

**RUNNING AMOK:**  
**LANDLORD LAWLESSNESS and IMPUNITY in the PHILIPPINES**

Final Report of the 2-15 June 2006 International Fact-Finding Mission on  
Agrarian Reform Related Violations of Human Rights in the Philippines

19 June 2006  
Quezon City, Philippines

## **Executive Summary**

The Government of the Republic of the Philippines (GRP) is a signatory to the major conventions in international human rights law, including the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) and the International Covenant on Civil and Political Rights (ICCPR, 1966). In 2006 the GRP was elected to the new Human Rights Council (HRC) of the United Nations. As a signatory and a member of the UN Human Rights Council, the GRP is obliged to respect, protect and fulfil the human rights of its citizens, particularly its most vulnerable sectors including the landless rural poor.

In light of the above, a number of civil society organisations that have been involved in rural rights advocacy since the late 1980s – namely, the Partnership for Agrarian Reform and Rural Development Services (PARRDS), PEACE (Philippine Ecumenical Action for Community Empowerment) Foundation, and the Philippine Section of the Foodfirst Information and Action Network (FIAN-Philippines) -- jointly organised an international fact finding mission (IFFM) in the Philippines to investigate the worsening trend of agrarian related human rights violations in the countryside.

The IFFM took place from June 2-15, 2006 in selected provinces. It covered cases of agrarian reform related human rights violations in four (4) landholdings in Bondoc Peninsula, ten (10) landholdings in the Western Visayas, and four (4) landholdings in Southern Mindanao. In addition to investigating agrarian reform related human rights violations in the said eighteen landholdings, the Mission also looked into three special cases of human rights violations. In the Visayas, the Mission took up the special case of the murder of Task Force Mapalad (TFM) leader-organiser Rico Adeva. In Mindanao, the Mission also took up the special cases of (i) the 24 April 2006 murder of UNORKA General Secretary Enrico Cabanit and (ii) the victims of chemical aerial spraying in commercial farm banana plantations.

Data was collected through: (i) key informant interviews with victims of agrarian related violence (ii) key informant interviews with government officials and leaders of affected peasant organisations (iii) focus group discussions with government officials and members of the affected organisations and (iv) analysis of relevant documents.

The Mission's main finding is two-fold. **First**, big landowners and their employees are running amok of Philippine law and international law, and with complete impunity, are engaged in a wide range of criminal activity that seriously undermines rural poor people's effective access to their human rights. **Second**, in this light, the Philippine state is failing abjectly to fulfill its obligations to respect, protect and fulfill the human rights of the rural poor population, as signatory to the various relevant international human rights law conventions.

In many cases, government forces, such as local units of the Philippine National Police (PNP) and of the Armed Forces of the Philippines (AFP), were found to be siding with big landlords and thus actively involved in violating the rights of agrarian reform

petitioners and agrarian reform beneficiaries, and thus failing to respect their rights. Rather than keeping peace and order, such government forces were found to be involved in cases of killings, harassment and forced evictions. The Philippine state is also failing to protect the human rights of agrarian reform petitioners and agrarian reform beneficiaries from crimes being committed against them by third parties, such as powerful landlords and their employees and other non-state armed groups, and failing to prosecute the perpetrators. Finally, the Philippine state is also failing to fulfill the human rights of tenants and farmer workers by not fully and completely redistributing land to them according to their rights under the Comprehensive Agrarian Reform Law (CARL). In many instances, it was unclear from their actions whether the intent of various relevant government agencies was to help peasant petitioners and beneficiaries of the agrarian reform to acquire their legal land rights in reality, or whether it was instead to help big landlords to evade the law and to hold onto their lands by whatever means possible.

In the light of these findings, the Mission calls on the Philippine government, and particularly all the government members of the recently convened national-level Inter-Agency Task Force to Address Cases of Violence, Harassment and Killings in the Implementation of CARP, to fully commit themselves and the resources at their disposal, to do the following:

(i) ***Stop the Impunity***

Big landowner, their employees, and their allies within the state, are running amok of Philippine law and international human rights law. With complete impunity, they are engaged in a wide range of criminal activities that seriously undermine rural poor people's effective access to their human rights. The Philippine State should immediately investigate all cases of agrarian-related killings and harassments and bring the perpetrators—both state and non-state—to justice.

(ii) ***Hasten Land Redistribution***

Once they petition for their legal land and tenure rights under the CARL and/or are issued Certificate Land Ownership Awards (CLOAs), tenant- and farmworker-beneficiaries become extremely vulnerable to all manner of legalistic and extra-legal retaliatory actions of landlords. This in turn undermines the former's ability to construct an adequate rural livelihood and erodes their capacity to sustain their petition. The situation worsens the longer the Comprehensive Agrarian Reform Program (CARP) implementation process drags on. The government, through the Department of Agrarian Reform (DAR), should hasten implementation of CARP so as to make as short as possible the amount of time petitioners have to wait before gaining full ownership and control of the land. We urge the Ombudsman to investigate agrarian reform petitioners' and beneficiaries' complaints against corrupt and inefficient DAR officials and to take appropriate disciplinary measures where warranted, in cooperation with civil society rights-advocacy groups.

(iii) ***Ensure Petitioners' and Beneficiaries' Peaceful Possession and Control of the Subject Land***

In cases where they are already positioned on the land, the DAR should ensure the security and peaceful maintenance of possession of the land of agrarian reform

petitioners before the issuance of CLOAs. In cases where they are not already positioned on the land, the DAR should take measures to ensure that the rightful petitioners' legal rights to possess the land are nonetheless recognised and safeguarded. Once it issues the CLOA to agrarian reform beneficiaries, the DAR must assist the ARBs in the installation process and ensure their full control of the awarded land. Finally, at the policy level, leaseback as an option should be prohibited. It bears stressing that the obligation of the DAR does not end when it issues CLOAs (whether collective or individual) to the beneficiaries: the DAR must continue to assist peasant petitioners (tenants and farmworkers) until they are fully and effectively installed on the lands awarded to them, and provided with adequate support services so that they can peacefully enjoy the fruits of this life-giving resource.

**(iv) *End the Criminalisation of Agrarian Reform Cases***

The regular judicial courts and their agents (Judges and Provincial Prosecutors) should not entertain agrarian reform related cases. The Supreme Court directives barring court officials from entertaining agrarian reform related cases should be strictly enforced and erring officials should be disciplined. Court complicity in the criminalisation of agrarian reform related cases should be met with appropriate disciplinary measures. Agrarian reform related cases already pending in the Court of Appeals and Supreme Court should be reviewed and dismissed as appropriate.

**(v) *Protect Rural Workers' Labor Rights***

All international labor standards and Philippine labor laws should be applied to rural workers. Rural workers should be protected from illegal dismissals, poor and unsafe working conditions, withholding of benefits, etc. Their right to a minimum wage, to join a trade union and their right to the freedom of association and assembly should be respected.

**(vi) *Assist Victims and Protect Witnesses of Human Rights Violations***

Protection and welfare assistance should be accorded to the witnesses of crimes committed against agrarian reform petitioners and beneficiaries for as long as is necessary. Compensation such as assistance in livelihood, medical, financial and other benefits should immediately be given to all victims of agrarian reform related human rights violations and their families.

**(vii) *Stop the Chemical Poisoning of Rural Communities***

The Philippine state has to take immediate actions against the importation of banned chemicals and their continued systematic use. The DAR and other relevant agencies should monitor the types of chemicals and their application in commercial farms and plantations in order to prevent incidents of chemical poisoning from happening again.

**(vii) *Ensure Petitioners' and Beneficiaries' Access to Adequate Food***

Enabling mechanisms should be enacted and put into place to ensure the food security of agrarian reform petitioners and beneficiaries. The government should fully comply with its specific human rights obligations to agrarian reform petitioners and beneficiaries under the ICESCR.

**(viii) *Fulfill its Human Rights Obligations to the Rural Poor***

The Philippine state must fulfill its obligations to respect, protect and fulfil the human rights of the rural poor population, especially those who place themselves within the fold of the law and attempt to claim their legal rights to the full ownership and control of land and its fruits.

## List of Acronyms

ADB Asian Development Bank  
AFP Armed Forces of the Philippines  
AFRA Asao Farmers and Residents Association  
AR Agrarian Reform  
AS Armed Struggle  
ARB Agrarian Reform Beneficiaries  
CA Compulsory Acquisition  
CA Court of Appeals  
CAFGU Civilian Armed Forces Geographic Unit  
CARL Comprehensive Agrarian Reform Law  
CARP Comprehensive Agrarian Reform Programme  
CBCP Catholic Bishops Conference of the Philippines  
CHR Commission on Human Rights  
CIDG Criminal Investigation and Detection Group  
CLOA Certificate of Land Ownership Award  
CPP-NPA Communist Party of the Philippines-New People's Army  
CVO Civilian Volunteers Organisation  
DA Department of Agriculture  
DALO Democratic Alliance of Labor Organisations  
DAR Department of Agrarian Reform  
DARAB Department of Agrarian Reform Adjudication Board  
DBCP Dibromochloropropane  
DBPWATI Davao Banana Plantation Workers' Association of Tiburcia Inc.  
DENR Department of Environment and Natural Resources  
DOFARBA ....  
DOJ Department of Justice  
DSWD Department of Social Welfare and Development  
EO Executive Order  
EPA Environmental Protection Authority  
FAO Food and Agriculture Organisation  
FGN Filippijnengroep Nederlands  
FIAN Food first Information and Action Network  
FNRI Food and Nutrition Research Institute  
GC General Comment  
GRP Government of the Republic of the Philippines  
HACARBA Hacienda Cambuktot Agrarian Reform Beneficiaries Association  
HR Human Rights  
HRV Human Rights Violation  
ICARRD International Conference on Agrarian Reform and Rural Development  
ICCPR International Covenant on Civil and Political Rights  
ICESCR International Covenant on Economic, Social and Cultural Rights  
IFFM (International Fact-Finding Mission)  
KMBP Kilusang Magbubukid ng Bondoc Peninsula (Peasant Movement of BP)  
KPD Kilusan para sa Pambansang Demokrasya (Movement for National Democracy)

