

International Peace Observers Network



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Report on Human Rights Situation at former Teves Landholding

Situated between Bayawan City and Sta. Catalina, Negros Oriental

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Outline of the report

This report is issued by the International Peace Observers Network (IPON). The report describes the Human Rights Situation in relation to the land conflict of the former Teves landholdings in the province of Negros Oriental, Philippines. Thirty members of our partner organisation Task Force Mapalad (TFM) and their families who petition for land through the governmental Agrarian Reform Program fight for Human Rights such as the right for an adequate standing of living and the right to life, liberty and security of person, that is why they are considered as Human Rights Defenders. IPON investigated the Human Rights Situation in the area and is very concerned about Human Rights Abuses and Violations.

After several years of land struggle in the area, the Human Rights Defenders are still confronted with landlessness, and their Human Rights are continuously violated and threatened. Two persons involved in the conflict have been killed in the last twelve months. One is the son of a CLOA-Holder; the second is a DAR Lawyer who pleaded their cases in court. Many of the Human Rights Defenders have been threatened by armed security guards hired by family Teves to protect the area. After the official Installation in November 2008 the Human Rights Defenders have been driven out of the area again.

The report provides an overview about the current Human Rights Situation as well as the development in the last years. It furthermore examines the related state agencies regarding Human Rights issues.

First, assistance provided by the police to the Human Rights Defenders is examined and considered as insufficient. Second, the work of Department of Agrarian Reform is investigated and contemplated as deficient. Third, the impact of Local Government Units (LGUs) on the Human Rights Situation is highlighted. The sections thereby stand on their own. In the later case the emphasis will be on the negative impact of a Barangay Captain who has been allegedly involved in a number of threats against Human Rights Defenders of TFM.

After summarising the proceedings, the report will end with recommendations. IPON is concerned about the security situation and requests DAR and PNP to undertake the steps necessary to improve the situation. IPON requests the national state actors to supervise the situation and initiate local state actors to fulfil their duties.

1. Introduction

The following report describes the Human Rights Situation related to the land conflict of the former Teves landholdings in the province of Negros Oriental, Philippines. It was written by the Non-Governmental Organisation International Peace Observers Network (IPON), whose purpose is to monitor possible Human Rights Violations against Human Rights Defenders. The term “Human Rights Defenders” is used to describe people who, individually or with others, act to promote and protect human rights¹. 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 fight for Human Rights such as the right for an adequate standing 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 of Human Rights).

The ongoing land conflict on the former Teves landholdings is a good example of the problems arising when farmers fighting for their right for land which is claimed by a very fractious and politically influential family. The Human Rights Defenders fighting for their rights are often exposed to Human Rights Violations and Abuses. The conflict concerns two adjacent landholdings in the Barangays Caranoche, Sta. Catalina, and Villareal, Bayawan City.

IPON Observers visited the former Teves landholding three times, from 24th to 28th of November 2008, from 23rd to 27th of August 2009, and between the 20th and 27th of November 2009. They spoke with most of the Human Rights Defenders, as well as the respective local and provincial state actors.

2. The International Peace Observers Network (IPON)

The International Peace Observers Network (IPON) is a politically independent and non-profit-oriented Non-Governmental Organisation. The organisation is based in Germany. IPON has been present in the Philippines since 2006 with the purpose of monitoring and preventing possible Human Rights Violations. The work of IPON is based on the Universal Declaration of Human Rights and the Declaration on Human Rights Defenders, signed and ratified by the Government of the Philippines, and aims to support Human Rights Defenders in their work.

In 2006 IPON started its work on Bondoc Peninsula, Quezon Province, with a mandate by the farmers organisation Kilusang Magbubukid ng Bondoc Peninsula (KMBP). In 2008, a second partnership was established with Task Force Mapalad (TFM) in Negros. IPON is independent from its partner organisations. The organisation does not provide (nor receive) any funding and never engages in the strategy of the local partners. The organisation takes a concrete position in favour of Human Rights and the proper implementation of Human Rights only. The overall objective is to contribute to a situation, in which Human Rights Defenders, who are subjected to threats, violence, intimidation and other form of repression, are able to undertake their work free from repression and threatening and insecure environment.

¹ In the following, the terms CLOA-Holder, farmer-beneficiaries, TFM-farmers and Human Rights Defenders are used as synonyms. All farmer-beneficiaries in this case are members of TFM.

