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OBSERVER:

A JOURNAL ON THREATENED HUMAN RIGHTS DEFENDERS IN THE PHILIPPINES

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HUMAN RIGHTS DEFENDERS: PERCEPTIONS AND PROTECTION

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EDITORIAL

In the shadow of the massacre in Maguindanao, Mindanao, where at least 57 persons including at least 13 journalists and 2 lawyers were killed on the way to register a candidate for election, and which lowers the hope for Peace and human rights in the Philippines, the second volume of the Observer is released.

This volume's focus is on human rights defenders. We let them speak on their own. Their perspectives and perceptions as well as multinational organisations' efforts to protect and promote them and their work are put in the centre of interest.

A profound experience for those working on Philippine issues in German civil society was the meeting with Edita Burgos, the mother of Jonas Burgos, an activist abducted 3 years ago. Edita founded an organisation, Desaparecidos, where mothers and families of victims of enforced disappearance seek help amongst each other. Edita met government officials and civil society members in Germany and other parts of Europe in November 2009. It is impressive how she managed to approach different agencies and the public. At the same time, she and her fellow activists face great danger. Seeking for justice, Edita knows about her role as a human rights defender.

The remote areas of Negros Occidental and Quezon Province are where IPON accompanies human rights defenders. Men and women are committed to a certain struggle sometimes without even recognising the connection to human rights. They are the protagonists of the two front articles of this volume. IPON observers based in Negros Occidental present a portrait of a human rights defender from the organisation Task Force Mapalad (TFM). Connecting all activities of TFM to appropriate articles of the United Nations Declaration of Human Rights, they reveal the clear human rights character of the work of this peasant organisation. The reportage about the peasant organisation Kilusang Magbubukid ng Bondoc Peninsula (KMBP) and their allies even goes one step further. Based on their experience, the interviewed human rights defenders discuss common conceptions of human rights in general.

Besides introducing the term itself in her article on human rights defenders, Sarah Potthoff provides an introduction of the instruments and guidelines used by the United Nations and also the European Union to protect human rights defenders. Two more contributions to this Journal deal with the EU's efforts regarding the security and support of human rights defenders. Barbara Lochbihler, Member of the European Parliament, gives a reflection on the European Union Guidelines on Human Rights Defenders and stresses the importance of mainstreaming the protection of human rights defenders in all EU missions and bilateral talks. A practical perspective on the said guidelines is given in an interview conducted by Felicitas Koch and Eric Janotta, human rights observers in the Philippines. In this Interview Romina Sta. Clara and Nayia-Panagiota Barmpaliou, two Officers of the Delegation of the European Commission to the Philippines, share insights on how the guidelines are implemented on the ground. From their missions' perspective, they emphasize the crucial role of human rights defenders working directly in the field and handover firsthand information to them.

Through the different articles, this journal aims at establishing a connection between the firsthand information on the ground and persons in charge, decision makers and the international community.

COVER PICTURE

Human rights defenders of TFM get shaved their heads during hunger strike, Manila

DEFINITION OF HUMAN RIGHTS DEFENDERS AND THE FRAMEWORK FOR THEIR PROTECTION

Sarah Potthoff
30 years, Magister in sociology and literature with an emphasis on sociology of development and gender studies; human rights observer with IPON in 2007.

Who are Human Rights Defenders (HRD)?
Basically anyone can be a human rights defender: e.g. a poor Filipino farmer who is fighting for his or her land, a Brazilian slum inhabitant who is fighting for a better housing situation, a German unionist who is struggling for better working conditions or a rich Canadian woman who is struggling for women's rights.

According to the UN "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights", all individuals, groups and associations can be human rights defenders regardless of being professionals, volunteers, activists, personally affected or not. Thus it is not a person's title or the name of the organisation the person works for that matters most, but the character of the work. The work must be related to human rights and for that three key issues must be followed:

Anne Ritter | Maribel Luzara (KMBP-President) claming her rights on an agrarian reform demonstration, Manila

First of all human rights defenders must accept the universality of human rights as defined in the "Universal Declaration of Human Rights". For example, it would not be admissible to defend the human rights of rich people but to refuse equal rights to poor people. Furthermore it is not essential for a human rights defender to be correct in his or her arguments in order to be a genuine defender. The important question is whether or not the defenders' concerns fall within the scope of human rights. In a dispute about land for example a group of defenders advocate the peasants' rights to own the land they have lived on and farmed for several generations. Simultaneously a big landowner claims the right of ownership for him- or herself in regard to the same piece of land. The group of defenders may or may not be correct about who owns the land. This is not relevant to the question whether or not they are human rights defenders. Finally, actions taken by human rights defenders must be peaceful.

Because they stand up for their rights, human rights defenders worldwide are prone to be criminalised and harassed. In many cases "they have been the target of executions, torture, beatings, arbitrary arrest and detention, death threats, harassment and defamation, as well as restrictions on their freedoms of movement, expression, association and assembly. Defenders have been the victims of false accusations and unfair trial and conviction." (UN Fact Sheet No 29: 10). State authorities are the most common perpetrators of any kind of attack against human rights defenders even though they are primarily responsible for ensuring their protection. Police and other security forces are the most visible perpetrators but not the only ones. Others appear within the court system when authorities push human rights defenders into administrative "illegality" to use this as the basis for arrest and conviction. Besides, it can be difficult to identify the perpetrator who committed an offence against human rights defenders, e.g. in cases of anonymous death threats.

In all these situations it is important that state authorities are in charge of investigating the crimes committed and providing the necessary protection. Various non-state actors commit crimes against human rights defenders as well

and they also bear responsibility. Those actors can be armed groups, transnational corporations or individuals and their actions can be both with and without state complicity.

How does the UN try to protect HRD?

Recognising the important and vulnerable role of people struggling for human rights convinced the United Nations that human rights defenders and their work needed special protection. The "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" was adopted by the United Nation's General Assembly resolution 53/144 in December 1998. In April 2000 a second step was taken when the United Nations Commission on Human Rights asked the Secretary-General to appoint a special representative of human rights defenders to monitor and support the implementation of the declaration. The first holder of that mandate was Ms. Hina Jilani, a lawyer and famous human rights defender from Pakistan. In March 2008 the Human Rights Council appointed Ms. Margaret Sekaggya to the position. Ms. Sekaggya is a magistrate from Uganda and was the chairperson of the Uganda Commission on Human Rights from 1996 to 2008. She is also a member of the United Nations high level task force on the implementation of the Right to Development.

