



# Access to land as a food security and human rights issue

A Misereor discussion paper  
for dialogue with its partners

prepared by the  
Project Team  
'Access to Land'

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## Preface

The question of access to resources is one of the key questions of our time. For Misereor partners in the southern hemisphere, access to resources means access to 'development resources' which, according to the German Catholic bishops, means everything that allows people to live in dignity. While these pillars of human development are protected by international law in the form of the United Nations' International Covenant on Economic, Social and Cultural Rights of 1966, reality shows that they are not freely available and that their distribution is at the mercy of power interests.

One of the main problems for the rural populations of Africa, Asia, and Latin America is the inadequate or non-existent access to fertile land. Secure access rights to land are, however, an imperative requirement for food security; without land security, efforts to use natural resources in a sustainable manner will not come to fruition. The aim of this paper is to explain why the land question is a challenge for Misereor and to highlight the prospects for future work. To this end, we would like to consider these issues together with our local project partners and enter into dialogue with them. In the interests of making the most effective contribution possible to the solution of this complex problem, we welcome and value suggestions and criticism.

This is a summary of a detailed paper on 'access to land', which was drafted by the staff of the Misereor International Cooperation and Domestic Activities divisions. Given the nature of a summary, this paper only tackles part of this subject area and does not go into any great detail. Be that as it may, we hope that it will serve as an impetus for further debate and will intensify current discussions. It is vital that we learn from the experience of others and work together to achieve dignified living conditions for all.

### **1 The guiding question: how can hunger be combated effectively?**

According to FAO estimates, over 800 million people suffer from chronic hunger. People suffer from hunger because natural disasters destroy harvests, because wars uproot families and communities, and because food and hunger are manipulated for political ends. Hunger in fact has very little to do with the impression that there is not enough food on earth to feed everyone. Hunger has, however, much to do with the fact that people are not in a position to buy or grow their own food. As contradictory as it may seem, hunger is widespread among the families of agricultural labourers and small farmers in particular. Three-quarters of the 1.2 billion people in the world who live in extreme poverty live in rural areas.

Of these rural poor people, at least 500 million have no access to fertile land.<sup>1</sup> For every one of them, this is synonymous with temporary food shortage. This is why a growing number of those affected by this situation are trying – mostly in vain – to escape their desperate situation by migrating to urban areas or emigrating to other countries. Others take on seasonal jobs as migrant workers and earn no more than a pittance.

Many people are denied access to resources that are vital to life and essential for development. Others lose these resources for a myriad of different reasons: because they have been driven from their land; because the ground has become infertile and the water sources have dried up; because plant and animal species are disappearing; or because they have been denied traditional user rights. Bad policies – such as those that do not make adapted means of state support available to small farming families or that tolerate the destruction of the domestic agricultural sector caused by cheap food imports – can be the final nail in the coffin.

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<sup>1</sup> *United Nations Report of the Special Rapporteur of the Commission on Human Right to Food*, July 2002.

The final declaration and the action plan of the 1996 World Food Summit (WFS) reiterated and emphasised the 'right of all to adequate food' and the 'right to be free from hunger'. At the same time, governments pledged to halve the number of the world's hungry people by 2015. Today, however, scepticism seems to prevail as to whether this ambitious target can be reached. According to statistics published by the FAO, if China's success in combating hunger is not taken into account, the total number of hungry people in the world has not dropped, but has instead risen by 50 million since 1990-2. Moreover, thoroughgoing political changes have not been made nor are they in sight at either national or international level. At the same time, bilateral and multilateral support for rural development measures has plummeted. On paper, at least, some progress has been made: the aforementioned action plan of the 1996 WFS and a series of more recent documents from UN organisations are 'pro-poor'. The WFS action plan calls, among other things, for greater involvement on the part of civil society and access for the poor to productive resources. Nevertheless, the tools proposed for practical implementation remain the same: the further liberalisation of markets and the introduction of new technologies. A highly mechanised agricultural sector that is based on the intense use of external inputs seems to remain the agricultural model to which national and international agricultural policies aspire. No-one is asking questions about alternatives or proposing any real changes.

## 2 On the problems involved

### 2.1 Access to productive resources

Access to **land** means having land on which to live and work in settlements, and being able to use fields and pastures for growing crops and rearing livestock. Access to land also means being able to use other resources such as forests, pastures, and watercourses. The use of mineral resources also entails a particular set of problems that must be taken into account when discussing the land question: modern legislation often deprives traditional communities of their user rights, thereby endangering ways of life, such as those of pastoral people or forest dwellers, and bringing hunger to indigenous communities. Creeping desertification, soil erosion and degradation, water shortage, deforestation, and not least the loss of flora and fauna compound the problem and pose a threat to people's livelihoods even in those areas where they have access to land.

The permission to use **water** is usually linked to territorial claims (among others, land tenure). Poor people living in rural areas rarely have additional irrigation facilities, which would significantly increase the food security of a family even in the smallest area of cultivable land. In contrast, big farmers, whose intensive farming methods are often export-oriented, are quite literally drying up small farmers' livelihoods by using up the available water. There can be no doubt that the poor have to date barely been able to push through their interests and assert their rights in the competition for this precious liquid. Major industrial projects, large dams, the extensive irrigation of plantations, mining operations that pollute water, and the trend towards the privatisation of water supplies are in no way an indication of reforms and a redistribution of this valuable resource, but are instead an expression of the trend towards a consolidation of the existing distribution of power.

**Forests** and **pastureland** are vital for the survival of numerous production systems as habitats and sources of a large number of strategic natural resources. Many legislative systems specify forests as state property (e.g. in French-styled 'code forestier' legislation) and in so doing clearly regulate rights of access and rights of use. As is the case with land, traditional or customary rights of use often co-exist with modern legislation. This frequently leads to overlapping legal systems (legal pluralism). Other problems arise out of the uncontrolled and unsustainable use of forest resources, with the causes to be found in the

pursuit of profit (e.g. tropical forests), the lack of political will, and a less-than-optimal efficiency of state forest authorities.

The **biological diversity** of flora and fauna, which has developed over the course of millions of years, is the basis of agricultural and medical development. Traditional communities have nurtured, used, and fostered the development of this diversity. In doing so, they have built up a vast store of knowledge that has contributed to sustainably protecting biodiversity. However, biodiversity has been shrinking dramatically in recent years: one in every eight known species of plant is threatened with extinction and five per cent of all useful animal species disappear forever every year.

Farmers have developed a large number of useful plants that are ideally suited to local conditions. The same applies to useful animals (productive livestock). Genetic diversity provides the starting point for further breeding and cultivation. The reproduction and the free exchange of **seeds** are the foundation on which this development is based. While the highly mechanised and capital-intensive agricultural revolution has led to considerable increases in yield, the long-term damage to the environment caused by the widespread use of agricultural chemicals and the development of monocultures cannot be overlooked.

Today, small farmers' and indigenous communities' access to genetic resources are also threatened by the extension of patent protection to living nature, to plants, animals, and genes. WTO agreements like TRIPS<sup>2</sup> are supposed to create the necessary legal framework. It is to be feared that as a result, many cultivated plants that are vital for human nutrition could soon be controlled by a small number of companies. This would pose a substantial threat to the traditional food base of rural populations in the countries of the so-called 'third world' and the ability of these people to provide for themselves.

**Access to knowledge** is a basic prerequisite for the sustainable use of resources and for food security. Traditional knowledge, which has been developed and disseminated down through the generations, has lost significance. Moreover, poor people and marginalised communities around the world have only very restricted access to knowledge and information. State advisory services in particular are rarely available to them and, when they are, the services generally focus on export-oriented agriculture and not on the needs of small and marginal farms.

