

## CETIM ADVISES YOU THE FOLLOWING READINGS

### Coalitions d'Etats du Sud. Retour à l'esprit de Bandung?

Joint publication Vol. XIV (2007) n°3

Shifting coalitions blocked negotiations at the WTO, rejection of the US project of Free Trade Zone of the Americas, revival of discussions within UNCTAD, summit of the non-aligned movement, the Bolivarian Alternative for the Americas... all signs of renewed capacity of the nations of the South to collectively question a world order which is strikingly unfavourable to their interests.

Twenty five years after the Reagan administration marginalized all the fora where the "third world" might just be able to get its voice heard on the international scene, this renewed diplomatic activism of the South is testimony to the emergence of new powers which aspire to a geopolitical role commensurate with their demographic and economic weight and which refuse to accept any longer the double standards of the North in terms of trade liberalization trade.

More fundamentally, it is testimony to the exhaustion of the "Washington Consensus" hegemony and it is an expression of the South's shared determination to take advantage of new opportunities for political and economic manoeuvre, in order to take control of its integration into the globalization process. Do these reconfigurations signify a revival of the spirit of Bandung? To what extent might a heterogenous "third world" with greatly diverging interests, modify sustainably the imbalances which characterize North-South relations? What are the various coalitions and what are their geopolitical strategies?

Price: CHF 22.50 / 15 €, 238 pages, ISBN: 2-84950-14-36, Editions CETRI, GRESEA (Belgium) and Syllepse (France), 2007, can be ordered from CETIM.

## GET YOUR FRIENDS TO JOIN CETIM!

### Avec les paysans du monde

by Marc Ollivier (dir.)

A compilation of about twenty articles, this work illustrates the various aspects, historical and contemporary, of the war against farmers led by capitalism, as well as of the social movements that take shape, at the international level, to restore farmers' approaches to development territory.

In his presentation, Marc Ollivier repeats the reasons beyond this publication: "farmers, be they cattle farmers or cultivators, have secured the survival of mankind for 10'000 years without endangering the environment. Since the Neolithic revolution, for thousands of years, they have constituted the vast majority of human beings and produced the material basis for all class societies, mostly in tough conditions, but sustainable at the planetary level. However, for approximately five centuries, everywhere they have been the main victims of the slaughters and violence associated with the expansion of capitalism in all its forms: commercial, military for the conquest of markets, colonial for the one of raw materials, financial for the exploitation of their workforce. Today, farmers are still making up the majority of human beings but they endure unprecedented aggressions from the key players of capitalist globalization. Their survival is at risk as they are faced with uncontrolled deforestation, with the taking over of huge territories by chemical multinationals and the agrobusiness, with soil, water, ocean and atmospheric pollution stemming from production systems led by private, monopolistic interests that escape all public interest rules.

However, the survival of humanity is dependent on the one of farmers for at least two essential reasons: on one hand, globalized capitalism, the vehicle of always more unbearable inequalities and disparities, is unable to integrate three billions of farmers (and despite rural depopulation and the extension of shantytowns, this figure is always growing) in social, economic and cultural systems that respond to our planet population's needs and aspirations. On the other hand, farmers, thanks to their technical and cultural expertise and to the position they still hold in our world, are the best conveyors of two principles which we will necessarily have to be applied collectively to face capitalist globalization and to find for the future new ways to sustainable survival: the principle of respect for the earth ecosystem natural cycles, and the principle of human solidarity, the only ones capable of securing a future made of peace and cooperation amongst people.

