
Bulletin N°49

December 2014



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" There is no such thing as a developed and an under-developed world, there is only a single, badly developed world. "

EDITORIAL

Vulture funds are now being targeted by the United Nations. According to the definition given by Cephass Lumina, the then UN Independent Expert on the effects of foreign debt on human rights, vulture funds are private commercial entities that acquire defaulted or distressed debts with the aim of achieving a high return. In the sovereign debt context, vulture funds usually acquire the defaulted sovereign debt of poor countries at a price far less than its face value and then attempt, through litigation, seizure of assets or political pressure, to seek repayment of the full face value of the debt together with interest, penalties and legal fees.

Vulture funds recently hit the headlines following their assault on the state of Argentina in June 2014. The United Nations responded quickly. In September 2014, the Human Rights Council adopted a resolution proposed by Argentina condemning vulture funds and requesting the Advisory Committee to produce a report on the impacts of their activities on human rights. At the same time, the UN General Assembly also adopted a resolution on vulture funds and de-

cided to launch negotiations on a multilateral legal framework for sovereign debt restructuring processes.

The CETIM welcomes such initiatives and the fact that the UN is tackling the vulture funds issue. The debt issue has been at the heart of the CETIM's work for more than 40 years, and it continues to advocate the carrying out of debt audits, which are one of the most efficient ways of preventing this type of attack. Debt audits make it possible to identify odious, illegal or illegitimate debts and by doing so, then make it possible to cancel them. The CETIM, along with the CADTM and other organisations, has just published a new book on this very issue which may turn out to be a useful guide for social movements, citizens and elected representatives to organise debt audits, in the Global North and South.

RIGHTS OF PEASANTS

LA VÍA CAMPESINA LEADERS IN GENEVA TO SUPPORT THE DECLARATION

Between the 9th and 13th of November, a delegation of La Vía Campesina leaders was in Geneva to support the Declaration on the rights of peasants which is being drafted in the Human Rights Council. The leaders participated in an informal consultation meeting and highlighted some of the key elements of the draft Declaration, in particular the recognition of the peasant identity along with the right to land, right to seeds, right to food sovereignty, right to a decent income, right to productive resources, right to health and right to freedom of association.

The adoption of a Declaration on the rights of peasants by the Human Rights Council is a proposal born from the international peasant movement, La Vía Campesina. CETIM supports its efforts and has been working alongside it for several years.

The La Vía Campesina leaders took part in an informal consultation held by Ms. Angelica Navarro, the ambassador of Bolivia to the United Nations in Geneva, who took on the presidency of the intergovernmental working group created by the Human Rights Council in September of 2012 with the mandate of developing a UN Declaration on the Rights of Peasants and other People working in Rural Areas. The objective of this consultation was to identify the key aspects that should be included in a revised version of the draft Declaration, to be presented and analyzed during the second session of the intergovernmental working group which will take place in February of 2015.

The La Vía Campesina leaders arrived to Geneva on the 9th of November and participated in a preparatory meeting with representatives of other allying organizations such as the International Federation of Rural Catholic Adult Movements (FIMARC), the World Forum of Fisher Folk (FMPP) and the International Union of Food and Agriculture Workers (IUF), who represent people working in rural areas and who support the draft Declaration.

The La Vía Campesina delegation was comprised by Genevieve Savigny, of the Peasant Confederation in France and member of the European Coordination of La Vía Campesina, Federico Pacheco, of the Rural Workers Union (SOC) in Andalucía, Spain, and Diego Montón, of the National Indigenous Peasant Movement in Argentina and member of the operative secretariat of the Latin-American Coordination of Rural Organizations (CLOC).

An informal consultation meeting was held on the 12th of November in the United Nations headquarters in Geneva. This involved both state as well as civil society representatives. The leaders of La Vía Campesina, through their interventions, de-

fended the draft Declaration and identified some of the key elements that should be included in the revised version of the text, in particular the recognition of the peasant identity along with the right to land, right to seeds, right to food sovereignty, right to a decent income, right to productive resources, right to health and right to freedom of association.



