



Kingdoms of the lawless

- Authoritarian enclaves, human rights violations and impunity on the Philippine rural periphery -**
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International Peace Observers Network (IPON)

The International Peace Observers Network (IPON) is a German independent, non-intervening non-profit organization, which accompanies human rights defenders and monitors the human rights situation in the Philippines. IPON aims at a situation, where human rights are respected and the accompanied human rights defenders (HRD) are able to undertake their work free from threats, violence and repression and insecurity of their environment.

The Instrument of human rights observation is based on the idea that, if a country has ratified international human rights treaties, it is therefore responsible to enhance, respect, and implement human rights. If state actors do not fulfil their responsibilities, independent international observers document these violations of human rights and bring them to public attention. Furthermore IPON is in contact with relevant stakeholders and remind them of their responsibility to protect human rights and to provide information and data for national and international advocacy and lobbying work. IPON follows this legalistic approach to human rights.

Since 2006 IPON accompanies organizations of human rights defenders 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 and Oriental accompanying defenders of TFM (Task Force Mapalad). Since 2011 IPON human rights observers have worked in Mindanao, cooperating with PADATA, an organisation that advocates for the rights of indigenous people. The human rights observers are international volunteers from Columbia, Poland, Luxembourg, Switzerland, Austria, Uganda and Germany which were trained by IPON in Germany.

For further information about our principles, our human rights approach and the specific instruments used in conflict areas please visit: www.ipon-philippines.info

Kingdoms of the lawless

In the Philippines human rights violations and agrarian conflicts that arise in landholdings in the countryside are part of the ongoing process of authoritative lawmaking in the country's rural periphery. After customary law, the next most frequently available field of law in rural areas affected by extreme inequality in land ownership, is that of hacienda, ranch or plantation based cacique law¹.

IPON works in Philippine rural areas since 2006. Since then we observe these competing orders with a human rights perspective. Where the state law has weak spots legal vacuums come to being. Once filled with authoritarian cacique law the consequences for the rural poor and Human Rights Defenders (HRD) working on a change of political, social and economic structures are alarming. In the course of this setting in Bondoc Peninsula, Negros Oriental and Occidental as well as Bukidnon IPON observes rampant human rights violations like killings, harassments, threats and criminalization together with a climate of impunity.

Origins & Dimensions

Patrimonial and elitist social networks led to strong vertical relationships of dependence in the Philippines and especially in the rural areas. This is an expression of assertiveness of those in power. A small upper-class largely controls the population living in rural areas and

¹ Hacienda or plantation based cacique law is a private system of social regulation that usually operates through (i) large landowners and his/her representatives such as farm managers, supervisors and overseers, and private armies or "blue guards" and (ii) "captive" local public authorities. (Franco, 2005:7)

poor urban districts. The elitist group of powerful families in the Philippines still benefits more of political, social and economic state comforts than the vast majority of the population. Based on their wealth and their local power bases, these family clans managed to establish themselves in national and local politics. Altogether the political power and economic wealth is concentrated in around 200 families.

“Big landowner, their employees, and their allies within the state, are running amok of Philippine law and international human rights law!”

Of all the countries of Southeast Asia, the Philippines offer the most obvious case of local strongmen. These circumstances not only reflect the dominant patron-client-relationships or the wide range of power of the land-owning oligarchy, but also the unique structure of the Philippine state. American colonialism had introduced the institutions and rhetoric of formal democracy into the Philippines but left intact and reinforced social and economic inequality. This inequality and a political system which is not sufficiently isolated against specific personal interests made it possible that local patrons have emerged and entrenched themselves in large part through violence and guile, thanks to favourable state structures and institutions, and as active promoters of capital accumulation and industrial growth.

Authoritarian Enclaves

Especially in rural areas the asymmetric relationship between strongmen and the mostly poor citizens is supplemented with the use of force. This leads to local authoritarian clientelism² which means that real access to democratic rights and freedoms is restricted through political repression and the threat and exercise of violence.

