

# International Peace Observers Network

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## **Report on Human Rights Situation at former landholding Agueda**

**Situated in La Castellana and Moises Padilla,  
Negros Occidental**

## 1. Introduction

This report exemplifies the Human Rights Situation related to the land conflict of “Hacienda Agueda”. The concerned area is located in the province of Negros Occidental, Philippines, situated in the municipalities of La Castellana and Moises Padilla.

The Report is written by the non-governmental organisation *International Peace Observers Network* (IPON), whose purpose is to monitor the Human Rights situation of Human Rights Defenders. The term “Human Rights Defenders” is used to describe people who, individually or with others, act to promote and protect human rights<sup>1</sup>, as it is defined by United Nations *Declaration on Human Rights Defenders* and its related documents<sup>2</sup>.

Until now, IPON’s focus has been on Human Rights Violations related to Agrarian Reform disputes in the Philippines. Farmers who petition for land through the governmental Agrarian Reform Program campaign for Human Rights such as the right for an adequate standard of living (Article 25 of the *Universal Declaration of Human Rights*) and the right to life, liberty and security of person (Article 3 of the *Universal Declaration*). Therefore, they are considered as Human Rights Defenders.

IPON is a politically independent and non-profit-oriented non-governmental organisation based in Germany. Since 2006, IPON has been present in the Philippines with the purpose of monitoring and preventing Human Rights Violations. IPON only works upon request by Philippine organisations. In 2006 IPON started its work on Bondoc Peninsula, Quezon Province, with a mandate by the farmer organisation Kilusang Magbubukid ng Bondoc Peninsula (KMBP). In 2008, a second partnership was established with Task Force Mapalad (TFM) in Negros.

IPON is completely independent from its partner organisations. The organisation does not provide (nor receive) any funding and never engages in the strategy of the domestic partners. IPON advocates Human Rights and their proper implementation. The overall objective is to reply to a situation, in which Human Rights Defenders are subject to threats, violence, intimidation and other forms of repression. IPON aims at giving room to Human Rights Defenders, in which they are able to undertake their work free of repression and threats.

The land conflict described in the following is a typical example of problems arising when farmers are campaigning for their right for land which is claimed by an influential family. The Human Rights Defenders fighting for their rights are exposed to several Human Rights Violations.<sup>3</sup>

IPON-Observers visited the concerned landholdings several times in 2009 and 2010. IPON members spoke with most of the Human Rights Defenders, as well as with the respective local and provincial state actors such as members of the Philippine National Police (PNP)

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<sup>1</sup> The terms CLOA-Holder, farmer-beneficiaries, TFM-farmers and Human Rights Defenders are used as synonyms below. All farmer-beneficiaries in this case are members of TFM.

<sup>2</sup> Compare with <http://www2.ohchr.org/english/issues/defenders/declaration.htm> & <http://www2.ohchr.org/english/issues/defenders/who.htm>, [last visited on March 27<sup>th</sup> 2010].

<sup>3</sup> Article 3 (right to life, liberty and security of person), Article 12 (right to the protection of the law), Article 17 (right to own property, especially Article 17.2. “No one shall be arbitrarily deprived of his property” and 25 (right to an adequate standard of living) of the *Universal Declaration of Human Rights* are violated, as this report will show.

and the Department of Agrarian Reform (DAR). During a visit on the landholding on March 24<sup>th</sup> 2010, the Peace Observers were forced to leave the area by security guards hired by the Montañez family, regardless of the fact that they had no legal right to do so. Since the awarding of CLOA<sup>4</sup> - titles in 2000 and 2002<sup>5</sup>, TFM-farmers are the rightful owners of the land. There is no pending case contesting the ownership.

## 2. Outlines of the Conflict

The area is divided in two parts. One part belongs to Brgy. Lalagsan, La Castellana and is 35.6 ha. The land has been awarded on May 26<sup>th</sup> 2000 to 24 Farmer-Beneficiaries (FBs). On June 1<sup>st</sup> 2001, they were installed on 1.2 ha. On March 20<sup>th</sup> 2002 the FBs agreed with former landowner Rosita Montañez to cultivate 10 ha of the 33 ha. Until today, they could not extend the area in which they can work and harvest.

