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OMCT Presentation

to the

Expert Seminar: Extreme Poverty and Human Rights

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## Introduction

1. OMCT welcomes the opportunity to contribute to the Expert Seminar: Extreme Poverty and Human Rights and especially to the objective of the Independent Expert to have the international community accept that the eradication of extreme poverty is a human rights obligation.

2. This acceptance of the elimination of extreme poverty as a basic human rights obligation and objective will add force to the ethical arguments of all those throughout the world who fight daily against poverty. It will also lead us to a clearer understanding of how failures to respect human rights define the very nature of extreme poverty and in turn how respect for all human rights must be at the heart of project and programmes aimed at the eradication of extreme poverty. Aside from the positive contribution that taking a human rights approach to poverty reduction may have on the success of projects, the basic reason for responding to the human rights of people, including the poor, is because it is the right thing to do.

3. The Independent Expert has made many very important contributions to our understanding of extreme poverty through his two reports and the reports on his country visits. Building on the work carried out within the United Nations Human Rights Programme since 1987 he has developed precise suggestions for action which aim at taking the issue forward through concrete step. The present paper seeks to contribute to the discussion of the human rights elements in extreme poverty and how those elements could be reflected in anti-poverty activities.

4. OMCT, almost since its inception in the mid 1980s, has focussed attention on the economic, social and cultural root causes of torture and cruel, inhuman and degrading treatment and issues relating to the right to development. This has been a constant theme in OMCT's work and most recently from 2003 to 2006 OMCT carried out an interdisciplinary research project aimed at identifying the economic, social and cultural root causes of torture. This gave rise to the publication "*Attacking the Root Causes of Torture: Poverty, Inequality and Violence, An interdisciplinary Study*" which is a revised and edited version of the study presented to the International Conference "Poverty, Inequality and Violence: Is there a human rights response?" which took place from 4 to 6 October 2005 in Geneva.<sup>1</sup>

## Case studies

5. The interdisciplinary study includes a number of case studies prepared on the basis of research carried out by OMCT national partner NGOs in the country concerned. The case studies permit us to see clearly the human rights components of poverty and extreme poverty and provide ideas for human rights responses to extreme poverty. They join the information and examples in the Independent Expert's reports.

6. The *Argentine* case study examines the violence inflicted on residents of a shantytown near Buenos Aires. It is interesting to note that it provides examples of the ways used by victims of

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<sup>1</sup> The study and report on the conference are available in published form and as a CD-ROM (study only) from OMCT, Geneva and may be downloaded from OMCT's webpage [www.omct.org](http://www.omct.org)

institutional violence to defend themselves against abuses, to confront State authorities with their demands, to insist on the respect of their rights, and to eventually reduce State and non-State violence and improve their living conditions.

7. The *Egyptian* case studies offer a detailed examination of the impact of agrarian reform on two villages from the point of view of human rights and violence. The violent implementation of land reform legislation is described, as is its negative impact on the living conditions of farmers. The study reveals that many peasants were injured or killed in attempts by the police to uproot them from their land. Protests by those affected were met with official and private violence including murders (revenge, beating to death, suicides), torture, ill-treatment, killings and executions, collective punishment, destruction of crops, repeated or almost continuous detention, enforced disappearances, armed robbery, as well as violence against children (at home, at work and in schools), women (at home, at work and in public) and various other social groups.

8. The *Nepal* case study describes the State and private violence engendered by the Kamaiya system of bonded labour, which is found in five western districts of Nepal. In this system, labourers are bound to their landlord because of debts that are passed to the eldest sons of subsequent generations, and all family members are required to work in various ways for the landlord. Unfortunately, poverty makes it impossible to pay off debt, and the system relies on continuous violence against labourers and their families by both landlords and the State.

9. The first *Uzbekistan* case study deals with the situation of Uzbek workers forced by poverty to migrate to Tashkent (the capital). They are consequently subjected to exploitation and violence because, having no resident permit, they are considered as illegal residents in the city. The second deals with the economic and social causes of domestic violence. Both studies clearly confirm the relationship between violence and violations of economic, social, cultural, civil and political rights.

10. The full text of these case studies is annexed to this document.

11. The interdisciplinary study also contains a chapter analysing data on how women's property ownership and access to resources affected domestic violence in South Africa. The ownership of the home and control by women of bank accounts and other resources reduces the risk of domestic violence. Another chapter examines the relationship between the increase in socio-economic hardship and violence during a recent recession in the developed economy of Sweden. That study shows, inter alia, that when access to resources of poor single mothers is limited and that is combined with other problems, including social isolation (no friends, etc), their risk of violence is greater than for single mothers who have only problems of access to resources.

### ***Some conclusions from the case studies***

12. The poverty and extreme poverty in which the persons described in the case studies lived was clearly conditioned both over the long term and immediately by lack of access to resources-education, health, housing, work, etc. However, one controlling element in all the case studies

was the lack of existence of these people in the legal, political and social system; they were excluded by not being considered human. Their inherent dignity was systematically denied by the police and in the judicial and political system and in their relations with other people. The key role of this in poverty and extreme poverty is shown in the Argentina case study; when the people in “The Village”, with the help of persons from outside, achieved recognition of their existence by the political authorities, and thus the police, the situation began to change. In the case of Nepal also, change began to be possible when the political system began to recognize the Kamaiya bonded labourers as human beings.

13. The case studies also describe the great efforts the poor and excluded make each day to survive and the fact that their exclusion and the non-recognition of their existence robs them of much of the fruits of their work. In addition, as the Kamaiya and Argentine cases show, the way forward involves the crucial knowledge that the poor have of their situation and what must be done and their involvement in what is to be done, although this presents certain challenges.

### **What is extreme poverty?**

14. The interdisciplinary study *“Attacking the Root Causes of Torture: Poverty, Inequality and Violence”*, as a whole and the case studies in particular reflect in many ways the elements of the definitions of the poor and extremely poor developed in the Independent Expert’s 2005 and 2006 reports and in earlier OHCHR studies.

15. The Independent Expert’s working definition of extreme poverty as a “composite of income poverty (i.e. income below a minimum level barely sufficient to meet basic needs), human development poverty (i.e. deprivation of food, health, education, housing and social security needed for any human development), and social exclusion (i.e. being marginalized, discriminated and left out of relations) encompassing the notions of deprivation of basic security and capability” brings together the many of the various elements identified in the interdisciplinary study.<sup>2</sup>

16. In 1996, the Special Rapporteur, Leandro Despouy, basing himself on the information he had collected on what it is like to live in extreme poverty found that “... extreme poverty involves the denial, not of a single or a given category of rights, but of human rights as a whole.” He thus defined extreme poverty as;

“...an accumulation of mutually reinforcing misfortunes: poor living conditions, insalubrious housing, unemployment, ill health, lack of education, marginalization, etc., a veritable “horizontal vicious circle” of poverty, to use the words of those concerned.”<sup>3</sup>

17. In these definitions we have a boundary across which we move from poverty to extreme poverty, the latter having multiple dimensions, a persistent nature with those living in extreme

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<sup>2</sup> E/CN.4/2006/43, para. 4

<sup>3</sup> Final report on human rights and extreme poverty, submitted by the Special rapporteur Mr. Leandro Despouy, E/CN.4/Sub. 2/ 1996/13 paras. 175-177

poverty having difficulties exercising their rights and assuming their responsibilities independently of others. However, the interdisciplinary study and case studies bring out more forcefully than the definitions the crucial causal role in creating poverty and in its continuation played by the lack of recognition of the existence and humanity of the people and communities concerned that is anchored in the social, legal and political system. Dealing with this, of course, involves the whole range of human rights.

### **Extreme poverty; implications for action**

18. As we explore the ways in which the international community and all member States could take up the obligations for removing extreme poverty as part of their human rights obligations, the human rights elements inherent in extreme poverty require specific responses on the part of those involved in the abolition of poverty. Some elements that are relevant to a human rights approach to eliminating extreme poverty are set out below.

#### ***The extremely poor are invisible and are not reached***

19. The UN report “Extreme poverty and human rights” described the reasons that the extremely poor do not enter into official data collection, among them that they are not contacted, the parameters used are inappropriate and lack of interest in the extremely poor<sup>4</sup>. UNICEF, for its part, recognized the difficulty of reaching the poorest: “the challenge of reaching the very poorest is the greatest challenge in social development” and that: “when efforts are in fact made to reach them, these efforts are on a very small scale and “have often failed to reach substantial numbers among the very poorest groups”.<sup>5</sup> For the World Bank,

“The poorest are in such a state of deprivation that traditional policies which may be effective for the poor may not work for the poorest. Helping the poorest emerge from extreme poverty requires extra public resources and time. At the grass roots level, standing by the poorest for sufficiently long periods of time also requires special commitment and faith in their ability to build a better life for themselves.”<sup>6</sup>

#### ***Extreme poverty and exclusion exist in developed and developing countries***

20. The Committee on Economic, Social and Cultural Rights in its statement on poverty recognized that:

“Poverty is not confined to developing countries and societies in transition, it is a global phenomenon experienced in varying degrees by all States. Many developed States have impoverished groups, such as minorities or indigenous peoples, within their jurisdictions. Also, within many rich countries there are rural and urban areas where people live in appalling conditions - pockets of poverty amid wealth.”<sup>7</sup>

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<sup>4</sup> Despouy report, supra paras. 63-70

<sup>5</sup> Supra, Reaching the Poorest, page 6

<sup>6</sup> Attacking Extreme Poverty; Learning from the Experience of the International Movement ATD Fourth World; Edited by Quentin Wodon, 2001, World Bank, Washington, page 7 (Attacking Extreme Poverty)

<sup>7</sup> Committee statement, supra, para. 5

Many examples are available of extreme poverty and exclusion in developed countries.<sup>8</sup>

***Success depends upon including the poor***

21. OMCT in its activities fighting against torture, cruel, inhuman and degrading treatment works on a daily basis with the national NGO members of its SOS-Torture Network. OMCT realizes how vital it is to its activities to work in partnership with national level actors. Thus, OMCT easily recognizes the essential role of the poor as “***knowledge producers***”.

22. In this regard the Committee on Economic, Social and Cultural Rights stated: “in the Committee’s experience, a policy or programme that is formulated without the active and informed participation of those affected is most unlikely to be effective.”<sup>9</sup> Numerous examples exist of projects that have not been successful because they did not take into consideration the reality lived by the poor. Moreover, certain projects aimed at reducing poverty actually increase extreme poverty for that very reason.

23. In sum, creating dialogue and partnerships with the poorest in achieving sustainable development is necessary for the following three reasons. First, very poor stakeholders possess a knowledge that is crucial to the efficacy of sustainable development programs. Secondly, such partnerships/dialogues offer an opportunity to encourage mutual understanding and dispel misconceptions between different stakeholders – misconceptions that may lead to opposing goals and initiatives. Finally, in bringing the voices of very poor individuals, families and communities to the decision-making table, the poorest themselves are empowered and encouraged to aid in the sustainable development effort.

***Gaining access to the knowledge of the poor; partnerships***

24. Gaining access to that knowledge across the wide gap that separates knowledge workers and the poor requires that steps be taken on both sides so the gap can be closed. This has proved a very special challenge over the years with only limited efforts having been made. One example on the UN level was the “Seminar on extreme poverty and the denial of human rights” organized by the OHCHR in October 1994 with the participation of academics, experts, NGOs and persons living in extreme poverty and persons accompanying them (E/CN.4/1995/101).

25. In order to bring together university professors and researchers with persons living in extreme poverty and those accompanying them, ATD Fourth World, over a two year period (1996-1998) conducted such an experiment on the European level and the results have been published in “Le croisement des savoirs; quand le Quart Monde et l’Université pensent ensemble”. A follow up experiment bringing people from the professional world of education, justice, health, housing, social work, training, culture together with the poor to exchange knowledge was carried out and the results published in “Le croisement des pratiques; Quand le Quart Monde et les professionnels se forment ensemble”.<sup>10</sup>

<sup>8</sup> Changing the Outlook; Eradication of Poverty in Urban Areas; Report of the UNESCO - NGO Joint Programme Commission on Poverty; UNESCO, Paris 2001 and Proceedings of the 7<sup>th</sup> European Conference of the Fourth World People’s Universities; 18 June 2001; ATD Fourth World; Brussels 2001

<sup>9</sup> Committee statement, supra, para 12.

<sup>10</sup> See also the series of European Conferences of the Fourth World People’s Universities and the “Permanent Forum on Extreme Poverty in the World” <http://www.atd-fourthworld.org/-Permanent-Forum-on-Extreme-Poverty-.html>

***Respect for culture and cultural actions are important in fighting extreme poverty***

26. The World Bank Report on “Attacking Extreme Poverty...” recognizes that “Human beings require beauty and creative expression as much as they require food, clothing and shelter. Artistic and cultural projects emphasize each person’s natural creativity. Through them, the poorest may be able to discover their capabilities and potential. They may gain the confidence necessary to dare speaking up and contributing to the well-being of their communities and to broader society.”<sup>11</sup>

27. Experience shows that when people lose their culture or their relationships with their communities they often fall into extreme poverty and thus it is necessary to invest in long-term relationships that enable the poor to believe in themselves. *Combating poverty requires respect for the whole range of human rights and cannot be reduced to a few minimum survival rights.* In this regard, it is important to note the 1997 UNESCO/NGO Standing Committee publication entitled “Culture: a way to fight extreme poverty; ten practical experiments in escaping from situations of exclusion.”

***Identifying and acting on those benefiting from extreme poverty***

28. A realistic approach to eliminating poverty and extreme poverty may well have to include efforts to identify those actors and interests which benefit from poverty and thus represent obstacles to its elimination.

**Building the ethical and moral foundations**

29. The objective set for us by the Independent Expert, that the international community and all member States take up the obligations for removing extreme poverty as part of their human rights obligations is based, on the one hand, on the practicality of achieving results (achieved by a limited and focussed approach) and on the other, on building the ethical and moral consensus on which such a human rights obligation must rest.

