



**The World Organisation Against Torture (OMCT) and three Filipino NGOs ask the Committee on Economic, Social and Cultural Rights to address the economic, social and cultural root causes of violence in the Philippines**

**The World Organisation Against Torture (OMCT) together with KARAPATAN (Alliance for the Advancement of People's Rights), the Philippines Alliance of Human Rights Advocates (PAHRA), Task Force Detainees of the Philippines (TFDP) and Bagong Alyansang Makabayan (Bayan) submitted information to the Committee on Economic, Social and Cultural Rights at its 41st session in Geneva (3-23 November 2008) showing how failures to respect economic, social and cultural rights in the Philippines leads to violence, including torture and cruel, inhuman and degrading treatment. The Committee was called upon to recommend action to the Government to ensure respect for economic, social and cultural rights and thus help reduce violence.**

The information and analysis was presented to the Committee in an alternative report (link) prepared by OMCT in collaboration with PAHRA, KARAPATAN and TFDP and in oral statements by OMCT, KARAPATAN, PAHRA and Bayan.

OMCT outlined to the Committee in its oral statement on 3 November some of the key information contained in the alternative report (See the annex for the executive summary of the report). OMCT described the mechanisms by which violence and the violation of economic, social and cultural rights are linked in the Philippines; violations of economic, social and cultural rights lead to violence that in turn undermines or prevents development. OMCT pointed out that the Philippines trade liberalisation policy promoted mining activities that consistently failed to take into account the human rights of persons and communities affected by these activities, and that the local resistance to these mining projects is often met with violence by private security forces. Conflict over land is also a root cause of violence in the Philippines as landowners increasingly convert agricultural land to agro-business or other forms of economic activity at the expense of rural communities and small-scale farmers.

OMCT also expressed its concern that violence against trade unions and trade union leaders in the Philippines has been increasing in recent years. Similarly, an alarming number of Filipino human rights defenders, human rights lawyers and indigenous or peasant activists engaged in defending economic, social and cultural rights have been victims of disappearances or summary executions.

Finally, OMCT underlined the fact that socio-economic marginalisation in the Philippines leads to desperation and hopelessness that can find its expression in armed rebellion. In turn, this rebellion becomes the justification for anti-insurgency activities by the Philippine military that regularly compromise the economic, social and cultural rights of rural communities. These activities prevent community members from working in their fields, restrict the movement of people and supplies in and out of villages and see the billeting of troops in schools and other community facilities.

Thus, OMCT and its partners called on the Committee to make practical recommendations that can be both implemented and monitored, certain in the knowledge that ensuring the enjoyment of economic, social and cultural rights is not only an end in itself, but also a fundamental building block of

violence-free societies.

## **Briefing of Committee Members; 10 November 2008**

### **Mining and violations of human rights in the Philippines**

Mr. Renato Mabunga, Secretary-General of PAHRA briefed Committee Members on the impact of mining in the Philippines on indigenous peoples and local communities (See annex 2 for the full statement).

He pointed out that the Government instituted policy reforms to encourage foreign direct investment in the mining industry, but that those investments neglected basic economic, social and cultural rights of indigenous peoples and other local communities. The 1995 Philippine Mining Code is used to prevent the full application of the subsequently adopted Indigenous Peoples' Rights Act (IPRA) and, despite the IPRA's apparent legal protection of indigenous peoples' economic, social and cultural rights, mining still represents a concrete threat to their lands. As a result, indigenous groups express their discontent through demonstrations that are often met with violent reactions by private security forces. The Philippine Government's program to liberalize the mining sector has resulted in outright violations of the basic rights to life, liberty and security. It has likewise resulted in violations of the rights to participation, self-determination, health and sustainable environment.

Regarding the right to self-determination, he stated that the right of indigenous communities to determine the kind of development which they deem to be most suitable to them is continuously being violated because the government is promoting mining as the only development tool that can address poverty and lack of job opportunities. Even if the host communities, (Barangays Didipio and Pao in Nueva Vizcaya as cases in point,) have opposed mining in the legal arena, the Government continues to impose mining operations in their areas.