The other part of the area is situated in Brgy. Odiong, Moises Padilla. The area is about 64.2 ha and CLOA-titles were issued to 22 FBs on January 25<sup>th</sup> 2002. There the CLOA-Holders were installed in 2004 and again on September 25<sup>th</sup> 2009. In this area, they are not able to plant or harvest until today. This is a clear violation of the right to own property (Article 17 of the *Universal Declaration of Human Rights*).

Notwithstanding the efforts made by the PNP and the DAR, the living conditions of TFM-farmers have worsened after they claimed their rights to own property. After they petitioned for CLOA-titles, the TFM-farmers lost their jobs. Since then they are dependent on financial support by their families or have to work in other professions until they can cultivate their land. Rather than reducing poverty, the participation in the governmental program turned out to worsen the situation since the Human Rights Defenders have no access to their own land, but lost their most important source of income. Therewith Article 25 of the *Universal Declaration of Human Rights* is imperilled:

(1) “*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services (...)*”.

In the majority of cases the Human Rights Defenders are being stopped and threatened by security guards of the Montañez family in particular when they are trying to cultivate their land. Usually, when the CLOA-holders plant sugarcane, farmers of the Montañez administration arrive, destroy the seedlings and plant their own sugarcane. If the Human Rights Defenders resist, violence occurs and they are forced by members of the Montañez administration to leave the land. Such cases happened several times, most recently on November 6<sup>th</sup> 2009 in the presence of a policeman and on 29<sup>th</sup> December 2009.<sup>6</sup>

Although there is a clear legal situation, as stated in an administrative order by DAR, the *Guidelines on standing crops*, the former landowner continues to invest in the cultivation of the TFM-members' property. It seems as if they do not expect an implementation of the above cited administrative order that these sugarcanes are

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<sup>4</sup> Certificate of Land Ownership Award.

<sup>5</sup> CLOA-8434/CLOA-8435 and CLOA-10630, respectively.

<sup>6</sup> More about these incidents, see chapter 3: “Recent Developments” (p. 4f.).

*“considered as plantings or sowings done in bad faith by the former landowner. The former LO/agents/assignee loses what is built, planted or sown without right to indemnity. The crops shall automatically redound to the benefit of the CLOA-title holders whether already installed or not.”<sup>7</sup>*

Police assistance requested by the Human Rights Defenders and DAR has been provided several times. Unfortunately, once the police has left, farmers of the Montañez administration take possession of the land again. This results in a very insecure situation for the Human Rights Defenders and a virtual deprivation of their property. As Article 17, Sec. 2 of the *Universal Declaration of Human Rights* states that “[n]o one shall be arbitrarily deprived of his property” IPON is very concerned about this situation.

Furthermore, the Human Rights Defenders are exposed to various forms of harassment. Security guards hired by the Montañez family threatened them several times. They often use their guns to scare the Human Rights Defenders, as it was also reported to the police (blottered) in several cases<sup>8</sup>. This is particularly alarming with regard to Article 3 of the *Universal Declaration of Human Rights*, “the right to life, liberty and security of person”. Until now, no criminal complaint against those who threaten the CLOA-holders has been filed. Moreover, the efforts of the local police were not sufficient to prevent harassment. According to the local police, the resources for agrarian disputes are limited, so they cannot conduct preventive actions such as regular foot patrols. However, IPON is concerned by the fact that they did not intervene when present or rarely arrived in time at the scene of crime (see next chapter).

There is an inherent necessity to enforce the Philippine law and thereby Human Rights of the Human Right Defenders.

### **3. Recent Developments**

On September 25<sup>th</sup> 2009 the farmer-beneficiaries were officially installed by the DAR with the assistance of police and the military. IPON-Observers were present during the process. Although the official installation was peaceful, problems arose again as Human Rights Defenders were hindered to enter their land and threatened by security guards after the installation. On the very next day, September 26<sup>th</sup> 2009, security guards hired by Montañez hindered TFM-members to enter their property and threatened them by pointing their shotgun at them. This was reported in a blotter to the Moises Padilla Police station.