LGU Local Government Unit  
 MANAA-KA Mag-uumang Nagkahiusat alang sa Kalamboan (United Farmers for Development)  
 MARO Municipal Agrarian Reform Officer  
 MCBCI Mampising CARP Beneficiaries Cooperative Inc.  
 MCTC Municipal Circuit Trial Court  
 MEPI Marsman Estate Plantation Inc.  
 MFDC Mindanao Farmworkers Development Center  
 NBI National Bureau of Investigation  
 NCR National Capital Region  
 NEDA National Economic Development Authority  
 NOCPED Negros Oriental Center for Peoples Empowerment and Development  
 NOFFA Negros Occidental Federation of Farmers Association  
 NPA New People's Army  
 OCI Ocular Inspection  
 OLT Operation Land Transfer  
 PARAD Provincial Agrarian Reform Adjudicator  
 PARC Presidential Agrarian Reform Council  
 PARO Provincial Agrarian Reform Office  
 PARRDS Partnership for Agrarian Reform and Rural Development Services  
 PASAMAKA Pagtingob sang Manguguma kag Mamumungon sa Kaumhan (United PO Police Station Farmers and Farmworkers Association for Land)  
 PBGEA Philippine Banana Growers and Exporters Association  
 PD Presidential Decree  
 PEACE Philippine Ecumenical Action for Community Empowerment  
 PKMM Pambansang Katipunan ng Makabayang Magbubukid (National Association of Patriotic Peasants)  
 PNP Philippine National Police  
 POPARMUCO Polo Plantation Agrarian Reform Multipurpose Cooperative  
 PROGRESO Panay Rural Organising for Reform and Social Order  
 QUARDDS Quezon Association for Rural Development and Democratisation Services  
 RA Republic Act  
 RIID Regional Intelligence and Investigation Division  
 RMG Regional Mobile Group  
 ROD Registry of Deeds  
 RP Republic of the Philippines  
 RPC Revised Penal Code  
 RPA-ABB Revolutionary Proletarian Army-Alex Boncayao Brigade  
 SACI Sarangani Agricultural Corporation Inc.  
 SARBCO SACI Agrarian Reform Beneficiaries Cooperative  
 SCAA Special Civilian Active Auxiliary  
 SDO Stock Distribution Option  
 SMPLDR Samahan ng mga Magsasakang Petitioners sa Lupain ni DR (Association of Farmer Petitioners in the Landholdings of Domingo Reyes)  
 Sto. Santo (Saints)

SWS Social Weather Station  
TADECO Tagum Agricultural Development Corporation  
TARBAI Tibal-og Agrarian Reform Beneficiaries Association Inc.  
TFC Task Force Cabanit  
TFM Task Force Mapalad  
TVPI .....

UDHR Universal Declaration of Human Rights  
UN United Nations  
UNICEF United Nations Children's Fund  
UNORKA Pambansang Ugnayan ng mga Nagsasariling Lokal na Organisasyon ng mga Mamamayan sa Kanayunan (National Coordination of Autonomous Local Rural People's Organisations)  
VG Voluntary Guidelines  
VLT Voluntary Land Transfer  
VOS Voluntary Offer to Sell  
WADECOR Worldwide Agricultural Development Corporation  
WEARBAI WADECOR Employees Agrarian Reform Beneficiaries Association Inc.

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## **1. Introduction**

The Government of the Republic of the Philippines (GRP) is a signatory to all the major conventions in international human rights law, including the Universal Declaration of Human Rights (UDHR, 1948) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), which includes a provision on the Right to Food, and the International Covenant on Civil and Political Rights (ICCPR, 1966). In 2006 the GRP was recently elected to the new Human Rights Council of the United Nations. As a signatory and a member of the UN Human rights Council, the GRP has the obligation to respect, protect and fulfil the human rights of its citizens, particularly its most vulnerable sectors including the rural poor.

## **2. Objectives and Methodology**

In light of the above, a number of civil society organisations that have been involved in rural rights advocacy since the late 1980s – namely, the Partnership for Agrarian Reform and Rural Development Services (PARRDS), PEACE (Philippine Ecumenical Action for Community Empowerment) Foundation, and the Philippine Section of the Foodfirst Information and Action Network (FIAN-Philippines) — jointly organised an international fact finding mission (IFFM) in the Philippines to investigate the worsening trend of agrarian reform related human rights violations in the countryside.

### ***2.1. Convening Parties***

FIAN Philippines is a section of FIAN International (FoodFirst Information and Action Network). FIAN is an international human rights organization working for the right to food that was founded in 1986. FIAN has consultative status with the United Nations and with members in more than 60 countries around the world. FIAN's objective is to contribute to the achievement of the International Bill of Human Rights worldwide. FIAN works particularly towards the realisation of the right to food of persons threatened by hunger and malnutrition.

PARRDS is a coalition and service center involved in the promotion and advocacy of land redistribution and agrarian reform. As a service center, it refers farmers with agrarian problems who are affiliated with a member-organisation to the concerned government agencies, particularly the Department of Agrarian Reform (DAR), Department of Agriculture (DA), and Department of Environment and Natural Resources (DENR). As a coalition, it provides a forum for organisations with varying traditions to articulate their views and experiences in order to come to a consensus on progressive and workable advocacy positions.

PEACE is a polycentric community organising association founded in 1977. It is composed of 17 politically autonomous institutions and organizations nationwide that

have a common aspiration for agrarian reform, rural development and democratization. PEACE community organisers and institutional affiliates are presently engaged in facilitating land and tenure reform in more or less 160,000 hectares of private and public agricultural land, affecting more or less 45,000 rural poor households. This means around 450 big privately owned or controlled landholdings, involving some of the country's the most contentious properties and landowners, such as the Cojuangcos, the Floirendos, the Reyeses and Uys, the Dys, Sutton, Espina and others.

## **2.2. Organisation of the IFFM**

The IFFM took place from June 2-15, 2006 in selected provinces. The Mission was subdivided into several teams that covered cases of agrarian related human rights violation in Mindanao, the Visayas and in Bondoc Peninsula (see Table 1 below). The Mission looked into human rights violations of agrarian reform petitioners and agrarian reform beneficiaries in a total of four (4) landholdings in Bondoc Peninsula in Quezon Province, ten (10) in the Western Visayas provinces of Iloilo, Negros Oriental and Negros Occidental, and four (4) in the Southern Mindanao provinces of Saranggani, Davao del Norte and Compostella Valley. Some of the cases covered by the present IFFM were also covered by two previous IFFMs, namely the FIAN International and La Via Campesina Fact-Finding Mission in 2000 and the FIAN Fact-Finding Mission in 2003.

**Table 1. IFFM 2006 Covered Landholdings**

<b>Location</b>	<b>Number of Land Holdings</b>	<b>Name of Land Holdings</b>
Bondoc Peninsula, Quezon Province	4	1. Matias (San Francisco) 2. Zoleta-Queblar (San Francisco) 3. Villa Reyes (San Andres) 4. Uy (San Narciso)
Western Visayas (Iloilo, Negros Occ and Negros Or)	10	1. Bedro (Balasan, Iloilo) 2. Public Land (Kabankalan, N.Occ.) 3. Hacienda Cambuktot (La Castellana, N.Occ.) 4. Espina (Tanjay, N.Or.) 5. Erac (Tanjay, N.Or.) 6. Yared (Bais, N.Or.) 7. Hosanna (Amlan, N.Or.) 8. Hosanna (Tanjay, N.Or.) 9. Tirambulo (Mabinay, N.Or.) 10. Maple (Tanjay, N.Or.)
Southern Mindanao (Saranggani, Davao Norte, Compostella Valley)	4	1. SACI (Saranggani) 2. Mampising (Compostella Valley) 3. MEPI (Kapalong, Davao Norte) 4. WADECOR (Carmen, Davao Norte)

During the Visayas leg of the present Mission, one special case of human rights violation was taken up, in addition to the cases of human rights violations in relation to the ten landholdings (listed in Table 1 above). This was the special case of the murder of the Task Force Mapalad (TFM) leader-organiser Rico Adeva (see Table 2 below).

During the Mindanao leg of the Mission, two special cases of human rights violations were taken up in addition to the cases of human rights violations in relation to the four land holdings (listed in Table 1 above). The special case of the victims of chemical aerial spraying in the commercial banana farms was investigated by one sub-group, and the special case of the murder of UNORKA General Secretary Enrico “Ka Eric” Cabanit was investigated by another sub-group of the IFFM (see Table 2 below).

**Table 2. IFFM 2006 Special Cases**

<b>Case</b>	<b>Victim</b>	<b>Location</b>
Murder	Enrico “Ka Eric” Cabanit	Panabo City, Davao del Norte
Murder	Rico Adeva	Silay City, Negros Occidental
Chemical Poisoning	Banana Farmworkers	Multiple municipalities, Davao del Norte

### **2.3. Methods**

Participants in the different teams collected information about the cases through: (i) key informant interviews with victims of agrarian related violence, (ii) key informant interviews with government officials and with leaders of affected farmworkers organisations, (iii) focus group discussions with government officials and members of affected farmworkers organisations, and (iv) analysis of relevant documents that were collected in the course of the field visits.

The information collected by the IFFM has been analysed in relation to state obligations according to the UN Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (ICESCR 1966), the International Covenant on Civil and Political Rights (ICCPR 1966), General Comments made by the Committee on Economic, Social and Cultural Rights, Guidelines to Support the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security (henceforth referred to as VG).

The present report is being distributed to various relevant agencies of the Government of the Republic of the Philippines, to the Catholic Bishops Conference of the Philippines (CBCP), to local, national and international human rights organisations, to the diplomatic community and to the United Nations.

### **3. Framework**

#### **3.1. Poverty in the Philippines**

In the National Economic Development Authority (NEDA) report “Second Philippines Progress Report on the Millennium Development Goals” it is stated that as of 2003, 30.4% of the Philippine population lives below the poverty line. That is about 25 million individuals out of a population of 85 million.

The Food and Nutrition Research Institute (FNRI) reported that in 2003, for every 100 pre-school children, 32 were anemic, 30 were under-height and 28 were underweight. For every 100 school-age children, 37 were anemic, 36 were under-height and 27 were underweight. Overall, around 5 million pre-school and school-age children are underweight and 7 million under-height and anemic (Florencio, Cecilia, “Nutrition in the Philippines”, p. 140, 2004, University of the Philippines Press). The malnutrition problem of the Philippines has caught the attention of the UNICEF (United Nations Children’s Fund). Dr. Nicholas Alipui, the Country Representative, observed that child malnutrition has remained high at 30% in the last 10 years. He warned that malnutrition leads to “lower intelligence, reduced physical capacity and passing it on to the next generation....” Dr. Alipui added that children have a right to be free from malnutrition. (“UNICEF raise alarm on malnutrition in RP”, INQ7.net, 4-7-06, by Veronica Uy)

According to one survey, about 700,000 families experience severe hunger, or about 3.5 million persons. Most of the hungry people are in Mindanao (21%), followed by the National Capital Region (NCR) (18.3%), the Visayas (16%) and Luzon (14.7%). (“Hunger hits new record high of 16.9%”, May 5, 2006, Social Weather Stations).