The mandate of the special rapporteur on human rights defenders is broad. His or her main task is to seek for, receive, examine and respond to information about the situation of human rights defenders. Furthermore the special rapporteur should establish cooperation and conduct dialogue with governments and other interested actors in order to promote and effectively implement the declaration. Another task is to recommend effective strategies to protect human rights defenders as well as to secure the follow-up on these recommendations.

In its resolution, the Human Rights Council urges all governments to cooperate with the special rapporteur and to provide him or her with all requested information. The governments are also urged to implement these recommendations and follow up on them. Within the exercise of the mandate, the mandate holder has to present annual reports to the Human Rights Council and the General Assembly. These reports cover particular topics or situations of special importance regarding the promotion and protection of the rights of human rights defenders. Moreover the special rapporteur undertakes country visits and takes up individual cases of concern with the governments. According to the Office of the United Nations High Commissioner for Human Rights the special rapporteur requested a country visit to the Philippines in 2008. Still the visit has not taken place.

How does the European Union (EU) try to protect HRD?

The European Union continues to reaffirm its attachment to the principles announced in the Charter of the United Nations. Human rights are an important issue of safety policy and foreign affairs of the EU and its member states. In this context the EU has developed some common instruments for the encouragement of human rights and democracy. One of those are the Guidelines on Human Rights Defenders which the EU adopted in 2004 and revised

Anne Ritter | Human Rights Demonstration

in 2008. They were conceived as a practical tool to help EU embassies and consulates to interact with persons, groups and institutions who work for the protection, respect and guarantee of human rights. The EU regards the support of human rights defenders to be an effective and efficient way of promoting and protecting human rights throughout the world. It claims to follow the motto of the Irish NGO Front Line: „Protect one, empower a thousand." The EU recognizes human rights defenders as key actors who contribute to the effective elimination of all human rights violations. Hence it is seen as of utmost importance to ensure their safety, protect their rights and support their work all over the world.

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FIGHTING HUNGER WITH HUNGER STRIKE: THE DANGEROUS LIVE OF A HUMAN RIGHTS DEFENDER

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Edna Sobrecaray works as a community organizer and spokesperson for Task Force Mapalad (TFM), a peasant-based movement for agrarian reform and rural development in the Philippines. TFM is a non-governmental organisation (NGO) with the mission "to improve the quality of life of farmers and farm workers by supporting their initiatives for access to land resources and productivity development" (www.tfmnational.org). The organization works nationwide in nine provinces in the Philippines and counts around 25,000 members.

TFM helps landless farmers to acquire land through the Comprehensive Agrarian Reform Program (CARP). To push the process, they exert pressure on official authorities by arranging dialogues, organizing the farmers and if necessary by enforcing regional or even national campouts in front of the agencies concerned. As a last resort, they use hunger strikes to emphasize their legal claims and to gain nationwide media attention. Furthermore, TFM farmers are trained in legal facts and assisted by lawyers in case of prosecution. TFM believes in non-violent forms of struggle and acts in compliance with the law.

Edna Sobrecaray, 39 years old, started working for TFM in November 1999 just after the organisation was founded. As community organizer she supervises wide parts of TFM-related estates in Negros. In October 2000 she also became the spokesperson for TFM, making her the voice of TFM nationwide. Since 2002 she has been co-organising a weekly radio program in Negros where she speaks about current issues of the land conflict.

We interviewed Edna on 7th November 2009 when she told us more about her work with TFM, her motivation and the threats she has to face because of her work. In this article we relate her work for TFM to the Universal Declaration

 IPON | Community Organizer Edna Sobrecaray

ARTICLE 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

of Human Rights, thereby showing that TFM members are human rights defenders. The term "human rights defenders" is used to describe people who, individually or with others, act to promote or protect human rights (see article by Sarah Potthoff in this volume). The aims of human rights defenders include not only political, but also civil and economical rights. TFM fights for human rights like the right to live, to food and a decent standard of living.

According to the UN Declaration on Human Rights Defenders, these should be especially protected. Nevertheless, Edna has been threatened several times personally. Once she was offered a monthly amount of money in case she would stop working for TFM. When she declined the offer, she was reminded of the fact that the money could also be spent on bullets against her. She was also followed by motorbikes and blacklisted at one farmland. In 2006, her fellow TFM community organizer Rido Adeva was killed. But even though she is afraid and often has to change residence, she has never wanted to stop. Fortunately, the number of threats against her has decreased because she is known and killing her would unleash unwanted media attention. "They know that I am well-known now" she tells us with some pride in her voice and continues that "they also know that the whole TFM will react when something happens to one of us."

Still, Edna took more than just security risks. Taking serious health risks, she participated in three hunger strikes. One of these lasted 29 days and the people who took part were in severe danger of dying. "With my participation in the hunger strikes," Edna says "I wanted to help the farmers and encourage them." She knew "that there was a risk of dying", but she had a feeling that "I have to do it. It is my mission as the spokesperson of TFM."

Conscious of her efforts, Edna sees herself as someone who fights for human rights. "So I am a human rights defender," she deduces. "If the laws are not implemented properly, it is up to us to build pressure on the state authorities. It is a human right to have a fair trial in court," she finalizes raising her voice.
In some cases the right to a fair trial by an effective and impartial court seems to be violated. Edna complains that the legal process is very slow when farmers are concerned but speeds up considerably when an influential landowner files a case. One time she was accused personally, but the case had to be dropped. All she had done was to attend an official handover of land.

Her engagement is impressive, in particular when she reports that neither she nor her parents have an agricultural background and she had worked as a nurse before she started working for TFM. Asked about her motivation, she responds that during her nursing work "I also helped people, but now as a community organizer I can help people in economic, social, justice and educational ways." Most important

ARTICLE 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

© TFM | TFM members on hunger strike, Manila

ARTICLE 17.

(1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.

ARTICLE 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

for her "is poverty reduction of the farmers, that they are no longer controlled by the former landowners and to bring an end to the human rights violations." Her main motivation is simple, and she believes: "The farmers have the right to own land. This will help to reduce poverty."

Edna and her companions hope that through the Comprehensive Agrarian Reform Program (CARP)

ARTICLE 3.

Everyone has the right to life, liberty and security of person.

the land will not only be distributed to landless farmers, but also that support services for Agrarian Reform Beneficiaries will be provided. The goal is to ensure the productive cultivation of the land by the new owners.

The correlation between land reform and poverty reduction has been discussed largely in social sciences (cf. Balicasan 2007a; Ballesteros 2008). It is broadly accepted that the situation of previously landless farmers improves when they get ownership of land because their income generally increases.
For the land reform in the Philippines in particular, Balicasan traced the quantitative significance of factors leading to poverty reduction. Besides the initial economic and institutional situation, agricultural terms of trade and the infrastructure, the implementation of the CARP program is a leading factor for poverty reduction (cf. Balicasan 2007b).
Without the support services, however, it will be very hard for the new landowners to cultivate the land productively. Poverty reduction in combination with security of life is a goal not only set by local activists but can also be found in the Declaration of Human Rights written more than 60 years ago.

