

Input FIAN International – First UPR session - PHILIPPINES

1) This input is submitted by FIAN International in cooperation with FIAN Philippines, Partnership for Agrarian Reform and Rural Development Services, Inc. (PARRDS) and PEACE Foundation.

2) The Philippines is a state party to 23 core human rights instruments, among which are International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and several Conventions such as Convention on the Rights of the Child (CRC) and Convention on the Elimination of Discrimination against Women. The government was also elected to two of the United Nation's human rights organs – Human Rights Council and the Economic and Social Council (ECOSOC) in May and November, notwithstanding gross violations of human rights continue unabated while avenues for seeking justice and redress lack for victims. Over recent years, the spate of extrajudicial killings in the country has caused increasing concern in the Philippines as well as internationally.

Amidst the crisis of human rights in the country, President Gloria Macapagal-Arroyo issued an order to create Melo Commission who was tasked to look into cases of extrajudicial killings and in February 2007, Special Rapporteur of the United Nations Human Rights Council on extrajudicial, summary or arbitrary executions, Prof. Phillip Alston paid a 10 day visit to the Philippines to investigate the cases of extrajudicial killings in the country.

6) Key national priorities and areas of recommended progress in an NGO perspective

Human Rights Violations involving Peasants and Peasants Leaders

FIAN as an international human rights organisation for the right to food would like to call attention to a very special category of human rights violations involving active petitioners and awarded beneficiaries of the national agrarian reform program, the Comprehensive Agrarian Reform Program (CARP). Since the current government assumed office in 2001, around 40 farmers nation-wide have been killed in the course of their efforts to claim their land under the CARP. In addition, hundreds of land reform petitioner families, or families who have already been awarded land under this land reform program, have fallen victims to illegal forced evictions, destruction of properties, unwarranted criminal charges, and physical harassment and assault. The main perpetrators of these crimes and violations are private landlords and their hired gunmen who committed crimes with impunity. More alarming, however, is the fact that they were very often aided and abetted in their actions by local police officers, local court officials and local government officials. In many of these cases, the government of the Philippines has clearly failed to respect, protect and fulfil the right to food of peasant families.

FIAN would also like to call attention to the killing of Enrico Cabanit in the southern province of Davao De Norte. Mr. Cabanit was the national chairperson of the peasant organisation Ugnayan ng mga Nugsasariling Local na Organisasyon sa Kanayunan (UNORKA) and the national representative of the peasant sector in the government's National Anti-Poverty Commission, as well as the board member of FIAN Philippines at the time of his death. He was also a farmworker and one of the leading petitioners in a landmark land reform case involving the Philippines' single largest commercial banana plantation, owned by the powerful Floriendo family. Mr. Cabanit was shot died by two gun men in

tandem on a motorcycle on 24th April 2006 at the Panabo Premium Market in Panabo city, Davao Norte. While Mr. Cabanit died on spot, his daughter Daffodil Cabanit who was accompanying him was wounded.

A subsequent independent investigation of Mr. Cabanit's murder, conducted by FIAN and its partners found several procedural errors, improprieties, inconsistencies and contradictions in the official local police investigation and report. These findings were later also confirmed by the Melo Commission in its report. As of today, the case is still ongoing.

Status of Agrarian Reform Implementation

In connection to the killings of peasants and peasant leaders in the Philippines, FIAN would like to highlight the issue of the implementation of the agrarian reform in the country as cases of violations of the right to food are closely linked to the implementation of the CARP in the Philippines (please refer to the Fact-Finding Mission Report of FIAN and La Via Campesina from 2006).

Access to land is essential for the fulfilment of the right to food for rural population all over the world. The human right to food is enshrined in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of the United Nations. Paragraph 1 of the 2004 FAO Voluntary Guidelines to support the progressive realization of the right to food which were unanimously adopted by all FAO member states, follows the authoritative interpretation of the right to food in General Comment No. 12 (GC 12), by the Committee on Economic, Social and Cultural Rights, and makes reference to the basic content of the right to food stating that: "These Voluntary Guidelines aim to guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals; physical and economic accessibility for everyone, including vulnerable groups, to adequate food, free from unsafe substances and acceptable within a given culture; or the means of its procurement." With regard to the availability of food, GC 12 includes the possibilities that an individual has either of feeding herself directly from productive land or other natural resources, or through well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand (paragraph 12). Based on this interpretation, it is clear that the direct availability of food through an individual cultivating her own land is part of the basic content of the right to adequate food for individuals and rural groups who want to exercise this right as such. The direct availability of food through own cultivation implies economic access to productive resources: it is necessary to have access to land and access to other productive resources in order to be able to cultivate the land and to have direct availability of food. This implies then that access to land is part of the basic content of the right to adequate food, be that land in order to cultivate it and feed oneself, or to take advantage of other natural sources of food. The Special Rapporteur on the Right to Food, Jean Ziegler, also affirms that "access to land and agrarian reform must form a key part of the right to food" given that "access to land is often fundamental for ensuring access to food and to a livelihood, and therefore freedom hunger".

In 1988, the Philippines passed the most ambitious agrarian reform program worldwide. The Comprehensive Agrarian Reform Law (CARL) was enacted and became the legal basis for the implementation of the nation-wide CARP. Today, 19 years later, the accomplishment of the said program is far from being complete but the *raison d'être* of the program is still unquestioned in a country where a great part of the vulnerable groups in terms of violations of human rights and especially of the right to adequate food live in the rural area. Yet it is not

clear whether the CARP will be extended or not. Notwithstanding whether the CARP will be extended or not, it is important to underline that a better protection is needed for landless and small-scale peasants against violence and criminalisation of agrarian related cases and outright violations of the right to food. According to one source (please refer to the PARRDS AR-HR report), a total of 415 cases of agrarian reform and human rights violations have been documented since 2001 to present. Alleged violations range from killing, harassment, violent dispersal, frustrated killing, destruction of property, displacement and more have victimised 19570 agrarian reform petitioners who are beneficiaries. The cases of violations will likely increase as the CARP has now entered its difficult phase of distributing contentious and problematic landholdings, foremost of which are haciendas and plantations of influential landowners.

While several bills have been filed in Congress to extend the CARP, one bill favoured by the present government promotes the collateralisation of farmlands. Instead of pursuing reforms in the law to more effectively pursue land redistribution, this bill will make land a commodity bearing a great risk of re-concentrating land ownership. A scenario of non-extension and unreformed CARP will only fuel further discontent and violence in the countryside now and beyond 2008, leading to more cases of violations of the right to food in the Philippines.

FIAN, as an international human rights organisation for the right to feed oneself would like to make the following recommendations to the Government of the Philippines:

1. To extend and reform the Comprehensive Agrarian Reform Program by making the compulsory acquisition mode the main mode within the program and by including effective protection mechanisms for the violence faced by beneficiaries in the course of land redistribution processes
2. To reform the administration of agrarian justice by ensuring that farmers will have the capacity to file cases through legal support and by plugging loopholes in the judicial system that result in criminalization of agrarian cases and imprisonment of tenants
3. To ensure equal protection and rule of law and therefore to prosecute all suspects in the killings and harassment of peasant leaders and communities, as well as to ensure the safety of peasant communities petitioning for agrarian reform.