



# Report on the Human Rights Situation on the Former Landholding of Hacienda Carmenchika-Grande,

Located in Pontevedra, Barangay Don Salvador Benedicto,  
Negros Occidental

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## List of Abbreviations:

ARB	Agrarian Reform Beneficiary
CAFGU	Civilian Armed Forces Geographical Unit
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CLOA	Certificate of Land Ownership Award
DAR	Department of Agrarian Reform
DARAB	Office of the Provincial Agrarian Reform Adjudicator
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPON	International Peace Observers Network
KMBP	Kilusang Magbubukid ng Bondoc Peninsula
MARO	Municipal Agrarian Reform Officer
MIMI	Mindanao Integrated Machineries Corporation
PADATA	Panalsalan Dagumbaan Tribal Association
PARO	Provincial Agrarian Reform Officer
PNP	Philippine National Police
RA	Republic Act
TFM	Task Force Mapalad
UDHR	Universal Declaration of Human Rights
UEC	Universal Equity Corporation
USEC	Undersecretary

# 1. Introduction

The following report summarizes the findings of the International Peace Observers Network (IPON) regarding the human rights situation on the former landholding of Hacienda Carmenchika-Grande<sup>1</sup>, located in Pontevedra, Negros Occidental.

IPON started to work with the human rights defenders of Hacienda Carmenchika in February 2012. Because of first-hand information IPON gathered during close consultations with the farmers' organisation Task Force Mapalad (TFM) and the HRDs on Hacienda Carmenchika as well as responsible state authorities such as the Philippine National Police (PNP), the Department of Agrarian Reform (DAR) and the Philippine Commission on Human Rights on the local, provincial and national level<sup>2</sup>, IPON is deeply concerned about the inadequate and ineffective implementation of human rights on the hacienda.

Currently, more than 30 members of TFM and their families are struggling for the implementation of their human rights, especially the *right for security of person* and the *right to equal treatment before the law*. In the last two years, the HRDs faced threats and different forms of repressions. Based on their experiences, they lack trust in the objectivity and the assistance of the local police.

Furthermore, the described situation on the former landholdings of the Benedicto family is not only a good example for the human rights violations that frequently occur during the process of land distribution in the name of the Agrarian Reform Program (see information box on page 5), but also highlights the problems arising when HRDs are fighting for land that is claimed and controlled by a very politically influential family.

The report is structured as follows: After introducing the principles and the work of IPON (ch. 2), chapter 3 provides the necessary background information on the case. Chapter 4 summarizes events in the time period from October 2011 to June 2013 and focuses on human rights violations that occurred during this time. Chapter 5 describes the reactions and statements of the state agencies involved (DAR, PNP) concerning the events of the last years presented in the previous chapter. Chapter 6 lists the human rights violations IPON fears are being committed. Finally, the last chapter (7) is used to draw conclusions.

## 2. International Peace Observers Network (IPON)

The International Peace Observers Network is a German non-profit non-governmental organisation which accompanies human rights defenders (HRDs) and monitors the human rights situation in the Philippines. IPON works independently and does not intervene directly between different parties in a conflict. It works with mandates from its Philippine partner organisations and documents human

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<sup>1</sup> In the following referred to as Hacienda Carmenchika.

<sup>2</sup> Between March 2012 and October 2013, IPON conducted 32 interviews with the different state actors, named above.

rights violations committed against members of these organisations. IPON considers members of its mandating organisations as human rights defenders since they act to stand up for human rights in general or one specific human right such as the right to an adequate living, the right to food, to land. The term “human rights defenders” is defined in the UN Declaration on Human Right Defenders.<sup>3</sup> It describes people who, individually or with others, act to promote and protect human rights.

The UN Declaration on HRDs is a step to formally recognise the “defense” of human rights as a right in itself and highlights several norms already acknowledged in legally binding treaties, such as the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR). IPON’s overall objective is to contribute to a situation where human rights are respected and the HRDs are able to undertake their work free from threats, violence, repression and insecurity.

One main instrument of IPON’s work is observation. The regular presence of IPON in conflict areas and the steady contact to the HRDs as well as to different state actors on the Philippine local, provincial and national level enables the organisation to gather valuable first-hand information. IPON also accompanies HRDs and brings irregularities and grievances regarding the implementation of human rights to public attention and reminds relevant state stakeholders of their responsibility to protect human rights. IPON only concentrates on human rights violations and does not intervene in agrarian reform-related issues.