The Agrarian Reform

The Comprehensive Agrarian Reform Program (CARP) was established in 1988 with the intention to redistribute agricultural land to landless farmers. Through the CARP^[0], landless farmers can petition for the land they till. After a thorough examination, the Department of Agrarian Reform (DAR) can award the so-called farmer-beneficiaries up to three hectares of land. Ownership rights are transferred when the DAR issues the land title, the Certificate of Land Ownership Award (CLOA).

Land conflicts arise when the former landowner opposes the re-distribution of his land, by legally questioning the legitimacy of the farmer-beneficiaries legal claims or by forcibly hindering them from entering their land. In the case that taking possession of the awarded land would endanger the lives of the farmer-beneficiaries the DAR is tasked with carrying out a land handover ceremony, called Installation. DAR can request the assistance of the Philippine National Police (PNP) or the military so that the Human Rights Defenders can physically take possession of the land awarded to them.

The Human Rights Defenders of the former Teves landholding became members of TFM in late 2007 / early 2008. TFM is an NGO working towards agrarian reform and rural development in the Philippines, operating nationwide in nine Provinces in the Philippines, and currently has 25,000 members. TFM is helping landless farmers to acquire the land they petitioned for within the framework of the agrarian reform. In contentious areas, they pressure the authorities by organizing the farmers, arranging dialogues, and if necessary by enforcing campouts in front of the corresponding regional or national agencies. As a last resort, they organize hunger-strikes to emphasize their legal claims and to gain nationwide media attention. TFM is a non-violent organisation and acts according to the law.

3. Overview

The land conflict over the former Teves landholding concerns two adjacent landholdings in the Barangays Caranoche, Sta. Catalina, and Villareal, Bayawan City, Negros Oriental, which were subjected to the land reform. Both landholdings were owned by former Representative Herminio Teves and are administrated by his grand-son Arnie Teves.²

In Barangay Villareal, land titles covering an area of 22 hectares of land were awarded on July 14th, 1999 to 11 farmer-beneficiaries (Tct No. 425/CLOA no. 00050953)³. In Barangay Caranoche, land titles covering an area of 33 hectares were issued in the name of 19 farmer-beneficiaries on the 9th of May 1997 (Tct 271 / CLOA no. 00051213)³. After the awarding of the land title, the Certificate of Land Ownership Award (CLOA), the farmer-beneficiaries were not able to take possession of the land because the Teves family continued to have the land cultivated by farm workers loyal to them. The land was guarded by hired security guards who prevented the farmer-beneficiaries from entering their land. In the mean time, former Representative Herminio Teves started a long legal dispute at each level of the judicial system by questioning the legitimacy of the farmer-beneficiaries claims and their CLOA-Titles before the Department of Agrarian Reform (DAR).

² Arnie Teves is the owner of the regional sugar mill and administrator 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, is the Secretary of Finance, and also a former three-term congressman. Herminio Teves (89 years old) is the former owner of the landholding. He bought the landowning from his brother and former Senator Lorenzo Teves.

³ The complete list of the farmer-beneficiaries can be found in the annex.

When DAR legal institutions upheld the validity of CLOA-Titles, former Congressman Herminio Teves brought the case to the Court of Appeals and then to the Supreme Court of the Philippines. The Supreme Court dismissed his appeal and affirmed the legitimacy of the farmer-beneficiaries claims and their CLOA-Titles. On the 21st of September 2004, the Supreme Court decision was registered in the Entry of Judgment, thereby becoming final and effective.

On the 27th of September 2004, six days after the final decision of the Supreme Court another group of farmers associated with the Teves family filed a petition for inclusion/exclusion⁴. While the Regional DAR Director Yusoph Mama issued an order to disqualify 15 farmer-beneficiaries, this order was reversed by DAR Secretary Nasser C. Pangandaman on the 22nd of September 2008.

The Human Rights Defenders continued to ask for an official Installation on their land. In October and November 2008 their campaign was highlighted in the media when 11 Human Rights Defenders held a campout in front of DAR Central Office in Manila and six of them begun a hunger-strike. Simultaneously, the TFM-farmers at home entered their land where they constructed a camp and a trench. Finally, the Human Rights Defenders were peacefully installed on the 12th of November 2008.

However, the problem of violence still pervades the area. On the 3rd of December 2008 Arnaldo Hoyohoy, who is the son of CLOA-Holder Romaldo Hoyohoy, was shot dead in front of his residence. Even though he didn't petition for land himself, he had been very active during the activities on the landholdings in October and November. Eight weeks later, on the 30th of January 2009 DAR legal officer Attorney Eleazen Casipong, who had represented the farmer-beneficiaries in court, was shot dead in Sibulan, National Highway near Dumaguete Airport. Suspects have not been identified.