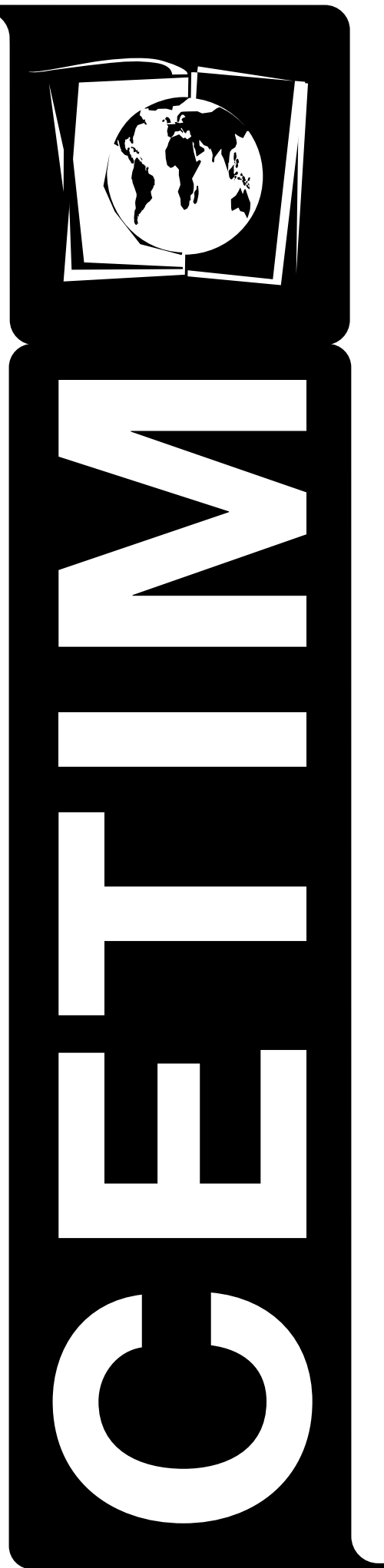
Price: CHF 26 / 15 €, 236 pages, edited by the Association *Pour un nouveau développement* with the contribution of the *Forum Civique Européen* (FCE). On sale at FCE's contacts in France and Switzerland. Presentation, table of contents and authors' list on the website: <http://perso.orange.fr/paysans.du.monde>.

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## EDITORIAL

2007 has been marked by various events relating to housing and accomodation in Switzerland (forced evacuation of squats in Geneva, and of the straw house in Lausanne), in France (new "opposable housing law", demonstrations by people with housing problems) and in the rest of the world.

The right to adequate housing is a universal right, recognized as such at the international level and in many national constitutions throughout the world. In spite of this right, the homeless, the inadequately housed, and the evicted are more and more numerous in the cities and the countryside across the planet. More than 4 million people were evicted from their homes between 2003 and 2006. In today's world, some 100 million persons are homeless and more than a billion are inadequately housed.

The denial, de jure or de facto, of the right to adequate housing brings in its wake dramatic consequences and causes numerous violations of human rights in such areas as employment, education, health, social ties, participation in decision-making (denial of civil rights, among others) etc.

Although two world conferences specifically devoted to questions of housing and related summits (on development, environment etc.), all organized by the United Nations during the three preceding decades, have provided an opportunity to sensitize public opinion to the seriousness of the situation, there has been no follow up to the declarations and actions plans adopted.

What is needed in order to reach the right of all to adequate housing is to attack the deep rooted causes of non-access to housing throughout the world. These causes have been identified by the United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari. They include, in particular: land and property speculation; expropriations and forced evictions; rural exodus and the growth of slums; discrimination against women, migrants, the elderly, etc; the negative effects of the privatization of public services.

Demanding the right to adequate housing implies fighting for the inclusion of the most vulnerable people in society and forcing governments to respect their legal obligation to guarantee a life of dignity. This implies also fighting forced evictions, illegal in international law.

This bulletin is mainly devoted to the Right to Housing and it contains extracts from the brochure that we have just published and a brief report of the conference that we organized on this subject in December 2007.

## The right to housing

Within the series of publications on human rights, CETIM has just published a brochure on the Right to Housing. This publication covers the definition and foundations of this human right, state obligations for its realization as well as the judicial and extra-judicial control mechanisms for national, regional and international claims. This bulletin provides a brief outline of the points developed. If you would like more detail you can order the brochure from CETIM (CHF 4 or 2.50 Euros plus postage) or you can download it free from the web site.

