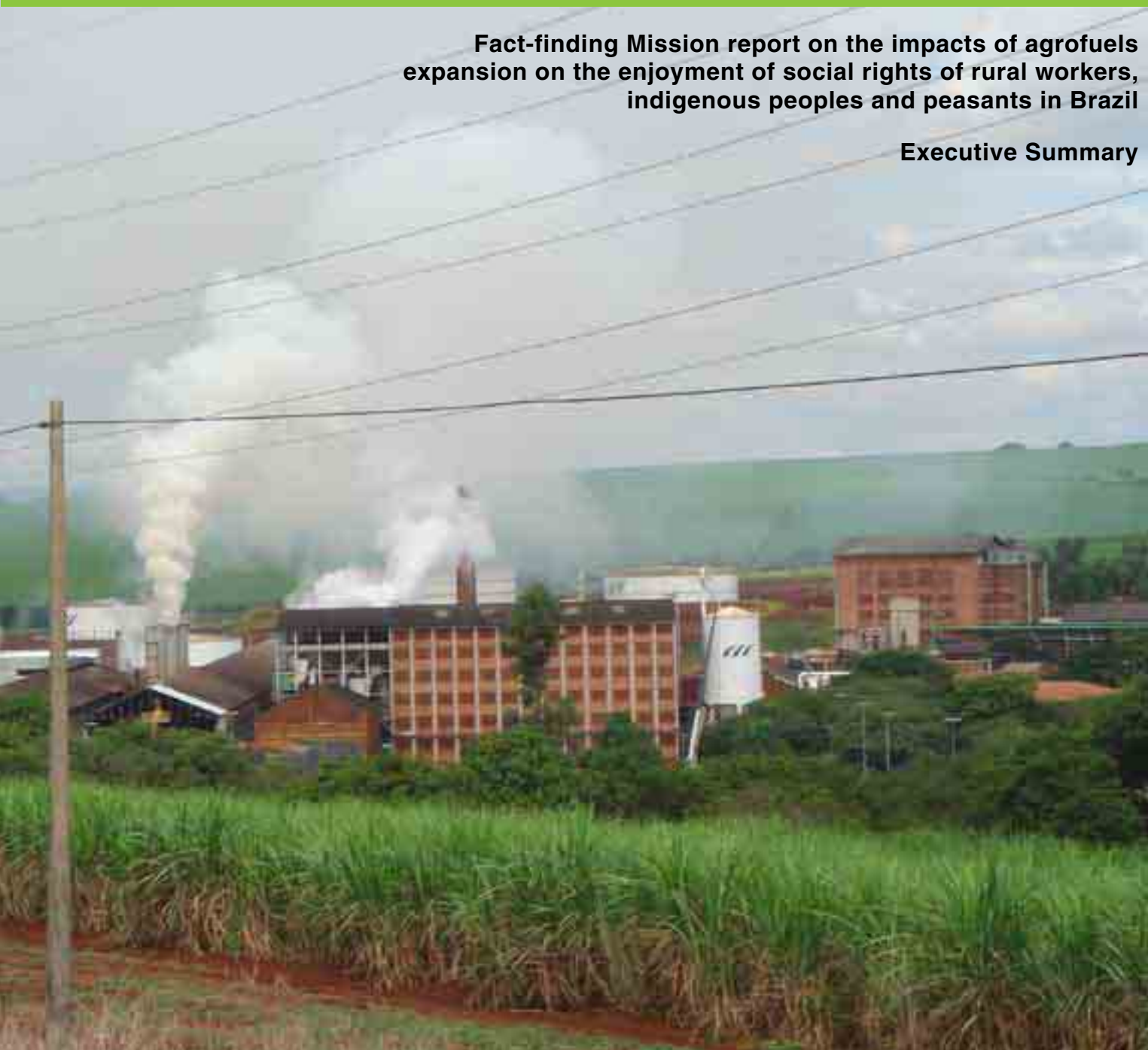


# AGROFUELS IN BRAZIL

**Fact-finding Mission report on the impacts of agrofuels expansion on the enjoyment of social rights of rural workers, indigenous peoples and peasants in Brazil**