The Philippine state continues to confront highly entrenched authoritarian enclaves where local power holders can draw on their very considerable coercive and socio-economic resources to thwart democratic and constitutional goals. Especially in rural areas there has been a relatively weak central state presence and policies governing land rights and citizenship over time, regardless of regime. Weak central state political authority has created almost endless opportunities for those looking to take advantage of peasants' socioeconomic and political vulnerabilities. The nature of this weakness can be seen in the gap between 'rights promised' and 'rights delivered'.

In the described environment, in which different orders are contending, in which local strongmen hold up their power with the use of force and the legal system is hardly implemented, so called legal vacuums have come into being over the last few decades. In these areas the Philippine legal system has less validity and the law has more and more been replaced by the guns of influential local people. The latter can rule over a specific area without being held accountable for their acts. They seem to be inviolable. In this context one can talk of areas of impunity.

Three case studies from our partner groups in Bondoc Peninsula, Negros and Bukidnon exemplify the alarming fact that these legal vacuums or authoritarian enclaves can be found throughout the archipelago.

² The term 'authoritarian clientelism' builds on the concept of clientelism, and refers to situations where 'imbalanced bargaining relations require the enduring political subordination of clients and are reinforced by the threat of coercion' (Fox, 1994:153).

San Narciso, Bondoc Peninsula

Bondoc Peninsula on the south-western tip of the province of Quezon, can exemplify these legal vacuums filled with private law. On this rural periphery of the country the state law is competing with the hacienda law and the `revolutionary law` of the New People's Army (NPA).

The area has a deeply inequitable socioeconomic structure based on ownership or control of land. Over the past decades, an especially ruthless institutionalized system of social control based on a highly skewed land distribution that relies on coercion to enforce oppressive landlord - peasant relations has persistently challenged the state for dominance in regulating society in parts of the peninsula. In some places local residents are as unfamiliar with the Philippine Constitution as they are familiar with hacienda law. Rural poor people frequently point out the existence of two laws – a law for the rich (batas ng mayaman) and a law for the poor (batas ng mahirap).

The political power structures and the law often have been privatized und personalized. Although one of the powerful local landowners, Domingo Reyes, is already dead, the local population still talks about the `Batas ni DR` the `law of DR`. Until now huge signboards indicate the local order and clearly designate the border between state law and hacienda law.

For a long time the peninsula has been one of the hotspots of agrarian reform-related disputes and the associated violence. Particularly in the municipality of San Narciso on the eastern side of the peninsula, violence is explicitly used against persons who intend to apply to acquire land and human rights defenders struggling for rights and a fundamental change. Most of the land in the municipality belongs to the Uy, a locally influential landowning family. Since 2006 IPON observers have been closely monitoring developments and human rights violations related to agrarian disputes committed in this municipality.

Between 1998 and 2008 several people, including five peasant leaders of the HRD group KMBP (Kilusang Magbubukid Bondoc Peninsula), were killed as a result of the agrarian disputes in the municipality of San Narciso. The KMBP is a local peasant organisation which not only encourages landless farmers to petition for land through the government's program but also advocates their human rights. Until today, no justice has been brought to those who perpetrated the crimes, which partly explains the continuing violence and an ongoing culture of impunity in the region.

In June 1998, a KMBP leader and active HRD called Mr. Vender became the first victim of a series of killings related to agrarian violence in San Narciso. According to official records, his murderers hacked and stabbed him to death. He was succeeded by Mr. Romero as the leader of the organization, but Romero was shot and killed in October 2003 by armed assailants reportedly hired by some members of the Uy family. His successor in the leadership position, Mr. Benitez, was then killed in March 2004 under similar circumstances.