30. It may well be that we have underestimated the difficulty of this latter task. Not that there is not a wide abhorrence of poverty and a willingness to contribute to its reduction. However, and except for a few closely associated with those living in poverty, poverty is generally understood as an economic or access to resources phenomena and not the exclusion from the enjoyment of a wide range of human rights. Further, the issue of the responsibility of the poor for their situation, if not expressed, may be found just below the surface. It thus may be important to begin to build the moral and ethical consensus by explaining carefully and with sensitivity what extreme poverty is about. This would lay the foundation for an understanding that it is a human rights problem necessitating a human rights response. Thus, in addition to the central issue of addressing the concerns of governments when faced with new human rights obligations, we may wish to consider in what way we can begin sensitizing decision makers, NGOs and the public to the human rights reality of extreme poverty.

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<sup>11</sup> Attacking Extreme Poverty, supra page 7

**ANNEX**  
**Case studies from the publication**  
**“Attacking the Root Causes of Torture: Poverty, Inequality and Violence, An interdisciplinary Study”<sup>12</sup>**

**Argentina Case study: the Village<sup>13</sup>**  
*Economic and social context<sup>14</sup>*

Like all the other shanty towns, the Village is located in an area which is degraded, polluted and unhealthy and the inhabitants live in extreme poverty. An important part of those living in the Village survive thanks to their work as a *cartoneo*) The Village is considered the smallest shanty town in the Buenos Aires area, but has certain specific characteristics.

It is located between the building known as Wing II of the College of Exact and Natural Science (FCEyN) of the University of Buenos Aires and the bank of the Río de la Plata. It is a large area, relatively away from the university buildings (the closest buildings are about 300 meters away). It is coastal land, with brushes and low bushes.

The main access to the Village is located exactly behind Wing II: it is a badly marked track, made of earth and grass, and since it is the most direct one, it was the one used by the inhabitants. However, in some periods this access is obstructed by debris and stones which made the entry of people with the carts they use to *cartonear* difficult, so that on some occasions they have to make a detour which goes along the bank of the river. This long distance creates difficulties not just for moving their carts, but also for the provision of running water and access for ambulances or medical services in case of emergencies.

The Village has no access to basic public services such as running water, electricity or gas, and there is no public transport and rubbish collection is irregular. For some time there was access to running water 300 meters away, but in 2003 it was cut off and in 2004, the inhabitants had to walk about 1,000 meters to get to running water.<sup>15</sup>

*Population*

In 1995, a homosexual couple of street dwellers went to the coast of the Río de la Plata to wash their clothes. There they met a transvestite who lived in a precarious hut, hidden behind the brush. She invited them to build a hut for themselves there and told them the precautions which they should take: every day they had to go out by different places in order not to be identified as fixed inhabitants, the hut should not be seen from the University City nor from any other inhabited spot of the city, in conclusion they were to be unnoticed at all times.

Months later, the existence of this place became popular among homosexuals living in the street. The older inhabitants of the Village remember this period nostalgically, constantly referring to the shared moments, to the fun and the feeling of having been able to live as “we wanted”; leaving behind the social rejection they had experienced in other contexts.

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<sup>12</sup> The texts in this annex are contained in an edited form in the publication.

<sup>13</sup> Further information on the Village, including a map and pictures, is available in the CELS report contained in the CD-ROM.

<sup>14</sup> CELS, Part V, section 2.

<sup>15</sup> CELS, Part V, section 2, and Annex IV.

At that time, the inhabitants of the Village were frequent victims of social discrimination. Their double condition of homosexuals and homeless made many people despise them: “filthy, disgusting gays” were frequent insults.

Between 1995 and the eviction in 1998, the population of the Village grew to over a hundred people, mostly homosexual, although little by little some heterosexual couples and families joined them. The newcomers to the village evaluated the Village in different ways, basically according to their previous residential situation. To those who had been living in the street and sleeping in subway stations or under bridges and who suffered constant police persecution, arriving in this small setting was very positive. Although the place had no electricity or water, and there were some risks when entering or leaving, the place was associated by those interviewed with protection, safeguard and union.

For other people, their arrival in the Village meant an important decrease in their living conditions. The reasons why they came to live there are multiple even though, in general, they are related to the loss of job and house, maybe due to eviction or to the expiry of a contract in a hotel. In these cases, the Village is perceived as a temporary, very traumatic solution. In many cases, the meagre income of the *cartonero* and the lack of job opportunities, prolonged the stay, until the situation became progressively accepted as permanent. This initial expectation of temporality is common in settlement inhabitants.

Adaptation to life in the Village could be difficult. Although all the inhabitants were born to poor homes, the social descent from the working class to a marginal situation is usually accompanied by a progressive loss of family ties. For the people who had grown up in houses, adapting to the need to search for running water and light with candles was difficult. One of the interviewees recounted that she spent months without telling her family where she was living. In order to avoid questions about her residence, she avoided getting in touch with them, even losing contact with her eldest son, whom she had left under the care of her parents. According to this interviewee “I spent 9 months without telling them where I was, I did not have the guts to tell my mother where I was living. They would have hit me like they haven’t done since I was 11”. Finally, when they discovered that “their child was living under a bridge” her parents told her that until she lived in a proper house like theirs, they would not visit her home, not even if she had problems or was very ill.<sup>16</sup>

Even though at the beginning there were some internal conflicts, for example, between homosexual and heterosexual inhabitants, the first inhabitants of the Village remember those times in an idyllic way, evoking feelings of unity and solidarity among the inhabitants. One of the gestures through which this solidarity was expressed was the giving of material to build the huts: the newly arrived received help from the inhabitants to start putting up their homes. Moreover, at times they were accommodated for a few days as guests, until their homes were ready. Sharing this isolation and semi-clandestinity produced strong social and affective links among the inhabitants.

Another of the characteristics of the population of this setting was its instability. Even if some people lived in the lot constantly, a considerable proportion of the inhabitants went there only during the week in order to be closer to the collection sites and to have a place to classify the cardboard before selling it. At weekends they went back to their homes, located in the Buenos Aires outskirts. In addition, there were people who go to the Village at weekends because of

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<sup>16</sup> CELS, Part V.

the river and the fishing possibilities. This situation acquired relevance in the negotiations with the Government of the City and was used as an excuse to deny all the inhabitants the access to public loans for the acquisition of houses, on the grounds that some had houses.

*Contact between the Village and the authorities*<sup>17</sup>

During the period 1995 to the eviction in 1998, the Village was not officially recognised and those living there were in contact with the state only through the police, the authorities of the University City (who sought to evict them) and Federal Court n°7 which handled the request for eviction. Additionally, some inhabitants received medical treatment in public hospitals, in particular the HIV positive.

Historically, relations with the police and security institutions were tense, and their interventions repeatedly violated the rights of the inhabitants: “at the time they said that for the mere reason of living there we had no rights to make demands”. Institutional violence included arbitrary and systematic detentions, threats, unlawful coercion and rapes, forced evictions from the lot and recurrent home and person searching. These abuses were never acknowledged by the state nor were the responsible people punished.

Although the inhabitants of the Village and the police officers often knew each other, hostility and lack of trust was the major feature of their relationship: “With the police you never know if they are with you or against you”. They characterised police actions as arbitrary, emphasising that interventions of the police could be foreseen neither in their frequency nor in their magnitude.

Because they lacked contact with other state institutions, Villagers had to negotiate with the police, for example regarding the entry of ambulances to the Village. Normally, ambulances and public transport refused to enter this area, fearing both for their goods and for their own lives. Therefore, if there was a medical emergency, the neighbours had to request the police to accompany the entry of the ambulance, which they did not always agree to do and so in many cases terminally ill HIV people, women about to give birth and ill elderly people had to be taken by their neighbours to the University City to meet the ambulance.

*Arbitrary arrests by the police*<sup>18</sup>

Arbitrary detentions were the police practice most suffered by the inhabitants of the Village, although the homosexual inhabitants mentioned having been detained more frequently than the rest while performing their *cartonero* tasks in the University City or in the neighbourhoods of Belgrano and Núñez. On these occasions, apart from being delayed for hours in the cell of the police station, they lost all the cardboard and the elements collected that night and were insulted by the police: “the police grabbed your carts and threw everything you were carrying; I used to tell them, I feel proud that you take me for being a beggar, but you won’t ever take me for thief [...] They called me nigger beggar, disgusting, eating those stuff from the rubbish, aren’t you ashamed, many humiliations”. Other times, the detentions were carried out – mainly to transvestites - only because they were dressed as women. Some of the transvestites of the Village worked as prostitutes in the streets, which is why they were much more harassed by the police.

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<sup>17</sup> CELS, Part V, section 3.

<sup>18</sup> Ibid.

One of the principle reasons for the arrest of people living in the village was the need for the police to demonstrate their effectiveness to public opinion. People living in communities close to the Village demanded more intervention from the local police, and the higher police authorities sought high arrest statistics<sup>19</sup>. Thus, a judicial investigation revealed:

...the existence of a series of telephone orders and daily agenda received by the police offices through which they are urged to ‘ostentatiously increase the number of detainees’<sup>20</sup>. The existence of this kind of orders shows a way of work which, while granting each officer a great deal of arbitrariness in the use of detentions to check for identity, it is supported on a conception of the way of exercising police functions with institutional character and support.<sup>21</sup>

The people living in the Village, especially during the period up to 1998, described police arrests in the following terms:

“Back then, we had a very bad time. The [police station] 51° started to fill books and ... everybody inside, 24hs. It was horrible, they did what they wanted”.

“I knew that once or twice a week, when they had nothing to fill the books of the station with, they went to that place and took everybody; they didn’t even let you get dressed, if you were sleeping they made you go as you were”

“Before the eviction, the relationship with the police of the [police station] 51 was horrible, you were in the yard of your house, they came, and... On Fridays it was a mathematical thing to wait for them because they came looking for you: ‘Girls girls we need 5 more, get ready, who’s coming?’ The police car was waiting for you. They took you, made a file, wrote anything, they needed people, they came and took you”.<sup>22</sup>

The fact that some inhabitants of the Village practised prostitution led the police to believe that they were entitled to demand the payment of a percentage of their earnings, in exchange for not being constantly detained. Alternatively, the prostitutes were forced to grant sexual favours in exchange for their freedom. Many testimonies evidence an informal regulation of prostitution by the police. This regulation, according to some interviewees, includes sexual abuses to transvestites by officers, and drug exchange.

The frequency of the detentions seemed to decrease after a change in the legislation of the City in 1996, but also as the population of the settlements grew and started to gain more visibility.

### *Illegal searches*<sup>23</sup>

In the Village there also were searches of huts and precarious houses that caused fear and confusion in the inhabitants. They perceived the searches as a police persecution destined to harass them and before which they found themselves helpless. One of the inhabitants described these events, mainly registered in the period previous to the eviction in the following way. “They came in, broke everything, everything you had and abused. They came

<sup>19</sup> CELS, Part V, section 3. About the value of statistics: Chillier, Gastón; “*La denuncia de un ex policía. Análisis de las causas y consecuencias de las prácticas de la Policía Federal*”; document elaborated within the framework of the Institutional Violence and Public Safety Programme of the Centro de Estudios Legales y Sociales/CELS; 1997. [www.cels.org.ar](http://www.cels.org.ar).

<sup>20</sup> CELS, Part V, section 3. Extract of the Telephonic Order n°1 “R” of Circunscription VI, quoted in *Clarín*, “Polémica entre un juez y un fiscal por documentos policiales”, 3 June 1999.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> CELS, Part V, section 3 and Part IV, section 2.3.

at the time they felt like, kicked your door, came in. I don't know what they were looking for".

At times, massive searches were started after a robbery of students or facilities of the University City. In many of these cases, without any evidence, the university authorities pointed out *villeros* as naturally responsible for these crimes. At other times, the searches took place spontaneously, without any explanation of the reasons. Even though the first type of situation caused in the interviewees feelings of indignation for the social prejudice which automatically associated them with crime, in the second case what predominated in the victims was frustration and confusion, in the face of an unexplained and unpredictable abuse.

However, the consequences of the searches for the victims were the same, and range from the material loss caused by the policemen in their houses, to violent abuses such as beatings and sexual abuse. In addition, "if there was a friend of you who came to visit, they hit him and made him leave".

Searching of inhabitants as they were entering or leaving the Village were also very frequent, and was carried out without any explanation: "They are so many horrible things... they saw you around there and told you 'lie on the ground', they searched you and beat you, if you are a woman or gay they did not respect you, they groped you". Violation of rights was general, and the situation of women and, above all, homosexual men was especially serious. In these cases, to the habitual practices they added a sexual attack, which on some occasions involved rape and serious abuse.<sup>24</sup>

These abuses were committed by officers of police station 51° and by officers of the Mounted Police, which patrols parks. "There was a group of the mounted who came very often. When they were clean and sober, they treated you well, and if they were crazy... the only ones who could help us were those from Prefecture, it was their jurisdiction. The mounted came to break your balls, bothered children with the animals, and they had to go with them or otherwise they said they'd put some drugs on you in order to later call the police".<sup>25</sup>

On the other hand, the relations between the people of the Village and the officers of the Argentine Naval Prefecture were positive.<sup>26</sup>

### *The eviction of 1998*<sup>27</sup>

The eviction took place in June 1998 following an order by a federal judge in a court case brought by the University of Buenos Aires. For the people who lived in the Village the possibility of an eviction had been a constant danger, which, until then, had never materialised. When it finally happened, it took everybody by surprise, since they were in the middle of a negotiation with the Federal Court and the City of Buenos Aires with a meeting scheduled to take place in the following days. The inhabitants of the Village had held two meetings with the Direction of Human Rights of the City, whose representatives had tried to stop the action. However, in the middle of this process of negotiation with the government, the eviction was made effective.