On October 2<sup>nd</sup> 2009 security guards entered the newly installed land and threatened the Human Rights Defenders. Other threats occurred on October 5<sup>th</sup> 2009. A *nipa hut* built by the farmer-beneficiaries was destroyed. All these incidents were reported to the local police.<sup>9</sup>

Another evident violation of the law took place on October 6<sup>th</sup> 2009 when farmers loyal to the Montañez family entered the land of the TFM-members and ploughed it. Pictures were taken

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<sup>7</sup> Republic of the Philippines, Department of Agrarian Reform, Administrative Order No. 08, Series of 2006, Subject: Guidelines on standing crops on lands acquired by the government pursuant to sections 16(e) and 28 of R.A. No. 6657.

<sup>8</sup> Compare with those blotters: September 29<sup>th</sup> 2009; Entry Nr.: 2009-3973, October 6<sup>th</sup> 2009; Entry Nr.: 2009-3911, November 6<sup>th</sup> 2009; Entry Nr.: 2009-4285, mentioned in the Appendix.

<sup>9</sup> Compare with those blotters: September 28<sup>th</sup> 2009; Entry Nr.: 2009-3966, September 29<sup>th</sup> 2009; Entry Nr.: 2009-3973, October 6<sup>th</sup> 2009; Entry Nr.: 2009-3911, mentioned in the Appendix.

of this incident and a blotter was made at the police station in Moises Padilla. Several persons were clearly identified and included in this blotter.<sup>10</sup> Until now, none of them had to face any consequences.

All these incidents led to a meeting at the DAR Provincial Office in Bacolod City on October 12<sup>th</sup> 2009. Human Rights Defenders, DAR Officers, local and provincial police were present at this meeting which was observed by IPON. Even though no long- term agreement could be reached, IPON welcomes the effort made by DAR and PNP. For instance, a police squad was designated to be present in the area from October 14<sup>th</sup> 2009 to October 16<sup>th</sup> 2009 as a result of that conference.

When IPON- Observers were present on October 14<sup>th</sup> 2009, the situation was peaceful during the presence of the police squad. However, in the morning of October 14<sup>th</sup> 2009, before the police arrived, security guards hindered farmer- beneficiaries to enter their land. After the police squad left, the beneficiaries were threatened and ejected from their land again.

On November 6<sup>th</sup> 2009 another incident happened when about 30 Human Rights Defenders wanted to cultivate their land. Some 40 farmers of the Montañez administration forcibly tried to enter the land with a tractor. The Human Rights Defenders wanted to stop them and the situation escalated until both parties threw stones at each other. One Human Rights Defender informed the nearby Patrol Base<sup>11</sup>. SPO1 Juanito Villaflor and two or three members of the CVO (Civilian Volunteer Organisation) went to the area. According to SPO1 Villaflor, he talked to both parties and calmed down the situation. He also called the police in Moises Padilla to ask for assistance, but they did not send reinforcements. The Human Rights Defenders, in contrast, said that Villaflor just stood beside the scenery. IPON is concerned that the police did not protect the property and security of the Human Rights Defenders in this case even though they were present during the incident.

One of the security guards gave warning shot(s) in the air which caused both parties to stop throwing stones. In the end, the Human Rights Defenders' cane seedlings were illegally replaced by those of the perpetrators. The police stood next to the field but was not able to pacify the situation in order to protect the law. None of the involved persons was arrested during or after the incident. IPON fears that these clear violations of the law, e.g. forcible entry, destroying of seedlings and illegal cultivation will not have any consequences. Article 7 of the Declaration of Human Rights is imperilled:

*“[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law.”*

IPON appreciates the continuous effort made by DAR and PNP to ensure the peaceful possession of land by the CLOA-holders. From 16<sup>th</sup> to 18<sup>th</sup> December 2009 a police detachment was sent to Hacienda Agueda again to enable the Human Rights Defenders to plant seedlings. Some days later, on the 29<sup>th</sup> December 2009 farmers of the Montañez administration entered the property of the CLOA-Holders, destroyed a *nipa hut* and burnt the newly planted sugarcane of the Human Rights Defenders. After that they ploughed the field and planted their own seedlings. The Human Rights Defenders did not go to the police immediately because of a lack of trust in its help. At last they blotted this incidence on

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<sup>10</sup> Compare with this blotter: October 6<sup>th</sup> 2009; Entry Nr.: 2009-3919, mentioned in the Appendix.

<sup>11</sup> Formerly known as Outpost of the Provincial Mobile Group.