The year before, in February 2003, Mr. Tejino, a local leader from the neighbouring village, had been attacked and killed by the NPA. In November 2008, Mr. Empas, also a leading HRD in the KMBP, was abducted by unknown assailants from a bar and his body was discovered three weeks after his disappearance with gunshot wounds. The victims were either accused of advocating for their land rights or branded to be informers of the national Philippine

In some places local residents are as unfamiliar with the Philippine Constitution as they are familiar with hacienda law.

security agencies, before being killed. The NPA publicly claimed responsibility for the murder of Tejino, accusing the HRD of having spied for the military.

Since the Uys are dedicated to maintain their landholding, members of the KMBP believe that they are ready to use all economic and political positions to harass those who wish to acquire land from their landholding on the one hand, as well as to influence the direction and result of investigations into the violence on the other hand.

Although several indicators reveal that some members of the Uy family were the instructing party in these killings, the evidence is insufficient to secure legal prosecution against them. It is, nevertheless, unquestionable that all victims had disagreements with the Uys over land distribution. In the case of Benitez's murder for instance, a prominent Uy family member, who also served as mayor of San Narciso, decided to stand surety for the release of one of the prime suspects from prison.

The killings in San Narciso were carried out brutally and with little secrecy. The victims initially received death threats over a considerable period of time, their families and friends were also warned of the upcoming killing and finally the victims disappeared only to be discovered dead later. Their corpses were disposed off in a manner which suggested a public show of ruthlessness and impunity. Such actions were indeed meant to openly create fear in the public and deter other HRD from continuing with their struggle for land and human rights.

The major players who include the local politicians, security agencies and the judiciary have failed in their roles to serve and protect the citizens and to enforce the law. The local authorities are constantly influenced by members of the influential families through threats, intimidation and bribery. The local police and military authorities blame their inability to act and protect citizens on the lack of equipment and logistics. They claim to be poorly equipped and to lack means of transport to access scenes of crime and violence. The courts and prosecutors have equally failed as none of the cases ever received a final verdict. The government's failure to solve such cases contributes significantly to impunity regarding crimes of politically influential families, thereby encouraging repeated violence and insecurity in the area.

"Hacienda Teves", Negros Oriental

The continued resistance of the landholders in Negros Oriental and Occidental against the implementation of the agrarian reform (CARP) is remarkably high. For centuries, huge landholdings of profitable sugarcane fields have been controlled by a small number of very influential family-clans. The Teves-clan³ in Negros Oriental is one of them and shall serve as an example to explain the structure of resistance against real achievements in the quest for an effective land reform, as well as an example for the enforcement of hacienda law and related human rights violations.

³ In order to understand the following position and family relations of this clan should be highlighted: Arnie Teves is the administrator of the family owned regional sugar mill and of their (former) landholdings. Henry Pryde A. Teves is representative of the third district of Negros Oriental and the younger brother of Arnie. Henry is the grandson of former Rep. Herminio G. Teves. His uncle Margarito Teves was Secretary of Finance under the Arroyo administration, and also a former three-term congressman. Herminio Teves is the former owner of the landholding. He bought the landowning from his brother and former Senator Lorenzo Teves.

Even though Teves-clan officially supports the reform, spear-headed by a leading family member who is elected congressman (in 2010 H. Teves even became chairman of the committee for Agrarian Reform), the family opposes and constrains the distribution of their own land parcels. The land-titles (CLOA-titles) were awarded to Agrarian Reform Beneficiaries (ARBs) in 1997 and 1999. However, the Teves-clan rejected the rightful holders of the land-titles and employed new farm workers loyal to them. During the following years the contentious land has been guarded by private security personnel hired to prevent the CLOA-holders from entering their land.

Since the two unsolved murder cases a feeling of impunity resides in the area.

In 1998 the Teves-clan started a long legal dispute questioning the legitimacy of the ARBs up to the Supreme Court. In 2004 the Court finally dismissed Teves' appeal and affirmed the legitimacy of the ARBs. In the meantime and while peacefully fighting for their land during all these years, the rightful ARBs became members of the nongovernmental organisation "Task Force Mapalad" (TFM) in order to mobilize support. The HRD continued to ask for an official installation to be granted access to their land. After a protest camp and a hunger-strike in front of the DAR central office in Manila the HRD land was peacefully installed in 2008.