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<sup>24</sup> CELS, Part V, section 3

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> CELS, Part V, section 4.

The procedure was carried out on a holiday, very early in the morning. The inhabitants attributed this to the fact that on a holiday the lot is deserted: the absence of students and university professors was convenient since some groups could have demonstrated their opposition to a forced eviction. Students from the University had even camped in the Village so that the eviction would not take place, but they “carried out the eviction on a long weekend, when there was nobody, a rainy day at about 6 in the morning”.

The eviction was violent. The inhabitants lost their material goods, identity documents, their huts: “they burnt everything”. Another inhabitant recounted “They did not leave one house standing, they burnt everything, killed the animals”.

**The Village seen from outside**

Prior to the eviction, the inhabitants were interviewed by social workers. One of the later is remembered as having said:

“‘This is how you live?’ ... ‘Why don’t you mow the lawn... these filthy people? We have to take them all out; we have to take them all’. They told us it was not a suitable place to have children, that they would take our children away from us, and put them in substitute homes until finding them a house with all the conditions. They told us we were bad parents because that was not the place for children, that we didn’t think about them, that we only thought about living in a place without paying taxes, because we were immoral, that they would always be taking us to jail, and that is no news for us”.<sup>28</sup>

**Some people who were absent on the day of the eviction related:**

“On Monday afternoon a friend came with all my stuff he could save: some clothes, the oven, the gas container, the TV, hardest to get for me... But the furniture was also there... some of it was in good condition, there were two cots, two little umbrellas for the kids, which a couple had given to me... there I lost the ID of my boy. And they didn’t want to give him my stuff; they wanted to take it to a warehouse where they were taking everybody’s, some stuff they took, and the people never got it back, because they didn’t give us a paper, a receipt, nothing; a lot of stuff was lost there. If there was nobody at home, they took it there”.<sup>29</sup>

Some of the evicted people protested and received temporary assistance; after living under a bridge and protesting for a month, they received “a house in Estados Unidos and Piedras (in the neighbourhood of San Telmo). There they took us with all the honours, because all the press media was present. There were 8 rooms for 20 people”. However, after the lending period finished, they had to give up the house, and started returning to the previous place to put up new precarious huts.

Another group of people had been relocated to hotels financed by the City Government but after some months the Government stopped paying for the rooms and these people decided to return to the Village.

*After the eviction*<sup>30</sup>

For a year after the eviction the area was guarded by mounted police and the old inhabitants could not return. However, when the hotel rents provided by the Government expired, some of the inhabitants of the Village returned, little by little. In addition, numerous families, some from the nearby shanty town N°31, began to move into the area, thus changing the

<sup>28</sup> CELS, Part V, section 3.

<sup>29</sup> Ibid.

<sup>30</sup> CELS, Part V, section 5.

characteristics of those living in the Village. This also meant a significant increase of the population, estimated at over 200 people.

After resettlement; in September 2003 about 60 families were living in the Village, in extremely precarious and poor conditions, with no electric light, running water, infrastructure or basic drainage. The people lived in precarious huts, with plate and cardboard buildings. Most of the houses had between one and two rooms, and were overcrowded with up to 13 family members.<sup>31</sup>

Regarding living standards, 71 percent of households were below the poverty line (compared to 14.3 percent in Buenos) and 31 percent of households were under the indigence line (8.9 percent for all the City of Buenos Aires). Most of the inhabitants (73.3 percent) earned their living as *cartoneros*. 90 percent of the heads of household received their income in an unstable way; there was one stable worker for every eleven who were unstable. Households with lower incomes had the highest percentage of school dropouts of children under 18 years old. The arrival of complete families implied the presence of many children in the setting. Over half the children under 14 years old (51.1 percent) did not receive periodic health checks.

The importance of access to running water was underlined in another report:

...the biggest and most urgent problem of the place was of a sanitary kind: before the lack of a close connection of running water, their inhabitants used the water of the river for consumption, cooking, personal hygiene and clothes washing, with the health risk implied, specially for the children.<sup>32</sup>

The water of the Río de la Plata is highly polluted, explaining why there were diseases in the setting, such as diarrhoea and fungus, caused by the use of the river as a water source.

The original inhabitants of the Village, prior to the eviction, described a change in the situation in the Village. They reported a growth of internal violence, not generated by the police, but by the inhabitants themselves. Some reported feeling highly scared of their neighbours. In the last years, there have been several cases of robbery, looting, violent threats and hut burning, in which the police are not suspected.

The new population presented no significant differences with the previous one in its socio-economic and housing situation: of the total recent population of the setting, 48.8 percent lived in emergency huts or in the street before going to the Village.

### **Violence in the Village**

The blame for violence was often placed with the new inhabitants coming from shanty town n° 31. An old inhabitant of the Village describes the situation: “nowadays each takes care of himself. Before, there didn’t use to be robberies, there are now, before you could leave the door open and nothing happened. Today you have to lock everything with a padlock, put a watch dog inside. You come back and they have taken everything anyway. In this aspect, what it used to be and what it is today, the people were more united, took more care of the place. The people have changed. The people are not the same. Before they found out that you

<sup>31</sup> CELS, Part V, section 3, and Office of the Ombudsman of the City of Buenos Aires “*Censo Asentamiento Ciudad Universitaria*”, January 2004.

<sup>32</sup> The Defence Office of the People of the City of Buenos Aires, Intervention n°4546/03, June 2003.

stole and I can assure you that on the next day you weren't here any longer. The same people made you leave. Nowadays they don't. That's the reason for what happens nowadays... so many denounces... they kill each other. Before, for example, nobody sold alcohol, it wasn't forbidden, but nobody did. Nowadays, they kill themselves, they are drunk all day".<sup>33</sup>

#### *Relations with the University*<sup>34</sup>

The University authorities and a large part of the academic community see the Village after its repopulation as a source of insecurity and a place from where authors of crimes committed on the campus came. The response in 2004 was to try to isolate the Village by building a fence reinforced with a ditch filled with water and by the systematic police control of the people 'strange to the academic community' who are found on the campus (this is unavoidable since the only access to the Village is through the University City).

The University also established a permanent police presence to provide security on the campus. This initiative was controversial among students and teachers as access by the police to universities is traditionally prohibited. However, this did not contribute to solving the security problems of the inhabitants of the Village, since the policemen limit their task to guaranteeing security within the University. Additionally, according to the inhabitants, the contacts they have with the police officers hired by the University usually include coercion, persecutions and threats. The University police are also accused of demanding bribes in order to allow people from the Village to work, for example as "car carers".

On 2 July 2003, there was a robbery in the canteen of the FCEyN and the police authorities carried out a search in the Village with the intention of finding the objects stolen. The Security Chief of the University led a group of policemen – not all of them wearing their uniforms - in an extensive search of the homes in the Village.

The homes of the inhabitants of the Village were entered without a judicial warrant; their furniture, personal objects and food were damaged and two people were beaten.

#### **The search**

When asked by the people to stop the violence "they answered that they needed to make somebody responsible for the robbery and they decided to take one of those they had attacked to the new offices of the Superintendent. There, the beating continued. The aggression was so brutal that they had to keep him there for a day until he was at least able to move".

An inhabitant of the setting remembers the robbery and the violent police operation in the following way: "When the canteen was robbed they sent the police, the person responsible for the canteen was here, they searched the houses, in the wrong way, because they are cops: they entered without a warrant, broke things, doors locked with padlocks, where there was nobody, they kicked them open".<sup>35</sup>

Some inhabitants of the Village signed a letter denouncing the abuses committed by police officers of police station 51° which – supported by some students of the Exact Sciences College - they sent to human rights institutions and official bodies.<sup>36</sup>

<sup>33</sup> CELS, supra, Part V, section, pages 15 – 16.

<sup>34</sup> CELS, supra, Part V, section 6.1, pages 17-19.

<sup>35</sup> CELS, Part V, section 6.2.

<sup>36</sup> CELS, supra, Part V, section 6.2, pages 20 – 21.

The inhabitants of the Village have a cordial relationship with some groups of professors and students of the University who provide support. For example, a group of students of the college of Mathematics started giving support lessons to the children that go to school in the Village itself since it was not possible to use University premises. However, for most of the students and teachers, the Village is associated with insecurity.<sup>37</sup>

#### *Contacts with official and private organisations*<sup>38</sup>

In 2003 the inhabitants began to contact official organisations and authorities. Slowly the existence of the Village began to be recognised and some assistance began to be provided. By mid-2003 the neighbours of the setting decided to go to the Office of the Ombudsman of the City of Buenos Aires<sup>39</sup> to express their most urgent problems. The Ombudsman notified the responsible authorities about the sanitary and social situation and organised meetings with representatives of the settlement and the persons responsible for different health programmes. The initiatives taken to reconnect the running water failed. Even though they had achieved a consensus about the connection both with the supplier company and the local government but the absence of the University of Buenos Aires – whose pipe had to be used for water derivation – prevented the project from being carried out. No help was provided by the Ombudsman with regard to the internal security of the Village.

The Catholic Church and the volunteers of *Cáritas Argentina* have been in contact with this population for a long time. In particular, in the periods of less involvement of the state, the church was the place to which the people of the Village resorted for help: medication, food, etc. The relationship with the first homosexual and transvestite inhabitants was good, although somewhat distant, and the homosexual inhabitants never mentioned having felt any kind of discrimination. The inhabitants of the Village positively value the help given by the church, in particular because it continued for almost ten years.

In 2003 some of the inhabitants of the Village communicated to human rights organisations their concern about the possibility of a forced eviction in connection with a plan by the “Commission Pro Monument to the Victims of State Terrorism” to locate a park and a monument by the Río de la Plata, in an area bordering the Village. The Commission is working with the authorities in order to find a definitive housing solution.

The Government has apparently decided to find a solution by consensus and not force, one reason being the high value of these coastal lands and the interest of the Government of the City to exploit them economically for tourism and leisure activities. “We have to see how to recover and set this forgotten area of the city in value” states the director. The discussions of the available options and the various interests which have to be reconciled demonstrate the difficulty of resolving the situation.

#### *The challenge of cooperation*<sup>40</sup>

As the Village grew up after the eviction, the need for cooperation between the inhabitants became important and with the help of the Centre of Social Investigation and Popular Legal Counselling it was decided to try to form a housing cooperative. This was only achieved after many frustrated attempts because of the difficulty of obtaining consensus among the

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<sup>37</sup> CELS, Part V, section 7.1.

<sup>38</sup> CELS, Part V, sections 6.3 to 7.3.

<sup>39</sup> Section 37 of the Constitution of the Autonomous City of Buenos.

<sup>40</sup> CELS, Part V, section 8.

inhabitants in negotiating with the State and other actors. These difficulties resulted from the fragmentation of the population in groups: single homosexual vs. families; old vs. new inhabitants.

#### *Summary and conclusions*<sup>41</sup>

The overall situation of the inhabitants of the Village has improved somewhat over the last years, compared to the time prior to the eviction. The most positive changes were the transformation of the relationship between the inhabitants and the security forces and the establishment of links with the local political authorities.

These changes were the result of the interaction of diverse factors, among which the following are outstanding: the official acknowledgement of the existence of the Village, the capacity of the inhabitants to organise for the attainment of their common objective, and the articulation of alliances with other social actors which helped to strengthen their negotiating capacity.

The fact that the settlement acquired an official status forced the local authorities to undertake a series of interventions. Since then – and also thanks to the help of other actors, such as the Ombudsman of the City and human rights organisations-, the Centre of Management and Participation (CGP)<sup>42</sup> of the area has started carrying out some assistance. Even if these interventions are limited, specific and not continuous (such as rubbish collection and the provision of running water); they have opened a channel of communication with the public authorities and allowed the access of the inhabitants of the Village to social plans of food and health.

These actions are, however, palliative and they have not led to a definitive solution to the serious sanitary problems. On the contrary, the reforms which could mean an improvement in the infrastructures necessary to provide the basic public services are deliberately avoided since this would permit the permanence of the Village on University land. However, no housing solution that would bring about the end of the Village in the short term is proposed. As a consequence, the intervention of the Government of the City of Buenos Aires has meant improvements in some aspects of the daily life of the inhabitants, but has not changed their general situation of precariousness nor improved their housing perspectives.

The fact that the inhabitants have managed to form a housing Cooperative to collectively negotiate a housing solution, has also contributed to the relative improvement of the situation. This new actor can be seen as an improvement in itself, from the point of view of building an internal consensus for the demand of their rights. This shows an increase in the capacities and resources of those living in the Village to negotiate, put pressure on the authorities and also improved the subjective perception the general population has of them.

In addition, since it was formed, the Cooperative has assumed additional responsibilities, becoming a reference point of the community both inside and outside the Village. Although it has not changed essentially, the attitude of the authorities of the University City and of the police officers who work there is, at the moment, more cautious.

The alliances that the inhabitants of the Village have built with diverse social organisations are also beneficial, not only because their support limits the abuses of some actors, but also

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<sup>41</sup> CELS, Part V, section 9.

<sup>42</sup> [http://www.buenosaires.gov.ar/areas/descentralizacion/cgp?menu\\_id=1949](http://www.buenosaires.gov.ar/areas/descentralizacion/cgp?menu_id=1949).

because the contact with the organisations seems to have increased the level of knowledge of the inhabitants of the Village regarding the rights which protect them and their capacity to formulate demands to the authorities.

In these last years, there appeared new problems for the inhabitants of the Village. The main one is the increase of internal violence and the violent resolution of the neighbourhood conflicts.

The segregation and isolation of the inhabitants of the Village is at the centre of the strategy of control, in particular by the University. In addition, they face serious problems with the police and do not receive the support and protection due to them from the judicial system. People living in the Village do not report abuses to the courts, but rather use more informal means through social institutions, to deal with their problems.

The treatment of the population of the Village by the people living in the middle and upper class communities surrounding the University has improved, but is still not what it should be because the population of the Village is viewed as a threat to their security.