To celebrate its publication, CETIM organized a conference on the Right to Housing on 12 December 2007, in Geneva with the participation of Miloon Kothari, Special Rapporteur on the Right to Housing at the UN, Annie Pourre, spokesperson of DAL (France) and Maurice Pier, spokesperson of the Geneva Collective, Rhino. You will find a summary of this conference on page 5.

### Definition of this right

The right to housing has been defined by different bodies of the United Nations. For the Committee on Economic, Social and Cultural Rights, the principal U.N. body entrusted with overseeing the realization by governments of the right to adequate housing, "the right to housing should not be interpreted in a narrow or restricted sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."<sup>1</sup>

For the United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, "the human right to adequate housing is the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity."

He emphasizes that the realization of the right to adequate housing is intimately linked to the realization of other basic human rights, such as the right to life, the right to protection of one's private life, of one's family and one's home, the right to not be subjected to inhuman or degrading treatment, the right to land, the right to food, the right to water and the right to health.

The Special Rapporteur has also insisted that its realization is tied to respect of the fundamental principles of non-discrimination and gender equality. In several of his reports, the Special Rapporteur on the Right to Adequate Housing has also insisted on the prohibition of forced evictions<sup>2</sup> and on the obligation to help the homeless. He has recently drafted Basic Principles on Development-Based Evictions and Displacements which complete the Guiding Principles on Internal

Displacement dealing with displacements due to armed conflict or natural disasters and which we have presented in an earlier brochure<sup>3</sup>.

For the U. N. Commission on Human Settlements (UN-Habitat)<sup>4</sup> and the Global Strategy for Shelter,<sup>9</sup> "shelter for all" means affordable shelter for all groups in all types of settlements, meeting the basic requirements of affordability, tenurial security, structural stability and infrastructural support, with convenient access to employment and community services and facilities".

It is to be emphasized that the U.N. has organized two world conferences (in 1976 in Vancouver and in 1996 in Istanbul) on human settlements during which declarations and action plans were adopted with the purpose of solving the problems of adequate housing in the world.

### Its foundations

The right to adequate housing has been recognized in numerous texts at both the international and the regional level. At the international level, the two most important texts are the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). At the regional level, the most important texts are the European Social Charter, revised in 1996, and various African instruments for the protection of the rights of the child and of women.

The right to adequate housing was recognized for the first time at the international level in the 1948 Universal Declaration of Human Rights. In this declaration, the states parties proclaimed that: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

The strength of the Universal Declaration of Human Rights lies in its having been accepted by all countries.

In 1966, almost 20 years after the Universal Declaration of Human Rights, United Nations member states adopted the International Covenant on Economic, Social and Cultural Rights, in which they recognized the right to adequate housing. In Article 11, governments committed themselves to taking necessary measures to its realization.

The same year, member states adopted the International Covenant on Civil and Political Rights, in which they recognized the right to life (Article 6), the right not to be subjected to subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7) and the right not to be subjected to arbitrary or unlawful interference in one's privacy, family or home (Article 17). The Covenants are treaties. They are legally binding on all states parties.



## JUST PUBLISHED

### Quel développement? Quelle coopération internationale?

This is a recurrent debate in which issues such as "growth", "development," development aid" and "international cooperation" are often raised in our newspapers, our actions and our discussions, however these notions are regularly confused.

The Declaration on the Right to Development adopted in 1986 by the United Nations General Assembly, brings order and clarity to this confusion. It is a document of fundamental importance, ever more relevant each day.

Although it was passed by 146 votes for, one against (USA) and a dozen abstentions, it has never been implemented. Arising out of decolonization and the fruit of 25 years of effort by the non-aligned movement, it was swept away by the wave of neoliberalism.

