

Mandates of the Special Rapporteur on the right to food; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders and the Working Group on the rights of peasants and other people working in rural areas

Ref.: AL OTH 124/2024
(Please use this reference in your reply)

16 September 2024

Dear Mr. Boquiren,

We have the honour to address you in our capacities as Special Rapporteur on the right to food; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders and Working Group on the rights of peasants and other people working in rural areas, pursuant to Human Rights Council resolutions 49/13, 53/3, 52/10, 52/4 and 54/9.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning the **direct links between Litton & Co., Inc. and Riverforest Development Corporation and the situation in Barangay Sumalo, where peasant communities face forced evictions, housing demolitions, restriction of access to cultivated land and prohibition to cultivate the land. Community leaders and human rights defenders suffer attacks and criminalization, leading to arbitrary arrests and the killing of one community member, in relation to the land conflicts with Litton & Co., Inc. and Riverforest Development Corporation.**

Litton & Co., Inc.

According to the information received:

The **Sumalo** are a farming community in the municipality of Hermosa, Province of Bataan. The Sumalo farming community is renowned for producing pineapple, avocado, rambutan, and various other crops, fruits, and vegetables. Approximately 75% of the 2,640 residents in Barangay Sumalo – the *barangay* is the smallest administrative division in the Philippines – rely on farming as their primary source of income to meet their food and economic needs. In addition to family consumption, peasants trade their produce within their barangay and neighbouring barangays of Hermosa. The Sumalo community plays a vital role in ensuring local food security.

Litton & Co., Inc., founded in 1947, is a Philippine based company specialized in the import and export of fabrics. Litton & Co would have funded and run **Riverforest Development Corporation**.

Hermosa is situated in the middle of the Subic International Seaport, a major seaport in the Philippines and the Southeast Asian region, and the Clark International Airport, it is also adjacent to the Hermosa Ecozone Industrial Park, a 162-hectare industrial estate part of a 478-hectare mixed-use property development area. These businesses and trade hubs set in motion the fast-paced industrialization of nearby provinces, threatening to erase thriving peasant communities through land conversions.

The situation in Barangay Sumalo is an emblematic case highlighting the struggles faced by peasants' communities and several land rights movements in the Philippines, spanning different regions. Affected communities and organizations have been facing continuous struggles for land rights recognition and implementation of agrarian reforms. Allegations include criminalization of peasants, land ownership disputes, forced demolitions, evictions and threats of eviction, house demolitions, instances of violence and intimidation, systemic challenges in the criminal justice system, attempts at land-use conversion and displacement.

Peasants of Barangay Sumalo are still struggling to benefit from the full implementation of the agrarian reform, known as CARP. The Comprehensive Agrarian Reform Program (CARP) is a multifaceted program which addresses land distribution, protection of indigenous rights, corporate landownership, support services, and effective implementation through judicial and quasi-judicial mechanisms, adopted by the Government of the Philippines in 1988. Since the adoption of CARP, organized peasants have been persistently campaigning for their right to own the lands they till, as recognized by the land-to-the-tiller principle, enshrined in the Constitution of the Philippines. CARP has allegedly faced resistance from landowners across the Philippines, hampering the agrarian reform program, preventing the completion of land redistribution within the original ten-year timeframe, leading to several extensions and amendments and causing uncertainty regarding the recognition of peasants' land rights.

One of the problematic aspects of CARP is the provision on land-use conversion of agricultural lands. Land-use conversion refers to the process of

changing the designated use of a particular piece of land from one purpose, such as agricultural or rural use, to another, often more urban or industrial use. Land conversion can lead to changes in the landscape, affecting ecosystems, agriculture, and the livelihoods of those dependent on the original land use. Land conversions favouring landowners or corporations have in some cases caused economic and physical displacements of peasant communities.