Meanwhile, the legal dispute continues. On the 12th of March 2009, DAR Secretary Nasser C. Pangandaman reversed his own order dated to the 22nd of September 2008, disqualifying 15 of 19 Caranoche CLOA-Holders. These are the same people he had included and installed on 12th of November 2008. The case is now pending at the Office of the President.

In contrast, all former petitions for inclusion/exclusion of Villareal CLOA-Holders have as of now always been decided in favour of the farmer-beneficiaries. The case is now pending at the Office of the Secretary.

4. Recent Developments

On the 21st of March 2009, after the issuance of the DAR Secretary Pangandaman's exclusion order, Arnie Teves entered the land together with hired security guards and farmers, who are loyal to the Teves family. They were accompanied by the police Sta. Catalina led by former Local Chief of Police Rolando Asidoy.

Since then, farmers associated with the Teves family have continued tilling the land also in the Villareal landholding. Even lands already distributed in the 1970s under the Operation

⁴After the issuance of CLOA-Titles, other potential farmer-beneficiaries can petition for their inclusion in the CLOA-Title by filing a Motion of Reconsideration. CLOA-Holders can be excluded and loose their CLOA-Titles on the ground that, for example if they do not cultivate the land awarded to them or if lack of basic qualifications to become a CLOA-Holder is identified. These cases lie within jurisdiction of DAR.

Land Transfer (OLT)⁵ of P.D 27 during the Marcos era are now cultivated by loyal farm workers of the Teves family. Villareal CLOA-Holders are kept away from the land by means of verbal threats (e.g. “If you don’t leave the land, we will shoot you.”). One non-excluded Caranoche CLOA-Holder who still resides in the area talked about regular warning shots (approximately 4 times a week) from November 2008 until June 2009. After the two unsolved murders last December and January, the Human Rights Defenders are taking these threats very seriously. A feeling of impunity resides in the area. Some TFM-farmers reported IPON that after the farmers involuntarily evacuated their houses in August 2008, at least three houses were destroyed by a bulldozer organized and led by Arnie Teves. The evacuation and demolition of their settlements was strongly against their will, but took place after they received threats. According to the TFM-farmers, three armed people stopped them to enter their houses in July 2008. Due to escalation of the situation, the farmers being under pressure agreed with Arnie Teves to move out. In May 2009 one of these families were constructing a new house at the Caranoche CLOA-Land when unknown people destroyed it overnight. This case has already been documented by the DAR.

IPON Observers monitored the situation at Hacienda Teves already three times. An prestudy team visited the area just after the Land-Installation last year (24th to 28th of November 2008). From 23rd to 27th of August 2009 as well as between 20th and 27th of November 2009 IPON Observers were present again. The Observers spoke with numerous CLOA-Holders from Caranoche and Villareal, and with many state authorities.⁶

Every single CLOA-Holder the Observers spoke to and even some of the local state actors have personally been threatened, either directly or indirectly. Harassment prevails even towards minors and women. This situation even leads to fear of some Human Rights Defenders to engage in a discussion with the IPON Observer in the area. The whole area is dominated by an atmosphere of threats and violence. Several incidences have been officially reported⁷ to the police. This impunity lost the confidence of some of the TFM-farmers on the local state authorities. All these signs are alarming.

5. Responsible State Agencies

The following section addresses the role of the state agencies involved and their duties in ensuring the concerned Human Rights. The Human Rights are binding for the Philippine State as corresponding Human Rights treaties, declarations and covenants have been signed and ratified by the Philippine state. The most important ones are the 1948 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR) both signed in 1966 and entered into force in 1967.

⁵ Operation Land Transfer (OLT) is a reform initiated under Marcos and was integrated in the CARP. It is for rice and corn lands. The covered lands were converted from share tenancy to amortizing ownership. After 15 years of amortization the farmer-beneficiary receives the land title.

⁶ IPON Observers met with Mayor Saraña of Bayawan City, Mayor Melodia of Sta. Catalina, Emilio C. Macias Governor of Negros Oriental, MAROs Survida of Bayawan City and Ruelo of Sta. Catalina, PARO Grace Fua, DAR adjudicator Hon. Isabel Florin, DAR Secretary Nasser Pangandaman, PNP Local Chief of Police Bayawan City Roy T. Abella, former PNP Local Chief of Police Bayawan City R. Asidoy, PNP Local Chief of Police Sta. Catalina Edwin Tuble, PNP Provincial Chief Inspector Raymundo and PNP Provincial Director Col. Marquez.

⁷ “Officially reported” means, that a blotter has been filed out at the police. Blotter is a document containing testimonies of the reporter. It is distinguished from complain.