Significantly, according to the Asian Development Bank almost three-fourths of the country’s poor are *rural* poor (ADB, 2005).

#### **3.2. Agrarian Reform as a Human Rights Issue**

##### **3.2.1. Economic, Social and Cultural Rights, esp the Right to Adequate Food**

The human right to food is enshrined in article 25 of the UN Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of the United Nations. In 2004, 187 states agreed for the first time in history, on a document identifying the content of one of rights covered by ICESCR, namely the right to adequate food. During the UN Food and Agriculture Organisation (FAO) Council in November 2004, “The Voluntary Guidelines to Support the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security” (henceforth referred to as VG) was unanimously adopted, providing states with guidelines on how to progressively realize the right to adequate food as stated in the ICESCR. The VG addresses the issue of access to land and the need for agrarian reforms. In paragraph 1 of the VG, following the authoritative interpretation of

the right to food in General Comment No. 12 (GC 12), by the Committee on Economic, Social and Cultural Rights, makes reference to the basic content of the right to food and states: “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.”

The VG and GC12 make it clear that the direct availability of food through an individual or collective 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 (Monsalve 2006). The direct availability of food through one’s 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”

Due to the close correlation between access to land and the right to food, three types of obligations can be directly applied to access to land: State Parties to the ICESCR are obligated to respect, protect and fulfil access to land, given that this forms part of the basic content of the right to food and is particularly important for peasants, indigenous peoples, fisherfolks, pastoralists, and people living in rural areas and who have no alternative options for earning a living. The Special Rapporteur on the Right to Food has already adopted this interpretation and considers it to be clear that governments should respect, protect and fulfil access to land.

The 2006 International Conference on Agrarian Reform and Rural Development (ICARRD), hosted by the UN Food and Agricultural Organisation (FAO) and the Brazilian Government, also highlights the importance of agrarian reform for the realisation of basic human rights. In its final declaration, the conference stressed the eminent role of agrarian reforms to combat hunger, the need for a model of sustainable development and the implementation of human rights. It states that agrarian reforms should promote economic, social and cultural rights, especially for women, marginalised and vulnerable groups. Especially in areas with strong social disparities, poverty and hunger, agrarian reform should broaden and secure access to, and control over, land and other resources. States have a crucial role in the implementation of agrarian reform.

### **3.2.2. Civil and Political Rights**

Paragraph 19 of the VG emphasizes that obtaining food security is based on the realisation of existing rights, that applying the principles of human rights are an integral part of the process and that citizens have rights and are not mere passive recipients. In this sense, respecting and protecting the civil and political rights contained in the

International Covenant on Civil and Political Rights (ICCPR) is absolutely crucial in the political decision-making process and the implementation of policies and programmes related to access to land and agrarian reform. Recognising and supporting movements for landless peasants and indigenous peoples as those which struggle for land and agrarian reform must be a fundamental condition of any land access or agrarian reform policy or programme. The importance of the full enjoyment of civil and political rights in order to ensure agrarian reforms which fulfill economic, social and cultural rights is evident each time a leading peasant is killed for claiming the right of her or his community to land; each time a female rural worker is arbitrarily deprived of her freedom to set up a union for female workers; each time families and entire communities are brutally evicted from their land; and each time—due to obstacles in institutional channels in claiming the effective fulfilment of agrarian reform—public demonstrations, peaceful protests and direct actions, such as the non-violent occupation of land—land that is not fulfilling its social function—are violently suppressed.

### **3.3. Philippine Agrarian Reform Legal Framework**

#### ***3.3.1 The 1988 Comprehensive Agrarian Reform Law (CARL) and the Comprehensive Agrarian Reform Programme (CARP)***

Popular demand for redistribution of large landholdings that accumulated during the Marcos dictatorship helped to push land reform to the top of the national agenda in the immediate post-dictatorship period despite systematic elite efforts to suppress it.

National lawmaking in the relatively more open and competitive post-authoritarian elite democracy led to a new agrarian reform law and program in 1988 that is neither purely 'voluntary-nonredistributive' nor purely 'expropriative-redistributive'. The Comprehensive Agrarian Reform Law mandates coverage of all private and public farmland regardless of tenurial arrangements or productivity conditions. But just as it was created in such conditions, the 1988 law is being implemented within the structural and institutional constraints of the very setting that it aims to change. Implementation has been highly contentious. Making the law's progressive elements authoritative in society has been neither automatic nor easy because its meaning and purpose remains contested.

Under the CARP, the DAR is responsible for redistributing all private lands and some government-owned lands, regardless of crop or farm type. The agency is also responsible for implementing leasehold reform in all land under the retention right of landlords or as a transitory mechanism toward eventual expropriation of private lands as well. Covering all agricultural land regardless of crop or farm type, CARP was mandated to redistribute 8.064 million hectares of private and public land to about 4 million rural poor households (tenants, farmworkers, and other landless). To do this, it adopted several land acquisition and distribution schemes, including: Compulsory Acquisition (CA), Operation Land Transfer (OLT), Voluntary Offer to Sell (VOS), and Voluntary Land Transfer (VLT).

Compulsory Acquisition is used to expropriate land even when landlords oppose the program. Operation Land Transfer is the scheme used to acquire and distribute rice and corn lands originally covered by the Marcos land reform (PD 27), which was integrated

into the CARP. Voluntary Offer to Sell is employed to entice landlords to support the program by offering a better compensation deal: a 5 percent increase in the cash portion of the land compensation, but with a 5 percent decrease in the bonds portion. Voluntary Land Transfer also aspires to court landlord cooperation; it provides for the direct transfer of land to farmers under terms mutually agreed upon between farmers and landlords, with the government's role confined to information provision and contract enforcement. The key difference between VOS and VLT is that the landlord sells land to the state in the former, and in the latter he or she sells directly to the peasants. VOS and VLT operate under the threat of expropriation.

It should be noted that CARP has transpired differently in the case of commercial farms. During the making of the law, a powerful lobby mounted by agribusiness companies and landlords for the exclusion of commercial farms from land reform led to a compromise. Though not categorically exempted from the land reform law, commercial farms were granted a ten-year deferment, pushing back the advent of the reform from 1988 to 1998. Meanwhile, the law allows farmworkers to "lease back" the awarded land to its former owners or companies that used to control it (i.e., the "leaseback" scheme).

### **3.3.2. Civil and Penal Codes**

As a prelude to the 1988 agrarian reform law, the enactment of Executive Order (EO) 229 divested the regional trial courts of their general jurisdiction to try agrarian reform matters and placed it in the DAR and DAR Adjudication Board (DARAB). This should have settled the matter of jurisdiction over agrarian reform related disputes. Instead, in the absence of changes to the written law, it set the stage for a massive tug-of-war to be played out in courtrooms and local DAR offices all over the country for years to come. This is because an underlying source of institutional discontinuity and legal tension is the co-existence of two contending bases of legal interpretation, the 1950 Civil Code on the one hand, and the 1987 Constitution and 1988 Comprehensive Agrarian Reform Law on the other. Each was produced at different historical times and under different social-political circumstances. The former takes evidence of title (e.g., absolute deed of sale, tax records) as the legal basis for land ownership, whereas the 1988 agrarian reform law, by contrast, takes personal cultivatorship as the legal basis for land ownership. While the 1987 Constitution defines property in terms of its social function, there is no such concept of land under the Civil Code.

In practice, jurisdictional lines in agrarian reform and related disputes remain blurred, leaving it up to better-equipped litigants and individual judges to determine where – and how – a case will be processed. Rural poor claimants seeking land reform are obliged to mobilise state law administratively through the DAR or the quasi-judicial DARAB structure. But 'forum-shopping' landowners try to activate the more conservative Civil Code by mobilising the trial courts to defend their claim to property threatened with redistribution and to harass peasant claimants, either by filing dubious criminal charges aimed at weakening their resolve and eating away at scarce financial resources, or by launching a kind of legal blitz intended to confound and overwhelm.

Among the most common kinds of criminal charges under the Revised Penal Code (RPC) that are being filed against rural poor agrarian reform petitioners and beneficiaries are (i) Qualified Theft (ii) Estafa (iii) Malicious Mischief (iv) Trespassing and (v) Grave Coercion. Under the 1988 agrarian reform law, however, such charges are groundless and should not be entertained by the regular courts.

#### **4. Findings**

The Mission's main finding is two-fold. **First**, big landowners and their employees are running amok of Philippine law and international law, and with complete impunity, are engaged in a wide range of criminal activity that seriously undermines rural poor people's effective access to their human rights. **Second**, in this light, the Philippine state is failing abjectly to fulfill its obligations to respect, protect and fulfill the human rights of the rural poor population, as signatory to the various relevant international human rights law conventions.

In many cases, government forces, such as local units of the Philippine National Police (PNP) and of the Armed Forces of the Philippines (AFP), were found to be siding with big landlords and actively involved in violating the rights of agrarian reform petitioners and agrarian reform beneficiaries, and thus failing to respect their rights. Rather than keeping peace and order, such government forces were found to be involved in cases of killings, harassment and forced evictions. The Philippine state is also failing to protect the human rights of agrarian reform petitioners and agrarian reform beneficiaries from crimes being committed against them by third parties, such as powerful landlords and their employees and other non-state armed groups, and failing to prosecute the perpetrators. Finally, the Philippine state is also failing to fulfill the human rights of tenants and farmer workers by not fully and completely redistributing land to them according to their rights under the Comprehensive Agrarian Reform Law. In many instances, it was unclear from their actions whether the intent of various relevant government agencies was to help peasant petitioners and beneficiaries of the agrarian reform program to acquire their legal land rights, or whether it was instead endeavoring to help big landlords to evade the law and hold onto their lands by whatever means possible.

##### **4.1. Bondoc Peninsula**

The Mission visited Bondoc Peninsula on 3-5 June 2006, interviewing agrarian reform petitioners and victims of agrarian reform related human rights violations in three municipalities. The Mission also visited seven agrarian reform petitioners being held in the provincial jail in Gumaca, some of whom had been violently arrested, and met with another group of petitioners facing criminal charges during their hearing at the Municipal Circuit Trial Court (MCTC) in San Francisco town.

