

Violations of peasants' human rights

A Report on Cases and Patterns of Violation 2005



FIAN: For the Human Right to Feed Oneself

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0 EXECUTIVE SUMMARY

This booklet is the second one in a yearly publication series to highlight the human rights violations suffered by peasant communities. Although peasants are the biggest entity in the world, they are at the same time the most vulnerable group - 80% of the hungry worldwide are rural people, most of them food-producers. Throughout the world, peasants are often denied access to land, water and seeds. Many of them face forcible eviction from the land they are tilling or huge insecurity in their tenancy or property rights. Those who struggle for the implementation of agrarian reform programs and better overall living conditions, are politically persecuted and even murdered. Often they end up as landless agricultural work labour. Thus, peasants suffer both violations of their economic, social and cultural as of their civil and political human rights.

To illustrate these striking facts, in this booklet you can find a selection of case studies from different regions of the world as well as specific country studies concerning Argentina, Brazil and the Philippines, all of them based in the work of the Global Campaign for Agrarian Reform, a joint campaign of the Human Rights Organisation FIAN International and the worldwide peasants network La Via Campesina.

Denied access to land and other productive resources is reflecting the particularly marginalized situation of peasants - physical marginalization, as peasants more and more have to move to unfavourable agricultural areas like steep slopes, dry soils etc, remote from access to transport and markets; on the other hand, political marginalization, as peasants don't have any bargaining power against powerful actors like the executive of states, transnational companies and international financial institutions, which are shortening budgets for rural development policies and at the same time implementing models of agricultural trade liberalisation with devastating effects on local prices.

Although the Right to Food, central to peasants and landless, is part of international Human Rights Treaties and well defined as recently in the intergovernmentally developed and adopted Voluntary Guidelines on the implementation of the right to food, the concerns of peasants and landless rural people are not adequately addressed inside the UN-Human Rights System. Thus, FIAN International and La Via Campesina are calling for new instruments to respect, protect and guarantee the human rights of these groups through instruments such as a General Comment on the Rights of the Peasants or an International Convention on the Rights of the Peasants to focus on peasants as the biggest and most vulnerable constituency in the world.

This report will be handed over to the UN Commission on Human Rights in Geneva in April 2005. On April 17th, the International Day of Peasants' Struggle, smallholder peasants, landless people and NGOs worldwide will draw attention to the violations of peasants' human rights. Everybody is welcomed to use this booklet with its combination of documentation and analysis in the important struggle for peasants' rights.

1 INTRODUCTION

This booklet is the second one in a yearly publication series to highlight the human rights problems of peasant communities¹. Throughout the world peasants, particularly small holder peasants, are confronted with violations of different human rights.

Peasants in every part of the world frequently are denied access to land, water and seeds and are forcibly evicted from the land they are farming. More than half of the 842 million persons in the world living in chronic, persistent hunger, are smallholders. In order to be able to produce and achieve a better living for themselves and their families, peasants in the whole world are struggling and organising themselves in peasants or landless organisations in order to get access to productive resources like land, water or seeds. But in the course of these struggles, peasants are often harassed, politically persecuted and even murdered. In this regard, peasants suffer both violations of their economic, social and cultural human rights and of their civil and political human rights. The interrelatedness and indivisibility of social and economic rights and civil and political rights becomes obvious and will therefore be treated simultaneously in this booklet.

The reasons for the poor living conditions and hunger are various. The Background Report of the UN Millenium Task Force on Hunger² describes the living and farming conditions of poor peasant households, in particular those living in marginalised areas. But beyond mere environmental and technical reasons, political reasons have to be held responsible for structural poverty among a major part of rural people in the world. National governments and international actors in rural development policies don't focus on peasants as a constituency and don't pay attention to their human rights obligations towards peasants.

To illustrate the different forms of violations of peasants' human rights, this booklet includes various cases from the Emergency Network, a letter writing instrument of the *Global Campaign for Agrarian Reform*, a joint initiative of the human rights organisation FIAN International and the worldwide peasants movement La Via Campesina. Another instrument to verify alleged violations of peasants rights are fact-finding missions, country missions that visit both the victim groups in situ and the states authorities. On the basis of these missions, two country studies are included in this booklet (on Argentina and Brazil), a third country study was written by an international agrarian reform expert about the situation in the Philippines.

1.1 Typology of the hungry - Marginalization of Peasants³

Peasants are the most neglected group worldwide. 80% of the hungry are rural people. Furthermore, over 50 percent, as to estimations of the Task Force on Hunger of the UN Millenium Project, of the total number of undernourished persons live in smallholding farm households, another 22% of the hungry are rural landless and non-farm households, 8% are herding, fishing and forest-dependent households. As the Background Paper of the Millenium Project Task Force on Hunger of 2003 admits, data on rural poverty, landlessness

¹ Cf. "Violations of peasants' human rights. A Report on Cases and Patterns of Violation 2004", http://www.fian.org/fian/index.php?option=com_doclight&Itemid=100&task=details&dl_docID=11

² Background Paper of the Millennium Task Force on Hunger, 2003, at <http://www.unmillenniumproject.org/documents/tf02apr18.pdf>

³ The following information can be found in the Background Paper of the Millenium Task Force, p. 14-23.

and related issues are very hard to find, and, if they exist, cover only the national level. Still, the report develops a useful typology to determine the different reasons for and forms of hunger, concluding, that peasants are especially marginalized in society.

The report states, that the majority of the rural poor are living in higher-risk agricultural environments, which means, in marginalized regions. These areas are characterized by poor soil quality, only erratic rainfall, variable climatic conditions, steep slopes or menacing pest complexes. These physical constraints make annual crop agriculture risky and often less productive than in favoured regions. In many such areas in Africa, average grain crop yields are less than 1 ton per hectare, and are often even declining, e.g. due to soil fertility degradation.

These marginalized regions haven't received any focus of agricultural development nor research investment in the past, as for decades it has been assumed that the economic development process would lead people farming in such regions to migrate to more productive regions or the cities. However, these assumptions were erroneous, as the report suggests that populations are even growing in such places, and that rural undernutrition is increasingly concentrated in these regions. Many of the so-called "marginal" areas are centres of relatively high population density and intensive production.

The background report of the Hunger Task Force specifies the constraints or conditions that render farming in these marginal areas especially difficult. Dry cropping areas, for example, experience 2 to 3 years of crop failure out of every 5 because of drought risk, rainfall variability and pest outbreaks, problems that can occur similarly in humid regions due to episodes of intense rainfall. Due to the frequency of crop failures, to low annual crop yields and to the lack of cash income, people have to store food after harvest or to purchase food out of season, but do seldom have the necessary facilities. Marginal areas are particularly vulnerable to nutrient depletion, erosion, floods and landslides. Due to the removal of perennial vegetation, watersheds are often degrading, and fuel wood becomes scarce and has to be replaced by manure, which then cannot be used for the soil any more. This places particular burdens on women, who are generally responsible for collecting water and fuel and have to go long distances and undertake risks to get to these resources. Another physical constraint is the remoteness of many marginal areas, due to a tremendous lack of roads, let alone public transport. Costs of transport are therefore very high and make it difficult for producers to compete effectively in most national or global agricultural markets. At the same time, food and agricultural inputs purchased outside the local areas are very expensive for the poor due to high transport and storage costs. Another disadvantage of remote areas can be seen in the small demand on the markets due to their constraints in geographic coverage. Thus, producing for the market is risky, because the markets are not buffered by surpluses, food storage, trade or processing. Legal problems occur, when peasants due to lack of land are farming land where it is illegal, like e.g. on steep slopes, the tropical forest margins, high altitudes, in protected watersheds and conservation reserves or public forests. Their illegal status makes them subject to fines, abuse and even jail by local bureaucrats, and technical assistance services are often withheld.