Peasant communities in Sumalo, and across the Philippines, face insecurity and uncertainty due to the threat of land conversion, policy gaps, and the lack of robust safety measures, which undermine the stable recognition of their land rights. The inability to progress towards comprehensive land reform and the resistance from landowners have severely impacted peasants' ability to produce food for their own sustenance and the market, compromising their food security and economic stability. They have been forcibly evicted from their lands, have lost their houses, one peasant was killed, and more than 50 criminal, administrative, and civil cases have been filed against peasant leaders and supportive local government officials. For decades, Sumalo peasants have been campaigning for recognition of their right to land and their human rights, including to food and housing. They are represented by Samahan ng Nagkakaisang Mamamayan ng Barangay Sumalo (SANAMABASU), a Philippine peasant organization.

Land dispute in Hermosa

In May 1979, 213 hectares of public agricultural land in the municipality of Hermosa, Province of Bataan, where peasants resided and farmed, were sold to a private business company, Litton & Co., Inc. Despite having lived on and tilled the land for decades before the transfer of ownership, the peasants were neither informed about the sale nor consulted beforehand, even though the land transfer had significant implications for their fundamental rights and livelihoods.

For more than a decade after the land transfer, Litton & Co., Inc. did not interfere with the farming activities of peasants, who continued to grow and farm rice, banana, root crops, pineapple, and fruit trees, among others, being able to sustain their food needs and income generating-activities, like selling their harvest in local markets.

On 14 May 1996, the Department of Agrarian Reform (DAR) denied Litton's application for the land conversion of the property. The motion for reconsideration was likewise denied on 18 September 1996. Hence, Litton appealed to the Office of the President (O.P Case No. 97-A-7020). On 2 December 1996, while the case was pending, the Sangguniang Bayan (Municipal Council, local legislative branch of the municipal governments) of Hermosa, Bataan issued Municipal Ordinance No. 96004 reclassifying the area from agricultural to industrial zone.

On 16 June 1997, the Executive Secretary of the Office of the President issued a Resolution setting aside the DAR orders of May and September 1996, allowing for the conversion of the 213 hectares of land from public agrarian land to industrial land. On 4 September 1998, the Office of the President, repealed the resolution of June 1997 and reinstated the orders of the Secretary

of Agrarian Reform of May and September 1996.

On 31 January 2007, the Supreme Court of the Philippines issued a decision on Case No. G.R. No. 146061, ruling in favour of Litton & Co. Inc.'s land-use conversion application. This decision changed the land's designation from agricultural to non-agricultural, to the detriment of the peasants who relied on it for housing, farming, and traditional community life.

On 20 February 2007, Litton & Co., Inc. transferred the ownership of the land to Riverforest Development Corporation. The Riverforest Development Corporation planned to embark on a project that aimed to change the entire use and configuration of the landscape through land-use conversion from agricultural to industrial, with clear repercussions for the peasants' capacity to produce food and to continue living on the land.

The Riverforest Development Corporation, however, failed to comply with the regulation on conversion which implies that land development must be conducted within the prescribed five-year period. This provided the peasants with an opportunity to file a petition to DAR to revoke the conversion order and reinstate the redistribution of the land through compulsory acquisition under the CARP.

On 15 March 2013, the Department of Agrarian Reform Secretary, in Department of Agrarian Reform Central Office (DARCO) Docket No. A-0301-0204-2012, decided that the Riverforest Development Corporation had neglected or failed to secure the requisite development permit from the proper office concerned as required by the Conversion Order and affirmed by the Supreme Court for an unjustified long period thus constituting a serious violation of agrarian laws. DAR decided to revoke the Conversion Order. Per this order, a total of 155.6 hectares were to be redistributed to peasants.

On 7 January 2019, the revocation of the conversion order was sustained by the Office of the President through Case No. 13-L-236 confirming also the violation to comply with agrarian norms by the Riverforest Development Corporation.

On 29 December 2022, the Court of Appeals, in case CA-G.R. SP No. 165613, reversed the decision of DAR and the Office of the President, justifying the delay to secure a development permit since third parties were occupying the contested land.

On 21 February 2024, the peasants represented by SANAMABASU filed an appeal, the case is currently pending before the Supreme Court.