According to Edna state authorities should be addressed. "They are the ones to protect and implement the law and ensure the security of the farmers". Before she started to work for TFM her interest in politics was limited, but now she does everything to make sure that the law is implemented properly.
So far she still has confidence in some state authorities. In general Edna works closely with the Department of Agrarian Reform (DAR). With a little smile on her lips she admits: "In some cases they get angry with me" when she reminds them to do their job properly and according to the law.

Over the years she found some friends at the police warning her in case of threats. The small woman seems to grow in front of us while reporting about countless incidences when the local Philippine National Police (PNP) did not react to harassments, threats and violence by local men affiliated with the former landowner against TFM farmers. In those cases, TFM pressures the regional PNP to intervene. Still, she and the farmers fighting for their rights do not feel sufficiently protected, which violates the right of security of person.

There are not many things that can disconcert her, but she feels that the police acts slowly when farmers are concerned, but flashes into action when an influential landowner seeks assistance. Some of her farmers have made the experience

that "police only react to harassments when they are requested by the DAR."

Edna also criticises that state actors coming from other parts of the Philippines seem more willing to intervene actively, "because as outsiders they are freer from exterior influences". It is no coincidence that Negros is considered one of the strongest bastions of feudalism in the Philippines. Edna is proud of her work and rightly so: her greatest achievement was that through her work, nine farmlands have successfully been installed with support services. The work of TFM in the Region Negros Occidental resulted in the handover of 89 of their 314 farmlands. However, a lot of work is still lying ahead of them as bureaucracy works slowly in Negros. "The biggest problem is slow implementation", Edna knows. She endorses the passage of the bill for CARP with extension and reform (CARPER). "The new law helps us to pressure the state authorities. This is why we educate people so that they know their rights."

The human rights defenders of TFM will continue to fight for their rights, even though they sometimes fear for their lives or feel discriminated in court. Edna hopes that one day all private agricultural land will be distributed, that farmers with land titles can send their children to college and that everyone understands we are all equal in human rights.

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ARTICLE 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

IPON | TFM members plan their actions

MORE THAN JUST FARMERS - THE KMBP IN BONDOC PENINSULA

Eric Janotta
28 years, Diploma in Demographics, human rights observer with IPON in 2009/10.

In 1996 the Kilusang Magbubukid ng Bondoc Peninsula (KMBP) was founded with the assistance of non-government organizations (NGOs) to support the landless farmers of Bondoc Peninsula in their legal claim for their own agricultural land. Today, the commitment of the Human Right defenders (HRD) of the KMBP and their allies goes far beyond their simple struggle for agricultural land.

Only a few families in Bondoc Peninsula own a large part of the agricultural land. By means of the in 1988 enacted Comprehensive Agrarian Reform Law (CARL) and the implemented Comprehensive Agrarian Reform Program (CARP) the members of the KMBP claim to get a part of that land to improve their livelihood.

The first successes for the KMBP regarding the agrarian land reform had been in the municipality of Buenavista, where the first farmers got their Certification of Landownership Award (CLOA). These achievements motivated other farmers from all over Bondoc Peninsula to join the KMBP as well. Maribel Luzara (Farmer and KMBP President) is one of them who joined this peasant movement. She lives in Nilantangan, a small village in the municipality of San Francisco, which is directly located at the ocean. Most of the farmers in Nilantangan joined the KMBP in the year 2003. According to Maribel one of the farmers in her neighborhood who was already a member of the KMBP at this time got his land through the CARP. Therefore, Maribel became motivated to join the KMBP and she stresses that she and the farmers of Nilantangan were hoping to solve their problems faster when all of them are members of this peasant movement. As she goes into detail she explains very concerned that the biggest problem at that time was not the claim for own land titles but the distribution quotes within a sharing-system. Farmers who cultivated land that they did not possess had to give two third of their income to the landowner, even though the famers themselves were the ones who had to pay for the material to harvest, says Maribel. However, as soon as the farmers applied for a leasehold[1] quote, the landowner ousted them from the territory, which left the farmers with basically nothing. Expulsion is still a very common mean to prevent farmers from engaging in a legitimate struggle for land and fair harvest distributions. Moreover, related to the work as a HRD in the KMBP further legal as well as personal harassments are common practice. Maribel was charged with cases of qualified theft after she harvested coconuts. Another kind of harassment is that the private military of the landowner, the so called "goons", pointed a gun against her husband. But Maribel opposes against that harassments in the legal struggle for own agricultural land.

IPON | KMBP member fighting against criminalization

Rebecca "Ate Becca" Ruga (Farmer and Councilor in San Francisco) joined the KMBP in 1998 and was accepted in the leasehold-system in 2000. The owner of the property she cultivated gave his agricultural land voluntarily to the government in 2001. According to Rebecca Ruga this was a sympathetic landowner which is not the usual case in Bondoc Peninsula. She got the CLOA in 2002 and is still active within the KMBP as a HRD. She decided to do so, because of her success and her situation nowadays after having CLOA and her land. While sitting in her beautiful garden

she tells us, that she wants to help other farmers in her region to get their CLOA as well and to face the same good experiences she had after getting her own agricultural land in San Francisco. Now Ate Becca is able to spend more money in the education of her children. "Now we can send all of our children to school and my oldest daughter is attending the college in Manila" she says. Due to her land title she can decide for herself in what way she wants to cultivate her land. Overall having CLOA gives her a peace of mind. Still being active is a chance to be part of the improvement of the livelihood of the farmers. This solidarity between the KMBP members is helpful to fulfill their dream – having a piece of land for their family. There are still a lot of farmers in Bondoc Peninsula who need the support from HRD like Ate Becca. Having the CLOA title does not mean to stop being active within the KMBP to support the legal claim for agricultural land for the landless farmers.

Today there are more than 6000 members in the KMBP. Without signing an application or a contract one can become a member, simply by attending one of the monthly KMBP meetings. Besides the central structure of the KMBP almost every Sitio in some parts of Bondoc Peninsula seems to have its own local KMBP group. The KMBP is dominated by men in numbers but according to Maribel and Ate Becca there are no gender differences in the KMBP. What the men can do women are able to achieve as well. "If a woman wants to become active as a HRD regarding the issues of the farmers she is more than welcome to do that in the KMBP".