## **Egypt Case Studies**

### **A. Impact of agrarian reform: the case of Kouta Karoun village<sup>43</sup>**

#### *The village profile*

The village lies in the west of el Fayoum province. In the sixties, water became available to the village and many farmers, especially from the surrounding provinces such as Beni Suief, moved towards the village and began to reclaim the wasteland. The arable land in the village is about 1,000 fedens<sup>44</sup> owned by a limited number of owners. This land was owned by an institution of land reform that distributed the land among a number of farmers in exchange for an annual fee. In the seventies, a number of investors began to reclaim vast areas of land of 100-200 fedens, which they cultivated with oranges, mangos and olives until the implementation of law 96/1992, which gave those new landlords and the Ministry of Agriculture the opportunity to steal the land and grow corn, wheat and peanuts.

Before the law was implemented, families depended on cultivation for a living but the new law obliged a huge number of families to leave the village and search for any source of income in Cairo or new cities. Those migrants worked in different profession for 15 LE a day. The farmers that are still living in the village have no choice but to work in others' lands for 10 LE a day.

The village was provided with electricity in 1985 and clean water in 1995, but only 20 percent of the families enjoy this service while the other inhabitants depend on unhealthy underground water. In 2001, a telephone exchange was established in the village, but only 10 percent of the families enjoy this service. The village has no sewerage system although a project was begun two years ago but has not been finished yet.

There are two primary schools: Kouta Karoun school with 650 students and 25 teachers and Kouta el Balad with 475 students and 15 teachers. Class size of these schools varies between

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<sup>43</sup> Based on a report of the Land Center for Human Rights entitled *Losing the arable land and violence in the Egyptian country side; Two case studies* August, 2004 (herein after LCHR Case studies).

<sup>44</sup> 1 feddan = 4200m<sup>2</sup>

55-60 students. There is one preparatory school in Abaza village which is 2 km from the village and costs 0.5 LE a day for coming and going to the village, which prevents poor families from sending their children to school. Most secondary schools are in Abshoy village 37 km away that costs 20 LE a day for coming and going. Villagers with an education are estimated at 30 percent. There is no youth centre or club in the village.

There is no health unit or private clinic in the village. The only health unit is 4 km away. For 15 years, a doctor was present in this government institution from 8 am to 2 pm, and farmers paid F1.05 LE for a visit. Subsequently, the unit was transformed into a private clinic in which the farmers pay 5 LE for examination.

#### *Conflict over land ownership*

In 1966, the institution of land reform put its hands on 75 fedens and 6 kirats<sup>45</sup> in Abshoy village from the heirs of Mohamed Amin Wally. This plot was distributed to farmers "one feden and nineteen kirates a farmer". From that year, the 52 farmers in the village cultivated their land as landlords and members of agrarian cooperatives.

According to the first article of law 3/1986, after 15 years of working this type of land, a farmer has the right to buy it. Some farmers presented their request to buy their plots, but the institution paid no attention, giving no legal reason or reasonable justification.

In 1997, the farmers were surprised to learn that Mohamed Amin Walley, the heir of Mohamed Amin, had completed the necessary procedures for evicting them. He made use of his relationships with the police officers to oblige farmers to leave the land using all the available forms of violence, although there was no final judgement in the lawsuits presented by the farmers which were still under the court deliberation.

From the beginning of the year 1997, the security forces violated the rights of personal safety and life of more than 50 farmers. The policemen of Abshoy police station with 18 soldiers and 10 guards attacked the farmers' houses in the village of Kouta Karoun and arrested 28 farmers to make them leave their land. The security forces organised campaigns of collective detention against tenants, wives and children. On 6<sup>th</sup> November 1997, the police force hanged, tortured and beat farmers. The farmers' wives suffered from sexual harassment. In the end, the tenants had no choice but to surrender.

Kouta Karoun village is an example that reveals the violations committed during the law's implementation. The village is the home of the family of the Minister of Agriculture, Dr. Joseph Wally, who played an essential role in evicting the farmers.

At the end of the transitional period in October 1997, the families in Abshoy village (a part of Kouta Karoun village), el Fayoum province, were shocked by the attack on farmers of the security forces that supported the family of Joseph Wally. When the families objected to the attack, they faced insulting and beating in addition to demolition of their houses and destruction of their crops. Some 47 farmers objected to the unjustified attack and were detained and tortured to confess that their plots were rented from Mohamed Wally, who was the uncle of the Minister of Agriculture Dr. Joseph Wally.

After fifteen days of detention and torture, the farmers met Mohamed Wally in his villa,

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<sup>45</sup> 1 kirat = 175m<sup>2</sup>

where his nephew told his uncle that he had to get rid of those farmers and recover their possessions. That annoyed the farmers and pushed them to refuse leaving the land, which led to continuing the torture. Then, the officer released them asking them to meet Mr. Mohamed. However, the farmers didn't go for that meeting which caused the police force to arrest more than 17 women of farmers' family in addition to using tractors to destroy. As a result of this detention, one of the farmers died when he arrived home because of the severe torture he had undergone. That caused families to present many complaints.

According to the report of LCHR issued in August 1998, on 25<sup>th</sup> October 1997 the security forces arrested 19 farmers to oblige them to leave the land responding for the complaint presented by the inheritors of Mohamed Amin against tenants. The Center issued a press release monitoring the violent incidents when farmers went to their plots for harvesting and they were arrested by the security forces on 17<sup>th</sup> April 1998.

#### *The consequences of land eviction*

Law 96/1992 is considered as the worst example of the policy called economic reform adopted by the Government since the beginning of the nineties. These policies impact negatively the social, economic and psychological conditions of the poor, and the Government makes use of many violent procedures against the poor to implement them. These policies also spoil rural relationships by increasing the disputes between farmers, as implementation of the law enriches some groups that own vast areas while impoverishing those who are evicted. The policies also lead to unemployment, in addition to preventing farmers from participating in public political life.

After the tenants lost their lands, they became agrarian labourers with no lands, houses or cattle which mean they lost their livelihood. The unemployed tenants left the village to search for any work opportunity in the cities while the wives were left at home to wait for the return of their husbands. The land is threatened with deterioration after having been cultivated with different crops. On the other hand, the tenants still hope to get their land back once more, especially after the retirement of the Minister. Some of the farmers said that they have a new dream to re-cultivate the green land, to live again in adequate living conditions and to enjoy safety and suitable work opportunities.

#### *The story of Aly Zidan Aly*

**Age:** 57 years old

**Profession:** farmer - agricultural labourer

**Daily wage:** 8-10 LE a day but it is not permanent work: the labourer finds only 18 days work a month except in the harvesting period, making an estimate of 60 days a year

**Land possession:** he was owner of two fedens

**Number of family member:** nine

- Wife: 50 years old - illiterate - not working
- Zidan: 23 years old - agricultural vocational certificate - labourer
- Ibrahim: 22 years old - illiterate - labourer
- Shahat: 20 years old - industrial vocational certificate – labourer
- Farag: 19 years old - illiterate - applied for military service
- Sayeda: 17 years old - illiterate - not working
- Abdel Moula: 14 years old - prep school
- Aisha: 10 years old - primary school

**Educational expenses:**

Abdel Moula: he is in Abaza prep school, 2 km from the village. The tuition is 33.5 LE. The father pays 5 LE for notebooks, 5 LE for pens, 90 LE for the uniform in addition to 0.50 LE daily for transport.

Aisha: she is in Kouta primary school, 150 m far from the home. The father pays 24.5 LE for tuition, 5 LE for notebooks, 3 LE for pens and 70 LE for the uniform bought by her brothers working in Cairo as daily labourers.

**Description of their house:**

The house consists of four rooms measuring 2.5mx2m and a hall of 2mx4m in addition to a bathroom built outside the house. The house is built of clay while the roof is made of reeds. They own a small black and white TV, clothes washer and a small radio set.

**In case of sickness:**

The family is treated by popular medicines. If these traditional ways fail, they go to the health unit or the public Abshoy hospital which is 57 km away and pay 1 LE for transport to get there. When Uncle Aly was sick, he went to the unit paying the 1.05 pounds. The physician (a relation of Wally's family) gave him some aspirins and advised him to buy some expensive medicine but Uncle Aly couldn't buy it.

**Political parties:**

There are no parties, but an Islamic group existed until it was arrested in the mid-seventies. Uncle Aly mentions that the landlords make use of their relationship with the family of the Minister of Agriculture, Dr. Joseph Wally, to abuse them. He highlights that they practise no political activity because they are weak; the rich and officials give the opposition no opportunity to work. He asserts that he didn't vote at the last elections of the people's assembly because when he went to vote, the supporters of Wally ordered him to leave while they offered to give another farmer ten pounds for voting for Wally. Uncle Aly says that the member of the assembly of the village is Ismaeel Sherief Joseph Wally, who only visits the village during election days. He adds that he doesn't hear about elections of local councils and he doesn't know if there are members of the councils in the village or not.

**Impact of law implementation**

Uncle Aly had no idea about the law. He obtained his plot from semi-reclaimed land. He spent his life cultivating his land that provided him with a good life. One day, he heard screaming outside the house, and was shocked when his son entered the house telling them that the police would take the land. Then he shouted, "there is law protecting our right, sit down my son to have your lunch". After that they heard crying and shouting that and a neighbour told him that Wally' sons accompanied policemen to evict all farmers from the land. So he walked towards his land when he met a policeman who arrested him and imprisoned him in Abshoy police station. Here the officer told Uncle Aly and other farmers that they were detained so that they would deliver their land to their original owners. They replied that they were the landlords, which caused the officer to insult them and ordered the soldiers to beat and torture them for 15 days. After that they were released to meet Mr. Mahmoud Wally, the minister's uncle, to undersign the documents for leaving their lands but they refused, which result in their detention once more. Uncle Aly doesn't know what he has to do apart from presenting complaints and filing lawsuits. But this nightmare isn't solved yet.

**The current source of income of uncle Aly:**

After these terrible incidents, he is fighting to find permanent work for his sons and himself. But he usually fails to work on other people's land because it is owned by his enemies who

refuse to hire him. They are obliged to leave the village searching for any work opportunities. Uncle Aly survives through the incomes of his three sons that work outside the village: both Zidan and Ibrahim work for 8-15 pounds a day for 20-22 days a month and the third son travelled to Libya for six months without sending any remittance.

**The relation between Uncle Aly and the agrarian cooperative:**

It was good when he used to take seeds, pesticides and fertilisers in addition to receiving some loans up to 75 pounds. But this relation has stopped as the cooperative refused to deal with Uncle Aly. As he knew that he had shares in the cooperative, he and a group of farmers went to the agricultural administration which promised them to solve their problem and asserted their right to these shares. However, they received letters from the ministry informing them that they had no right to these shares, which made them file a lawsuit. When we asked Uncle Aly about the Development and Agrarian Credit Bank (DACB), he mentioned that he has no relation with the bank at all.

**B. Impact of agrarian reform: the case of el Bieda village<sup>46</sup>**

*Village profile*

El Bieda village lies in Monshaa Nasr, el Hussania district, el Sharkeya province. It is a small Izba (smaller than a village) whose inhabitants aren't more than five thousand. The village is characterised by clean streets surrounded by vast green areas. In addition to insufficient services of health care, education, transportation, and telephone, there is no school, clinic or pharmacy in the village. In spite of the deterioration of these services, the village used to live in security regarding possession of land and houses, work opportunities and humane living conditions.

The farmers of el Bieda village received 157 fedens in 1969 to be reclaimed. From that date, cultivating the land became the sole source of income for those farmers and they were issued cards of agrarian possession from the agrarian cooperative. After that, farmers were surprised by a decree of land release through the public institution of land reform for the sake of the public association for reclamation and agricultural development in 1976. In 1978, the land was delivered to the public institution for projects of construction and agricultural development. Then, presidential decree no. 141 of 1981 lifted the protection imposed against the claimants of the land and with the collusion of some employees; the land was delivered on papers to the landlords.

The implementation of the land law and the threats to farmers that they would lose their land changed the happiness in which the village lived. This was especially true after the tractors of the Government and those claiming possession of the land attacked the village to evict farmers from about 57 fedens. Moreover, persons hired by the landlords, with the assistance of some policemen, attacked farmers' houses and destroyed their materials.

The strange thing was that the cooperatives issued possession cards for the landlords although these cards couldn't be issued for anyone but the land user, i.e. the farmers. The landlords made use of these cards and forged receipts for loans from the Bank in el Zakazik district. Although they had not received the money, the farmers were obliged to pay off these loans with interest order to avoid imprisonment or the seizure of their crops and cattle.

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<sup>46</sup> Based on a report of the Land Center for Human Rights entitled "Losing the arable land and violence in the Egyptian country side Two case studies" (August 2004)

### *Law and violence inside the village*

After the inheritors of the claimants obtained a judicial sentence for the eviction of the farmers from an area estimated at 57 fedens, they implemented these sentences using the worst forms of violence and insult through the police forces, which delivered the land to the landlords. Some farmers against whom no judicial sentences were issued had to give up their land under supervision of the police. The group of farmers that refused to deliver their land were arrested by the police, insulted and beaten. Their women were raped in order to force them to leave the land. Some landlords stole or destroyed the crops, or prevented the farmers from harvesting without giving farmers any compensation.

In October 2002, the central security forces attacked the village destroying crops in 157 fedens about which farmers and the heirs of Mohamed el Saady el Tahaweey had judicial disputes for more than twenty years. The security forces violated the law and evicted the farmers from the rented land using various forms of violence including insulting, beating and the detention of more than one hundred farmers. The tractors of the landlord destroyed the rice and cotton crops cultivated in the rented land which caused farmers' losses.

After the landlords took possession of the 57 feden forcedly, they filed minutes against farmers and their children accusing them of stealing the crops and machines in order to terrify other farmers so that they would leave the plots before judicial sentences were issued. All the accused farmers proved their innocence in these charges with the help of LCHR's lawyers. Some claimants to land made use of their relations with policemen to receive the land before issuance of the judicial sentences.