Intimidation, evictions, destruction of livelihoods and criminalization

After the peasants' petition for their land rights, Riverforest Development Corporation intensified its resistance to the implementation of the agrarian reform by attempts to forcibly evict them from their lands and homes. After the Supreme Court decision of 2007, armed private guards were deployed to strategic locations to establish control over the contested farmlands. Riverforest Development Corporation responded to the Supreme Court's

decision through the adoption of various tactics to forcibly remove peasants from their homes and land, such as erecting barriers to impede access to cultivated areas and cause economic disruption. There were reports of peasant's livestock being dismembered and crops destroyed. Peasants filed complaints but they could not continue sustaining the costs and efforts of the legal proceedings.

In 2009, armed guards hired by the company started fencing the area of the disputed lands, tilled by peasants, forcibly barring them from entering the area. By 2011, the entire area was fenced. More than 200 peasants were evicted from their homes and the lands they tilled and deprived of their main source of livelihoods. This forced the evicted peasants to look for jobs as labourers, to find lands for lease (called *ariendo*) to farm, or to work as farm workers in the lands leased to other evicted peasants.

Since 2011, peasant leaders and their supporters have faced continuous criminal, administrative, and civil cases, indicating a pattern of using the law to harass advocates of land redistribution. The high costs of litigation and bail have strained the economic stability of the peasants. Arrest warrants and the threat of imprisonment have instilled fear among the accused and their families, who also face the social stigma of criminalization. Those charged with non-bailable offenses have been forced to live like fugitives to avoid arrest.

In 2014, the situation escalated as Riverforest Development Corporation filed "grave coercion" cases against older peasants, accusing them of harassing an armed security guard while armed guards, hired by the company, obstructed the DAR's attempts to survey the land for the implementation of the reform.

On 7 January 2019, the Office of the President upheld DAR's decision to cover 155.6 hectares under CARP.

Despite this, Riverforest Development Corporation's resistance continued, employing various tactics, including filing new criminal and administrative cases against community leaders. On 8 June 2019, an altercation with armed guards led to the killing of the young adult son of a peasant leader and himself a supporter of the call for land redistribution. On 10 August 2023, the perpetrator was sentenced to life imprisonment.

In 2022 Riverforest Development Corporation, filed a syndicated estafa case against nine SANAMABASU members. In the context of criminal law, "estafa" refers to various fraudulent schemes, such as misappropriation of funds, issuance of bouncing checks, false pretences, or deceitful transactions. In the Philippines, it is considered a criminal offense for which bail is not allowed. Eight of the accused are women, namely Fe Andulan, Ma. Levy Andulan, Magdalena Sanchez, Josefina Pasquil, Elizabeth Mesina, Elvira Gamit, Lorna Favorito, and Mila Dejan. Four of the women are older persons, being 72, 69, 68 and 61 years old at the time of filing the case. The ninth person accused is Rolando Martinez, who was the former barangay captain.

Riverforest Development Corporation alleged that the accused conspired to amass funds, promising to implement agrarian reform and include the

complainants as beneficiaries. They claimed that the accused collected substantial amounts monthly, without issuing receipts. The accused peasants denied the allegations contending that the collected contributions were solely directed towards necessary expenses during activities related to pursuing their land rights. Specifically, the collection of small contributions from individual land rights petitioners in the area was used as funds for food and transportation costs to initiate peaceful dialogues with government agencies. The collection of funds among peasants is a long-standing practice, for them to cover community expenses.

Since 2022, the criminalization of peasants further intensified, especially after DAR attempted to restart the process of coverage of 155.6 hectares of the property by revoking the conversion of the land. Between the last quarter of 2022 and 2023, 21 cases of ejectment, five cases of cyber libel, three cases of syndicated estafa, three administrative charges, two cases of other deceits, two cases of grave coercion, and one case of direct assault upon an agent person in authority, were filed against peasant leaders and their supporters, including against young adults.

In July 2022, the homes of 76 families, 52 of which were of SANAMABASU members, were demolished by the local government unit because of an ejectment case filed by Riverforest Development Corporation, these families were rendered homeless violating Republic Act No. 7279 which provides that demolitions cannot be initiated without relocation. The families occupied the covered court of the barangay as their temporary refuge.

