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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

### **Written statement\* submitted by Centre Europe - Tiers Monde - Europe-Third World Centre, a non-governmental organization in general consultative status\***

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2013]

## **THE SITUATION OF FARM WORKERS IN GUATEMALA<sup>1</sup>**

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

<sup>1</sup> This declaration has been prepared in collaboration with the CODECA

The *Comité de Desarrollo Campesino* (CODECA, Farmers Development Committee) has recently conducted a nation-wide survey on the working conditions of farm workers in Guatemala.<sup>1</sup>

The results of the survey are interesting in many respects and they allow us to better appreciate the extremely precarious situation in which farm workers live in Guatemala - a situation that is akin to slavery.

The property and the distribution of the land have always been major stumbling blocks in Guatemala, they have been the source of many violent conflicts and they have structured the social power relations and determined the economic and class stratification in the country.

The history of the accumulation of land by a very tiny circle of land-owners not only did lead to the emergence of the latifundism system, steep social and economic inequalities and chronic food insecurity, but it has also been contributing to the psychological and existential annihilation of the majority of those who are deprived of any plots of land and who manage to just scrape by regularly begging for a daily underpaid and overexploited job in the fincas (the big farms).

The problem associated with land in Guatemala is to be conceived of as an anthropological problem. Peasants and indigenous peoples are deprived of their lands and they are thus brought to think themselves as part of a “sub-human category” whereas the land-owners and the finca businessmen assume the qualities of a “superior human category”. For land-owners, the daily farm workers (once legitimate owners of those lands) are nothing more than simple tools to work the land. And if the latter becomes aware of its rights and start organize himself to claim and defend those rights, the land-owners denounce him as a criminal and persecute and detain him - they even went so far as to forcibly disappear social activists and trade unionists.

In order to get a better grasp of the extent of this phenomenon, the main findings of the survey are presented below. They are analyzed in the light of relevant national legislation and the international conventions, especially those concluded within the ILO framework, ratified by Guatemala.

First of all it is important to point out that during the survey recently conducted by the CODECA on the working conditions of men, women and children in the agricultural sector in Guatemala, several social leaders and trade unionists have been persecuted and deprived of their liberty. Moreover, five of them were assassinated in the latest months (March-July 2013). The human rights defenders who gathered evidence to elucidate the causes of their deaths have been threatened and closely followed by unidentified people.

First, 69% of farm workers define themselves as “maya” and only 6% of them as “mixed-race”. 25% of them are women and 11% are children.

As far as employment stability and unionization are concerned, the employment contracts in the fincas are oral and only 4% of the daily workers have a fixed contract. For only 1% of the farm workers there is a trade union in the fincas whereas for 84% of the workers it is evident that if you adhere to a union, you are immediately sanctioned by losing your job.

Only 14% of the workers report working 8 hours per day. 70% work between 9 and 12 hours per day in the fincas and the extra-work is not remunerated.

The unit of measurement for their work in the fields is the quantity of daily product. 57% of farm workers affirm that they need some help from their family (women and children) in order to achieve their daily production goal - but there is no extra-salary for meeting the daily goal.

90% of farm workers earn a salary that is below the national minimum wage. For women, this rate climbs to 97%.

As far as yearly holidays are concerned, only 3% of the workers have such a right whereas 90% of them do not. 42% do not have the right to a weekly rest day and 90% are not affiliated to social security.

As for health and security in the fincas, 94% of the workers report that they work in a situation of regular danger and deprived of the necessary protection measures. 95% report that there is no equipped and hygienic room to eat during their work-day.

State control over the working conditions in the fincas is almost non-existent. Only 1% of daily workers report having witnessed a workplace inspection to the fincas and 82% of them state that the inspectors are regularly bribed by the owners of the fincas.

With respect to the situation of young daily workers, their life expectancy in “modern farms” is of about 40 years. The harm they suffer to their health renders them “uneconomic” according to the fincas standards. They have thus to survive without any assistance from the State and without any rights in spite of the provisions of national legislation and international conventions.

The few above-mentioned statistics and data are clearly not sufficient to properly depict the breadth of the tragedy lived by these workers on a daily basis - haunted by the fear of being fired, desperate about their working conditions akin to slavery but at the same time dependent on their job as the only way for them to survive.

In a nutshell, the survey undertaken by CODECA tells us that:

- 1) The persons who are working in the farms are mainly indigenous people and they are victims of discrimination, social exclusion and systematic violations of their fundamental rights.
- 2) In light of their low level of literacy, education and organizational capacities, Guatemalan farm workers are not aware of the rights they have as workers as recognized by national legislation and international conventions. This lack of awareness puts them in a situation of vulnerability and disadvantage faced with employers who, on their side, display no qualms when signing working contracts or settling working issues in front of tribunals.
- 3) Working conditions in the fincas are not favorable to a proper education and schooling of the workers' children. Parents who work in the fincas are crushed by the scale of the re-

quired tasks and they are obliged to bring their kids with them to the workplace to let them help in their work in the farm.

4) The provisions of national legislation and of international law, in particular international labour law, are systematically breached in the farms, often with the complicity or acquiescence by State actors. In fact the payment of a minimum wage, the degree of freedom of association, health and security standards in the workplace, the right to holidays, social security, weekly rest days, etc. are not respected in the majority of the fincas.

5) The market of agriculture in Guatemala is “racialized” because all the most degrading types of work are almost exclusively left to indigenous people with a low level of education.

This analysis is borne out by the studies conducted by several UN human rights bodies. Actually the Special Rapporteur on the right to food, the Office of the High Commissioner for Human Rights and the Human Rights Committee observed that 80% of arable lands are in the hands of 2% of the national population whereas indigenous peoples, in spite of making up the majority of the population, have access only to 2,5% of the land and they are victims of discrimination and exclusion. In light of this blatant inequality, it is not surprising that 74,8% of the indigenous peoples live in poverty and that 58,6% of the indigenous kids suffer from malnutrition. With respect to the 475'600 farm workers, the overwhelming majority lives in poverty, without access to sufficient food, water or adequate housing and with a rate of schooling of 2,4 years on average<sup>1</sup>.

In light of these elements, we endorse the findings of the CODECA and the recommendations issued by the UN human rights organs to, inter alia, urge the Guatemalan government to undertake a land reform without further delay, to enforce the existing labour laws and regulations and to institute a minimum wage in the agricultural sector.

We demand the Guatemalan government to respect its international human rights obligations (civil, political, economic, social and cultural rights) and its international labour law obligations, in particular the provisions of the two International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Declaration on the rights of indigenous people and the ILO Conventions.

We urge the UN Human Rights Council to draw its attention to the systematic and generalized human rights violations suffered by indigenous peoples in Guatemala.

<sup>1</sup>The survey was undertaken between May 2012 and April 2013 in 609 farms in 14 out of the 22 departments of Guatemala. The integral results of the survey are available (in Spanish) on the website: <http://www.cgas.ch/SPIP/spip.php?article2487>

<sup>2</sup>Here are their names: MM Alfonso Morales Jacinto, Daniel Pedro Matias, Tomas Quiej, Carlos Hernández and Jerónimo Sol.

<sup>3</sup>Cf. A/HRC/13/Add.4, §§ 10 and 11, 26 January 2010 ; A/HRC/19/21/Add.1, §§ 66 and 72, 30 January 2012 ; CCPR/C/GTM/CO/3, §§ 9 and 10, 19 April 2012.