This remote region on Southern Luzon island is one of the country's agrarian reform hotspots and remains an enclave of despotic landlordism. The dominant crop here is coconut, while the farming system is still predominantly feudal, with tenants paying shares to despotic landlords who assert their authority with the support of local units of both state armed forces and non-state armed groups. In addition to being outlawed by existing national agrarian reform legislation since the late 1960s (in favor of the leasehold system), the prevailing sharing system is highly exploitative. In some cases the tenants are obliged by despotic landlords to pay 70% of their harvest to the land owner, with the tenant shouldering the costs of production. This leaves the tenants with too little food and income to cover their daily nutritional needs.

Against this backdrop, the relevant government agencies including the DAR and DENR are not moving swiftly enough and/or favorably to secure the land rights and tenure rights of tenants. Meanwhile, local government police and army units were found to frequently act in conjunction with landlords attempting to evade the national agrarian reform law. In addition, the regular courts and their agents, including the local trial court judge and the provincial prosecutor, are contributing to the problem by frequently entertaining retaliatory and unwarranted criminal charges filed by landlords against peasant agrarian reform petitioners and beneficiaries. Many petitioners with such pending criminal charges face violent arrest by combined teams of local police, local army and landlords' private armies. Violence and other forms of harassments continue to make the everyday life of tenants extremely difficult, with highly insecure access to the means to ensure themselves adequate food.

#### **4.1.1. Killings**

Since 1998 four (4) local peasant leader-petitioners in a big landholding dubiously claimed by the Uy family in San Vicente, San Narciso, Quezon have been brutally killed by landlord goons in three (3) cases, and by members of the underground Maoist New People's Army (NPA) in one (1) case. Until now, the government has failed to solve the cases. The perpetrators have yet to be brought to justice, even though the identities of some are known to both the police and the communities. These murders of agrarian reform petitioners were previously reported to the Commissioner of Human Rights (CHR).

#### **4.1.2. Harassments**

Since filing their petitions for CARP coverage, tenants in affected landholdings have had to endure various forms of harassments. These include indiscriminate firing at tenants in their homes or while harvesting, grave threats, property and crop destruction, dispossession of land and crops, and violent and dubious arrests. These harassments have resulted in the displacement of 71 families (or almost 450 individuals), who since 1996 and up until today have not been able to maintain an adequate livelihood. Continuing harassment has affected around 1200 families (or roughly 7,200 individuals) on three land holdings owned by the biggest landlords in Bondoc Peninsula, namely the Reyes, Uy and Matias families.

### **4.1.3. Criminalization**

There is a significant increase in criminal cases being filed against agrarian reform petitioners. The charges are mainly filed by the landowners' agents, and include qualified theft, malicious mischief, trespassing, libel and estafa. Such charges in the first instance fail to recognize or respect the actual legal land and tenure rights of the petitioners under the Comprehensive Agrarian Reform Law (CARL). Meanwhile, the CARL states that agrarian reform related cases should not be tried in the regular courts. Yet landowners and their agents are making frequent use of the civil and penal codes to harass peasant agrarian reform petitioners, unfortunately with the active support of the provincial prosecutor and local judge. Farmers often do not have sufficient funds to post bail (forcing them to borrow or remain in jail), much less money to hire lawyers to defend themselves in court. DAR lawyers do not normally represent tenants involved in agrarian related criminal cases.

The Mission learned of 189 cases filed against 196 petitioners, mainly in the vast Villa Reyes (San Andres) and the Matias hacienda (San Francisco). Some of the affected petitioners told how they were violently arrested as a result of the dubious criminal cases filed against them. Since 1996 more than 300 farmers have been imprisoned. From May 12<sup>th</sup> 2006 42 farmers were jailed after they voluntarily surrendered to the authorities at the police camp in Manila. 48 more farmers have pending warrants of arrests. Their liberty is denied unnecessarily by state agencies, which allow them to be used as tools of the landowners.

### **4.1.4. Lack of effective ownership and control of the land resource**

For agrarian reform petitioners still caught up in extremely onerous sharing systems, and for those who have been forcibly evicted or displaced as a consequence of continuing harassments, the right to food is severely violated. Without access to the land that is rightfully due them under the CARL, they lack economic or physical access to adequate food, and what is more, they no longer have access to their rightful means for its procurement. Petitioners without land titles are especially vulnerable to food insecurity and harassments from land owners and their allies.

### **4.1.5. Specific Recommendations**

(i) Once they petition for their legal land and tenure rights under the CARL, tenants become extremely vulnerable to all manner of legalistic and extra-legal retaliatory actions of landlords. Such retaliatory actions also directly undermine the agrarian reform petitioners' ability to construct and maintain an adequate rural livelihood, which in turn weakens their capacity to sustain their position on the land. This situation worsens the longer the CARP implementation process drags on. The government, through the DAR, should hasten implementation of CARP so as to make as short as possible the amount of time petitioners have to wait before gaining full ownership and control of the land.

(ii) The killing of agrarian reform petitioners by non-state actors is unacceptable and should not be tolerated. Suspects in the murder cases should immediately be arrested by state authorities and brought to trial. Witnesses should be protected, and the victims'

families should receive adequate welfare support. The victims and their families deserve a speedy and just resolution of these cases.

(iii) The national PNP and AFP should immediately investigate instances of local personnel collaboration with landlords in committing crimes against agrarian reform petitioners. State armed forces should not allow themselves to be used as agents of landlords in harassing tenants and agrarian reform petitioners. Erring personnel should be immediately investigated and appropriate administrative and criminal charges filed against them. The PNP and the AFP should join hands in keeping the peace and protecting agrarian reform petitioners and beneficiaries from human rights violations.

(iv) The courts and their agents (judges and provincial prosecutors) should stop entertaining agrarian reform related cases. When filed, such cases should be dismissed immediately and forwarded to the DAR, as instructed in the agrarian reform law. As pauper-litigants, accused petitioners should be provided with free legal assistance by competent lawyers who are knowledgeable of the agrarian reform law.

v) The food security of agrarian reform petitioners and their families should be made a priority of the Philippine government as a signatory to the ICESCR.

#### **4.2. Western Visayas**

The Mission visited the provinces of Iloilo, Negros Occidental and Oriental Negros last 3–5 June 2006. Victims, relatives of victims and witnesses of human rights violations were interviewed. In all cases, the petitioners or beneficiaries of the government agrarian reform program were still obliged to struggle to secure their legal land rights in private agricultural lands or in public lands, as these were being claimed by powerful private persons.

The three provinces covered by the Mission are known for their sugar plantations/haciendas. Producing more than half of the country's sugar, the Negros provinces are considered the nation's "sugar bowl". The Philippine sugar industry employs an estimated 556,000 farmers and 25,000 sugar mill workers. About 5 million people depend on the industry, directly or indirectly. The sugar industry dates back to the Spanish era. In Negros Occidental, only about seventeen family groups with interlocking relations control most of the vast sugar plantations. The sugar trade was opened up under American colonial rule, and the industry boomed until early 1980's, when a crisis hit and many hacienda owners were forced to sell or mortgage their properties or convert their farms to other commercial uses. Many of them diversified into other sectors and became dominant industrial and business forces. But the sugar workers were hardest hit and are counted among the poorest of the country's poor.

After almost two decades of the implementation of CARP, the three provinces remain bastions of landlordism. As of 2005, the CARP coverage balance in private landholdings is 125,540 hectares, which does not include an additional 1.8 million hectares of public land being claimed by private landowners. Big sugar hacenderos use a combination of legal and extra-legal processes to block CARP implementation, often with the help of

armed goons, PNP, CAFGU and even the AFP. Such resistance contributes to a very slow-paced implementation, which in turn engenders further conflict and violence against potential agrarian reform beneficiaries. Petitioners and beneficiaries are usually reluctant to file charges partly because of a lack of legal assistance. The presence in some places of other non-state armed groups has complicated the situation. Meanwhile, the dubious provision for a Stock Distribution Option (SDO) under CARP has also been used by landlords to evade the program. There are 13 corporations nationwide that availed of this scheme; eleven of these are in Negros Occidental. More recently, landlords have turned to the leaseback scheme to evade redistribution.

#### **4.2.1. Killings and Frustrated Killings**

Six (6) cases of killings of peasant leaders were documented: One in Balasan, Iloilo; One in Tanjay City, Oriental Negros; and Four in Negros Occidental (La Castellana municipality, Kabankalan City, Silay City and Binalbagan Municipality). One victim was killed by police, while the 5 other victims were reportedly killed by non-state actors.

There were three (3) cases of frustrated killings: One incident in Balasan, Iloilo; and two incidents in Tanjay City, Oriental Negros, respectively. The perpetrators in these cases were reportedly the landowner, barangay captain, goons and security guards.

#### **4.2.2. Harassments**

There were many instances when peasants or farmworkers were harassed by the landowners and their goons. One of the most common forms of harassment was threatening the life of peasant leaders. Landowners usually warn peasants to stop claiming their lands or something bad will happen to them. Another form of harassment that the Mission documented was indiscriminate firing of guns in the air by goons or security guards when the peasants are gathering for a meeting or when they are working on the land awarded to them by Department of Agrarian Reform (DAR).

#### **4.2.3. Criminalisation**

The filing of criminal cases against peasants and farmworkers by landowners is also another means of harassment that the Mission documented. Through these legal and extra-legal actions, the landowners succeed in stopping the peasants from pursuing their rights under the CARL. Even the intention of landlords to file a case against the decision of DAR to distribute their land is usually enough to put to a halt to the installation of the agrarian reform beneficiaries by local DAR officials.

#### **4.2.4. Destruction of property**

The Mission learned of three (3) incidents where the *nipa* huts (palm thatched-roof houses) of peasants were burned or destroyed by landowners and their armed men. It was a big loss for the peasants since it took them a long time to save the money to build a house. These incidents occurred at Balasan, Iloilo when the landowner (Bedro), his goons and the barangay captain burned the *nipa* hut of one farmworker. The two other cases were at Tanjay City, Oriental Negros; in these cases, the burned houses belonged to members of a farmworkers association that self-installed themselves at the Hossana Plantation.