On 1 February 2023, the Office of Municipal Mayor of Hermosa, Bataan sent a letter to the Office in Charge-Barangay Captain of Sumalo to inform the families residing in the barangay covered court to leave the premises, as the facility is meant for public purpose use. Facing arrest warrants and fearing imprisonment, the accused – including older women – evacuated the area.

On 12 February 2023, arrest warrants were issued to the nine peasants charged with syndicated estafa. Fearing arrest and a possible indefinite detention, due to the non-bailable nature of the case, the accused peasants, eight of whom are women and four of them are older persons, went into hiding. On 8 March 2023, the eight women voluntarily turned themselves in to the Department of Justice, seeking attention to their plight. The Secretary of Justice declined the surrender, promising instead to fast track the decision on the case. This symbolic act asserted the peasants legitimate claim to the land, highlighting the broader issue of rural oppression and the need for justice in the struggle for their land rights.

On 15 March 2023, barangay officials who allowed the evicted peasants to take temporary shelter in a barangay's covered court, were charged with dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty; commission of any offense involving moral turpitude or an offense punishable by at least *prision mayor*; and abuse of authority and violation of R.A. 3019 - Anti-Graft and Corrupt Practices Act, resulting in their suspension as public officials. On 4 April 2023, the Local Disaster Risk Reduction and Management Officer issued a certification designating the covered court as an evacuation centre in the Municipality of Hermosa. On 13 April 2023, ten

barangay officials faced charges for violating the Anti-Graft and Corrupt Practices Act. It was claimed that by allowing the evicted peasants to use the covered court for shelter, the barangay officials abused their authority and acted partially. The officials justified its use by stating that the covered court was being used as an emergency evacuation centre.

At least 20 families, amounting to around 100 individuals and including 20 children, lived in the court, after having been rendered homeless since their houses were demolished. The proposed relocation site is situated in Barangay Saguing, Bataan of Dinalipihan, 10 kilometres away from where the peasants were residing. On 5 May 2023, the Municipal Social Welfare and Development Officer of Bataan of Dinalupihann, informed the Officer-in-Charge Barangay Captain of Sumalo, that as of 7 February 2023, all 500 housing units at Dinalupihan Heights Resettlement Project located in Barangay Saguing had been awarded to other residents, with the assistance of the National Housing Authority Regional Office III. Hence, there were no available vacant units for the evicted families. Affected peasants were not consulted at any moment regarding their relocation.

In April 2023, eleven individuals were charged with cyber libel – spreading false information about another person, group, or organization through a computer network – in Rizal and Mandaluyong, stemming from a Facebook post. On 20 May 2023, a similar case of cyber libel in Cabanatuan City was dismissed, since it was found that no element of the crime of cyber libel had been committed. In the same month, arrest warrants were issued against three peasants charged with grave coercion charges, they were released on bail in May 2023.

In May, June and September 2023, armed guards hired by the company led by you blocked several attempts of DAR to identify how to redistribute the land after the conversion was revoked. On 12 June 2023, Riverforest Development Corporation filed a complaint to the Ombudsperson (Ombudsman) of the Government of the Philippines against two barangay officials and the Department of Agrarian Reform survey team.

On 30 May 2023, another syndicated estafa case against 10 peasant leaders was dismissed. The accused peasants have no information on the date the case was filed.

On 16 June 2023, the Municipal Administrator of the Municipality of Hermosa, Province of Bataan ordered the eviction of “unlawful occupants” from the covered court, leading to the suspension of six barangay officials for 90 days, starting on 27 June 2023.

On 6 July 2023, two more ejectment cases were filed by Riverforest Development Corporation, but were soon after dismissed.

Since then, 21 more residents have been served notices to vacate their homes, wherein nine of them were already charged with ejectment cases on 28 May, 29 May, and 26 June 2024, affecting 64 households, including the families and relatives of the accused. In the hope of being spared from further harassment by the corporation and facing threats of evictions and demolitions, many

residents, including former members of the land rights movement, signed a Memorandum of Agreement in favour of the land conversion.

On 7 July 2023, the makeshift shelters in the covered court were demolished, in violation of Republic Act No. 7279 which provides that demolitions cannot be initiated without relocation. Affected residents had to look for temporary shelter elsewhere, mostly with relatives within and outside of Barangay Sumalo.