**Access to capital** (through savings and loans) for investment, **access to markets**, and the **rule of law** are other conditions that are indispensable if people are to be put in a position to produce a permanent supply of food themselves.

## 2.2 Access to land

### *Concentration of land tenure*

The distribution of land tenure is extremely uneven: even though 75 per cent of the world's poor and undernourished live in rural areas and even though, according to the FAO, their food supply could be significantly improved by giving them access to land, half of the world's arable land is owned by only 4 per cent of the world's landowners - most of whom are either large estate owners or multinationals.

This situation is mainly the result of former feudal or colonial property and ownership relations. However, modernisation processes in the agricultural sector and the expansion of production for the export market have also led to the displacement or expulsion of smaller farmers and to an increased concentration of land tenure.

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<sup>2</sup> TRIPS is an international agreement that regulates trade-related aspects of intellectual property rights.

### *Traditional land-use systems*

The territorial claims of indigenous peoples are ignored in many countries in favour of colonising arable farmers, major industrial projects, or the exploitation of raw materials. In such cases, it is not only a question of land, but also of water consumption and pollution, the decimation of fish and game stocks, the destruction of forests, and the restriction of traditional rights of use with regard to forests, water, and pastureland.

### *Women and land tenure*

Around the world, women produce most staple foods and play a key role in securing food for private households. Despite their outstanding role as providers, women are structurally disadvantaged when it comes to access to and control over land. This means that they are at a disadvantage in terms of rights of ownership and succession. According to FAO data, only 2 % of agricultural land is owned by women.

### *Land rights in urban areas*

The lack of access to land and inadequate legal stability pose similar problems for poor people living in urban areas.

### *Loss of soil and fertility*

Access to land can only offer a farming family a permanent livelihood if the soil is fertile and remains so. Over the course of the past 50 years, two-thirds of the world's agricultural land has been eroded, salinised, or polluted, or become infertile. In view of the fact that total population is growing, we can assume that the shortage of fertile land will in future be the main cause of food shortages. No access to land – or no secure access to land – and soil degradation often go hand in hand: tiny or unprotected plots of arable land that are incapable of feeding a family are overused and the degraded soil is then abandoned by the family as it goes in search of new arable land.

### *Globalisation and the threat to small farmers' livelihoods*

The process of liberalisation of international agricultural trade has dramatically negative effects on small farming. Attempts to increase their agricultural productivity drive many small farming families into debt: farmers are obliged to take out loans to pay for expensive seeds, special fertilizers, and chemical pesticides. This makes them increasingly dependent on external factors that are out of their control. Their situation becomes precarious when, for example, market prices drop or crops fail and the farmers cannot, as a result, repay their loans. This in turn increases their debt to such an extent that they eventually lose their property and their land.

The WTO, World Bank, and the IMF are fostering the dynamism of the process of concentration in the agricultural sector by lowering tariffs, import restrictions, and other protectionist measures in national economies. Subsidised low-price products are often dumped on the world market causing prices in national economies to collapse. Such price drops are ruinous for small farmers.

Medium-sized and large farms have a much better chance of surviving in conditions like these. The fact that many small farmers are forced to give up of course contributes to further concentration of land tenure.

### *War, displacement, and natural disasters*

Natural catastrophes and climate changes are forcing people all over the world to leave their ancestral territories either because the land is regularly flooded or because it is suffering from drought. Major infrastructure projects around the world lead to the displacement and

resettlement of the people living in these areas. A similar fate awaits those who are forced to leave their land or whose traditional rights of use are heavily curbed by the establishment of nature reserves; or those whose land is acquired by companies or owners of large estates for a variety of reasons: for plantations, mining, extensive livestock farming, or speculation. Those who wield economic and political power have no difficulty putting themselves above these ancestral rights if no chartered rights of possession exist and if the rule of law in that country is weak.

When arable land is riddled with land mines, as is the case in Angola or Cambodia, wars cost land. Civil wars raged for decades in Central America because people resisted being driven from their land or put up resistance to the concentration of land tenure in the hands of a few affluent people. One of the reasons why Columbia has been dogged by a tragic, never-ending war characterised by the systematic displacement and massacre of civilians is the combatants' desire to gain possession of land.

### 2.3 Continental-specific aspects of the land question

#### **Africa**

In the majority of African countries, well over half of the population (70%) still depends on agriculture for a living<sup>3</sup>. At the same time, most of Africa's poor people still live in rural areas. This is why access to land and the use of natural resources are indispensable to the livelihoods and the very existence of most people in Africa, and in particular the continent's poor.

While in western Africa and large parts of eastern and southern Africa, land use systems based on permanent cultivation (including the use of fallow periods) predominate, shifting cultivation is still used in very sparsely populated areas (e.g. Central Africa). Mobile herding of livestock is an important land use system in arid, remote areas across the continent.

In some regions, the shift to permanent cultivation already took place in pre-colonial times (e.g. in the valley of the Senegal river in Senegal, the Ashanti in Ghana, and in the region of the Great Lakes). An export-oriented agricultural sector was introduced into many countries in colonial times, partly in the form of plantations (e.g. in the Ivory Coast) and partly in the form of contracts that were concluded with small farmers for the production of certain crops (e.g. groundnuts and cotton in Senegal, Mali and Burkina Faso). In southern Africa (South Africa, Namibia, Zimbabwe) and Kenya, so-called settler colonies were set up as part of the colonial appropriation of land. The result of these settler colonies was a white dominated, sometimes highly mechanised and capital-intensive agricultural sector.

Traditional or indigenous land tenure systems<sup>4</sup> in Africa generally co-exist with modern state legislation. In many countries this legal pluralism goes along with the state's inability to apply at local level laws that it has passed. This increases legal uncertainty. In reality, local law often predominates over state law, whereby the former can prove to be very flexible and adaptable.

The spiritual responsibility for land is to this day clearly allocated to a group and/or leaders in most regions of Africa. The distribution of land is, however, mainly a matter for clans. Within this group, land can be inherited, but less in the sense of a possession of which the holder can freely dispose at his or her will. Access to land and rights of land use can be amended and balanced out by the heads of the clan if overriding interests require it.

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<sup>3</sup> See Munzinger Länderarchive.

<sup>4</sup> In view of the enormous variety of ethnic and linguistic groups and structures that were influenced to varying degrees by the colonial system, it is only possible to examine access to land, land use practices, and access rights to natural resources on the African continent in a very simplified manner.

As population density grows and land becomes more scarce, individual or family-based forms of property rights of land have become more widespread. A family or social group is generally obliged to give members access to land if necessary. Forests, pastureland etc. are seen as common property. Multiple rights of use within a clan, a community, or between socio-professional groups (arable farmers, livestock farmers) are par for the course.

Even if rights of land use are exercised and handed down from generation to generation at clan or family level, there are still some important differences between this system and the system of private property rights<sup>5</sup>. Under the clan system, unused land or land that is badly managed often reverts to the village community or clan. A permanent conveyance, as would be the case if the land was sold, is not compatible with the African understanding of property rights on land because of the spiritual nature of land. Land is principally defined as a social good. This is why it is not usual and consequently difficult to exclude needy people (e.g. immigrants), which can lead to conflicts if the pressure on land as a resource increases. It is also worth emphasising the strong link between a group and the land (home of ancestors). Land has an identity-forming character and is the expression of a group's cultural and historic roots.

