

# Violations of peasants' human rights

## A Report on Cases and Patterns of Violation 2004



**FIAN: For the Human Right to Feed Oneself**



**La Via Campesina: For the right to produce and  
for food sovereignty**

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### Impressum

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## 1 Introduction

This booklet has been written by *Via Campesina* and *FIAN-International*. *Via Campesina* is a world-wide network of peasant organisations, indigenous communities and landless movements. *FIAN-International* is an international human rights organisation with a focus on the right to adequate food. It has been written to highlight the human rights problems of peasant communities. Possibly because peasant communities constitute a large amount of people, they are often overlooked in examinations of human rights abuses. Yet throughout the world peasants, particularly small holder peasants, are confronted with regular and often systematic patterns of violations of different human rights. The booklet details the typical and most widespread forms of human rights violations with which peasants are confronted.

The text does not focus on any one set of human rights, but ranges across a full spectrum of civil and political rights (CP-Rights) and economic, social and cultural rights (ESC-Rights). This report does not seek to enforce the arbitrary distinction between CP and ESC rights given that peasants experience the violation of both sets of human rights simultaneously, demonstrating the interdependence and interrelation between these different kinds of rights.

Small holder peasants are, in many countries, struggling for better overall conditions and as a result, they often face political persecution. Systematic violations of rights of peasants occur in countries with civil wars, or intense internal armed conflicts - wars that are often fought in rural areas. But violations also take place in countries without civil war, countries in which there is a systematic bias against rural areas in policy making.

The booklet is the first in a regular, annual publication series. The gravity of the human rights violations in rural areas demands regular reporting and monitoring. This report begins with an attempt to systematise the forms of peasants' human rights violations. Following this, illustrative cases of violations of peasants' rights are presented. Chapter four discusses the issue of peasant rights by using four country examples, in which peasants are confronted with vastly unequal access to productive resources and many related land conflicts (Brazil, South Africa, Indonesia). In one of the countries, there is furthermore a severe armed conflict (Colombia). The booklet ends with a summary chapter, which also contains proposals for a better recognition and treatment of these types of human rights violations within the United Nations human rights system.

The plight of rural communities rarely features in human rights discussions. While the UN-human rights system is already addressing systematic violations of human rights of certain vulnerable groups living in rural areas, such as indigenous communities, the analyses of problems linked to small holder peasants has fallen by the wayside. It remains in great need of recognition, and there are at least three reasons why the typical problems of small holder peasants have been overlooked to date. First, human rights issues are often and more easily understood in terms of minority rights issues – rural communities, by contrast, comprise the majority of humanity, and this pervasiveness has left them underserved as a constituency. Second, an understanding of the complexity of peasants' human rights issues demands a thorough understanding of ESC-rights violations. Few international organisations have worked with violation of peasant rights over the longer term - FIAN-International has been documenting cases of peasants' rights violations in the UN-system since the end of the 1980s. Moreover, due to the fact that an adequate understanding of ESC rights is still fairly novel – the General Comment No. 12 on the right to adequate food dates from 1999 - the institutional apparatus of human rights monitoring has not yet adequately recognized, collated and treated the rights of peasants under a collective rubric. The increasing self-

organisation of small holder peasant organisations and those of landless peoples, in the form of an international movements such as Via Campesina, is to be welcomed as important factor in drawing attention to these violations to peasants as a constituency.

Small holder peasants form a constituency that, in many countries, face extensive economic, social and cultural marginalisation. According to data from the UNDP Millennium Development Project's task force on hunger, half of the hungry and malnourished people world-wide are small holder peasants and another 22 percent are landless labourers and rural workers. The marginalisation of these groups manifests itself not only through lack of access to productive resources, such as land, water, credits, agricultural extension services, but also through physical marginalization - an increasing number of small holder peasants are being pushed to marginal land and environments on hill sides, drought prone areas etc. The physical and economic marginalisation often goes hand in hand with a political marginalisation. Peasant organisations' demands for political participation and access to decision making procedures often fall on deaf ears.

The general political environment aggravates the situation for small holder peasants. In most countries, according to FAO data, the budget allocations for rural development policies are generally falling. The decline in rural budget allocations is symptomatic of a persistent blind-spot in policy making, in which the needs of rural communities and small holder peasants in particular are ignored. This means that states are decreasingly sensitive to their human rights obligations to rural smallholders, and increasingly unable to deliver on these obligations. The problem is compounded by an economic policy agenda that encourages larger-scale production entities, and world market competition. In many cases, these larger scale agricultural concerns are supported by the state while support to small holders is often seen as a subsidy to avoid the necessary structural change. Yet the structural change of more than two billion small-holders worldwide remains a chronic and overlooked concern. In order to reduce poverty and hunger, in order to end violations of the right to adequate food, policies are needed that support and recognise the needs of small holder peasants.

This booklet is the first version in a new series, documenting typical cases of violations of rights of small holder peasants. The purpose of the case methodology is to provide a background as a basis to learn more about the importance of the problems. The violation of the rights of the peasants will become a yearly publication, to be presented annually to the Human Rights commission.

Based on such annual documentation of violations of human rights of peasants *Via Campesina* and *FIAN-International* would like to initiate an adequate response from the UN- Human Rights systems. Both organisations propose particular initiatives for new mechanisms / instruments in the human rights system: There should be a yearly resolution in the Human Rights Commission on human rights of peasants. Furthermore, *Via Campesina* is thinking about the elaboration of a Convention Rights of Peasants, that should be developed and adopted during the next years.

We hope that the information here is useful to you. Moreover we hope that it will help to better understand the human rights problems faced by peasants today and that it will contribute to the development of adequate response instruments as mentioned above.

## **2. Violations of peasants' rights – a first approach**

### **2.1 The context: rural marginalisation and the worlds' poorest: smallholder peasants**

For a few years after the World Food Summit there was a little progress in reducing the number of the hungry, and it was hoped that this trend could be increased. Unfortunately, the latest figures presented by the FAO show an opposite trend: progress in reducing hunger in the developing world has slowed down and in most regions of the world the number of hungry people is actually increasing. World wide, latest estimates indicate that 842 million people live in the condition of chronic, persistent hunger, one-seventh of our human family. Millions of people, including 6 million children under the age of five die each year as a result of hunger. The vast majority of hungry people live in South Asia and sub-Saharan Africa.

Beyond knowing the number of hungry and malnourished, it is important to identify which groups within different countries are most affected by hunger. The most recent figures presented by the UN-Task Force on Hunger show that still close to 80 % of the worlds' hungry live in rural areas. The majority of the people facing hunger and malnutrition are smallholder peasants, depending largely or in part on agriculture for their livelihoods. In fact, half of the world's hungry are peasants who live off small areas of land, lacking adequate access to productive resources such as land, water and seeds. Of these smallholder peasants, two thirds live on marginal soils and under environmentally difficult conditions, such as hills or areas threatened by droughts or other natural risks, like flooding and mud slides. The number of smallholder farmers living and working in marginalized, remote and environmentally risky areas is also growing.

Additionally 22 % of people suffering from hunger and malnutrition are landless families who often survive from income obtained under precarious working conditions as landless labourers. Another 8 % can be found in rural communities engaged in fishing, hunting and herding activities.

A key lesson from the brief typology presented here is that hunger and malnutrition are based in groups that are politically and geographically marginalized, living in remote areas. Fighting hunger and malnutrition demands tackling the problems of discrimination and marginalization behind the situation of those families and persons affected. At the core of these problems is an issue of access. Small holder farmers on marginal land often lack access to secure land titles, to credits, agricultural extension services and to local markets and agricultural research. Landless families lack access to jobs or productive resources such as land, seeds or water. The missing access to productive resources or jobs make families unable to produce or to buy adequate food and hunger is therefore less a problem of the total amount of production as often argued, but of securing access to such productive resources. Even disasters and wars cause only about 10 percent of hunger deaths; 90 percent are killed by the effects of chronic hunger and malnutrition.

Granted that the vast majority of the people suffering from hunger and malnutrition are smallholder peasants that live on marginalized land, we can see another alarming trend in many countries; the increasing concentration of resources, such as land, seeds, water, and credits. Whereas the most fertile and extensive areas of land remains in the hands of a decreasing number of producers, small holders are being pushed away from fertile land and forced to small, unproductive land lots. As this brochure will illustrate, this tendency can be seen throughout the global south, in Latin America, Africa and Asia.

## 2.2 Violations and endemic problems with economic, social and cultural rights

To understand the violations of economic, social and cultural rights faced by small holder farmers, it is important first to clarify the importance and the content of these rights. Central to the situation of small holder peasants is the right to adequate food. A precise definition of the right to food came in 1999, with the UN-Committee on Economic, Social and Cultural Rights (CESCR)'s adoption of the General Comment No. 12 on the right to adequate food. At the core of the definition of the right to adequate food is access to productive resources. "The right to adequate food is defined as the right of every man, woman and child alone and in community with others to have physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity". The definition used by the GC 12 highlights the access to an individual income-base either through access to productive resources (land, fish, seeds, water etc.) or through work, or if not possible through adequate income transfer.

While the principal obligation under article 2 of the Covenant is to take steps to achieve progressively the full realization of the right to adequate food, the GC 12 clarifies that (a) each State has the obligation to move as expeditiously as possible towards that goal, (b) every State has the core obligation to ensure that everyone under its jurisdiction has access to the minimum essential food, to ensure freedom from hunger. While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society – individuals, families, local communities, non-governmental organizations, civil society organisations, as well as the private business sector – have responsibilities toward the realization of the right to adequate food. The State should provide an environment that facilitates the implementation and fulfillment of these responsibilities. The clarity achieved through the definition of the content and the respective state obligations in the general comment is helpful in understanding the role of governments in implementing the right to adequate food. The guidelines for the implementation of the right to adequate food currently under development at the FAO can assist the understanding that role.

States are violating the right to food either by action, such as forced evictions, or by omission, such as maintaining inadequate legislation protecting tenants, or getting landless families access to productive resources. Moreover states violate the right to food through discriminatory measures. Discrimination can be caused either by legislation (*de jure*) or government action (*de facto*) and the state has to guarantee to stop all forms of discrimination in the enjoyment of ESC-Rights.

More specifically, the corresponding state obligations to ESC-rights cover three types of obligations. Concerning the right to adequate food, they are explained as follows in GC 12: "The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, protect and to fulfil... The obligations to respect existing access to adequate food requires States parties not to take any measure that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means that States must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly." States

parties do have also external obligations with respect to individuals or groups living in other countries.

If we look into the obligations in detail it is easy to identify systematic violations of these rights faced by small holder peasants:

First of all the state has to *respect* the rights of its population. When it comes to the right to food, the state must not take such actions that imply that individuals or groups lose their means of livelihood or access to food, for example by forced evictions due to different kinds of projects. Such activities might be large development or infrastructure projects, like construction of dams, lumber or oil exploitation etc. In instances where the possibilities for people to feed themselves are undermined by such activities and projects, these groups have to be offered adequate compensation, rehabilitation or an equal opportunity to feed themselves. There are so many cases in which small holder peasants faced forced eviction or discrimination in access to productive resources that it can be seen as a systematic pattern of violations against this group.

The state has to *protect* peoples' access to food against a third part from outside. For example, transnational or national corporations or big land owners, might threaten the livelihoods of the people by carrying out activities in an area without taking into consideration the people living there. Such activities might be mining, oil exploitation, industrial fishing etc. Adequate protection means legislation which protects vulnerable groups in society from being deprived of their resources, or rights. Beside the legal regulation, governments are obliged to implement the existing laws in order to guarantee freedom from hunger, through administrative and police measures. Again, there are so many cases all over the world where small holder peasants face intimidation, threats, and evictions by economically more powerful competing users of their resources, that it is possible to distinguish a systematic pattern of violation small holder peasants.

Obligations to *fulfil* require measures by the state to identify vulnerable groups and to design policies and programs that improve their access to food-producing resources or income. The implementation of the obligation to fulfil can only be done progressively, but Art. 2 of the Covenant on ESC rights requires that state parties use the "maximum of the available resources". Under the obligation to fulfil, state parties should implement two different types of policy measures. First, as part of the obligation to fulfil state parties should enable as many people as possible to take care of themselves. *Facilitating* covers measures like creating access to productive resources such as land, seed, water etc. or to get other forms of income. This obligation implies for example governmental measures to fulfil the right to food through agrarian reform. Second, the obligation to fulfil covers also measures towards victim groups, who cannot make use out of such productive opportunities, may it be, because they are too old, too young, HIV-Aids orphans etc. These groups also need the *provision* of food in order to avoid hunger and malnutrition. A typical fulfilment violation for small holder peasants and landless families, is the lack encouraging steps towards genuine agrarian reform. Currently, no such steps can be observed in any country in the world, instead the opposite development can be observed. In many countries the historic processes for creating access to land have slowed down dramatically. In fact, in many countries the processes of counter-agrarian reform and concentration in access to productive resources are more rapid than the process of redistribution.

Taking the starting point of this chapter into consideration, we can easily see how difficult the situation currently is for small holder peasants. Currently, international rhetoric highlights the need to reduce poverty and hunger, but while official UN-goals aim to halve the number of hungry and poor by 2015, actual developments in many countries show an opposite trend. Small holder peasants and landless families are faced with a total neglect of their rights. Governments have in many cases reduced transfer of resources to rural areas. Governments rarely invest resources to create new or better conditions for small holder peasants. On the contrary, it is possible to

observe processes that aggravate the problems for small holder peasants. These problems include insecurity of land tenure, pressure of competing land uses, such as mining, plantations etc., and the privatisation of public goods important to this group, such as access to drinking and irrigation water, public research, biodiversity and cheap seeds, or different support services.

## **International framework conditions**

Besides the violations caused by national policies, it is important to note that also international framework conditions are extremely important for the situation of small holder peasants. The trends on prices for agricultural products at the world markets have an increasing direct impact on local prices, since most countries world wide have liberalized their agricultural trade considerably in the last years. This is partially a result of the agricultural trade negotiations in the World Trade Organisation (WTO) or regional trade agreements, and partially through conditions attached to structural adjustment programs for developing countries. The effects of these international framework conditions, particularly on small holder peasants, are largely underestimated. World market prices for agricultural products are, for many products, artificially depressed through the use of subsidies in developed countries and dumping practices. Agricultural products are often sold below the cost of production both in the country of origin and in the country of destination of the products.