Informal consultations on the rights of peasants, Palais des Nations, Geneva, November 12, 2014

Federico Pacheco said “The goal for us is none other than guaranteeing the survival of the peasants and their lifestyles, with the social and cultural implications that this involves, and for benefit of the rest of society, the environment and taking care of the planet”.

Peasant identity. Diego Montón stated “It is very important that this declaration recognizes the peasant identity, since other sectors, especially which of the concentrated economy, have incessantly belittled, disqualified, discriminated and even attempted to eliminate it”.

He pointed out that “the declaration must include not only peasants, but also fishers, pastoralists, agricultural workers, landless workers, indigenous peoples, basically, all individuals who work in rural areas and produce food through their work”. He also added, “we are referring to a vast and important ensemble of people who live and work in what can be called the ‘popular economy’ and behind their work there is a goal, not to accumulate wealth and capital, but rather the social re-



Diego Montón, La Vía Campesina, Palais des Nations, Geneva, November 12, 2014

production of their families, their communities, their people, all within the framework of a decent life”.

Recognizing new rights. Diego Montón highlighted the importance of recognizing new rights to peasants “in the face of the progression, offensive, and attack of the speculative financial capital that create problems that before were not even to be spoken of”. Federico Pacheco went further in depth in this and said “there is a new reality, an offensive and attack against the rural world, that was unimaginable a few years ago, and that requires new legal instruments, new rights and new protections”.

Mr. Pacheco referred specifically to land. “The greatest threat to the right to land is land grabbing, this has been a historical process involving latifundia but it also includes current processes we are witnessing today with the transnational companies and states purchasing of thousands of acres land where peasants are excluded from, most commonly by force. This is also happening in Europe”.

The right to land “must be a key element in the Declaration on the rights of peasants where not only the established peasant is referred to, but also women, rural workers, wage-workers, landless workers, and anyone who wants access to the agricultural world”. “The content of this right to land must include both access to land as well as a secure and fair tenure”.

Genevieve Savigny emphasized the importance of biodiversity and seeds for peasants. She recalled how “since the dawn of agriculture, it has always been the peasants who selected the seeds that would provide food for the people for centuries”. These peasant systems are threatened by the expansion of the intellectual property system and its increasing application to seeds and biodiversity, particularly through the UPOV system but also through the patent system which now applies to genes. This is why Genevieve Savigny insisted on the need to recognize the right to seeds and more specifically “the inalienable right of peasants to use, grow, reuse, conserve, develop, exchange, give, transport, and sell their seeds”.

Federico Pacheco also suggested to recognize the right to

productive resources and means of production due to the fact that today they are not guaranteed to a sufficient and efficient extent. “In the social and economic system we live in, it is not enough for a peasant to have a land in order to produce food in adequate manner. We also need access to credits, tools, irrigation water, means of transportation, drying installations and participation in all public planning for agriculture and rural production in the different states”.

Finally, Federico Pacheco stated that access is useful if it can be guaranteed that peasants and rural workers can make a decent living from the land, from their work, and from food production. “This is not the case in the vast majority of the world or in Europe”. Federico Pacheco identified among the threats that deter peasants from living a decent live with adequate income, “Monopolies, intermediaries, an entire system that fix prices that suffocate peasant production. There are also sanitary regulations, certification systems that are developed with industrial standards, which might be useful for industrial production, but what they do is destroy peasant production and hinder its development”. Diego Montón also emphasized that the prices in the food market do not make for a decent living for peasants because “the market is completely distorted [...], there is a market being held hostage by corporations, there is a heavy burden brought on by monopolies and oligopolies in the food market”.

Federico Pacheco also talked about work exploitation in rural areas. “Rural workers, no matter what part of the world they are or what region, they will always be the worst paid and suffer the worst social and working conditions”. The Declara-



Federico Pacheco, La Vía Campesina, Palais des Nations, Geneva, November 12, 2014

tion, with regards to this, must be an advancement and a deepening in all labor rights recognized by international instruments in force”.