Assistance from the government or international donors and public investment in agriculture in these marginal areas like external inputs and credits are low. With the high risk of crop failures, interest rates for credits are very high, and fertilizer prices run higher than world market prices. Most national governments, following the international investment community, have invested much less in the marginal lands than in the more favoured agricultural areas. Agricultural services, if available at all, largely come from private firms selling agricultural inputs, whose advice is often incorrect and almost always incomplete.

What, however, are the reasons for peasants living in and moving to such unfavoured areas? The high concentration of lands in the hands of the few is a major cause for the fact, that more and more peasants have to survive in not-favoured areas. In many countries this is a legacy of colonialism and a result of capital intensive agribusiness receiving political and financial support from the state to produce for the world market. Denied access to land or slow implementation of agrarian reform programs make people desperate in their search for a piece of land to till and force them into infertile, unfavourable areas, where they don't have to compete with powerful actors like landlords, plantation owners or other agribusiness reclaiming the same land.

Having talked of rural farm households, the situation of rural landless is even more precarious. The landless or near-landless (minifundistas), most of whom have been small holder peasants before they lost their lands, rely on wage labour to earn income to buy food. Hunger among these groups reflects their weak position in employment markets, weak social networks, lack of rights and access to productive resources. And because rural labour income alone seldom suffices to avoid poverty, most landless rural people stay poor.

1.2 International Framework conditions

The general political environment aggravates the situation for smallholder peasants. In most countries, according to FAO data, the budget allocations not only in marginalised areas, but in general for rural development policies are falling. This means that states are increasingly violating the rural smallholders' human right to feed themselves.

The problem is compounded by an economic policy agenda that encourages larger-scale production entities that often produce for export under world market competition. Since most countries world wide have liberalized their agricultural trade considerably in the last years, the trends on prices for agricultural products at the world markets have an increasingly direct impact on local prices. World market prices for agricultural products are, for many products, artificially depressed through the use of subsidies in OECD countries and marketing is linked to dumping practices. Agricultural products are often sold below the cost of production both in the country of origin and in the country of destination of the products.

1.3 Human-Rights-System

In the light of their precarious living conditions, of hunger and repression, the situation of small-holder peasants urgently calls for the implementation and enforcement of human rights. Still, inside the UN-human rights system, the problems linked to smallholder peasants have not been treated sufficiently so far⁴. Central to the situation of smallholder peasants is the human right to adequate food. A detailed interpretation of the human right to food was pronounced in 1999 by the UN-Committee on Economic, Social and Cultural Rights by way of adopting its General Comment No. 12 on the right to adequate food. Major emphasis in the Committee's definition of the right to adequate food was put on the access to productive resources⁵. In 2004 a new instrument was approved by 187 states in the context of the FAO Council, the Voluntary Guidelines on the Right to Adequate Food, which is another useful explanation and description of states' obligations to implement the

⁴ For a deeper analysis of this neglecting treatment, please refer to last year's report "Violations of peasants' human rights. A report on Cases and Patterns of Violations 2004", at www.fian.org

⁵ "The right to adequate food is defined as the right of every man, woman and child alone and in community with others to have physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity".

right to adequate food. In this document, access to land and natural resources receives special treatment. For example, Guideline 8.7 states that states “should design and implement programs that include different mechanisms of access and appropriate use of agricultural land, directed to the poorest populations”⁶. In Guideline 8.1., land reforms are mentioned as one policy reform to secure efficient and equitable access to land.

Like other human rights, the right to adequate food imposes three types or levels of obligations on states: the obligations to respect, to protect and to fulfil. A breach of these obligations to respect, protect and fulfil smallholder peasants' access to food and food producing resources is tantamount to a violation of smallholders' human right to food:

First of all the state has to *respect* people's access to food and resources. States must not take any measures that result in preventing such access, this means, the states must not deprive individuals or groups of their means of livelihood or access to food, for example in the context of evictions due to different kinds of projects - such as large development or infrastructure projects, construction of dams etc. In instances where the possibilities for people to feed themselves are destroyed by such activities and projects, these groups have to be offered adequate compensation, rehabilitation or an equal opportunity to feed themselves.

The state has to *protect* peoples' access to food against destructive third parties. This means, the State has to ensure that enterprises or individuals do not deprive individuals of their access to adequate food or food producing resources. For example, transnational or national corporations or big landlords might threaten the livelihoods of the people by carrying out activities in an area without taking into consideration the people living there. Such activities might be mining, oil exploitation, industrial fishing etc. Adequate protection includes legislation which protects vulnerable groups in society from being deprived of their resources or food - and the enforcement of such laws against powerful economic interests.

The obligation to *fulfil* means that states have to provide access to food and resources for those in need. This obligation includes measures by the state to identify deprived groups and to design policies and programs to give them access to food-producing resources or income. According to Art. 2 of the Covenant on Economic Social and Cultural Rights requires that state parties use the “maximum of the available resources” for such measures, which implies that they take and complete them as soon as possible. Under the obligation to fulfil, state parties should implement two different types of policy and programme measures. First, as part of the obligation to fulfil access to productive resources for those who cannot feed themselves for lack of such resources, states have to enable these deprived persons to feed themselves by providing them with such resources. Obligatory states measures include creating access to productive resources such as land, seed, water, credits, skills etc for deprived persons so that they can produce food for themselves or generate income to buy food. This obligation implies for example governmental measures to implement agrarian reform. Second, the obligation to fulfil access to food for hungry and malnourished persons implies states' programmes of cash transfers to these groups so that they can buy food.

A typical breach of a fulfil-obligation towards peasants and landless families is the state's lack of (or severe irregularities in) genuine agrarian reforms. This is an area of wide-spread human rights violations against peasants. In many countries the historic processes for land redistribution have slowed down dramatically. In fact, in many countries there are policies of counter-agrarian reform and handing over of productive resources to agribusiness destroying the livelihoods of peasants and violating their right to feed themselves.

⁶ Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of Food Security, http://www.fao.org/righttofood/common/ecg/51596_en_VGS_eng_web.pdf

1.4 Extraterritorial obligations

Human rights obligations don't end at a state's borders. Even if the nation state has particular human rights obligations towards people in its territory, globalisation and rapid market liberalization make it obvious that states' acts or omissions impact on persons abroad and therefore: States have to meet their extraterritorial obligations as well. These can be obligations in the context of international states authorities such as the World Bank or IMF, or obligations to regulate transnational corporation with headquarters in their territory. As to bi-lateral or multilateral cooperation, it can be observed that the EU agricultural policies have a tremendous effect on the right to adequate food and the living conditions of small farmers in many countries. The same is true for the WTO and World Bank, but also private actors such as transnational corporations.