Roland Zano (Farmer and Electricity Director in three municipalities in Bondoc Peninsula) and Ate Becca express that it is a major advantage to hold a political position or a managerial function while being active as a HRD in the KMBP. Since 2009 Roland Zano is the electricity director of three municipalities in Bondoc Peninsula whereas Ate Becca is the present Councilor of Pagsangahan, San Francisco. Roland Zano says: "I try to use my influence to help the people to solve their problems". For

NON-STATE ACTORS IN HUMAN RIGHTS LAW

Unlike in humanitarian law, non-state actors do not have duties in human rights law, as non-state actors did neither sign nor ratify human rights treaties nor are they content of them. That means that only states can violate human rights according to international law.

As nowadays non-state actors play an increasingly important role in intrastate conflicts and are often responsible for human rights abuses, there is a current debate on if and how non-state actors can be addressed by international law or held otherwise accountable.

In the international law debate different views on the topic exist. One side argues that human rights treaties complement humanitarian law and specifies it further. Accordingly, both humanitarian law and human rights law should be applicable to non-state actors. Another approach supporting the duty of non-state actors is formulated under the so-called "Agency of necessity". This approach assumes that if non-state actors take over certain governance functions of the state for a certain social group, they can also be held responsible for human rights abuses in that field. Correspondingly, non-state actors could then occur as human rights violators. The underlying precondition for this approach is that the state itself ratified the affected human rights treaties. This regulation would count not only for violent groups or warlords but for all other non-state actors like transnational enterprises. On the other side this position encounters resistance. There are concerns that with the focus on non-state actors the state is let off the hook. Additionally, the accusation of non-state actors for violating human rights could legitimate a violent course of action by the state to fight against a certain group of non-state actors.

From the perspective of the states the acknowledgement of duties of non-state actors by international law would to some extend bring non-state actor on a par with states. This is undesired by most of the states which have violent non-state actors in their countries, especially if those groups have autonomy claims. Moreover, the acknowledgement of duties of non-state actors would demonstrate states' inability to handle problems with non-state actors in their countries.

Anne Ritter | KMBP meeting to design their actions, Quezon Provinz

example, Zano intends to extend the electricity network in 2010 which would provide farmers in Aromahan (San Andres) with electricity. That would mean a drastic improvement of their daily life, which is also important apart from their struggle for land. In the municipalities where Zano is responsible he is a well known and respected person. Whenever he joins meetings with governmental employees, their issues are taken more seriously. The influence related to his present position facilitates his work as a HRD and member of the KMBP. Ate Becca endorses that argumentation as she states that it is helpful to hold a political position while being a HRD in the KMBP because she is taken more serious as well. Furthermore, she has better access to information which enables her to inform the farmers about there rights and advise them in their personal cases.

Anne Ritter | Family members at the grave of killed activist

The situation in places like Nilantangan became rough during the last years. Not only the farmers of the KMBP started to organize, the so called "goons" also became more united. Maribel mentions that when the farmers started to claim their rights the goons and landowners started to fight actively against them. She says that: "Harassments like being attacked with guns, knives and other deadly weapons are pretty common. We were even forbidden to raise animals." It became very hard for the farmers to continue their struggle for land due to violent attacks and persistent harassment. "Even today you can see the goons in Nilantangan wearing guns" adds Roland Zano.

One of the supporting partners of the KMBP is the Quezon Association for Rural Development and Democratization Services (QUARDDS). Since 2003 Jansept Geronimo works as a Community Organizer[2]. He describes himself as a "barefoot lawyer". Informing those in the remote areas about important procedures and political realities is the main of work of this human rights defender. The Philippine Law is mostly in English and for many farmers it is hard to understand English especially when it comes to legal language. This obstacle makes it hard for the KMBP farmers to communicate directly to the governmental stakeholders in regard to particular cases, explains Jansept. "That`s why QUARDDS supports the KMBP additionally with lawyers", adds Roland Zano.

Jansept states the main sources of danger in Bondoc Peninsula are non-state actors. He explicitly refers to the New Peoples Army[3] (NPA) and the goons. At the moment the NPA is very silent but for him the silence is frightening, because no one knows when the NPA will start violent attacks again. He describes it in the following way: "Bondoc is like a typhoon – you

don`t know when it will come and where it will hit. But you know that the next one is on its way."

"The farmers which are struggling for their land receive mainly human rights violations by non state actors", says Danny Bernal (active HRD for QUARDDS). International human rights treaties are ratified by the state and from a legalistic point of view the states are the ones, which can be named as violators. "But how does this help people whose rights are deprived. Their rights are violated, no matter if by state or by private actors", Danny argues. "It is necessary to hold non state actor responsible, if they systematically deprive people from their rights especially when using violent means". He states that especially armed non state actors need to be held accountable for their actions. "Only if it is internationally known that they are responsible for grave human rights violations they will feel pressured and may change their course of action. Only by blaming them, they may loose their reputation and thereby their sympathiser."

If Bondoc Peninsula is a Typhoon then the human rights defenders of the KMBP with the assistance of QUARDDS are on the best way to breast the storm and stop the human rights violations against them.

[1] Leasehold: To be part of a leasehold system indicates that the sharing quotas are changed in favor of the farmers. Landless farmers normally work on huge plantations and have to share their income with the landowner. Within the former sharing systems the landowner was entitled to receive 70 percent of the income. After a leasehold implementation a farmer would be entitled to receive 75 percent. Furthermore the farmer could decide independently about his buyers and is not obligated to sell his harvest through the landowner.

[2] Community Organizer (CO): In the Philippines community organizing is a basic concept of non governmental organizations. The CO's work might be comparable to social work in Germany. Their main task is to unite interest groups and the support them in their struggle for the realization of rights. COs do not only work with farmers they can be found in every sector of non governmental work.

[3] NPA: The New Peoples Army is the armed wing of the extreme leftist Communist Party. This Army acts as a "Guerilla Group" in small units.

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 Anne Ritter | Seashore near the house of the KMBP-President

STILL A LONG WAY AHEAD

Barbara Lochbihler
50 years, graduated in social work and political science. She is a member of the European Parliament and used to be the secretary general of Amnesty International, German section.

Human rights defenders (HRD) around the globe remain vulnerable to attacks from state security forces as well as armed groups. This is particular true for HRD who work on highly sensitive issues like disappearance and impunity. As a consequence of carrying out activities such as investigating and exposing atrocities, combating sexual violence, advocacy with respect to the elections and independent journalism, many HRD are subject to threats and attacks. Those working in remote areas as well as less traditional groups of HRD such as victims' groups and minority groups who may not be aware of their status as HRD are particularly at risk. Threats to free expression put some HRD, in particular journalists, at risk. In Urgency Resolutions, the European Parliament raised the issue of threatened HRD in Congo, Russia, Iran, China and Syria to name just a few.