In the current impasse, it is urgent to revive and reappropriate the underlying concepts of the Declaration. It is a bold, inspirational document, a mobilizing force for all movements struggling for international solidarity. It places the individual and people at the centre of development, promotes the right of people to self determination, to real participation and democracy. It obliges states to cooperate rather than compete with each other, to the detriment of the weakest, and to undertake general disarmament for the wellbeing of all.

**Tamara Kunanayakan**, Sri Lankan researcher and activist who has followed this matter closely in the United Nations for years, presents the history of this revolutionary text, its content, its legal validity, and its relevance for the future. Her analysis, which makes up more than half of the book, is completed by three other striking contributions, which despite their diverse themes, reveal important convergencies. **Arnaud Zacharie**, political secretary of CNCD (Belgium), shows the extent of the regression over this period, as represented by the Millennium Development Goals; **Walden Bello**, prominent leader of the Asian research institute Focus on the Global South, dissects the delinquency of the "post Washington Consensus". **Remy Herrera**, researcher CNRS (Paris 1) and activist for an alternative globalization presents and describes the Bolivarian alternative for the Americas, ALBA, which, appropriately for an initiative which offers hope, means "dawn" in Spanish.

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PubliCetim N°30, 170 pages, ISBN: 2-88053-062-8. On sale at CETIM (Switzerland), CRID or AGORA International Diffusion (France) and CNCD or Editions du Cerisier (Belgium). This publication is available only in French.

The use of fossil energy in the ethanol transformation process is thus far from negligible. Add to this the collateral effects (deforestation, fires to clear forests, water drainage, treatment of polluted water etc.) and the belief that ethanol pollutes less and is a green fuel is firmly called into question.

Owing to its greater profitability, ethanol is inexorably overtaking food production. Many countries, particularly in the South, already feel the effects of this "land competition". On the world markets, the price of sugar has doubled, and the price of rice and wheat increased by 25% last year. Countries such as Mexico and Guatemala, major importers of United States corn, saw the price of the tortilla increase by practically 80% at the beginning of 2007, for the United States had decided to export a much smaller part of their corn crop, keeping it instead for ethanol production. For the countries of the South and the poorest people, the development of the ethanol industry is a catastrophe. This industry cannot grow except at the expense of their security, their sovereignty and their right to food..."

## JOIN THE CETIM!

- Individual member:** 50 CHF/ 30€ or US\$ (North) and 10€ or US\$ (South).  
Membership dues for retirees, students, apprentices and the unemployed are one half of the above stated amounts.
- Supporting member:** CHF 100 / 60€ or US\$ and more.
- Collective member:** CHF 200 / 120€ or US\$.
- Supporting collective member:** CHF 500 / 300€ or US\$ and more.
- "Moral support" member:** CHF 15 / 10€ or US\$.

### DUES ARE PAID FOR THE CALENDAR YEAR AND ENTITLE THE MEMBER TO:

- For every new member there is the gift of a book of Publicetim collection.  
(with the exception of "moral support" members)
- receive free the CETIM's newsletter.
- a 20% discount on the books and publications ordered from the Centre.  
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example, enact laws that protect the population from land and property speculation. They must create competent bodies to investigate violations and must assure the means of effective redress for victims, most notably through access to the courts. Governments must also intervene when powerful individuals or business enterprises evict people from their land or their housing, by bringing to law those responsible and by guaranteeing restitution and/or compensation for the victims. The government is also responsible for intervening to avoid all discrimination in access to housing. A government that does not, for example, guarantee that no person shall be refused housing because of his/her sex, nationality or origin, nor prevent other forms of discrimination, violates its duty to protect the right to housing.

### The obligation to implement it

The obligation to implement comprises the obligation to facilitate and the obligation to realize the right to adequate housing. The obligation to facilitate requires the government to take positive measures to help individuals and communities exercise their right to housing. The government must, for example, construct low-cost housing in sufficient quantities and guarantee that the poorest have access to it through subsidies. The obligation to realize means that the government will guarantee temporary housing to all those in a situation of extreme precariousness. In cases of armed conflict or natural disasters, special attention must be given to women, children, the elderly, the internally displaced and refugees. The obligation to implement requires governments to adopt necessary legislative measures, to design a strategy and an action plan for housing at the national level and to guarantee that housing is adequate, available and accessible to everybody, including in rural areas and the most vulnerable urban areas.