**Executive Summary**



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## 1 Main Findings

FIAN International, Misereor, EED, Bread For the World, ICCO&Kerkinactie, HEKS and FIAN Holland, with the participation of delegates from the small-scale farmers network of West Africa (ROPPA), of the Colombian human rights organization *Corporación Colectivo de Abogados "José Alvear Restrepo"* and independent experts, conducted a Fact-Finding Mission in Brazil from April 3 to 10, 2008 to investigate the current impacts of the Brazilian governmental policies and programs related to the production of agrofuels. The investigation was carried out from the perspective of human rights, in particular the rights to food, work and to a clean environment,

The Fact-Finding Mission was conducted at the request of organizations of the Brazilian civil society and its main purposes were the following:

1. Make an on site check of the impacts of the massive territorial expansion of mono-cropping for the production of agri-energy in three different regions of Brazil considering the local availability of food, availability of land for agrarian reform, conflicts over land, labour conditions and environmental impacts.
2. Document the key role of the Brazilian State (legal framework, financial support in public funding, support infrastructure, multilateral negotiations and, particularly, the political support to the agribusiness) in promoting agrofuels, both domestically and internationally, and assess this role from the perspective of human rights obligations assumed by the Brazilian State.

The Mission's final report will be presented in relevant international forums, such as the EU, FAO and the UN to demand the effective protection of the human right to food.

The Brazilian government has stood out internationally for advocating the use of agrofuels, presenting them as one of the solutions to the energy crisis resulting from the increasing scarcity of fossil fuels, as a potential answer to the climate problems of the earth and as an opportunity to tackle the issue of hunger in poor countries. The Brazilian government has also insisted that the massive use of agricultural products for fuel production does not affect food production in Brazil or lead to higher food prices and that, therefore, it does not represent a risk to the right to food or to food security, nor does it represent a threat to the environment. Actually, the massive production of agri-energy is considered by Brazilian government officials as an "instrument to fight poverty". According to the Brazilian government, it was within this spirit that Brazil recently established the National Biodiesel Program. Brazil was the first country to foster a broad program for the development and large scale use of a fuel derived from agricultural products, namely, ethanol made from sugar cane. Additionally, as is widely known, President Lula da Silva's government has declared the fight against hunger as the number one priority of his administration and has explicitly included structural reforms, in particular agrarian reform and the strengthening of peasant family agriculture as key reforms for the achievement of these goals.

On the other hand, our partner organizations in Brazil have been warning us about the negative consequences of the policies for the promotion of agrofuels regarding the exercise of the human rights to food, work, health and the environment, particularly of peasant communities, of traditional peoples and rural workers. The accelerated expansion of crops of agricultural products for fuel production, encouraged by public policies and resources, has contributed to a worsening of land concentration, excessive exploitation of workers, destruction of forests, displacement of food production, land fertility loss, the drying out of springs and rivers and, environmental contamination, in addition to undermining and twisting policies designed to guarantee human rights, such as agrarian reform policies, demarcation of the lands of indigenous peoples and support to peasant agriculture.

The Fact-Finding Mission to Brazil aimed at collecting information to assess whether the Brazilian State is complying with its obligations related to international human rights law assumed with the ratification of human rights treaties, particularly, the International Covenant on Economic, Social and Cultural Rights and other treaties and international conventions dealing with the Right to Adequate Food, the Right to Work and Environmental Rights. The members of the Mission visited three different areas with different problems: in São Paulo, the Mission was acquainted with the effects of the massive production and expansion of sugar cane plantations for ethanol production on working

conditions and the environment. The Mission talked with union organizations that represent workers in the sugar-alcohol industry, with non-governmental organizations and government officials and visited agrarian reform settlements to see how sugar cane plantation expansion is rendering their production methods and life vulnerable. In Mato Grosso do Sul state, in the city of Dourados, the Mission examined the impacts of the unchecked expansion of sugar cane production on the Guarani Kaiowá indigenous people, particularly the way it affects their right to food, land and the environment. Additionally, it also checked labour conditions of indigenous workers in sugar cane cutting. Finally, a team of the Mission also went to the state of Piauí, to the town of Canto do Buriti, to examine the biodiesel production project at Santa Clara farm involving settled families and the company *Brasil Ecodiesel*. The Mission spoke with settled families, unions, NGO's and government officials about the development of the projects and existing problems.