So far, the effects of the fast liberalization of markets in developing countries have not been fully understood. The FAO has made studies in more than 20 countries and has already warned about the impact on small holder peasants. The severe situation can be seen in India: Farmers' organisations in India have documented more than 10.000 suicides of small farmers all over India in the last two years. Suicides have been attributed to rapid and profound indebtedness, and the loss of any future income opportunities. Trade policy rules fixed by international treaties or organisations, as well as the trade policies of developed countries, are becoming increasingly decisive for the living conditions and the right to an adequate standards of living for small holder peasants. Parallel to the decline in rural spending by national governments has been the faltering support for rural development in bilateral and multilateral aid budgets.

From a human rights perspective, the international dimension has to be studied more thoroughly. Several actors have important co-responsibilities for the violations of the right to adequate food suffered by small holder peasants. While the main responsibility for violations still rests on the nation state, it becomes important in times of globalisation and rapid market liberalization to also address the human rights obligations states have regarding the extraterritorial impact of national policies. The EU agricultural policies have a tremendous effect on the right to adequate food and the living conditions of small farmers in many countries of Africa and other continents. Moreover, the influence of intergovernmental actors such as the WTO and the World Bank, but also of private actors such as transnational corporations, have become overwhelming - their human rights responsibilities need to be better addressed within the human rights system. These actors are often more powerful than weak governments, and they have an extreme influence over the choice of a governments' policies. For this reason, Via Campesina and FIAN see these actors as obligated by human rights responsibilities. The historical limitation of human rights obligations exclusively to nation states does not reflect the real political situation today. The cases of violations of small holder peasants demonstrate this clearly.

The dual neglect in both national and international policies of small holder peasants constitutes the core of the violations of economic, social and cultural rights for this group. The violations of the right to adequate food often go hand in hand with violations of other ESC-rights, such as the

right to housing, health or education. Thus, it is the overall neglect of marginal rural areas, which often leads to a multi-discrimination of small holder peasants. While there is an international consensus regarding the importance of poverty reduction, these are these policy framework conditions at the national and international level, that often contribute to aggravate the situation for small holder peasants. Poverty and hunger are often created or increased through poor and undemocratic policy choices. It is therefore important that peasants be increasingly able in national and international law to hold the responsible institutions - their governments but also other relevant actors - accountable to internationally agreed human rights standards.

### **2.3 Violations and endemic problems with civil and political rights**

In many of the cases reported below, the intimate link between the two sets of human rights – economic, social and cultural rights, and civil and political rights – becomes clear. Peasant leaders are often involved in conflicts over land – they are also the same people who face political persecution, harassment, death threats and killings. Many struggles for better implementation of economic, social and cultural rights incur parallel violations of civil and political rights. Six major areas of violations of civil and political rights will be highlighted here.

The right to organize collectively as trade unions for landless labourers or in peasant organisations is, in many countries, difficult to exercise. The right is recognized in both international human rights treaties. Arbitrary detentions of peasant leaders take place regularly. Half of all trade union leaders in the world killed each year are killed in Colombia. Many of them have worked in rural areas with agricultural labourers and with peasant organisations. Peasant leaders should be seen as human rights defenders, because they are defending economic, social and cultural rights as well as civil and political rights of their communities. Instead, they are frequently persecuted.

The number of peasants killed is dramatic, particularly in conflicts over land. In Brazil alone in the first half of 2003, 31 peasants were killed in land conflicts by armed forces employed by big landowners and corporations. In Brazil, these cases have been well documented by the Land Pastoral Commission (CPT), who publish annually an overview of land conflicts and their impacts.

Peasant leaders face in many countries political persecution and harassment. Conflicts in rural areas, such as land conflicts, are often difficult to solve, long term, and protracted. The remoteness of rural areas often makes it easier to harass peasant leaders with impunity, while a similar problem in an urban area of the same country would often not occur, with urban areas bringing more public control of government and private actors responsible for harassment, threats and political persecution.

Most of the armed conflicts of today are fought in rural areas. The victims are generally rural communities and peasant families. The result of these conflicts are often internally displaced people and communities. Armed conflicts prevent peasant families from earning an income from their economic activities, but they also directly affect the right to life and a secure environment.

In many rural areas of the world, small holder peasants are discriminated in their access to justice. Courts are often far away, costs of using them are excessive, and education levels of rural families often prevent legal access. Even if access to justice is possible in many countries, court procedures are too slow to provide timely justice. Studies from the University in Bonn, Germany, show that for India alone currently more than 35 million cases concerning land conflicts are pending in Indian courts. In many of these trials, the process has been so slow that the small holder peasants involved have already left the region.

As a result of the discrimination of access to justice, but also linked to the division of power in rural areas in many countries, impunity is observable for those responsible for violations against peasants and their organisations. In fact, impunity is a rather common feature in rural areas. The remoteness of regions and the marginalization of many rural areas contribute to a lack of control of these regions by government institutions for guaranteeing human rights, but also to a lesser control by public media or non-governmental organisations.

More violations of civil and political rights of peasants and their organisations are outlined below in the presentations of cases, as well as in the four country studies.

### **3. Case studies**

#### **3.1 Selection of cases from the emergency network of the global Campaign for Agrarian Reform in 2003**

##### **Case 1: Honduras: Women fight for their right to food, Atlantida (March 2003)**

More than 200 poor peasant women have been fighting for two years to have access to 69 hectares of idle state land, which they need to guarantee their access to food. The peasant women have been cultivating this piece of land since June 2001 and they have required the state, through the National Agrarian Institute (INA), to grant them the land according to the agrarian reform which is currently taking place in the country. Despite winning a favourable resolution from the INA, the land has not been handed over to the women. The University of Honduras, who received the disputed land for experimental and educational purposes, left the land in complete neglect for nine years, yet they have not permitted the release of the land to the women. For nine years, the university evidently did not use the piece of land it was assigned to by the INA in 1992, a fact that also was considered by the Congress of the Republic in a private resolution. The university has taken repressive measures against the peasant women, forcing them to leave the land in February 6<sup>th</sup>, 2002, by the burning down their houses and destroying their belongings. The Supreme Court recently ordered the transfer of the land to the women and the INA is now responsible for implementing the verdict and distribute the land to the women.

In Honduras, 44% from the peasants population has no access to sufficient land to feed themselves. The situation of peasant women is even more precarious. Peasant women have been discriminated against even in the process of Honduran agrarian reform . From those who were entitled to a piece of land according to the agrarian reform conducted between the years of 1962 and 1991, only 4% were women. Though the legislation of the country has formally overcome sexism and discrimination, it remains very difficult for poor peasant women to access a piece of land and to receive the proper judicial entitlement to it.

## **Case 2: Argentina: brutal eviction and arrest of peasants (March 2003)**

Five peasant families of the San Pedro Community, in Los Juries zone, in the north of Ibarra district, Santiago del Estero province suffered a violent eviction. On Thursday, February 27, 2003, police, without showing any judicial order, initiated an attack on the community. The police detained 15 peasants and committed all manner of outrages against the community. Mr. Oscar Peralta was wounded in the back by a bullet and is currently at Santiago hospital; his condition is severe. The community has suffered under the threats of Mr. Nazar (and his thugs) who is currently the supposed owner of the land. Based on their rights as long-term occupants in good faith, the families are resisting these threats and fighting in defence of their land. Depriving the San Pedro community of their land and livelihoods is a violation of the human right to food.

Lack of access to land, the insecurity of land tenancy, as well as the meagre living the land provides, are some of the main causes of the wretched life-conditions of the rural communities in Argentina. Insecurity of land tenancy is a very serious problem in the Northwest and Northeast of Argentina and is the major limiting factor that prevents peasant families from consolidating their production. It has been calculated that 73% of peasant families in Santiago del Estero do not have documents for ownership of their lands, even though they have possessed the land plots for generations. According to Argentinean law they have therefore acquired the right of possession through long term occupation in good faith. Moreover, the owner has a series of rights as a protection against harassment and dispossession of his property. The situation of insecurity of tenancy makes these families extremely vulnerable. It also facilitates attacks by third parties (landowners, businessmen and other usurpers) who, in complicity with the local authorities, appear with supposed property titles with the aim of evicting families from their lands. Currently, nearly 24,000 legitimate peasant land owners are at risk of eviction. The land usurpers can act with impunity due to the connivance that exists in Santiago del Estero between the judicial power, the provincial government and the police.

## **Case 3: Brazil: Rural women workers struggle for their rights (March 2003)**

Rural women workers in Brazil suffer from discrimination, are overworked, and are being denied their fundamental rights. On March 8<sup>th</sup> they mobilised throughout the whole country and presented their demands to the new government. The women are demanding that the agrarian reform should pay particular attention to the realization of their economic and social rights, especially by granting them land, creating credits for women rural workers for their plots of land – independently of their husbands, cultivation of herbal medicines and rearing of animals. The women are also demanding support for processes of food production in lines of regional food traditions. Furthermore, they demand that the government support registration and literacy campaigns for women, and that in the process of reform of the pension system, the clause that guarantees rural workers their special status will be maintained.

In Brazil there are approximately 19 million rural women workers. They suffer an inhuman process of exploitation, a process rendered more acute if they are black. Furthermore, their work is not recognised and, in many situations, unpaid. Nearly 40% of rural workers are considered family workers, without proper remuneration. Moreover, when they are remunerated properly, this is at a rate on average 25% less than that of men. Women from the countryside work on average 20% more than men, since, in addition to their work in the fields, they also work in the home. In Brazil only 1% of rural properties are titled in the name of the women. While 70% of agricultural production for self-consumption is the result of the work of women. However, there

are no specific credits that support the food security of families and the forms of production of women are not being strengthened.

#### **Case 4: Colombia: Threat of Peasant's Rights (May 2003)**

In the region of Magdalena Medio, a comprehensive campaign of aggression against the Peasant Association ACVC is being carried out by the State and the paramilitary sector. A series of actions have taken place: intimidation of the organization's office in the city of Barrancabermeja, an order to detain ACVC leaders, and attempts to kill the Secretary of the Board of Directors, Miguel Cifuentes. The objective of such aggressions is the derogation of the Peasant Reserve Area, located in the Cimitarra valley, created in 2002, which acts as an umbrella for more than 25,000 peasants, working towards development and the defence of human rights. Several sectors of the Colombian Government are involved in the actions carried out against this association. Such actions accord with the interests of the paramilitary groups, big farmers and landlords in Magdalena Medio, who consider the Peasant Reserve Area a major obstacle to the (often violent) seizure of land. In Colombia nearly two million female and male peasants have been violently evicted from their land. This eviction process runs in tandem with a concentration of large areas of land in the hands of a minority of powerful landholders. This land is often used for livestock grazing and has come at the expense of a drastic reduction of cultivated land.

Peasants have responded by organizing themselves, and proposing policies and instruments aiming at ensuring their access to land and their means of production. One of these mechanisms is the creation of Peasant Reserve Areas (*ZRC: Zonas de Reserva Campesina*), to be recognized in Colombian law. In the current context of forced evictions, *ZRCs* are an important legal tool for peasants in order to protect their territory, the self-management of their land, the protection of peasant economies, the successful implementation of agrarian reform, and the reconstruction of national agriculture. Since the Area of the Cimitarra valley has been declared a *ZRC*, harassment and violent actions against ACVC leaders has increased.

#### **Case 5: Brazil: landless peasants demand agrarian reform (July 2003)**

Brazilian landless peasants are fighting for access to land and the realization of an extensive program of agrarian reform. On July 2<sup>nd</sup> the Landless Movement (MST) presented their proposals for agrarian reform to the new government. The political career of the president of the republic, Luiz Inacio Lula de Silva, has been defined by defending agrarian reform and he has promised to make it a priority of his government. The government is currently under great pressure from strong conservative forces connected to the *latifundistas* (large estates owners) which have stepped up violence against rural workers. In the first six months of 2003 alone, armed groups linked to *latifundistas* have murdered 31 peasants.

The landless have demanded that the government speed up the development and implementation of a National Plan of Agrarian reform that would, among other things, allocate land to one million landless families by 2006; guarantee the immediate settlement of close to 200,000 families (currently living in encampments) throughout the whole country; create a special program of credit for productive projects of agrarian reform beneficiaries; and approve the Constitutional Reform Project that would transfer the investigation and process of human rights crimes to the federal sphere. In Brazil there are 5 million families either without land or land that is insufficient for feeding themselves. At the same time, more than 120 million hectares of cultivable land remains permanently unproductive, in the hands of the *latifundistas*. The realization of agrarian reform for landless families that allows access to cultivable lands is central to

a sustainable plan to fulfil the human right to feed oneself of these families. Despite the necessary judicial instruments for the realization of agrarian reform being present in the Brazilian constitution, the landless have no other alternative than to peacefully occupy unproductive land to pressure the implementation of agrarian reform.

Sectors linked to the latifundios have mobilized and pressured also the new government. Their initiatives have utilised three classic weapons: a) Increasing their influence in judicial power at a local level, which is traditionally linked to the latifundistas. b) Criminalize, with the help of the press, the landless peoples movement MST and their fighters for agrarian reform. The latifundistas also succeeded in making the Senate approve the creation of a Parliamentary Commission of Investigation that investigates the relevance of the cases of those who occupy land. c) Create militias and armed groups outside of the law that carry out a range of violent actions. For example, the 'First Rural Commando' who use the same methods as criminal organizations, has already been created.

### **Case 6: Philippines: The right to food of agrarian reform beneficiaries is threatened by pending bill in Congress (July 2003)**

The enactment of the new Senate Bill (SB) No. 2553 – known as the “Farmland as Collateral Bill” - is currently being pushed in the Congress of the Philippines. The bill’s enactment will be a major threat to the right to food of small peasants in the Philippines and could soon give rise to hunger and malnutrition of agrarian reform beneficiaries (ARBs). In principle, the bill calls for two amendments: 1) removal of 5-hectares retention limit and 2) lifting of the 10-year landholding period. If the proposed bill is enacted, it will be possible for agribusiness corporations to acquire land and for landowners to pressurize beneficiaries into selling back their plot. In addition, the ARBs will be able to use their land titles as collateral for accessing credit from banking institutions. The catch is, that instead of providing much needed support services (including credit) to the beneficiaries, the government of the Philippines is threatening their right to food: given their poor economic conditions, the ARBs will end up being unable to pay for the loans they incur. They will eventually lose their land – their only source of livelihood.

Despite the claim to enable Agrarian Reform Beneficiaries (ARBs) access to formal sources of credit, the bill will undermine the current agrarian reform program, which has already been widely criticized as being implemented too slowly. Authored by Senator Sergio Osmeña III and others, the bill seeks to confer collateral value to land titles (e.g. Certificate of Land Ownership Awards (CLOAs) and Emancipation Patents (EP)) by lifting the 10-year period in transferability through an amendment of Section 27 (Transferability of Awarded Lands) of the Comprehensive Agrarian Reform Law (Republic Act 6657). Under Section 27, lands required by beneficiaries may not be sold, transferred or conveyed for 10 years. The 10-year period was granted to allow ARBs sufficient time to fully maximize the use and development of the lands awarded to them, and to protect them from attempts of former landowners to buy back and reconsolidate their land. Crucial to the ARBs during the ten-year holding period is the sustained and sufficient provision of support services from the government, which has failed so far to provide the mandated support services.