### The obligations of international cooperation and assistance

If the poorest countries have the obligation to appeal to international cooperation in order to realize the right to adequate housing, rich countries have the obligation to respond. They have committed themselves to this by ratifying the ICESCR, which provides for governments to act, both through their own efforts and through international cooperation and assistance, to the full extent of available resources, in order to realize the right to adequate housing.

### Monitoring mechanisms at the national, regional and international levels

If a country fails to carry out one of its obligations to respect, to protect or to implement the right to adequate housing, everyone who is a victim of such

a failure should be able to have access to an instance of judicial or extra-judicial redress in order to be able to claim their rights. All victims of violations of the right to adequate housing have a right to restitution and/or adequate compensation - including the guarantee of no further violations.

A person or group arbitrarily evicted from housing or from land that provided housing, a person or group left without means of access to adequate housing through his/her/their own means and without local, national or international help, must be able to lodge a complaint for violation of the right to adequate housing and obtain redress.

In reality, the means of claiming one's right to adequate housing and the chances of obtaining compensation/restitution depend largely on the information and redress mechanisms available at the national, regional and international levels.

<sup>1</sup> General Comment No. 4 on the right to adequate housing (Article 11, § 1), § 7, adopted 13 December 1991.

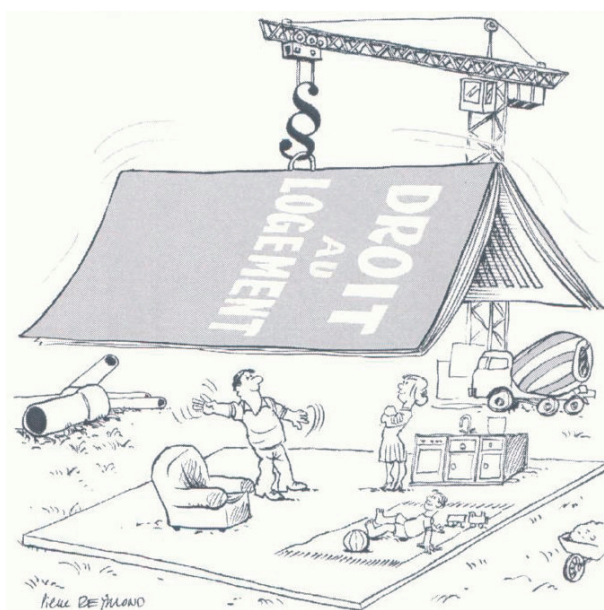
<sup>2</sup> See E/CN.4/2004/48 and also Fact Sheet No 25 of the Office of The U.N. High Commissioner for Human Rights, Forced Evictions and Human Rights: [www.unhcr.ch/html/menu6/2/fs25.htm](http://www.unhcr.ch/html/menu6/2/fs25.htm)

<sup>3</sup> V. our brochure "Internally Displaced Persons" available on our website [www.cetim.ch](http://www.cetim.ch).

<sup>4</sup> In 2002 the U.N. Commission on Human Settlements became the Governing Council of the United Nations Human Settlements Program, was renamed "UN-Habitat" and was placed under the authority of the General Assembly.

<sup>5</sup> Armenia, Belgium, Burkina Faso, Congo, Ecuador, Equatorial Guinea, Guyana, Haiti, Honduras, Mali, Mexico, Nicaragua, Paraguay, Russia, Sao Tome & Principe, Seychelles, South Africa, Spain and Venezuela.

<sup>6</sup> Argentina, Bahrain, Bangladesh, Colombia, Costa Rica, Dominican Republic, Finland, Greece Guatemala, India, Iran, Italy, Nepal, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Republic of Korea, Slovenia, Sri Lanka, Suriname, Switzerland and Turkey.