Such actors are sometimes more powerful than weak national governments, and have considerable influence in the choice of a weak government's policies. The victims in such states therefore have a human right against powerful states abroad who are in a position to regulate situations which are beyond the means of their own government. In such situations the extraterritorial obligations of foreign states are obvious consequences of their duty to implement human rights individually and through international co-operation. Human rights obligations have sometimes be seen exclusively as internal obligations of states towards persons in their territories. This does not reflect the political realities of today. The cases of violations of small holder peasants demonstrate this clearly.

As the report of the Millennium Hunger Force states, in large parts of the Global South there are remarkably few rural people not involved to some extent in agricultural production. Looking into the future, the report suggests that agriculture will remain central for people to feed themselves and to secure their livelihoods. This means, that the peasants and landless agricultural workers will continue to be an important group of the world's population - and perhaps increasingly so. Time is overdue to focus on their special concerns and problems - and to address the rampant violations of their human rights.

2 Country Studies

2.1 Argentina

FIAN International and La Via Campesina carried out an International Fact Finding Mission to Argentina, in the framework of the Global Campaign for Agrarian Reform, from April 17 - 28, 2004. The objective of the Fact Finding Mission was to collect information to establish whether the Argentinean state is meeting its international legal obligations contracted when ratifying the International Covenant of Economic, Social and Cultural Rights and the Convention 169 of the ILO. Furthermore, the mission aimed at verifying the complaints of human rights violations, especially violations of the right to food which affect peasant and indigenous communities and unemployed sectors in Argentina. At the same time a follow-up was made of the mission carried out in January 2003 by FIAN and EED (Development Service of the Protestant Churches in Germany). The new mission had also the purpose to evaluate whether Argentina has taken adequate measures to meet its human rights obligations according to the recommendations of this former report.

The 2003 Mission already stated that the structural adjustment policies promoted by the multilateral financial institutions and carried out by the Argentinean government starting about 10 years ago, have had disastrous effects regarding the fulfilment of the economic and social rights for a large part of the Argentinean population. Now in 2004 the Mission verified that the missing national agrarian policy which should have included all affected

actors, and be oriented towards human rights principles, in fact continued its favouritism towards agribusiness, and intensified the rural conflicts. The situation of malnourishment has worsened and there is a general neglect of basic services especially in the rural sector. One can observe increasing unemployment and growing precariousness of labour conditions. According to official numbers of May 2003 it has been deduced that 54 % of the Argentinean population is under the poverty line and it is estimated that the poverty in the rural sectors is larger than in the cities.

At the same time the number of productive units further declined, land concentration and concentration in production increased and a massive expulsion of peasants from their land took place. A good example is the expansion of the soyabeans which has been promoted with the aim to increase its exports to pay the external debt. This promotion of monocultures has led to quite a number of problems which affect the food sovereignty of the Argentinean people. One example is milk: Out of the 30.141 milk producing units which existed in 1988, there are only 15.000 left in 2003. Today Argentina is importing milk.

The agro-exporting model involves many other problems: an extended deforestation, land concentration, and an intensified environmental contamination due to the introduction of genetically modified products. The use of glifosates in Argentina has increased from 28 million litres in 1998 to about 1500 million litres today. It is sprayed by planes affecting not only the target crop but other adjoining crops and whole communities. The water is also contaminated by insecticides which cause diseases. There is a growing lack of access to land and water, insecurity in land tenure, and a lack of state assistance to small peasants.

The Mission identified many violations of the right to adequate food. Some of the main problems concerning rural populations are the following: the impediment and destruction of existing access to livelihoods due to the expulsion of peasant and indigenous families living on ancestral land in the provinces of Córdoba, Santiago del Estero, Salta, Medoza, Misiones, Jujuy; the absence of State protection of peasant and indigenous families who are living on ancestral land, faced with systematic attacks of big landowners and agribusiness corporations which intend to usurp their land. Another problem is the neglect of the State to fortify the rights to land of the peasant and indigenous families who have been living on the land for generations and have not been able to realise their land titles after the prescribed 20 years' term. Argentinian policies are characterized by a lack of economic policies which promote a just and sustainable rural development, a lack of adequate legal and institutional instruments in order to confront the problems in the rural sector and the failure to promote farming and stock-breeding policies aimed at strengthening the capacity of small-scale male and female farmers. Instead, peasants, rural women and indigenous people trying to realise their human rights are criminalised. There is little protection against powerful interests claiming land illegally, against agribusiness enterprises, mining companies and invading logging companies, as well as against state, provincial and regional institutions who assist in such incursions.

Based on the findings and the human rights obligations signed by the State of Argentina, the Fact Finding Mission of FIAN and La Vía Campesina recommends that the Argentinean authorities at different levels take measures in order to guarantee the full enjoyment of the human right to adequate food by, e.g., defining and adopting a national agrarian policy based on human rights principles which will create institutional mechanisms and adequate laws to solve the profound problems in the rural sectors referring to land, access to productive means, water, housing, basic health services. As well, it is demanded to adopt necessary measures to end the insecurity regarding land titles of peasant families through land titling programmes which will fulfil the right of these families to the land they have lived on for 20 years. Peasant and indigenous families should be protected against third parties usurping the land. Further demands can be found in the Fact-finding Mission report of FIAN and La Via Campesina.

2.2 Brazil

FIAN International and La Vía Campesina carried out a fact finding mission to Brazil, between the 3rd and 12th of June 2004, in the framework of the Global Campaign for Agrarian Reform. The objective of the mission was to verify claims on specific cases, in which the human right to adequate food is being threatened or violated for the following reasons: the non-implementation of agrarian reform, the bad implementation of agrarian reform, agrarian counter-reform processes or due to the repression of agrarian reform activists. The official goal of the state's agrarian reform program in the visited areas for the year 2004 was the resettlement of 8,500 families. By the time the mission was carried out, no new resettlement had taken place in the visited regions. On the national level the federal government planned to resettle 115 thousand families in 2004 according to the declaration of the Minister of Agrarian Development, Miguel Rosseto, but in 2004 only 81,2 thousand families had been resettled.

The election of Luiz Inácio Lula da Silva, from the Workers' Party, as Brazilian President, caused great expectations among social movements, defenders of the human right to food and international observers of the agrarian reform process all over the world. Mr. Lula da Silva's Government claimed the fight against hunger to be the number one priority of his administration and explicitly included structural reforms, particularly agrarian reform and the strengthening of family agriculture, as key reforms of his government for this priority. This initiative, together with the historic compromise of the Workers' Party with agrarian reform and the strong and intense social mobilization of Brazilian land movements, led to think that the time for a comprehensive agrarian reform with very positive effects worldwide on the struggle for land had finally arrived. Unfortunately, as the findings of this fact finding mission reveal, such expectations so far have not materialized.