The Philippine National Police (PNP) (on the local, regional as well as national level) is the main addressee to ensure life and security of every individual (Article 3 of the Human Rights Declaration).

The Department of Agrarian Reform (DAR) with its mandate to implement CARP (which should also have poverty reduction effects) is responsible for ensuring Human Rights related to a decent standard of living (Articles 22, 23, 24, 25 and 26 of the Human Rights Declaration). Furthermore, DAR has far-reaching jurisdictional competences with its agrarian justice institutions. In contentious landholdings, DAR can also provide lawyers to farmer-beneficiaries to ensure the right for equality before the law (Article 7 and 10 of the Human Rights Declaration) or request police assistance to ensure the right to security of person of the farmer-beneficiaries (Article 3 of the Human Rights Declaration).

The duty of Local Government Units (LGUs) functionaries results from their position as representatives of their citizens. They should refer the problems of their citizens to higher authorities. Furthermore, their role in the conflict can be seen as mediator between the parties.

5.1 Philippine National Police (PNP)

IPON Observers met PNP Provincial Director Col. Marquez Jr. on 28th of August 2008 as well as on 12th of November 2009. The local police in Bayawan City and in Sta. Catalina did not report any serious incidents to him within the last months. According to him, it should be peaceful on the former Teves landholdings. From the point of view of the IPON Observers things turned out to be different when they did their investigation there.

Many complaints and blotters about threats and incidents of harassment against the Human Rights Defenders have been reported to the police. In 2008 only, more than ten blotters have been filed at the PNP by Human Rights Defenders. Still, the security guards hired by the Teves family keep on patrolling the area and threatening the Human Rights Defenders until today. Several times farmer-beneficiaries reported that they have been threatened by armed men of the former landowner; and several times they blotted that Arnie Teves was armed and involved in the actions. Examples are blotters filed at Bayawan Police Station on July 16th 2008 and July 22nd, 2008.

Many of the Human Rights Defenders have been driven out of their houses by threats and fencing⁸ of their houses. Two more blotters were made about that issue at Bayawan City Police Station on July 23rd, 2008. On July 30th 2008 another blotter was made stating that security guards prevented several farmer-beneficiaries from going to their residences. They were told by the guards that if they go out, they would not be able to enter their residences again. Most of the Human Rights Defenders who lived inside the area far from the national Highway had to move out because of these occurrences. Local Chief of Police of Bayawan City Abella was surprised to hear about these incidents.

In December 2008, three weeks after the farmer beneficiaries were successfully installed upon PNP's assistance, a police detachment was provided in the area. However, upon removal of the police detachment, the threats and incidents of harassment have recurred. Farmer-beneficiaries were forbidden again from entering the land in early 2009. The police

⁸ Fencing is a common method of guards to bar the farmer-beneficiaries from entering their fields or their houses.

of Bayawan City occurred to be ill-informed about these incidents which happened in their area of jurisdiction.

On the national road near the landholding exists a police outpost of the local PNP of Bayawan City. Still, according to Chief of Police Abella none of his policemen has entered the subject land within the last six months. No police patrol is following up on the situation on the distributed land. Three blotters were made by the Human Rights Defenders in June and July 2009 (June 12th 2009, July 9th 2009, and July 22nd 2009) at the Bayawan City Police Station. CARP-Land and even OLT-Land (Operation Land Transfer) owned by the farmer-beneficiaries was plowed by workers of the Teves family and these were accompanied by private security guards. It is quite obvious that no investigation was undertaken concerning these incidents, because as mentioned above, Chief of Police Abella personally admitted that none of his police-officers had entered the area within the last six months. Furthermore he maintained not to know that many of the farmer-beneficiaries have been driven out of their houses and are not able to enter the land due to threats by the guards.

Some of the Human Rights Defenders reported to IPON that they are still living on the land reported to IPON that for some months, even though they have been threatened several times per week by security guards of the Teves family. One non-excluded Caranoche CLOA-Holder told IPON that from the Installation last November 2008 until the end of June 2009, the security guards shot in the air with firearms near his house several times per week. The farmer-beneficiaries felt threatened even though they have the legal permission to harvest and live on the land they own. These shots could be heard at the nearby PNP Outpost. Chief of Police Abella claims that he thoroughly investigated the matter. Even though, the local police did not undertake sufficient steps to ensure peace and order in the area. He was told by the guards that an armed group affiliated with TFM is responsible for the shots.⁹ No evidence has been found for that by the police.