As of July 2024, all administrative charges remain pending, while the status of the criminal cases is the following:

- The ejectment (Unlawful Detainer) cases (Civil Case Nos. 1690-1710) filed by Riverforest Development Corporation against 21 peasants, affecting 64 households, were initially dismissed on 31 August 2023, and 22 December 2023. The corporation appealed to the Regional Trial Court on 12 March 2024, but on 30 April 2024, the Court confirmed the dismissal. On 7 March 2024, notices to vacate were issued to 29 peasants, possibly preceding another round of ejectment cases.
- On 14 September 2023, the Secretary of the Department of Justice granted the petition for review previously filed by the peasants on 14 September 2023, reversing and setting aside the complaint for syndicated estafa case under article 3152 (a) of the Revised Penal Code filed against nine peasants due to insufficiency of evidence. The complainant then filed a petition for certiorari against the accused and the Department of Justice Secretary at the Court of Appeals. Warrants of arrest remain in effect, and on 11 April 2024, two of the accused peasants, Elvira Gamit and Lorna Favorito, voluntarily presented themselves to the National Bureau of Investigation and were subsequently transferred to Bataan Municipal Jail. This surrender aimed to test whether the right to bail would be granted and to seek clarity on the subsequent process to be undergone by other criminalized peasants. The Regional Trial Court granted Elvira and Lorna bail for their temporary liberty with each required to post Php 200,000.00, totalling Php 400,000.00 (approximately USD 6,900). They posted bail on 13 June 2024.
- Another syndicated and large-scale estafa case (IS No.III-03INV23C-00533) filed against ten peasants was dismissed on 30 May 2023. A motion for reconsideration filed by the corporation is still under consideration by the Provincial Prosecutor.
- A syndicated and large scale estafa case (IS-NO.III-03-INV-22G-012444) filed against five peasants is pending a petition for review at the Department of Justice. In the cyber libel case (NPS DOCKET NO.-III-05 INV-23C-00378), filed before the Office of the City Prosecutor of Cabanatuan City by security guards of Riverforest Development Corporation against 11 young adults, the charges were dismissed on 20 March 2023. The corporation filed a petition for review at the Department of Justice

- The cyber libel case (XV-06-INV-23C-01177), filed before the Office of the City Prosecutor of Mandaluyong City by the manager of the corporation, against 11 young adults, was dismissed. The complainant subsequently filed a petition for review at the Department of Justice.
- Three additional cyber libel cases filed separately against thirteen individuals, respectively, were all dismissed.
- In criminal case No. 14422 filed against three peasants, warrants of arrest were issued on 5 September 2023.
- Grave coercion (Criminal Case No. 14418) filed against two women peasants resulted in warrants of arrest being issued on 5 September 2023. As of 11 December 2023, one of the peasants requested bail, and the decision is pending.
- Criminal case No. 14415 against eight peasants was dismissed on 10 January 2024.
- The case of grave threats, grave coercion, and obstruction of justice (Criminal Case No. 14282) filed against three peasants was dismissed on 15 May 2024.
- The case of direct assault upon an agent person in authority (NPS-DOCKET NO. III-03-IB=Nv-23B-00252) filed against a peasant was dismissed as the complainant withdrew the case.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern about the allegations regarding the adverse human rights impacts linked to your activities. Your company, through Riverforest Development Corporation, would have filed complaints against those defending their human rights and rights to land, including women and older persons, leading to forced evictions, home demolitions, arbitrary displacement, and arbitrary arrests. Initiating frivolous legal proceedings, or reporting human rights defenders to authorities as a means of intimidating them are incompatible with responsible businesses, and reflect poor strategic sense, as they destroy any credibility of corporate commitment to respect human rights at large. In addition, we are deeply concerned by reports about private guards using force against the peasants, restricting their access to the land on which they depended for sustenance and their livelihoods, and which has resulted in the killing of one person.