According to data from the Brazilian Government, there are around 11,2 million families in Brazil, about 44 million people, living in a situation of extreme poverty. Of the people suffering hunger, 19.1% live in metropolitan areas, 25.5% in non-metropolitan urban areas and 46.1% in rural areas. There are an estimated 3.1 million landless families and around 3.4 million families with insufficient land in Brazil. In June 2004, the number of families living in tents and waiting for resettlement was 200,000.

The mission visited three regions and different conflict areas: in the North of Minas Gerais, the mission investigated two cases of claims concerning the implementation problems of the programme Para Terra (for land), based on the voluntary buying and selling of lands - commonly known as market-based agrarian reform; in Pernambuco, in the area of Mata Atlântica, the mission visited two cases where expropriation (*desapropiação*) problems, mainly related to the judiciary blocked agrarian reform. Finally, in the South of Pará, the mission dealt with persecution and systematic violence against rural men and women workers fighting against illegal appropriation of public lands (known in Portuguese as *grilagem de terras*) and for the realization of agrarian reform; moreover, the mission learnt about slave labour cases in this region.

Slave labour is one of the most brutal manifestations of the oppression suffered by a great portion of the Brazilian rural population. Reports of the Ministry of Labour reveal that slave labour in Brazil is present in large agricultural export companies (soya, sugar cane, cotton) and in modern export estates dedicated to cattle rearing. The government estimates that there are about 25,000 people in Brazil subject to slave labour.

Besides slave labour, the many social conflicts in the rural areas are an alarming indicator of the injustice of the existing agrarian model. According to the annual report of Comissão

Pastoral da Terra (CPT), the highest figures regarding conflicts (1,690), people involved in conflicts (1,190,578 persons) and evicted families (35,292) since the beginning of its work in 1985 was registered in 2003.

The mission verified that the right to food of the rural men and women workers visited was seriously threatened and, in many cases, violated. The living conditions of the rural men and women workers visited are very precarious, which makes them vulnerable to become victims of crimes against human dignity, of labour exploitation and slave labour, hunger and violence.

In order to implement the obligations which Brazil undertook in the international human rights treaties, the mission makes the following recommendations to the different public authorities and to the Brazilian Government:

- Carry out the necessary legal reforms, in order to put an end to the forced evictions of landless families, which plunge them into misery, deprives them of legal protection and their access to resources. End the omission and slowness on the part of the agencies in charge of the recovery of state lands illegally seized. This omission clearly benefits large owners that have seized these lands and acts as accomplice of the violence against peasant leaders and families struggling for access to these lands.
- Overcome problems regarding the selection and coverage of new beneficiaries for the Zero Hunger Programme, so that rural workers have access to this minimum income, especially in those states more affected by slave labour, guaranteeing the regular and sufficient supply of basic items for all families living in camps.
- Speed up the agrarian reform process, with the restructuring of INCRA, the dismantling of bureaucratic inspections. Make the necessary administrative and legal reforms so that expropriation processes are not systematically hindered by the many legal demands that landowners can lodge. Comply with the announced objectives regarding resettlement at a regional and national level, prioritizing the realization of agrarian reform in those states that are the origin or destine of slave labour.
- Implement the constitutional provision, according to which the social function of a property is fulfilled when there is an appropriate use of such property, when the environment is preserved and labour legislation is observed. Expropriation of estates with slave labour should be effectively sped up. In the same way, efficient progress is needed towards implementing the National Plan for the Eradication of Slave labour. Give more importance to long-term preventive policies on social reinsertion that imply structural reforms, as agrarian reform, policies of control and sustainable management of agricultural barriers, and the strengthening of peasant family agriculture.

2.3 Philippines

Country Background

Nineteen years since the collapse of the Marcos dictatorship, the country remains stuck in a less-than-democratic post-authoritarian setting where rural democratisation remains a difficult and still elusive central challenge. In the Philippines today, the challenge of rural democratisation involves two equally difficult but important efforts. First, it requires mobilising under hostile sociopolitical conditions to open up effective access to the full range of human rights for all rural citizens, especially the rural poor. Second, it requires mobilising to increase state accountability to the majority rural poor. This means in

particular (i) peasants seeking to 'make real' their basic human rights that are under direct threat from violent anti-reform forces in both the state and in society (e.g., non-state actors, such as despotic landlords and communist rebels) and (ii) indigenous groups seeking to 'make real' their basic human rights that are under direct threat from mining companies and indirectly the state (which is supposed to regulate the mining industry).

The biggest obstacles to rural democratisation in the Philippines today include both state *and* non-state actors combined. First and foremost, a number of important *non-state* actors routinely violate peasants' most basic human rights with impunity, including big landowners, mining companies, armed overseers in the employ of big landowners, armed communist rebels, and armed security guards in the employ of big mining and agricultural companies. Meanwhile, there are also *state actors* who actively violate and/or collude with the above non-state forces, including state-sponsored paramilitary groups (known as CAGU) and local police forces. Finally, the Philippine state routinely fails to fulfill its obligation to promote, protect and defend peasants' human rights. Examples of this range from state line agents and other government officials who refuse to do their job (refuse to process citizens' petitions or release necessary papers, put cases on hold indefinitely or fail to respond to requests for authoritative action), to state officials who fail to deploy state financial and human resources to physically protect and defend peasants or to investigate and take appropriate action in instances where peasants' rights have been violated.

Political-Legal Context of Violations of Peasants' Human Rights

The Philippines boasts a relatively comprehensive political-legal framework extending a wide range of human rights to its citizens on paper. The Philippine Government is a signatory to all of the major sources of international human rights law, while the national Constitution of 1987, drafted and ratified in the wake of the successful 'people power' uprising against the Marcos dictatorship, is often referred to as a 'human rights constitution'. Though not without weaknesses, it nonetheless remains one of the most progressive constitutions in Asia, particularly with its Bill of Rights (Art.III) and a separate provision on 'Social Justice and Human Rights' (Art.XIII).

This relatively conducive legal environment in theory, however, is greatly constrained by the fact that no specific legal remedies exist in the Philippines for when recognized human rights are violated. Even the national Commission on Human Rights (CHR), a post-Marcos institutional innovation, can go no further than to investigate reported violations. Instead, actual and potential victims must seek redress using existing laws and legal mechanisms. This narrows the range of legal options and political-legal opportunities available to most ordinary citizens, perhaps especially the rural poor, who often live well out of reach of the state courts and government and non-governmental legal support agencies and rights-advocacy groups. But it also means that existing laws and legal mechanisms take on added importance vis-a-vis peasants seeking to assert or claim their human rights, including the most basic: the right to have rights.

In 2004, two pieces of national legislation served as important legal-political backdrops against which cases of peasants' human rights violations in the Philippines occurred and were reported. The most prominent was the relatively progressive (but still limited) law regulating agrarian reform: the 1988 Comprehensive Agrarian Reform Law (RA 6657) and its related program called the Comprehensive Agrarian Reform Program (CARP). In spite of weaknesses and problems, CARL and CARP have still been able to offer important opportunities for peasants to improve their impoverished economic and harsh social-political situation through land redistribution and tenure reform. Precisely because the law and program applies to all farmland regardless of crop or farm system, and contains

several usable progressive provisions, such as the provision for compulsory acquisition, its attempted use by peasants to claim land has inspired harsh backlashes from the landed elite and their allies. Most of the reported violations of peasants' human rights in 2004 occurred in the context of peasants trying to use the law to claim legal rights to land. Securing legal land rights is crucial for securing an adequate and sustainable livelihood, and the wider social well-being that this enables, as well as effective access to basic civil and political rights too.