"The right to housing"  
Copyright Pierre Raymond in *Droit au logement*  
Le Journal de l'ASLOCA, n°182, novembre 2007



## CETIM CONFERENCE "RIGHTS WITHOUT A HOME?"

The conference entitled "Rights without a home? The Right to housing in Switzerland and France" was organized on 12 December 2007. Our aim was to link UN discussions on the Right to housing with concrete action undertaken by social movements in Switzerland and France. More than fifty people participated in the meeting and the lively debate which followed.

The first speaker was Miloon Kothari, UN Special Rapporteur on the Right to housing since 2000. He has undertaken 13 missions in countries that have ratified the international Covenant on Economic, Social and Cultural Rights, to observe the implementation of the Right to housing and he has fought for the realization of this right at national and international levels.

He stresses that the Right to housing is not limited to having a roof over one's head because it is closely linked to the realization of other fundamental rights. A decent home is a safe place where one has access to clean water and heating and where one enjoys protection from forced expulsion among other things and where the right to privacy is guaranteed.<sup>1</sup>

Although he welcomes the fact that the Right to housing is now on the world agenda, the Rapporteur reports a general degradation in the fulfilment of this right, in particular in Western countries, which has resulted in "an urban and social apartheid and the creation of ghettos of poor and rich based on purchasing power." Thus whereas many southern countries have included the Right to housing in their Constitutions (Brazil, South Africa, Venezuela...), governments of more developed countries have increasingly withdrawn from the area of housing leaving the private sector free to invest, construct and above all, speculate. The predictable result is a decrease in housing available for the poor. This type of housing is simply not profitable according to the laws of the market, observes Mr Kothari. According to him, the State must intervene to counter the law of the market and speculation.

The situation of women and other marginalized groups is also of concern to the Rapporteur. Women have less access to property for economic, social and cultural reasons in the North as well as in the South. The groups which are discriminated (migrant workers, migrants, travellers such as Roms) also have great difficulty finding accommodation in Europe. In conclusion, states must take urgent action to guarantee housing for all.

Anne Pourre, spokesperson for the French association *Droit au logement*, presented the housing problem in Paris for poor workers and immigrants and the activities of her association. This association is leading a fight against speculators and a campaign of civil disobedience to have the right to shelter respected. Since 3 October, at rue de la Banque (Paris), this association has denounced the plight of those without adequate accommodation. After nearly 3 months of siege and strongly worded discussions with the French political authorities, an agreement was found for more than 300 families who will be re-housed between now and the end of 2008.

But, as Mme Pourre points out, "more than 100,000 families are waiting for suitable accommodation in France". In order to find a solution, we really have to ask ourselves the question "What is the right to housing?" It is not a single issue; and suitable accommodation must be defined. "All sorts of alternative accommodation can be developed, low rent housing (HLM *habitation à loyer modéré*) is not the only kind of collective accommodation that is possible" In any case, if we are to avoid social ghettos, such as those denounced by the Special Rapporteur, everyone must be able to decide freely where he or she wants to live. According to her, the right to the city must be recognised. This right is an integral part of the solution to the problems of the suburb.

Maurice Pier, spokesperson for Rhino, recalled the history of this famous Geneva squat which ended with the expulsion of its inhabitants in July 2007, and described the housing situation in Geneva over the past 20 years. At the beginning of the occupations, housing speculation was outrageous. The situation is not comparable today where empty accommodation represents no more than 0.2% of the available stock (fewer than 300 compared to 2000 in the 1980s).

"At the time, it was a question of occupying empty places when the owners were waiting for the sales prices to increase... the Geneva authorities supported our action because there was a lack of accommodation, but today things have changed". Mr Pier notes bitterly that "the political authorities too often work hand in hand with the housing entrepreneurs and promoters. There has been a real regression in relation to the right to housing".