The right of the indigenous peoples to participate in decision-making and implementation of programs and initiatives that affect them is ignored and violated in the process of revitalizing the mining sector. Residents of Didipio and Pao, both in Kasibu, Nueva Vizcaya, have related instances where they were made to sign "attendance sheets" which they later learned were being used by mining companies as a sign of their consent to the entry of large-scale mining in these areas.

Large-scale mining operations in the Philippines are directly implicated in a long list of violations of the rights to health and a sustainable environment. For example, spills of mining waste are a common occurrence which compromises the health of the residents in the affected areas, their livelihood and their environment.

Mr. Mabunga further pointed out that the militarization of mining host communities is the result of the desire of mining companies to protect their operations and equipment. This tactic is also used by mining companies to intimidate and silence those who are opposing their operations and results in serious violations of the right to life, liberty and security of person.

Finally, Mr. Mabunga made a series of specific recommendations to the Committee for action aimed at protecting indigenous people and rural communities from the violation of their human rights by mining activities. These recommendations include the revision of the 1995 Mining Act or preparation of a new draft alternative legislation on mining policy based on a participatory process that more effectively protects the interests of the affected local communities, including indigenous peoples; an immediately halt to all mining activities that have or risk having a serious impact on the human rights of those communities concerned; a halt to the issuance of mining licenses until adequate and viable legislation, along with monitoring mechanisms to protect the environment and the economic, social and cultural rights of the indigenous peoples and others concerned have been established; enforcement of the requirement of a free, prior and informed consent of affected communities, as provided by the IPRA; and the investigation of cases where this obligation has been violated, neglected or inadequately respected.

He further recommended that steps be taken to ensure that mining activities respect the human rights of those concerned, including labour rights, women's rights and property rights and that any resettlement this may involve respects international standards and that an independent commission be established to review respect for the rights of the local population in connection with mining projects and ensure respect for their rights in the future. He suggested calling on the UN Special Rapporteur on the human rights and fundamental freedoms of indigenous people to assist the independent commission.

Finally, he recommended that an equitable share of the revenues of mining projects go to the local communities concerned, once the community itself has expressed clear and unquestionable consent.

### **Failure of land reform, landlessness and violence in the Philippines**

Ms. Marie Hilao-Enriquez, Secretary General of KARAPATAN briefed Committee Members on land reform, landlessness and violence in the Philippines. (See annex 3 for the full statement).

Regarding the violent insurgencies in the Philippines, she informed the Committee that the systemic centuries-old failure to respond to the problem of landlessness has been the primary reason for almost four decades of armed insurgency in the country. She pointed out that systemic violence has been inflicted on millions of dispossessed and hungry farmers and individuals belonging to indigenous peoples and Muslim communities. Their economic, social and cultural rights and their right to life depend on the very soil they till, but which they do not own nor control and they cannot decide on how the produce of their lands will be distributed. This in turn can lead to armed uprisings.

The insurgency continues to gain a foothold in many rural communities, especially in areas where the land problem is acute. The Government's response to this insurgency, the cause of which it attributes to poverty, leads to still more violence and human rights violations committed by state security forces against farmers and other vulnerable groups as well as human rights defenders and those who criticize Government policies.

Regarding the land question in general, Ms. Hilao-Enriquez stated that Government policies exacerbated the problem of landlessness and that economic programs designed to displace farmers from their lands are being implemented. These include the conversion of agricultural lands to economic zones

to entice foreign investments and agribusiness, land re-confiscation, mining and other projects. Thus, farmers who organize themselves and exercise their constitutionally guaranteed rights to protest are violently attacked, their organizations are branded as “fronts for communist groups”, their leaders are killed or made to disappear and they are virtually prevented from availing of remedies offered to them by the system.