The other law that served as a backdrop to reported violations of peasants' human rights in 2004 was the controversial 1995 Mining Act (RA 7942), which is intended to promote the growth of the mining industry. Since its promulgation, the constitutionality of this law has been challenged by civil society groups in court, and in a landmark decision of the Philippine Supreme Court was declared unconstitutional in January 2004. (More recently, however, in December 2004, this decision was reversed and the law's constitutionality upheld, spelling a grim future for indigenous groups whose ancestral lands are being encroached upon by profit-seeking mining companies, with encouragement by national and local government officials.)

Even where Philippine law creates human rights-enhancing measures and provisions on paper, the problem then becomes one of adequate and effective implementation and enforcement in practice. In relatively remote geographic spaces and rural areas, often out of reach of rights-advocacy groups and the national media, state presence is typically weak. The *de jure* rule of state law in such communities is often dwarfed by the *de facto* rule of other contending 'laws' that routinely undermine peasants' access to their human rights - such as hacienda or 'cacique' law, company law, or rebel law. Undeterred by the existence of official laws and policies that have the potential to promote peasants' human rights, these other regulatory orders often prevail at the local level, encouraging threatened elites to try to block peasants' effective access to their basic rights.

Violations of Peasants' Human Rights in 2004

Most of the reported cases grew out of agrarian reform-related problems that served to deprive peasants of their human rights and basic human security, including their legal right to land and their right to food, and even the right to life and liberty. The range of problems was as follows:

- Failure to start land redistribution proceedings under CARL (Specific cases: Matias, Hacienda Anita and Hacienda Luisita, Valisno)
- Failure to fully consummate land redistribution proceedings under CARL (Specific case: Uy)
- Outright exclusion of rightful farmworker beneficiaries (Specific cases: Cojuangco-Negros Occidental)
- Non-installation of rightful beneficiaries on land legally awarded them (SARBCO, Espina)
- Onerous 'stock distribution option' arrangements (Hacienda Anita and Hacienda Luisita)
- Onerous land-lease contracts (Mampising)
- Onerous land valuations (Manggulod)

In numerous cases, these problems, which are violations of legal provisions in and of themselves, have also contributed to additional violations of peasants' human rights. This is because when peasants organise themselves to resist these initial violations and take steps to achieve redress, those whose interests are thus threatened often respond with violent repression. Consequently, beyond the discrete violations of Philippine law mentioned above, additional human rights violations reported in 2004 include:

- Summary executions and death threats by private, non-state actors (Specific cases: Uy)
- Violent dispersal and indiscriminate firing on unarmed protesters by private, non-state actors (Specific cases: SARBCO, Espina, Mampising, Hacienda Luisita)
- Actual or threatened eviction or ejection of rightful peasant claimants from awarded land by private, non-state actors (Specific cases: SARBCO, Espina, Uy, Valisno)
- Failure of state officials to fully investigate and provide appropriate redress for the most egregious human rights violations perpetrated by powerful private, non-state actors (Specific case: Uy)
- State tolerance of deplorable working and living conditions maintained by private actors, primarily big landowners and agribusiness companies (Specific cases: SARBCO, Matias, Espina, Cjouangco-Negros Occidental, Hacienda Anita, Hacienda Luisita, Mampising, Uy).

Similarly, the mining-related problems in and of themselves constituted violations of indigenous peasants' human rights, while also contributing to additional violations in the same manner as described above. (Specific case: the Subanon community in Siocon).

The victims of these various violations also sought redress from the state. With regard to the agrarian reform-related cases, most demanded that the law be implemented fully in favor of rightful peasant claimants, that onerous contracts and arrangements be cancelled, that physical protection of mobilised peasant rights claimants be provided, and that the most egregious violations (murder, firing on unarmed protesters) be investigated and acted upon appropriately. With regard to the mining case, the victims demanded that the rights of errant mining companies be revoked, that physical protection of the adversely affected indigenous peoples be provided, and that the most egregious violations (firing on unarmed protesters) be investigated and acted upon appropriately.

3 Selection of Cases from the Emergency Network

3.1 India: People's struggle for land rights, Orissa (January 2004)

In Orissa land grabbing has reached alarming proportions. With the forcible occupation of land whether by mining projects, plantations or richer farming communities, large numbers of poor people have been driven out and left landless in the state. Many indigenous communities are being evicted from the forest areas that are in turn adding to the ranks of the landless poor.

Ekta Parishad, a grassroots movement defending the land rights of the rural poor, has started in Orissa on 30th January a large mass action in the form of a Yatra (foot march) in order to document human rights violations cases, mobilize the communities affected and demand urgent action from the government.

Orissa is one of the most mineral rich states in India. Yet it has extreme poverty; in fact it is one of the poorest states in the union. According to government figures 48% of Orissa's rural population live below the poverty line. One of the reasons for the extreme poverty condition is the high degree of landlessness. Although the government of Orissa did start to implement land reform, it failed to significantly distribute land to landless communities and stop consolidation of land. Now with the onset of globalization, agricultural, mining and other development interests are further undercutting the land ceiling legislation. This will lead to increasing landlessness and poverty.

The tribal communities have not been given rights over land. Rather their lands have been systematically captured and ravaged for the sake of forest resource, minerals or agriculture. The legislation protecting tribal rights and providing tribal self-rule has not been implemented, so that they are gradually evicted or displaced from forestlands. This has led to greater pressure for land and increased landlessness.

Although the government has taken steps to implement joint title and to enable land ownership rights to women, this is at a very early stage of implementation. Women generally do not have rights due to custom, social prejudice or lapses in administration.

3.2 South Africa: Members of Landless People's Movement arrested and tortured at celebrations of 10 year's democracy (May 2005)

On April 14 2004, elections day, the Republic of South Africa was preparing to celebrate its 10 year's anniversary of democracy. On the same day, 62 members of the Gauteng "Landless People's Movement" (LPM) were arrested when they wanted to hold a peaceful protest. Further detained members of LPM got physically and psychologically tortured. These seem to be the first reports of concerted torture of activists in detention since 1994. LPM had launched a national campaign "No land! No Vote!" to draw attention to the unfulfilled ANC's promise, made in the Reconstruction and Development Programme 1994, to redistribute 30% of the land until 1999.