The Brazilian State has ratified a number of human rights treaties, thus assuming before the international community the obligation to implement them. Domestically, we see progress in the inclusion of these standards in national regulations. Additionally, in the design of some public policies, we can see a significant effort to guarantee social human rights. Also worth mentioning is the fact that we have perceived, in some sectors of the Brazilian State, a real commitment to the actual implementation of these rights. Despite this, however, we found that there are gaps in some points of the regulations and, particularly, in their implementation. We also found that influential sectors connected to the agribusinesses whose interests are threatened, have tried to create legal and political barriers to the application of human rights guidelines in the country.

In spite of the progress achieved in the past few years in the reduction of income inequality in the country, a concerning situation still remains: the wealthiest 10% hold 45% of the national income; the poorest 50% hold only 14% of the total income. In 2006, there were 36 million people living in poverty, with an income below R\$ 125.00 per month. In 2004, official data showed that 72 million Brazilians (39.8%) were somehow exposed to *food insecurity*; out of those, 14 million (7.7% of the population) suffered severe food insecurity, i.e. went hungry.

Brazil has one of the world's highest rates of *land tenure concentration*. In 2003, there were 4.2 million registered rural properties, occupying a total area of 420 million hectares of land. The owners of properties with more than a thousand hectares (that is, 1.7% of the total number of registered properties) owned 43.7% of the total registered area, i.e. 69,123 properties held 183 million of hectares in private hands. At the other extreme, properties with an area of up to 10 hectares accounted for 31.6% of the total number of registered properties and held only 1.8% of the total area, i.e. 1.3 million properties had an area of 7.6 million hectares.

The GINI land property concentration index was 0.802 in the year 2000.

The Brazilian land distribution model is unfair, exclusionary and predatory. The modernization of Brazilian agriculture has increasingly excluded people working in rural areas: *between 1985 and 2006, 6.9 million people left their occupation in agriculture.* In the past 25 years, over 30 million peasants have had to leave the rural areas to live in the outskirts of big cities. According to estimates by the Brazilian government, there are *3.1 million landless families and around 3.4 million families with insufficient land* for a sustainable livelihood. The impacts of the modernization of agriculture have also been felt by indigenous peoples, on traditional communities and on the environment.

Considering the reports that have been gathered, which were compared with and corroborated by a number of studies from different sources and interviews with scholars and experts specialized in the subject, as well as with government officials, the Mission concluded that systematic and multiple violations of the human rights of workers, indigenous peoples and small-scale peasant producers have been committed and that these violations are either directly or indirectly connected to public policies that encourage the production of agrofuels. These violations occur at the various levels of human rights obligations assumed by the Brazilian State, namely the obligations to respect, protect and fulfil economic and social rights.

Next are some of the main problems found during the Mission:

- The working conditions of sugar cane cutters reported to the Mission are, generally speaking, degrading and dehumanizing and therefore not compatible with human dignity. Under the current conditions, working in sugar cane cutting compromises the physical integrity of workers and, for this reason, it cannot be considered decent work. The Brazilian State is not complying with its obligation to protect sugar cane workers from the appalling working conditions imposed by the sugar-alcohol industry.
- Working conditions of sugar cane cutters compromise the physical integrity of workers, result in serious occupational diseases and, among other things, have even caused the death of workers. The main factors affecting workers' health are the following: (a) Chemical: workers are exposed to pesticides, herbicides and maturing agents applied to the sugar cane; (b) Physical: excess heat, stress caused by heat, moisture and sun exposure; (c) Mechanic: problems worsened by inadequate personal protection equipment that hurt or injure workers; (d) Biological: bacteria, fungi and viruses, poisonous animals; (e) Organizational: payment by production, leading sugar cane workers to work excessively, individual and group production targets, connected to forms of payment, causing conflicts among workers; (f) Operational: posture, strength, repetitive movement

(approximately one machete blow per second).