In order to support HRD the European Parliaments regularly speaks out on human rights violations throughout the world. Where appropriate, the EU puts HRD on the agenda of bilateral talks with the governments and other stakeholders.

The EU has developed guidelines that serve as a framework for the protection and promotion of human rights in third countries. These guidelines were adopted in 2004. They recognise the crucial role that HRD play in the promotion and protection of human rights in their respective countries. The guidelines provide for interventions by the EU for HRD at risk and suggest practical means to support and assist HRD. According to the guidelines in many third countries EU missions are the primary interface between EU member states and HRD on the ground. They have an important role to play in putting into practice the EU's policy towards HRD. This might happen by maintaining contact to HRD, giving HRD visible recognition, sharing information and observing trials.

The guidelines state that when EU officials are visiting third countries they will include meetings with HRD and raise individual cases with government authorities. It is necessary to translate the EU guidelines on HRD in local languages as well as to make use of local language programmes and other local media. There is also an EU initiative to create European shelter cities for human rights defenders in danger. The European Parliament requested also to set up a focal point for HRD in all three EU institutions (Parliament, Commission and Council) so as to better coordinate actions with European and international human rights bodies.

It is also important to mention that EU missions provide funding for the activities and for the protection of local HRD. Unfortunately not all EU missions are aware of the guidelines on HRD. Also some missions lack in-depth contacts with local human rights organisations. So there is still much to be done within the EU itself. The EU has to ensure that key EU staff members are familiar with the guidelines, that they monitor the situation of HRD and arrange for temporary refuge abroad where necessary. But also among human rights organisations there is a lack of knowledge on protection mechanisms and strategies. Although the guidelines on HRD provide first steps to protect activists, there is still a long way to go to implement these guidelines. The EU stresses that democracy and human rights must be at the core of partnership and cooperation agreements. The quality and depth of this promise depend on the respect and support for HRD.

Link to the guidelines

http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf

© peace brigades international - Deutscher Zweig e.V. | Colombian human rights activists investigate disappearances and killings of members

NEWS

EP-JUST – Reinvestigations in the Case of Deolito Empas

The European Commission (EC) has decided to act upon the extra-legal killings and enforced disappearances that are taking place in the Philippines. The EC, in collaboration with the Philippine government, has created the European Philippine Justice Support Programme (EP-JUST) to "help all stakeholders in the Philippines – both from government and from civil society, as well as the relevant constitutional bodies – to work together to bring an end to extra-legal killings and enforced disappearances of political activists, journalists, trade unionists or farmer representatives. And to identify and bring to justice the perpetrators (...)" (Ambassador Alistair McDonald, EU press release Feb 11th 2010).

IPON has held several meetings with the head of the mission, Detlev Mehlis, in Germany and in the Philippines, informing him about the murder of Deolito Empas, one of five victims of killings of farmerleaders in San Narciso, Bondoc Peninsula. IPON has been working on the case since the murder in 2008. As a result of the meetings, Mehlis has decided to include the case of Deolito Empas in the list of EP-JUST cases and he and his team will visit San Narciso to reinvestigate the murder.

In addition to the reinvestigation of cases, EP-JUST intends to improve the work of the Philippine National Police via trainings and workshops for police and other investigation officers.

The next issue of the OBSERVER will focus on political killings and provide further information on the murders in San Narciso and other parts of the Philippines.

THE NEW AGRARIAN REFORM PROGRAM – A TOOL TO PREVENT CRIMINALISATION?

Tanja Florath
30 years, graduated in international politics and international law, research focus on international criminal justice and human rights violations in regard to counter-terrorism policies; human rights observer with IPON in 2009/10.

In Bondoc Peninsula human rights defenders (HRD) accompanied by IPON who applied for land titles suffered for a long time from violent threats by different actors, e.g. the private security forces of landowners. Nowadays they are facing an additional kind of obstacle that impedes their struggle for land. Rich landowners file criminal cases against them with the intention of demoralisation. Due to that strategic use of criminalisation, which also states a problem in other parts of the country, the Department of Justice issued a memorandum (known as Circular No. 23[1] – for further details please review Observer Vol. 1, No. 1) that states that criminal cases related to agrarian disputes have to be referred to the Department for Agrarian Reform (DAR) for further consideration.

In July 2009 the underlying law for Agrarian Reform, the Comprehensive Agrarian Reform Law (CARL)[2], was extended[3] and the Circular No. 23 provisions have been included in the new law[4] , the so-called CARPER[5]. To prevent or at least to decrease the possibility of criminalisation by incorporating and improving the referral system in regard to the criminal cases was a main concern of civil society organisations involved in the drafting process. It was feared that the ongoing criminalisation of HRD would paralyse them eventually and terminate the struggle for land. Therefore representatives of civil society basically drafted Section 19, which states that exclusive jurisdiction on agrarian disputes lays within the DAR[6]. Contrary to the provisions of Circular No. 23, the CARPER does not distinguish between criminal and civil cases. Moreover, the decision whether a case is agrarian-related shall only be made by the DAR, i.e. its respective representatives. Whereas before, the concerned prosecutor had to consider if the case might be agrarian-related, judicial bodies are now required to refer the case automatically.

However, the law does not give information about the further proceedings – more precisely whether the case has to be dismissed by the original court or will be pursued within the DAR. This information is provided through Implementing Rules and Regulations (IRR) that have been issued in October 2009[7]. They explain in detail how to deal with agrarian-related cases. Every case that has been filed since the 1st of July 2009 has to be investigated by the DAR[8]. Until a decision has been made, the original judicial body is prohibited from proceeding and the case is pending. A conclusion has to be reached within 15 days. If the DAR investigation concludes with the statement that the case is related to an agrarian dispute, it is not proper for trial and the concerned court or prosecutor has to dismiss the case immediately[9].

Even though the new provisions appear much clearer and in favour of criminalised HRD, certain obstacles remain. A legal concern in particular would be the writing of the IRR. When it comes to legal referral systems all involved parties should participate in the drafting of the respective IRR; in this specific case the Department of Justice (DOJ) should have been included in issuing the Administration Order (AO). As long as the DAR remains the single author of this AO, judges and prosecutors who have not been in favour of agrarian reform might not feel the need to oblige. They might argue that an AO has to be issued by the DOJ and the Supreme Court

IPON | Human rights defenders waiting for the judge

to be compulsory for them as well. Therefore several NGOs went to the Supreme Court, which promised to release an internal memo stating the same before the end of the year.
A practical obstacle is the warrant of arrest. Even if a case that is used to criminalise HRD has to be dismissed, the court could still issue a warrant of arrest before the referral. For the HRD, the fear of being jailed and of the consequential financial expenses remains (for further details regarding the impacts of criminalisation on HRD - please review Observer Vol 1, No. 1).