At the core of the security problems lies a fact that shall be explained here. The security guards hired by the Teves family are protecting the whole area without permission to do so. The licence of the guards only allows them to guard the far away sugar-mill. Whether this licence includes the piggery situated on the CLOA-Land is questionable. Furthermore, there is an agreement to remove the piggery approved of in writing by Congressman Henry Teves. Still, the Chief of the Office of the security guards admitted that they protect the whole area, when IPON Observers met him at his office in the sugar-mill. Many of the Human Rights Defenders have been threatened by these security guards since the CLOA-Titles were awarded to them. IPON is very concerned, that security guards can operate in this unacceptable way without been stopped by the police. Only one of the farmer-beneficiaries dared to enter their land with the Observers. When the Observers entered the area the second time, security guards came and told them to leave the area. „We are protecting the whole area. It is owned by the Teveses“, one of them frankly admitted. This encounter did not take place near to the piggery either.

The two guards the Observers met were not wearing a uniform but shoulder arms. The same was reported to IPON by the Human Rights Defenders many times before. Chief of Police of Bayawan City, Chief of Police of Sta. Catalina and Chief Inspector Raymundo of the Provincial police in Dumaguete have now promised to investigate regarding this case.

⁹ IPON would like to stress the fact that TFM is an unarmed organisation, which has no interest in threatening there own members.

Furthermore to the proper implementation of the total Gun Ban¹⁰, starting in January 2010 might help to bring peace to the area if the security guards are disarmed. Especially in the coming months before the election it is crucial to keep guns out of politics, as we have just seen by the cruel and inhuman incident in Maguindanao.¹¹

IPON expresses concern about the current situation in the area. Unfortunately, the police can only take action when blotters have been formally filed with them. On the other hand, so many blotters have already been filed in the last years alone: however, the people abusing the law and threatening the Human Rights Defenders were not moved by these legal measures or actions taken by the Human Rights Defenders. Many of the farmer-beneficiaries are even afraid or frustrated of reporting cases to the police. The impression prevails that the police will not take effective action to secure and fulfil their (human) rights, which seems to be a very alarming sign to IPON. From our point of view, Article 3 of the Human Rights Declaration which guarantees life, liberty and security of person might be violated in the area. IPON fears that the local police did not fulfil their duties of carrying out a proper investigation and pretends not to be informed about the conflict.

IPON is concerned that Article 7 of the Human Rights Declaration which entitles everybody to equal protection by the law could be violated because of the apparent refusal of the local police to investigate in the area. According to Chief of local police Abella this is due to a lack of resources. We hope that the provincial police who already showed their will to help can provide special support in this complicated case. Even though the provincial police took already a few steps to improve the situation, more steps have to be taken in the future. One useful step might be a permanent detachment in the middle of the CARP-Land with regular police patrols.

Another problem seems to be the overlapping responsibilities between the PNP and the Department of Agrarian Reform (DAR). Several blotters made by farmer-beneficiaries at the police reporting that their land was plowed and harvested by workers of the Teves family were handed to IPON Observers. Two other incidents in January and February 2009 are concerning the under-age sons of CLOA-Holders. They were prevented from working on the land by the security guards of the Teves family and an attempted was undertaken to steal the water buffalo they had with them. The local police referred the complainants in all cases to the local DAR. The local DAR officers on the other hand said that these are cases which fall under the responsibility of the PNP (see 5.2).

5.2 Department of Agrarian Reform (DAR)

The Department of Agrarian Reform (DAR) also plays an important role in guaranteeing Human Rights. The Comprehensive Agrarian Reform Program (CARP) aims at reducing rural poverty and increasing the self-determination of its people, thereby providing the right for an adequate standard of living (Article 25 of the Human Rights Declaration). When conflicts arise, the DAR can provide legal assistance to ensure the right for equality before the law (Article 7, Article 10 of the Human Rights Declaration) or request police assistance

¹⁰ Concerning the following election, between 10th of January 2010 and the 10th of May 2010 the police have to ensure that only rightful state actors on duty (military and police) and selected private security guards, for example in front of banks, are allowed to carry firearms. Armed people within this period will be arrested by the police or disarmed by the military.

¹¹ The Maguindanao massacre occurred on the morning of November 23, 2009, in Ampatuan, Maguindanao province, Mindanao, Philippines. The 57 people killed were about to file a certificate of candidacy for Esmael Mangudadatu, who was challenging the son of the incumbent Maguindanao governor in the forthcoming election. The victims included Mangudadatu's wife, his two sisters, at least 34 journalists, lawyers, aides, and motorists.

to ensure the right to security of person (Article 3 of the Human Rights Declaration).