That is why there was a call for recognizing the right to decent income in this declaration as well as including the states obligation to regulate markets in a way that can guarantee fair and remunerative prices for peasant production as well as guaranteeing employment stability and sufficient incomes for waged workers and immigrants in the rural areas.

Diego Montón also highlighted that the Declaration needs to strengthen the protection of peasants against persecution and oppression. “There is a great criminalization, strong violence, and political persecution. We have many peasants who

**"the right to land
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Declaration"**

are prisoners for opposing that their families be fumigated with pesticides or for trying to keep their homes from being bulldozed, illegally evicted”.

He insisted on the matter of pesticides because in many cases, peasants are the main victims of pesticides and fumigations. “This declaration must guarantee the right to health and within this right, though it may seem odd, the right to not be fumigated, and the right to not have poison sprinkled on you; the right to not be poisoned”.

Lastly, Genevieve Savigny concluded that the inclusion of all of these rights in the Declaration is “indispensable in order to guarantee food sovereignty for peasants and peoples [...], ensure that peasants can carry on maintaining the existence of their families and communities as well as providing food in a sustainable manner for the rest of humanity.

The Bolivian ambassador now must proceed to revising the draft Declaration based on all of the input received. The new text will be presented and analyzed in the second session of the intergovernmental working group which will take place in February 2015.

CODECA: THE UN ASKS GUATEMALA FOR EXPLANATION

In a joint written communication dated April 7th 2014, the UN Special Rapporteur on freedom of expression, the Special Rapporteur on freedom of association and assembly and the Special Rapporteur on the situation of human rights defenders, asked Guatemala to explain the crackdown against the *Comité de Desarrollo Campesino* (CODECA). This was revealed during the last session of the Human Rights Council in September 2014. The communication was issued in response to a letter from CETIM asking for the urgent intervention of the Human Rights Council's Special Procedures in order to end the repression against CODECA. The Government of Guatemala has so far not responded to this urgent communication.

CODECA is a peasant organization in Guatemala that fights for justice and better living conditions in rural areas. The CETIM has been working with CODECA for many years and has supported it in its efforts at the UN to raise awareness of the situation in rural areas in Guatemala and use the human rights protection mechanisms.

Fierce crackdown. CODECA has been undergoing a fierce crackdown since the beginning of the year, following a number of protests against the privatization of electricity in Guatemala – which benefits the transnational corporation Energuante to the detriment of the local population. In March 2014, following a peaceful demonstration calling for the nationalization of electricity, several members of CODECA were beaten and threatened with death by unidentified individuals.

A number of CODECA leaders were also arrested. The Guatemalan government has a direct involvement in this since many of its members, and in particular President Otto Perez Molina, have publicly accused CODECA of stealing electricity and of money laundering, and have called for their arrest.

In the wake of the crackdown, CETIM wrote to the UN Special Rapporteur on freedom of expression, the Special Rapporteur on freedom of association and assembly and the Special Rapporteur on the situation of human rights defenders, asking them to intervene urgently with the Guatemalan government to bring about the release of those who were arbitrary arrested, an end to repression and political persecution against the leaders and activists of CODECA, and to ensure that Guatemala respects its international human rights commitments.



Demonstration for the liberation of CODECA leaders

The Government of Guatemala has so far not responded to the urgent communication it received from the Human Rights Council's Special Procedures. Furthermore, repression has even increased in recent months. Many members of CODECA, including its president Mauro Vay, have been arrested and detained since August 2014. Also in August, three CODECA members were killed and 60 others injured in clashes with police.

The CETIM is closely following those developments and will continue to support the struggle of CODECA for human rights in Guatemala.

DEBT

VULTURE FUNDS OPPOSED AT THE UN

In September 2014, the Human Rights Council adopted a resolution proposed by Argentina that condemns vulture funds and requests the Advisory Committee to produce a report on the impacts of their activities on human rights. At the same time, the UN General Assembly also adopted a resolution on vulture funds and decided to launch negotiations on a multilateral legal framework for sovereign debt restructuring processes. More than ever, vulture funds are targeted by the UN.