As part of its structural adjustment programmes and based on the assumption that traditional land tenure systems are likely to be less productive than western-style forms of land use, the World Bank recently stepped up its pressure on many African countries to introduce land law reforms based on the western concepts of private property. Such concepts generally consider the enactment of private ownership and the cadastral registration of land titles as a basic prerequisite for rural and economic development. The argument goes that secured land rights are a prerequisite for investment and therefore an increase in production and/or productivity. Moreover, the theory behind this concept also holds that access to loans – which are essential if necessary farm investments are to be made – may only be given to those who can provide a land title as security. The following figures illustrate how insignificant private property rights still are in Africa. To date, only between 0.5 and a maximum 4 per cent of land<sup>6</sup> in Africa can legally be defined as being privately owned; in some regions (e.g. Kenya, Lomé/Togo) the trend is even retrograde.

There are many countries in Africa that have in recent years either initiated or implemented land law reforms. The failed market-led land reform in the Republic of South Africa; the land law reform in Senegal, which explicitly takes traditional land titles into account; the participation-oriented process of drawing up a land law reform in Mozambique; and the legislation of pastoral rights of land use in Mauritania and Mali are all worthy of a mention in this context.

More recent investigations<sup>7</sup> have determined that existing land tenure systems do indeed create adequate conditions for the productive use of land. Their ability to adapt to changing general conditions is particularly advantageous in this regard. Attempts to enact land tenure with the assistance of title deeds and cadastres (land registries) often only accommodate the plans of the powers that be and the educated elite to acquire land in favourable locations.<sup>8</sup> It is, on the other hand, difficult for village communities and farmers to benefit from these processes. They often end up being deceived or going away empty-handed. The transformation of property rights on land and rights of use from a social good that cannot be sold into a straightforward commodity opens the door to corruption and speculation; it brings with it huge conflict potential and a considerable explosive force in society.

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<sup>5</sup> This refers to the spirit of Roman law that affords the holder the right to use, misuse, and convey.

<sup>6</sup> See Le Roy, October 2002.

<sup>7</sup> See Camilla Toulmin et al (IIED), 2000, London.

<sup>8</sup> In Nigeria, for example, the military concluded long-term lease agreements for large estates in the years of the military dictatorship. The 1978 'Land Use Decree' (issued during the period of military rule) transferred all land ownership to the state and together with other similar decrees paved the way for these agreements. In Mali, on the other hand, the land law reform does not admit traditional land ownership and land use claims. The only way of securing private ownership is to have the land officially registered with a cadastre. This means that the landowners, who traditionally assume the role of a trustee, sell land to the urban elite, especially in suburban areas.

If conflicts are to be prevented, civil society's involvement in land reform processes is essential. Because the claim to land usually goes hand in hand with a community's claim to power in a given area, conflicts are inevitable, for example between first settlers and immigrants, or between dominating ethnic groups and ethnic groups that are excluded from power. The situation in the former settler colonies (Zimbabwe, South Africa, Namibia, Kenya) is unique. Here, as a result of existing inequalities, great importance is attached to compensation for wrongs committed and land reforms that focus on the redistribution of land. Finally, there is a need to struggle for appropriate framework conditions against trends of land fragmentation in countries with increasing land pressure and unfavourable rights of succession (Uganda, Kenya etc.).

## Asia

According to recent statistics from the FAO, the majority of the world's hungry people – 508 million of a total 800 million people – live in Asia. In Asia, it is above all the landless that are affected by hunger. They often earn less than a minimum wage as tenant farmers, agricultural workers, migrant workers, or very small farmers who do not have enough land to support their own families. A study conducted in Bangladesh<sup>9</sup> concluded, for instance, that over 50 per cent of all landless and land-poor families live in abject poverty whereas 'only' 10 per cent of those with over 3 ha of land go hungry.

Given the extremely diverse socio-cultural, political, and religious situations in the countries of this continent, it seems pointless to make a general, sweeping examination of the land question in Asia. Consequently, the section that follows uses selected examples to highlight the most important aspects of the land question in Asia.

### *Land distribution*

In some Asian countries, such as Japan, South Korea, and China, the land tenure situation is relatively just as a result of a series of successfully implemented agricultural reforms. Other Asian countries, on the other hand, are to this day characterised by archaic systems of feudal agricultural oppression, extremely unjust land distribution structures, insecure tenancies, and exploitative working conditions for day labourers (see the info-box on the link between poverty and access to arable land in Asia). This trend is intensifying as a result of land loss caused by debt and bonded labour, and – since the 1990s – economic liberalisation. It is estimated, for example, that India loses 1.3 per cent of its economic growth every year as a result of legally unresolved land conflicts<sup>10</sup>, from which influential owners of large estates and former feudal lords usually emerge victorious.

In countries shaped by Islam and Hinduism, it is the women who are worst affected by the lack of access to land. They rarely have secure land leases for the land they are working in order to be able to feed their husbands and children.

A study conducted in India, Nepal, and Thailand<sup>11</sup> showed that in these countries, less than 10 per cent of women own land even though they evidently make the greatest contribution to food security.

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<sup>9</sup> FAO: *The State of Food Insecurity in the World 2002*, p. 9 ([www.fao.org/docrep/005/y7352e/y7352e/05.htm](http://www.fao.org/docrep/005/y7352e/y7352e/05.htm)).

<sup>10</sup> D.C. Wadhwa: 'Guaranteeing Title to Land' in *Economic and Political Weekly*, 23 November 2002.

<sup>11</sup> FAO: *The State of Food Insecurity in the World 2002*, p. 12.

### **The link between poverty and access to arable land in Asia: a few statistics**

- *Philippines*: ten million people work in the agricultural sector, just under a quarter of them own land<sup>1</sup>.
- *India*: approximately 2 per cent of the population owns 25 per cent of the land (more than 10 ha) and 75 per cent own a further 25 per cent of the land (less than 2 ha). Some 43 per cent of rural households are landless.
- *Pakistan*: approximately one million farmers live below the poverty line. There are several reasons for this: one of which is because they were denied rights of possession even though their families have mostly been working the fields for over 100 years.
- *Indonesia*: 20 million farmers own an average 0.5 hectares of land.
- *Afghanistan*: farming families in post-war Afghanistan suffer from hunger because over 724 million square kilometres of land are riddled with land mines<sup>1</sup>.
- *Bangladesh*: more than 45 per cent of the rural population own less than a quarter hectare of land per family. More than half of these landless or land-poor families live in abject poverty.

The fact that land problems are intertwined with socio-cultural standards is also illustrated by the situation of the casteless in India. Traditionally, they are not entitled to own land. To this day, they are increasingly the victims of displacement, land robbery, and discrimination.

As already stated above, agricultural reforms that seek land redistribution are the most important tool when it comes to affecting changes in the distribution of land. Wherever civil society and political will are strong, and farmers are fighting an organised battle for land, the consistent implementation of agricultural reforms has led to a significant reduction in rural poverty<sup>12</sup>. The redistribution of land, for example in the Indian states of Kerala and West Bengal, made small farming families more affluent. This in turn made it possible for them to pay landless day labourers better wages. These two federal states posted the greatest growth rates in India in the 1980s. Many cases in China and Vietnam illustrate the critical importance to the sustainable, environmentally friendly use of land of transferring title to land to individuals and families. In these countries, the transfer of title of land led not only to a significant increase in production, but also, for the first time in a millennium, more trees were planted than were felled.

In other parts of India and in some countries in South-East Asia such as the Philippines, agricultural reforms either faltered or were not implemented because of a lack of political will (the influence of the land-owning elite on the governments). Other causes included a lack of funding, corruption (which hampers implementation), and the inadequate mobilisation of civil society (such as groups of small farmers and NGOs) as a counterweight to the successful avoidance strategies of powerful landowners.

Analyses conducted by the FAO show that in those Asian countries where the land distribution was more just in 1980, it has been possible to combat hunger much more quickly. Moreover, the rural areas have provided a sustainable impetus for the economic development of these countries.