As IPON follows a legalistic approach to human rights (meaning that the state is the one who has to guarantee, promote and protect human rights), the role of the state actors is essential in the critical analysis of the human rights situation. The Philippine State signed relevant international conventions regarding human rights and their realisation, including the UN Declaration on HRDs. Therefore, state authorities are obliged to provide a secure environment where HRDs can promote and strive for the protection and realisation of human rights and fundamental freedoms.

In 2006 IPON started to work on request of and with the farmers’ organisation KMBP (Kilusang Magbubukid ng Bondoc Peninsula) in Bondoc Peninsula, Quezon Province. Since 2008 IPON Observers are present in Negros Occidental and Oriental accompanying members of TFM. TFM describes itself as “a national federation of farmers, farm workers and individuals working for agrarian reform and rural development. TFM’s mission is to improve the quality of life of farmers and farm workers by supporting their initiatives for access to land resources and productivity development.”<sup>4</sup> Additionally, for more than two years now, IPON has been working in Mindanao, mandated by PADATA, an organisation that advocates for the rights of indigenous peoples.

Because TFM focuses on issues related to agrarian reform, IPON concentrates in Negros on human rights violations that are related to agrarian disputes. The United

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<sup>3</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998). Further on referred to as UN Declaration on HRDs.

<sup>4</sup> <http://taskforcemapalad.org/what-we-do/> (accessed June 20, 2013).

Nations as well as the International Land Coalition emphasise that HRDs working on land rights belong to the most vulnerable within the highly heterogeneous group of HRDs.<sup>5</sup>

### 3. Background Information

The area of Hacienda Carmenchika belongs to the barangay<sup>6</sup> Don Salvador Benedicto in Pontevedra and was formerly owned by the Benedicto family. The legal representative and overseer of the hacienda is currently Mr. Edgardo Alonso. The Benedicto as well as the Alonso family are powerful since members are holding influential local and national public offices, such as mayor or congressman.<sup>7</sup> Against this background, the hacienda has repeatedly been classified by different state actors as a sensitive area and a “high profile hacienda”.

This report focuses on a group of approximately 30 HRDs, including their families, who were awarded their land title, the Certificate of Land Ownership Award (CLOA), years ago.<sup>8</sup> Before their official installation<sup>9</sup> they had been working as employees for the Universal Equity Corporation (UEC) and the Mindanao Integrated Machineries Inc. Corporation (MIMI) on Hacienda Carmenchika.

#### **Agrarian Reform and Land Conflicts**

Introduced in 1988, the Comprehensive Agrarian Reform Program (CARP) aims to redistribute agricultural land to landless farmers and hence to take pressure off the social struggle for land and break up the feudal structures. Through the CARP, landless farmers can petition for the land they till. After a thorough examination, the DAR can award the agrarian reform beneficiaries up to three hectares of land each. Ownership rights are transferred when the DAR issues the land title, the Certificate of Land Ownership Award (CLOA).

During this process land conflicts often arise. One reason for this is that the former landowner opposes the re-distribution of his land, by legally questioning the legitimacy of the agrarian reform beneficiaries legal claims or by forcibly hindering them from entering their land. Sometimes the landowner also threaten and repress the farmers in order to stop them from petitioning for land or from continuing the required procedures. A reason for the resistance of the landowner roots in the fact that owning land is still a symbol of wealth, prestige and power. Additionally, sugarcane – the crop mostly cultivated on the big lands in Negros – yields relatively high profits in comparison to other crops.

After the official installation of the land to the HRDs, they decided to lease the land back to the UEC/MIMI. The duration of the contract was the reason for a

<sup>5</sup> <http://www.landcoalition.org/global-initiatives/human-rights-defenders> (accessed on June 21, 2013).

<sup>6</sup> In the Philippines a municipality is divided into many small districts called barangay.