Another major impact will be the removal of the ceilings for retention limits (5 hectares) as proposed in the SB No. 2553. According to RA 6657 under Section 6, landowners are prohibited from retaining any land which exceeds five hectares. Removing the ceilings for retention limits will enable the ARBs to sell their lands to any entity (except to former landowners), such as to big agribusiness corporations, who then can acquire lands beyond the 5-hectare retention limit. As

such, the proposed amendment to Section 6 will undermine the spirit of the distributive agrarian reform program in the Philippines, as lands could once again concentrate in hands of a few.

### **Case 7: Guatemala: Theft of indigenous territory, Finca La Perla, Quiché (September 2003)**

The four indigenous communities in Guatemala, Ilom, Sotzil, Saqsiguan and Ixtupil, were victims of a historic displacement of their land. Today the trend continues with the Ixil indigenous group; nearly 830 Ixil families (approximately 5100 persons) no longer have enough land to be able to fulfil their basic needs. The land of the communities is located on the finca La Perla. While the area today constitutes a surface of 5859 hectares, the indigenous families are left with 0.5 hectares as an average. Because of the theft of Ixil territory, the families have lost their necessary resources to be able to feed themselves in an adequate way.

In Guatemala, the concentration of land is one of the highest in the world. More than one million families, representing 96 percent of the agriculture producers, cultivate only a fifth of the agricultural land in the country. At the other extreme, 2,000 producers (0.15 percent) exploit 70 percent of the agricultural land. The reasons behind the extensive conflicts in the countryside might therefore be explained by the vast majority of the rural population lacking access to sufficient productive resources to be able to fulfil their right to feed themselves, along with other economic, social and cultural rights. The majority of the victims of this unjust situation are indigenous people that already have been displaced from their traditional land.

The case of the finca La Perla demonstrates the lack of measures taken by the government of Guatemala to fulfil the commitments it assumed in the Peace Agreement of 1996, which clearly states that the processes of illegal monopolizing of land ought to be reversed, the indigenous land in particular. In 1896, the territory of La Perla consisted of 22 *caballerías* (990 hectares). According to the a registration status study carried out by the governmental Commission for Resolutions of Conflicts, CONTIERRA, La Perla currently consists of 62 cab. (2790 hectares). Nevertheless, evidence show that the land that La Perla is, *de facto*, much larger than its *de jure* boundaries. According to preliminary estimates, the territory today consists of 130 cab. (5850 hectares), while the average of the families of the four communities possesses less than 0,5 hectares.

The communities have been struggling for many years to advance their legal cases for, and the registration status of, the common municipal land, from which they were displaced by the landowners of La Perla. Because of the communities' claims for access to the territory, a legal investigation, and the return of the land, they are currently suffering a range of abuse: verbal aggressions and death threats, interrogation, harassment and abuse that are carried out daily by the employees of La Perla against the communities organized in CONIC and other peasant organizations. During the 30-year civil war, hundreds of indigenous families were displaced by force; thousands were killed. The displacements were carried out by the paramilitaries, with the mandate of the owner of La Perla, Enrique Arenas Menes, who is known in the region as "the tiger of Ixcán".

### **Case 8: Brazil: Armed landlords prevent realization of agrarian reform in Paraná (September 2003)**

Since the end of 2002, 180 landless families have been camping on the border of road PR-373 in the surroundings of Municipality Foy do Jordão (centre of the state of Paraná). The families had

recently begun to work on the land of the Trombini Hacienda, a hacienda that has been declared as unproductive, and one that is included in process of the agrarian reform. On 2nd September last year, twenty heavily armed men hired by the owners, attacked the settlement of landless families and killed the peasants Paulinho Brasil and Anarolino Vial, and severely injured two other persons. Recently another violent act took place as one among many in the campaign of harassment by the landlords that have created armed military groups to protect their properties and hinder the expropriation of land for the agrarian reform. These violent acts carried out by the landlords constitute a crime and represent a serious obstacle to an efficient realization of the agrarian reform and the right to feed oneself for the affected landless families.

After a period of severe repression and practices to paralyze the process of the agrarian reform, the poor peasant families' demand for land in Paraná has increased over the last months: the estimated number of settlements during the first part of the year is 80 – which means about 14 000 families – in the state as a whole. The prior Jaime Lerner government sealed an anti-agrarian reform pact with the landlords: thus, they were able to strengthen their private military groups in favor of the Public Security Secretariat and the Military Police of the state at the same time as it untied a wave of violence that during Lerner's eight years in power has resulted in 16 killings, 31 victims of attacks, 47 death threats, 7 tortured, 324 injured, 488 detained, and 134 violent displacements. The landlords' violent respond to the struggle for land in the case reported also did not take long. In March 2003 the First Rural Command, PCR, an organization led by the landowner Humberto de Sá, was created with the objective of recruiting gunmen to persecute landless families organised in the central region of Paraná. This organization publicly argues in favour of the use of arms against landless families and announced that they would distribute heavy calibre arms in order to prevent occupations of land.

Together with other landlord organizations such as the National Syndicate of Rural Producers (SINAPRO) and the Agricultural Federation of the state of Paraná (FAEP), the PCR pressurized the current governor, Roberto Requião, into realizing the legal decisions *reintegração de posse* (the return of the occupied land and the proceeding of redistribution of the land to the owner) and to act in a forceful manner towards the land occupants. It is most worrying that juridical power often acts in a partisan manner in favour of the landlords: in many cases the judges who authorise the *reintegração de posse* in the occupied areas, do not consult relevant institutions such as the National Institute for Colonization and Agrarian Reform, INCRA. They also fail to consider constitutional obligations such as the social function of land, and ignore international human rights standards that clearly give priority to the social rights of poor rural families rather than the property rights of landlords.

### **Case 9: Honduras: killing of peasants in agrarian conflicts in Yoro and La Paz (October 2003)**

On September 16, 2003, the peasants Cecilio Velásquez and Teófilo Guitierrez, were assassinated by armed men in the Municipality of Victoria, department of Yoro. In addition, on July 19, 2003, the peasants José Santos Carillo and Fabián Gonzáles were killed by armed men in the Municipality of San José, department of La Paz. In both cases, the killings are related to agrarian conflicts in implementing the agrarian reform. The armed civilians that committed the crime are known.

In Honduras, almost 44 % of the rural population is either landless or they do not have enough land to survive and to feed themselves adequately. Nevertheless, the Agrarian Reform is a constitutional mandate to distribute land; the effective legislation implies that land not fulfilling its

social function should be expropriated and transferred to landless peasant families in the framework of the Agrarian Reform.

The killings which took place on 16<sup>th</sup> September are related to a land conflict over 110 manzanas of land (77 hectares) between a group of peasants "Unidos Venceremos" and landlords in the region. The peasants' claim for land originate from the fact that in 1972, the Municipality of Victoria, on the behalf of the National Agrarian Institute, decided that the land would be given to the landless peasant families following the terms of the agrarian reform law. There is detailed information about the persons that committed the crimes, apart from the attack against one of the peasants, Ulises Guterrez, who survived after witnessing his father Teófilo Gutiérrez's torture and killing. The killings on July 19 are related to the conflict between a group of peasants "Senderos del Progreso" and a powerful landlord in the region. On July 15, some days before the crimes were committed, the National Agrarian Institute had decided in favour of the peasants, declaring a resolution of the expropriation of 117 manzanas (81 hectares). The murdered peasants were identified by a witness who survived the attack, but was seriously injured.

### **Case 10: Pakistan: continuing repression and violation of land rights of tenants in Punjab (November 2003)**

Peasants organisations struggling for tenants' right to land continue to face brutal repression in Pakistan's Punjab province. Although the movement has recently achieved a crucial success as paramilitary ranger forces had to withdraw from the area of Okara farm, after two months of sustained repression, the Provincial Government is now being pressurised into transferring 17,000 acres of land in Okara to the Federal Ministry of Defence. This land has been tilled for a century by the tenants and is their major source of income and food security, but they still have no land titles. Most of them live below the poverty line. While the land is owned by the provincial government, the farms are actually managed by different government agencies including the military, the livestock department, and the Punjab Seed Corporation. Even though these agencies have no legal title to the land they have been collecting harvest shares from the tenants for decades.

The managing agencies have launched several attempts to get rid of the tenants for example by limiting their contracts to 3-5 years. The landless tenants are working on this land in state-run farms and are highly dependent on this source for their income and for their food security. This is even more striking as the President of Pakistan, General Pervez Musharraf, had promised to allot 70,000 acres of state land in Punjab to landless tenants. Furthermore, during the struggle, the level of state repression against tenants has reached unprecedented heights. In January 2002, a tenant was killed in Renala Khurd, Okara, by the Director of Renala State military farms, Col. Mohammad Ali. In May 2003 6 people, 5 of them women, were severely injured after security forces opened fire during a sit-in protest against the arrest of nine colleagues at Okara Farm. Until now, the repression has led to the death of eleven tenants. Many criminal cases have been registered against tenant activists in order to intimidate them.

## 3.2 Selection of cases from Via Campesina's and FIAN's network

### **Case 11: Philippines: landless tenants suffer harassment and hunger in San Narciso, Bondoc Peninsula (August 2003)**

Bondoc Peninsula is one of the poorest regions in the Philippines. Since March 2003, peasant communities in the Municipality of San Narciso have been facing systematic harassment because of a land conflict between landless tenants and armed men working for their landlords, the Uy family. The 451 hectares of land remained excluded from the national agrarian reform program because of the political influence of the landlord. The late Juanito Uy was the mayor of San Narciso, Bondoc. In March 2003, the tenants organized themselves and filed a petition for land distribution. Shortly after the petition, harassment began: for the past six months, the tenants' properties have been destroyed, houses burned and 13 peasants' families have fled their land due to unbearable harassment. These families are now suffering hunger and malnutrition. The 451-hectare stretch land is one of the several estates of the influential family of the late former mayor of San Narciso Mayor, Juanito Uy. Located at Sitio Centro, Barangay San Vicente, San Narciso, the land remained excluded from the government's Comprehensive Agrarian Reform Program (CARP), until 76 of the tenants organized themselves into Association of Peasants in Centro San Vicente (SMSC) in March 2003 and subsequently filed a petition for the redistribution of the land. They are the tenants of the Uy family. Nevertheless, the Department of Agrarian Reform (DAR) has not yet acted on the petition of the SMSC till today.

Shortly after their petition, the peasants began being harassed, In May 30, 2003, armed men fired at the house of Felizardo Benitez, the president of SMSC. A month later on June 03, 2003, unidentified armed men fired at the house of one of the SMSC members. Timoteo Amante, an SMSC member, suffered a gunshot wound in the chest. Although Amante reported the incidence to the office of San Vicente Barangay Captain, his complaint was not taken seriously by the official. On July 24 2003, Joven Dumagan, another member of the organization, was threatened with eviction and bodily harm by goons of landowner if he did not voluntarily relinquish his land. Fearing for their life, Dumagan and his family immediately vacated their house. Shortly after his departure, his house was set on fire by the goons. Due to these continuing incidents of harassment, 13 tenant families temporarily evacuated their houses and temporarily took shelter with other tenants. Since they have lost access to their land B their only means of livelihood - they are unable to feed themselves and their families and are suffering malnutrition. Many of them were also forced to give up farming because the landowner confiscated the farm animals from the tenants.

### **Case 12: India: Arrests of Anti-Coca-Cola Activists, Plachimada, Palakkad, Kerala (September 2003)**

Plachimada in the Palakkad district of the Indian state of Kerala is suffering from severe depletion of ground water ever since a Coca Cola plant was set up in 1998-99. This led to loss of crops and to the contamination of water and a decision was taken by local authorities to cancel the license of the plant. As the situation did not improve, a number of demonstrations were held by the people affected. On 30<sup>th</sup> August 2003 there was a peaceful demonstration in front of the Kerala Ground Water Board in Palakkad where indigenous peasants were protesting against the inefficiency of the government to tackle the ground water problems. 13 activists were arrested and accused of being terrorists.

In 1998-1999, a Coca Cola Plant was established in Plachimada in Palakkad District. The company was leased 34 acres of land for the plant, and employed 70 permanent workers and 150-250 casual laborers. The plant produced 85 truckloads of beverages per day with 550-600 cases, each containing 24 bottles of 300 ml. In order to cover the water needs for this large production, the company dug 60-65 bore-wells on the land leased and extracted about 1,500,000 liters of water everyday.

The intensive extraction of ground water led to a depletion of ground water levels in the area. The drying up of wells has affected the lives of all the people living in the area. Paddy (rice crop) farmers were unable to run their pumps long enough to water their fields, which led to a decline in the harvest. In addition, the ground water was severely contaminated, as salinity and hardness of water increased. High levels of calcium and magnesium were found, which make the water unfit for human consumption and irrigation. The Coca Cola Plant also disposed foul smelling slurry waste as fertilizers, which lead to contamination and skin problems. Along with the effect on paddy crops, around 1000 landless indigenous families who are dependent on agricultural wage labor were affected by the contamination of water and loss of crop.

As a result of this, the Perumatty Panchayat (village assembly) took a decision on 7<sup>th</sup> of April 2003 to cancel the license agreement granted to the Coca Cola plant and the Supreme Court had ordered a stay order until a decision was made. On the 30<sup>th</sup> of August 2003, a peaceful demonstration was organized by the People's Union for Civil Liberties, Kerala, in front of the Kerala Ground Water Board. They wanted to voice their protest against the inefficiency of the board in tackling the ground water problems created by the Coca Cola Plant. 13 activists were arrested at this demonstration and remanded for 5 days. They have been falsely accused of attempting to destroy the office and are being given the image of "terrorists". This is only the latest of a number of arrests made since the protests against the Coca Cola plant began.

On December 16<sup>th</sup> the Kerala High Court directed Coca Cola to find out alternative sources of water for the Plachimada bottling unit. The court ordered that the Panchayat should not interfere with the functioning of the company if it used the water drawn from other sources. Besides, the company should only be allowed to use the quantity of water equivalent to that used by a landowner with 34 acres of land. The case shows how closely linked are conflicts about access to productive resources such as water and forms of harassments of those organizing themselves to struggle for their economic, social and cultural rights.