In conclusion he observed that we will not be able to develop a framework to defend the right to housing for as long as we have not defined the right to property, taking into account criteria of use and exploitation.

<sup>1</sup> For more information on the definition of the Right to Housing, see our brochure entitled "The Right to Housing" CETIM 2007, presented above.



## EXTRACTS FROM CETIM STATEMENTS

Below are summaries of two interventions made by CETIM during sessions of the Human Rights Council in 2007. All CETIM statements are available on our website: [www.cetim.ch](http://www.cetim.ch)

The negotiations of the enlargement of ALBA offer a perspective of alternative regionalization to the neo liberal mondialization

“... It seems a long time ago when, under pressure from Washington, The Organization of American States excluded Cuba from the circle of ‘democracies’ for being ‘incompatible with the inter-American system’. Today it is the United States that appears to be isolated. After decades of military dictatorships, followed by neo-liberal pillaging, the peoples of Latin America have rebelled, bringing into power several governments leaning to the left: Venezuela, Bolivia, Uruguay, Chile, and more recently Nicaragua and Equator. In Argentina, it was a popular revolt of the people that brought ultra liberalism to a halt. In Mexico, Peru and Salvador, the left came close to winning the elections and could possibly do so in a near future. Even in Colombia, where the government, backed by the United States, has tried for years to wipe out the guerrillas, a front of progressive forces is taking shape. A less known aspect of these advances of the Latin American left but equally fundamental, is ALBA. It is useful to draw lessons from these mobilizations that have taken place in Latin America, where the people, thanks to their mobilization, were able not only to stop the ZLEA-NAFTA -FTAA from coming into force, but also were able to take the offensive in launching ALBA (Bolivarian Alternative for the Americas), an alternative to the regionalizations designed to serve neo-liberal globalization.

Presidents Hugo Chavez and Fidel Castro launched ALBA on December 14<sup>th</sup> in La Havana. The adhesion of Bolivia, officialized on April 29 2006 by the signature of its president Evo Morales broadened this alliance. And just recently Nicaragua’s newly elected president, Daniel Ortega, has joined the three “most radical” countries of the continent...

Further than just the consolidation of the relations between the four countries who are signatories to the treaty, this regionalization is bringing about very profound changes to the continent as a whole, laying

the foundations for a new form of integration, no longer grounded in the capitalistic values of profit and plundering by trans nationals, but, on the contrary, grounded in the values of cooperation, solidarity and complementarity. The promotion of development serving the people, thanks to economic diversification, the conquest of sovereignty with regards to food and the development in the fields of health and education, all aim at improving the living conditions of the poorest and building an area that can finally free itself from its present blights (poverty, malnutrition, illiteracy, under-employment...). This necessarily implies going beyond capitalism, as it now exists. One innovation that is taking place consists in the establishment of a ‘compensation fund for structural convergence’, which goal is to give preferential treatment to poor countries by granting them aid to finance investments and to subsidize their national market or products destined to be exported.”

Ethanol fuels are not a green energy and compete directly with the food needs of people!

“... The environmental and social consequences of the production of ethanol fuels (often erroneously called bio-fuels even though there is nothing “bio” about them – on the contrary) have been vehemently denounced by farmers organizations, such as the international movement La Vía Campesina.

Many countries of the South have already jumped on the ethanol fuels band wagon, sacrificing their tropical forests and the traditional peasantry on the altar of fast profit. Forests have been destroyed in Brazil, Malaysia and Indonesia – the list is long – with, as a result, population displacements owing to lack of access to arable land and soil erosion and depletion. In twenty years, an area equal to six times territory of France has been destroyed in the interest of intensive cultivation of, in particular, sugar cane, palm oil and corn.

The energy costs of the (very complicated) manufacture and transportation of ethanol must also be taken into account. According to the journal of the European Civic Forum, Archipel, in order to produce a liter of ethanol in a plant in Iowa (U.S.A.), 2.37 kilos of corn, 500 grams of coal and four liters of water are required.