External debt continues to be a burden for most countries of the Global South, but now also for many countries of the Global North.¹ One new development is that the major creditors are no longer public bodies but are mainly private. According to UN figures, “Long-term debt represented approximately 72 per cent of total debt stocks in 2013, as in 2012, and was mainly owed to private creditors (...) The share of short-term debt increased from \$1.26 trillion in 2011 to \$1.35 trillion in 2012, reaching \$1.5 trillion in 2013.” Of this amount, “foreigners now hold \$1 trillion of government debt of developing and transition economies, excluding foreign official loans. About half of this was incurred in the period between 2010 and 2012, mostly through inflows from foreign asset managers,

attracted by large interest rate differentials with advanced economies.”

This situation gives immeasurable power to those private creditors including those entities known as “vulture funds” which are only interested in siphoning off public resources by various means, including legal ones (see panel). How does that work? “Vulture funds buy debt, often at huge discounts, with the intent of suing the debtor for full recovery. Vulture funds have averaged recovery rates of about 3 to 20 times their investment, equivalent to returns of (net legal fees) 300%-2000%. The vulture fund’s modus operandi is simple: purchase distressed debt at huge discounts, refuse to participate in restructuring, and pursue full value of the debt often at face value plus interest, arrears and

Definition of Vulture Funds

According to Cephas Lumina, the Human Rights Council’s Independent Expert on the effects of foreign debt on human rights, “The term ‘vulture funds’ is used to describe private commercial entities that acquire, either by purchase, assignment or some other form of transaction, defaulted or distressed debts, and sometimes actual court judgments, with the aim of achieving a high return. In the sovereign debt context, vulture funds (or “distressed debt funds”, as they often describe themselves) usually acquire the defaulted sovereign debt of poor countries (many of which are heavily indebted poor countries (HIPC)s) on the secondary market at a price far less than its face value and then attempt, through litigation, seizure of assets or political pressure, to seek repayment of the full face value of the debt together with interest, penalties and legal fees.”

penalties through litigation, if necessary.”

This is the bitter experience of several states among which the most famous case is that of Argentina (see panel). So it is no coincidence that Argentina, with the support of many other states, has launched a campaign against vulture funds, calling for “a multilateral legal framework for sovereign debt restructuring operations”. Last September, Argentina had two significant resolutions passed at the UN. Here is a brief summary.

Human Rights Council.

On 26 September 2014, the Argentine Foreign Minister

Héctor Timerman, went to Geneva to present, in person, a draft resolution on vulture funds to the UN Human Rights Council (HRC). This draft resolution asserts, from the outset, the link between external debt and poverty, and also development as follows: “the debt burden contributes to extreme poverty and hunger and is an obstacle to sustainable human development, to the realization of the Millennium Development Goals and to the right to development, and is thus a serious impediment to the realization of all human rights.”



"Enough of vultures", poster in the streets of Buenos Aires

According to this the draft resolution, “the international financial system does not have a sound legal framework for the orderly and predictable restructuring of sovereign debt, which further increases the economic and social cost of non-compliance.”

It deplores the fact that vulture funds “through litigation and other means, oblige indebted countries to divert financial resources saved from debt cancellation and diminish the impact of, or dilute the potential gains from, debt relief for these countries, thereby undermining the capacity of Governments to guarantee the full enjoyment of human rights of its population.”

Moreover, the draft resolution, noting the flaws and the unfairness of the global financial system “calls on States to consider the establishment of legal frameworks to restrict the predatory activities of vulture funds that fall within their jurisdiction.”