### 3.3 Selection of Cases from Thailand

#### Case 13: Oy Sirisook, sustainable Development Foundation (SDF), Thailand<sup>1</sup>

It's been 6 years since the community in Chana District began fighting for their rights, their environment and their livelihoods against the Thai-Malaysian Gas Pipeline Project. Located in Songkhla Province, Chana District is a home to over 50,000 small-scale fisherfolk whose livelihoods have been greatly dependent on marine and coastal resources for many generations. Their contribution to the national revenue in the form of processed fish production is enormous, considering the fact that small-scale fisherfolk only harvest 12 per cent of the total fish stock in

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<sup>1</sup> More information at [preecha@mozart.inet.co.th](mailto:preecha@mozart.inet.co.th)

Thailand (Nasea, 2002). Today, it appears that their livelihoods are being threatened as a result of government's decision based on the interest of the politicians and capitalists but at the expense of the poor.

In 1979, the Malaysian and Thai governments signed a memorandum agreeing to explore the possibility of jointly developing natural gas reserves found in an area called the Joint Development Area (JDA), 255 kilometers east of Songkhla province in the Gulf of Thailand. Since then, the community of Chana have had no peace. The total budget intervention is projected at 1,034 million dollars through which the Petroleum Authority of Thailand (PTT), a state run petroleum company agreed to half the cost with Petronas (a private Malaysian company) on the cost of project construction in order to transport and process natural gas from the JDA. In doing so, the project agreement did not seek consultation from the Thai communities who have resided in the area over a long period of time and who sustain their livelihoods through traditional fishery. After a series of protests and demands for a review of this project, the government has refused to listen to the community's concern on the projects' economic, socio-economic and environmental impacts. Furthermore, it has failed to provide a clear solution or alternatives concerning the community's relocation which would distort their histories as traditional fisherfolk.

The situation was exacerbated when, on the 20 December 2002, the communities organized a march to JB Hotel, Had Yai in Songkhla Province, simply to submit a letter to Prime Minister, Thaksin Shinawatra, requesting him to review his decision about the project. However, as they gathered peacefully in front of the police fencing, some were having dinner with their children, while some were praying to their god for the success of their campaign, a group of over 100 policemen stormed through the fence and brutally beaten up the gathered praying community.

From this incident, 12 NGO activists, students and villagers are being prosecuted for obstructing and attacking officers, a claim that does not reflect what actually happened during the time of the attack. They were sent to jail with their bail being denied. 50 community members were injured including students and elders while children were separated from their parents during the time of attack along with extensive damage to property. One of the elders lost a finger that was brutally battered by a policeman who accused him of being a troublemaker.

There were widespread reaction from both National and International Human Rights institutions, which included the National Human Rights Commission and the United Nations. It has been viewed that the Thai government has violated human rights through the use of all forms of violence, both physical violence and hiding information from the public. This nondisclosure of information conflicts with the 1997 Constitution that promulgates the freedom of people to participate in all form of development as well as promulgating government to seek consultation with the local communities affected by large-scale infrastructure and development. In March 2003, the UN Special Envoy on Human Rights Hina Jilani visited the affected community at Lan Hoi Seab, known as a hotspot of biodiversity and community's fishing ground which is the project site. Backed up by international support, she has advocated with the Thai government to lift all charges against the arrested civil societies members. However, the Thai government has chosen to discredit the concern raised by the UN.

From the community's perspective on the incident that occurred in December 2002, Mrs. Areeya Made, one of the community leaders against the Gas Pipeline Project expressed that "We can no longer trust the government and despite the incident that has happened, our position remains strong that the project cannot go on as the government is being unfair to treat us this way. It is clear that the government has absolutely no interest in addressing the problems of the poor and its way of resolving conflicts with the community is to ignore the community" (2003, interview at Chana district, Songkhla province). At the current stage, its been reported that 500 armed security officers have been deployed in the area of Lan Hoy Seab, where the construction of the gas

separation plant is to be situated. The security and livelihood of the community are thus being threatened since the people are too frightened to come out of their homes.

### **Case 14: Pak Mun Dam Case, Northeastern Thailand (December 2002)<sup>2</sup>**

In the Northeast region of Thailand, the operation of the Pak Mun Dam has led to numerous violations of the economic, social, and cultural rights of villagers living near the Mun river. The Electricity Generating Authority of Thailand (EGAT) began construction of the hydropower dam in 1991, with funding from the World Bank. Villagers in the Mun River area who feared that their lives would be negatively affected began protesting in 1989, two years before the construction of the dam. Protesting against the dam still continues today, 13 years later, by affected villagers, NGOs, and community groups within the Assembly of the Poor.

From its inception, the dam has violated the human rights of villagers in the Mun river area. Despite strong local opposition, the dam was planned and constructed without adequate consultation with affected parties, or baseline studies. The construction of the dam infringed upon the rights of the villagers to their own natural resources. The immediate impact of the dam upon local ecosystems and communities has been the steep decline in fish populations. In addition, raised water levels have submerged riverbank land and islands previously used for farming and gathering plants, herbs, bamboo and other goods. Rapids, which not only housed a diversity of fish species, but also served as water reservoirs for the villagers, were either blown up during construction or submerged when the dam gates were closed.

The loss of these resources meant the loss of vital source of food and income for villagers. Before the dam, many communities living both upland and alongside the Mun river were entirely dependent on fishing. The presence of the dam has made this lifestyle unsustainable; villagers had no choice but to become farmers elsewhere, go through government vocational training programs, or rely on commercial fishponds. These methods have not been able to make up the income lost by fishermen; poverty rates have increased significantly. The impacts on culture have also been significant. Villagers are now unable to carry out traditional religious ceremonies such as SongKran (New Years), which were located around rapids and riverbanks. Furthermore, the inability to fish has disrupted a traditional fishing-based culture.

### **Case 15: The Udon Thani Potash Project<sup>3</sup>**

The Udon Thani Potash Project, located in Udon Thani province in Isaan, constitutes a third of Thailand's landmass and population. Economically, Isaan is the country's poorest region and is populated primarily by small-scale rice farmers. A prehistoric sea once covered Isaan, accounting for its potash deposits as well as its low quality soil. Farmers are generally able to harvest one rice crop a year, which is enough to feed their families and sell their excess to the market.

Prior to Thailand's political centralization of the last fifty years, Isaan was isolated from the rest of the nation by a large mountain range and therefore has maintained its traditional rice-farming

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<sup>2</sup> This report includes facts compiled from Ubon Ratchathani University research, *Thai Baan* research, the World Commission on Dams (WCD) Pak Mun case study, and International Rivers Network (IRN) research. For more information and full text of this document: [www.engage-humanity.org](http://www.engage-humanity.org), for additional information contact the above organizations and institutions.

<sup>3</sup> Prepared by the Potash Working Group of ENGAGE (Educational Network for Global and Grassroots Exchange). For more information, please contact: [ktjscott@hotmail.com](mailto:ktjscott@hotmail.com) or the Environmental Conservation Group of Udon Thani at: Potash Coordinator, The NGO Coordinating Committee on Rural Development, Northeast Branch (Isaan) NGO-CORD, 686/5 Soi Watharam, Naa Muang Road, Amphur Muang, Khon Kaen, 40000 Thailand.

heritage despite industrialization in other parts of the country. The majority of people in Isaan are ethnically and linguistically Lao or Khmer, only learning Thai when they enter school.

A recent survey done by district officials in one of the four affected sub districts showed that 76% of the population are rice farmers, and 85% of those surveyed perceive that there were environmental risks associated with the project. Therefore, it is not surprising that only 5% of those surveyed agree with the proposed project while 70% disagree.

It is evident that farmers are concerned that environmental damage from the project might be ruining their livelihoods. It is striking to observe the amount of green flags and banners hanging outside people's houses demonstrating opposition to the mine in villages a few kilometers from where Asia Pacific Potash Corporation Lt. (APPC) will set up its mine access and potash processing facilities.

Ninety percent of APPC is owned by the Canadian company Asia Pacific Resources Ltd. (APR), while the remaining ten percent is owned by the Thai government. APPC is APR's only holding. APPC first started surveying the Udon Thani concession in 1993 under its former name, the Thai Agrigo Potash Company Ltd. In 2002, APR conducted a major financial restructuring and appointed a new board of directors and management team. This new team acknowledges past mistakes, and committed themselves to improving their relationship with the surrounding communities. However, APPC follow through on its commitments and acknowledge community members' rights to participation and self-determination.

### 3.4 Selection of Cases from the Philippines<sup>4</sup>

#### **Case 16: Hacienda Looc farmers' struggle for land - Comprehensive Agrarian Reform Program used to reconcentrate land in the hands of landlords**

*Location: Nasugbu, Batangas*

*Land Area: 1,269 ha*

*Farmers affected: Over 413 farming families*

*Farmers' foes: fil Estate Properties Inc, & Manila South Coast Development Corporation (MSDC)*

Because of the Filipino peasants' unrelenting struggle for land, the succession of governments of the Philippine Republic implemented agrarian reform programs as a concession to the anti-feudal demands of the peasantry, the latest of which is the Comprehensive Agrarian Reform Program (CARP) promulgated during the Aquino administration. But in essence, these land reform programs were never meant to breakup land monopoly in favor of the landless tenants but were in fact excellent legal instruments astutely crafted to perpetuate feudal rule in the countryside. Specifically, CARP's provisions, such as the requirement to provide landowners with just compensation, the non-land transfer schemes and the land-use conversion provision are being used to reconcentrate lands in the hands of big landlords. Thus, after more than 10 years, it is no wonder that CARP has not even made a dent in breaking up of big landholdings or the landlords' domination of the Philippine countryside. But instead, landless peasants who had already been awarded rights to the land have been driven away by the landlord's armed goons, oftentimes accompanied by military or police personnel.

Hacienda Looc is an 8,650.78 hectare estate located in Nasugbu, Batangas. It consists of four barangays. Barangay Calayo, Barangay Papaya, Looc, and Bulihan. The hacienda lies in the

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<sup>4</sup> Submitted by Kilusang Magbubukid ng Pilipinas (KMP) or Peasant Movement of the Philippines

Northwestern part of Nasugbu, Batangas. It is about 120 kilometers south of Manila, and 18.06 kilometers from the Nasugbu town proper.

What is now known as Hacienda Looc was once owned by the Magdalena (Dolor) Estate Inc. In 1973 the ownership of the estate was transferred to the Development Bank of the Philippines (DBP) through a "dacion en pago" (cession in payment) to answer for some loan obligations of the Magdalena Estate. Hence, it became a government property.

In the early part of Martial Rule, the 1,282.98 hectares of land of the Hacienda which were planted mostly to rice and corn, were distributed to 831 farmer beneficiaries/settlers. This was made possible through Presidential Decree 27 or the land reform program of the Marcos Administration. Thus, individual certification of emancipation patents (EP) was awarded to each of the farmer beneficiaries.

In February 27, 1987 the Development Bank of the Philippines turned over the entire estate to the Asset Privatization Trust (APT) pursuant to the government's plan to dispose its non-performing assets. The APT is a government agency tasked with disposing government assets for sale or lease to private corporations and individuals.

Also in 1987, the Aquino government issued E.O. 227 putting all alienable and disposable public lands suitable to agriculture under the Comprehensive Agrarian Reform Program (CARP). Thus, in June 28, 1990, the APT signed a memorandum of agreement (MoA) with the Department of Agrarian Reform (DAR) transferring the control and possession of Hacienda Looc to the DAR. Under the MoA, the DAR may dispose of the undistributed parcels of land of Hacienda Looc in accordance to Republic Act (R.A.) 6657 or CARP.

In 1991, by virtue of the memorandum, the Department of Agrarian Reform issued 25 Certificates of Land Ownership Award (CLOA) covering 3,981.3407 hectares to 1,301-farmer beneficiaries. Of the number, 24 are collective CLOAs where each CLOA covers from 10 to 100 farmer beneficiaries. In all, around 5,218.24 hectares of Hacienda Looc were placed under the land distribution program of the Marcos and Aquino Administrations.

On October 17, 1995, the Manila Southcoast Development Corporation (MSDC) and Fil-Estate Properties, Inc. signed a project agreement that forged their joint venture to develop 1,269 hectares within Hacienda Looc into a world-class tourism and leisure complex, to be called "Harbortown Golf and Country Club". To complete the legal requirements for divesting farmer-beneficiaries of their rights on the land, MSDC filed a petition on March 7, 1995 with the DAR Adjudication Board seeking the cancellation of 25 Certificates in 3,294.26 has. and the conversion of the agricultural lands these Certificates covered.

By invoking DOJ Opinion 44 that exempts from land reform all lands classified for non-agricultural uses before the enactment of CARP, Regional Adjudicator Fe Arche-Manalang issued a partial judgement on January 8, 1996 cancelling 10 out of the 25 Certificates. It ruled that Hacienda Looc was earlier on classified as part of the tourism zone declared by Marcos.

Since Fil-Estate's earthmoving activities on the 216-hectare portion of the hacienda (Phase I of the project) started in December 1995, the people have complained of erosion and siltation. This has caused damage to their crops planted in the lowlands. Fish catch has since then been also diminishing.

Various human rights abuses have been committed against the farmers in Hacienda Looc. To date, 5 farmer-members of UMALPAS-KA, local farmers organization of KMP, have already lost their lives. In relation to the Hacienda Looc land dispute, 2 farmer-organizers were also murdered. The latest of these murders happened on March 4, 2000. In all the murder cases, justice has yet to be served. A curfew has also been implemented since 1997 until now. Anyone seen loitering the Hacienda beyond the curfew time of 10:00 p.m. is accosted by the military. A mobile patrol roams the Hacienda every night. Armed military conducts the patrol. This plus the

security guards and members of the Philippine National Police (PNP). Farmers also complain about the indiscriminate firing of guns by the armed security, the police and the military at night. Farmers working in their fields are constantly harassed by military interrogation. There is constant threat to the lives of the farmer leaders. Ka Guillermo Bautista, the leader of UMALPAS-KA has survived two murder attempts.

## **Case 17: The Mamburao Saga - Criminalization of Agrarian Cases**

*Location: Mamburao, Occidental Mindoro*

*Land Area: 604.3258 ha.*

*Farmers affected: 100 farmers*

*Farmers' foes: Former congressman Ricardo Quintos*

Another strategy used by the landed monopoly to protect and preserve its interest is by criminalizing agrarian cases. By "criminalization of agrarian cases" we mean the phenomenon whereby a landlord files a criminal complaint against potential and/or actual farmer-beneficiaries even if the facts of the case clearly point to an agrarian dispute between the landlord and the farmer/s rather than a supposed criminal act allegedly committed by the accused peasant/s. But even if the motive is clearly one of plain and simple harassment against the farmer/s who are struggling for land, regular courts, due to the landlord's power and influence, usually take cognizance of the complaint. By criminalizing agrarian cases, the fundamental issue concerning the peasants' struggle for land is effectively obscured and buried beneath the farcical issue of whether or not the accused peasant is guilty of the crime charged against him. If convicted, the landless peasant becomes twice a victim of injustice – he was not given the land he deserves to own and he was convicted of a crime he did not commit.

