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Global Campaign for Agrarian Reform

EMERGENCY NETWORK

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Colombia: 123 families return to the Las Pavas land

Demand that their right to adequate food and related rights be guaranteed during and after their return!

July 14, 2009, 123 families living in the rural area known as Las Pavas, in township of Buenos Aires in the El Peñón municipal jurisdiction located in the southern region of the Bolivar department, were forcefully evicted by members of the National Police and the mobile riot police squad at the request of a palm oil production company. The community has filed recourses, to no avail, with different legal bodies, along with other respectful and peaceful appeals requesting: the revoke of administrative acts justifying their eviction, the regulation of the possession of land they have occupied since 1997, and the general protection of their rights, including their right to food.

The State's failure to respond effectively to these actions demonstrates the lack of protection that this community suffers, prolongs the illegality of their eviction and their lack of access to adequate means for a dignified subsistence. This situation has led the community to decide to return to the land. **We are making a call to action in the light of the community's leaders having been subject to threats, harassment and a campaign to discredit them, and in view of the lack of food self-sufficiency that plagues this community and forces them into hunger.**

Background:

The peasant families that would later form the Buenos Aires Peasant Association (ASOCAB for its initials in Spanish) occupied the land known as Las Pavas in 1997. The land, originally belonging to alleged drug trafficker Jesús Emilio Escobar Fernández, had not been utilized since 1992. The families conducted a peaceful occupation and farming of the land until 2003 when paramilitary groups forced the families to leave these lands. Lacking any alternative means of subsistence and despite the generalized fear in the region, the families decided to return and slowly re-occupy the lands. Therefore, they could continue producing food albeit, at risk and without any guarantees. That same year, ASOCAB initiated an administrative process before the competent authorities requesting the confiscation of the lands since the proprietor was not utilizing them, as the law stipulates.

At the end of the same year, the proprietor of the land, aware of the process initiated by ASOCAB, invaded the land with armed men and forced the families off the land again. In March 2007 after the eviction had been realized, the proprietor sold the lands to the El Labrador Consortium (consisting of two companies, Aportes San Isidrio and CI Tequendama S.A., the latter being a subsidiary of the DAABON group) dedicated to the cultivation of oil palm trees in the region. Once the administrative processes had begun, the 123 families, hopeful about the State's actions, decided to return to the land. In July 2009, they were evicted again, this time by the El Labrador Consortium, despite the fact that Colombian law prohibits the eviction of peasants from lands that are undergoing administrative proceedings for confiscation. In February of 2010, the administrative process was illegally declared invalid. Then, a new process was initiated that, in a preliminary phase, closed the case because the lands, after the forceful eviction, were being economically exploited by El Labrador Consortium, which was not aware of the rights acquired by the peasants and the protection provided to them by the legislation concerning forceful evictions in Colombia and internationally. ASOCAB also presented a constitutional complaint mechanism

in 2009 that has been being revised by the Constitutional Court for over 18 months. There has yet to be any decision, despite the continued human rights violations suffered by the communities.

Since July 2009, the families have been deprived of their livelihoods and receiving sporadic humanitarian aid. Due to the peasants' declining food situation, caused by their lack of access to subsistence means, the community has announced that the only option that guarantees their survival is to exercise their right to return to the land. This decision has received support from several national and international organizations.

After announcing their imminent return (including a radio broadcast), on February 18th 2011, ten armed men, wearing uniforms that are used exclusively by the military, accompanied by a paramilitary man and two male civilians, who refused to identify themselves, went to the community's leader's house, ELUID ALVEAR. These men claimed to have an order, which they never showed, to arrest him. Fortunately, Eluid Alvear was not at home. This serious act of intimidation is one more example of the criminalization, discrediting and harassment that the community has suffered. This same leader has been threatened with losing his public service job as a teacher by people close to the community. Furthermore, the community has noticed the presence of people from outside the community that are constantly keeping watch over the association's leaders, including a paramilitary man that according to the community represents the Consortium. A fire was set by unknown persons in the communal hall that served as the association's headquarters. Then, in a declaration released to the media, the Consortium accused the community of trying to illegally and clandestinely invade the Hacienda Las Pavas.

Mandate of the Emergency Network:

Colombia is a State party to the ICESCR and other human rights treaties. As long as Colombia does not protect the community's physical safety against attacks by third parties, as well as their right to food, the country is in violation of their international obligations. *Your actions are important!*

End of the action: April 24, 2011

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FIAN will also inform the following international authorities of the situation: The United States Special Rapporteur on the Right to Food, the United Nations Special Rapporteur on Human Rights Defenders, the Human Rights Defenders Unit of the Inter-American Human Rights System and the Office of the High Commissioner for Human Rights in Geneva.