However, three weeks after the installation Arnaldo Hoyohoy, son of the CLOA-holder Ronaldo Hoyohoy, was shot dead in front of his house. Eight weeks later, DAR lawyer, Attorney Eleazen Casipong, who had represented the HRD of TFM against diverse legal claims in court, was shot dead, too. Even though suspects have not been able to be identified, the local police have never initiated proper investigations and criminal prosecution of both killings. The following months have been characterized by continuing repressions towards the members of TFM. Houses were demolished, physical threats were made and warning shots were given by Teves' security guards. Again, blotters and filed cases haven't been properly investigated by local police officers. Ever since the two clearly politically motivated killings and the violent aftermath, a feeling of impunity has resided on Hacienda Teves.

In March 2009, Arnie Teves entered the land together with armed security guards and loyal farmers. They were illegitimately accompanied by the local police. Until present, threats against the HRD and anyone supporting them continue to be made.

The Philippine National Police (PNP) has been informed about every incident that has happened on the Hacienda Teves. However, the PNP neither took action to allow the farmers to work peacefully on their land nor did they protect them against the security guards. It was also known by the state security forces that Teves' private security guards have been patrolling in the Hacienda and harassed the farmers over the years. Even in cases of audible gunshots the local police have demonstrated unwillingness to fulfil their duties and uphold national law. Thus the landowner is able to act as he pleases. The state law has never been effective on Hacienda Teves and the Teves family never had to be afraid of any kind of penalty.

Although the legal situation regarding the legitimate owner of land had been clarified after the Supreme Court repeatedly dismissed a motion of reconsideration by Teves, the ARBs of TFM, forced by continuing harassments and the need of a minimum of maintenance for them and their families, resumed negotiations with the Teves family at the Office of the President in Manila in May 2011.

The result was a Memorandum of Agreement, which came into force with the official signing three weeks later. It thwarts the due process of land distribution through the CARP by dividing the officially awarded 62 ha into two shares that were handed over to the two conflict parties.

The case of Hacienda Teves reveals that local strongmen bear the potential of defying national law up to the level of the Supreme Court. In this context Hacienda Teves symptomatically indicates the structural existence of legal vacuums in which state law and law enforcement do not matter and authoritarian enclaves in which powerful socio-economic and political elites widen the gap between “rights promised” and “rights delivered”.

Villalon Ranch, Bukidnon

Mindanao is infamous for conflicts, acts of violence and civil war. Indeed, the island must cope with various kinds of conflicts. Not only do Muslim and communist rebels oppose government troops but also private family clans have been fighting each other for decades. Moreover, the native population is in conflict with well-off settlers from the Visayas. All these conflicts mainly revolve around land questions – for some it means survival, for others power and wealth. The question of land is extremely complex in Mindanao and has already led to several bloodsheds. Using violence is a common way of appropriating land, respectively protecting ‘one’s’ land. The emergence of private armies and security companies willing to use violence proves this assumption. The most famous and recent example of these practices is the Maguidanao massacre of 2009 where at least 57 people were killed at once.

Such crimes, although not always to this extreme extent, are not seldom in Mindanao. Murders, extra-judicial killings and enforced disappearances are reported almost on a daily basis. The crimes as such are cruel enough, but it is absolutely unacceptable that these incidents are seldom properly investigated, let alone punished by the Philippine legal system. The police conduct insufficient investigations and rarely go beyond questioning the witnesses. Unsolved murders are frequent, especially when it comes to politically-motivated murders or when the instructing party is well-off. In case these crimes are brought to justice, the legal system tends to work extremely slowly and court proceedings take several years. The final outcome is oftentimes hard to understand – usually at the expense of the victims. In such an unstable environment, where the legal system is hardly implemented, so called legal vacuums have come into being over the last few decades. In these areas the Philippine legal system has no validity and the law has been replaced by the law of local powerful people. The latter can rule over a specific area without ever being held accountable for their actions.