In 1975, Ricardo Quintos, a big landlord, organized the Golden Country Farms, Inc. (GCFI) for Integrated Poultry and Livestock Operations. Among the corporation's landholdings was the 604-hectare land (355 hectares of which is rice area and the remaining 249 hectares is mango orchard) located in Barangay Tayamaan, Mamburao, Occidental Mindoro

On July 27, 1987, the Presidential Commission on Good Government (PCGG) sequestered the GCFI properties for allegedly being an ill-gotten property of a Marcos crony, which Quintos was in fact. In 1988, pursuant to Proclamation No. 50, the Assets Privatization Trust (APT) took over the administration of the property. However, the APT did not follow E.O. No. 147 which provides for the Trust to "transfer administration" of the land to the Department of Agrarian Reform for valuation and eventual distribution to the farmers in its Agrarian Reform Program.

Sometime in 1989, some 53 members of the peasant organization Kanlurang Mindoro Farmers' Cooperative, Inc. (KAMIFCI) entered into a verbal agreement with Cesar Lacuesta, Assets Privatization Trust Officer-In-Charge of the Golden Country Farms' properties that they be allowed to tend the 249-hectare mango orchard but they will pay P300.00 / tree per planting season to Ricardo Quintos.

By 1990, the Department of Agrarian Reform (DAR) included the 604-hectare property in the Comprehensive Agrarian Reform Program (CARP) through a Notice of Compulsory Acquisition. But Quintos appealed DAR's decision before the Office of the President. While the appeal was pending before the Office of the President, the APT and Quintos signed a Memorandum of Agreement on March 13, 1992 whereby Quintos retook possession of the Mamburao property. Immediately after, Quintos prohibited the 53 KAMIFCI members from exercising their legal rights over the mango orchard based on their verbal agreement with the Trust's Officer-In-Charge Lacuesta, employing armed goons who harassed and threatened the farmers.

Thus on October 12, 1992, KAMIFCI filed an "Action for Peaceful Possession and Enjoyment of Agricultural Leasehold Tenancy" against Ricardo Quintos before the DAR Provincial Adjudicator of Occidental Mindoro. In his reply, Quintos argued that KAMIFCI has no legal personality as it is not a duly registered cooperative and that the Golden Country Farms, the registered owner of the landholding, has no agreement with KAMIFCI.

On August 25, 1993 the Assets Privatization Trust through Attorney Monina Catolico-Pineda, from out of nowhere, issued a certification that the verbal agreement executed by Lacuesta and KAMIFCI was done without authority. But this did not sway the Provincial Agrarian Reform Adjudicator (PARAD) of Occidental Mindoro who rendered a decision on November 3, 1993 favoring the farmers. According to the PARAD, the 90 farmers in the 355-hectare palayan and the 53 farmers in the 249-hectare mango orchard should be maintained in the land. Quintos immediately filed a Motion for Reconsideration before the Department of Agriculture Adjudication Board (DARAB).

On February 21, 1995, the Office of the President came out with a decision concerning Quintos' appeal regarding DAR's decision subjecting his Mamburao property to land reform. Then Executive Secretary Teofisto Guingona rendered a decision whereby the 355-hectare palayan area was exempted from CARP coverage but the 249-hectare mango orchard was deemed covered by CARP.

Buoyed by this decision, and despite the harassment and threats by Quintos' armed goons, 18 KAMIFCI farmers harvested mangoes inside the orchard on March 10, 1997. Then again two days later, the same 18 farmers, accompanied by 12 security guards hired by the Trust, harvested mangoes in another area of the orchard. But on March 17, 1997, Michael Quintos, son of Ricardo and who was then acting as the General Manager of Golden Country Farms, filed two criminal complaints of robbery against the farmers and immediately MTC Judge Reuben Cosuco, a close family friend and political ally of the Quintoses, filed 2 counts of robbery and issued a warrant of arrest against the farmers. The following day, March 18, the farmers were arrested when they came to attend the supposed dialogue called by the Mayor.

Two days later, on March 20, the Department of Agriculture Adjudication Board rendered a decision which was based on the 1995 decision of the Office of the President. The 355-hectare palayan was exempted from CARP coverage but the 249-hectare mango orchard was not, therefore the 53 farmers in the orchard were indeed CARP beneficiaries and that Certificates of Land Ownership Award must be distributed to them immediately. On April 4, the DAR Secretary ordered the Trust to immediately turn over the property to DAR so that it can distribute it to the qualified beneficiaries. Despite the Board's decision, Quintos continued harassing the farmers.

## **Case 18: Eviction of Farmers in Clark Field (former Clark Airbase) in Pampanga**

*Subject: Eviction of Farmers by the Clark Development Corporation (CDC)*

*Location: Clark Field in Pampanga*

*Land Area: 500 ha*

*Farmers affected: 700*

More than 300 farmers in 1982 started occupying the idle land within the 2,200 hectares, under the supervision of Philippine Airforce Clark Air Base Command (CABCOM) inside Clark. The occupation of the farmers in the portion of agricultural lands has an official agreement with the Philippine Airforce - CABCOM officers. The farmers started clearing, cultivating and planting different kinds of vegetables and rice as their primary source of livelihood. Moreover, the farmers

paid 30 percent share from the net profit to the Officer of CABCOM after the harvesting period. In this sharing system, the CABCOM Officer acts as a landowner while the farmer is a tenant-tiller. The farmers registered the Multi-Purpose Cooperative that they organized in 1989. Through this cooperative they were able to acquire loans and support services from the Land Bank and the Department of Agriculture (DA). The DA office in Mabalacat, Pampanga also gave certificates recognizing the legitimacy of the farmers inside Clark. Some of these farmers were even given the recognition as "Outstanding Farmer of the Year" by the government.

In 1991, the eruption of Mt. Pinatubo destroyed the crops and the homes of the farmers. The farmers were unable to harvest their crops, which made them incapable of paying their loans. Because their source of livelihood depended on agriculture, the farmers were forced to rehabilitate the lands by their own initiatives to take other chances even while the risks are always there. This was also the time when the American military troops and personnel abandoned Clark Air Base.

Between 1992 and 1993, the number of farmers increased to more than 700. The victims of the Mt. Pinatubo eruption, who were relocated to the CABCOM in Mabalacat started to position themselves on the vast agricultural lands inside Clark due to the lack of livelihood activities. The Department of Trade and Industry (DTI) through Undersecretary Ordonez approved this move.

In 1993, the Clark Development Corporation became the administrating body inside Clark. The farmers dealt directly with this office. The CDC even continued the collection of the 30% tax from the farmers' net profit. However, in January 1996, the CDC Chairperson, General Romeo David, called for a general meeting of the farmers ordering them to vacate their lands because the government would need the land for other uses and purposes. On April 30, 1996, the farmers received the first Notice of Eviction. During this period, the farmers were forcibly evicted, harassed, and threatened. Without due consultation and approval of the farmers, the Clark Development Corporation ordered the bulldozing of 21 ha of planted vegetables by 13 farmers in Clark Airbase Command I. In this site, the Yokohama Tire Company was built, owned by a Japanese investor. On July 21, 1997, the farmers received another Notice of Eviction. This was an order to stop all farming activities, except those crops that would nearly be harvested because it was an eyesore for the foreign investors. The CDC ordered them to harvest their produce only until December 15, 1997. The farmers again resisted this scheme of the CDC. However, they experienced again a series of human rights violations and harassment such as the burning of their crops and nipa huts, fishponds were filled-up, and roads and pathways were barricaded to prevent the farming activities. They even entrapped the farmers carabaos and blocked the entrance of farm machineries like threshers, handtractors, tractors and other farm implements in Clark.

From 1997-1998 the farmers filed a case at the Department of Agrarian Reform Adjudicatory Board (DARAB) against the CDC and the Germogenes Rodriguez Estate pretending as the landowner. The case is still being heard at the DARAB office in San Fernando, Pampanga. In February 1999, dialogue conducted by Kilusang Magbubukid ng Pilipinas (KMP), AMC (Farmers Alliance in Pampanga) and AMGL (Alliance of Farmers in Central Luzon) with the Department of Agrarian Reform Secretary Horacio Morales resulted in the order for Department of Agrarian Reform Region III to have a fact-finding mission and investigation of their case. Morales also requested the CDC officers to stop their harassment of the peasants. According to the findings of DAR (III), the agricultural lands inside Clark are part of alienable and disposable covered by DENR. And also, the tenancy relations exist between the farmers and the CABCOM and CDC. But on June 2000, the DAR National Undersecretary Federico Poblete, through its Legal Affairs Office, sent an evaluation report to AMC Farmers Alliance, declaring that the issues raised by them were not covered by DAR and the land would not be placed under CARP after evaluating

the status of land holdings in Clark and the existing law RA 7227 otherwise known as the Bases Conversion Act. Despite this, the farmers remain in the land and still making it productive. The threat of eviction is still there but their struggle continues.

## 4. Country studies

### 4.1 Brazil<sup>5</sup>

The situation for small holder peasants and landless families in Brazil is historically a difficult one. Brazil has one of the highest indicators of land ownership property concentration in the world. The development of Brazilian agriculture was extremely exclusionary, based as it was on the concentration of land which privileged large estates. A minority, composed of rural oligarchies who allied with the industrial, commercial and financial capital, benefitted from this, while the majority of the population was expelled and marginalized: during the last 25 years, more than 30 million peasants have had to abandon their land, while 4.8 million families living in rural areas are landless. One of the most shocking results of the inequality in the rural areas is hunger: half of the 31,5 million Brazilians who suffer hunger live in rural areas.

The process of modernization made inequalities even more profound and increased the exploitation of rural workers. The great majority of rural paid workers are denied their fundamental rights. The labour conditions have deteriorated to such an extent that in some agricultural regions (north and western central), as well as in more developed areas, there can be found diverse forms of over-exploitation and slavery work.

The gravity of violations suffered by rural families is best documented in the yearly analyses of the Pastoral Land Commission (CPT = Comissão Pastoral da Terra). The CPT keeps a good register of land conflicts in all states of Brazil. In the year 2003 the CPT registered the highest number of land conflicts since they started their documentation system in 1985 in Brazil. In the 1,690 cases, more than 1,190,578 persons were involved. 35,292 people have been forcibly evicted. In the period between January and October 2003 alone, the CPT registered 61 murders of rural workers. The cases involving government forces or the judiciary in 2003 increased by 140,5 %, and the number of families evicted increased by 263.2 %. In cases involving private violence was involved increased by 69.8 % and the number of evicted families increased by 151, 4 %. The first year of the Lula government has the worst statistics on violations against peasant families since 1985. The CPT also reports that the judgment of courts favoured huge landowners during 2003. The trends seem to be supported by the pro-export-agriculture policy of the Lula government.

No positive trends are reported concerning the impunity of rural assassins, and those who hire them. Between 1985 and 2002, 1,280 murders were registered among rural workers, lawyers, technicians, religious people and rural worker's leaders who were engaged in the legal fight for land. Of this number, only 121 cases were investigated, and only 14 of the people responsible for the murders went to trial. Only seven were found guilty. Another four intermediates were judged, two were found guilty. From the 96 executioners judged, 58 were found guilty. In the same period, 6330 rural workers were arrested due to their political activities related to the fight for land reform. In 2001, 29 murders and 254 arbitrary imprisonments of rural workers occurred. In

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<sup>5</sup> We thank CPT and Rede Social for providing us with data for the following chapter on Brasil.

the next year, 158 peasants were arrested. In 2002, there were 43 murders, 20 homicide attempts, and 73 death threats; 44 people were physically assaulted and 20 were tortured. These numbers show that, historically, rural violence is directed against landless workers.

The background of these conflicts is a structure which has been recently called by several social organizations of Brazil the "Latifundium Crimes". The background of violence in rural areas in Brazil is due to a huge land concentration. Although land reform is seen by specialists and Brazilian people as a fair and necessary measure to be taken, there is today a campaign by conservative groups to avoid its implementation. A recent report by the Pastoral Land Commission (CPT) says that "rural elites in Brazil (...) try by all means to create a socially unstable environment to influence public opinion so that the government adopts coercive and punitive measures against workers' movements eventually avoiding the implementation of the land reform".

The Brazilian Constitution says in article 184: "It is within the power of the State to expropriate, for purposes of land reform, the rural property which is not performing its social function, against prior and fair compensation in agrarian debt bonds with a clause providing for maintenance of the real value, redeemable within a period of up to twenty years computed as from the second year of issue, and the use of which shall be defined in the law". Hence, expropriation of idle lands that do not fulfil their social function is not of punitive character - since there are mechanisms of economic compensation even for those landowners who seize public property - land—for the sole purpose of speculation. What determines the social function of land, is e.g. the level of productivity and criteria including environmental preservation and workers' rights.

Statistics reveal that land concentration in Brazil is one of the highest in the world. The number of landowners with more than 1000 hectares is not more than 50,000. Nearly 1% own around 46% of the lands. Only 60 million of the 400 million hectares of private property are used for crops plantation. The other part of the land destined for cattle raising is underused, or, even worse, not used at all. Data from Incra (Agrarian Reform Institute) show that more than 100 million hectares of land in Brazil are not being used. According to Frei Betto, special advisor for the Presidency, Brazil has more than 600 million arable hectares, 250 million are wasteland areas and 285 million are mostly unproductive latifundia. He continues saying that 138 million hectares are held by only 28 thousand large landowners, and 85 million hectares are held by only 4236 proprietors.

On the other hand, there are around 4.8 million families of "landless" rural workers that live as squatters, lease-holders, sharecroppers or with properties of less than 5 hectares. Close to 200,000 of these families live in camps throughout the country claiming their right to land on which they can work. The best lands are destined to monoculture of export items such as orange, sugarcane, soy, cotton and coffee. At the same time, 40 million people in Brazil are in starvation; the vast majority of them are in rural areas. The small farmers are responsible for the bigger portion of the production, and also for the generation of employment in the rural zones. Therefore, land reform in Brazil is fundamental to resolve social and cultural problems in the country. While the subject of land concentration continues on debate, the violence against rural workers raises and impunity for latifundium crimes continues.