However, both the DAR and the Philippine National Police (PNP) sometimes shirk responsibility and shift it on to the other agency, which can lead to a gap of responsibilities. As mentioned in the previous section, the local police refer agrarian-reform related incidents to the DAR. Meanwhile, the local DAR agencies field their responsibility to provincial level. For example, on 22nd of August 2008, Mayor Saraña of Bayawan City forwarded a letter from farmer-leader Rolando Flores requesting police assistance to Provincial Agrarian Reform Officer (PARO) Grace Fua. The letter concerned the ongoing fencing of their land as well as the fact that the Teves family had ordered them to vacate the area. PARO Fua issued to the farmer-beneficiaries a certification for the purpose of requesting police assistance, but describes this case as “purely a police matter”. However, following the new guidelines issued by the DAR, these cases are related to agrarian dispute and fall within the operating range of DAR.

The DAR and the PNP have closely co-operated in the past to ensure the security of the farmer-beneficiaries. In December 2008, a police detachment secured the area for one month. When IPON Observers spoke with Municipal Agrarian Reform Officer (MARO) Ruelo of Sta. Catalina and PARO Fua, they only talked about the construction of a house where policemen can reside. As IPON understands, the money had already been transferred earlier this year, but DAR did not follow up whether the construction was finished or not. IPON monitored, that the house is still not finished and no police officers are present. Just like the police outpost of Bayawan City, this planned outpost is situated on the highway and not in the area. Furthermore, Sta. Catalina chief of Police was not informed about this unfinished project. IPON is concerned that the steps taken by the DAR are not enough to ensure the security of the farms. A permanent police detachment in the middle of the CLOA-Land could secure the Human Rights Defenders, prevent further incidents of harassment and could help to promote peace and order to the area.

Villareal CLOA-Holders were evicted from their houses and have been hindered from cultivating their land since March 2009, even though the DAR Secretary's exclusion order only affects the farmer-beneficiaries of Caranoche and not those of Villareal. Moreover, Lands under the Operation Land Transfer (OLT) of PD 27 were also cultivated by farm workers associated with the Teves family. IPON is concerned that Article 17 (b) of the Human Rights Declaration “No one shall be arbitrarily deprived of his property,” might be not secured.

On the 9th of June 2009 Field Operation Office Undersecretary of DAR Central Office Renato Herrera charged PARO Fua and DAR Regional Director Rodolfo Inson with assistance and Re-Installation of Villareal CLOA-Holders. However, PARO Fua insists she cannot re-install / re-possess because of the pending inclusion/exclusion case and the lack of guidelines for Re-Installation. However, on the legal side, DAR can proceed with the Installation despite the pending of a petition for inclusion/exclusion. Moreover, next to possibilities of Re-Installations, DAR could provide assistance to re-possess the farmer-beneficiaries. A Re-Installation/Re-Possessing of Villareal CLOA-Holders would demonstrate DAR's political willingness to distribute landholdings even though a politically influential landowner is involved in the land conflict.

IPON is concerned about the fact that farmer-beneficiaries felt the need to initiate a hunger-strike in October 2008 before they were installed on the land awarded to them already in 1997 and 1999, respectively. It seems that directives for Re-Installation/Re-Possessing need to come from the Central Office. When IPON- Observers interviewed

MARO Ruelo in Sta. Catalina and MARO Sarvida of Bayawan City, they got the impression that local DAR officials are overstrained with the violent conflict. Both pointed out that they see their responsibility only in documenting and forwarding information to the provincial office and do not want to intervene in the conflict without supervisor. As a consequence, as of now the Human Rights Defenders rarely consult the MAROs. Their choice of action is to address the PARO directly. Although the influence of the MAROs is limited, IPON would appreciate if they took more self-initiative in handling this contentious case. MARO Ruelo assumed her position already in July 2009. IPON hopes that she dedicates now as much attention to former Teves landholding as this complicated conflict and Human Rights Situation deserves.

In the Caranoche area, DAR Secretary Pangandaman excluded 15 CLOA-Holders on 12th of March 2009 as already mentioned in chapter 4 by re-instating the order of former DAR Regional Director Yusoph Mama dated 12th March 2007. The order of DAR Regional Director Yusoph Mama was based on a report by former MARO Elena Gara dated 31st August 2006. In this report, she recommended the disqualification of some of the farmer-beneficiaries on the basis of a re-screening of the farmer-beneficiaries.

On the 22nd of Sep 2008, DAR Secretary Pangandaman set aside DAR Regional Director Mama's order also based on the documentation sheets accomplished during the course of re-identification. IPON is wondering why he reversed his decision on the 12th of March 2009. He excluded the same people he had included and installed on the 12th of November 2008. The disqualification concerns the same people whose CLOA had been confirmed legal by the Supreme Court the 21st of September 2004.