With this draft resolution, the Human Rights Council gave its Advisory Committee



The Argentine Foreign Minister Héctor Timerman, after the resolution was voted by the Human Rights Council

"vulture funds undermine the full enjoyment of the human rights of the population"

(a panel of independent experts) the task of preparing a report on the impact of vulture funds on human rights. The draft resolution was adopted by 33 votes to 5, with 9 abstentions, despite by the US to prevent it being approved. According to the US, the adoption of the resolution is a

threat to the stability of international financial institutions and to development aid to the South. It is interesting to note that the traditional allies of the US on this issue, such as France and Italy, who generally vote against any resolution on external debt at the Human Rights Council, arguing that it is a matter that should be discussed by the IMF and the World Bank, abstained.

The General Assembly. While the Human Rights Council was meeting in Geneva, the UN General Assembly ended its 68th session

in New York during which an important resolution, submitted by Bolivia on behalf of the G77 and China, was also adopted on the same subject. In the opinion of these countries “vulture funds should not be

allowed to paralyse developing countries’ efforts in this area, and that their claims should not take precedence over a State’s right to protect its people under international law”. They also expressed con-

The case of Argentina

“Here is Argentina’s story. This year the US Supreme Court upheld a ruling of the New York judge Thomas Griesa, who instructed Argentina to compensate certain vulture funds. That means a 1600% profit for those funds from some Argentine debt securities they had bought for a song a few years back. Since Argentina had so far been refusing to pay in full its holdout creditors, the judge blocked Argentina’s payments from their Bank of New York Mellon Corp account. Argentina had earmarked this amount for paying an instalment to its creditors (private financial firms such as banks, investment funds, insurance companies etc.) who participated in the country’s debt restructuring programmes in 2005 and 2010. This means that Argentina is in partial default of payment due to a decision of the US judiciary. This is a paradoxical situation: the Argentine government wants to pay but is prevented by a New York magistrate.”

According to the UN Secretary General, the ruling by the United States Supreme Court on 16 June 2014 (Argentina v. NML Capital Ltd.) carried “important implications for third parties (banks in this case) that make payments on behalf of the Government of Argentina to those bondholders who participated in the two debt swaps.” In his opinion, this decision “set important new legal precedents that could have profound consequences for the international financial system and represents a significant setback for international sovereign debt restructuring.”



cerns about the fate of Argentina because, they say, "Today it is Argentina, but many developing and developed countries have suffered in the past from the exact same predatory behaviour, and others will follow if we do not act."

This resolution followed on from the report of the Secretary-General, published in July 2014 which, by analyzing the Argentine case reveals the flaws in international ar-

more difficult as debtors are left with only moral suasion and foreign relations as incentives to encourage creditor coordination."

It is in this context that resolution 68/304 was adopted by the General Assembly on 9 September 2014, by 124 votes to 11, with 41 abstentions. With this resolution, the General Assembly decided to "to elaborate and adopt through a process of intergovernmental negotiations, as a matter of priority during its sixty-ninth session, a multilateral legal framework for sovereign debt restructuring processes (...). It also decided to "to define the modalities for the intergovernmental negotiations and the adoption of the text of the multilateral legal framework at the main part of its sixty-ninth session, before the end of 2014."

"many countries will suffer the same predatory behaviour if we do not act"

rangements for external debt: "The case of the Republic of Argentina v. NML Capital Ltd. has demonstrated the complications that may arise in the absence of an international debt workout mechanism. The international ad hoc arrangements for debt crisis resolution have created incoherence and unpredictability. Different courts have very different interpretations of the same contractual clause and can impose a wide array of rulings. Politics and interest groups can impact on the outcome of the rulings and debt restructuring, compromising consistency and fairness. The Republic of Argentina v. NML Capital Ltd. rulings have made future debt restructuring

TRANSNATIONAL CORPORATIONS

CHEVRON TAKEN TO THE INTERNATIONAL CRIMINAL COURT

A formal complaint was submitted to the International Criminal Court (ICC) in The Hague against Chevron's CEO by the victims of the activities of this transnational corporation in Ecuador. In 26 years of oil drilling in the Amazon region of Ecuador, Chevron (formerly Texaco) polluted more than 450,000 hectares of one of the planet's richest biodiversity regions, destroying the living and subsistence of its inhabitants. After 21 years of litigation, and despite a ruling by the Ecuadorian courts, impunity continues for Chevron, and the victims of its activities in Ecuador are still waiting for justice and compensation.