Some farmers and women and children had been imprisoned for fifteen days on the charge of attacking the police, although they were only defending their land. The prosecutors of el Hussania district ordered their release, but police refused to release them and instead tortured and beat them. The families reported that the policemen assisted the landlord because of his relative that worked as a head of the security department in one of the provinces in Upper Egypt. This scene of attacking organised by the police forces was repeated on the 1st of October resulted in destroying the crops, wasting the land, killing cattle and destroying houses in addition to detention of more than 100 farmers with no concern for the law or farmers' humanity.

### *The consequences of land eviction*

After the farmers were evicted from the land by force, their profession became landless farmers, which was a real catastrophe for them, as the land was the source of security. Without land they had no home especially as most of those farmers are old and couldn't work in other professions. Therefore, their children work as daily labourers to pay for the living expenses of their families. The family that comprises one son as a daily labourer obtains 1,000 LE a year. This results in poverty and removing their kids from school because of inability to afford the tuition fees.

Sons who were close to marriage were obliged to postpone this. As for girls, they become heavy burden on who accept the first proposal of marriage, which spreads the phenomenon of early marriage and not sending girls to school.

The living conditions in el Bieda village worsen because of decreasing expenditures for food, clothing, education and health which in turn increases cases of quarrelling between

neighbours and robbery. Moreover, violence committed against women rises in the form of beating wives, in addition to the latter insulting their husbands because of deficiency of financial resources.

#### *The story of Uncle Wahdan*

Uncle Wahdan is 68 years old. His family is composed of his wife, six kids and their wives and his grandsons. They live in one house inherited from the family ancestors for which they pay no rental. Before the law, the family owned two rented fedens and 14 kirats. They used to grow their food: in winter 1/4 of the area for barsem for feeding their animals and 2 fedens for wheat; in summer the whole area for corn. Uncle Wahdan loaned four cows and two buffalos from the DACB in addition to their home-bred female. Before the implementation of the law, the family's income was about 19280 LE/year earned through selling vegetables, cows, buffalos and goats in addition to the produce they eat, such as wheat, corn, cheese, fats, etc.

The family of Uncle Wahdan had heard about the land law since 1992 through following the discussions of the people's assembly on TV but they paid no attention. In 1995, the inhabitants of the village began to talk about the law revealing their disbelief of its implementation. In October 1997, Uncle Wahdan was taken by surprise when the landlords evicted tenants from the land or raised the rent. The landlords tortured the tenants till they were evicted forcibly. The landlord wasn't patient enough to let Uncle Wahdan harvest his crops. When Uncle Wahdan insisted on harvesting the crops, the police detained him for five days, threatening him with imprisonment. Moreover, one of Uncle Wahdan's sons was also arrested, which obliged Uncle Wahdan to leave the land. He presented many complaints before the officials but nothing was changed.

#### *After eviction*

The living conditions of the family became completely different: the sons had to search for work opportunities in other people's land, the opportunity of loaning animals from the bank was lost, and the family was obliged to sell their cattle to pay off their debt to the bank. The expenses of the agricultural process increased substantially. The family depends mainly on the pension of the father estimated at 79 LE/month in addition to 2400 LE/year from the wage of his son working in quarries in Helwan.

The family suffers from economic problems represented in insufficiency of income for satisfying their basic needs; moreover, Uncle Wahdan has three daughters of marriageable age, but he cannot afford to pay for a wedding. The youth in the village leave for Cairo to search for work, which also results in delaying marriage. In addition, the wife of Uncle Wahdan is sick and treatment is expensive, especially as the village lacks hospitals or clinics.

Like other farmers in the village, Uncle Wahdan's sole hope is finding work opportunities for his sons or receiving alternative land in application of the Government's promises.

#### *The story of Uncle Ayob*

Uncle Ayob's family consists of his wife and five kids and their wives and children. They live in a one-floor house of six rooms. It is the only one built with concrete and red bricks but the one pipe supplies them with polluted underground water.

The family owned two fedens rented secretly from the landlord since 1961. The sons cultivated the land for a livelihood in addition to working for daily wages sometimes. Uncle Ayob made use of loans from DACB for cultivating the land and seeds, fertilisers, pesticides

and machines provided by the agrarian cooperative. Uncle Ayob heard about the law in 1992 through the radio and neighbours. In 1997, the landlord persisted in evicting Uncle Ayob from the land, refusing the options offered by Uncle Ayob such as raising the rent in accordance with the new law. On the other hand, Uncle Ayob refused to leave the land until he was imprisoned and tortured many times. When he was released, he found his cotton crop was destroyed under the cattle legs so he found no solution but to leave the land to live with his family in hard living conditions.

After eviction, the family members began to search for other work Uncle Ayob cultivated other people's land in return for receiving half the crop. But this work wasn't sufficient for satisfying the family's basic needs, so he worked on other land for daily wages but this work was hard.

These conditions pushed the sons to be financially independent after having previously contributed to the living expenses of the whole family. It meant that the sixty year old father became responsible for satisfying the needs of his wife, daughter and son in spite of his old age and deteriorated health condition. The living conditions of the family worsened in spite of increasing working hours which meant reducing food expenditure. Medical treatment was not available from the village hospital. Uncle Ayob like other farmers couldn't even have pure drinking water because the canal was filled in, the land has become a garbage area where rubbish is burnt daily, threatening children with fatal diseases because of pollution and insects.

To solve the problems of farmers in these villages, we have to guarantee their return to their lands, promote their safe land possession, solve their developmental problems and protect their rights to public services and a humane and adequate life.

### **Nepal Case Study: the *Kamaiya* system of bonded labour**<sup>47</sup>

"It was the first time I went to a place where human rights were so blatantly violated. Although I have seen much poverty all over the world, I thought this was different. Of course, I didn't like seeing how the Brazilian Indians were treated, or some of the blacks in the United States. Or even the poor in my own country, Denmark. But this was something else. Here in Nepal, it was not anonymous organisations, big companies or the state, but small landowners - almost poor people themselves - who kept the bonded labourers. Some years ago, when I first heard that the *Kamaiyas* are kept like slaves, because of relatively small debt, I found it hard to believe. Simply because they inherit the debt from their fathers, they could be sold at annual fairs, the landlords could use women as they liked and have the children as servants".<sup>48</sup>

#### *Definition of Kamaiya bonded labour*

The *Kamaiya* system is deeply rooted in the feudal history of land tenure. It is a form of bonded labour found in five far western districts of Nepal along the Indian border. *Kamaiya* can be classified into two categories; *Kamaiya* with *Saunki* (debt) and *Kamaiya* without *Saunki*. The *Kamaiyas* with *Saunki* are more vulnerable than *Kamaiyas* without *Saunki*. This is because they can be bought and sold for the *Saunki* by their masters whereas in some cases

<sup>47</sup>This section is based on the case study by Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, pages 1 – 24 which is available in full in the enclosed CD-ROM.

<sup>48</sup> Statement made by a Danish journalist after visiting *Kamaiya* villages of western Nepal. See, Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, pages 4 – 5.

*Kamaiyas* without *Saunki* may have at least the freedom of choosing their masters in the festival known as *Maghi*.

However, researchers argue that that both types of *Kamaiyas* are forced to work as bonded labour by the socio-economic conditions of their society and family. This is because no matter whether they have *Saunki* or not, once they come into contractual agreement with their landlords they fall into a vicious circle of bonded labour system because they are forced to borrow money from the land owner because the labour wages provide only a bare subsistence. Above all, once the *Kamaiyas* fall into the trap of *Saunki*, it is passed on to the eldest sons and subsequent generations and all the members of the family are required to work to pay off the debt.

When *Kamaiyas* and their landlords do not maintain good relationships, *Kamaiyas* seek a new landlord. But they cannot leave landlords until their loans (*Saunki*) are paid. There is a common practice of selling and buying of *Saunki* borrowed by *Kamaiya*. This is how the money owed by the *Kamaiya* to one landlord is transferred to another. Thus, *Kamaiyas* may be freed from the old one but again they are bonded to the new landlord. In this way, *Kamaiyas* are sold off in an indirect form from one landlord to another. Throughout their life most *Kamaiyas* continue to borrow and landlords continue to lend in hopes that sufficient numbers of children will grow and pay the debt. Hence the strategic interests of both parties perpetuate the *Kamaiya* system. The dynamics of *Saunki* and its perpetuation could be explained in the following example:

Raj Dev Chaudhary's grandfather took a loan of Rs. 3,000 from his neighbour Shiva Raj Pant and worked all his life to pay back the loan: But he failed. After his demise, the debt burden shifted to his eldest son, Raj Dev's father. He too was unable to pay back the loan and after his death the responsibility transferred automatically to Raj Dev. Since as long as he remembers, Raj Dev and his wife has been working arduously in the field of Shiva Raj Pant. Now his six children, a daughter-in-law and two grandchildren have joined the bandwagon. They are in 24-hour and round-the-year duty to fulfil all the labour requirements of the Pant's household. Yet, the four generation old loan, instead of being paid off gradually, has accumulated to the amount of Rs. 3,696. In case of Raj Dev's death, the burden of repayment will be automatically transferred to his eldest son.<sup>49</sup>

The total number of of *Kamaiyas* is about 100'000. Backward Society Education (BASE), a local NGO, estimates the number to be 116,309.

#### *Division of labour under the Kamaiya system*<sup>50</sup>

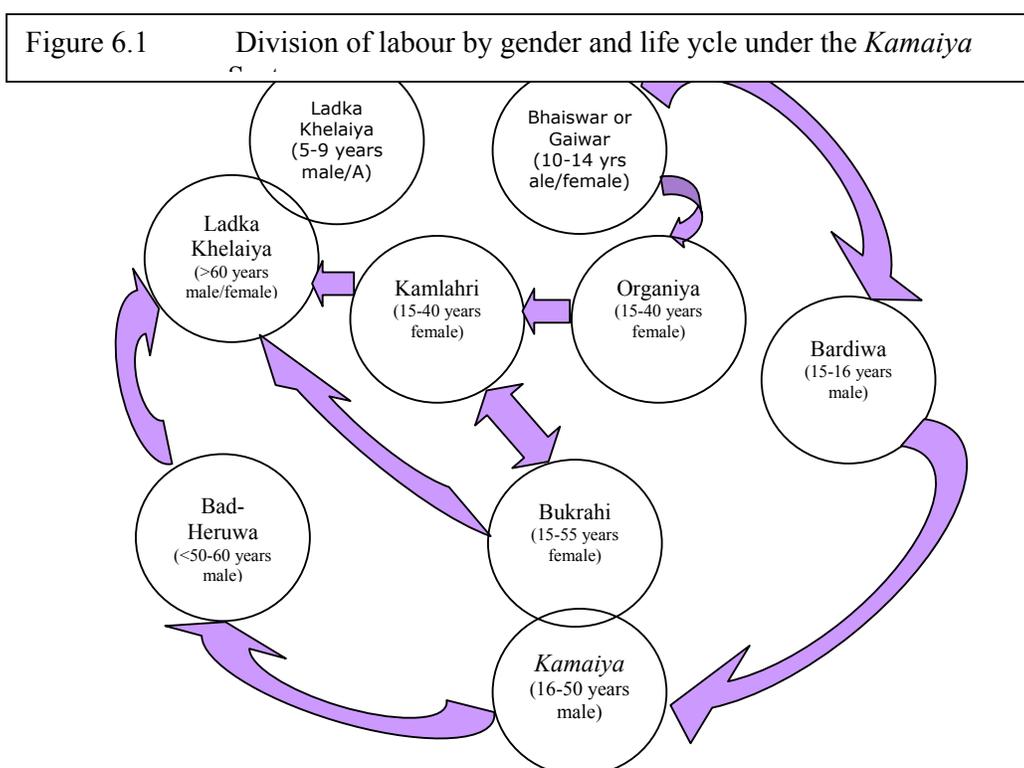
There is a marked division of labour within the *Kamaiya* system, determined by a combination of traditional social relationships, production demands and the reproduction systems in western Nepal. Women are given different positions according to their work responsibilities. Women involved in household work and other farm works are called *Kamlahri*. Women who are fully involved in agricultural and household work with male partners are called *Bukrahi* and the women who are totally involved in such work without a male partner are called. Whatever the position and names, all types of female *Kamaiyas* have to be ready for any kind of work their landlords/masters ask them to do.

<sup>49</sup> Rai, Hemlata, *Centuries of Labour*, the Friday Supplement, the Rising Nepal, 2 June 2000.

<sup>50</sup> Chaudhari, S., "Kamaiya Pratha Ra Kamaiya Haru Lai Herda" (Kamaiya System: An Observation), *The Bikash (Development)*, 1996, Vol.4, Issue 8, pp 38 - 42.

*Kamaiya* children are required to work as animal herders and domestic servants. Female children generally work as domestic servants while male children look after the livestock as animal herders. Working for the master amounts to apprenticeship-training for children to ensure that they become effective *Kamaiyas* as they grow older. There are about 13,000 children working under the *Kamaiya* system in the five districts (Sharma and Thakurathi 1998). Many are not paid either due to debt incurred by the parents, or because their work is appended to the adult family labours, or they simply work in exchange of food and clothing. The division of labour among the *Kamaiyas* depends upon the age and sex of the *Kamaiyas*. The following table presents the nature of work and division of labour within the *Kamaiya* system.

The responsibility of *Chhegrahawa* and *Chhegrinya* is to take care of goats in landlords' farms. The role of *Bardiwa* and *Bardinya* is to take care of oxen and *Bhaiswar/Bhaisarniya* and *Gaiwars* is to take care of buffalos and cows respectively. Those who are in the age group of 15-55 are considered fully economically active and called *Kamaiya* in case of male and *Bukrahi* or *Kamlahri* in case of female *Kamaiyas*. The eldest son or daughter (more than 16 years old) is called *Ghardhuriya/-Ghardhurinya*. All the activities within the household of *Kamaiyas* are taken care of under the leadership of *Ghardhuriya/Ghardhurinya*. The responsibilities of the *Kamaiyas* who are more than 55 years old are the same as the role of children between 10-15 years old. Figure 6.1 illustrates the division of labour and life cycle of *Kamaiyas* in Bardiya in 2001.