- Sugar cane cutters are subjected to very poor lodging and dietary conditions which, from the point of view of interdependence and indivisibility of human rights, seriously affect the rights to adequate food and housing. The degrading housing conditions, the family and social isolation of migrant workers and the excessively long working days are all factors that prevent workers from feeding themselves properly.
- The spurious and illegal practice of outsourcing the contracting of workers increases their vulnerability, leading to the emergence of several cases of slave and child labour in the sugar-alcohol industry. In 2007, the sugar-alcohol industry had the largest number of workers freed from slave labour conditions by law enforcement teams of the Brazilian State; among them were several indigenous rural workers in Mato Grosso do Sul state.
- In the social domain, the Mission also found a situation of insecurity and disregard of workers facing the growing unemployment in this sector caused by mechanized sugar cane harvesting. Additionally, the State has not guaranteed proper social services to sugar cane workers.
- Extensive sugar cane monocropping has harmful environmental effects: loss of biodiversity due to the use of pesticides, the potential contamination of water reserves, intensive water use for sugar cane irrigation, use of vinasse in the fields for fertigation purposes, resulting in the contamination of land and groundwater and sugar cane burning that pollutes the atmosphere, affecting the airways of thousands of people.
- The policies designed to encourage agrofuel production, even when they take social-environmental aspects into account, are in the end extremely limited and twisted by the agricultural model they are part of. Energy production from agricultural products is based on a raw material monocropping production model that concentrates land and production, with major social and environmental impacts. The accelerated expansion of agrofuel production worsens, in this context, the most harmful elements of this model. In addition to the aforementioned labour and environmental problems, there is a process of land concentration, increase in land prices, an unchecked process of land purchase by foreigners and the non-enforcement of land use planning rules. This process has contributed to minimizing the significance of the agrarian reform program and has pushed agrarian reform and peasant family agriculture settlements to replace food crops with sugar cane plantations. Further contributors to this process are the lack of regulation of the sugar-alcohol industry, allowing the concentration, verticalization and denationalization of this industry. Additionally, the process of the expansion of sugar cane plantations has postponed the demarcation of

indigenous lands in the state of Mato Grosso do Sul, further worsening the violations of the right to land and food of indigenous peoples, particularly the Guarani Kaiowá. In the state of Mato Grosso, where there has been a strong expansion of sugar cane production, there was a 99% increase in murders of members of indigenous communities in 2007.

- Protection of the right to food and the environment of traditional communities in the *Cerrado* and the Amazon region is not sufficient and is threatened by the expansion of sugar cane (and soybean) production and also by displacement of cattle and soybean production to the Amazon region as a consequence of the expansion of sugar cane production in the Mid-Southern Brazilian regions. Studies have shown serious threats to the rights of traditional communities to a clean environment and, as a consequence, to their right to food as a result of this expansion, showing gaps and distortions in the actions by the Government to protect the rights of the traditional communities in these regions. Data provided by the Land Pastoral Commission (CPT) have shown an alarming increase in the use of private militia against workers in the form of forced evictions and murders, precisely at the agricultural frontier expansion regions. 41% of the violence cases in rural areas in 2007 affected traditional communities that live, to a large extent, in the Amazon regions. This means that the State is failing to comply with its obligation of protecting traditional communities and their access to land and natural resources. Additionally, the destruction of the environment and biodiversity through deforestation of the Amazon Rainforest continues and has intensified again since the mid-2007, in spite of the measures adopted by the government to curb it. Finally, the government policy for the expansion of sugar cane and soybean production in the *Cerrado* in a disorderly manner represents a serious risk to this important biome and to its biodiversity. This situation is made worse by the lack of a surveillance system such as the one in place in the Amazon region. But this is not the whole story; we know that the *Cerrado*, like the Amazon, is not an empty and uninhabited area available for the expansion of agricultural crops for energy production, as some government documents on agri-energy try to show. The disregard of the *Cerrado* populations and the disordered and unchecked occupation by sugar cane plantations represent a serious threat to the rights of peasant and traditional communities in this region.
- Sugar cane plantations have displaced and replaced food crops and animal production, leading to a reduction in the area available for food production in these regions. The Professor of agricultural geography at São Paulo University (USP), Arioaldo Umbelino de Oliveira, is emphatic: "IBGE (Brazilian Geography and Statistics Institute) data, between 1990 and 2006, show a reduction in food production caused by the expansion of sugar cane acreage, which in

