani initiated (although didn't conclude) registry of its case in ICSID. If the case had proceeded, the World Bank would have been both judge and jury.

6. Because ICSID is unconstitutional

For example, Article 135 of the Bolivian Constitution states that: "All the companies established ... in the country will be considered national and will be subject to the sovereignty, the laws and the authorities of the Republic". Article 24 of the PCS states that: "The foreign companies and nationals are subject to Bolivian laws, and in no case may invoke an exceptional situation nor appeal to diplomatic status".

ICSID, as an external tribunal, clearly violates the Constitution and the sovereignty of Bolivia.