

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: AL Food (2000-9) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
PHL 4/2011

4 July 2011

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 13/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to the information we have received regarding allegations of acts of violence and intimidation against Mr. **Billy Jardin**, Mr. **Gregorio Santillan**, Mr. **Larry de Vera**, Mr. **Wenni Loable**, Mr. **José Benemerito** and Ms. **Marilou Fortin**. The aforementioned human rights defenders are members of the Buffalo-Tamaraw-Limus (BTL) Farmer's Association and BTL Women's Association, organizations which represent three local peasant groups of Buffalo, Tamarawa and Limus. The BTL Farmers' Association was set up to collectively pursue the goal of peasant farmers to own the lands that they cultivate, and to safeguard the human rights of its members. The BTL Women's Association was established to focus on the role of peasant women in the pursuit of agrarian rights.

According to the information received:

On 14 June 2011, at approximately 10:30 a.m., around 15 private guards of the security agency “Chevron”, hired by the Central Mindanao University (CMU), opened fire and beat protestors who had set up camp outside the university. Mr. Jardin, Mr. Santillan and Mr. de Vera reportedly received gunshots wounds and were hospitalised, waiting for surgery to have the bullets removed.

It is alleged that the private guards beat many of the protesters including Mr. Loable, Mr. Benemerito and Ms. Portin, who were seriously injured as a result. In the case of Mr. Loable, he is reportedly in danger of losing his eye, due to an injury by a rock to his right eye. It is further alleged that women and children who were among the protesters were also beaten by the members of the security agency.

It is reported that, on 23 May 2011, the protestors set up camps to protest against the forced eviction of approximately 800 families, from over 400 hectares of land that were inside of the CMU, and which were cultivated by the peasants for over thirty years. The CMU insists that the farmers should relocate to San Fernando, which is located at the border of Bukidnon and Davao del Sur. It is also alleged that, in 1992, the farmers received a Certificate of Land Ownership, however these certificates were later declared invalid, and the farmers were forced to sign a five year lease, which has now expired. Apparently, the lease had a provision that indicated that the farmers could not be expelled from their lands.

Serious concern is expressed about the use of live fire and excessive force resulting in the injuries during the protests that took place in June 2011. Further concern is expressed for the physical and psychological integrity of the human rights defenders who have been injured as a consequence of their work on the protection of land rights of the farmers.

We would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

We are also concerned that the events described could result in the violation of the right to adequate food, as recognized under article 25 of the UDHR¹ and article 11 of the International Covenant on Economic, Social and Cultural Rights.² The right to food requires that each individual, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.³ It requires, in particular, that States abstain from measures that may deprive individuals from the access to productive resources which they depend on when they produce food for themselves.⁴ Indeed, as noted by the latest report of the Special Rapporteur on the right to food to the General Assembly (A/65/281), the Committee on Economic, Social and Cultural Rights recognizes the link between access to natural resources and the enjoyment of the right to food, as well as the special vulnerability of those who depend on natural resources, where it notes that ‘[s]ocially vulnerable groups such as landless persons and other particularly impoverished segments of the population may need attention through special programmes’.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or 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” and that “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.”

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, point a) which establishes that 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, to meet or assemble peacefully; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with

¹ G.A. Res. 217 A (III),.

² G.A. Res. 2200(XXII), 993 UNTS 3.

³ E/C.12/1999/5, para. 6.

⁴ Ibid., para. 15.

others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials.”

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency's Government to the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April de 2010, which recognizes “the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all” as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also “urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity.”

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that “the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfil human rights, including those of human rights defenders. (...)” The Special Rapporteur argued that the State’s obligation to protect “first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State’s responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment.”

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Billy Jardin, Mr. Gregorio Santillan, Mr.

Larry de Vera, Mr. Wenni Loable, Mr. José Benemerito and Ms. Marilou Fortin are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

Moreover, it is my responsibility under the mandates provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victims or the family of the victims.
6. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression



Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Olivier de Schutter
Special Rapporteur on the right to food

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Special Rapporteur on the situation of human rights defenders