Provisory Measure No. 2.027, of May 04, 2000, during the government of Fernando Henrique Cardoso, created more obstacles for the land reform. This law says that "rural property object of dispossession or invasion motivated by agrarian or fundiary conflicts will not be checked in the following two years from the abandonment of the property. In case of reoccupation of the referred property, this term will be doubled." Such measure is unconstitutional since Brazilian Constitution does not warrant immunity for rural property dispossession. It serves as an instrument of repression against the occupation of unproductive latifundium by social movements.

The realisation of agrarian reform for landless families that allows access to cultivable lands is indispensable to fulfil, in a sustainable way, for the human right to feed oneself of these families. Despite the fact that the Brazilian constitution provides the necessary judicial instruments for the realisation of agrarian reform, the lack of political will and the badly functioning Brazilian state organs impede the effective and extensive application of a land redistribution programme. In 2003 the newly elected government of Luiz Inacio Lula de Silva promised to prioritize the combating of hunger through its 'Zero Hunger' programme; this programme includes a series of emergency and structural measures among which is the realisation of agrarian reform. Sectors linked to the latifundios have since mobilised and pressured the government. Their initiatives have utilised three classic weapons: a) Increasing their influence in judicial power at a local level, which is traditionally linked to the latifundistas. b) criminalising, with the help of the press, the landless movement (MST) and their fighters for agrarian reform. The latifundistas also succeeded in making the Senate approve the creation of a Parliamentary Commission that investigates the relevance of the cases of those who occupy land. c) Create militias and armed groups outside of the law that carry out all manner of violent actions. For example, the 'First Rural Commando' who use the same methods of a criminal organisation has already been created (see cases 5 and 8 above)

Special situation of women:

In Brazil there are approximately 19 million rural women workers. They suffer an inhuman process of exploitation, a process rendered more acute if they are black. Furthermore, their work is not recognised and, in many situations, unpaid. Nearly 40% of rural workers are considered family workers, without proper remuneration. Moreover, when they are remunerated properly, this is at a rate on average 25% less than that of men. Women from the countryside work on average 20% more than men, since, in addition to their work in the fields, they also work in the home.

In Brazil only 1% of rural properties are titled in the name of the women. The teaching of reading and writing and the registration of women are an indispensable prerequisite in assuring the possibility of getting land titles for single women or in co-ownership with their husbands or partners. There are 6.5 million illiterate women farmers in Brazil. The process of teaching women to read and write has progressed very slowly since literacy programmes for women do not enjoy the status of public policy at the national level, and there is a lack of women educators. Yet 70% of agricultural production for self-consumption is the result of the work of women. There are no specific credits that support the food security of families and the forms of production of women are not being strengthened. In this way, the chances for women of access to credit are reduced. Previous achievements in the pension system (for example, the guarantee of the special status of rural workers) run the risk of disappearing in the current process of pension reform, which is at the top of the current government's agenda to reduce state spending.

### **Case 19: Peasant Families in Usina Aliança are fighting for Justice and Land, Pernambuco (April 2004)**

More than 600 peasant families who live on the unproductive land of "Usina Aliança" in Pernambuco, are suffering systematic violations of their human rights, especially their rights to food and life. The workers have been demanding for 7 years the expropriation of 7,300 hectares, which is considered to be unproductive by INCRA (Institution that is responsible for the implementation of the Agrarian Reform) and Federal Justice in Pernambuco. The judiciary is blocking the process of expropriation; this encourages the owner of the factory "Aliança" to persecute the workers through armed groups aiming at expelling them from the lands. In 2003, two leaders of the peasant families have been killed and, due to threats, many families had to

abandon the land where they had been living for years. The contracted killers and their goons remain at large, seemingly immune from prosecution.

The conflict concerning the land of "Usina Aliança" is taking place in the region known as *Mata* in the federal state of Pernambuco in the north-east of Brazil. For centuries, this area has been characterized by the production and industry of sugar cane. The monocultural cane industry concentrates land, income and power. The cane – used for the production of sugar and alcohol – is dominated by a powerful elite, that controls state sectors, exploits workers and ignores labour laws. The crisis of this cane sector in the course of the 1990s incurred debts and dismissed workers. Currently, these oligarchies are regaining influence in the Brazilian government, which depends on the export of agrarian products to manage its foreign exchange balance. The new rise of the sugar barons creates new difficulties for the peasants who fight for land and support of the state for the agriculture of subsistence.

The peasant families of Usina Aliança were dismissed in 1996. The factory did not indemnify the peasant workers and/or made fraudulent agreements with the peasants which planned to register parcels of land which were smaller than the legally prescribed and regulated. This prompted the families to intensify their fight for labor rights and for the expropriation of the land. "La Usina Aliança", an industrial unit, disposes 23 areas of cane plantations. Today, there are families living in camps in 21 areas. Many of them have lived here for several years.

In addition to this pressure on the Brazilian authorities, there has been no progress in the process of protecting and safeguarding the rights of the families until now. In some cases the situation is deteriorating alarmingly. The families of one of the plantation areas, *Água Branca*, were attacked in the end of 2003 and Mr. Ivanildo Ferreira de Lima and Mr. Severino José da Silva were murdered by paramilitaries. Due to these killings and threats the families living and cultivating the land of this plantation were forced to abandon their houses and prevented from cultivating the land. The Brazilian state have stated through INCRA – the institution charged with the implementation of the agrarian reform – that this land is unproductive - the Federal Justice agree. INCRA has started a process of expropriation, according to Brazilian law. However, the owners continue to block the process in the Juridical Power. A federal judge (of the 7a. Vara) ruled against the objection. The Regional Federal Court of Pernambuco, still continues – inexplicably – to postpone a decision about the process, aggravating the insecurity of the families and encouraging actions of violence by armed groups against peasants and peasant women.

## 4.2 Columbia

According to the 2002 UN High Commissioner's report on human rights, 67% of the Colombian population live below the poverty line with 25% suffering from hunger – in rural areas this is even more than 40% of the population. The inequity of the tenancy of land is one of the main causes of rural poverty: 0.4% of owners have 61.2% of the land, while 57.3% own only 1.7% of the land. This unequal land distribution is worsening daily due to numerous forced displacements of small peasants, indigenous population groups and afro-colombian communities. According to the Colombian Information Bureau on Human Rights and Displacement (Consultoria de Derechos Humanos y Desplazamiento CODHES) between 1985 and the first quarter of 2002, 2,855,410 persons had been displaced and during 2002 alone more than 400,000 people were victims of eviction. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) acknowledged that Colombia is the biggest humanitarian crisis in the Western Hemisphere and has the third largest internally displaced population. Only the Democratic Republic of Congo and Sudan have more Internally Displaced Persons than Colombia.

Land distribution in Colombia is more unjust than ever: after a modest redistribution process between 1970 and 1984 it can be observed that since then land reconcentration processes have been under way in areas larger than 2000 hectares. This process came with a concomitant reduction in the cultivated area and an increase in the agricultural land dedicated to extensive cattle raising.

The reasons for this land reconcentration process are manifold. Firstly, drug traffickers, who, wanting to launder their illicit money, appropriated the best land in order to dedicate it to cattle raising. Land grabbing and speculation have intensified in recent years in the hope of land valuation in the vicinity of mega infrastructure projects or exploitation of natural resources. Landowners have been traditionally allied with the armed forces in order to militarily defend their economic interests. Thereby strengthening and multiplying paramilitary groups, who were already supported by large estate owners and who were created by the state in 1965 on the pretext of counter-insurgency; these groups are principally responsible for the violent dispossession of hundreds of thousands of peasants, indigenous and afro-colombian communities of their property and land in economically strategic areas.

On the other hand, the application of structural adjustment policies, in particular the liberalisation of the agricultural sector and the privatisation of rural extension services has ruined rural Colombia. As an indicator of the economic devastation one only has to mention that since 1990 food imports have increased by 700%. The crisis within the agriculture and fishing sector forced many agricultural workers to relocate to agricultural frontier zones and dedicate themselves to banned crops.

#### *The Colombia Plan*

In the year 2000 the Colombian government, in collaboration with the United States government, launched an initiative aimed at allegedly combating drug-trafficking and promoting peace named "Plan Colombia". The official goal is to eradicate 50% of coca and poppy plantations by 2005 by spraying them with defoliant and bombing cocaine laboratories. The fumigations have had a lethal effect on peasant communities and indigenous people in Putumayo, South of Caquetá, west of the Amazon, causing numerous illnesses, loss of food cultivation and poisoning the water supply and soil.

On the other hand, the Plan Columbia claims to offer alternatives to peasants so that they substitute coca with plantations of Oil Palm for example within the model of "strategic alliances". For the peasants this means becoming integrated into major business projects destined for the world market in a modernised form of crop-sharing. In 2002 the World Bank supported these plans by agreeing to provide credit for "productive associations" in eight zones in the country, six of which are controlled by paramilitaries.

The government's policy of agrarian counter-reform is moving forward at the same time as the introduction to the United States to sign a bilateral free trade pact which precedes the FTAA. The bankruptcy caused by opening up to agriculture and fishing imports in rural areas will be multiplied if the FTAA or a treaty of free trade were to eliminate the protection which some products still have against the subsidised competition from the United States.

#### *From illegality to institutionalisation*

The process of uprooting peasants, indigenous and Afro-Colombians, their being subordinate to large owners and the farming and fishing economy being subordinate to trans-national investment and imports have been carried out by violence mainly illegal and by paramilitaries. The

Colombian government is currently attempting to cement this massive and systematic human rights violations by Constitutional amendments and various bills and laws.

One key element in this strategy is the so-called "alternative penalisation bill" which would guarantee impunity to paramilitary groups in exchange of laying down the weapons. Since paramilitary groups are the main responsible for the displacement of rural communities, this amnesty would legalise the massive violent eviction. This law is accompanied by other laws, in particular laws 791, 793 and 812.

Law 791 aims to facilitate the transfer of abandoned property by lowering the period from 10 to 5 years of protection of landowner's rights. This law would operate against displaced people since 53% of them are small-scale landowners. Displaced peasants are not in a position to lodge complaints in their local towns against the facto occupants of their plots who will claim issuing of land titles after 5 years.

At the same time law 793 of 2002 virtually nullifies existing legislation on land forfeiture for not fulfilling the social function of property. This means that an important instrument for a land redistribution process has disappeared.

The new law 812 of 2003 which introduced the government's National Plan of Development will aggravate the situation even further. This plan determined that the subsidies previously given by the Colombian Institute for Agrarian Reform (INCORA) to peasants will now only be given to "productive projects in systems of production of business character" which are competitive. Land "abandoned" by peasants could be handed over to any "producer". Furthermore the government closed down INCORA and created a new institute for rural development with a negligible budget.

Despite the waste of land in large estates the dominant mentality views independent peasants as unacceptable impediments to the process of modernisation. The idea that Colombia can only develop with large property leaves peasants with no alternative but to become subordinate to large land owners and businesses, or to disappear.

#### *Civil Society*

As far as civil society is concerned, one can see a clear continuity of the terror applied for years during the massacres: the murders of union and popular leaders, the wave of detentions and the strategy of massively criminalising social and peasants movements which the Colombian government has unleashed under its policy of "democratic security".

### **Case 20: Violence against Colombian peasant organisations**

Numerous organisations are suffering from the repression of the Colombian State, as well as from the actions carried out by the paramilitary groups. The National Union Federation, La Federación Nacional Sindical Unitaria Agropecuaria (FENSUAGRO), has been a victim of an authentic pursuit of their regional leaders: on November 11, five peasant leaders Ricardo Espejo, Marco Antonio Rodriguez, German Bernal, and Jose Cespedes were brutally killed in the Municipality of Cajamarca. In Arauca, five unionists Apolinar Herrera, Rudy Robles, Ney Medrano, and Policarpo Padilla were detained. The brothers Augusto Fonseca, José Rafael Fonseca, and Ramón Fonseca, who were active members of the Peasant Union of the Atlantic Sintragricolas, as well as Saul Colpas, departmental president of Sintragricolas, were likewise killed.

Moreover, the forced disappearance of Victor Jimenez Fruto, president of Sintragricolas, section of Ponedera, and the displacement of Alvaro Londoño Y Sunilda Colpas were reported. Furthermore, members of the Agricultural Workers' Union of Meta (SINTRAGRIM), Bajo Ariari

section and more than eighty leaders in the Municipality of Cartagena del Chairá, Department of Caquetá lead by Victor Oime were forced into exile. They all belonged to the Agrarian Union Committee. In addition, union leaders of SINTRAPALMA, Puerto Wilches, Ariano Leon, Julio Arteaga, Pablo Vargas, Alirio Rincon and Rauberto Rodriguez, among others, were forcibly evicted.

Some members of the Womens' Association of Peasants and Indigenous (ANMUCIC) have suffered persecution, displacement and collective threats that had caused their national board solicit international to go into exile due to these permanent attacks. The Workers Union of the old institute of Agrarian Reform SINTRADIN has also been a target for repression: on November 6, Mario Sierra, leader of the Arauca section was killed. Luis Jesus Rodriguez, Alonso Campiño and Diogenes, who were all members of the Usuario Peasant Association – Unity and Reconstruction - ANUC-UR have suffered persecution in the Municipality of Ricaurte and in the departments of Cauca and Nariño.

In this cycle of violence, indigenous sectors and their communities, for example, Concuamos of Sierra Nevada de Santa Marta and in Belayas de Arauca, have witnessed killings of their members. In the case of one organisation situated in the indigenous zone of Putumayo, massive detentions have taken place, among these, the detention of Vice President of OZIP. Similar incidents have taken place in Guambianos de Silvia Cauca, who have lost nine of their members during the last year.

### **Demands from peasants' organizations in Colombia: Agrarian Reform and Food Sovereignty**

Colombian peasants have presented concrete proposals to solve the problems which would open a secure way to lasting peace and democracy in Colombia. In April 2003 the peasant, indigenous, and Afro-Colombian organisations passed the "Agrarian Mandate for Life in Dignity, Food Sovereignty, the Right to Land and Territoriality - No to FTAA!", a common programme aimed at solving the agrarian problem.

#### **Rights as the basis for our project: Three fundamental rights from a peasant perspective:**

- (1) The right to food sovereignty and the protection of food production
- (2) The right to land
- (3) The right to participate

#### **The Agrarian Mandate: proposal**

##### **1. *The right to life, fully democratic liberties and respect for human rights***

- respect and fulfil freedom of expression, mobilization, protest, political opposition, organization and collective contraction.