Apparently CARPER is an improvement when it comes to the prevention of criminalisation because it is drafted clearly and solves former problems. However between written law and its implementation, huge gaps might exist. So far the new law has not been used but instead served as an apology not to refer an agrarian-related case to the DAR. This might be emphasised by the following example: In the beginning of October 2009, IPON observed a criminal trial where the defendants emphasised the connection between the criminal charges and an existing agrarian dispute. While the counsel for the defence first referred to the Circular No. 23, the judge refused to give into that argument due to the new CARPER. The council then referred to the new law's provisions and the judge stated that without IRR he would not know how to apply it. Hence he postponed the trial until he would attend a legal seminar that could advise him on the matter. After the enactment of the pertinent IRR he should refer the case to the DAR at the next hearing. However this particular judge is known for his resentments towards HRD and he might therefore serve as an indicator for so far undiscovered flaws of the concerned AO.

Weltladen Greifswald | IPONs work backed up by workshop sessions in Germany

After all the impression remains that the CARPER might serve as a better protection for HRD facing criminalisation than the DC No. 23 even did. Nevertheless local HRD do not spread much optimism. They have been part of this struggle for too long to believe in sudden changes. And they are accompanied by the fear that opponents of the agrarian reform within the legal apparatus will find another excuse to prolong and hamper the struggle of agrarian-related human rights violations.

[1]Department of Justice: Guidelines in the preliminary investigations on criminal cases related to agrarian reform; issued on June 14, 2007.

[2]Republic Act No. 6657 otherwise known as the Comprehensive Agrarian Reform Law of 1988.

[3]Republic Act No. 9700 an Act strengthening the Comprehensive Agrarian Reform Program (CARP), extending the acquisition and distribution of all agricultural lands, instituting necessary reforms, amending fort he purpose certain provision of Republic Act No. 6657 was enacted on July the 27th, 2009.

[4]Due to the DAR Administration Order No. 4, Series of 2009 DC 23 is no longer in action. Section 12: All orders, circulars, rules and regulations inconsistent herewith are hereby revoked, amended or modified accordingly.

[5]CARPER stands for CARP (Comprehensive Agrarian Reform Program) Extension with Reforms.

[6]"No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the CARP … If there is an allegation from any of the parties that the case is agrarian in nature on one of the parties is a farmer, farm worker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify … whether an agrarian dispute exists."

[7]Department of Agrarian Reform: Rules and Regulations implementing Section 19 of RA. No. 9700 (Jurisdiction on and referral of Agrarian Dispute); issued on October 21st 2009. Administration Order No. 4, Series of 2009.

[8]Ibid. Section 13: This Administration Order shall take effect on July 1, 2009.

[9]Ibid. Section 10.

"THE GUIDELINES ARE PART OF OUR WORK"

The Delegation of the European Commission is responsible for implementing the EU Guidelines on Human rights defenders and developing a local strategy. Felictas Koch and Eric Janotta interviewed Romina "Beng" D. Sta. Clara (Programme Officer, Operations Section) and Nayia-Panagiota Barmpaliou (Political and Human Rights Officer) in Manila.

Felicitas Koch
23 years, Bachelor in political science and sociology, human rights observer with IPON in 2009/10.

Eric Janotta
28 years, Diploma in Demographics, human rights observer with IPON in 2009/10.

What do the EU Guidelines on Human Right Defenders mean to you?
Barmpaliou: In a special way the guidelines try to give some practical tools for EU (European Union) representations. Specifically for human rights defenders, the decision was that we need to have a blueprint of how to protect the HRD since this is an overwatching element in our HR policy.
A part of HRD Guidelines is that EC (European Commission) delegations together with EU member states' representations and embassies and third countries should have a local HRD strategy. In the Philippines we have had drafts of a human rights defenders strategy. We finalized this after consultations with civil society and dialogues with EU member states to have a local way of addressing it.

What is their meaning for your work?
Barmpaliou: The guidelines are incorporated in the way we deal with human rights issues and automatically part of our work.

Which mechanisms from the guidelines do you use for your work in the Philippines?
Sta. Clara: Through our regular contact with the civil society we get various information and complaints. There is an established network that we have with partners, human rights activists and defenders in the country. Our interest is to get the information if there is a problem and then bring it, discuss it and see if we can do something on a legal level.
After this we share the information with the rest of the colleagues and other missions.

Barmpaliou: If an organisation refers to a case of gross human rights violations, this will definitely be discussed in the head of missions meetings and it is part of a diplomatic political dialogue to bring it out to the government.

What is the specific of the guidelines with the application to human rights defenders among the rural poor?
Sta. Clara: The majority of the reported cases under extrajudicial killings and enforced disappearances involve agrarian reform issues in the country. So this particular program is a response also to human rights violations in agrarian context. I would say this is a concrete application. But the whole process from the dialogue until today affects not just one group - women, children and indigenous peoples are given emphasis too. The program is really huge.

Through which channel do you get to know about questions concerning human rights and the situation of human rights defenders in the Philippines?
Barmpaliou: It is through partner organisations and also trough NGOs who are active in the field, like yours for example. That would be the two major components.
Sometimes we get E-mails from European NGOs, or individuals, who were contacted through their partners in the field and wish to bring specific cases to our attention.

Sta. Clara: And sometimes we get information direct from the community for example during field visits we have seen the problems.

Where do you see the weaknesses regarding the protection of human right defenders in the Philippines?
Barmpaliou: The weakness lies in an undeniable culture of impunity. That is the problem in the Philippines, with some periods that were better and some periods that were worse. The small

number of cases brought to justice and a handful of convictions points at this direction.

Sta. Clara: Yes, there is impunity. And if you go by social cultural Philippine settings, one thing that contributes is that there is less respect for human rights in the "hierarchical upbringing". That is, you do not question the authority or competency of your elders or authorities. And when you start questioning you are looked upon as a ,'rebel" or someone bad so even the usefulness of the criticism is lost.

Where do you see the improvements regarding the protection of human right defenders in the Philippines?

Barmpaliou: There has been an improvement since 2007 in special terms. You can see the killings of HRD and of political activists as an indicator. It is an improvement that there is a smaller number of killings but the killings are still happening.

Sta. Clara: I think other improvements would be an activist orientation of the courts and that the Commission on Human Rights is investigating in most allegations of human rights violations.