### E-BULLETIN

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The main regional treaties protecting civil and political human rights - the European Convention on Human Rights, the American Convention on Human Rights and the African Charter of Human and People’s Rights - all recognize the right to life, the right not to be subjected to cruel, inhuman or degrading punishment and the right not to be subjected to arbitrary or illegal interference in one’s private or family life or in one’s home. These civil and political rights guarantee a partial protection of the right to adequate housing.

Some regional treaties also recognize the right to adequate housing per se: the European Social Charter, the African Charter of the Rights and Well Being of the Child and the Protocol of the African Charter of Human and Peoples’ Rights on the Rights of Women in Africa.

Governments’ obligations and implementation at the national level

As a human right, the right to adequate housing is not a political option that governments can choose to adopt or not. Its recognition implies legal obligations for governments.

The countries that have ratified the ICESCR or a regional convention that explicitly deals with the right to adequate housing (e.g. the European Social Charter) are under obligation to incorporate it into their national legislation, unless international treaties automatically become national legislation upon ratification.

As is the case with all other human rights, governments must respect and enforce respect for, as well as protect and implement, the right to adequate housing. They must also cooperate with each other to provide international assistance for those countries that encounter difficulty in honoring their commitments.

The obligation to recognize it

The foremost duty of governments is to incorporate the right to adequate housing into their national legislation. Without this, it is mostly impossible - again, depending upon the legal system of the country in question - to credibly protect the population’s right to housing.

In 2002, the United Nations Special Rapporteur Miloon Kothari, emphasized that: “Globally, more than 50 countries have adopted or amended national constitutions to include elements that address the right to adequate housing, many of which contain explicit guarantees to the right to adequate housing.” Nonetheless, in practice, it is not always possible to cite the right to adequate housing before a national court. In fact, states have diverse means for recognizing the right to adequate housing at the national level.

First, several countries<sup>5</sup>, in their constitutions, have recognized the right to adequate housing as a basic human right. Ideally, each person victim of a violation of the right to adequate housing can have access to a court of law to claim his right.

Second, recognition in the constitution of the right to adequate housing as a principle, a goal or a social or political goal that is essential to the country, obtains in numerous countries.<sup>6</sup> In these countries, the government has the political duty, through its policies and programs, to improve access to housing by the population, including and especially by the poorest. But, in case of violations of the right to housing, going to court can be more difficult, depending on the legal system in the country in question.

Third, there is the recognition of the right to adequate housing as an integral part of other fundamental rights guaranteed by the constitution, such as the right to life or the right to a minimum standard of living. In most countries, the right to life is recognized in the constitution as a basic right. It is then possible for the appropriate instances to construe this right as including the right to adequate housing.

Fourth, there is recognition of the right to adequate housing in regional or international texts that sanction this right, such as the International Covenant on Economic, Social and Cultural Rights or the European Social Charter. In many countries this is the case. For example, at least 77 countries have made one or the other an integral part of national legislation. However, the absence of training for judges and lawyers in international human rights law complicates the implementation of the International Covenant in some countries where international conventions are directly applicable at the national level without enabling legislation (e.g. Switzerland).

Fifth, the right to adequate housing can be recognized by ordinary legislation, for example in a national law on housing.

The obligation to respect it

The obligation to respect the right to adequate housing implies that governments must refrain from any measure that would impede the exercise of this right. This is a negative commitment, against government action as it were, prohibiting the government from doing anything that would compromise already acquired access to housing. A government violates this obligation, for example, when it decides to forcibly evict persons from their housing - whatever their legal status - with no advance notice nor available means of appeal.

As in the case of other human rights, governments not only have the duty to respect the right to adequate housing but must also enforce respect of this right as defined in the ICESCR.

The obligation to protect it

The obligation to protect the right to adequate housing requires that governments prohibit third parties from preventing the enjoyment of the right to housing in any way. This applies to individuals, business enterprises and other entities. Governments must, for