

OBSERVER

A JOURNAL ON THREATENED HUMAN RIGHTS DEFENDERS IN THE PHILIPPINES

ISSN: 2192-3353



ACTUAL IMPUNITY - WHEN LAWS ARE NOTHING BUT PAPER PROMISES

CONTENTS

Editorial	3
Reflections on the premises of the legal state	4
Finally peace in Mindanao? The challenge is to take the challenge for themselves	6
Nurturing monsters – legal and political confrontation with the Maguindanao massacre	12
Blessing or curse? – The Indigenous Peoples Rights Act of 1997 and its implementation	16
‘Money can’t buy me love’ – but maybe law...	20
The true nature of mining – unsustainable, irresponsible, dirty and costs lives	24
Oplan Bayanihan – from Good Intentions to Impunity	29
When self-interest thwarts the constitution – The struggle of the farmers in Negros for the implementation of their rights	32
Large-Scale Land Acquisitions and Leases – The Right to Food versus the Right to Development	34
Rosarno – Oranges, Ndrangetha Mafia, Economic Hardship and Race Riots	38
In Mauritania – no slavery without impunity	42
Justice kept aside in the Institution of Impunity – A critical sketch of Nepal	44
IPON and the Instrument of Human Rights Observation	47
Aims and Scope	47

OBSERVER:
A JOURNAL ON THREATENED HUMAN RIGHTS DEFENDERS
IN THE PHILIPPINES

EDITORIAL BOARD
Carmen Albers, Jacqueline Andres, Lukas Bauer, Anna Hollendung
Layout: Asja Caspari, Anna Hollendung
Benedikt Kratz (Cover), Josef Gassebner (Cover Image)
Proofreading: Carmen Albers, Stephanie Berry, Mira Florian
Luca Martin, Martin Wende

EDITOR
I.P.O.N. International Peace Observers Network
Floria-Geyer-Str. 89
12489 Berlin, Germany
www.ipon-philippines.info
editor@ipon-philippines.info

OFFICE ADDRESS IN THE PHILIPPINES
IPON, c/o Cyrus A. Ellorin,
Ruiz Street, Sumpong
8700 Malaybalay
observer.mindanao@ipon-philippines.org
phone: +63 [0] 9393205776

68 Florida Street, Brgy. Villamonte
6100 Bacolod City
observer.negros@ipon-philippines.org
phone: +63 [0] 34 7040185

ISSN 2192-3353
PRICE single issue 3.00 Euro

SUBSCRIPTION INFORMATION
OBSERVER: is published biannually.

DONATIONS & MEMBERSHIP
International Peace Observers Network e.V.
PURPOSE: ‘Observer’
Registered non-profit institution; donation receipt and supporting membership possible.


SWIFT/BIC-CODE: GENODEM1GLS
IBAN: DE40430609671119085800
BANK: GLS Gemeinschaftsbank, Germany

EDITORIAL DEADLINE
vol. 5, number 1: 15th April 2013

FINANCIAL SUPPORT
Stiftung Umverteilen; not responsible for the content.



The findings, interpretations, and conclusions expressed in this paper are entirely those of the author(s), they do not necessarily represent the views of IPON.

 This work is licenced under the Creative Commons Attribution 3.0 Germany Licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/3.0/de/>. Reprints are welcome, please send us two copies.

EDITORIAL

On the 15th of October 2012, the Moro Islamic Liberation Front (MILF) and the Philippine Government signed the Peace Framework designed to end the 40 years lasting civil war in Mindanao, southern Philippines. The war dominated the international news coverage of the archipelago for too many years.

In case that the official peace agreement will be signed in December 2012 and if it will actually be implemented, it would be an important leap forward.

This issue seeks to analyse to which extent the Philippines have really made progress in the implementation of human rights, as required by binding UN covenants. How does the implementation of international and national law look like in reality on a worldwide level? Are they worth the paper written on?

Bruns opens this issue by looking into basic framework conditions for democratic coexistence within a society on a theoretical level. In his brief analysis, the philosopher identifies intercultural stumbling blocks that struggle for power.

Werning goes into detail and describes the political power structure in the Philippines along the terms 'guns, goons and gold'. He takes the insufficient legal proceedings against the responsible of the Maguindanao massacre as an example to illustrate his point.

The fact that real implementation foremost depends on political interests in the Philippines is further developed by Keienburg, who looks at the progressive Philippine legislation

with regards to the protection of indigenous peoples. Although impressive, he argues that the bill was never meant to be truly implemented. The case study of a small indigenous group struggling for the recognition of their ancestral domain clearly highlights the ineptitude, unwillingness and failure of the Philippine state to look after law and order.

Reckordt as well as Shirali confirm the ineptitude of the Philippine state to protect the indigenous communities. Mining activities on ancestral domains and the national counter insurgency programme 'Oplan Bayanihan' both make a point on how political and economic interests conflict with and often overrule national laws.

Tiepmar and Trötzer illustrate the extent to which the state seems incapable of providing justice to farmers who peacefully fight for their land rights using the example of the national land reforms.

As land seems to be at the centre of power struggles, it is not surprising that large-scale land acquisitions on a worldwide level often go along with serious human rights violations. Bauer argues that the rights of minorities or other vulnerable groups are often the first to be disrespected.

This can be seen in Europe as well. Andres describes how migrant workers – often refugees without papers – are exploited by owners of plantations. Their living and working conditions in the agricultural sector remind us of those of former slaves.

In fact, although it is widely acknowledged that conventional slavery has

been banished from this globe, this is not entirely true. Schedler's detailed article about Mauretania clearly shows that the abolition of slavery is a myth that needs to be contested.

Coming out of a bloody civil war, the Nepali state is still having problems addressing human rights violations during the dictatorship and of today. Despite extensive constitutional rights impunity prevails, as Gautam reports.

The actual implementation of laws does not always coincide with reality. This is not only true for so-called failing or failed states; it also regards so-called progressive countries such as Italy. A lot needs to be done.

■



CALL FOR ARTICLES

Call for articles until April 15th, 2013 (editorial deadline).

The next issue will consider the following question:

Is it still appropriate to attribute the protection of human rights only to nation states?

The increasing importance of other stakeholders has recently been emphasized in connection to human rights issues. ■