It is with regret that we note that your company may be failing to implement adequate human rights due diligence measures to guarantee that its actions do not lead to human rights abuses, as set out by the United Nations guiding principles on Business and Human Rights and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

We have reasons to believe that if the land conversion is granted to Riverforest Development Corporation and implemented, it will further impact the food security, the traditional practices, the source of economic livelihood and well-being as well as the cultural identity around peasantry that constitute an important and integral part of

Sumalo local communities' life. This will inevitably have serious implications on the full enjoyment of human rights of the affected populations, such as the rights to food and adequate housing.

We are deeply worried that the reduced availability and adequacy of food, deriving from the prohibition of peasant communities to access and cultivate their land, could lead to an increase in food insecurity; exacerbate the vulnerability of lower-income households to falling into poverty; and lead to internal displacements in the event of a hunger crisis, or further evictions.

We raise our concern on the apparent complete lack of security of tenure. All persons should be entitled to a certain degree of security of tenure, regardless of the type of tenure, to guarantee legal protection against forced eviction, harassment and other threats. Furthermore, evictions are only lawful if implemented solely for the purpose of promoting the general welfare in a democratic society. We are concerned that the reclassification of the contested land, used as the basis for the evictions, does not seem to be a legitimate purpose meeting this threshold.

We are furthermore concerned with the reported complete lack of consultation with the affected communities regarding the evictions, displacement and resettlement, including the choice of a resettlement site and the alleged lack of due consideration for losses related to land use, farming and overall access to their productive land for food consumption and income generating activities. Affected peasants have first and foremost the right to remain, to effective remedies and to adequate compensation for any property affected¹. If people were wrongly evicted and displaced, then they have the right to return, if that is not possible, they have the right to adequate alternative housing, resettlement and access to productive land.

We also wish to emphasize that no one should be evicted into homelessness and no one should be criminalized or persecuted for performing life-sustaining activities in public spaces². We are in addition alarmed that public officials have been criminalized for allowing the displaced peasants to shelter in a public court.

We are deeply concerned by reports about private guards using force against the peasants, restricting their access to the land on which they depend for sustenance and their livelihoods, and which has resulted in the killing of one person. The criminalization and arbitrary arrests of leaders, community members, and human rights defenders, including women and older persons advocating for their rights to land, food, and housing, are particularly alarming and if confirmed they would constitute serious violations of their human rights. We know from past experiences that such attempts to silence and deter peasant communities and human rights defenders from protecting and promoting their rights and the rights of others contribute to a harmful and "chilling" effect on civil society more broadly.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

¹ CESCR, general comment 7.

² A/HRC/56/61/Add.3

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on what human rights due diligence policies and processes have been implemented by your company to identify, prevent, mitigate and remedy adverse human rights impact of the activities of your company, in particular, with respect to the human rights of farming communities affected by the land acquisition and land conversion, in line with the United Nations guiding principles on Business and Human Rights.
3. Please provide information on the measures taken by your company to ensure meaningful and good-faith consultations with the affected communities to assess the impacts of the land acquisition by your company and land conversion, with due consideration for their rights.
4. Please provide insights into the measures taken by your company to address the alleged intimidation, criminalization, harassment, and the use of armed guards against the Sumalo peasants.
5. Please provide information on the measures taken so far by your company to ensure that adequate compensation has or will be provided to all affected rights-holder in accordance with international human rights standards.
6. Please provide information on the steps taken by your company to establish, implement and/or enforce an operational-level grievance mechanism, in line with the UN guiding principles on Business and Human Rights, in order to address actual and potential adverse human rights impacts.
7. Please describe the guidance, if any, that your company has received from the Government of the Philippines on how to respect human rights throughout its operations in line with the UN guiding principles. This guidance may include measures, inter alia, conducting human rights due diligence, meaningfully consulting potential affected stakeholders, and providing effective remedies, including guarantees of non-repetition of the alleged allegations.
8. Please describe any other measures that your company has taken, or plans to take, to prevent the recurrence of such situations in the future.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your company will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to

halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a letter on the same matter has also been sent to the Government of the Philippines.

Please accept, Mr. Boquiren, the assurances of our highest consideration.