Other areas that relate to the access to and use of land are regulated by progressive state laws. This means, for example, that exploitative forms of tenancy and bonded labour are prohibited in almost all Asian countries. The implementation of these bans founders, however, because of the affected persons' – or even the Executive's – ignorance of the laws and because of the non-existence of a small farmers' lobby.

#### *Access for indigenous groups*

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<sup>12</sup> FAO: *The State of Food Insecurity in the World 2002*, p. 11.

Another problem in Asian states is the access for indigenous peoples to resources – and in particular to land and forests. To date, not a single Asian state has ratified ILO convention 169 and only very few Asian states recognise the indigenous groups living within their borders. China, for example, only employs the term ‘minorities’, thereby making it impossible for indigenous groups to make any special legal claims. While indigenous groups are recognised and specially protected by laws in the Philippines and India, corrupt systems and complicated procedures considerably restrict the exercising of the granted rights. Current developments, such as state legislation on environmental protection, the liberalisation of laws governing the use of natural resources, or the nationalisation of forests, have severely restricted indigenous groups’ use of their territories. This development poses a threat not only to the indigenous groups’ economic livelihoods, but also to their cultural identity, which is generally directly linked to their territory and, consequently, the land.

Recent changes to legislation often offer room to manoeuvre in terms of securing access to land. This is illustrated by the following examples:

- In the Philippines, the Indigenous People’s Rights Act, which was passed in 1998, gives indigenous groups the opportunity to secure their traditional land use rights. It also provides for a community of indigenous people that registers ownership of the land (communal land title) and for communal access to forest products and their use. The mandatory procedures involved are, however, technically complicated, very time-consuming, and are mostly unknown to the people that stand to benefit from the act.
- In India, new laws on the marketing of non-timber forest products and communal forest management promote the secured use of forests by the indigenous population. However, ignorance and the abuse of power by forest authorities usually prevent indigenous people from actually exercising these rights.

#### *Loss of land*

The ‘Green Revolution’ in some Asian countries like India, the Philippines, and Thailand has had a negative influence on the structure of the agricultural sector and has widened the gulf that separates ‘the rich’ and ‘the poor’. Many small and marginal farmers who have bought external means of production such as fertilisers, agricultural chemicals, and high-yielding seeds have become locked in a vicious circle of dependence on agricultural companies and debt. This often results in them losing their land.

Today, ambitious economic programmes that are initiated as part of neo-liberal policies (e.g. the extraction of mineral resources in Orissa and Bihar in India or the creation of massive plantations in the Philippines) are posing a growing threat to the livelihoods of small and marginal farmers and indigenous communities. In an attempt to attract foreign investors, Asian countries are increasingly passing laws that are threatening the agricultural structures of small-scale farming (see the recent example of Sri Lanka as outlined in the info-box below).

#### **New laws in Sri Lanka pose a threat to small and marginal farmers’ right to food**

In the past, Sri Lanka’s land policy sought to protect small and marginal farmers and, in so doing, made a considerable contribution to boosting agricultural productivity and growth. As a result of the pressure exerted on it by the World Bank, the Sri Lankan government has since 2002 been pursuing an extensive liberalisation of the land market in an attempt to attract private investors. This policy poses a threat to the livelihoods of about 1.8 million small and marginal farmers and will increase the concentration of land tenure. Empirical proof<sup>13</sup> from other countries indicates that the number of landless and unemployed will rise because the small and marginal farmers with the greatest debts will not be able to afford to keep their land and, therefore, their livelihood, and because alternative sources of income do not exist.

<sup>13</sup> Institute for Food and Development Policy, October 2002 (<http://www.foodfirst.org/action/cgar/srilankafarmers.html>).

## *Migration*

While the problem of land is hardly discussed any more by the urban elite, who heavily influence politics, an increasing number of landless people are migrating to the slums of Asia's mega cities in search of a new life. The increasing interest in land as a resource due to globalisation and population growth means that small farmers and indigenous people are in a virtually hopeless situation in terms of the struggle to secure rights of possession and rights of use.

## **Latin America**

The extremely uneven distribution of land and dense urban populations (on average 80 per cent of the region's population) are the two characteristics that set Latin America apart from Asia and Africa in terms of the land question.

The heavily polarised land tenure structure, which is based on a system of large estate ownership and relies on cheap agricultural labour and landless farmers, is a hangover from colonial times. As part of the upswing and the so-called 'Alliance for Progress', attempts to introduce land reform were made in almost all countries in Latin America in the early 1960s<sup>14</sup>. All of these countries have two things in common: firstly the fact that they attempted to introduce reforms in the first place and, secondly, the failure of these efforts to distribute land in a more just manner. These efforts usually went no further than policies that only partially favoured the landless and were implemented inefficiently and sluggishly. Traditional village communities or typical small farming families were usually left empty-handed. They neither got additional land, nor gained security for their traditional land tenure. Instead of land reform, the colonisation of sparsely populated areas was, and still is, either encouraged or tolerated. This in turn has led, and still leads, not only to ruthless environmental exploitation, but also to conflicts between the indigenous and colonising populations (e.g. in the Amazon Basin in Brazil).

The civil wars of the 1970s and 1980s in countries like Guatemala and El Salvador are the direct result of unresolved social conflicts that were ignited by the land question and, to a great extent, still continue to this day (as is the case in Columbia). With its land redistribution measures, Brazil is the exception to the rule. Be that as it may, the implementation of these measures has been slow over the past few years.

Another aspect of the Latin American land question is community land, which dates back to colonial and even pre-colonial times. This land, which is owned by the community, covers arable land, forests, or wasteland that can be used by members of the community. As a result of the rapid growth of cities over the past few decades in particular, illegal appropriation of land, spontaneous settlement, and the lack of reliable cadastres and land registers, ownership of land is often difficult to clarify. This situation gives rise to conflicts, which are now the rule rather than the exception.

Both during and after the colonisation of these countries, the indigenous population lost vast swathes of their territories. In contrast to this, much ground was made in the 1980s in terms of acquiring land rights, above all as a result of the ILO conventions and the revival of indigenous organisations. Even though the results in no way lived up to the expectations that preceded them, it would appear that the security of indigenous land tenure claims has been strengthened more in national legislation than the recognition or granting of claims brought by the landless and very small landowners. That being said, this security counts for little in cases where powerful economic interests are involved.

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<sup>14</sup> This was an initiative championed by the USA. Its aims included economic modernization and the curbing of communist influence in North and South America in the wake of the Cuban Revolution (1959).

In the current situation, the following developments and the well-known problem of land tenure concentration constitute the main challenges to be faced:

- Population growth and poverty-driven migration not only cause migration to urban areas in a series of countries, they also increase pressure on the land. For example, many Brazilians migrate to Chaco in north eastern Paraguay in search of land. This colonisation by landless 'whites' is directly interfering with the territory of indigenous populations and local ecosystems and is resulting in massive conflicts.
- It is rarely the case that these conflicts involve powerful owners of large estates on the one side and poor farming families on the other. Instead it is often a case of rural communities fighting over communal borders, landless colonists illegally appropriating land that belongs to indigenous people, or various groups competing for a small amount of land.
- The fundamental rights of the families of agricultural labourers are still permanently being infringed in many countries. Working conditions are poor, wages too low, and legal stability precarious. If the situation for agricultural labourers does not change, the attractiveness of the extensive use of large estates will not be diminished – a fact which reduces the opportunities for land redistribution measures.
- Traditional small farmers, who never saw the need to legally secure their land tenure in the past, are increasingly becoming the victims of displacement. This displacement is driven by capital-intense investments in extensive livestock farming (e.g. herds of cattle in Argentina), the purchase of extensive lands by companies and groups (e.g. in Chile and Uruguay) or the appropriation of land for reasons of speculation (e.g. Columbia). With this increased pressure on the land, land that could be used for land redistribution measures is lost.
- Mining and the extraction of raw materials continue with no consideration for existing land tenure or land use situations and with no prospect of appropriate compensation for those affected by these activities. In Honduras, concessions for the exploration of raw material reserves have been awarded for no less than 30 per cent of the country's total land area. Major projects (such as dams for power generation and irrigation in the Amazon Basin) have similar effects. Such projects hardly take residents into consideration and interfere extensively with the local ecosystem. In many cases, things start out with small pockets of external intervention. These, however, emit a permanent dynamism that curtails, threatens, or destroys traditional territories.
- The land reform efforts of the past are experiencing a setback: those who benefited from the land reforms in Brazil, Peru, El Salvador, Honduras, Nicaragua, and Paraguay are selling their land because it does not offer them an adequate livelihood. The background to this development is that land rights have been liberalised (in Mexico and Peru, for instance) and earlier land distribution laws are being replaced by so-called 'Agricultural Modernisations Acts', which make land a freely saleable commodity. In some countries, such as Brazil, the situation is such that more families are abandoning the land they were given as part of the reform programme than are being allocated new land. This net migration from land reform areas fuels the doubts that are being voiced by critics of agricultural land redistribution reforms.
- In some cases, land access rights are being abused and land reform efforts discredited because land occupation is motivated by speculative interests. In such cases land is not occupied so that it can be worked, but so that it can be sold for a profit at a later date.

Such cases can involve individual families that take part in the occupation of small farmers' land, or can be targeted actions by speculators.

- The enormous pressure on land as a resource, the promotion of the production of agricultural goods for export (e.g. the extensive cultivation of soya in Brazil, massive deforestation for the exportation of timber and for extensive livestock farming) and also the land use models of small farming units or agricultural co-operatives (fire clearing: *campo limpio* = *campo rentable*, extension of livestock farming, unsuitable use of sloping sites, the use of chemicals instead of organic fertilisers etc.) have led to massive deforestation and, in general, the environmental degradation of natural resources. The ability of the soil to yield is continuously diminishing and there are no prospects for sustainable and profitable production. On the one hand, fertile land is being lost in this way; on the other, families are abandoning or selling their land because they don't know how they are supposed to meet their own needs with their land and their own resources.
- How can the people affected by these developments use their land independently and sustainably? Politics still considers the use of land for large estates and the production of agricultural goods for export to be the best possible way to use land. Models for the sustainable use of indigenous territories and small farm holdings and for the revival of local economies are hardly widespread and are not part of any agricultural policies. The independence of organised groups and communities is often overshadowed by a very strong dependence on external players, NGOs, churches, and even political parties.
- Pressure exerted by those affected by this situation is indispensable if agricultural reforms and more justice are to be achieved in rural areas. At present it does not seem possible that more substantial changes can be brought about without social consensus. It is vital that ways of avoiding or overcoming traditional conflicts are found and that the necessary consensus is arrived at.

### **3 The 'access to land' question as part of Misereor work**

#### **3.1 The principles on which the Misereor policy is based**

The Misereor policy is based on the following principles:

##### *The right to food*

Article 11 of the International Covenant on Economic, Social and Cultural Rights of 1966 specifies the right to adequate food as a human right and is declared an ESC right in general comment no. 12 of the UN committee. This interpretation makes it clear that the right to adequate food obliges every signatory state by international law to develop and implement programmes 'to the maximum of its available resources' (Article 2 of the ESC covenant) that put all people in a position to feed themselves. This refers to access to resources of food production such as land, water, seeds, knowledge, capital, and to discrimination-free access to the labour market to allow people to earn the money they need to buy food.<sup>15</sup>

According to the international law interpretation, the state is obliged to guarantee access to land as a vital production resource at three levels (respect, protection, and implementation):

- (1) to respect (in terms of own responsibility), e.g. to refrain from displacing and resettling people or at least to pay them compensation in the event of displacement and

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<sup>15</sup> For more details, please refer to Misereor's *Human Rights in the Development Cooperation of the Church*, Aachen 2004

resettlement; to recognise the rights of indigenous peoples over their traditional land in accordance with ILO Convention 169; and not to restrict the rights of way of pastoral people;

- (2) to protect (against attacks from third parties, e.g. private players), e.g. to draft legislation that protects land tenure and regulates tenancy agreements; to develop an agricultural policy that supports small and marginal farmers and legally secures the rights of indigenous peoples over their traditional territories; to safeguard pastoral people's rights; and to guarantee access to land for women;
- (3) to fulfil, e.g. to implement agricultural reforms in order to make land available to small farmers and the landless; to promote sustainable forms of land use; to develop agricultural programmes (advice, funding, and marketing); to support small farmers; and to draft legislation that affords women access to land and terminates traditional discrimination against them.

A human rights-based strategy, like the one backed by Misereor, allows people to stand on the right to food in their advocacy and lobby work at local, national, and international level, thereby providing additional lines of argument for combating poverty especially in terms of gaining access to land.

### *Food sovereignty*

While calls for food security underline the need to provide the population with adequate food, the concept of food sovereignty, which is supported by Misereor, also covers the right of peoples or countries to define their own agricultural and food policies in line with their environmental, social, economic, and cultural circumstances. Food sovereignty also emphasises the right of farmers to produce enough food to feed themselves. Food sovereignty is, however, undermined in many countries by both national and international policies.

The challenge at international level is to review and, if needs be, reform UN conventions and world trade regulations that seek to protect food sovereignty in poor countries in particular. Moreover, extending fair trade could offer huge incentives to the small farming sector and its development opportunities in the developing world.

Naturally, the countries of the South also have suitable political means of safeguarding the livelihood of small farmers at national level. In this regard, great importance should be attached to small farmers in terms of national food security. To this end, a national agricultural policy must create the necessary political-economic conditions (e.g. price policies for staple foods and agricultural advice that is tailored to meet the needs of small farmers etc.).

### *Sustainable agriculture*

Experience with land reform projects gathered in recent decades emphasises the urgency of combining access to land with sustainable use of the land and soil. However, implementing sustainable land use concepts often proves to be more difficult than actually acquiring ownership of land. The reason for this is not only that there is a lack of balanced agricultural policies with appropriate support structures for small farmers, but also that project concepts are dogged by both technical and social weaknesses.

Despite all the 'modern' agricultural models that are based on concentration, mechanisation, agricultural chemicals, and biotechnology, sustainable agriculture has enormous potential for development.

Sustainable land use methods mainly focus on local resources:

- preservation of soil fertility by means of crop rotation and the cultivation of nitrogen-fixing

inter-crops;

- the use of organic 'waste' as a fertiliser (with a view to achieving balanced nutrient cycles);
- the conservation and development of traditional strains and diverse agricultural crops that are tried and trusted locally;
- the diversification of cultivation (to reduce risks) and the viewing of the farm as a holistic system;
- the preservation of genetic resources in farmers' rights; and
- the promotion of the exchange of ideas and experience, creativity, and incentive.

In most countries in the South, small family-run farms produce staple foods that are ideally suited to the natural and cultural conditions in their regions. These small and marginal farms are neither unproductive nor inefficient. On the contrary, they are characterised by heavily diversified cultivation and a remarkable level of productivity in relation to the amount of land at their disposal. Furthermore, thanks to the intensity of farm labour, they provide a relatively large number of jobs.<sup>16</sup>

All in all, sustainable agriculture gives positive impetus to the decentralised development of rural areas. This impetus initially takes the form of improvements to the local infrastructure, especially in terms of the road network, and the stimulation of rural market areas. These developments are backed up by the population's gradually maturing, new social and political awareness. While this awareness can be fostered by the provision of external advice and education for adults, it must in the end be lived with courage and initiative by the people as a community. Sustainable land use systems change and strengthen people's self esteem and bolster their confidence in their own abilities. For these people, even the most modest increase in independence is a key motivating experience in the search for appropriate solutions.