this period increased by over 2.7 million hectares. Taking the cities that had an expansion greater than 500 hectares of sugar cane in this period, we find that they had a reduction of 261 thousand hectares of the area planted with beans and 340 thousand hectares of the area planted with rice crops. This reduced area could have produced 400 thousand tons of beans, i.e. 12% of the national production and 1 million tons of rice, or 9% of total Brazilian production. Additionally, in these cities there was a reduction in production of 460 million litres of milk and over 4.6 million head of cattle". Between the 1990/91 and 2007/08 harvest, the area used for sugar cane and soybean production was expanded by 14.1 million hectares and the area dedicated to the production of beans, rice and cassava reduced by 3.1 million hectares, with a relative stagnation of the volume produced or gains obtained only from increased yield (i.e. intensification of land use and greater costs to farmers).

- In this context, we also find a strong pressure on food prices, particularly on the prices of food staples. The price of beans, for example, has increased 160% in 12 months. Rice prices have also skyrocketed, making the government stop exports of government stocks to guarantee domestic supply. We fear that this situation, since it penalizes precisely the poorest, might undermine the achievements made in the field of the right to food and poverty reduction through a recovery of the value of the minimum wage, more jobs, social security and social programs.
- In the biodiesel production project, we found food vulnerability as a result of the low income of the families living in the settlement, insecurity regarding land tenure, intimidation of free organization, dependence of settled farmers on the company, which generates debt and hampers the development of family producers.
- Although the biodiesel production program takes socio-environmental elements into account, it has privileged the use of soybeans as raw material, which benefits particularly the soybean multinational corporations, and not the peasant family farmers. Several studies have shown the various socio-environmental impacts of the expansion of the soybean plantations in Brazil. Additionally, studies have also proven that public policies favouring agribusiness have driven soybean production, while causing stagnation or decrease in the production of staples for human consumption, generating food insecurity and violating the human right to adequate food, as mentioned above. Finally, although Brazil is a large soybean exporter, the significant increase in the use of soybean oil for biodiesel production, besides affecting prices, making its availability to the most vulnerable sectors of the population difficult, may also represent a risk to the Brazilian domestic market supply. Soybean oil prices have rapidly increased on the international market: in 2001, it

cost USD 306.00/ton; in March 2008, it reached USD 1,343.00. With the increase in prices on the international market and the growing use for biodiesel production, soybean oil prices also skyrocketed on the domestic market. In the past 12 months, soybean oil prices increased 56% for Brazilian consumers. In this regard, the Mission considers that insisting on biodiesel production mainly from soybean oil is in contradiction to the social inclusion components of the program, in addition to representing a reckless move in the current world context of scarce food and agricultural inputs, representing an additional threat to the right to food.

## 2 Recommendations

In order to contribute to the observance of International Human Rights Treaties, the Mission wishes to make the following recommendations to the different levels of the Brazilian State:

In the short term:

a) Regarding the human right to work and labour rights of rural salaried workers, including indigenous rural workers, in the sugar cane sector:

- The Mission recognizes the extremely important work that the Department for Labour Inspection has been carrying out in cooperation with the Labour Department of Justice, to inspect and safeguard the enforcement of labour laws in relation to sugar cane production. The Mission recommends that the work of these institution continue and be strengthened, that they be provided with enough resources and capacity to perform regular inspections paying special attention to the issuance of Legal Working Papers, to proper lodging conditions and to food, to the improvement and adaptation of Personal Protection Equipment (PPE), to the abolition of labour outsourcing, to the eradication of slave labour, of child labour, to slave-like labour and other degrading and inhuman forms of labour, prioritizing the areas in which agricultural expansion for agrofuel production is taking place.
- The urgent passing of the bill #438, of 2001, proposing an Amendment to the Constitution (changing article 243 of the Brazilian Constitution), which sets forth that rural and urban properties where slave labour is exploited should be expropriated and the lands given to land reform programs or housing programs for low-income families.
- Investigate the cases of death of workers in the sugar-alcohol industry due to exhaustion. Present specific suggestions to prevent more deaths. Check the possibility of introducing regulations that render employers legally responsible for cases of sudden death due to exhaustion.
- Render the disease and injury record efficient, so that workers who suffer injury can receive sick pay from social security services by filling in the Occupational Accident Report (CAT).
- Inspect the enforcement of the Federal Court decision regarding the Social Security Plan that companies in the sugar-alcohol industry must grant to workers.
- Not allow the passing, at the Senate, of Provisional Presidential Decree #410 that hampers inspections by the Ministry of Labour and favours informal labour in rural activities.
- Safeguard the right to education of the children of migrant workers.

b) Regarding the human rights to food, the environment and the self-determination of indigenous peoples, particularly in the state of Mato Grosso do Sul:

- FUNAI (the Brazilian National Foundation for Indigenous Peoples) should treat with extreme urgency the legal process of identification and demarcation of the territories of the Guarani Kaiowá people, safeguarding security so that officials and technical staff can carry out this process.
- The Brazilian State should safeguard access to food of the vulnerable indigenous peoples through the regular distribution of staple food baskets in proper quantity and quality, respecting the dietary culture of these peoples, until public policies (safeguarding territory, generation of jobs and income) have been implemented, generating the conditions to guarantee the right to feed themselves of indigenous peoples.
- The Brazilian State should take the proper preventive measures to avoid the impacts caused by the expansion of sugar cane plantations for the production of agrofuels on the rights of indigenous peoples, establishing criteria that take human rights into account when funding or authorizing new projects in the sugar-alcohol industry close to indigenous areas.
- The Ministry for Social Development (MDS) and the Ministry of the Environment (MMA) should safeguard resources for the "Indigenous Portfolio" Project (very small businesses), as well as for a Training Program for indigenous labour in technology use.
- The MMA should implement a policy to fight the illegal exploitation of natural resources and for the reclamation of degraded areas, aiming at restoring the basic conditions of the way of being and living of Guarani Kaiowá peoples, safeguarding their right to food.
- The MDS, FUNASA (National Health Fund) and the state government should establish an agreement to create separate public policies for indigenous peoples, safeguarding their broad participation in the formulation of these policies.
- The State enforcement agencies should give top priority to safeguarding the due protection of indigenous peoples, fighting practices that affect their human rights as a result of the unchecked expansion of sugar cane plantations in the state. Government officials should investigate cases of violence against members of indigenous communities, punishing the perpetrators.
- The Ministry of Justice should provide effective mechanisms for the protection of the Guarani Kaiowá against the practices of criminalizing their struggle for land and for their rights in general.

c) Regarding the right to food, land and work of the settled workers of the Biodiesel project in the state of Piauí:

- Access to land: The Piauí State Government should safeguard the permanent maintenance of lands in the hands of settled families with secure title deeds.
- Organization: The state must protect the freedom of organization of farmers in associations vis á vis the practices of intimidation and repression carried out by the company *Brasil Ecodiesel*.
- Economic status/earnings: Family producers should be guaranteed real participation in the negotiation of prices and minimum earnings should be safeguarded, corresponding to at least one monthly minimum wage per family. In order to achieve this goal, we recommend the establishment of transparent criteria for the payment of a fair price (for example, the establishment of a tripartite group to negotiate contracts between the Government, corporations and workers/their legitimate representative organizations). Farmers' debts should be cancelled and they should have the possibility of selling their products to the best-paying buyers.
- Technical support: In order for producers to increase their crop yields, they should be given proper and efficient technical support. We recommend that the government, through a MDE, inspects the company *Brasil Ecodiesel*, enforcing compliance with the technical support regulations established at PNPB (National Program for Biodiesel Production and Use).
- Production model: The Company should allow producers to freely choose their crops.