The Supreme Court has also changed. It improved its mechanisms and internal processes of evidence presentation. So they come up with a more progressive way of looking on evidences. For example in child abuse cases, it is no longer required to bring a child into court for cross-examination. The media has been very useful too in raising public awareness on the situation of human rights. They have not stopped the reporting of abuses or killings.

Where do you see the weaknesses regarding the support of human right defenders in the Philippines?

Sta. Clara: I think the weakness could be that there are instances when HRD were affected and we do not have the time or capacity to submit under the EIDHR[1]. So that is one downside of our procedure because our procedure is demand-driven. Assistance would be limited to those who managed to submit proposals and fit into certain priorities because we do not have that much money and resources to spread around. But I think any support is a step towards protection.

How do you support the Philippine State to protect human right defenders?

Barmpaliou: The support to the Philippine State is a new program, the EU-Philippine Justice support program. This program comes in response to a request made by the Philippine government in early 2007 to consider providing the Philippines with technical assistance in addressing the problem of extra judicial killings. So the objective of the program is to provide technical assistance to the Philippines. We try to enhance the capacity of the justice system by improving investigation, forensic techniques and also prosecution through trainings. In that sense, we are assisting in a reform of the judicial system which is urgently needed. We also try to enhance the capacity of CHR[2] in the whole spectrum of its activities.

The program is aiming to make the Philippines responsible for its own cases. Its not a program of us investigating cases, it is a program for the Philippines to address a Philippine problem. And a basic component is to bring the government and civil society together to discuss this as partners and to come up with a common solution that will hopefully be sustainable.

Sta. Clara: The way the state actors would be assisted is for them to realize the rules or understand the new laws because we have seen that those who are trained or are familiar with the new laws can act according to them. The ones who are working at the province level or in the regions, hardly get updated information so they are far behind on how to use these new laws.

The human rights education will involve State personnel so they would know what they are supposed to do with less misunderstandings. They know that there is a law but they do not understand how to use it effectively. This will be a way of helping the State become accountable.

Thank you for the interview!

[1] European Instrument for Democracy and Human Rights.

[2] Commission on Human Rights.

SECURITY PROBLEMS AFTER LAND TRANSFER

On 25th of September 2009 officials of the Department of Agrarian Reform (DAR), a police unit, a military squad and six IPON observers gathered in an agricultural region near La Castellana in Negros Occidental. On a landholding called "Hacienda Agueda" human rights defenders (HRD) of the non-governmental organisation Task Force Mapalad (TFM) are fighting for access to land, water and other natural resources that are essential to attain a dignified life.

The reason for the gathering was an administrative measure: an official installation. The term „installation" is characteristic for the situation of farmers in Negros - such as the human rights defenders of TFM - who have obtained land through the Comprehensive Agrarian Reform Program (CARP). Even after all legal issues have been resolved, the former landowners sometimes try to keep them away from their land by newly erected fences and gates, threats or violence. In those cases, the DAR carries out a land handover ceremony in order to symbolically push the legal transfer of the land.

Even though an escort of approximately 40 soldiers and policemen was attendant, the installation could not start immediately. In order to have "permission" to enter the land, negotiations with security guards hired by the former landowner had to be conducted for almost one hour. When the new landowners finally were allowed to enter the land, the short installation ceremony took place. Afterwards, the officials left immediately.

During the following days, the HRD reported several encroachments and threats to the local police. Security guards had damaged one hut and had hindered them at gunpoint from entering their land. Last but not least, 1.8 ha of their land was ploughed by workers loyal to the former landowner. Even though local authorities were aware of the gravity of the situation, they did not act immediately.

On October 12, IPON attended a meeting held by three human rights defenders, the police and DAR officials. The attending IPON observers were glad to hear about the planned police presence from October 14 to 16 in order to allow the farmers to plant their sugar cane.

The IPON observers visited the spot again on October 14. While the police presence seemed to considerably ease the situation, the new landowners were threatened and hindered from entering their land before the police arrived. The observers are worried that further security problems may arise once the police will have left the area.

IPON is concerned by the lack of action taken against those who threatened the human right defenders, hindered them from entering their land and ploughed their land. While the farmers reported the first incidents to the police on September 29, no police investigation against the security guards was brought to IPON's attention. However, the situation might improve as a dialogue between the former landowner and her loyal farm workers, the state actors and the human rights defenders seems to be underway.

IPON | Landtransfer after a long struggle, Negros

REVIEW

QUALITATIVE ANALYSIS: HUMAN RIGHTS OBSERVATION AND PERSONAL SECURITY

The UN and the EU acknowledge the special danger human rights activists face during their struggle and accordingly call for their special protection. Besides these international organisations, also civil society organisations aim for the protection of human rights defenders while trying to create space for their own struggle. A recently finished master thesis from the Otto-Suhr Institute of the Free University of Berlin examines this topic more closely.

The author analyses the instrument of human rights observation and its impact on the security situation of human rights defenders (HRD). Human rights observation is defined as documenting human rights violations which HRD experience while struggling for their rights. Also, the collected information will be distributed to a broad public and to the involved state actors. In addition, NGOs doing human rights observation accompany HRD during political activities and to state actors in order to minimise infringement, harassment and discrimination. `Security` is defined in broad terms and not only as physical security.

The thesis includes a case study examining the influence of the International Peace Observers Network (IPON) on the security situation of the affected HRD. For the investigation, interviews were conducted with representatives of the concerned HRD group that IPON works with in Quezon Province, Philippines.

The findings show that the impact of human rights observation differs depending on the security aspect.

Political security can be increased by the instrument of human rights observation. But especially the legal security of the HRD can be slightly improved. The positive impact that can be noticed in that field is partly explained by the fact that a success in the legal area is easier to measure, as numbers of politically motivated cases filed against HRD show as a clear indicator. An improvement in their legal security could at the same time provide space for the struggle of HRD who were and still are often criminalised due to their activity. According to the author, the accompaniment of HRD to state authorities was partly successful as some HRD then felt more respected and hence more on par with state authorities.

However, the sole presence of human rights observers could not increase the HRD's own sense of security. Only a "targeted presence" is considered helpful. "Targeted" implies that human rights observers are present for one specific activity, which is carried out by the whole organisation of the affected HRD. In this case, documenting violent behaviour of one party by an international group would increase costs for private actors as committing a crime in front of international observers means to have international witnesses. Accordingly, the documentation could help to push through a case against the perpetrators.

The author states that the positive contribution of human rights observation to the political security in contrast to the personal feeling of security is especially due to the different conflict levels.