#### *Reducing poverty through land reforms*

As far as Misereor is concerned, those who work the land, should own it. This is the aim towards which Misereor works. It is the only way to ensure that people assume responsibility and guarantee sustainability.

However, land reform processes only reinforce poverty reduction strategies when certain conditions are met: i.e. if they (1) give the relevant people access to land and other productive resources (especially water, forests, seeds, and knowledge); (2) guarantee the rule of law and legal stability for both individuals and communities; (3) are controlled by rural organisations; (4) have as their aim the sustainable use of natural resources; and (5) are embedded in a coherent agricultural and trade policy.

Numerous examples of agricultural reform, e.g. in China, Japan, Taiwan, South Korea, and Cuba, have demonstrated that the redistribution of fertile arable land to landless and land-poor families and the simultaneous dissolution of land oligarchies, led to a reduction in poverty and an increase in wealth. While less successful examples of agricultural reform - such as those in Mexico and Brazil - are often used as an argument against land reform, they only serve to show that the success of such reforms depends on the existence of a political will for social change.

Even the market-backed agricultural reform models championed by the World Bank, such as those that were trialled in Brazil, South Africa, and Honduras, did not help achieve a sustainable and just redistribution of land. In accordance with these models, land transfers no longer take the form of state expropriation (and compensation), but are instead governed by the laws of the free property markets. The land that is up for sale cannot be acquired without a loan. By taking out such loans, small farmers run the risk of ultimately losing their land because of their inability to repay their debts. The economically weakest, therefore,

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<sup>16</sup> Peter Rosset, [www.foodfirst.org](http://www.foodfirst.org).

have very little access to these programmes. Moreover, in cases where they do succeed in taking the first hurdle, they mostly lack long-term agricultural and business advice.

In addition to securing the livelihood of small farming families, there are other economic reasons for introducing state-organised land redistribution reforms. The development of the agricultural sector is the prerequisite for the overall economic development of many countries in the South. It is generally cheaper to create jobs in the agricultural sector than it is to create jobs in the industrial sector. The jobs created by small farms curtail both the exodus of people from the country and all the urban problems associated with this migration. There is also a direct link between food security, an improvement in community health, and a drop in infant mortality. The income generation in rural areas also strengthens local market cycles. Furthermore, because they are monitored by the community, small farms often operate with greater respect for the environment and more social responsibility, while large industrial-scale farms all too often succeed in passing social and environmental follow-up costs onto society.

#### *Secure and just tenancies*

In Asia in particular, access to land is guaranteed in the vast majority of cases by tenancies that take a very wide variety of forms. Forms of tenancy that oblige the tenant to transfer a substantial portion of the harvest yield to the owner of the land would appear to be particularly problematic. This means that it is hardly worthwhile for the tenant to make a special effort because the yield of such efforts is of little benefit to him or her. This in turn reduces the incentive to the tenant to increase yields and invest in the fertility of the soil.

In cases where a land reform does not open up any realistic prospects, a revision of tenancy should be sought. This change in tenancy should aim to specify a fixed and fair rent for the tenant farmer and to bring about a situation whereby the tenant farmer is assured the long-term use of the land.

#### *Self-organisation and the power to negotiate*

The powerlessness of poor people and the fact that they have no rights is a reality that cannot be overlooked in the majority of the world's developing countries. Experience has taught us that access for the poor to resources that are strategically important for development can only be guaranteed on the basis of democratic structures and participation opportunities. Moreover, experience shows that the poor themselves must fight for this access. As long as raw violence and oppression are not spreading a climate of fear and paralysis, there is room for political action. However, such political action requires social alliances that pursue common goals and are in a position to exert the required negotiating pressure at all political levels. People who organise themselves into groups are in a better position to make their grievances heard, to arrange access to information, and to give their voices more clout. Furthermore, a group offers backing and moral support.

### **3.2 Promotion policy, strategies, and projects supported**

#### **Africa**

##### *Project promotion*

The question of secured access to land is, as the illustration of the problem in section 2.3 shows, only acutely explosive in a handful of African countries (Angola, Kenya, Zimbabwe, Namibia and South Africa). Nevertheless, land law reforms have been initiated in numerous countries in recent times. In the medium term, the question of secure access to land will gain in importance in Africa too, especially with regard to other reform efforts such as decentralisation, democratisation, and debt relief initiatives (poverty reduction programmes, PRSPs).

The problem of secured access to land is currently being actively tackled in only five Misereor partner countries: South Africa, Kenya, Cameroon, Mozambique, and Angola. Of these countries, **South Africa** stands out because a total of four projects are currently focussing on the land question. The primary aim of these projects is to support rural communities and groups of producers in their attempts to get legally binding deeds of ownership for their land on the basis of land redistribution legislation. In all projects, the land *right* component is linked to a land *use* component in which methods of sustainable agriculture are passed on.

In **Mozambique**, partners of Misereor have rendered outstanding services to the drafting of a new land law in a participatory process involving representatives of both the state and civil society. Educating people about the new legislation before it came into force was at the heart of the project funded by Misereor. Moreover, the aim was to bring about the legalisation of local or community land to ensure secured access of the rural population to land in cases of conflict. In line with this policy, the population in the province of Manica is currently being supported in its efforts to secure its community borders against the immigration of land-hungry commercial farmers from Zimbabwe.

In **Cameroon** and **Kenya**, the issue is tackled as part of the work relating to integral rural development projects. In **Angola**, the land debate has flared up again at national level since the launch of a new land law legislation initiative. Since early 2003, active resistance to the bill, which seeks to pave the way for the gradual privatisation of land, has been growing in civil society. While the customary rights of small farmers are recognised, they are not considered to be a motor for the country's development.

#### *Integrating the land question at policy level*

For the Africa department, the question of secured access to land is a significant area of work in the field of new 'rural development' and 'land use' policies. It will be addressed in accordance with the specific situation in each country.

#### *Future orientation and challenges*

The increasing number of conflicts fuelled by land and resources, recent land law reforms, and decentralisation processes offer not only concrete starting points, but also opportunities for the church and civil society involvement of Misereor partners in the field of land law and agricultural reforms.

For Misereor and its partners, central challenges and questions include:

- Which measures and framework conditions have to be promoted by civil society groups in order to reinforce small scale farmers capability and capacity to conserve natural resources (among others soil fertility) and to stabilise or even increase yields of land and other natural resources (forest and pasture)? How have rights of succession to be adapted in order to avoid that land fragmentation does not endanger the survival of small scale farmers? How can rights of succession be adapted in order to guarantee equal rights for men and women and in order to avoid that widows fall in a poverty trap due to lack of means of production?
- Which legal framework is needed to protect and secure the land rights of small farmers? Are individual titles, i.e. titles for private property, desirable from the viewpoint of small farmers? Can common rights of possession, e.g. at the level of decentralised regional authorities, offer individual users sufficient legal security? Or is there a need for a legal framework that offer traditional systems of land rights sufficient room to manoeuvre in terms of guaranteeing local mechanisms that would secure access to land and manage conflicts?