An example for legal vacuums is the Villalon ranch in Maramag, in the province of Bukidnon. It is an area of 487 ha of land. Since the 1950s, Ernesto Villalon leases the land as a ranch and holds a license for a so-called Forest Land Grazing Management Agreement. However, when he pursued the license, the local native population was driven off the territory. Villalon promised he would give the land back to the native population after his license expired in 1997. However, he broke his promise. However, the displaced native population does not accept that state of affairs and founded the Dagumbaan Panalsalan Tribal Association (PADATA) in 2004. The newly founded organisation was supposed to facilitate the fight for their ancestral land. In fact, since its implementation in 1997 the Indigenous Peoples Rights Act (IPRA) provides a legal framework for native communities to appropriate their ancestral

lands and/or to be at least consulted and asked for their consent for every single project being planned on their territory.

As the ranch lessee Villalon did not immediately apply for a renewal of the already expired ranch license, PADATA members returned to the disputed land in 2008. Following their return, Villalon tried to renew his license as quickly as possible and got the meanwhile mandatory Free and Prior Informed Consent (FPIC) from the native population through dubious means. In fact, it is said that Villalon, former mayor of Kibawe, used one of the tribes of Kibawe to sign the FPIC instead of consulting the PADATA members, who are actually living on the territory. PADATA felt betrayed and filed a petition. On the 20th September 2011, the National Commission on Indigenous Peoples (NCIP) annulled the FPIC. In fact there were approximately 230 PADATA households on the ranch in 2008 – today there are far fewer. Since their return to the land, the security staff of Villalon has tried to drive PADATA members out of the ranch. Their methods are vicious and range from arson to theft, shooting and even murder. In June 2011, not less than 15 huts from PADATA members with all their belongings were burned by the security staff of Villalon. Fearing further acts of violence, many natives decided to leave the ranch. After that moment, the security guards' willingness to use violence has increased ever since. Shooting incidents have become part of the daily life of the native community. On the 24th August 2011 the violence on the ranch reached its peak when one of PADATA's members was murdered.

The shocking murder happened in bright daylight, while PADATA members were meeting the security guards for a dialogue. Not all the PADATA members were present. Some were in Malaybalay, the capital of the province, participating in a peaceful protest march to draw the attention of Vice governor Zubiri to their security situation. After PADATA leaders have had a meeting with the Vice governor, a phone call reached the activists: During the meeting with Villalon's security guards, Welcie Gica, 28 years old and father of two young sons, was shot dead. The following happened: during the meeting on the ranch, PADATA members were requested to hand over their backpacks to the security guards for security reasons as they put it. Welcie Gica was a bit late and did not hear this request. When one of the security staff asked him to give him his backpack, he was confused and hesitated for a few seconds. Instantly shots were fired. Welcie was hit by two bullets and died immediately. When the police finally arrived a few hours later, they were able to detect that the crime scene had been manipulated and that there was obviously made an effort to make the murder look like a suicide. The police recognized this and temporarily arrested all the security staff. Later on, they were put face to face with the witnesses in one room. The witnesses, hence the PADATA members, were asked to pinpoint the perpetrators. Terrified for obvious reasons, they did not dare to pinpoint the murderer just in front of all the security staff. The following day, however, two eyewitnesses went to the police station to testify, sign the appropriate affidavit and pinpoint the perpetrator, Milo Ceballos. For incomprehensible reasons though, all the suspects were already released in the very night following the murder.