On one conflict level the HRD are facing their direct perpetrators, in this case landowners, their henchmen and the Guerrilla NPA. On the other conflict level IPON directly faces the state. One conflict level is thus in the private, the other in the state's sphere. Taking a legalistic human rights approach - which a lot of organisations do - shows that, when arguing on a human rights basis, it is difficult to work "with" private actors. As private actors in this approach have no commitments in regard to human rights, it is hard to influence their behaviour struggling with, so to say, the "wrong arguments". On the political security level, on the other hand, organisations can confront state actors directly for not implementing human rights and therefore reach a more positive outcome. When confronted by human rights observers, state authorities feel a stronger pressure to take up responsibility to secure their citizens. Therefore, the author argues the tool of human rights observation is best to address the political security, as in this dimension the state is the main addressee.

NEWS

JOINT NGO WORKSHOP: CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

During a week of public congress in Greifswald (Germany) in October 2009, representatives of IPON and PBI (Peace Brigades International) sparked a debate on the criminalization of human rights defenders. During a workshop session PBI presented patterns how the legal system in Columbia is used illegally to avoid political participation of human rights defenders. Based on additional information from IPON and referring to occurring similarities, participants elaborated the following patterns:

- **HRD are branded to belong to guerrilla groups or their allies.**
- **HRD are accused of libel and defraud. Defamatory statements and prejudices can be found in the media.**
- **In many cases testimonies derive from former guerrilla members or intelligence.**
- **Bogus Cases that would not belong to a regular court due to their subject matter are forwarded to a regular court by prosecutors.**
- **In many cases accused HRD are neither given notice about the reason for being jailed nor is there a warrant of arrest.**
- **A fair trial cannot be guaranteed.**
- **Those responsible for criminalization are not held responsible.**

The participants of the workshop became very concerned and decided to write letters to particular German state authorities regarding this issue.

Philippine Witness Protection Program at a Standstill

According to Philippine law, everyone who witnessed a grave felony and is willing to testify in front of a judicial body or an investigating authority may be admitted into the Philippine Witness Protection Programme. Applicants' examinations and admittance lies within the jurisdiction of the Department of Justice. Even though the legal requirements seem to be very simple, reality proves to be rather difficult. In Bondoc Peninsula several persons have witnessed and even experienced grave violent attacks and are still exposed to death threats. Although they have agreed to act as state witnesses, admittance to the witness protection program is not executed. This is mainly because no authority feels responsible for them: they are tossed from one authority to the other and receive contradictory information. IPON will closely observe these cases and urge state authorities to take responsibility.

AGRARIAN-RELATED COMPLAINTS STILL APPEAR IN NON-COMPETENT COURT

In October 2009 a criminal trial chaired by the judge of the Municipal Trial Court of San Francisco (Quezon Province) was further pursued: several persons are charged with qualified theft and trespassing. Since all accused are human rights defenders fighting for land redistribution under the state-led agrarian reform, the cases must be referred to the jurisdiction of the Special Agrarian Courts as provided in the corresponding guideline and law (cf. Observer Vol. 1, No. 1). However the judge was not willing to give in. Instead he claimed not to be familiar with this regulation and postponed the trial until he "got the chance to be informed about it".

IPON AND THE INSTRUMENT OF HUMAN RIGHTS OBSERVATION

The International Peace Observers Network (IPON) is a German independent non-intervening and non-profit organization which aims for improving the human rights situation in the Philippines by sending observers to conflict areas.

The Instrument of human rights observation is based on the idea that, if a country has ratified the UN "Universal Declaration of Human Rights" (and/or other relevant international declarations on human rights), it is therefore responsible to enhance, respect, and implement human rights. If a country does not follow these responsibilities independent international observers will document these violations of human rights and bring it to public attention. IPON follows this legalistic approach to human rights. Since 2006 IPON accompanies organizations of human rights defenders (HRD) in the Philippines, starting with the request of the farmers organization KMBP (Kilusang Magbubukid ng Bondoc Peninsula) in Bondoc Peninsula, Quezon Province. Since 2008 IPON observers are present in Negros Occidental accompanying the HRD of TFM (Task Force Mapalad). IPON will not intervene in any internal conflict and will not interfere in the strategies of the accompanied HRD. The organization will only go into a conflict area after a request from a human rights defender organization and after preliminary studies which include an examination whether the instrument of human rights observation is suitable for the present situation.

The work of IPON is based on four pillars:

Presence: The IPON observers will be present at the side of HRD who are exposed to human rights violations because of their work. Their presence is supposed to prevent assaults and enable the unhindered work of the HRD. The presence of international observers is believed to rise the inhibition threshold for encroachments.

Acompanying: HRD are accompanied to different ventures like political actions, meetings with governmental institutions, or conferences. In some cases individuals who are especially endangered get company by IPON members.

Observation: It can be difficult to get unfiltered information from conflict areas. The possibility to document events in situation makes the reports of the IPON observers very valuable. The documentations always take place in regard of human rights. Because of the legalistic approach the role of the state actors is essential in the critical analysis of the human rights situation.

Informing action: The information that has been gathered directly in the conflict area and has been analyzed by the observers are brought to the attention of an international public. IPON is in touch with different institutions of the Philippine state and points out their responsibility of implementing human rights. In Germany the reports are handed over to the public. They serve as a basis for the work of organizations, pressure groups and politicians. This way the international pressure on the Philippines to guarantee human rights rises. IPON is convinced that the publication of human rights violations will finally lead to their decrease and prevention.

Partnergroups in the Philippines:

KMBP	*(Kilusang Magbubukid ng Bondoc Peninsula)*
TFM	*(Task Force Mapalad)*
QUARDDS	*(Quezon Association for Rural Development and Democratization Services)*

AIMS AND SCOPE

OBSERVER: offers a forum for analysis, strategies and debates regarding human rights observation in the Philippines with a focus on human rights defenders. How does the implementation of the UN Human Rights Charta is performed by Philippine Institutions? Which are the elemental dangers human rights defenders in the Philippines are exposed to? These are some of the possible topics. Comparisons with other countries will expand the handling and perspectives of human rights observation. Each publication has its own thematic emphasis. Guest articles from different disciplines and organisations are welcome.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Adopted by General Assembly resolution 53/144, of 9 December 1998

Article 1
Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2
1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3
Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4
Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5
For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:
(a) To meet or assemble peacefully;
(b) To form, join and participate in non-governmental organizations, associations or groups;
(c) To communicate with non-governmental or intergovernmental organizations.

Article 6
Everyone has the right, individually and in association with others:
(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7
Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8
1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9
1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.
3. To the same end, everyone has the right, individually and in association with others, inter alia:
(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.
5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

„[...]"

Article 20
Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.