- State land laws in Africa are generally based on European models. Farmers' rights to land and soil are key aspects of such laws. Other rights of use, such as mobile herding of livestock, are generally excluded. How can overlapping rights of use be taken into account in future land law reforms? What local mechanisms for resolving conflicts must be reinforced or created (positive examples include Mali and Mauritania)?
- In those countries in particular where the pressure on the land is growing and also in areas within commuting distance of larger conurbations, informal land markets are developing of their own accord, even without the necessary legal structure (as is the case in Benin). The sale of land, the use of land as a security for loans, the variety of tenancy forms, destructive forms of land use, and the redistribution of land to the detriment of the weaker elements of society often occur simultaneously. In the absence of laws, how can the access rights of small farmers be secured or protected? How can the interests of small farmers be strengthened?
- If land law reforms are implemented in an African country, the requirements for the purchase of land in cities and urban areas are usually given priority (cf. e.g. the Réforme Agraire Foncière (RAF) in Burkina Faso). This means that the appropriation of land by the urban elite is often legitimised ex post.
- How can the urban elite be prevented from grabbing land or how can land grabbing be effectively regulated? How can decentralised regional authorities and, above all, the small farmers in these regions, effectively protect themselves against land grabbing? What higher level legislative regulations are needed?
- Securing access to land is not enough if the legal basis protects the traditional rights of small farmers, but simultaneously refuses to give them an important role in the further economic development of the agricultural sector (e.g. the land law reform in Angola). How can the small farmers' lobby be reinforced and made effective? What forms should advocacy and lobbying take if comprehensive agricultural reform is to be achieved?
- The reality of Africa is so varied that blueprints such as the introduction of private property and cadastres do not constitute suitable solutions. The experience of the past few decades has shown that many such reforms have not produced the desired results (take Kenya and South Africa, for instance). Solutions must be specifically tailored to address national and local needs and problems. How can Misereor partners exert influence in the spirit of and for the benefit of its target groups? What leagues and alliances can be joined?
- The considerable potential for conflict created in several countries (Ivory Coast, Central Nigeria) by waves of immigration will in future pose a huge challenge when tackling the issue of access to land. Moreover, land rights and land use conflicts surrounding strategic resources (land, water, forests) that flare up in wartime will be a key problem in the future.

## Asia

### *Project promotion*

While the aspects of the land issue in Asia are very diverse, the problem of access to land is an acute problem in most countries. The need to take action is becoming increasingly apparent in those countries where land rights were never called into question, e.g. in countries with a Communist past.

Misereor greatest range of partners in Asia is in the **Philippines**, where there is a great awareness of the problem in integrated rural projects and, in the case of some partners, in the field of sustainable land use. Partners working specifically on the land issue are supported in the following areas:

- technical and legal aid when claiming and securing traditional land rights for indigenous groups (ancestral domains);
- lobby, advocacy, and legal aid during the implementation of agricultural reform;
- advice, training, and access to loans and marketing aids for those benefiting from land reform.

In **India**, Misereor partners are involved in a series of projects relating to the issue of access to land. The majority of these projects relate to land access questions involving indigenous people whose traditional rights are being trampled on. Some of these projects are aimed specifically at the casteless who have not actually been given the land to which they were entitled as part of the land reform. Other projects focus on the assertion of land titles for landless small farmers in general. In other projects – above all those relating to legal aid and instruction – the land problem is just one of many; in other approaches, it is one component in a programme.

In **Bangladesh**, Misereor supports integrated projects that benefit ethnic minorities. Among other things, measures include the legal defence or the repurchase of land, as well as lobby work, advocacy, and education about land laws.

In **Indonesia**, several partners are dealing specifically with the issue of access to land. On the one hand, these partners focus on the land problems experienced by farmers' groups whose rights are not enforceable at law as a result of the uncertain legal situation (studies, advocacy and training on land redistribution and agricultural reform). On Kalimantan, the issue of land has become very precarious for the Dayak (the indigenous population) as a result of deforestation, the promotion of plantations, and the extraction of mineral resources. The Dayak are highlighting the protection of traditional land tenure and joining forces for advocacy work in a variety of projects.

#### *Future orientation and challenges*

Misereor faces several challenges in its work with local partners:

- While several countries do indeed have a **legal basis for agricultural reforms and legal ownership title** for indigenous groups and traditional users (tillers), the implementation of both has been no more than half-hearted as a result of a lack of political will and the weak landless lobby. How can, for example, alliances and campaigns exert sufficient political pressure at national and local level to make it possible for marginalised groups to insist upon their land rights.
- Land reform is not feasible in all cases. This is why a revision of the **tenancy laws**, or an enforcement of existing laws, is necessary for small farmers to allow them secure access to land on fair conditions. Misereor can raise this issue in a partner dialogue, make partners aware of these issues, and, if necessary, support them in their lobby and advocacy work.
- Individual ownership titles are now viewed critically in many Asian countries. When there are no mechanisms for the resale of land, ownership of land can entail the risk that land will be sold in economically trying times (e.g. through direct sale or as a security for a loan). As an alternative to this, indigenous groups opt for joint land tenure. However, groups of farmers – for example in Indonesia and Thailand – are also calling for **communal ownership title** with a control option for the community. This is often the only way for women to gain land access rights. How can Misereor support its partners in their efforts to launch the idea of collective ownership rights in public debates and to influence legislation – as an alternative to the World Bank and the efforts to turn land into a commodity.

- Two problems specific to land access in Asia remain the **access and user rights in particular for indigenous groups to forests**. These indigenous groups are not always recognised and are rarely informed about the legal situation. At the same time, strong interest groups and networks do exist. Here, Misereor can put partners in contact with each other and promote networking.
- Indigenous groups are also particularly affected by **so-called development-induced displacement**, whether it be as a result of the construction of dams or the extraction of mineral resources. These groups receive little or no compensation and generally derive no benefit whatsoever from the development projects. The increasing resource conflicts can often be life-threatening for those affected by them. What strategies would benefit activists in cases such as these?
- Closely related to the question of land tenure is the question of **sustainable land use**. An increasing number of Misereor partners are working on both aspects of the land issue to help ensure that those affected by it can keep their land permanently and safeguard their livelihood. Nevertheless, it is important that Misereor discusses this link with its partners and, if possible raises awareness of it so that activities can be extended and networking with resource organisations can take place. The third aspect of this issue is the raising of awareness about the right to food in order to ensure that calls for land are made on a legal basis.
- The land issue is not exclusive to rural areas. Poor people living in urban areas also need secure places of residence and access to land. There are initiatives for **alliances between rural and urban interest groups** that are doing advocacy work for the land rights of the people they represent. Here we must consider how best to promote this work and the exchange of information in order to foster a stronger link between the rural and urban poor.
- One new challenge is how to deal with **land issues in socialist countries or countries moving towards a market economy**. Land-related conflicts are on the increase and the concentration of land tenure is watering down previously just ownership structures in the wake of land reforms. How can Misereor partners react to this situation in frequently critical political conditions? What opportunities does Misereor have for fostering the exchange of experience and information with successful advocacy groups?

## Latin America

### *Project promotion*

The land question has been identified as an urgent problem in most national policies and, in particular, in the Latin America department's rural development promotion policy.<sup>17</sup> At the same time, there are specific projects in the majority of Latin American countries:

- **Brazil** plays a very particular role. The work of the church *Comissão Pastoral da Terra* (CPT) and the landless people's movement MST has been a special focus of Misereor cooperation in Brazil for many years now. Since 1973, the Brazilian Bishops' Conference has been helping indigenous peoples defend their legitimate rights and, above all, their land rights through CIMI (the Brazilian Church Agency for Indian Affairs).
- In **Paraguay**, projects that sought to legalise indigenous land were of great significance in the 1980s. At times, almost 50 per cent of the total budget for Paraguay was allocated to *Pastoral Indígena* (CONAPI) projects. Today, several smaller projects are being run with grassroots movements and co-operatives. These projects are working towards securing land both for indigenous groups and small farming families.