In the medium term, regarding the rights to food, work and the environment of peasants, rural workers and indigenous peoples:

- Prioritize the support to peasant agriculture, to agrarian reform, to the demarcation of indigenous lands, the diversified production of staples for the consumption of the families to safeguard their food security and their basic needs, instead of encouraging mono-crops for energy production for export. Public policies should make use of the maximum of available resources in order to meet the needs of peasant family agriculture and to diversify agri-industrial production, instead of only benefiting the export business sector. Agrarian reform, as a precondition of a social-economic change to fight poverty in rural areas, must be resumed and expanded.
- The opportunities to market food products produced by peasant agriculture producers in medium-sized cities should be expanded through farmers' markets, in order to complement product purchases made by CONAB (National Agricultural Products Supply Company).

- Advance in the negotiations and legal procedures in an attempt to overcome the organizational and structural causes of overexploitation of workers, such as payment by productivity, trying particularly to find alternatives to this mode of production throughout the whole sugar-alcohol production chain.
- Adopt public policies to improve the living conditions and work opportunities in the areas migrant workers come from, for example, effective agrarian reform, strong support to peasant agriculture, improvement of education and vocational training, information on opportunities and working conditions in other areas of Brazil, among others.
- Adopt, at the city, state and federal levels, land use planning regulations that prioritize the democratization of access to land and the implementation of agrarian reform, protect and foster peasant family agriculture, protect indigenous lands and the territories of traditional communities, protect natural resources, clearly demarcating the areas that could be dedicated to agri-energy production. These plans should be devised with full participation of the rural population and the organizations representing them.
- Take decisive measures to advance the process of legalizing the tenure of indigenous lands in the country and make national regulations fit international parameters and constitutional norms on the rights of indigenous peoples.
- Subject the granting of public incentives for the agri-energy sector, especially those granted by BNDES (National Bank for Social and Economic Development) to social, environmental and labour criteria for investments. These should, moreover, be part of clauses in contracts. For example, BNDES should ensure, before approving funding, that the requesting company is not listed in the register of labour law violators of the Department for Labour Inspection. Considering the human rights obligations of an extra-territorial nature of the Brazilian State, these criteria should also be applied in the case of incentive to projects abroad, to prevent Brazilian public resources from contributing to violations of human rights in other countries.
- Effectively regulate the sugar-alcohol industry to make sure that their actions do not affect the enjoyment of human rights by the most marginalized population and that they, instead, result in actual benefit to the whole society.
- Introduce regulations to restrict and control the purchase of land by foreign companies, setting limits to land and territory concentration.
- Rigorously enforce the environmental law to protect the environment as the "asset of common use", protecting forests, rivers, springs and the biodiversity of the *Cerrado*, the Amazon, the *Pantanal*, the Atlantic Forest, as well as to protect against the

harmful effects of illegal spraying of pesticides that affect the crops of family farmers and poisons people in areas close to sugar cane and soybean plantations, in addition to protecting the rural workers in these units.

- Review the current energy policy so that it is compatible with the enjoyment of all human rights. Safeguard broad participation of people in the establishment of priorities so that the latter meet their social needs and are in agreement with local and regional characteristics and potentials, exploring alternatives of decentralized and non-concentrated production and management under the control of peasants and workers.

To contribute to the exercise of human rights of Brazilian citizens, the Mission recommends that other States of the international community, particularly those responsible for actions of multilateral organizations:

- Reconsider all incentive policies, such as the mandatory targets of replacing fossil fuels with agrofuels, considering the serious negative social and environmental impacts the expansion of this industry will have on Brazil as a leading country in this sector.





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