The letter submitted on behalf of the victims charges that the crimes committed by Chevron in Ecuador constitute a "crime against humanity" that within the jurisdiction of the ICC. It specifically requests the ICC to investigate the conduct of Chevron's CEO, and any other corporate officer of the said company, in attempting to avoid the enforcement of the judgement of the Ecuadorian Courts.

The CETIM is supporting the organization representing the victims of Chevron in Ecuador (the Unión de Afectados por las Operaciones de la Petrolera Texaco Chevron en Ecuador - UDAPT) in its ef-

forts to get the intervention of the UN human rights protection mechanisms. We therefore welcome this new step



taken by the victims at the ICC and hope it will contribute to finally end impunity of Chevron for the crimes committed in Ecuador.

1 Footnotes and references are not reproduced here for lack of space but are all included in the original document that is available on our website.

PUBLICATIONS

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DEMAIN COLLECTION

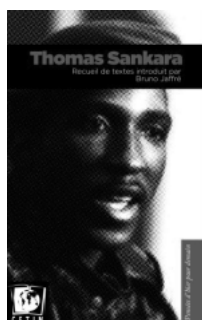
Africa and Caribbean Serie

This collection of the CETIM offers to the public, the young public in particular, short collections of writings from various actors who, in the past, were at the heart of peoples' struggles for emancipation and whose thinking, today, is still of the greatest importance.

*The first issues were on **Patrice Lumumba, Frantz Fanon, Amílcar Cabral and Mehdi Ben Barka**. We present below the two last issues.*

Thomas Sankara

Collected texts introduced by Bruno Jaffré.



Born in Upper Volta (Burkina Faso) in 1949, Thomas Sankara first embarked on a military career, while striving to stay in touch with what was the reality of life of his people.

He rose to power in his country, changing its name to Burkina Faso ("the country of men of integrity"), in 1983, following an uprising of young officers, in alliance with clandestine Marxist groups. He went on to lead a "democratic and popular" revolution until his assassination in 1987. He put an end to corruption, and experimented with a new model based on autonomous development, with the improvement of his people's living conditions as the major objective. Prematurely interrupted, the revolution nevertheless achieved a number of successes thanks in part to the charisma and vision of Thomas Sankara, but also to the confidence and pride which, through his commitment, he managed to instill in his people.

Internationally recognized for giving voice to the oppressed, Thomas Sankara is one of the best known African revolutionary leaders. He continues to inspire progressive movements in Africa and the rest of the world.

Price: CHF 11.- / € 8,50.-, 96 pages, ISBN: 978-2-88053-104-1, 2014.
Can be ordered from the CETIM. In French only.

Julius Nyerere

Collected texts introduced by Yash Tandon



Julius Nyerere, the "Father of the Tanzanian Nation" was born in 1922. As the head of the Tanganyika African National Union (TANU), he peacefully led the country to independence in 1961. Prime Minister, then President of the new born Tanzania, affectionately titled as the mwalimu (the teacher), he seemed, in many ways, to be a humble "philosopher king". Far from any imported dogmatism, he sought to devise a socialism based on African realities (Ujamaa). Concerned with the influence of foreign aid on national independence, he advocated principles of equality, unity, justice and self-sufficiency for the development of his country. His key word was "self-reliance".

At the international level, Julius Nyerere, as a determined Panafricanist, became a major figure of the Non-Aligned Movement. In 1987, he headed the South Commission to design a fair economic system for the countries of the Global South, and then the South Centre to better organize them.

He died in 1999 from leukaemia and remains a popular figure in Africa. His idea of an African socialism continues to inspire, among others, many young hip-hop artists in Tanzania.

Price: CHF 11.- / € 8,50.-, 96 pages, ISBN : 978-2-88053-106-5, 2014. Can be ordered from the CETIM. In French only.

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