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<sup>17</sup> The Misereor Latin America department has formulated its support policy in several documents: *Förderpolitik zur Nachhaltigen Ländlichen Entwicklung in Lateinamerika (Promotion Policy for Sustainable Rural Development in Latin America)*, 2002; *Política de Cooperación de Misereor en el Sector de Desarrollo Rural en Centroamérica*, 2000; *Politique de coopération de Misereor dans le secteur du développement rural en Haïti*, 2001.

- With Misereor support, the Columbian Church has in recent years been making a huge effort to bring about the legalisation of collective land tenures for Afro-Columbians. Misereor is also heavily involved in supporting displaced people and helping them return to their native regions in **Columbia**.
- In the 1970s, Misereor successfully and extensively financed settlement projects for indigenous groups and small farmers in **Guatemala**. In the 1990s, individual projects that sought to secure land for Maya communities were promoted by Misereor in specific conflict situations.
- Misereor supports the work of the *Pastoral nacional de la tierra* in both **Guatemala** and **Honduras**.
- In the **Dominican Republic**, four of Misereor partners are working on land title programmes (LEMBA, CEPROS, Grupo Ambiental Habitat, CEDAIL).
- In **Bolivia**, there are several smaller land security projects involving indigenous movements.
- For years now, Misereor has been supporting a land security and land title project in **Ecuador** (FEPP).

#### *Future orientation and challenges*

- Misereor will step up its involvement in the land question in Latin America (indigenous territories; including access to forests and water) and make its involvement more targeted in the light of unresolved and escalating resource conflicts. This does not only mean that Misereor will promote a greater number of projects, it will also – in addition to supporting local initiatives – identify and support plans to exert stronger political influence and contribute to a general solution of the land question.
- Political thought and actions that target comprehensive reforms and changes must be combined with practical experience and expert skills in the fields of agriculture and the environment. Whether there will be more than just a few isolated project successes, or whether long-term, sound, appropriate concepts for comprehensive agricultural reform that have been agreed with the people involved can be drafted and pushed through, will depend, among other things, on the grouping of initiatives and abilities of various actors and groups. Cooperation between various social players, the formation of alliances etc. are indispensable in this regard and must be promoted. A series of questions must be cleared up in the dialogue with our partners: what sort of agriculture, agricultural reform, and agricultural policy do we want? How can we achieve adequate social consensus on the land issue?
- Achieving land security in the fields of environmental protection, economic efficiency and law constitute three major challenges. These challenges are particularly marked in those areas where the people who benefited from land reforms, or 'normal' small farmers, have given up and abandoned their land. On the one hand, knowledge and concepts must be deepened and fine-tuned, and on the other, Misereor must evaluate a veritable treasure trove of experience.
- The emphasis on the human rights perspective (especially with regard to the right to food, from which the claim to land is derived) includes support for specific projects and/or cooperation between Misereor partners and other organisations that do complementary professional work in the realm of human rights. National legislation and international law form a tool that could in many cases be used to even greater effect if the corresponding professional skills could be acquired and used.
- Direct cooperation with self-help groups (e.g. social movements, co-operatives, indigenous groups) has to date been the exception rather than the rule. This will have to change because the aforementioned groups have a genuine interest and a clear mandate in this issue.

- It would be helpful to differentiate between the various groups for the purpose of both promotion policies and projects. Landless people, small farmers and tenant farmers with hugely different requirements, indigenous peoples, and women (to a greater extent than men) are affected in very different ways by land conflicts. The intensifying competition for land between or within these peoples/groups also requires viewpoints and solutions that focus not only on the target group of the project, but also take into account the dynamics that have an effect in a given area.

### 3.3 Misereor lobby work on land and agricultural issues

The aim of Misereor political work is to influence the policies of the German government and the European Union and to exert influence on international organisations. In recent years, the issues of TRIPS, biopatenting, genetic engineering, and world agricultural trade have, in the context of the WTO, played an important role in Misereor political development work. Access to productive resources has been a relevant issue particularly with regard to genetic engineering.

Misereor specific political development activities on the land issue include:

- active involvement in a working group of German NGOs that seeks to strongly anchor international justice, human rights orientation, and economic, environmental, and social sustainability in agricultural and development policies and international agricultural relations;
- involvement in the discussion among German NGOs on the implementation of the right to food, and corresponding support for the lobbying of the German government;
- support for the agricultural reform campaigns of the competent NGOs working in this area, and farmers' organisations at national and international level;
- support for international lobby work undertaken by partners on agricultural and land issues, e.g. the preparation and appropriate accompaniment of delegations visiting European governments and the EU.

## 4 **Prospects for Misereor and its partners**

The previous sections of this paper constituted an attempt to analyse the land question and to provide a rough outline of activities currently being undertaken in this area. These sections made it clear that the scarcity of (fertile) land in times of growing populations and rising consumption inevitably increases the pressure on land as a resource, leads to more conflicts and distribution struggles, and requires Misereor and its partners to come up with answers. Based on these facts, we consider the following fields of work to have priority:

### *The combination of access to land and sustainable land use*

There can be no secure access to land<sup>18</sup>, unless this access is economically and environmentally sound. The demand for access to land is not legitimate unless it can be clearly shown to make a permanent and indispensable contribution to eliminating poverty and hunger. Many Misereor partners can make a specific contribution to this aspect of the land question and in particular to the aspect of land access and sustainable use, and have specialist experience, know-how and skills to offer in this field.

In this context, we must also work with our partners to develop a **vision for a different agriculture and a different rural development** that is not based on mass production and

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<sup>18</sup> It must be stressed once again at this point that it is not enough to consider 'land' as an isolated problem. The same applies to water, forests, and pastureland; it is not only about ownership, but also about rights of use.

monocultures, but on variety and biodiversity; that not only boosts production, but also offers healthy food all year round; that not only has room for large and medium-sized farms, but also for smallholders; that does not promote imports, but fosters food sovereignty; that is respectful of large and small farmers, the landless, tenant farmers, new settlers and indigenous groups, and seeks to enable all people to enjoy dignified living conditions.

#### *Peace and conflict work*

The problem of resource-related conflicts is a particular challenge for peace and conflict work. In addition to promoting corresponding projects, the need to offer support for the exchange of information and to broker contacts is becoming increasingly important for the gathering and assessment of experience in this area.

#### *Rooting the human right to food in project work*

The demand for access to resources for the poor is closely linked to the right to food. However, Misereor is only starting to discuss the relationship between human rights work and development work. Misereor and its partners must use dialogue to find out how the right to food can be permanently rooted in this work from the point of view of **Church-based development work**.

Misereor offers the possibility of financial support for activities and programmes on the right to food within the framework of a project. However, partner organisations can also benefit from Misereor lobby and solidarity work. Some examples include: accompanying partner organisations' campaigns through appropriate information, awareness-raising and public relations activities in Germany; the preparation of contacts with political parties, the government, and the EU; and support in drafting and presenting parallel reports for the UN Committee for ESC rights.

Lobby and campaign work on the right to food is covered by specialised organisations both in Germany and at international level. This is why Misereor supports their work and is interested in fruitful coordination and cooperation.

#### *Dialogue and cooperation*

Generally speaking, progress in the solution of the land question relies on communication and cooperation between various social groups and institutions. This applies not only to cooperation in individual countries, but also to the exertion of influence on international politics. If we do not form alliances, if there is no cooperation between social movements, farmers' organisations and specialist institutions, and if there is no cooperation between organisations across national borders, it will be very difficult to make any real progress in this area. In this regard, support for networking and exchange, and promotion of complementary processes and strategic cooperation are particularly important.

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