Michael Fakhri
Special Rapporteur on the right to food

Fernanda Hopenhaym
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate
standard of living, and on the right to non-discrimination in this context

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Geneviève Savigny
Chair-Rapporteur of the Working Group on the rights of peasants and other people
working in rural areas

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to highlight the UN guiding principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society and the business community. The guiding principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These guiding principles are based on the recognition of:

- a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms;
- b) The role of business enterprises as specialised bodies or corporations performing specialised functions, which must comply with all applicable laws and respect human rights;
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to:

- a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur;
- b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts". (guiding principle 13)

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...). The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights;

- b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact;
- c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships;
- b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact;
- c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working;
- d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).

The guiding principle 18 emphasises the essential role of civil society and human rights defenders in helping to identify potential negative impacts of business on human rights. In its 2021 Guidelines for ensuring respect for human rights defenders (A/HRC/47/39/Add 2), the Working Group on Business and Human Rights stressed the urgency of addressing the negative impacts of business activities on human rights defenders. It highlighted the normative and practical implications of the

guiding principles for States and business enterprises to protect and respect the vital work of human rights defenders.

The Working Group called on business enterprises not to expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings, including SLAPPs, or reporting them to authorities as a means of intimidating them. Recognise that SLAPPs are not only misguided as far as operating on a principled basis is concerned, as they are incompatible with responsible businesses, but also that engaging in them reflects poor strategic sense, as they destroy any credibility of corporate commitment to respect human rights at large.

Bearing in mind these responsibilities of international financial institutions to respect human rights, we would like to draw your attention to human rights norms guaranteed under international human rights instruments.

We would like to refer to article 25 of the Universal Declaration of Human Rights (UDHR) recognizing the right of everyone to a standard of living adequate for the health and well-being of themselves and of their family, including food, housing and necessary social services. We also wish to draw the attention of your Excellency's Government to its obligations under article 17 of the UDHR, which guarantees everyone the right to own property and the right not to be arbitrarily deprived of their property.

We refer to the International Covenant on Civil and Political Rights (ICCPR) – ratified by the Philippines in 1986 – specifically, its article 9 enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of their liberty except on such grounds and in accordance with such procedure as are established by law, as well as the right to legal assistance from the moment of detention.

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified by the Philippines on 7 June 1974 – recognizes the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. Article 11(2) provides “the fundamental right to freedom from hunger and malnutrition”, which is of immediate application. Article 11(1) of the ICESCR further requires States to “take appropriate steps to ensure the realization of this right”. The Committee on Economic Social and Cultural Rights (Committee, or CESCR) stressed in its general comment No. 12 that the core content of the right to adequate food refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems (para. 12). According to the Committee, the obligation to respect existing access to adequate food requires State parties to refrain from taking any pressures that result in preventing such access. The obligation to protect requires the State to take measures to ensure that enterprises or individuals do not deprive other individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including their access to land to ensure their food security (para. 15). The right to be free from hunger and malnutrition is not subjected to progressive realization as it must be fulfilled in a more urgent manner (para. 1).

As stated by the Committee in its general comment No. 12, States are required to respect existing access to adequate food and to take no action to prevent such access. The Committee also recalled that the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food may constitute a violation of this right. The formulation and implementation of national strategies, mandatory for the progressive realization of the right to food, require full compliance with the principles of transparency, accountability and participation of the people. Para. 54 of general comment No. 12 also emphasizes that “[t]he denial of access to food to particular individuals or groups” constitutes a violation of the right to food.

In its general comment No. 4, the CESCR clarified that this right to housing should be seen as the right to live in security, peace and dignity. It indicates that the right to housing includes, among others, legal security of tenure guaranteeing legal protection against forced evictions, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection in genuine consultation with affected persons and groups.