The arrests have been justified under the "Electoral Code of Conduct" and the "Prohibition of Illegal Gatherings Act 1993". The LPM members were not permitted to assemble although regulations allow protests to be held at least 200m from any polling station. Amongst the arrested people are core leadership of the LPM Gauteng provincial structure and other activists. During detention, police acted with excessive force. A number of people were beaten, kicked, verbally abused and teargassed, with no provocation from their side. In addition four members of the LPM - Maureen Mnisi, the Gauteng LPM Chairperson and National Projects and Education Officer, Moses Mahlangu, an LPM youth activist, and Ann Eveleth as well as Samantha Hargreaves, members of the LPM Advisory Structure - were taken out of their jail cells by Crime Intelligence Services (CIS) at around midnight on the day of the elections. The CIS attempted to abduct Maureen Mnisi from the Protea Police Station, without signing her out of the cells. The other three activists were individually taken into an interrogation room, and then physically and psychologically tortured until the early hours of Thursday 15th April. In addition, National Organiser of the LPM, Mr Mangaliso Kubheka, has received death threats from a white farmer and his armed security company and therefore has been in exile.

The planned gathering was to be part of the National LPM's "No Land, No Vote" campaign. Since the launching of the campaign in 2003, the LPM has highlighted the continued failure of the government's land reform programme to deliver land to the landless. The mere 3% of land that has been transferred to the landless after 10 years of political democracy falls far short of even the ANC's own promises in the RDP to transfer 30% of land in the first 5 years. What is more, poor and landless farmdwellers and informal settlement residents have continued to lose more land through farm evictions and urban forced removals. The living conditions for black rural people have barely changed since 1994: of the 50% of South Africans below the poverty line 70% live in the rural areas. While over 80% of all agricultural land is owned by 60,000 white commercial farmers, more than 15 million black rural people are crowded into areas with poor soil quality and insufficient infrastructures. For much of the black rural population, hunger and malnutrition are permanent features of their lives. Lawlessness prevails in the rural farming areas of South Africa, where white farmers and their security companies and self-defence units continue to reign

unchallenged. The arrests, abuse and torture of LPM members on the day of South Africa's elections are not isolated. Since 2002 there have been numerous reports of the repression of LPM demonstrations, and the harassment and intimidation of LPM members by the police and state intelligence agencies.

3.3 Brazil: Women and men peasants from the sugar plant Prado are fighting for land (August 2004)

For more than six years 280 landless rural working families in Pernambuco, a state in northeast Brazil, have been fighting for the uncultivated land of the sugar plant Prado. In 1997, the families occupied and cultivated the land and harvested their food. However, in 2003 the families were violently evicted from this land due to an illegal judicial decision of the state court; their homes, schools, churches, community centre and crops were destroyed. They also had to suffer violent actions perpetrated by paramilitary groups of the sugar plant and by the state's Military Police. At the moment, the families live along a road without any means to produce, at the mercy of private donations and the government food aid which is scarce and delivered in irregular intervals. The land has been expropriated for the second time in 2003 through presidential decree. The owner took legal action to counter the decree. This action is pending at the moment at the Supreme Federal Court (SFC) which - in similar cases - needed two years to take a decision.

The conflict about the land of the sugar plantation Prado takes place in the region known as Mata, in the state of Pernambuco, northeast Brazil. For ages this region is known for its sugar cane production. The monoculture of sugar concentrates land, income and power. The sugar cane production - used to produce sugar and alcohol - is dominated by a powerful elite, which controls sectors of the State, overexploits the workers and fails to respect labour laws. With the sugar crises in the 90s, many producers went into debt and dismissed their workers. At the moment, these oligarchies have regained influence on the Brazilian government which depends on the export of agricultural products to generate foreign exchange. The new strength of the sugar barons creates new difficulties for the peasants fighting for land and for government assistance to subsistence agriculture.

In 1997, the 280 families occupied the various uncultivated plots of the sugar plants Prado, Papicu, Taquara, Tocos and Dependencia, in the Tracunhaém municipality, Pernambuco State. The State of Brazil, through INCRA (National Institute for Colonisation and Agrarian Reform) which is in charge of the implementation of the agrarian reform - confirmed that the plots lie idle and that in compliance with the Brazilian law the government expropriated the land for the agrarian reform. However, the Joao Santos group, the owners of the land, appealed against this decree, which led to a suspension of the expropriation.

The families still lived on the land and cultivated it. In November 2003, the situation of the families changed drastically when the authorities of Pernambuco, with the assistance of police and private militia of landowners evicted the families from the land, destroying crops, houses, killing animals, and humiliating the families in many ways. Since November 2003, the families are camped out along the road, men, women, children and old people live in plastic huts, without access to land and prevented from producing their food, depending on private and government donations. In June 2004 a fact finding mission of FIAN and Via Campesina (LVC) was carried out in the context of the Global Campaign for Agrarian Reform and verified the inhuman living conditions of these families.

In November 2003, after the eviction, the Government again expropriated the land. In response, the owner again appealed in court against this measure in order to get the Decree revoked. After a seven year fight, the expropriation now depends on the highest authority of the Brazilian legal system. It is hoped that the SFC will speed up its decision as

promised by its president when he was met by the fact finding mission of FIAN and LVC. Furthermore, the families expect to be compensated for the losses suffered due to the eviction in 2003.

3.4 Brazil: Members of agrarian organizations in the south of Para, Brazil, have been murdered (August 2004)

Three syndicalists from the trade union of the rural workers in the township of Rondon do Para, in the state of Para, have been murdered. They were fighting for the realization of the agrarian reform. The failure of the authorities to prevent criminal attempts conducted by gunmen commissioned by landowners against those who fight for the rights to land and also the denial to realize the agrarian reform, have contributed to this wave of violence in the municipality.

The state authorities cope with the landowners. As a result, they don't take proper measures to stop the crimes or arrest and judge the responsible for these offences. Besides, a great number of lands illegally registered by the state was discovered, that should have been directed to the agrarian reform.

The south and south west of Para is, according to the Comision Pastoral de la Tierra (CPT), the region in Brazil where violations of the human rights linked to the agrarian reform are the most important. During the past 30 years, more than 600 rural workers close to the social movements for the right to land, have been murdered. The absence of punishment is astonishing: until today, only 3 killers have been condemned but none of them went to prison.

In the municipality of Rondon do Para, the appropriation of lands through falsified titles is the main cause of conflict. Jose Dutra da Costa, the former president of the syndicate of the rural workers (STR) started to investigate and to denounce, during public meetings, the possible fact that the titles deed of the property Tulipa Negra, which represent 3000 hectares, were fake. Obviously, if the documents' falsification was proved, this country estate and many more would be expropriated without any public compensation.

Because of the denunciations, Jose Dutra da Costa has been assassinated the 21st of November 2000, by a killer commissioned by Jose Decio Barroso Nunes, the landowner. The killer was brought to the police department by neighbours and is still serving his sentence at Maraba's penitentiary. The landowner, who asked for the murder, Jose Decio Barroso Nunes has been under arrest for only 13 days before recovering his liberty. The judge of second instance, Otario Maciel took the decision without consulting the judge in charge of the case.

In September 2002, the main witness of the murder of Jose Dutra da Costa, the syndicalist Magno Fernandes de Nascimento, has been killed by two gunshots in his head. There are obvious indices showing that this act was to eliminate witnesses.