KARAPATAN's documentation showed that out of the 933 victims of extrajudicial killings between January 2001 and the end of September 2008, 515 were farmers and indigenous peoples. Of the 199 victims of enforced disappearance over the same period, 125 were farmers and indigenous people. In this regard, she stated that the recommendations to deal with this situation by Professor Philip Alston, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions had not been implemented by the Government.

The Government has also embarked on a policy to silence legitimate dissent and criticisms - which usually take the form of peaceful organized protests and demonstrations - by using fabricated charges to imprison leaders of farmers and other groups that call for basic reforms in governance and in society.

In conclusion, Ms. Hilao-Enriquez stated that until the Government addresses the basic issue of landlessness, develops and carries out a genuine land reform program, stops the corruption associated with this and other Government programs, truly addresses the needs of the majority of poor Filipino families, ends impunity, ensures respect for human rights and puts the people's interest first, violence and human rights violations will continue in a never-ending cycle.

Finally, she recommended that peace negotiations, rather than an all-out war or counter-insurgency program, be pursued by Government in order for all parties to the conflict to come together and discuss ways to end the violence and truly address the needs of the majority of the poor. A pro-poor bias must be adopted by the Government in carrying out development projects.

Mr. Renato M. Reyes, Jr. of Bayan also addressed the issue of land reform, stating that agriculture remains the cornerstone of Philippine economy, contributing 18% to GDP while agri-based industries account for 10%. More than 75% of the population is dependent on agriculture for livelihood. He described the organization of the Filipino agricultural sector as feudal or semi-feudal, export-oriented, import-dependent and foreign-dominated. The majority of farmers do not own the land they cultivate.

Government data show that for every 100 farmer, 21 are agricultural workers, 28 are unpaid family workers, 26 are tenants and only 25 are actual landowners. One study shows that 13% of landowners control 60% of all agricultural lands or 8.6 million hectares. Another study shows that 33% of landowners own 80% of agricultural lands. Around 52% of all farms are under lease or tenure agreements.

The Comprehensive Agrarian Reform Law (CARL) claims to have accomplished its goals of distributing land to the farmers. Mr. Reyes, however, pointed out that these claims are exaggerated. In 1998, it was said that 57% of the targeted 4.6 million hectares had been distributed. The data however only refers to certificates processed and not to actual land ownership. Most of the land distributed was public land. Private land distributed stood at less than 50% of the total target of 2.9 million. Original coverage for land distribution in 1988 was set at 10.3 million hectares. This was reduced by 27% in

1996 to the current 8.1 million hectares.

Further, he pointed out that there were exemptions to land reform due to massive land use conversion and reclassification of land into commercial, industrial and residential categories, and he noted that between 1991 and 2002, there was a decrease in the area under rice cultivation of 217,000 hectares, a factor that has contributed to the current rice crisis. He also pointed to the 1.3 million hectares in Southern Tagalog region targeted for land conversion, as well as the 1 million hectares nationwide targeted for conversion under a Government deal with China.

Mr. Reyes also pointed to the use of non-land transfer schemes as a way of circumventing actual land distribution. The CARL allows landowners to distribute shares in stock instead of actual land. Farmers become minority shareholders under the control of the majority stock holders, the landlords. This Stock Distribution Option has been practiced in such prominent cases as the Hacienda Luisita where striking farm workers and sugar refinery workers were massacred by state security forces.

In addition, he referred to the reversals in the land reform program where farmer beneficiaries who are unable to pay the land amortization are stripped of their titles and the land reverts to the original land owners. Under the CARL, private land owners are compensated.

Mr. Reyes also underlined that corruption also exists in the agencies of Government responsible for agriculture. One glaring example he referred to was the fertilizer fund scam wherein 728 million Filipino pesos were used to pay for ghost deliveries of fertilizers.