<sup>7</sup> The daughter of Mrs. Francisca Benedicto-Paulino is Juliet Marie D. Ferrer. She is the current mayor of La Carlota city and also the wife of congressmen Jeffrey P. Ferrer, who was mayor in La Carlota before her. Juliet Marie D. Ferrer is president of two corporations (UEC/MIMI) which are legally represented by Edgardo Alonso. Edgardo Alonsos brothers are the current mayor of Pontevedra (Jose Maria Alonso) and a board member of the 4<sup>th</sup> district of Negros Occidental (Jose Benito Alonso). As city mayor, Jose Maria Alonso has wide-ranging power over the election and guidance of the local police in Pontevedra.

<sup>8</sup> The group of HRDs referred to in this report possesses several CLOAs. The exact reference numbers will not be listed in this report as it is of no relevance for the human rights violations.

<sup>9</sup> Land handover ceremony, carried out by the DAR.

dispute between the UEC/MIMI and the HRDs: Whereas the management of UEC/MIMI claims that the contract is valid until 2015, the HRDs argue that it expired in 2011.

As a result, two contradicting statements regarding the competence of the parties claiming the land for cultivation existed: The final decision from DARAB judging the lease contract to have ended in 2011 and the injunction of the Regional Trial Court claiming that the lease contract only ends in 2015 (see infobox on page 6). Consequently, until August 2013 the HRDs were left in a stadium of uncertainty. On August 5 2013, the HRDs, supported by the DAR, the Social Action Center of the Diocese of San Carlos and members of the Philippine Army, signed a Memorandum of Agreement with the UEC/MIMI management. The main content of the memorandum is the agreement that the landholdings will be returned to the HRDs as the respective agrarian reform beneficiaries (ARBs) after the crop year 2014-2015 and that the ARBs concerned will get payment of the property lease from UEC-MIMI.

In 2011, the HRDs entered their land as they considered the leasing contract to be expired. After entering the land the legal representative and farm manager of the UEC/MIMI, Edgardo Alonso, filed a case against them at the Regional Trial Court in La Carlota City, Branch 63, claiming that the leaseback agreement is valid until 2015. In January 2012 the Regional Trial Court issued a Temporary Restraining Order against the HRDs, which was transformed into a Preliminary Injunction<sup>10</sup>. As far as IPON knows, the injunction was withdrawn from the Regional Trial Court on August 8 2013, after both parties agreed to a compromise.

The lease contract was declared null and void by the Department of Agrarian Reform Adjudication Board (DARAB)<sup>11</sup> in Bacolod on September 10 2012<sup>12</sup>, confirming the decision as final on December 7 2012.

On April 2 2013, the DARAB National granted the Motion for Execution Pending Appeal, filed by the HRDs. Therefore, the DARAB National ordered the ARBs „to make representation with the Provincial Agrarian Reform Officer (PARO) II of the DAR Provincial Office Negros Occidental for their installation over their allotted landholdings [...] and for the respondents-appellants UEC and MIMI to vacate the same.“<sup>13</sup>

However, the present report focuses mainly on the developments in Pontevedra and the living conditions of the HRDs until the signing of the memorandum of agreement on August 5 2013: Since October 2011, Edgardo Alonso with the assistance of armed security guards had been intimidating and hindering the HRDs on cultivating parts of their land. Starting in February 2012, the HRDs had not been able to cultivate and harvest their awarded land at all, losing their most important source of income. Furthermore, the HRDs and even minors were exposed to various forms of harassment, which will be pointed out in more detail in the following chapter.

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<sup>10</sup> Civil Case No. 1337.

<sup>11</sup> The DARAB is a court exclusively in charge of cases regarding the agrarian reform.

<sup>12</sup> DARAB Case No. R-0605-10154-11.

<sup>13</sup> DARAB Case No. R-0605-10154-11.

## 4. Summary of Events: October 2011 - June 2013

During the past year of accompanying the HRDs (February 2012 until October 2013), IPON visited the area 16 times. The following chapter summarises the events between October 2011 when the HRDs started to cultivate their land independently and June 2013 when this report was finished. As IPON only started working with the HRDs in February 2012, the information cited in this first part has been gathered by IPON Observers by conducting several interviews with the HRDs and state actors, collecting and re-viewing copies of blotters<sup>14</sup> filed by the HRDs at the police station as well as by examining court documents.

### *October 2011 until February 2012*

In 2011 the HRDs informed the DAR and the management of UEC/MIMI about their intention to start cultivating their land themselves. As they did not expect any assistance from the DAR, 53 HRDs decided to enter their land independently on October 12 2011 and set up nipa huts.