##### **2. *Food sovereignty and food security***

- autonomy and sovereignty considering production, distribution and consumption of food to guarantee self sufficiency and strengthening of the internal market by means of a production structure oriented to generate basic goods to feed and supply the population with nutritionally and culturally adequate necessities.
- guarantee access for the whole population to healthy and nutritional food
- no GMO's

**3. Alternatives to ALCA and to the free market agreements**

- international trade agreements in favor of the transnational capital damage the national production and distribution.

**4. Right to land**

- recognition of the historical rights of the indigenous peoples and the afro-descendants, their territories, and specifically the collective land.

**5. Reconstruction of the agriculture economy**

- cancelling external debt
- cancelling the peasants' debts and give peasants credits.
- sustainable and reasonable rents set by the government
- governmental control over agrarian science and technology
- reconstruction of agrarian state institutions with adequate budget and under the control of the social movements

**6. Protection of the environment**

- recognition, promotion, and protection of the indigenous', afro- descendants', and peasants' traditional knowledge as systems on there own for the production and the protection of the environment
- no privatization of rivers, beaches, low tide zones, or water entities
- environmental license for all intervention projects

**7. A policy concerned with the cultivators engaged in coca, poppy, and marijuana**

- end illegal fumigation
- the legal use of these plants or its voluntary eradication and substitution should be made with concern of respective community and with governmental financed programs: agrarian reform, voluntary resettlement, construction of infrastructure, production, processing, and commercializing

**8. Economic, Social and Cultural Rights for peasants, indigenous and afro-descendants**

- reconstruction and strengthening of public health system
- guarantee of adequate public education
- to guarantee the right to work: elaboration of concrete plans to combat unemployment, subsidies to rural unemployed
- guarantee the exercise of labor rights plenaries
- respect of the rights of the child and the attention of their basic needs in rural areas

**9. Political recognition of peasants**

- effective political participation and representation of the peasants, with autonomy, decision-making vote within the planning instances, management and execution of political programs related to agriculture, territory and rural life. The guarantee of the indigenous' and afro-descendants' participation
- recognition of the rights and the contribution of the rural women

**10. Recognition of the rights of female peasants, indigenous, and afro-descendants**

- measures against discrimination of women
- guarantee the participation of rural women
- special protection of women faced by violence

**11. Territorial rights**

- the indigenous, peasants, and afro-descendents communities' rights of an autonomous government of their territories
- implementation of previous agreements with respective community, adaptation to the ethnical, social, cultural, economical, ecological, geographical reality by putting to practice a new territorial policy in favor of the communities that strengthen the sovereignty, unity and diversity and protect the cultures of the different regions

**12. End of forced evictions**

- special attention to evicted families by means of food, health and education programs, social recovery, guarantee of housing and employment in dignity, security and stability as well as the return or voluntary resettlement on adequate lands
- reparation, indemnification and compensation to all forcibly evicted persons
- annulling of land transactions and return of land to evicted peasants, indigenous and afro-descendants.

**13. Political solution of the social- and armed conflict**

- sustainable peace, fulfillment of agreements agreed upon, national sovereignty, transforming of the political regime, solution to economic and social conflicts
- solution to the concentration of land
- investigation and punishment of paramilitary actions
- no to zones of rehabilitation, information nets and other measures that involve civilians in the conflict. No to forced and obligatory recruitment

## 4.3 Indonesia<sup>6</sup>

### *Introduction*

Human rights violations especially the peasant rights violation happens all the time in Indonesia. Some of the cases of the violation of the peasant right in Indonesia are below:

Manggarai, East Nusa Tenggara, March 2004

Garut West Java, August 2003

Bulu Kumba, South Sulawesi, July 2003

Mawun – West Nusa Tenggara June 2001

Palu Pakih – North Sumatra January 2004

Ai Mago village – West Sumatra September 2002

Most of the cases are based on the agrarian conflict between the peasant and the government, the investor and the peasant or, the peasant, the government and the investor. There are many agrarian conflicts, which either remain unsolved or which are pending. The peasant is faced with another problem which hits them hard: market liberalization - agricultural products in Indonesia cannot compete with imported agricultural products - this is due to high production costs. The combination of these features gives a picture of how the Indonesian peasant has become the victim of different forms of human rights violations.

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<sup>6</sup> Prepared by Federation of Indonesia Peasant Union (FSPI)

## Case 21: Manggarai: East Nusa Tenggara Province

*Location:* Meler Village, Kuwus District, Manggarai Regency East Nusa Tenggara Province.

*Case:* The government of Manggarai Regency claim that the peasant farm land is inside the forest conservation area

On Wednesday March 10, 2004 six peasants from Manggarai were shot dead by the police. 27 peasants were injured during the shooting and many others were beaten and arrested at Manggarai police station.

This tragedy began with the protest of the peasant conservation area. On March 9, 2004, six peasants were arrested and accused of harvesting wood in the forest conservation area. The Regent instructed the police to cut the coffee, vanilla and clove trees belonging to the peasant families.

### *Background:*

Meler Kuwus is the forest in the district of Ruteng and Kuwus district in Manggarai Regency. In this area, there are four villages covering 3,040 ha. In 1937, the Dutch colonialists and the indigenous people agreed to declare the forest as a covered forest. Based on the Governor's decision in East Nusa Tenggara Province on September 1972 No, 63 a committee was created to survey forest land. The committee did not involve the people who lived and farmed in the surveyed area. The peasant and the indigenous people of Meler Kuwus, who have lived and farmed the land for generations wanted to remain in the forest conservation area. The results of the survey were announced by the Ministry of Forest Department on January 21, 1986. Following this, the national government announced that the land should become a Forest Conservation Area. According to the law no. 41/1999 on the forestry, forest in land designated as forest conservation area is prohibited from productive activity. The people of Meler Kuwus were evicted from the forest in order to minimise forest destruction.

The Regent issued the instruction letter No. DK.522.11/1134/10/2002 on the Operation of the forest conservation area. This operation team involved police from Manggarai, Army 1612 Ruteng, the forest police, the district attorney, and another related officer in the area of Meler kuwus. The Operation started on October 2002-October 2003. During their operation, the team chopped down productive trees like coffee, vanilla and clove. They also arrested 91 peasants in May 2003. Between 29-30 July 2003 they also arrested 29 peasants, and continued destroy the people's trees until December 2003. On March 9, 2004 they arrested 7 peasants again. Facing this situation, on March 10, 2004 1500 peasants from Meler Kuwus Manggarai protested and the shooting incident happened that day.

## Case 22: Garut Regency – West Java Province

*Location:* Villages

- (1) Sancang, district of Cibalong
- (2) Papandayan, district of Cibalong
- (3) Darajat, district of Cisurupan
- (4) Pasir Wangi, district of Cisurupan
- (5) Talaga Bodas, district of Wanaraja

*Case:*

The case between the peasants and police, the local government of Garut and the Forestry Department. The violation is one faced by peasants who farm in the forest of Garut regency.

On August 12, 2003 the Wana Laga Lodaya operation was organized by Department of Forestry. The Operation team comprised the West Java police, 190 persons from the Forestry Department, Special Brigade police and other forces related to forestry. The operation began when they entered the farming land and the villages where the peasants lived. The team carried guns and pistols including a map and a list of targeted persons. They destroyed the farming land and burnt the houses in the area of Sancang district of Cibalong, Papadayan and Darajat district of Cisurupan and Pasir wangi, Talaga Bodas district of Wanaraja Residency of Garut. During the operation of 11-14<sup>th</sup> August, 2003 at least 44 persons were arrested.

The majority of the people who live in the forest are landless peasants. They have no land because 70% of the productive land for farming is under plantations, the forestry department land and state plantation. According to the Department of Forestry & Plantation, the average landholding in Garut is 0.13 ha. This harsh reality leaves the 1400 peasant householders and the peasant workers in the area with little choice but to occupy the land in the forest and farming for survival. The forestry department considered this as forest destruction, and financed the operation of Wanalaga Lodya for one month.

### **Case 23: Bulukumba Regency, South Sulawesi Province**

Case:

Violation and criminalization of peasants taking back their land graph from the London Sumatra Plantation Company (PT Lonsum)

On July 21, 2003 the police team from Bulukumba Residency attacked, shot and killed the peasants of Kajang Village, regency of Bulukumba. The peasants were protesting and demanding their right of their land graph by PT Lonsum since 1981.

During the police action, 4 peasants died, 20 people were injured and 24 arrested. After the incident, the police continued to remove the peasants from the forest and villages and declared that 24 people who had run away would be shot if they did not give themselves up to the police within 48 hours. The 24 people were accused of being provocateurs by the police chief of South Sulawesi Irjen Pol Yusuf Mangabarani. The police blocked the conflict area, and made it impossible to evacuate the victims of their violence. The one person who died in the hospital can not be buried because people were afraid to tend to the body. An NGO investigation team from South Sulawesi was stopped by the police when they tried to evacuate the shot victim.

The agrarian conflict between the peasants in the village of Bonto Mangiring, and Bonto Baji Regent of Bulukumba with PT Lonsum, began with the peasant land graphs by PT Lonsum in the region, which neighbors PT Lonsum Plantation land. In 1980, PT Lonsum with the support of the government and military occupied and destroyed hundreds of houses and the farming land in some villages. PT Lonsum said that the farming land was in the area of their plantation permit and PT Lonsum made the farming land into their rubber plants. Between 5-9 March, 2003 PT Lonsum used the employees to occupy and burn five houses in Bonto Mangiring villages.

In the afternoon hundreds of people went to the location. Stones were thrown, and a civilian, Mr. Andi Makking, was seen shooting at the people. This also witnessed by 24 police under the command of AKP H. Abdul Rauf. Since March 9, 2003, the location has been occupied, and between 10-14 March 2003 the peasants organized a peace march to the House of Representative (DPRD) in Bulukumba to demand that the Government solve the problem by re-measuring the land of PT Lonsum and adjust the measure of their plantation permit. PT Lonsum

rejected the proposal and together with the police started to call 86 people to come for questions and examination at the police station. Peasants reported to the police that the arson was conducted by PT Lonsum, and that the man shooting at hundreds of people was a PT Lonsum employee named A Abdul Malik.

On May 18, 2003 at midnight the police and PT Lonsum attacked the village of Bonto Mangiring and Bonto Baji with one police car and 3 cars of PT Lonsum. They attacked and destroyed the houses and arrested 4 peasants. The peasants protested against arrests, and organised a demonstration at the House of Representative for 10 days (June 1-10, 2003). The House of Representative organized an emergency meeting and decided to release the 4 peasants from the jail but the police have not yet released them because of a countermanding order from high level police in Bone. On July 21, 2003 after many days action without a positive response 1500 peasant occupied the rubber plantation in Bonto Manging Village. 12 police and 140 special Brigade police without any negotiation shot at the peasants and 5 peasants were killed.

### **Case 24: Mawun case – West Nusa Tenggara Province**

*Location:*

Village: Tumpak, District: Pujut.

Regency: Central Lombok

Province: West Nusa Tenggara.

*Case:*

Violation and criminalization of the peasant struggle to regain their land from PT Aratika Company.

On May 2000, 4 peasants from Mawun village were arrested by the central Lombok police, accused of cutting a coconut tree belonging to PT Aratika Company. The land on which the tree was felled have never been traded with PT Aratika Company, and the case remains unsolved. In June 2001 PT Aratika paid paramilitary groups to remove the peasants from the land. On June 2001, 100 paramilitaries removed the people from their land by using the short machete, knife etc. One peasant was black and blue because he was beaten by the paramilitary.

Lombok Island, West Nusa Tenggara is situated in the East of Bali where there are beautiful beaches. The population is 2,500,000. In 1980 the local government developed tourism in Lombok and invited investors to come. In 1990 PT Aratika negotiated with the peasants on the price of their farming land. During the negotiation PT Aratika manipulated the measurement of the farming land, the peasants were forced to sell the land at a cheap price IDR 50.000-IDR 150.000 PT Aratika claimed to have purchased land that peasants never sold.

In 1994 PT Aratika removed the peasants from their farming land and told them that a hotel would be built on the land. In response, the peasants protested. Until 1999 PT Aratika did not build any tourism facilities on that land. In 1999 it was discovered that PT Aratika was not the company that wanted to develop the tourism in Lombok, but were merely the brokers who wanted to speculate on future tourism industries by buying land in anticipation of the industry's arrival. In July 1999, the peasants reported this problem to the local government and hoped to find a solution. The government did not respond, and in March 2000 peasants occupied their own land, and began to farm it.

## Case 25: Jarong Rantau Panjang – West Sumatra Province

### *Location:*

Jarong Rantau Panjang village, Nagari Sasak, Ranah Pesisir District, Pasaman Regency, West Sumatra.

### *Case:*

Agrarian reform conflict on indigenous land taken by PT Gersindo Minang Plantation Company (PT GMP)

In 1997 PT GMP seized indigenous land and the village of Jaorong Rantau, and transformed it into a palm oil plantation. After 5 years of negotiation with the company, the peasants finally took their protest to the House of Representative in West Sumatra on September 24, 2002. The Regent of Pasaman, on July 26, 2003 ordered the team to re-measure the land and the measurement finished in August 2003. The result has not yet been followed-up by the Regent. On January 2004, the PT GMP Company made claims to the police concerning peasant activities. The police responded by calling 3 members of West Sumatra Peasant Union (SPSB) to their station to be questioned. The case remains open, and peasants still do not have their indigenous land for farming and to fulfil their right to food.

## Case 26: Palu Pakih – North Sumatra Province

### *Location:*

Palu Pakih Village, District Batang Serangan, Langkat Regency, North Sumatra.

### *Case:*

The land conflict between the peasants of Palu Pakih Village and the state plantation company (PTPN II)

The village of Palu Pakih used to be a forest, but has been inhabited for many years. The PTPN II – the state plantation company - claims that the village falls within the area of their plantation. The peasants are members of North Sumatra Peasant Union (SPSU). On January 10, 2004 the peasants' mass-occupied the land, and built a camp upon it. On January 12, a PTPN II employee tried to remove them but the peasants held their ground. On the morning of January, 14 2004 PTPN II employees came again with 50 personals including 2 special brigade forces of police and the security officer.

They carried with them long swords and flame throwers- the camps were destroyed. They also threatened the peasants by shouting and threatened to shoot them. They fired the gun twice, but the peasants ran back to the community and gathered reinforcements, managing to stop the PTPN II people. On the same day, 30 police came back, looking for Suryono and the village chief. The police entered their houses, without a warrant, but could not find them. The police could not find Suryono and the village chief, on the way back they met Mr. Kintir, Mr. Adi Syahputra and Mr. Sunardi and took them to the police station. On the same evening the 85 peasants went to the police station in Langkat but the police guard said that they were taken to the Stabat police station. On the morning of the next day they negotiated with the chief police of Stabat, who promised to release the 3 peasants the following day. The next day, the police refused to release their 3 peasants, and so the peasants came back with more people and, finally bowing to the pressure, the police released them.

