

NEWS

JOINT NGO WORKSHOP: CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

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

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

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

Philippine Witness Protection Program at a Standstill

According to Philippine law, everyone who witnessed a grave felony and is willing to testify in front of a judicial body or an investigating authority may be admitted into the Philippine Witness Protection Programme. Applicants' examinations and admittance lies within the jurisdiction of the Department of Justice. Even though the legal requirements seem to be very simple, reality proves to be rather difficult. In Bondoc Peninsula several persons have witnessed

and even experienced grave violent attacks and are still exposed to death threats. Although they have agreed to act as state witnesses, admittance to the witness protection program is not executed. This is mainly because no authority feels responsible for them: they are tossed from one authority to the other and receive contradictory information. IPON will closely observe these cases and urge state authorities to take responsibility.

AGRARIAN-RELATED COMPLAINTS STILL APPEAR IN NON-COMPETENT COURT

In October 2009 a criminal trial chaired by the judge of the Municipal Trial Court of San Francisco (Quezon Province) was further pursued: several persons are charged with qualified theft and trespassing. Since all accused are human rights defenders fighting for land redistribution under the state-led agrarian reform, the cases must be referred to the jurisdiction of the Special

Agrarian Courts as provided in the corresponding guideline and law (cf. Observer Vol. 1, No. 1). However the judge was not willing to give in. Instead he claimed not to be familiar with this regulation and postponed the trial until he "got the chance to be informed about it".

IPON AND THE INSTRUMENT OF HUMAN RIGHTS OBSERVATION

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

The Instrument of human rights observation is based on the idea that, if a country has ratified the UN "Universal Declaration of Human Rights" (and/or other relevant international declarations on human rights), it is therefore responsible to enhance, respect, and implement human rights. If a country does not follow these responsibilities independent international observers will document these violations of human rights and bring it to public attention. IPON follows this legalistic approach to human rights. Since 2006 IPON accompanies organizations of human rights defenders (HRD) in the Philippines, starting with the request of the farmers organization KMBP (Kilusang Magbubukid ng Bondoc Peninsula) in Bondoc Peninsula, Quezon Province. Since 2008 IPON observers are present in

Negros Occidental accompanying the HRD of TFM (Task Force Mapalad). IPON will not intervene in any internal conflict and will not interfere in the strategies of the accompanied HRD. The organization will only go into a conflict area after a request from a human rights defender organization and after preliminary studies which include an examination whether the instrument of human rights observation is suitable for the present situation.

The work of IPON is based on four pillars:

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

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

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

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



Partnergroups in the Philippines:

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



AIMS AND SCOPE

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

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

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

Article 1

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

Article 2

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

Article 3

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

Article 4

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

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;

- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

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

Article 7

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

Article 8

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

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally

authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:
 - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
 - (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
 - (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.
5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

„[...]“

Article 20

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