"... As a daughter of Kamaiya parents, I have entered into Kamaiya system at the age of 6-7years. I have worked as *Ladkakhilaiya* for three years. Around at the age of 10-11, I started to work as *Organiya* in same master's house. And I got married at the age of 17-18 with a Kamaiya and became *Bukrahi*. ... I was beaten several times by the landlord while I was *Ladkakhilaiya* and *Organiya*... I was sexually harassed by them several times. Even after I got married and started to work as *Bukrahi*, several time landlords sent my husband to the field for "irrigating farm land" and came to me to sexually exploit at night. I had always fought back and did not accept such attitude of landlords. But there were many like me, who became victims of such behaviour of landlords. This is not only the case of women, I have also noticed that wives and daughters of landlords also abused and sexually exploited Kamaiyas... We spent most important time of our life under threat and terror. Since we did not have our own home and land, we were forced to accept it, we had no where to go and nobody turn to...since we were not allowed to take *Masyoura* I used to eat at landlords place. The kind of food they used to give was very same they cooked for their dog...the kind of work, I was asked to do was including cleaning dirty clothes (menstruation, maternity and stool and urine of the children and very old members of their family)... We have never received minimum wage and there was no fixed working hour. This has forced us to come out of landlord house and fight back against the system. These days, we have built a small hut at the bank of an irrigation canal and enjoying relative freedom and our independence."<sup>51</sup>

Stories of tricks against *Kamaiyas* abound. They range from the fabrication of *Kamaiya* debt accounts by landlords, seizure by landlords of their small pieces of land, accusation of non-payment of debts and various kinds of physical torture against them. Discriminations against *Kamaiyas* are not only limited to the rural elites. The State has also systematically excluded them from whatever state benefits were generally available. Until 1990, none of the state led land reform policies and programmes considered *Kamaiyas* as a potential target group, evident by the fact that they were never beneficiaries of the Land Tenancy Rights, Landless People Resettlement Programmes and the like.

Widespread poverty, social exclusion and resultant powerlessness force *Kamaiya* to continue to exist in isolation and subject to a myriad of forms of vulnerability. Once households lose their parental properties such as land, and start borrowing money or food grain from the landlords to meet their daily needs, the existing social system pushes *Kamaiya* into the deprivation trap. The system then perpetuates itself and continues from one generation to another.<sup>52</sup>

#### *Movement against the system from within*<sup>53</sup>

Movements against the *Kamaiya* system started after political change in 1950. A series of sporadic resistances and uprisings in the region before 1990 were mostly small, localised and isolated from the broader movements for socio-economic and political transformation. These almost always met with violence by the authorities and landlords and almost always failed: other movements for socio-economic and political transformation in Nepal overshadowed them and they mobilised no external support

Action from within intensified only after the restoration of multi-party democracy in 1990. In April 1990, a 15 member committee decided to bring together all landless *Kamaiya*

<sup>51</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, page 5, citing Karki 2001:74.

<sup>52</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, page 12.

<sup>53</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, pages 12 – 16.

committee members' families and resettle them on land in Kanara Forest. They raised flags of all political parties who played a key role in the restoration of multi-party democracy.

Once they had occupied the land, they started to organise peaceful marches and various demonstrations both within and outside the *Kanara Phanta*. These activities threatened the local landowners and ruling elite who tried several times to drive these people out. During the monsoon in 1991, the Government announced that it would drive the people out by force. The *Samiti* leaders met the Prime Minister and the chairperson of the Landless Peoples' Problem Solving Committee on 3<sup>rd</sup> November 1992, but to no avail. On 10 November 1992 at 8.30 am the joint team of Armed Police, Forest Guards, Royal Hunting Security Guards and employees of the forest department ordered the settlements to be destroyed. As a result, *Kamaiya* settlements both inside and outside *Kanara* were destroyed by bulldozers, elephants, army and police (INSEC, 1992:16).

During the forceful eviction many women *Kamaiyas* were beaten badly and raped by the forest guards and policemen. Mrs Gongi Tharu describes how her husband was beaten to death "by the police with the gun while he was taking care of the crops cultivated by *Kamaiyas* under their collective farming". The role of women *Kamaiyas* was reported to be significant in this movement.

On 17<sup>th</sup> November 1992 a relay of fasting started to pressurise the Government into solving this problem and taking action against those responsible for the eviction. But these peaceful demonstrations were dismissed by the government. This campaign was supported by all communist parties of Bardiya but the leaders of the Nepali Congress (the then ruling party) openly stood against the *Kamaiya* movement, because most of the larger landlords were members of Nepali Congress. After this, the Government reached an agreement that the entire farm produce of the area should belong to *Kamaiyas* and that the Government should provide medical services to all those injured during the *Kanara* Movement. The *Committee (Aayog)* also assured them that all landless *Kamaiyas* would get temporary land entitlements and that the process of allocating land to the *Kamaiyas* would start within two months (Karki 2001:101). In 1993, the new UML Government started to provide land titles to these *Kamaiyas* involved in the *Kanara* Movement. Whereas only 350 landless people received land during three and half years of the Nepali Congress, within nine month the UML government made 6,985 entitlements. Once the UML government left office, the Nepali Congress Government confiscated the land titles from some of these *Kamaiyas*.<sup>54</sup>

#### *Movement from above and within the system*

The roles of external agencies in the struggle against the *Kamaiya* system were important after the political change in 1990. In Several external agencies started to intervene defining the *Kamaiya* system as a violation of human rights and non-compliance of the government commitment to the UN conventions and covenants. These agencies, closely associated with open national governance system, influence national policies, mobilising financial resources both at the national and international level (for example bilateral and multi-lateral donors) and government departments.

The Rural Reconstruction Nepal report describes the role of United Nations Agencies, bilateral donors, the Nepal Government, political parties, international NGOs, national NGOs,

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<sup>54</sup> Rural Reconstruction Nepal, The *Kamaiya* System of Bonded Labour in Nepal, page 16, citing SPACE (1996 :28).

trade unions and other organisations. The report also describes in some detail the work of six national NGOs active in the struggle for *Kamaiya* rights.<sup>55</sup>

On 1 May, 2000 the *Kamaiya* movement took a new turn. Nineteen families of *Kamaiyas* working for the former forest minister in the Nepali Congress Government, Mr. Shiva Raj Panta, came out of his house and claimed the minimum wage for agricultural workers<sup>56</sup> to be effective from the date of last *Maghi* festival. They also argued that the *Kamaiya* system was against article 20(1) of the 1990 constitution and several UN conventions and covenants to which Nepal is party. When Mr. Panta refused to comply, the families (135 persons) filed a case against him. Their major demands were to cancel the *Saunki*, provide housing, food and other social security measures and abolish the *Kamaiya* system in the longer run.

Once they knew that the courts were not going to take action on their case even after appeal, the *Kamaiyas* with the support of Kamaiya Concern Group (KCG) started a sit-in campaign in front of the Kailali CDO's office. A series of parallel events was held for the abolition of the *Kamaiya* system throughout the region. In other words, issues raised by nineteen *Kamaiya* families from a small village of Kailali called Geta spread among several hundred other *Kamaiyas*. From then on came a series of rallies and campaigns.

As a result of concerted efforts of *Kamaiya* activists and local and international NGOs, on 17<sup>th</sup> July 2000 the Government declared *Saunki*, the major binding element, illegal and committed itself to framing a new law eliminating the bonded labour system. The Government also declared that the act of working and making one work as a bonded labourer on the basis of any written or verbal bond or against the existing law would be punishable.

As soon as the decision was made public, dozens of *Kamaiyas* who were taking part in the sit-in campaign sang, danced and marched through the streets of the capital city before boarding buses bound for home.<sup>57</sup> The decision was also lauded by all major political parties, NGOs involved in working against the system, including the Kamaiya Concern Group (KCG) - a loose network of NGOs - and several parliamentary committees. At the grassroots level *Kamaiyas* themselves organised a series of victory rallies in all district headquarters.

Since the decision made to abolish the *Kamaiya* system was at the middle of the planting season, both *Kamaiyas* and landlords experienced dilemmas. In order to ease the tension between *Kamaiyas* and landlords, the Government appealed to the *Kamaiyas* "to co-operate with their ex-landlords and go back to the work in the fields"<sup>58</sup> ). Both *Kamaiyas* and landlords rejected the suggestions. *Kamaiya* activists in their victory rally in Kanchanpur challenged the Government's appeal and stated that they should be paid compensation for their forced labour from the landlords. Their response was that they would forget the past but its lesson would be carried on as a reference for the future.

The Landowners' Rights Protection Forum (*Kishan Hak Hita Manch*), formed in reaction to the decision to abolish the *Kamaiya* system, organised a mass meeting at in which some 8,000 landlords of the regions came together and criticised the government decision to abolish the

<sup>55</sup> Rural Reconstruction Nepal, The Kamaiya System of Bonded Labour in Nepal, pages 17-23.

<sup>56</sup> The minimum wage for agricultural workers was fixed out of pressure created by NGOs, and has been catalytic to encourage *Kamaiyas* to leave their masters and claim their wages as independent agricultural workers.

<sup>57</sup> *Kathmandu Post*, 19<sup>th</sup> July 2000.

<sup>58</sup> *Kathmandu Post*, 26<sup>th</sup> July 2000.

*Kamaiya* system and cancel the debt.<sup>59</sup> The Forum also filed a writ petition in the Supreme Court, stating that "the government decision to ban the *Kamaiya* system was against the contemporary laws related to the security of our property. In a memorandum asking for withdrawal of the decision made in haste, they also appealed to the Prime Minister "to ban NGOs, who are trying to intensify class struggle between landowners and *Kamaiyas*..."<sup>60</sup> The landlords started to threaten *Kamaiyas*, some of them were expelled from their *Bukura* and others were locked inside their masters' houses for several days. Some of NGO activists, such as members of BASE, INSEC, RRN, and GRINSO were asked to leave the village by the landlords. The movement by *Kishan Hak Hita Manch* was a 'social movement' to defend the status quo.

#### *The need for alternative rural livelihoods*<sup>61</sup>

Although widely hailed as one of the most progressive decisions of the Governments of the 1990s, it was made without proper arrangements for housing, food security and other arrangements required for rehabilitation. The biggest challenge to the Government and the NGOs involved in the campaign was to create an environment in which alternative rural livelihoods could be ensured. Four years after the 'liberation', the challenge is still intact.

To identify and rehabilitate freed *Kamaiyas*, the Government constituted a high-level Coordination and Monitoring Committee under and District Coordination Committees were formed in all five districts. The Government also declared that it would immediately construct temporary camps for the liberated *Kamaiyas* and start the supply of short-term relief materials like tarpaulin, blankets and medicine.

The Government identified 18,400 *Kamaiya* households in total. Those having nothing would get immediate relief assistance ranging from makeshift shelters to food to basic clothing. But, it took some time for the Government to move ahead after the 'liberation'.

The *Kamaiyas* waited helplessly but patiently for 6 months from July 2000. Seeing nothing coming to their aid until the end of 2000, they launched a new movement under the banner of the *Kamaiya* Liberation Struggle Mobilisation Committee and *Kamaiya* Action Committee. Since then, both Committees have agitated to get their rehabilitation completed.

In 2002, the Government bowed to the series of pressures to come to the aid of *Kamaiyas*. It then started to distribute land to 13,450 households. But by the time the land was to be distributed, some went missing; the Government could not locate 1,430 of them. The rest were given a piece of land measuring 0.1343 in hectare on average (GEFONT 2004:76). The Government apparently prepared another list to accommodate those who were missed previously in response to the pressure from the *Kamaiya* themselves and NGOs and trade unions working with them, but no action has been taken so far.

Given the Government's failure to rehabilitate the liberated, *Kamaiyas*, the movement took a different turn from February 2001. At least 7,000 *Kamaiyas* forcibly occupied public land including the land owned by the Cotton Development Committee (CDC) in Bardiya. More than 300 riot police cordoned off the area forcing the *Kamaiyas* to leave. Soon after the riot police set fire to their huts and CDC tractors destroyed the crops they had planted to make

<sup>59</sup> *The Kantipur*, 28 July 2000.

<sup>60</sup> *The Gorkhapatra*, 13<sup>th</sup> August 2000.

<sup>61</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, pages 24 – 26.

sure that the *Kamaiyas* would not dare to occupy the land again.<sup>62</sup> From then on, the search for land by the *Kamaiyas* and their confrontation with riot police became an everyday phenomenon.

In July 2004 the *Kamaiyas* captured the land belonging to Tikapur airport in one of the westernmost districts in Nepal. A total of 4,522 *Kamaiyas* from 868 households distributed the land amongst themselves at the rate of  $\frac{1}{2}$  *kattha* a family. At the time of writing (end of December 2004) the airport, which remains mostly unused, is filled with makeshift camps. The *Kamaiyas* are formed into 60 groups, and the group leader is responsible for looking for employment opportunities for its group members. The bitter reality is that the *Kamaiyas* are in a life and death battle with a fear of government comeback to demolish their huts.

The Government also enacted the *Kamaiya* Labour (Prohibition) Act, 2002:

- persons working as *Kamaiyas* will be freed; no one shall maintain *Kamaiya* labour henceforth; any agreement (written or verbal) governing *Kamaiya* labour and *Kamaiya* loan is illegal;
- any property obtained by the creditor as a mortgage to credit a *Kamaiya* loan must be returned back to the concerned person within three months following the commencement of the Act;
- the defaulters will be fined.

The Act is undoubtedly a progressive step, but it is soft when it comes to penalties, which are limited to certain fines.