#### **4.2.5. Dispossession of crops**

Two (2) incidents of stealing happened at Oriental Negros (Amlan municipality and Tanjay City). At Amlan, the farmworkers self-installed themselves in the Hossana Plantation. Policemen and NBI (National Bureau of Investigation) agents came and arrested them and confiscated the 21 sacks of coconut meat harvested by the farmworkers. At the Espina hacienda, 60 *cavans* (one *cavan* is equivalent to about 60 kilos) of *palay* (unhusked rice) were harvested by the beneficiaries from the land awarded to them by DAR. The security guards fired their guns at them and when they ran away, the *palay* was stolen by the security guards.

#### **4.2.6. Illegal Search and Arrest**

A training center was built by a group of farmworkers at hacienda Espina, Tanjay City, Oriental Negros on the land covered by CARP. Police and the security guards of the landowner searched the training center without a search warrant. The police did not say what they were looking for. Meanwhile, there were two (2) incidents of illegal arrest. In one case at Balasan, Iloilo, the landowner and his goons attacked with guns the farmworkers tilling the land that already had a Certificate of Land Ownership Award (CLOA). One farmworker was brought to the police station by the landowner and detained for 4 days without any charges being filed against him. The other incident happened at the Hossana Plantation, Amlan, Oriental Negros when 31 farmworkers who self-installed themselves were arrested by a combined force of policemen and NBI (National Bureau of Investigation) agents. The police and NBI claimed the land was the retained area of the landowner.

#### **4.2.7. Trespassing**

One incident at Kabankalan, Negros Occidental documented involved unidentified armed men entering without permission the house of a peasant leader of PKMM, three days after another peasant leader was killed.

#### **4.2.8. Lack of Access and Control of Land**

In seven (7) landholdings at Iloilo and Oriental Negros, the DAR failed to install the beneficiaries which prompted them to self-install themselves. In the process of self-installation, violence was committed against the beneficiaries by the landowners. In one case, it was even President Arroyo who presented the CLOA but they had to self-install themselves to be able to cultivate the land. There was one case in which the peasants had to wait for 6 years because the municipal and provincial officials of DAR kept pointing to each other as the one responsible for the installation.

#### **4.2.9. Specific Recommendations**

(i) DAR should ensure that once it issues the CLOA to agrarian reform beneficiaries, it will also assist them in the installation process. The PNP and AFP should be ordered to assist the CLOA holders and the DAR during the installation stage to avoid violence from erupting. DAR should continuously monitor the situation to prevent landowners from carrying out criminal acts against the agrarian beneficiaries.

(ii) A communication should be sent to the national leadership of the Philippine National Police requesting it to order all police stations to conduct proper investigation of criminal acts committed against agrarian reform petitioners and beneficiaries. The police should also file in court the complaints brought to them by peasants and farmworkers against landowners, goons and security guards. The cases of the six murdered peasant leaders should be investigated by the Task Force *Usig* (or “Investigate”), a national task force created by the government, including the national PNP, to investigate all political killings since 2002.

(iii) A dialogue should be held with the Chief Justice of the Supreme Court regarding justices of the Court of Appeals whose decisions in agrarian cases are quite doubtful. The Court of Appeals have reversed a number of times the order of the DAR covering large haciendas under very dubious circumstances. The Petition for Review filed by POPARMUCO (Espina hacienda) at the Supreme Court should be followed up.

(iv) The spouses of the six peasant leaders who were killed should be assisted by the Department of Justice (DOJ) in applying for the Victims’ Compensation Program. The surviving families should also be assisted by the Department of Social Welfare and Development (DSWD) to avail of services provided under Republic Act (RA) 8972 or the “Solo Parents Welfare Act of 2000” wherein solo parents and their children may avail of livelihood, scholarship, medical and other benefits.

### **4.3. Southern Mindanao**

From 7-8 June 2006, the Mission investigated agrarian reform related human rights violations in the case of four commercial banana and citrus plantations, owned by four of the biggest and most influential landlords in the commercial farm sector. These four plantations were the SACI, MEPI, WADECOR, and TVPI owned by the Alcantaras, Drysdale, the Floirendos, and the Lorenzos, respectively.

Southern Mindanao, and especially the province of Davao del Norte, is the main producer of Cavendish bananas for export to countries such as Japan and China. The region is home to the biggest and most lucrative commercial banana farms and plantations. This sector, represented by its industry organisation, the Philippine Banana Growers and Exporters Association (PBGEA), was given special consideration during the national debate that led to the promulgation of the CARL in 1988. During the making of the law, a powerful lobby mounted by agribusiness companies and landlords for the exclusion of commercial farms from land reform led to a compromise. Though not categorically exempted from the land reform law, commercial farms were granted a ten-year deferment, pushing back the advent of the reform from 1988 to 1998.

Meanwhile, the law allows a “lease back” option on the awarded land to its former owners or companies that used to control it (i.e., the “leaseback” scheme). However the leaseback arrangement does not effect a drastic change in control over the land. It still favors the former landowner and thus defeats the main purpose of the CARL, which is to give beneficiaries effective control over the land resource. The leaseback arrangement

is therefore the least desirable option in the schemes for agrarian reform implementation.

Accordingly, the commercial farm land was subjected to CARP only in 1998. Beginning in 1997, plantation workers organised themselves to petition as agrarian reform beneficiaries in compliance with the requirements of CARL.

#### **4.3.1. Murder and Frustrated Murder**

In the areas visited, there were 3 incidents of farm workers killings. These were (i) Antonio Penopa, leader of the farm workers organisation SARBCO, who was struck on the head with a blunt object by an unidentified assailant while on his way home in Alabel, Sarangani province from the DENR provincial office after following up his land case last January 6, 2002; (ii) Dominador Morales, a member of DOFARBA, who was shot by undetermined armed goons and members of PNP-Panabo and farmworkers loyal to DARBCO (Stanfilco) last January 6, 2003 in Panabo City, Davao del Norte; and (iii) Enrico Cabanit, secretary general of UNORKA, who was shot and killed by two unidentified gunmen in Panabo City market last April 24, 2006 (*see separate discussion below*). As of the writing of this report, the cases of Penopa and Morales have still not even been investigated and the killers remain at large.

The Mission also documented numerous cases of indiscriminate firing at protesting farm workers by company security guards, landowners' goons, village councillors (in the case of DOFARBA and UDARBA) and pro-management farmworkers. About twenty (20) farm workers were injured in four separate attacks. Five (5) ARBs (MCBCI) were critically injured in an attack on them by a combined goons, police and army force in February 2003. In the above cases, DAR has failed to take decisive and adequate action in securing the rights of farm workers.

#### **4.3.2. Harassments and Evictions**

Based on the testimonies of the victims, the farmworkers' organisations, after exhausting sufficient legal grounds, have on several occasions staged mass actions, and reclaimed and occupied the land they are entitled to under CARP. Farmworkers were violently dispersed by a combined force of heavily armed goons, military and PNP (WEARBAI, MCBCI, and SACI), or the company guards with the help of the SCAA or CAFGU, while the PNP turned a blind eye (TARBAI), injuring many ARBs, including women and children. After such incidents, hundreds of workers in the four plantations were illegally dismissed from work and no longer allowed to enter the plantations, others were transferred to tougher work assignments, and some were forcibly evicted from their homes (WEARBAI). For WEARBAI, the remaining 18 of the originally 49 families who were forcibly evicted from the plantation in May 2000 continue to languish in the Carmen public market, and are now facing eviction by the LGU. Harassment cases were also filed against ARBs in local courts to prevent them and others from pursuing their claims over lands subjected to agrarian reform (MCBCI).

### **4.3.3. Lack of Effective Ownership and Control of the Land**

In the cases studied, the main problem has involved the actions (or inaction) of responsible state actors and interested non-state actors in the land reform arena. In particular, the rights of ARBs in commercial farms to have access and effective ownership and control of land was not been realized, and is unduly delayed due to the actions or inactions of DAR, in most cases, in collusion with the land owners. DAR interventions have been limited to providing venues and facilitation of negotiations, without contributing to any substantive progress on the demands of bona fide farmworker petitioners. The Mission learned of various mechanisms used by the landowners to evade redistribution. For instance, in 1998, when the commercial farm deferment period ended, the management of the commercial farms of SACI, Lapanday Agricultural and Development Corporation (also known as Mampising), WADECOR, and MEPI issued onerous leaseback agreements to avoid land acquisition and redistribution. In one case, such an agreement was imposed as a condition for the issuance of CLOAs to the ARBs, in the presence of the PARO and the LGU (MCBCI). For the other cases, DAR has yet to issue their CLOAs despite the petitions of the ARBs and even when compensation for the land owners had been made (SACI).

Workers opposed to these leaseback agreements organised themselves into autonomous farm workers' organisations, namely SACI Agrarian Reform Beneficiaries Cooperative (SARBCO), Mampising CARP Beneficiaries Cooperative, Inc (MCBCI), WADECOR Employees and Agrarian Reform Beneficiaries Association, Inc. (WEARBAI), and Members of Tibal-og Agrarian Reform Beneficiaries Association, Inc (TARBAI). Such organising and rightful resistance were met with an iron hand by the landowners and management of the plantations (as mentioned in 4.3.1-4.3.2).

### **4.3.4. Specific Recommendations**

We urge the government and responsible state actors such as DAR, the LGUs, PNP, among others:

- (i) To seriously and properly investigate the as yet unsolved murders of Antonio Penopa, Dominador Morales, and Enrico Cabanit and to bring to justice the perpetrators and all those responsible;
- (ii) To immediately fast track the redistribution of the four plantations to the rightful farmworker petitioners and beneficiaries, including immediately distributing CLOAs and installing CLOA-holders on lands awarded to them;
- (iii) To prohibit at the policy level the leaseback as an option and to nullify all existing leaseback arrangements;
- (iv) To properly investigate and remedy the illegal dismissal and forcible eviction of the workers from the plantations as in the cases of WEARBAI, MCBCI and SACI;

(v) To properly investigate those involved in the harassment cases, indiscriminate firings at protesting farm workers and other incidents, and to hold them accountable for the injuries and damages;

(vi) To immediately annul the onerous leaseback contracts with Lapanday, SACI, MEPI and WADECOR;

(vii) To immediately have a moratorium on the eviction of the remaining 18 displaced WEARBAI families currently settled in the Carmen public market; and

(viii) To ensure that adequate social services are rendered to the ARBs who were victimized by these AR-HRVs to enable them to sustain their everyday struggle for food and work.