The police also missed to conduct thorough investigations and have rarely visited the crime scene ever since. It seems that the lack of resources is responsible for the unsatisfying actions of the police; however, the local police station has always failed to ask for assistance from the provincial or regional level. What is more important is that the police officers are always suit for illegal trespassing of private property as soon as they enter the ranch. Even though the cases are never admitted before court, they still have to privately pay the lawyer. This financial argument also hinders them from doing their duty. Furthermore, some officers have mentioned that they do not dare to confront the security guards as they are said to carry high profile guns. These weapons are illegal for simple security agencies, but the police

do not care to investigate the security agency. After the police was pressured from outside to conduct the investigation of the security agency, they just concluded in their report that everything was rightly. The investigating officers did not even set foot on the ranch, they merely asked all 12 officially licensed security guards to come forward and present their legally registered guns. Nobody else on the ranch was investigated. Nonetheless, more than 40 police blotters mention not licensed security staff bearing illegal weapons on the ranch. The police do not consider this reason enough to seriously investigate all members of the ranch.

Even though warrants of arrest for murder (Milo Ceballos) and for destructive arson (14 security guards) were finally released by the court in December 2011, the police have up to date (June 14th 2012) only arrested one single suspect and this rather by chance. PADATA members have regularly reported to the police that they sighted the suspects on the ranch, but their calls remained unanswered. As the police and the prosecution - which also seems to be sometimes biased and decides in favour of the well paid lawyers - have been acting so

The ranch for some time then received the name „kingdom of the lawless“.

slowly that the suspects had plenty of time to think about good hiding places. As a matter of fact, the security situation of PADATA members on the ranch has by no means improved and the police have thoroughly failed to restore peace and order on the disputed territory.

In fact, since the murder, nothing has changed for PADATA. Its members still face threats and are being shot at – there was even a shooting incident outside the said ranch on December 31st 2011, where the niece of PADATA president was shot in the leg twice and had to be rushed to the hospital. Yet again, the PNP didn't investigate the crime scene until 21 days later and limited the investigation to questioning the victim in the hospital. Regularly PADATA members are hurt during these incidents. It is worthwhile to mention here that PADATA has never ever used violent means themselves. As the police almost never enter the ranch, the native community is with nobody to help and can hardly count on the assistance of state actors. The suspects can easily hide on the ranch and do not have to fear being arrested. It was even said that other criminals did a runner on the ranch as they precisely knew that the police would not follow them to the said place. The ranch for some time then received the name “kingdom of the lawless“.

The case of the Villalon ranch clearly shows that there are areas in Mindanao, where the state does not seem to be able to implement the Philippine law and where defenseless citizens are at the mercy of rich opponents. As the police as well as the prosecution only become active when a lot of money is involved, human rights seem to be only for the well-off. Those who are able to pay for a good lawyer or a land title application have already won. In the case of the Villalon ranch, the non acting of state actors has led to transforming the ranch into a legal vacuum. The Philippine law does not seem to be valid on the said ranch and seems to have been replaced by the will of the powerful ruler Villalon or his protégés, respectively. To date nobody has been held accountable for any crimes being committed on the ranch. The fate of PADATA is by no means a single case in Mindanao.

Conclusion

The described case studies from Luzon, Visayas and Mindanao exemplify a situation which exists nationwide. “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.”⁴ Tenants and farm workers living under the shadow of the hacienda law often say that they know more about it than they do about state law.

It is unacceptable that described authoritarian enclaves have come into being and still persist in the Philippines. The law as well as peace and order should not stop where people have enough power to assert ones interests with armed force by being no subject to prosecution. The victims of such legal vacuums are always the poor and defenseless. The Philippine state should do anything in its power to put an end to such areas of impunity. Not only because the state is obliged to assure the protection of human rights, but most of all because it owes equity to its citizens.

Higher state presence can increase people’s access to information about rights and other legal-judicial information or administrative procedures; it alters the disputing opportunity structure by eroding the power of other systems of authority through which conflicts might be settled, hence making state law more attractive; and in contexts of high inequality, higher state presence erodes local tyrannies or authoritarian enclaves that keep people from accessing state law and international human rights.

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