There is a basic link between violence and the absence of genuine land reform, as evidenced by the number of rights abuses afflicting militant farmers groups. In the name of Bayan, Mr. Reyes recommended an immediate stop to the land use conversion policy and a reform of the land law; one that does away with so many exemptions as well as the non-land transfer scheme. Such a reform should uphold the basic concept of land to the tiller.

For further information, contact: Tom McCarthy, [tmc@omct.org](mailto:tmc@omct.org)

-----

## **Annex**

Addressing the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in the Philippines.

An Alternative Report to the United Nations Committee on Economic, Social and Cultural Rights, prepared by the World Organisation Against Torture (OMCT) in collaboration with Philippines Alliance of Human Rights Advocates (PAHRA), Karapatan (Alliance for the Advancement of People's Rights)

## **Executive Summary**

This report seeks to reduce and eliminate torture, cruel, inhuman and degrading treatment, and other forms of violence in the Philippines by proposing to the Committee recommendations for action by the Government to address their economic, social and cultural root causes.

In the Philippines, poverty and inequality marginalise large sectors of society, rendering them vulnerable in their daily lives to many forms of violence, including state-sponsored violence. Persons peacefully claiming their economic, social and cultural rights or defending the rights of others are often subjected to violent attacks, killings and disappearances. And further, as a UN report has pointed out, desperation and hopelessness at their situation can lead some to resort to armed rebellion. Tragically, this violence and lack of security, in turn, severely impedes these people from escaping from poverty.

Although the Filipino economy has demonstrated healthy levels of growth in recent years, this has been accompanied by an increase in the inequitable distribution of wealth and has not contributed significantly to the reduction of poverty. Further, the Philippines has one of the highest levels of income inequality in Asia. The inability to break the cycle of poverty is “largely a result of these disparities and inequalities in accessing the resources and benefits of development and the lack of accountability placed on duty-bearers.”

The Government of the Philippines has implemented a policy of trade liberalisation in order to attract foreign capital and to accelerate domestic economic development. Policies in mining, land reform and export economic zones have very direct links with violence. In addition, low priority has been given to social services in the national budget where severe cutbacks have been made to enable continued debt servicing. This has rendered certain groups particularly vulnerable to violence, including indigenous people, the Muslim population in Mindanao, women living in precarious conditions (indigenous women and women living in rural and conflict-prone areas) and disadvantaged and marginalised children.

Policies promoting investment in mineral extraction that do not take into account the rights of the people affected provoke demonstrations that are often met with violent reactions by private security forces. Conflict over land is also a root cause of violence in the Philippines as landowners are increasingly converting agricultural land to agro-business or other forms of economic activity to the detriment of the lives of rural communities. And similarly, the urban population is subject to violent evictions to make way for economic development projects.

Violence against unions in the Philippines has been increasing in recent years, including killings, assault of workers on picket lines, threats and intimidation and the filing of false charges against union activists. Further, an alarming number of Filipino human rights defenders, human rights lawyers, trade unionists, and indigenous or peasant activists engaged in defending economic, social and cultural rights are victims of disappearances and summary executions.

## **Recommendations**

Effectively eliminating torture and other forms of violence in the Philippines will require a multifaceted and integrated approach ensuring the implementation of economic, social and cultural rights as well as civil and political rights, as experience has shown that acting on only one of the causes of torture has little chance of success.

The recommendations in this report cover, first, specific responses to the particular violations and problems identified. Second - and because in order for recommendations to be effective, they must be accompanied by means of implementation that identify those responsible for the implementation and engage their accountability - this report suggests possible institutional mechanisms that might be entrusted with implementing certain recommendations in specific circumstances. Finally, progress will also depend on correcting the serious imbalances in Philippine economic and social policy at the macro level, and so recommendations are made to deal with those basis policies.

L'OMCT a son siège à Genève, en Suisse. Elle coordonne le réseau SOS-Torture composé de 282 organisations régionales et internationales dans 93 pays sur cinq continents.

Contact : [omct@omct.org](mailto:omct@omct.org)