As IPON understands, the reason for disqualification of these farmer-beneficiaries was the lack of basic qualifications for Agrarian Reform Beneficiaries: Some farmer-beneficiaries were excluded with the justification that they have never been farm workers on the subject property. Other farmer-beneficiaries were excluded because they currently have other jobs.

IPON wonders how peasants could have been identified by the DAR as farmer-beneficiaries in the time from 1988 to 1995, when they have been identified later as people who have never been farm workers on the subject property. Additionally, the order dated 22nd of September 2008 of DAR Secretary Pangandaman states that they had been working on the subject land.

Other farmer-beneficiaries were excluded because they have currently other jobs such as sari-sari shop owners or pedicab drivers. The decision to seek for other sources of income was not a free decision as it was due to the ejection from the property by armed security guards. Before the installation on the 12th of November 2008, the farmer-beneficiaries were kept away from their property by armed security. Neither PNP nor did DAR successfully assist the farmer-beneficiaries in taking possession of their awarded land. The farmer-beneficiaries could not cultivate their awarded land and were forced to look for other sources of income. The Secretary's order is not yet final and effective. The case is currently pending at the Office of the President; this might open possibilities to clarify any possible discrepancies.

IPON Observers spoke with the family of one of the four non-excluded Caranoche CLOA-Holders who stayed on the land. As mentioned in the previous section, they reported countless incidents of harassment, including warning shots near their house at least twice a week during six months. Evidently, no one can endorse the fact that situation that

farmer-beneficiaries have to sustain all these threats in order to ensure that they will not be excluded. Based on the reported information, the Human Right “to life, liberty and security of person” (Article 3 of the Human Rights Declaration) seems to be affected in this conflict.

Human Rights Defenders who tried to reside in the area were evicted from their houses, or their houses were destroyed. Not only the houses they lived in, but also houses they constructed afterwards were destroyed. At least one case came to the attention of PARO Grace Fua: On the 22nd of May 2009 Wilfredo B. Beljot, a farmer-beneficiary of Caranoche reported to the local DAR office in Sta. Catalina that his house, which was still under construction, had been destroyed. PARO Fua forwarded the report of former MARO Gara to DAR Assistant Secretary Dominador Andres. The report states that the house was not yet finished, thus it “became an eye sore to the public”. Such statements raise the question whether the parties involved might misjudge the efforts of the farmer-beneficiaries and the gravity of the situation. As already mentioned in section four, this was not the only house destroyed in the course of this conflict.

In any case, the Human Rights Defenders need a devoted lawyer to represent them adequately in Court, so that the Human Right of equality before the law (Article 7, Article 10 of the Human Rights Declaration) can be upheld. IPON is deeply moved by the death of DAR legal counsel Attorney Eleazen Casipong and hopes that an equally committed lawyer can be found to tackle further cases filed against the farmer-beneficiaries in court.

5.3 Local Government Units (LGUs)

The local government units are only indirectly involved in the conflict. Mayor Saraña of Bayawan City expressed his worries about the ongoing conflict. He stated that due to a lack of tax incomes the region can not develop. The Mayor was willing to engage in the conflict, he started and was involved in some dialogues concerning the conflict. IPON hopes that Mayor Saraña continues initiatives and tries to start a new dialogue including all parties.

IPON is very concerned about the presence of Carranoche Barrangay Captain, Alfonso Olam. On 4th of October 2002 Mr. Olam allegedly threatened CLOA-Holder Nelson Pabalate and drew a pistol. A blotter has been filed about this incident on the Bayawan City Police Station. On 16th of August 2006 Human Rights Defenders filed another blotter at the Bayawan City Police Station. According to this blotter Alfonso Olam allegedly threatened the CLOA-Holders and said if they conducted a meeting on their land he will throw a grenade at them. On September 3rd 2006 another blotter against him was filed for cutting a coconut tree of one of the CLOA-Holders. These are only some examples for situations in which the Barangay Captain threatened Human Rights Defenders. IPON is concerned about the fact that a person which was allegedly involved in a number of crimes is still working as an official state actor.

6. Summary

The grave security problems on the former Teves landholdings are very alarming. Every single farmer-beneficiary we interviewed reported on incidents of harassment, ranging from verbal threats to warning shots and physical violence. On the 3rd of December 2008, a son of a CLOA-Holder was shot dead in front of his house. Eight weeks later, on the 30th of January 2009, the DAR legal counsel entrusted with the farmer-beneficiaries cases was shot as well. Suspects have not been identified, aggravating the feeling of impunity in the area.