With reference to CESCR’s general comment No 7, we wish to reiterate that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. This requirement includes an obligation to review, and repeal or amend as necessary, any legislation or policies that are inconsistent with the requirements of the Covenant. It is incumbent upon the relevant authorities to ensure that evictions are only carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected. Procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts. Furthermore, evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

We also wish to draw the attention of your Excellency’s Government to CESCR’s general comment No. 26 on land and economic, social and cultural rights, which emphasizes the essential role of land in the realization of a range of rights under ICESCR. In fact, the secure and equitable access to, use of and control over land for individuals and communities can be essential to eradicate hunger and poverty and to guarantee the right to an adequate standard of living, including the right to food and to adequate housing, as housing is often built on land used for the purpose of food production. Without such access, people could be subject to displacement and forced eviction, which could violate their right to adequate housing. Additionally, the

Committee underlines that agrarian reform is an important measure to fulfil such rights, as more equitable distribution of land through agrarian reform can have a significant impact on poverty reduction and improve food security, since it makes food more available and affordable, providing a buffer against external shocks (para. 36). Such redistribution of land and agrarian reforms should focus particularly on the access to land of young people, women, communities facing racial and descent-based discrimination and others belonging to marginalized groups, and should respect and protect the collective and customary tenure of land. Therefore, States parties shall put in place laws and policies that allow for the recognition of informal tenure through participatory, gender-sensitive processes, paying particular attention to tenant farmers, peasants and other small-scale food producers (para. 39).

In this regard, we also wish to recall the United Nations basic principles and guidelines on Development-based Evictions and Displacement (NHRC/4/18, annex 1), in particular, but not limited to: principle 6, which upholds the right to be protected against being arbitrarily displaced from their home or place of habitual residence; principle 8, which states that displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected; and principle 9, which states that States are under a particular obligation to protect against the displacement of peasants with a special dependency on and attachment to their lands.

We wish to refer to the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), adopted by the General Assembly in December 2018. Article 5 of UNDROP states that peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities, required to enjoy adequate living conditions. States are required to take measures to ensure that any exploitation affecting the natural resources that they traditionally hold or use is permitted based, among others, on: a) duly conducted social and environmental impact assessment; b) consultations in good faith; c) modalities for the fair and equitable sharing of the benefits of such exploitation, established on mutually agreed terms between those exploiting the natural resources and peasants and other people working in rural areas.

Article 15 of UNDROP states that peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures. States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in the UNDROP.

Article 17 of UNDROP affirms that peasants and other people living in rural areas have the right to land, individually and/or collectively, including the right to have access to, sustainably use and manage land and pastures, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures. States are obliged to take appropriate measures to provide legal

recognition for land tenure rights, including customary land tenure rights not currently protected by law. States should recognize and protect the natural commons and their related systems of collective use and management. Where appropriate, States shall take appropriate measures to carry out agrarian reforms in order to facilitate the broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land, taking into account its social function. Furthermore, article 24 of UNDROP affirms that peasants and other people working in rural areas have the right to adequate housing. They have the right to sustain a secure home and community in which to live in peace and dignity, and the right to non-discrimination in this context. Peasants and other people working in rural areas have the right to be protected against forced eviction from their home, harassment and other threats.

We would also like to highlight 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Article 12 of this Declaration provides that the State must ensure the protection of everyone against any threat, reprisal, or pressure resulting from the exercise of the rights authorized by the Declaration, as well as the right to effective protection of the laws when reacting to or opposing, by peaceful means, activities that cause violations of human rights and fundamental freedoms. In addition, we would like to refer to Human Rights Council resolution 22/6 which urges States to publicly recognize the important and legitimate role played by human rights defenders in the promotion of human rights, democracy and the rule of law, as well as resolution 13/13 of the same Council which urges States to take concrete steps to end threats, harassment, violence and attacks by States and non-State entities against those engaged in the promotion and protection of human rights and fundamental freedoms for all.

As the Human Rights Committee has underlined in its general comment No. 35, States parties should respond appropriately to patterns of violence against certain categories of victims, such as intimidation of human rights defenders (CCPR/C/GC/35 para. 9). Similarly, in its general comment 36 on the right to life set out in article 6 of the ICCPR, the Human Rights Committee notes that the duty to protect the right to life requires States Parties to adopt special measures of protection for persons in vulnerable situations whose lives are at particular risk due to pre-existing patterns of violence. This includes human rights defenders (CCPR/G/GC/36, paras. 23 and 53).