#### **4.4. Special Cases**

##### **4.4.1. Murder of Enrico “Ka Eric” Cabanit**

On April 24, 2006 at about 6:00 pm (more or less), Enrico “Ka Eric” Cabanit was gunned down while walking near the fish loading zone of the Panabo City New Public Market in Davao del Norte. He was shot in the head numerous times by an unidentified man. The man also shot Ka Eric’s companion, his daughter Daffodil, before walking to a motorcycle that was waiting near the scene. The motorcycle then sped off toward the provincial highway, with the gunman firing several shots into the air. Ka Eric reportedly died immediately at the scene from multiple gunshot wounds to the head. His daughter, who was critically injured with a gunshot wound to the chest, barely survived the incident.

In the official follow-up investigation, led by Panabo City Police Chief of Intelligence Officer Wilfredo Puerto, there were lapses and anomalies in the actual conduct of the investigation. The immediate crime scene investigation itself was flawed. For example, not all the physical evidence (shells) was recovered from the scene, and there is no photograph or sketch of the crime scene with the victim’s body in place. The local PNP told the Mission that they took a picture with a digital camera, but upon returning to the station the camera was discovered to be defective and until now the photograph of the crime scene taken that night cannot be recovered. The police person who investigated the crime scene that night, PO3 Domingo Ranain, went on leave immediately the next day. The Mission was able to interview PO3 Ranain on 8 June 2006; he reported to us that he was back from leave after one month.

The identification of the purported chief suspect rests on shaky evidence. The police cartographic sketch that has been used in the investigation was based on a description provided by two persons identified as “police assets” in Panabo City who happened to be at the public market at the time of the shooting. The Mission talked with two other eyewitnesses who could not affirm the face in the cartographic sketch as that of the killer. Three or four days after the murder of Ka Eric, according to the Panabo City investigator, the person in the police cartographic sketch was reportedly identified by a

member of the Tagum City PNP, PO3 Salvador Dumas, as a certain “Monching” Solon. PO3 Dumas reportedly identified the alleged killer Solon as a member of the notorious “Boy Parola Group”, a syndicate of guns-for-hire operating in the area. Boy Parola is known as the henchman of the former Secretary of the Department of Agriculture, Roberto Sebastian, who was formerly the manager of the Marsman Estate Plantation Incorporated (MEPI). Parola reportedly died three months ago.

The Panabo City police told the Mission that upon identifying the suspect as Monching Solon, they were able to trace him to the nearby town of Sto. Tomas. They learned through the police network that Solon was regularly used as a “police informant” in Sto. Tomas. They reportedly then brought their two witnesses to Sto. Tomas in order to verify whether or not Solon was the killer, and arranged for the Sto. Tomas Chief of Police Superintendent Mañon Pinote to call in Solon without revealing to the latter the reason. The Panabo PNP reportedly witnessed the Sto. Tomas Chief of Police calling Solon on his cell phone to arrange the meeting. But then the suspect failed to show up at the designated time. After that, the Panabo City Police Intelligence Officer reported hearing from other police informants in the area that Solon had fled to General Santos City. He said that they tried to track Solon, who kept moving around, but in vain.

Weeks after the initial identification of the alleged suspect by the two police assets, then, the case took a turn when, on 26 May 2006, two men were gunned down in a distant place, General Santos City. One of the two men gunned down was identified by General Santos City police as Monching Solon of Sto. Tomas, Davao del Norte. Later, the other dead man was identified as Michael Buenaflor, also from Sto. Tomas. According to the Panabo City Police investigator, the first man’s identity as Monching Solon was later reportedly confirmed by their two eyewitnesses in the 24 April Cabanit killing, who reportedly positively identified him as the gunman in Cabanit case.

Yet one of two eyewitnesses interviewed by the Mission was certain that the person in the police photograph of the dead men was not the killer, while the other eyewitness could not affirm the face of the dead man as that of the killer. The mission also was told that the distance from which the two police informants/witnesses saw the gunman was about 50 meters. Our own witness was only about 10 to 15 meters away from the place where the gunman shot Ka Eric.

The official police investigation raises more questions than answers –

- The case of the Panabo police investigator rests on the testimony of two individuals who are reportedly police informants. Why are the Panabo police unable to produce more than two witnesses when the market was full that evening? And how can we be sure that their two police informant-witnesses are credible?
- Assuming that alleged suspect Solon was the murderer, how did he know not to go to scheduled appointment at the Sto. Tomas police station (where he was supposed to be observed by the Panabo police witnesses to verify whether he

- was the person they saw shoot Ka Eric)? Why did it take so long to track down alleged suspect Solon after he fled Sto. Tomas?
- Why were the two men in General Santos City immediately killed, especially when they were reportedly already under police surveillance and suspected in a murder case?

Meanwhile, the Mission also learned of the possibility of Panabo police complicity in the murder of Ka Eric. The company reportedly paid a gun-for-hire PhP 150,000 to kill Ka Eric, and that this gun-for-hire in turn enlisted the help of at least one member of the Panabo police force, in exchange for part of the payment. This information was confirmed by two separate sources.

At the very least, it is clear to the Mission that the police investigation has not yet looked deeply enough into the agrarian conflict angle, particularly the link to the ongoing conflict between UNORKA and the Floirendo family in plantations owned and controlled by the latter, namely the WADECOR and TADECO plantations, both of which are currently the subject of CARP coverage. The PNP in Tagum and in Panabo admitted to not having looked adequately into existing circumstantial evidence relating to developments in relevant agrarian reform related conflicts.

In our view, however, the killing of Ka Eric could very well be linked to the agrarian reform/land-related cases involving the Floirendo family. On two occasions, the Floirendo family, through their lawyer, Atty. Richard Uayan, has issued a statement denying any involvement in the murder and stating that they had no reason to kill Ka Eric because he was a friend of theirs.

Yet the circumstantial evidence suggests otherwise. When he was gunned down in the Panabo public market, Ka Eric had just come from an all-day dialogue between the UNORKA-Mindanao and DAR officials of various levels. Others who attended the said dialogue reported that a heated discussion had occurred between UNORKA leaders and PARO Nic Lemente. The main contentious issues were: (i) the CLOAs that had illegitimately been issued by PARO Lemente to another group on a 70-hectare portion of land in the WADECOR plantation that had already been awarded to WEARBAI (the local organisation headed by Ka Eric) and (ii) the upcoming ocular inspection (or OCI) of a portion of the TADECO plantation-Linda District that had previously been scheduled for April 27-28.

The ocular inspection team was to include a top-level DAR official from the central office and an UNORKA national leader. Notably, including a representative of the autonomous farmworkers' organisation (in this case the WEARBAI) in the inspection team was unprecedented in the Floirendo landholdings. The OCI was therefore a highly anticipated, and highly contested event, especially given that three prior schedules to inspect the farm had been aborted – in 2001 because the DAR inspection team had been stopped at the plantation gate by a barricade, and then again in 2003 and 2004.

It should be noted that the said ocular inspection has still not pushed through. This is most likely due to death threats reportedly received by DAR officials at the regional and national levels via text message, which were traced back to Davao. In addition, an UNORKA leader who was supposed to join the said ocular inspection reported receiving a phone call from Undersecretary Nestor Acosta Policy Planning and Legal Administration Office (PPLAO), on 25 April, the day after Ka Eric was killed. In the phone call, the undersecretary attempted to dissuade this leader from joining the inspection by saying that this leader's safety could not be guaranteed by the DAR.

The Mission has since been informed by several DAR top officials that the OCI in the TADECO plantation has in fact been rescheduled for 26-27 June 2006.

It should be noted that there is a heavy atmosphere of fear surrounding this case. There also exists a high level of distrust among the people we interviewed of the official investigation. It is said to be "common knowledge" among the residents of Panabo that the local and provincial police are influenced by or under the control of the Floirendo family. It was apparent to the Team that people associated with UNORKA in the Panabo area, live in an atmosphere of extreme fear of retaliation by forces in the community aligned with the Floirendo family. This perception makes them extremely hesitant to talk with the local police and CIDG investigators.

#### Specific Recommendations

- Given the apparently compromised status of the official investigation being led by the municipal and provincial police authorities, we strongly recommend that a national-level body that is completely independent of the local power structure be convened immediately to launch a fresh investigation into the case.
- We urge the relevant government agencies to take steps now to ensure that the joint DAR-UNORKA ocular inspection of the TADECO-Linda District plantation, previously scheduled for 27-28 April 2006, and now re-scheduled for 26-27 June 2006, will indeed finally push through.
- The CLOAs dubiously issued by the provincial DAR office, for land previously awarded to WEARBAI, should be revoked; meanwhile, CLOAs for the land previously awarded to WEARBAI should be issued immediately.

#### **4.4.2. Murder of Rico Adeva**

On 15 April 2006 at about 5pm, three armed assailants waylaid the spouses Rico and Nenita Adeva near the Imbang River and less than two kilometres from their home. Rico Adeva, 39, a local organizer-leader of Task Force Mapalad (TFM) and a resident of Hacienda Defuego II, Brgy Bagtic, Silay City, northern Negros Occidental, sustained 9 gunshot wounds and died on the spot. Nenita Adeva was guarded but left unharmed. The assailants fled the crime scene.

In an Affidavit (dated 24 April 2006) and a Supplementary Affidavit (dated 25 May 2006), both written in English, the widow Nenita Adeva identified two of the three suspects, namely Ronald Europa y Porras, a distant relative of murdered husband Rico, and a certain "Boy Negro" (alias). According to Nenita, she did not immediately recognize the

assailants at the time of her husband's murder because everything happened so suddenly, the three assailants were wearing "lousy hats", and she had been ordered to lie down and bow her head to the ground. But after describing and recalling descriptions with a National Bureau of Investigation (NBI) artist/portrait drawer, Nenita positively identified the suspect as Ronald Europa y Porras, a distant relative of her husband. She had first met him in 1997/1998, when he and his troop of Revolutionary Proletarian Army – Alex Boncayao Brigade (RPA-ABB) guerrilla soldiers visited their house, but did not see him anymore after that time. Nenita concluded that Rico's murder was related to his work as community organizer for TFM.

Some TFM leaders from the area said that the three men, Ronald Europa y Porras, "Boy Negro" and a third person (reportedly Ronald Europe's younger brother), approached them on 9 April 2006 (Palm Sunday) at 7am and asked them on which day Rico would come. From that day onwards, Ronald Europa y Porras' group was reportedly passing through Barangay San Antonio 1 every day.