IPON fears that the police protection for the farmer-beneficiaries is inadequate. For six months, no police men visited the area, even though many incidents have been reported to the local police in the last years. It is very alarming that many of the farmer-beneficiaries are threatened, but tired of complaining at the local police. At the core of many problems concerning the peace and order situation remains the fact that security guards hired by the Teves family patrol the whole area without permission and the police do not fulfil its duties to investigate it. IPON is concerned that the right to life, liberty and security of person (Article 3 of the Human Rights Declaration) is violated.

To this day, the farmer-beneficiaries are prevented from cultivating their land. Their land titles were generated already in 1997 respectively 1999, even so they were hindered from cultivating their lands until their Installation on 12th of November 2009. However, on 12th of March 2009, DAR Secretary Pangandaman reversed his own order and disqualified 15 of 19 Caranoche CLOA-Holders. Afterwards, on the 21st of March 2009 Arnie Teves entered the land accompanied by hired security guards. Since then, even Villareal CLOA-Holders, who still have the land rights, are prevented from entering and cultivating their land by security guards. Field Operation Office Undersecretary of DAR Central Office Herrera already ordered a Re-Installation of Villareal CLOA-Holders on the 9th of June 2009. However, the local DAR officers are hesitant. IPON calls the state actors to ensure Article 17 of the Human Rights Declaration stating that no one shall be arbitrarily deprived of his property.

15 of 19 Caranoche CLOA-Holders have been excluded by DAR Secretary Pangandaman. Some farmer-beneficiaries were excluded with the justification that they have never been farm-workers on the subject property. The Supreme Court had already affirmed the validity of their titles in 2004. Other beneficiaries were excluded only because they were looking for other sources of income. However they were hindered from cultivating their land by armed security guards of the former landowner. During 9 years, neither PNP nor DAR successfully assisted them in taking possession of their awarded land. Now DAR excludes the same farmer-beneficiaries on the ground that they did not work on the land. IPON is concerned this might violate the right for equality before the law (Article 7 of the Declaration of Human Rights). Most of the farmers who petitioned for land of the Teves landholding are now poorer than other farmers who did not. As a consequence, most of the farmer-beneficiaries don't have enough money for the education of their children.

In conclusion, IPON is concerned that some articles of the Universal Declaration of Human Rights are being violated in the area. To clarify which ones are affected, the concerned articles will be enumerated in the following.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 7.

All 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.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

Article 17.

(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.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

7. Recommendations

IPON induces the Commission on Human Rights of the Philippines to carry out a detailed analysis on this conflict with clear recommendations.

IPON hopes that incidents of harassment related to this conflict are adequately investigated by the local police in the future. All threats and attacks on civilians should be stopped immediately. IPON hopes the PNP will ensure sufficient personnel to provide adequate security for Human Rights Defenders.

IPON requests that the DAR provides measures and mechanisms to deter, prevent and punish harassments against Human Rights Defenders and for the proper implementation of the law. In this respect, directives need to come from national DAR officials, because the local DAR officers are hesitant to intervene without directives from their superiors. Efforts like the short-time police detachment are a step in the right direction, but more steps are necessary. Regular police patrols or a permanent police detachment in the middle of the landholding could help to ensure peace and order in the area. It could be also helpful to establish a Regional Mobile Group.

In each and every case, sufficient police or other mandated personnel have to be available to provide adequate security to Human Rights Defenders.

DAR should provide a committed lawyer to adequately represent the farmer-beneficiaries in court to ensure professional legal assistance. We also encourage the Judicative Sector to provide a court that effectively addresses all agrarian reform related cases to clearly separate these cases from any other criminal cases.

The exclusion of 15 Caranoche CLOA-Holders should be re-examined and the legal process of the pending inclusion/ exclusion case in Villareal should be followed up accurately. According to the new rules of implementation, DAR has to tackle the Re-Installation/Re-Possessing of Villareal CLOA-Holders, as soon as possible.

All this steps can be seen as measures and mechanisms, and insofar have to be undertaken to insure the indispensable and reinforced safety of the Human Rights Defenders, the Philippine State agreed to guarantee.

8. List of Abbreviations

CLOA	Certificate of Land Ownership Award
DAR	Department of Agrarian Reform
IPON	International Peace Observers Network
LGUs	Local Government Units
MARO	Municipality Agrarian Reform Officer
OLT	Original Land Transfer
PARO	Provincial Agrarian Reform Officer
PNP	Philippine National Police
TFM	Task Force Mapalad