February 9<sup>th</sup> 2010.<sup>12</sup> Since then the CLOA- holders do not cultivate or enter the agricultural area due to harassment. During a visit on the Hacienda on March 24<sup>th</sup> 2010, even the Peace Observers were forced to leave the area by security guards hired by the Montañez family. After a call from a member of the Montañez family, IPON-Observers were warned by Security Guards that in case they would refuse to leave the houses of the TFM-members, nobody would be allowed to enter the landholding by vehicle anymore.

#### 4. Conclusion

Particularly with regard to Article 17 of the *Universal Declaration of Human Rights*, where it is stated that

- (1) *“Everyone has the right to own property alone as well as in association with others.”*
- (2) *“No one shall be arbitrarily deprived of his property”*

IPON is worried that since the Human Rights Defenders cannot enter nor cultivate their lands, their rights are at stake. Furthermore, Article 7 of the *Universal Declaration of Human Rights* states, that

*“[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”*

In this respect IPON is concerned about the incident on November 6<sup>th</sup> 2009, where forcible entry, destroying of seedlings, illegal cultivation, throwing of stones and warning shots occurred in front of the police. Since then, the investigation of the local police did not lead to consequences. IPON is aware that it is a deep concern of the PNP to stop these violations of the law and hopes that adequate measures to prevent a recurrence of the incident will be undertaken.

Moreover, according to Article 3 of the *Universal Declaration of Human Rights*,

*“Everyone has the right to life, liberty and security of person”,*

IPON is anxious about the insecure living conditions of the Human Rights Defenders on landholding Agueda. We appeal to the CHR, the DAR and to the PNP to undertake further steps to increase safety on the spot.

Since the Republic of the Philippines has not only recognized the *Universal Declaration of Human Rights* but also ratified the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), respectively, all rights have to be secured and guaranteed. Referring to this, IPON appeals to the Commission on Human Rights of the Philippines to undertake an investigation.

The International Peace Observers Network acknowledges the efforts made by both PNP and DAR and is confident they will continue their valuable work in the future. IPON hopes that incidents of harassment related to this conflict are adequately investigated by the local

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<sup>12</sup> Compare with blotter: February 9<sup>th</sup> 2010; Entry Nr.: 2010-5116, as mentioned in the Appendix.

police in the future. All threats and attacks on civilians should be stopped immediately. IPON hopes the PNP will ensure sufficient personnel and conduct a thorough examination of the behaviour of their local police men to provide adequate security for Human Rights Defenders and to sustain peace and order in that area.

It has shown that during the presence of police squads, as on October 14<sup>th</sup> – 16<sup>th</sup> 2009, the security of the Human Rights defenders has been effectively safeguarded. In this respect, requests have to be applied by the DAR to provide measures and mechanisms to deter, prevent and punish harassment against Human Rights Defenders and for the proper implementation of the law.

IPON is engaged in a dialogue with the provincial DAR. According to the provincial DAR, there are already plans for a long-term police-detachment, which should pacify the ongoing conflict. IPON supports the DAR-decisions as a sign that their responsibility to protect Human Rights is taken seriously.

## 5. Appendix:

### Blotters mentioned in this report:

- September 28<sup>th</sup> 2009; Entry Nr.: 2009-3966; Allan Lachica y Octavio; Moises Padilla Police Station; signed by Gil P. Flores
- September 29<sup>th</sup> 2009; Entry Nr.: 2009-3973; Editha Parnicio y Chaves & Rosalinda Carreon y Murillon; Moises Padilla Police Station; signed by Gil P. Flores
- October 6<sup>th</sup> 2009; Entry Nr.: 2009-3919; Romeo Parnicio y Toledo; Moises Padilla Police Station; signed by Gil P. Flores
- October 6<sup>th</sup> 2009; Entry Nr.: 2009-3911; Fernando Pardillo y Mones; Moises Padilla Police Station; signed by Gil P. Flores
- November 6<sup>th</sup> 2009; Entry Nr.: 2009-4285; Enrique Manilog y Caminse; Moises Padilla Police Station; signed by Gil P. Flores
- February 9<sup>th</sup> 2010; Entry Nr.: 2010-5116; Moises Padilla Police Station; signed by Gil P. Flores

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