Based on information gathered by the Mission through interviews and documents, it appears there have been several encounters between TFM agrarian reform beneficiaries, leaders and organizers, and RPA-ABB forces and organizations aligned with them.

Leaders reported that during some of their meetings with the TFM, armed RPA-ABB guerrillas took part, for example on March 3, 2003 in Hacienda Kapitan Ramon and on September 10, 2005 during a HARBA meeting. They also reported on conflicts with the Democratic Alliance of Labour Organization (DALO), a labour organization—which according to them—is under the influence of the RPA-ABB. They claimed that there were instances when DALO farmer beneficiaries were grabbing awarded land from them, for example in the case of Hacienda Dolores wherein the TFM occupied 68 hectares of land and DALO also entered to take possession of another 28 hectares from a collective Certificate of Land Ownership Award (CLOA). They also reported that Rico Adeva was prohibited by the RPA-ABB from holding a meeting in the area.

Other reported incidents the IFFM team came across:

- (i) On one occasion during a conference with the Municipal Agrarian Reform Officer (MARO) in Silay City, a woman reportedly approached Rico Adeva and said "We know you have again new organizers in Hacienda Canaan, Cadiz City. Tell those two women to stop organizing the ARBs because if they do not, the RPA-ABB will pick them up. Almost all of our areas have been grabbed by TFM ARBs already."
- (ii) On February 16, 2006 TFM CLOA holders were reportedly stopped from tilling the 39 hectares of sugarcane land in Hacienda Dorotea, by nine fully armed RPA-ABB guerrillas who pointed weapons at them. The TFM CLOA holders were reportedly ordered to stop cultivating the land and leave the area.
- (iii) In March 2006, Rico Adeva was reportedly offered P hP 500,000 to stop organizing ARBs with TFM and promised employment from the Department of Agrarian Reform (DAR); it is not clear who made the offer.

The Mission also interviewed a delegation of the RPA-ABB, including the regional RPA-ABB Commander. According to them, the RPA-ABB believes that the Armed Struggle (AS) is not applicable or of primary strategic importance in specific places like Occidental/Oriental Negros. They believe that the mass movement is a primary feature of the Revolution. The RPA-ABB reportedly further holds that the masses are not yet ready to revolt in spite of their situation of extreme poverty, because until now they still believe in the democratic electoral process.

In February 2002, the Philippine government and the RPM-P/RPA-ABB signed a Final Clarification Document on the peace agreement. The Peace Agreement reportedly included: (i) certain specific confidence building measures by the government that have not yet been fulfilled; (ii) certain specific policy reforms; and (iii) an agreement on the disposition of weapons, which was reportedly dependent on the accomplishment of the two above-mentioned points of agreement.

At present, the RPA-ABB guerrilla group assists in the provision of peace and order in rural communities by assisting Philippine National Police (PNP) operations especially in designated areas where they have a presence. The RPA-ABB is allowed to be present with armed guerrillas who hold legal licences for weapons. So far the RPA-ABB have 100 licensed arms with permits since they are also being hunted down by the CPP-NPA. The legal weapons are reportedly an integral part of their defence. Assisting the PNP is limited to cases of individuals who take refuge in RPA-ABB areas and the PNP have sought their assistance by coordinating with the RPA-ABB before entering the area. They reiterated that there is no prohibition for organizing and expansion work for them within the terms of the agreement. They emphasized that entering into the agreement with the GRP could give a chance of delivering services to the rural masses by the government by maximizing the possibilities it offers, but realistically they did not expect too much from the government.

According to the RPA-ABB, a lot of the Agrarian Reform (AR) awarded lands are just a waste of resources, more on the political side of the equation, to quell or appease the majority of the people, than an economic reality, not really helping the agriculture reform nor uplifting the landless rural peasant's lives. They explained that there is no experience yet of land distribution that economically uplifts people's lives. They explained that they would rather go for organizing the workers and push for better working and living conditions and an improved income for the workers. Only in the case where landowners sell the land voluntarily or cases where land is abandoned would they go along with land redistribution to the beneficiaries.

On their dealings with groups promoting land redistribution, the Regional Commander pointed out that only the CPP-NPA is their enemy because the latter kill both their people and their allies. All other groups are possible allies for the RPA-ABB including the TFM. In the case of several different groups co-existing in the same area on the same collective CLOA, the RPA-ABB believe that the ARB's should decide or act on the

collective CLOA, that is why they consider education and conscientization as very important.

Regarding the incident in Hacienda Dorotea:

According to the RPA-ABB, the TFM and DALO were both granted a collective CLOA. Even though CLOA's were granted, the RPA-ABB related that the municipal DAR office failed to identify which areas were to be designated for whom. When the TFM ARB's started working on the land on February 16, 2006 the DALO members came to stop them and heated arguments took place. The RPA-ABB said they brought in nine armed men to avoid further conflict and violence about whom would get which piece of land. They wanted the ARB's to delay the cultivating of the land until the MARO had done his job. They also claimed that they disarmed a certain "Rowee" Bayona, a member/leader of the TFM ARB's and a former CAFGU.

The RPA-ABB claimed that the TFM, by utilizing its close working relationships with the DAR structures, manoeuvres regarding the inclusion and exclusion of the ARB's and tended to bring in outsiders as ARB's. They considered the TFM also aggressive in pushing other groups aside when it came to installation on the awarded lands. In the case of Hacienda Canaan, the RPA-ABB said they have no presence in this area and pointed out that there are no woman RPA-ABB guerrillas.

The RPA-ABB group affirmed that Ronald Europa y Porras is a RPA-ABB member and a popular and respected leader/cadre of the group and well known in the Silay area. However they said that since the year 2000 he is based in an area far from the barangay of the crime scene and that it is very unlikely he has been in the area. His brother is only a member since a few years and has been based in the Central Region, Himamaylan. The name or alias "Boy Negro" is absolutely unknown to them. They further argued that if the assailants would have been known by Nenita Adeva, it does not make sense to let her go. Despite their disbelief that Ronald Europa would have been in the area, they said they would look further into the matter.

They stressed that it's not RPA-ABB policy to kill individual citizens, especially non-combatants and/or civilians. They have come out with several statements that they are not responsible for the killing of Rico Adeva and that they are denouncing all extra-judicial killings. The RPA-ABB expressed concern about the role of the CPP-NPA and its related organizations in exploiting incidents of human rights violations in Negros to pit one organization against another. In that respect they mentioned the human rights organization Karapatan and the International Solidarity Mission organized by the Party-List Bayan Muna, both of which accused the RPA-ABB of the murder of Rico Adeva.

According to the RPA-ABB the perpetrators of the murder of Rico Adeva should be looked for in the circles of landowners who resist redistribution, since TFM has many enemies among these landlords, as shown in the Mario Domingo murder case.

The Mission attempted to validate with other organisations active in agrarian reform advocacy and implementation, the allegations of the RPA-ABB about TFM being forceful

(or “aggressive”) in its approach. These other groups indicated that they sometimes encounter problems with the way TFM enters landholdings already organised by them and woos (potential) agrarian reform beneficiaries by offering resources, loans, etc.

Specific Conclusions:

- A complicating factor in the organizing work among farmworkers and tenants in the region is the presence of about six different organizations with varying approaches towards the land question. To date, most organizations (with the exception of the CPP-NPA) seem to have found a way to work peacefully in the same area most of the time, and in several instances have even collaborated with each other to share complimentary experiences and skills.
- The DAR’s half-hearted approach in implementing CARP in the region has helped to set the stage for conflicts to emerge. This approach has been one of the main contributing factors in the tension that arose between TFM and DALO. If the DAR had done its job properly, it is likely that this tension would not have reached such an extreme level. Particularly problematic is the tendency to expedite the issuing of collective CLOAs *without a swift follow-up* in terms of taking the necessary further steps (i) to determine specific areas for different groups of beneficiaries and/or (ii) to award individual titles should that be the desire of the beneficiaries.

Specific Recommendations:

- In the specific case of Hacienda Dorotea, the DAR should immediately undertake an area/boundary identification process that is speedy and just, so as to lessen the tensions and deter any further strife.
- Regarding the murder of Rico Adeva, we urge a speedy and just resolution of the case so that the perpetrator(s) will be brought to justice.
- We urge the RPA-ABB to come up with an official written policy statement on its alleged involvement in cases against farmer-beneficiaries; to investigate into their ranks possible human rights violations committed by its members; and to effect the necessary measures to resolve these allegations.
- We urge the TFM and all other organisations working in the area to hold a constructive dialogue on the terms of their coexistence; all groups working in the area should fully commit themselves to striving for a peaceful and constructive form of coexistence built on the principle of complementation, rather than competition.

**4.4.3. Chemical Victims:**

***Davao Banana Plantation Workers Association of Tiburcia Inc. (DBPWATI)***

In the 1970’s and 1980’s, a chemical banned in the US was applied by fruit companies in the US and used here in the Philippines, unbeknownst to farmworkers and residents in these areas, who found out about this only in 1995. The said chemical was DIBROMOCHLOROPROPANE (DBCP), a known carcinogen used against the banana nematode parasite. Stanfilco, Chiquita (TADECO), and Del Monte were the main users of DBCP, which was manufactured by Shell Chemical Corporation, Dow Chemical Company and the Occidental Chemical Corporation. DBCP was banned when 7,536

claimants in Texas filed a class-action case against the manufacturers, in light of its hazardous effects, including sterility and skin diseases, especially on plantation workers assigned to wrap and harvest bananas without any protective gear.

Workers in Davao del Norte who were exposed to the chemical suffered serious injuries to their health, including sterility and severe damage to their reproductive organs. At least one was said to have died from exposure to DBCP fumes, while an estimated 60% of the male workers were rendered sterile and 20% of the women workers have suffered damage to the uterus. These claims have been validated by medical examinations conducted by the Environmental Protection Authority (EPA).

“I wanted to have more children, but can not, since I am sterile. Moreover, on a daily basis we have to deal with the stigma that people make fun of you that you are sterile”, says a victim of chemicals who worked and got exposed to DBCP at the banana plantation in the 1970s and 1980s.

Refusing to use the chemicals was not an option for a lot of plantation workers. “We needed the job. If we would have refused orders from the management, we would have been terminated”, says another plantation worker, who suffers from a skin disease. He regrets the fact he was never properly educated and trained by the management to use chemicals. “We did not wear any protective clothes and were not aware of the danger.”