Please inform FIAN of any response to your letters.

Translated letter:

Dear Mister President,

I have been informed that 123 families were forcefully evicted on July 14th 2009 by members of the National Police and mobile riot police squad. And now, these families have decided to return to the rural lands known as Las Pavas, located in the township of Buenos Aires in the El Peñón municipal jurisdiction in the southern region of the Bolivar department. The families consider this to be the only means available that will guarantee their access to the means of subsistence that were taken from them in the eviction.

These displaced peasant families, that constitute the Buenos Aires Peasant Organization (ASOCAB) first occupied the Las Pavas land in 1997 that prior to the occupation belong to alleged drug trafficker Jesús Emilio Escobar Fernández and had been abandoned since 1992. Since then, the families have conducted a peaceful occupation and farming of the lands by which they guaranteed their own survival. The families' peaceful occupation of the lands was interrupted on various occasions by paramilitary groups acting to intimidate and forcefully displace them. In 2006, ASOCAB began the process of soliciting the confiscation, with an intent to expropriate, of the land that had been abandoned and was not being used by its owner.

As this process was under way, in 2007 the property's owner sold said lands to El Labrador Consortium. In January 2009, these companies solicited the police to evict these families and favor their own possession of the land. The forceful eviction took place on July 14th 2009.

The community has filed administrative and legal recourses soliciting that: the eviction order is revoked, their possession of the land they have occupied since 1997 is regulated, and that their rights are protected in general, including their right to food. The inefficiency of said actions demonstrates the lack of protection that the community suffers even after placing their trust in peaceful and institutional means to demand their rights. Trogh this situation the Colombian State is violating its international obligations under the Human Rights Bill. The continued lack of protection by State authorities and the undignified circumstances, in which the families are condemned to live, including an alarming food and nutritional situation, has led the community to return to Las Pavas. It is extremely important that the Colombian State guarantee that said return is carried out in a peaceful and secure manner, ensuring their lives and physical safety, as well as their right to food: These kinds of risks are imminent, considering the threats, disrepute and harassment that the community leaders have been victims of, as well as their grave food situation.

The Colombian State has ratified the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights, as well as the Inter-American Human Rights system's instruments. Under these instruments, the State must respect, protect and guarantee the right to adequate food and other rights to its territory's residents, including the families that are members of ASOCAB. On the basis of these international obligations, I request that your government:

1. Instruct the armed Forces to abstain from using indiscriminate force against the families during the process of return and to protect the 123 families from any use of force against them by third parties or in name or other parties interested in said lands, guaranteeing their peaceful return.
2. Take steps to facilitate the families' access to adequate food during and after the process. I especially request that priority be given to the families that use the lands to feed themselves and that food assistance only be considered a subsidiary or complementary mean when the families cannot harvest enough food to feed themselves. Measures of this nature would be in accordance with General Comment No. 12 of the UN ESCR Committee.
3. Order an investigation of the harassment of community members and take steps to stop this harassment.
4. Take the necessary steps to regulate ASOCAB's ownership of the land.
5. Guarantee the community's access to effective legal mechanisms that allow them to obtain restitution for their rights and especially indemnization for the damages suffered due to displacement.
6. Establish a system to follow-up on the community's situation and avoid that evictions occur again or that State or private actions or omissions impede the community from exercising its right to food and related rights.

In the interest of transparency, I inform you that in addition to the national authorities mentioned in the CC list, the competent authorities of the United Nations Human Rights System and the Inter-American Human Rights System have also been updated on the situation.

I appreciate your time and attention and request that you keep me informed of any steps taken that, according to the information I have, are in line with the agricultural and restitution policies that have been one of the main slogans of your government.

Sincerely,

Cc: Vice President of the Republic, Minister of Agriculture, Director of Human Rights Social Action, Human Rights Defender.

Dr. Juan Manuel Santos
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Apreciado Señor Presidente,

He recibido noticias que las 123 familias que fueron desalojadas forzosamente el 14 de julio de 2009, por miembros de la del Policía Nacional y del Escuadrón Móvil Antidisturbios, han decidido retornar al predio rural conocido como Las Pavas, ubicado en el corregimiento de Buenos Aires, jurisdicción del municipio de El Peñón, al sur del departamento de Bolívar. Esto porque consideran que es la única medida que les queda para asegurarse el acceso a los medios de subsistencia de los que fueron privados como consecuencia del desalojo.