In sum, between July 2000 - when *Kamaiyas* were emancipated from slavery - and December 2004, the state of *Kamaiyas* is such that they have had legal freedom from slavery but are still chained by the structural slavery of want. In the absence of rehabilitation programmes for liberated bonded labourers, they are driven by poverty, helplessness and despair into serfdom once again. Anti-Slavery International warned that "rehabilitation of the freed bonded labourer is even more important than the release...if such a labourer was to lose his employment...and lose source of livelihood and the 'remedy' would be worse than the 'disease'."<sup>63</sup>

#### *Post-freedom assessment by Kamaiyas*<sup>64</sup>

In in-depth interviews undertaken November 2004 with ten *Kamaiyas* all the respondents welcomed freedom as a matter of generational achievement. Said one: "We got a big victory. Before the liberation, our labour was under the control of others [masters], now we control it and the labour-outcome goes for us and our children."

The assessment of all ten respondents was expressed by one of them as "We are free but our condition is going from bad to worse in lack of rehabilitation. If the problems are not solved we may have to return to the masters as *Kamaiyas*." Eight respondents were critical of the role of external agencies vis-à-vis their freedom. While they are thankful for externally mobilised support in educating and organising them in the build-up to the freedom movement, they are remorseful for the post-freedom role of external agencies. Some complain that after freedom

<sup>62</sup> *Kathmandu Post*, 4 February 2001

<sup>63</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, page 26, citing <http://www.antislavery.org/arch/submission1997%D08india.htm>.

<sup>64</sup> Rural Reconstruction Nepal, *The Kamaiya System of Bonded Labour in Nepal*, pages 26 – 27.

the *Kamaiyas* were left alone. Others see that the external agencies made them follow their organisational programmes rather than supporting what *Kamaiyas* wanted done, thus making them dependent. One goes a step further in criticising external NGOs: “They are not transparent and fair. They are now the *Kamaiyas* amongst themselves.”

Other comments are: “Following the freedom in 2000, we have increased awareness about the value of educating children. We now learned that it was not the god who made us and our children *Kamaiyas*. It was the trick of the exploiters.” “Complete freedom is the state when we have freedom from poverty, when our children have free education, when we have drinking water services available and access to productive land for employment”.

## **Uzbekistan Case Studies**

### **A. Migrant workers: case study**

#### *Objectives and methodology*

This section is based on a study by the Legal Aid Society (LAS) on the situation of migrant workers in the city of Tashkent in 2004.<sup>65</sup> The purpose was to identify the problems related to the urban migrant workers (known as *mardikors*), the causes behind the increasing number of urban migrant workers, and the roots of violence from both state and non-state actors and the main risks for *mardikors*.

The study was based on random interviews in different parts of the city with low qualified and low paid people coming from the rural areas or small and middle sized towns and who had no papers to work permanently in the city. It investigated households, breadwinners, incomes, and women and family issues; police attitudes and practices

During the process of interviewing people, LAS identified some new sides to the problem and introduced necessary changes to the research. One such “surprise” was the division of the so called “labour exchanges” (places where *mardikors* gather) between different groups, and how that self-governed regulatory systems works.

#### *Background to the problem*

The rural situation in Uzbekistan is feudal in nature. The cotton harvest is surrendered for a miserable price to the State, which has a monopoly on export, resale and anything else with respect to the cotton. The State, which is heavily dependent on cotton, confiscates, and often does not pay a penny, for the cotton harvested. The level of income is the lowest in the world at much less than a dollar per day. The State does nothing to increase employment or for agricultural development. Freedom of entrepreneurial activity is minimised under irresponsible fiscal policies and corruption, and few chances are given to independent small businesses. A well known proverb in Uzbekistan says “it is cheaper to do nothing”.

Infrastructure for the 60 percent of the population living in rural areas is underdeveloped. There is almost no access to adequate education and health services. Qualified medical personnel, teachers and engineers are scarce.

Although private farming is not a real option, many families extract a minimum for survival by having a cow or garden in the backyard.

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<sup>65</sup> The full text of the Case Study is contained in the CD-ROM included with this publication.

In this situation many people from rural areas find that the only option to survive is migration to other states or big cities, where there is some demand for low qualified and low paid work. *Mardikors* are not only people from the rural areas but also from more or less developed cities: highly qualified teachers, engineers and medical personnel have to leave their underpaid job and look for other options.

In conclusion, while life in the city presents risks for the security of the *mardikors*, at the same time, it gives more opportunities to work and in most cases to send up to US\$30 back to their families.

#### *The problems of mardikors*

The problem of internal migration was institutionalised in the Soviet era. At that time, big cities were supposed to demonstrate developed socialism and prosperity: beautiful architecture and modern symbols of the big cities could be damaged by extensive inflows of people from the rural areas and cause problems for full and guaranteed employment, so widely lauded in Soviet propaganda. This same understanding prevails in modern Uzbekistan with lower living standards and unbearable attitudes of the police.

It is practically impossible for people to settle legally in cities. A person registered in a permanent place of residence is allowed access to medical, security, education, real estate ownership rights, on the territory where he/she were born. Legislation limits the rights of an individual to be employed on a territory where he or she is not officially registered. Thus an individual moving to Tashkent city is supposed to receive *propiska* or registration in the capital.

The mayor's office is the body responsible for granting the rights to settle in Tashkent city. However, an officer reported that they have an oral order to grant this status only on direct orders from the interested state agency or in other exceptional circumstances (usually believed to be corrupt practices). LAS reports numerous cases where bribes were paid, but in which no permit was obtained.

All interviewed *mardikors* pay some remuneration to the police regularly which is supposed to guarantee full immunity for well-being in that area. Nevertheless, hundreds of *mardikors* get arrested daily on the streets, being outside of their native districts or having no money to settle the problem. They are gathered on the special camp organised in each district of the city.

Wrong practices of the police are not rare. However, LAS did learn of good police officers who understand the problems and helped *mardikors*, but they were rare.

About 95 percent of all *mardikors* interviewed never applied for proper registration documents, as they were perfectly aware of the rates requested or other high requirements. Usually they explained their passive attitude because no employer would be ready to accept the extra expenses associated with hiring the staff subject to extra taxes.

#### **The story of Otabek Mukhitdinov**

Life in the capital is so complicated with frequent police raids that it's almost possible to be in the capital alone without good connections in the police or good friends who know you and may introduce you to the sheriff of the district you live. Any important official visit or national holiday starts with the deportation of "unreliable" people without registration in the capital. I compare

myself with a criminal who is not allowed to visit public places or freely walk on the streets. Our presence is invisible since we go to work secretly and very early in the morning and then directly back home, often by taxi. We cannot afford to walk on the streets because the capital is full of police stopping you on every corner to check documents and get some money from you. The police easily detect us by our appearance, colour of our skin burned under the sun and our poor clothing. About 12 friends live in the small apartment, and should they need to buy something they do not risk going out of the apartment. I am highly sceptical with respect to the future in the capital and am thinking of moving to Russia.

Markets are one of the most popular places for *mardikors* to work. Often they are employed in the wholesale department, loading or securing the goods and at the same time, some of them assist people with their shopping and deliver their fruits and vegetables to their cars. However, not every one is allowed to work there, since you have to bribe the police regularly as well as those representing the majority of the workers who protect the market from an overflow of migrants. The same is true of work in illegal building and reconstruction services. There are also many other less popular places for gatherings of illegal migrants such as “labour exchanges” in the suburbs where prices for *mardikor* services are significantly lower.

#### **LAS meets a police officer in a market**

When the police officer noticed one of us asking questions and writing something down, he asked us to show the comments and explain what we were doing. We wanted to know what was wrong. He could not explain what law we violated by interviewing the *mardikors*, but was very nervous since the idea of our recording was not really ideal from his point of view. In less than a minute all the *mardikors* left the presence of our interviewer since they were absolutely sure that later, after we had left, the same guy in uniform could be quite dangerous for them. Nevertheless, our dispute did not end there: the policemen insisted and at the same time was glad to finish the dispute with people who so bravely defended their rights. In reply to our question: "What law did we break by talking with those people?" he stupidly said: “the law is myself and I am here to dictate what to do”. That poor guy was the ordinary private, with no distinctive signs on the uniform. It was really a pity to observe such a limited understanding, comprehension, professionalism, so dangerously emanating from people like that.

The illegal situation of the immigrant workers means that they do not benefit from social security. Many examples show that migrant workers do not receive health care, compensation in the event of accidental death or old age pensions and that they work in unsafe and unhealthy conditions.<sup>66</sup> Examples also abound of people working for private individuals or police officials on construction sites and not receiving any pay for their work.<sup>67</sup> The situation could be described as one where slavery and human rights violations happen daily and are the norm.

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<sup>66</sup> One example is that of a *mardikor* who died in an accident while working on the summer villa of Uzbek businessmen. The businessmen did not call for police or ambulance, but invited the relatives of the victim. He gave them a bag of flour, rice and some meat for the funeral and let them go. The relatives did not complain or investigate what happened. The attitude of the relatives is also significant - they were threatened by the fact that the guy was working illegally, was not paying taxes, was not registered; the police would not solve the problem but initiate investigation and punish anyone else but those responsible.

<sup>67</sup> Almost every *mardikor* interviewed complained that usually people hiring them did not pay them as much as was agreed. Sometimes they didn't pay them at all. No legal remedies are possible since they do not have valid papers and labour contracts.

The fact that *mardikors* have little or no chance to obtain papers for permanent living and employment in the capital strains their relationships with police and causes tensions in the whole of society. Every second person interviewed explained that those who decided to join criminal groups were in a so called “no exit” situation. They felt that it was not only the individual who is responsible, but also society as whole and each person in particular.

Often, *mardikors* stated with some anger and fear that their only option was to return to their places of their origin. To survive there the only alternative was to join the radical studies of Islam; many of their friends were risking their lives and distributing literature and leaflets for US\$20-50 a month.<sup>68</sup> However, the absolute majority of those interviewed were not ready to break the law and earn money by robbery or other crimes.

To survive in Tashkent, *mardikors* have some “safe” places to gather and then go back to the job and to the city by taxi which is very expensive for them but to take public transportation means to be noted by the police and questioned and fined. Therefore their presence is very invisible, they work at the places where they are needed and then hide where they sleep.

#### *Women mardikors*

Historically *mardikors* were men working in hard low paid positions and doing the most unfavourable physical work, but now the number of women working in the city as *mardikors* is great and there are no visible signs why the situation should improve. About 40 women working in the city were interviewed, with very illustrative stories about their experiences. Most of those women are alone or have handicapped husbands incapable of hard physical work<sup>69</sup>. In addition, the state pension for the handicapped amounts to a maximum of US\$15-20 a month, whereas unofficial but very true living minimum is about US\$150 for a person.

Women *mardikors* have a better chance of finding a permanent job than men. Usually rich and middle class households hire them for decent money for housework or babysitting. As one women aged 30 told us: “I am a lucky women, because I found a good job with good people, I live in a room in their big house, I am well paid and have no other problem but to work and be friendly with the family. I am sure that everybody in my situation could dream about such a chance”.

#### *Prospects for change*

This research disclosed the deepest roots for intra-society tensions and misunderstanding prevailing between people of the same nationality and origin. The main conclusion was that Uzbek society was in deep crisis. People were unable to formulate their claims and coordinate a dialogue with the authorities, who paid very little attention to them.

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<sup>68</sup> One *mardikos* told the story of two of his elder brothers, who were jailed for participating in a radical fundamental group. They were distributing literature and had about US\$50 a month. That was only the work for them; they had never before associated with those radical people but had no other source of income. After they were jailed the brother was called to the police several times, each time suspected of participating with radical studies groups. Then he decided to leave for Tashkent, and to live and work there.

<sup>69</sup> Albina from Tashkent did not have permanent place of work, she would get offers of housework. Her husband left her without a word a year ago for other women, and does not support her or the children. Her brother who assists them is also not a rich man. Therefore she left her children with her mother and went to the city. Albina says that life in the city is horrible and that she always wants to come back to her children, but in her village there is little or no possibility of earning money.

There appears to be no understanding of the problem or of the ways it might be solved. No-one interviewed had any knowledge of his/her rights or what characterised immoral legislation. It seemed that people are not ready to understand that laws can be immoral and inhuman and that the practice of registration is not something people have to live with like their parents in the Soviet era.

People are not aware of other practices in the other countries of the world. All they complained about was unjust requirements for registration, but not the practice itself. They were not ready to demand changes from the State, but each of them was looking for solutions in the existing legislation. Usually people are too poor and frustrated to lose the very minimum they have, and the same applies to people working to survive rather to enjoy to life and hope for the better. As one *mardikor* remarked, he does not have enough courage to protest and demand change: the level of poverty is so high, that many have lost their self-respect, making them become stupid, limited and apprehensive. Loss of self respect prevents them speaking and acting freely. He added that with a paradigm shift in Uzbek ideology, the necessary changes would be possible, resulting in a more developed and civil society. "Nowadays we are silent, we are stupid, we are not protesting, but passively leave our places to the cities or new countries without dignity to actively protest for the empty stomach".

The research was educational for the people interviewed and the interviewers: LAS provided information on itself and the fact that, although resources were limited, people could always rely on our support or advice.

## **B. Domestic violence: case study<sup>70</sup>**

### *Objective and methodology*

This study focused on the problem of domestic violence because the problem is not officially recognised by the Government. Domestic violence is divided into direct and indirect violence; is the latter occurring when a third party connives or fails to create conditions where domestic violence is strongly punished or to eliminate factors contributing to the development of such violence. The study concentrates mainly on indirect violence, as eliminating this will allow fighting direct violence more effectively.

Violence is not only physical or sexual abuse, but also emotional such as verbal humiliation. This definition of domestic violence allows us to look at this problem from different angles. Furthermore, domestic violence not only involves partners but also family members.