## 4.4 South Africa

After 10 years of political democracy in South Africa, the situation of the poor and landless has not improved at all, but has become even more precarious. There are 19-million poor and landless rural people and seven million poor and landless urban people. In particular, the South African State has so far not succeeded in the daunting task of rectifying through its three-pillared land reform programme the massive dispossession of Africans during a century of forced removals. Less than 1.2% of farm land currently used for commercial agriculture were redistributed or restituted to black South Africans from 1994 to 2001.<sup>7</sup> As a consequence of the sluggish implementation of land reform and the skewed distribution of land, the living conditions for black rural people have barely changed: of the 50% of South Africans below the poverty line - who are nearly exclusively black - 70% live in the rural areas. These about 14 million rural Africans are crowded into the infertile badlands with poor soil quality and insufficient infrastructures, the former homelands, while some 60.000 white commercial farmers own over 80% of the prime agricultural land.<sup>8</sup> What is more, instead of being distributed land, poor and landless farm-dwellers and informal settlement residents have lost more land through farm evictions and urban forced removals.

A structural problem in the rural farming areas of South Africa consists in the absence of any strict enforcement of legislation; white farmers and their security companies and self-defence units continue to reign unchallenged in a state of lawlessness, poor farm dwellers obtain limited justice in the Courts, which remain substantially untransformed.

### *Land Reform in South Africa*

When the African National Congress won the first democratic elections in South Africa in 1994 with over 60% of the vote, the new Government introduced its programme of *Reconstruction and Development (RDP)* – aimed at bettering the livelihoods of the poor, black majority that a century of discriminatory policies had systematically impoverished. Part of the RDP is the land reform programme, of which implementation begun shortly afterwards. It is composed of three policy areas: *restitution*, *redistribution* and *tenure reform*.

The legal basis for *restitution* is the *Restitution of Land Rights Act 1994*. Under the act, persons or communities dispossessed of property after 1913 as a result of past racially discriminatory laws and practices could lodge claims for the return of their land/property or obtaining equitable compensation for such land until 31<sup>st</sup> December 1998. The rate of settlement of the total of 68,878 restitution claims was initially very slow - 31 cases by 1998 - but accelerated and reached 46,727, with a total of 590,880 beneficiaries by the end of 2003.<sup>9</sup> The great majority (86%) of these claims are urban and have been lodged primarily by individual families. Restitution has therefore not effectively addressed the large-scale dispossession of entire rural communities. Again, both urban and rural claims have largely been settled through financial compensation (59%) and not the return of land.

The purpose of the *redistribution* pillar of land reform is the "*redistribution of land to the landless poor, labour tenants, farm workers and emerging farmers, [...] to improve their livelihoods and quality of life*".<sup>10</sup> When the programme was initiated, the objective was to redistribute 30% of the country's agricultural land over the following 5 years. Between 1995 and March 1999 roughly

<sup>7</sup> South African Department of Land Affairs (2002).

<sup>8</sup> Sustainable Livelihoods in Southern Africa, (2001) *Research Briefing 1* 'The Politics of Land Reform in Southern Africa'.

<sup>9</sup> All figures Department of Land Affairs.

<sup>10</sup> DLA White Paper on Land Policy 1997:36

60,000 households were allocated grants for land acquisition under the first redistribution scheme called *Settlement/Land Acquisition Grant (SLAG)*.

In 2000, SLAG was replaced by the *Land Redistribution for Agricultural Development* scheme, known as LRAD. LRAD drew heavily on *World Bank inspired land reform programmes* operating in Columbia and Brazil.<sup>11</sup> It operates on the premise that market-driven supply and demand bolstered by the disbursement of credits and raising of own capital, rather than state-administered expropriation and redistribution should allocate land to landless peasants. The redistribution programme has been criticised for its failure to achieve its set goals and is beset with structural problems. With a paltry Rand 500 million (~ Euro 70 million) allocated annually to the programme, the budget is very modest compared to the magnitude of the rural economic problems of landlessness and unemployment.

*Tenure reform* is based on a number of acts, divisible into such that protect the rights of labour tenants and farm workers and such that aim at structuring the management, control and conveyancing of communal land, in particular that of the former "homelands"<sup>12</sup>.

The implementation of tenure reform, however, also leaves much to be desired. Living and working conditions on commercial farms have barely changed since 1994. The five million strong army of agricultural workers is arguably the poorest and most deprived segment of the South African working class. The owners of the large commercial farms of the country are notorious for their total disregard for workers' rights and their use of oppression, intimidation, violence and illegal evictions in subduing the workforce and preventing unionisation – regardless of the existence of laws destined to protect farm workers against such human rights abuses.<sup>13</sup> Evictions of farm workers without court orders and in contravention of the law are frequent, often with the connivance of local police.<sup>14</sup> According to critiques, ESTA, the heart-piece of the anti-eviction legislation of tenure reform does not offer sufficient protection. Beyond that, it is disquieting that "not a single case of unlawful eviction had come before the courts by the end of 2000."<sup>15</sup>

Disenchantment about the little progress made so far in redistributing South Africa's agricultural land exists in many quarters of civil society and within the administration itself. Most significantly, landless people and farm workers have themselves begun organising and channelling their demands for fast and efficient agrarian reform through the *Landless People's Movement (LPM)*, which was founded in 2001 and is organised nation-wide. The LPM moved into the limelight during the August 2002 *World Summit on Sustainable Development* in Johannesburg, when it held a march of landless people through the city in order to draw the attention of the global public on land reform in the country. Frustration within its ranks with the failings of the land reform programme had led the LPM to challenging the programme more vociferously. For example, LPM demanded a national Land Summit to address the fundamental causes of these broken promises, but has been ignored despite repeated meetings and promises from the government. The Government has since then steered on a course of confrontation and developed a tough stance, which has resulted in an increasing criminalisation of LPM activists.

<sup>11</sup> Barros et al. (2003): "Market Assisted Land Reform – The Illusion of a Future", in: *The Negative Impacts of World Bank Market Assisted Land Reform*. Rede Brasil, p 26.

<sup>12</sup> The *Land Reform (Labour Tenants) Act 1996* specifies the rights of farm workers and farm residents on privately-owned farms, and the *Extension of Security of Tenure Act 1997* (commonly known as ESTA), as well as the *Prevention of Illegal Eviction and Occupation Land Act 1998* aim at protecting occupants of privately-owned farms from arbitrary evictions. *The Communal Land Rights Bill*, which is to be enacted in 2004, will be the first comprehensive act on the administration of communal lands.

<sup>13</sup> *The Inquiry into Human Rights Violations in Farming Communities* (2003) by the South African Human Rights Commission (www.sahrc.org.za) documents the extent of these practices.

<sup>14</sup> Kgwadi, Elizabeth & Michael Nefale (2003): "A South African Case Study", in: *The Negative Impacts of World Bank Market Assisted Land Reform*, Rede Brasil, p 306.

<sup>15</sup> *ibid.*

In 2004, LPM protested against 10 years of failed land reform by calling on poor and landless people to join in boycotting the 14 April, 2004 elections through their "No Land! No Vote!" campaign. Their decision to embark on the "No Land! No Vote!" campaign arrived at over a period of more than two years when seeing that hopes for democratic transformation were turning into little more than a "ballot box democracy" in which people are expected to vote every five years while no real efforts were made to address their needs in between elections. Although LPM took great precautions to ensure that their members did not interfere with the rights of those who chose to vote, their peaceful campaign was met with violence and repression.

### **Case 27: Repression of Landless activists (2004)**

On April 14 2004, being in the run-up to its 10 years anniversary of political democracy in the country, the Republic of South Africa held its voting day. On the same day, 62 members of the Gauteng LPM were arrested when they wanted to hold a peaceful protest, in Thembelihle, south of Johannesburg, as part of the National LPM's "No Land, No Vote" campaign. Amongst those arrested are core leadership of the LPM Gauteng provincial structure and other activists.

The arrests have been justified under the "Electoral Code of Conduct" and the "Prohibition of Illegal Gatherings Act 1993". The LPM members were not permitted to assemble although they were prepared to observe regulations allowing protests to be held in a perimeter of 200m from any polling station. They were arrested as they were alighting from vehicles before any gathering could take place.

During detention, police acted with excessive force. A number of people were beaten, kicked, verbally abused and teargassed, with no provocation from their side. In addition four members of the LPM - Maureen Mnisi, the Gauteng LPM Chairperson and National Projects and Education Officer, Moses Mahlangu, an LPM youth activist, and Ann Eveleth as well as Samantha Hargreaves, members of the LPM Advisory Structure - were taken out of their jail cells by Crime Intelligence Services (CIS) (successor to the apartheid-era Security Branch), at around midnight on the day of the elections. The CIS attempted to abduct Maureen Mnisi from the Protea Police Station, without signing her out of the cells. It was only as a result of the intervention of the uniformed police that she was taken back to her cells. The other three activists mentioned above were individually taken into an interrogation room, and then physically and psychologically tortured until the early hours of Thursday 15th April. These seem to be the first reports of concerted torture of activists in detention since 1994.

The arrests, abuse and torture of LPM members on the day of South Africa's elections are not isolated. Since 2002 there have been numerous reports of the repression of LPM demonstrations, and the harassment and intimidation of LPM members by the police and state intelligence agencies.

In addition, National Organiser of the LPM, Mr Mangaliso Kubheka, has received death threats from a white farmer and his armed security company. He has been in exile for the past three weeks and fears for the safety of his family. Despite an intervention by Mr Jody Kollapen, the Chairperson of the South African Human Rights Commission (SAHRC), to the Police Superintendent at the Ingogo Police Station, KwaZulu-Natal, Mr Mangaliso Kubheka has not been provided with police protection to date. The police have also indicated that they are not prepared to pursue charges against the white farmer and the security company.

## 5. Summary

This booklet has illustrated the gravity of the problem peasant communities face all over the world. The violations peasants face are numerous, complex and profound. Since peasants are the majority of people in the world, the systematic violations of their human rights have historically been neglected in the human rights system. With the increasing recognition of economic, social and cultural rights it becomes easier to discuss and document peasant rights violations.

- Millions of peasants have been victims of forced evictions. Peasants have been forced to leave their farmland because of different forms of land grabbing: dam constructions, the development of plantations planted exclusively with increase of cash crops for export and industry, the development of hotels, golf courses, supermarkets etc. It can be both national or international investors or companies behind these policies that lead to forced evictions
- Peasants are also often deprived from the access to other productive resources, such as local seeds, biodiversity and water. Biodiversity is destroyed by many modern agricultural techniques.
- As a result of these trends, today millions of peasants live in hunger and suffer malnutrition. This is not because there is not enough food in the world, but because of that the peasants are forced to move into marginal areas, they get no support from their government and the input sector to agriculture as well as the processing of food stuffs is highly concentrated in the hand of few transnational corporations.
- Under these problematic circumstances also other right of the peasants are violated. The health of the peasants and their families and their access to education is deteriorating.
- At the same time peasants face severe violations of civil and political rights. Their ability to protect and fight for their life and their political role in societies is diminishing. They often have very limited access to justice.
- Many peasant leaders face harassments and political persecution. Killings, death threats etc. are parts of a daily reality in many countries for peasant organisations struggling for their rights.
- Increasingly, the situation of peasants is also influenced by international developments. Subsidies in developed countries, transfers to transnational corporations, and trade monopolies are responsible for dumping practices. These mean that peasants in many rural areas receive an inadequate income from their agricultural product.
- Framework conditions set by international agreements such as the WTO or by structural adjustment policies of the World Bank and the IMF can severely limit state capacities to implement their human rights obligations and to protect their peasants adequately. The WTO directly protects dumping practices and agricultural export subsidies for Europe and the USA that can lead to militate against the right of access to land for small farmers in developing countries.

These policies and trends have to be addressed to find solutions to the problems and violations of small holder peasants. In fact, any meaningful reduction in the number of hungry and the poor worldwide can only be achieved in a sustainable manner, if the problems of small holder peasants in marginal, remote areas are addressed systematically. Since these problems remain under-recognised, Via Campesina is thinking about the development of a specific instrument - an "International Convention on the Rights of Peasants". While the UN-human rights system is familiar with several instruments for the particular protection of certain groups, no instrument is available for peasants. The two central human rights treaties do cover all relevant rights for peasants. Nevertheless a specific and more detailed new instrument could be extremely useful in addressing the core problems and violations faced by peasant and by peasant communities:

## **5.1 For a Human Rights Commission resolution on peasant rights**

As a first step towards a better recognition of the problems and violations faced by peasants, Via Campesina and FIAN are demanding that the Human Rights Commission should in the future deal with the problem of peasants regularly within a resolution aimed specifically at them. The yearly analyses and attention linked to such a resolution will help to increase the attention to the magnitude and gravity of the human rights problems faced by peasants

## **5.2 For a convention of peasant rights**

While the two central human rights covenants cover all the rights which are relevant for peasants, they do not address their situation in detail. In order to address these problems adequately, Via Campesina is thinking about the development of an "International Convention on the Rights of the Peasants" (ICRP). Such a Convention should cover the obligations of national and international actors. It should also address the negative consequences of liberalisation and should highlight the extreme importance of agrarian reform and access to land for peasants worldwide.

During a regional conference on Peasants' Rights in April 2002, Via Campesina formulated the "Declaration of the Rights of the Peasants" through a series of activities, including a Workshop on Peasants' Rights in Medan, North Sumatra, in 2000, a Conference on Agrarian Reform in Jakarta in April 2001, a regional conference on peasants' rights in Jakarta in April 2002. A copy of such a first draft or concept paper for an "International Convention on the Rights of the Peasants" can be ordered at the office of Via Campesina and the office of FIAN (for addresses see rear page).

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<http://www.fian.org>

**Via Campesina: For the right to produce and for food sovereignty**

Via Campesina is an international movement coordinating organizations of small and middle peasants, agricultural workers, rural women and indigenous in more than 63 countries in the Americas, Asia, Africa and Europe. The main aim of Via Campesina is to develop the solidarity and unity in diversity between rural organizations in order to promote economic relations based on equality and justice, the defence of their lands, food sovereignty, and a sustainable agriculture based on small and middle producers.

**FIAN: For the human right to feed oneself**

FIAN is an international human rights organization working for the right to feed oneself. It was founded in 1986, and can count on members in more than 50 countries. The aim of FIAN is to contribute in the whole world to the implementation of the International Bill of Human Rights. FIAN works in particular for the right to feed oneself of persons and groups threatened by hunger and malnutrition.