Estas familias campesinas desplazadas, que conforman la Asociación de Campesinos de Buenos Aires (ASOCAB) entraron a ocupar en 1997 la finca Las Pavas cuyas tierras, antes ocupadas por el presunto narcotraficante Jesús Emilio Escobar Fernández, se encontraban abandonadas desde 1992. Desde entonces las familias ejercieron actos de posesión pacífica y explotación agrícola de las tierras, mediante la cual garantizaban su supervivencia. La posesión pacífica de las tierras por parte de estas familias se vió interrumpida varias veces debido a acciones intimidatorias y desplazamiento forzado causado por grupos paramilitares. En el 2006 ASOCAB inició trámites solicitando que se declarase la extinción de dominio sobre una extensión de tierra que se encontraba abandonada y sin ser explotada por parte de su propietario.

Al mismo tiempo que se adelantaban estos trámites, en el 2007 el propietario del predio vendió las tierras en cuestión al Consorcio El Labrador. En enero de 2009, estas empresas solicitaron una acción policial de desalojo en contra de las familias y a favor de la posesión por ellos detentada. El desalojo forzoso se hizo efectivo el 14 de julio del 2009.

La comunidad ha interpuesto sin éxito, recursos administrativos y judiciales solicitando que se revoquen las órdenes de desalojo, se regularice la posesión del predio que ocuparon desde 1997 y para buscar protección a sus derechos en general, incluyendo su derecho a la alimentación. La ineficacia de dichas acciones evidencia la desprotección de la que es víctima comunidad que ha confiado en los medios pacíficos e institucionales para exigir sus derechos. Esta situación coloca al estado colombiano en incumplimiento de sus obligaciones internacionales bajo la carta de derechos humanos. La continua falta de protección de parte de las autoridades estatales y las condiciones indignas de subsistencia que padecen, incluyendo una preocupante situación alimentaria, ha llevado a la comunidad a decidir retornar a Las Pavas. Es de suma importancia que el Estado colombiano asegure que dicho retorno se realice de manera pacífica, segura, garantizando la vida e integridad física, así como su derechos a alimentarse: acciones en este sentido son inminentes, considerando tanto las amenazas, la campaña de desprestigio y los actos de hostigamiento de los cuales han venido siendo víctimas líderes de la comunidad, como su grave situación alimentaria en que se encuentran.

El estado Colombiano ha ratificado el Pacto de Derechos Económicos, Sociales y Culturales y el Pacto de Derechos Civiles y Políticos, así como los instrumentos del Sistema Interamericano de Derechos Humanos. Bajo estos instrumentos está obligado a respetar, proteger y garantizar el derecho a la alimentación y otros derechos de todos los habitantes de su territorio, incluyendo los de las familias miembros de ASOCAB. Con base en estas obligaciones internacionales le solicito que:

1. Instruya a las fuerzas del orden y seguridad, para que se abstengan del uso indiscriminado de la fuerza contra las familias durante el proceso de retorno y para que protejan a las 123 familias de cualquier uso de la fuerza en su contra a manos de terceros o en nombre de las otras partes interesadas en dicho predio, asegurando un retorno pacífico.
2. Adopte medidas para facilitar que las familias tengan acceso a alimentación adecuada durante y después del proceso. Especialmente le solicito dar prioridad al uso que las familias puedan dar a las tierras para alimentarse y sólo considerar la asistencia alimentaria como una medida subsidiaria o complementaria durante el tiempo en que ellas no pueden recoger cosechas suficientes para el sustento de sus familias.

Medidas de esta naturaleza estarían en consonancia con la observación General No. 12 del Comité DESC de la ONU.

3. Ordene Iniciar una investigación de los actos de hostigamiento contra miembros de la comunidad y adoptar medidas para el cese de los actos de hostigamiento.
4. Adopte las medidas necesarias para que se regularice la propiedad de la tierra por parte de ASOCAB.
5. Garantizar el acceso de la comunidad a mecanismos jurídicos efectivos que les permitan obtener la restitución de sus derechos y en especial la indemnización por los daños que han sufrido a causa del desplazamiento.
6. Establecer un sistema para dar seguimiento a la situación de la comunidad y evitar que se produzcan nuevos desalojos o acciones u omisiones estatales o privadas que impidan a la comunidad ejercer su derecho a alimentarse y derechos correlativos.

En aras a la transparencia, le comunico que además de las autoridades nacionales mencionadas en la lista de cc, las autoridades competentes del Sistema de Derechos Humanos de Naciones Unidas y del Sistema Interamericano de Derechos Humanos han sido puestas al tanto de la situación.

Agradezco su atención a la presente y le solicito que me tenga informado sobre las medidas adoptadas, que según la información que poseo, están en línea con las políticas agrarias y de restitución que han sido uno de los lemas principales de su Gobierno.

Atentamente,

cc: Vicepresidente de la República, Ministro de Agricultura, Responsable de Derechos Humanos de Acción Social, Defensoría de Derechos Humanos.