In 1997, banana plantation workers filed the same case as in Texas against the companies and the manufacturers. 761 out of 7,961 members of DBPWATI (first claimants) were simultaneously paid US\$20,000 by the Dow Chemical Corporation and US\$22,000 by the Shell Chemical Company. Hence, the total amount paid by the two manufacturers was US\$42,000, made through a settlement agreement (SA) as part of an out-of-court settlement.

In October 1998 a second set of 420 claimants of DBPWATI filed the same case in the Regional Trial Court Branch 14, Davao City against the users and manufacturers of DBCP. The case reached the Supreme Court (Third Division), but is still pending because only two of the companies have given their comments on a motion of mediation that was filed by DBPWATI members. The other four companies must submit their comments regarding the motion for mediation in order for the case to move forward.

#### Specific Recommendations

- We urge the immediate provision of full and appropriate medical attention to the victims of the chemical poisoning and the immediate launching of an investigation into the case in order to establish culpability.
- The government should take immediate actions to prevent the entering of the banned chemicals to avoid more damages within the country, especially to the workers of the banana plantations as well as to the nearby residents.
- Compensation should be given to all the victims of chemical effects.

- The pending case of the DBPWATI on the desk of the Supreme Court should be expedited; if needed, the Supreme Court should pass another resolution requiring the defendants to pass their comments on the motion of mediation appealed by the petitioners in a certain period of time.
- Proper orientation of the workers on the use of chemicals and its effect to their health, community and environment.

## **5. Conclusions and Recommendations**

Based on the findings presented above, the Mission's main conclusion is two-fold. **First**, big landowners and their employees are running amok of Philippine law and international law, and with complete impunity are engaged in a wide range of criminal activities that seriously undermine rural poor people's effective access to their human rights. **Second**, in this light, the Philippine state is failing abjectly to fulfill its obligations to respect, protect and fulfill the human rights of the rural poor population, as signatory to the various relevant international human rights law conventions.

### ***5.1. Main Perpetrators***

The main perpetrators of agrarian reform related human rights violations against rightful peasant petitioners include both State Actors and Non-State Actors. The State Actors include Local Police, NBI Agents, Barangay Captains and Tanods, Regular Court Officials (especially Judges and Public Prosecutors), and DAR officials at different levels of the bureaucracy.

The Non-State Actors involved in committing violence against rightful peasant petitioners and CLOA holders include big landowners and their security guards, multinational agribusiness companies, armed goons, overseers and "guns-for-hire", as well as, allegedly, members of underground revolutionary armed groups operating in specific local areas. There is clearly an entrenched culture of impunity gripping the Philippine countryside. Landowners and their goons regularly flout the law, secure in the knowledge that they will escape prosecution for their criminal acts. Big landlords are not complying with the CARL in particular.

### ***5.2. State Obligation to Respect Peasants' Rights***

In many cases, government forces, such as local units of the Philippine National Police and of the Armed Forces of the Philippines, were found to be siding with big landlords and thus actively involved in violating the rights of agrarian reform petitioners and agrarian reform beneficiaries, and thus failing to respect their rights. Rather than keeping the peace and protecting its most vulnerable citizens from human rights violations, such government forces were found to be involved in cases of killings, harassment and forced evictions.

### **5.3. State Obligation to Protect Peasants' Rights**

The Philippine state is also failing to protect the human rights of agrarian reform petitioners and agrarian reform beneficiaries from crimes being committed against them by third parties, such as powerful landlords and their employees and, allegedly, by other non-state armed groups, and to prosecute the perpetrators. The State has failed miserably in its obligation to protect the peasants and farmworkers against all manner of landowner violence.

For example, the PNP ought to be playing a role in maintaining peace and order and in preventing the conflicts from escalating or in pursuing cases against perpetrators. But in many instances, local police forces were found to be involved in perpetrating human rights violations in all three regions where the Mission visited. Meanwhile, in many cases, peasant petitioners or beneficiaries reported acts of violence being committed against them by the landowners, their goons or security guards to the police. But the latter did not file the appropriate criminal charges against the perpetrators at the prosecutor's office or the courts. There were also instances where the police did not make any investigation whatsoever, or did not appear to be making a proper or adequate investigation.

Meanwhile, in numerous cases, the barangay captain and barangay tanods were outrightly collaborating with the landowner, together with the goons, security guards and/or CAFGUs, in assaulting the farmworkers who self-installed themselves in the landholding. The barangay tanods served as security guards by watching over the property to prevent the farmworkers from entering the land.

Finally, the regular courts should not be entertaining agrarian reform related cases. Yet they are regularly being used as the "battering ram" of landowners against peasant petitioners and beneficiaries. This was found to be the case in all three regions where the Mission investigated violations of peasants' rights.

### **5.4. State Obligation to Fulfill Peasants' Rights**

Finally, in the cases covered by the IFFM, the Philippine state is also failing to fulfill the human rights of tenants and farmer workers by not fully and completely redistributing land to them according to their rights under the Comprehensive Agrarian Reform Law. In many instances, it was unclear from their actions whether the intent of various relevant government agencies was to help peasant petitioners and beneficiaries of the agrarian reform to acquire their legal land rights, or whether it was instead to help big landlords to evade the law and to hold onto their lands by whatever means possible.

In the cases covered by the IFFM, the Philippine government, particularly through the DAR, the lead agency in agrarian reform, has failed to fulfill its obligation by not fully and completely redistributing big landholdings, haciendas and plantations to rightful peasant petitioners, and particularly by not effectively installing the agrarian beneficiaries on the lands awarded to them under the law. This failure on the part of the state has forced the

rightful peasant petitioners to take direct action to claim their legal land and tenure rights, including through share payment boycott (mainly in Bondoc Peninsula) and self-installation (especially in Western Visayas and Mindanao). This rightful assertion of their legal land and tenure rights has, ironically, exposed this already vulnerable segment of the rural poor to even further hardship and danger.

It bears stressing that the obligation of the DAR does not end when it issues CLOAs (whether collective or individual) to the beneficiaries: the DAR must continue to assist peasant petitioners (tenants and farmworkers) until they are fully and effectively installed on the lands awarded to them, and provided with adequate support services so that they can peacefully enjoy the fruits of this life-giving resource.

### **5.5. General Recommendations**

In light of these findings, the Mission calls on the Philippine government, and particularly all the government members of the recently convened national-level Inter-Agency Task Force to Address Cases of Violence, Harassment and Killings in the Implementation of CARP, to fully commit themselves and the resources at their disposal, to do the following:

#### **(i) Stop the Impunity**

Big landowner, their employees, and their allies within the state, are running amok of Philippine law and international human rights law. With complete impunity, they are engaged in a wide range of criminal activities that seriously undermine rural poor people's effective access to their human rights. The Philippine State should immediately investigate all cases of agrarian-related killings and harassments and bring the perpetrators—both state and non-state—to justice.

#### **(ii) Hasten Land Redistribution**

Once they petition for their legal land and tenure rights under the CARL and/or are issued CLOAs, tenant- and farmworker-beneficiaries become extremely vulnerable to all manner of legalistic and extra-legal retaliatory actions of landlords. This in turn undermines the former's ability to construct an adequate rural livelihood and erodes their capacity to sustain their petition. The situation worsens the longer the CARP implementation process drags on. The government, through the DAR, should hasten implementation of CARP so as to make as short as possible the amount of time petitioners have to wait before gaining full ownership and control of the land. We urge the Ombudsman to investigate agrarian reform petitioners' and beneficiaries' complaints against corrupt and inefficient DAR officials and to take appropriate disciplinary measures where warranted, in cooperation with civil society rights-advocacy groups.

**(iii) *Ensure Petitioners' and Beneficiaries' Peaceful Possession and Control of the Subject Land***

In cases where they are already positioned on the land, the DAR should ensure the security and peaceful maintenance of possession of the land of agrarian reform petitioners before the issuance of CLOAs. In cases where they are not already positioned on the land, the DAR should take measures to ensure that the rightful petitioners' legal rights to possess the land are nonetheless recognised and safeguarded. Once it issues the CLOA to agrarian reform beneficiaries, the DAR must assist the ARBs in the installation process and ensure their full control of the awarded land. Finally, at the policy level, leaseback as an option should be prohibited. It bears stressing that the obligation of the DAR does not end when it issues CLOAs (whether collective or individual) to the beneficiaries: the DAR must continue to assist peasant petitioners (tenants and farmworkers) until they are fully and effectively installed on the lands awarded to them, and provided with adequate support services so that they can peacefully enjoy the fruits of this life-giving resource.

**(iv) *End the Criminalisation of Agrarian Reform Cases***

The regular judicial courts and their agents (Judges and Provincial Prosecutors) should not entertain agrarian reform related cases. The Supreme Court directives barring court officials from entertaining agrarian reform related cases should be strictly enforced and erring officials should be disciplined. Court complicity in the criminalization of agrarian reform related cases should be met with appropriate disciplinary measures. Agrarian reform related cases already pending in the Court of Appeals and Supreme Court should be reviewed and dismissed as appropriate.

**(v) *Protect Rural Workers' Labor Rights***

All international labor standards and Philippine labor laws should be applied to rural workers. Rural workers should be protected from illegal dismissals, sub-minimum wages, poor and unsafe working conditions, withholding of benefits, etc.

**(vi) *Assist Victims and Protect Witnesses of Human Rights Violations***

Compensation such as assistance in livelihood, medical, financial and other benefits should immediately be given to all victims of agrarian reform related human rights violations and their families. Protection and welfare assistance should be accorded to the witnesses of crimes committed against agrarian reform petitioners and beneficiaries for as long as is necessary.

**(vii) *Stop the Chemical Poisoning of Rural Communities***

The Philippine state has to take immediate actions against entering of banned chemicals and their use. The DAR and other relevant agencies should closely monitor the types of chemicals and their application in commercial farms and plantations in order to prevent incidents of chemical poisoning from happening again.

**(viii) *Ensure Petitioners' and Beneficiaries' Access to Adequate Food***

Enabling mechanisms should be enacted and put into place to ensure the food security of agrarian reform petitioners and beneficiaries. The government should fully comply with its specific human rights obligations to agrarian reform petitioners and beneficiaries under the ICESCR.

**(ix) Fulfill the Human Rights Obligations to the Rural Poor**

The Philippine state must fulfil its obligations to respect, protect and fulfil the human rights of the rural poor population, especially those who place themselves within the fold of the law and attempt to claim their legal rights to the full ownership and control of land and its fruits.

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