The aim is not to explore why violence occurs in the family, but to examine how poverty can affect domestic violence. Despite social class or wealth every women could be exposed to violence but we explore how social class, wealth and infrastructure can affect dealing with and fighting domestic violence.

The most problematic part of the research was collecting data and interviewing victims. The mentality of many people in this part of the world is to obscure the problems in the family, since traditionally family issues are not in the public domain. At the same time, official data is silent on cases of domestic violence and getting relevant figures was next to impossible. Interviews were rather random and their aim was to get as much information as possible and

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<sup>70</sup> This Case Study is based on a fuller Case Study of Domestic Violence prepared by the Legal Aid Society Uzbekistan and contained in the CD-ROM included with this publication.

then systematise it into comprehensible and logical conclusions. An important part of the research concerns the attitude of the police with respect to the domestic violence.

### *Background to the problem*

One of the factors causing domestic violence is the low level of education and cultural background of the person committing violence against women and also the low education and culture of the victims of such violence. This factor is believed to be the most complex to deal with as it involves many other factors that will be analyzed here. Knowledge by women of their rights and well-developed infrastructure and legal conditions to support these rights in practice can significantly contribute to the decrease of domestic violence. Unfortunately none of these exists in Uzbekistan.

Uzbekistan is basically an agricultural country. From the early times agricultural villages had no or poor access to education and other public services. Women suffered from deep despair living with a family that continuously abused them and it may be asked what prevented them from divorce and why they remained silent without protesting against the behaviour of their husbands and sometimes the whole family abusing and harassing them.

A whole complex of factors affects the issue of divorce, among them traditions and poverty. Traditionally, divorce was disgraceful; moreover in Islam only men had a right to divorce their wives. In the Soviet era women were given more rights in terms of divorce but old traditions persist. A woman leaving her husband would be blamed for everything and no consideration given to the fact that she had to suffer abuses and harassments. Women have no access to property, thus they have to come back to the family of their parents. A woman coming back would bring shame on the whole family and this could further create problems for the arrangement of marriages of any brothers and sisters.

A woman from a poor family has no or very low access to education and a profession so that even if she finds a job, it is too low paid to support herself and her children alone. Women from poor families are more marginalised than those of more wealthy families. In most cases, the parents' family can barely support itself and another woman with her children can be a heavy burden. Therefore, most women suffering from abuses and harassments live in despair and have no place to go.

One of the most controversial traditions of Uzbek family relationships is the practice of the youngest son bringing his bride to live in the house of his parents. This causes many problems, and instead of a two-sided relationship and love, the couple must coordinate their lives with the beliefs and understanding of the parents. The exceptional national respect of youth for older people means that the opinion of the elders must be followed. Interviews tell of the many difficulties for the husband who becomes the centre of quarrels between the new bride and his mother. Sometimes such situations end in violence and brutality. The most widespread problem is the husband's total and wordless obedience to his mother's position to the detriment of bride. There are many examples of domestic violence in which the whole family takes part in humiliation and harassment over the women. In 80 percent of the violent marriages mentioned the interviewees believe that living independently and alone from parents could make it much easier for both sides.

There is a combination of old patriarchal traditions with a much more modern western lifestyle. Society is divided into rural and urban populations, often with exceptions when

people from the both camps may confess principles different for the majority of that particular area.

In spite of secular laws prohibiting discrimination on the grounds of gender, old and archaic traditions prevail, where the role of women is often limited to domestic issues, bringing up children and a minor professional career. Uzbek legislation does not allow any discrimination and accordingly, *de jure* women may enjoy the same rights and freedoms as those practised by men. Moreover, labour legislation guarantees preferential rights for women in cases of termination of labour contracts in cases of redundancy or vacations or necessary leaves for baby-minding etc. However, in practice such rules have the reverse affect on the position of women, since an employer envisaging future difficulties with extra guarantees for women prefers to hire. Tough family traditions and household duties also make women less attractive as employees, and jeopardises their performance in the work place hindering their career, self-realisation and independence. The most widespread problem for any woman who is educated and young is to find a proper job. Normally employers have no desire to hire young lady of marriage age. Often in interviews employers are interested in the plans of women for pregnancy. Although this is the most irrelevant question for any possible position, however this is very normal situation.<sup>71</sup>

At the same time, there is daily glorification and admiration of women and her ability to reproduce and bring up children. Women are often deemed secondary human beings and isolated from important state affairs not only because of strong patriarchal traditions but also because the State gives less and less rights and opportunities to women.

#### *Cases of violence*<sup>72</sup>

The victims of violence interviewed included different kinds of women: younger and older, those who were married in love or so called arranged marriages. In all cases there were different stories, people and perceptions. Some were victims of severe cruelty and some were more lucky and beaten rarely. But the main conclusion is that the women are ready to accept male cruel education methods for better and happy future for themselves and their children. A number of cases are described in the Annex to this chapter).

Poor education and archaic traditions have contributed a lot to understanding that man is powerful and unlimited in his right to form family relationships with no respect to women and her needs. In the majority of interviews, women expressed understanding and respect for the decisions of men. Thus one young woman stated that men must be responsible and must be the breadwinner, must be firm with children in order to give them a proper education and good morals, and be loving but at the same time demanding and if necessary cruel to their wife. Another woman expressed the view that beatings and a severe education for women who was suspected of unfaithfulness is good and normal for maintaining high standards for the family. She argued that cruelty may resolve problems in the family and that couples know best how to manage their relationship. She was shocked asked by the interviewer: “Why don’t you beat your husband when he is unfaithful to you or you suspect him of other

<sup>71</sup> Natalia presently occupies a high position in a large multinational company. At the time she joined the company many years ago, the management asked her to sign a paper prohibiting her to give birth in the next three years. She did not want to sign that paper but the situation on the labour market left her no choice but to agree to this humiliating condition for any woman.

<sup>72</sup> Many additional cases of violence are contained in the full LAS Case Study on Domestic Violence included in the CD-ROM.

wrongdoings?” The lady could not understand how a wife could beat her husband and why the duty and care for the family and decision-making could belong to women.

These stories demonstrate a mentality which despite suffering and humiliations does not exclude male supremacy with the features of cruelty. It would appear that the main difference with cases of violence in western countries is that women do not accept violence whereas Uzbek society justifies reasonable violence.

Not all women remain passive when confronted with a violent person next to them. One woman who was systematically beaten by her husband and finally raped by one of his friends, applied to the police, seeking protection. In this case the police quickly initiated the criminal investigation and within a month submitted the case to the court, and both husband and his friend were sentenced to jail. After she applied to the police, the husband and his friend asked her to withdraw the application, but she refused to do so.

### *Suicide*

Suicide is often the result of the violence, hopelessness and unbearable pain suffered by many women. The economic conditions which are often at the root of the situation are the increased poverty in rural areas without social security and other support and with women seen as responsible for housing, food, etc. Many victims of violence complain that low income and miserable life makes their husband angry and nervous with frequent brutal fights and beatings.

#### **The story of Kholida**

Kholida who is 37 years old came to Tashkent as a *mardikor* tells her story: “My husband is a driver in Kashkadariya oblast of Uzbekistan. His work is with different employers with an unstable income for planning the budget. Usually he is without work, angry with the whole world and himself. Every second he finds the only guilty person is me. He pushes me, yells at me and beats me. I know that the reason is his misfortune and no work. He is angry about everything even me being his wife. Often he beats the children when they ask for food, sweets, toys etc. When we no food but bread and tea, he believes that there must be something even though there is nothing to eat. I was about to commit suicide, especially in when my children are sick and I have nothing to buy them, no medicine no fruits, nothing. Indeed, suicide was the next step to take. I did not know what to do, I did not know how to change the life”.

This is the story of women who was about to commit suicide, but there are hundreds of others who really did do it.

Suicide or attempted suicide is the worst outcome of domestic violence. Women commit suicide and this is taken as a form of protest against violence as there are no others. The tradition of suicide in Uzbekistan is very much differs from that in other parts of the world. Shockingly, Uzbek women, women in some Tajik provinces and in parts of India, choose to end their lives by burning themselves publicly or when they are alone. There are no words to describe the horror of young women running in pain, burnt and falling down on earth in deadly suffering. There is no power to analyze the situation and what has forced them to do that.

Obviously such a terrible option comes to the idea of protest and declares martyr life. Surely a woman who does not want to leave this life quietly wants to say something she could not say alive. She could not say when the society could do something and save her life. Or there

are so many such stories around that society became blind to them, became indifferent and men continuing to imitate mistakes of the past. Why Uzbek people have no brave to talk about it, to investigate and try to find answers.<sup>73</sup>

### *The role of the police*

The corrupt and passive police are afraid to “distort” criminal indexes and reporting of progress by numerous family related issues. One interviewee was raped by her husband and beaten a few times. The wife asked the police for the help but they tried to convince her that quarrelling is normal everywhere and that they could not waste time by mitigating between couples. The story ends with dangerous cranial injury

The police often humiliate the victims of domestic violence and women have little trust in the police. For many women, the image of policemen is associated with well known instances of violence in the police jails and investigating offices. Not all women are ready to call for the police, because they are well aware of the poor conditions in the jails, tuberculosis and torture. Many victims are not prepared to have the father of their children imprisoned and thus lose even the most miserable assistance the husband provides. They believe that jail and police are not the solution but make their life and relationships with the relatives of their husband even more difficult.

### **The story of Svetlana**

Svetlana said that she had to recount five times the sexual humiliations and rape by her husband to different investigators of Yunus Abad district police department, as if they wanted to verify whether the story was true. She re-lived the horror every time. She described the unbearable feeling when retelling it to different and unknown people, who were not in a hurry to help her, but listened sceptically and indifferently. After those five interviews Svetlana decided to stop visiting the police and forget the story. She finally lost confidence in the police and it confirmed her impression of injustice and indifference.

In some cases the police make a real contribution to the resolution of problems between couples, but that this is not always the case. It depends on the person and his/her personal understanding of the problem. Many police people do not understand that rape and violence in family as a crime and they do not have the necessary training.

### *Summary and conclusions*

While this research did not focus on age, social-economic or educational distinction of the persons interviewed, the victims were very much under the influence of their socio-economical situation. Often poor people justified or explained their passiveness with generally understandable economical issues. They argued that poverty, unemployment, low social security etc. did not contribute to their willingness to live independently or call to police. They are dually threatened, from inside by the family and outside by the economic and social situation. In addition, other common factors such as the tradition of Uzbek families when the youngest son brings the bride to live with his parents contribute to the problem.

The research identified the following characteristics as inherent in enabling men to be violent:

- Men don't believe in life without violence, and apply "educational" forms of violence;
- They are very much under the influence of patriarchal traditions in which the role of the man is superior;

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<sup>73</sup> LAS Domestic Violence Case Study, pages 18 – 19.

- They often practise aggression in sexual relationships;
- They do not understand how serious are their offences;
- They are ready to attribute their sins to others, sincerely believing they are right.

The study revealed that, on the contrary, the victims have the opposite features. They do understand and accept their mistakes; they are not sure of themselves and finally are ready to accept any aggression as payment for their bad behaviour.

The problem of domestic violence is complex and affected by many different factors, such as financial position, low culture or education and problems arising from childhood and many others. Often, the poor economic situation of the woman makes her a hostage of the violent family – but also became hostage to the socio-economic situation because single and divorced women often with children have little chances of surviving. In fact, single mother prefer to suffer pain rather than risk the life of her children and be alone face to face with poverty, low social security and unemployment.

This research showed that all women despite social class, economic welfare, colour of skin or origin are vulnerable to domestic violence; however, how they resist or stop being violated depends on the whole complexity of issues where social and economic welfare plays a crucial role. Social security, an effective economic system and wide opportunities for women leave far less scope for domestic violence to be systematic and treated as a normal phenomenon in the society.

The Government's recent economic reforms, corruption at all levels, the poor social security system and low development of infrastructure all add to the problem of domestic violence. Pretexting temporary economic problems, the State has abandoned the arena of social welfare. Today there is not a single agency directly addressing the problems of violent families. The authorities have failed to state their position and develop a programme. The State passes the topic over in silence and ignores any active measures.

Partly this ignorance is dictated by lack of free speech: the poor human rights record of Uzbekistan prevents discussion of this problem and people do not know what to do and how important the problem of domestic violence is. The mass media, supposedly responsible for regulating and educating people, is not free to do so but is free to glorify the power, the State and to illustrate success and happy stories only.

The Government, together with the civil society, should create an environment that allows rehabilitation of women suffering from violence and to support women suffering from violence, for instance special shelters for violated women where they can spend at least one night. Such institutions can provide support and advice. One obstacle is that the residents of a particular territory are not allowed to rent an apartment or take a room in the hotel in the same area.

The notion of a shelter is related to broader issues of financial and economic independence. The majority of women in Uzbekistan are either unemployed or financially dependent on income received by the husband. The low level of state support for single mothers and the reduced economic opportunities for women do not provide an alternative. Changing the position of women will require deep social and economic reforms. When women are free and financially independent many problems will be resolved on their own.

The State should also create the necessary legal framework reforms on the relationships in the family and introduce the necessary changes. Brutality in other families makes women believe it is normal. Women suffer in silence before violent and strong men and legislation does not provide any remedy but criminal punishment. Criminal prosecution is not always adequate to every situation. The perception with respect to domestic violence of the police requires urgent intervention since the absence of special skills, and training makes the police efforts miserable and poor.

The problem of indirect domestic violence – third party connivance or even tolerating it - is not recognised as such by the Government and almost no measures have been taken to improve this situation. The structures that have been created by the authorities have in the most cases worsened the situation as those structures force women to be patient. In addition, governmental agencies carry out awareness raising campaigns that are mainly related to improving old habits and traditions that partially and indirectly contribute to domestic violence. Government steps should concentrate on creating and developing the economic and legal basis for a solution to the problem.

Civil society has an important role to play in the creation of crisis centres, education of women about their rights and providing opportunities to learn new professions that are more in demand.