In February 2004, Ribamar Francisco dos Santos, a director of the Sindicato dos Trabalhadores Rurais, was assassinated. He was killed in front of his house by two gunmen. The present leader of the syndicate is suffering death threats. The indices of the authors of the murders are clear, it's up to the police to do the investigation and verify the authors and executors of the crime. Impunity remains the main cause of the increase of violence against rural workers.

3.5 Argentina: Repression, detention and attempted eviction of indigenous community in Salta (September 2004)

The Company Ingenio y Refinería San Martín del Tabacal S.A., owned by the North-American Seaboard Corporation Company, is challenging the ownership of the land of the Guarani indigenous community Iguopeingenda El Algorrobal while destroying crops and forest, burning down the families houses, blocking the exits of the village and threatening the families. On August 5 the company carried out an offensive against the Guarani village. Dozens of private guards paved the way for the troops that destroyed the families' cultivations. The guards also beat the villagers that had formed a human wall to prevent the destruction. At evening fall the police allowed the guards to act with impunity, brutally beating elders, women and children. The guards themselves then filed a complaint to the police, who detained seven persons from the community without written order.

The 60 families of the Guarani indigenous community El Algorrobal, Municipality of San Ramón de La Nueva Orán, Salta Province, are living at the fringe of the Blanco river (Banda sur), where they possess more than 300 hectares of land for 30 years. According to the Argentinean law, they have the right to this land. The families live from cassava, peanuts, bananas, corn, and some citrus fruits.

The families have denounced that they, since a couple of months, are facing all kinds of threats by the company Ingenio and Refinería San Martín del Tabacal S.A, owned by the North American *Seaboard Corporation*. The company is challenging the ownership of the land. They were destroying crops and forest with machines, burning down the families houses, blocking the exits of the village and threatening the families. The Council of Orán has asked the Chamber of Deputies and Senates of the Salta Province to expropriate the land and hand it over to the families.

Nevertheless, the company continues to use violence against the families. On August 5, the communities denounced that the company Ingenio and Refinería San Martín del Tabacal S.A carried out an offensive against the Guarani village. Dozens of private guards paved the way for the troops that destroyed the cultivations. The guards also beat the villagers that had formed a human wall to prevent the destruction. At evening fall the police allowed the guards to act with impunity, beating elders, women and children. The guards themselves then filed a complaint to the police, who detained seven persons without a written order. Six out of seven detained persons remain in the No. 20 Orán Police Station, while the seventh person, Benjamín Flores was taken to the San Vicente de Paul Hospital due to caused injuries.

3.6 Philippines: Non-implementation of agrarian reform, Maribulan, Alabel, Sarangani Province (October 2004)

On May 26, 2004, around 90 members of Sarangani Agrarian Reform Cooperative (SARBCO) were violently evicted from a banana plantation (SACI Banana Commercial Farm). They had attempted to take physical possession of a small portion of the land they are entitled to receive according to the agrarian reform law. The farmers had been dismissed from their job with SACI after they have been protesting for their right to land. Furthermore, all surrounding commercial farms refuse to employ them. Access to land of their own is therefore their only means to feed themselves. The government, however, continues to disregard their plight as legitimate beneficiaries of the plantation.

Land is the only means of subsistence for peasants in the Philippines. Despite the Comprehensive Agrarian Reform Program (CARP), which was introduced in 1988 to enable landless peasants and farmers' access to land, the reform process has been slow, thereby threatening and violating the right to feed oneself of many peasants in the rural area.

Sarangani Agrarian Reform Co-operative (SARBCO) is composed of 186 duly identified and qualified agrarian reform beneficiaries (ARBs) of the SACI Banana Commercial Farm (153 hectares), under the management of Sarangani Agricultural Corporation, Inc. (SACI). SACI is a corporation owned and controlled by the Alcantaras, who are among the biggest landowners in the Sarangani province, owning a total of 1,024 hectares of agricultural land.

In line with the national Comprehensive Agrarian Reform Program (CARP), the Land Bank of the Philippines (LBP) bought the land in September 2002 in order to transfer the land title to the Republic of the Philippines, the first step before the land can be handed over to 186 ARBs. It is the government's duty to install ARBs on landholdings distributed under the CARP by selling landholdings to farmer beneficiaries at an affordable and easy-to-pay basis.

Nevertheless, the Register of Deeds (ROD) in Sarangani Province is delaying the transfer of title from SACI to the Republic of the Philippines, although it has been requested several times by the Department of Agrarian Reform (DAR). ROD is a national government agency mandated to transfer land titles from original land owners to the Republic of the Philippines. Allegedly, the ROD-Officer-In-Charge in Sarangani Province has a personal connection to SACI.

As a means of protest, SARBCO members staged a picket in front of the main gate of SACI on April 26, 2004. In response, the SACI management terminated them from work, thus affecting the day-to-day sustenance of their families. The ARBs ended their picket upon the promise of SACI management to negotiate with them. However, the negotiation did not materialise because SACI representatives never appeared at the negotiation venue. Frustrated by the current scheme of things, around 90 SARBCO members took physical possession of a small portion of the 135-ha. banana plantation on May 26, 2004. The landowner resisted by sending a total of 200 Citizen Armed Forces Geographical Units (CAFGUs), security guards and pro-management farm workers to prevent the action of the ARBs. Despite the existing joint Memorandum of Agreement (MoA) signed between the Philippines National Police (PNP), Department of Agrarian Reform (DAR) and Department of National Defence (DND) to protect farmers beneficiaries in ensuring smooth implementation of the CARP, the police were deployed to help SACI in dispersing the farmers beneficiaries. Many ARBs and their children were severely hurt during the violent dispersal and they were forcibly evicted from the area they had occupied.

3.7 Philippines: Over-valuation of land awarded under agrarian reform program, Sitio Manggulod, Sta. Catalina, Negros Oriental, Philippines (November 2004)

The right to food of 243 farmers beneficiaries in Sitio Manggulod, Sta. Catalina in Negros Oriental is at stake: a piece of land (Belon Locsion property) awarded to them through the Comprehensive Agrarian Reform Program (CARP) was initially offered by the landowner to the government for 12 million Philippine pesos (PHP), but was eventually bought by the government at 36 million PHP. Allegedly, some personnel of the Department of Agrarian Reform (DAR) and Land Bank of the Philippines (LBP) were involved in this. As the new owners of the land, the farmers beneficiaries are bound to pay the said amount to the government; or otherwise they will lose the land they till - their only means of subsistence.

Land holdings covered by the Comprehensive Agrarian Reform Program (CARP) in the Philippines are acquired through different modes of acquisition such as Compulsory Acquisition (CA) and Voluntary Offer to Sell (VOS). CA is the mandatory acquisition of all agricultural lands for distribution to qualified agrarian reform beneficiaries. VOS is a scheme wherein landowners come forward and voluntarily offer their agricultural lands for coverage. In any of these modes, landowners receive just compensation from the government, depending on the result of the land valuation.

In July 1995, the Locsin property (480.336 hectares of land), formerly owned by Belen Locsin and heirs Sapinosa et. al, was voluntarily offered for sale under the Comprehensive Agrarian Reform Program (CARP) through Francisco Alcuaz (attorney of the landowner) for 12 million Philippine Pesos (PHP). This estate was divided among 243 farmers beneficiaries who by then organized themselves into MANACAFA (Manggulod-Nagbagang-Cabibi-an Farmers Association), which later evolved into MAFARMPUCO (Manggulod Farmers Multi-Purpose Cooperative).

However, on January 29, 1997, the Department of Agrarian Reform (DAR) offered to buy the lot for 23 million PHP, this time under the CARP's Compulsory Acquisition scheme. Apparently, the reason for this sudden increase was the alleged existence of 220 hectares of sugarcane and 40 hectares of coconuts as stated in the Field Investigation Report prepared by the DAR, Land Bank of the Philippines (LBP) and Barangay Agrarian Reform Committee representatives. However, according to farmers beneficiaries, these did not exist at the time of the investigation and therefore the said increase in valuation was unjustified. The change in valuation prompted the farmers beneficiaries to lodge protest with the DAR in Dumaguete City.

Meanwhile the landowner had sought for the increase in valuation to 36 million PHP due to by-products produced on 220 hectares of sugarcane and 40 hectares of coconuts. The matter was brought to the Special Agrarian Court in October 2002 in Dumaguete, which - presided by the then Judge Ramon Bato - ruled that the just compensation was 36 million PHP.

Since 1998, the farmers beneficiaries have been clamoring and vigorously making appeals to seek help and assistance. In December 2003, the farmers beneficiaries approached the Commission on Human Rights (CHR) in Dumaguete City for assistance. In response, CHR conducted an investigation and the result came out this June 2004. Findings of the investigation revealed that the over-valuation of the land was due to the fictitious field investigation report prepared by some DAR and LBP officials and personnel. In July 2004, CHR filed charges against some DAR personnel before the Office of the Ombudsman. The farmers are currently conducting a series of dialogues and mobilizations to intensify their campaign and press the government to act on their case.

3.8 Philippines: Harassment and court decision threaten the right to food of 200 farmers beneficiaries, Village of Polo, Tanjay City, Negros Oriental (March 2005)

In 1996, 393 hectares of land previously owned by a former Senator was awarded to 200 farmers and their families. However, not only has the Department of Agrarian Reform (DAR) failed to install these farmers' beneficiaries onto the said landholding till today, the Court of Appeals has recently decided against the coverage of the land under the national agrarian reform program. The landowner is now taking this decision of the court to retake greater control of the land. Without land, the farmers beneficiaries are unable to feed themselves.

Rene Espina is a former Senator. In 1996, his 500 hectares of sugar land was covered by the Comprehensive Agrarian Reform Law (CARL). About 200 farmer-beneficiaries were screened by the Department of Agrarian Reform (DAR) and qualified as farmers beneficiaries for 393 hectares out of the 500 hectares of land Espina owned.

Mr. Espina opposed the installation of the farmers because he leased portions of 393 hectares to some sugar planters. Nevertheless, in May 2004, the provincial office of the DAR, with the assistance of police forces and some local government officials installed the beneficiaries onto the said landholding. The farmers' families were able to plant food crops and earn some money from selling them at the market. However, Mr. Espina started harassing and intimidating the farmers. He demanded fees from the farmers for entering the main gate, for the use of the road and charged them for the products they sold. On June 16, 2004 the armed men of Mr. Espina began harassing the beneficiaries physically and fired their guns in the air. A survey team accompanied by DAR personnel was fired upon by the goons of Mr. Espina. As a result, the farmers were forced to leave the land. Without access to the land, the beneficiaries were once again unable to feed themselves adequately.

When the DAR, the beneficiaries and a NGO supporting them decided to re-install the farmers on October 11, 2004, the Philippines National Police, who were requested by the DAR to accompany did not come. Although 70 farmers' beneficiaries entered the land without any assistance from the government, they were once again forced to leave the land shortly after due to the harassment of the armed men of Mr. Espina who were repeatedly firing their guns in the air.

On January 30, 2005, the farmers' beneficiaries forcibly occupied the land as the DAR continuously failed to install them to the land awarded to them. Soon after the land occupation, they started harvesting sugarcane. However, the harvesting activity was interrupted by the armed goons of Espina who again started harassing the farmers. The sugarcane which was earlier harvested by the farmers was confiscated from them. The estimated profit from the sugarcane amounts to 13 million Philippines Pesos PHP (approximately 240,000USD).

To worsen the current situation, the Court of Appeals has recently excluded the land in question from the national agrarian reform program in response to the petition submitted by the land owner. The Court of Appeals is one of the lower courts in the Philippines and can reverse decisions of the local and regional courts, as well as Executive branch decisions. Although the decision is not yet final and executory, it is nevertheless against the provision in the CARL which states that the decision of the DAR shall be immediately executory notwithstanding an appeal to the Court of Appeals. Allegedly, Mr. Espina has managed to manipulate the classification of the land through municipal and provincial governments, thereby evading the coverage of its land under the agrarian reform program. Currently, Mr. Espina is using this latest decision by the court to retake greater control of the land. As such, the victims' supporting group is now helping the farmers' beneficiaries to bring the case to the Supreme Court.

4 Summary

As shown in the case and country studies, peasants face severe violations of their social and economic and of their civil and political rights.

In those few countries, where agrarian reform models are being implemented, implementation goes slowly and often not correctly, as could be seen in the cases of the Philippines, where peasants often cannot take possession of their land, although legally they already have received entitlements. Land grabbing and speculation even occurs in contexts where an agrarian reform programme is at place. In the majority of cases selected, peasants that are struggling for agrarian reform and for access to land, are persecuted politically and brutally repressed, often even murdered. The people mandating the violence belong to economically and politically powerful entities.

The fact that the majority among the malnourished people in the world are food producing peasants is alarming indeed.

The Global Campaign for Agrarian Reform of FIAN International and La Via Campesina provides a framework with experienced and well-proven instruments of monitoring and documenting human rights violations of rural people such as the Emergency Network and the Fact Finding Missions, solidarity letters or visits. This human rights issue, should now be urgently addressed with greater recognition within the United Nations human rights system. Although there is already a range of instruments like the General Comment No. 12 or the Voluntary Guidelines on the right to food, there is a need for legal instruments that put the focus on peasants as a specifically vulnerable group. The increasing self-organisation of smallholder peasants and of landless people, in the form of an international movements such as Via Campesina, is to be welcomed as an important factor in drawing attention to the violations of peasants' human rights.

One possible new instruments might be a General Comment on the Rights of the Peasants. Via Campesina is thinking about the development of an "International Convention on the Rights of Peasants", which could cover the obligations of national and international actors. It should also address the negative consequences of liberalisation and highlight the extreme importance of agrarian reform and access to land for peasants worldwide.

Addresses

FIAN: For the human right to feed oneself

FIAN is an international human rights organization working for the right to feed oneself. It was founded in 1986, and can count on members in more than 50 countries. The aim of FIAN is to contribute in the whole world to the implementation of the International Bill of Human Rights. FIAN works in particular for the right to feed oneself of persons and groups threatened by hunger and malnutrition.

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