The HRDs reported to IPON that four weeks later, in the morning of November 13 2012 Edgardo Alonso and approximately 20 members of a special police agency entered the fields, arguing that the leaseback agreement was still valid, but without presenting any official order. They were further accompanied by five armed security guards without visible display of their security agency, who, according to the HRDs, were not in possession of licenses. They started destroying the nipa huts and fired warning shots.

One HRD told IPON that ten days later, on November 23, Mr. Alonso threatened him with his gun. He also fired warning shots addressed at the HRD's granddaughter, and enunciated verbal threats against them.

On November 26, Mr. Alonso re-entered the land of the HRDs, again accompanied by five members of a special police agency with the objective of evicting the HRDs from this specific area. Mr. Alonso again based his actions on the statement that the leasing contract was still valid until 2015. Once more, no one showed the HRDs an authorizing order. Also, numerous officers from the police in Pontevedra and a subunit from Hinigaran were present. Mr. Alonso gave orders to nine armed tractor drivers present to plough nine hectares of farmland from the HRDs and to unload so-called „mud press“ in front of the huts of the HRDs, spreading a penetrating smell. According to the HRDs, approximately 20 armed security guards who were accompanying Mr. Alonso fired warning shots. The HRDs also reported to IPON that the tractor drivers were threatening to run them over. Furthermore, the latter shot in the direction of some HRDs.

Two days later, on November 28, the tractor drivers arrived again with the instruction of destroying more nipa huts. As the HRDs told IPON, although roughly 100 persons were sitting in one of the huts during that time, the drivers proceeded with the destruction.

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<sup>14</sup> A blotter is a document, filed at the police station and containing testimonies of the reporter. It is distinguished from complaints.



On February 17 2012, Mr. Alonso again entered the land of the HRDs and ordered to destroy nipa huts. However, Mr. Alonso was again not able to show a demolition order of Sheriff Clark Egbert Sansioco from the Regional Trial Court in La Carlota City. According to the HRDs, he was accompanied by 70 police officers from the cities of La Carlota, Bago, Victorias, Talisay and Hinigaran. The HRDs believe that those officers have a personal connection to the Alonso family.

On March 15 2012, former Chief of Police Ms. Picoi confirmed police presence on the land. However, she told IPON that according to her knowledge only 40 police officers were present.

It is also crucial to mention that not only the HRDs of Hacienda Carmenchika had to face several forms of threats and harassments in the past. The TFM community organizer, who was responsible for assisting the HRDs on Carmenchika until the end of year 2012 became victim of various threats since the beginning of her engagement in the area. She told IPON that the threats occurred soon after her collaboration with the HRDs started in October 2011. In the first instance, a man offered her 50.000 Pesos if she ended her commitment to the HRDs of Hacienda Carmenchika. After she had refused the offer he increased it to 100.000 Pesos. Shortly after rejecting the second offer, she received death threats on her mobile phone. She further told IPON that on February 17 2012, two men were seen observing her house and passing by on a motorbike. Because of the described incidents, she felt forced to hide at other haciendas in the nearby area. As a consequence of the threats, she later felt forced to move.

#### *February 2012 until June 2013*

After the third eviction of the HRDs by Mr. Alonso and his employees in February 2012, the HRDs have not been able to cultivate the land that had been awarded to them. As a consequence they have difficulties providing a livelihood for themselves and their families.

Since February 2012, several more incidents of repressions, such as threats and different cases of harassment committed by state actors and loyal farmers of the former landowner, occurred. Warning shots were fired and verbal threats against the HRDs were voiced. In September 2012, the farmer leader of the HRDs received a death threat by farmers currently employed by the management of UEC/MIMI, and some security guards told him that they will shoot him if he enters the field. Altogether, the frequent presence of armed but not always uniformed private security guards, believed to be working for the management of UEC/MIMI, frightened the HRDs.

Especially in October and November 2012 many security guards were present in the area and passed by the houses of the HRDs at night. As a consequence, the HRDs were frightened to leave their houses and to move freely within their neighborhood at nighttime. Moreover, the farmer leader received frequent threatening text messages, which made him change his phone number from time to time.

On October 25 2012 three IPON Observers were followed by two armed men without uniforms on a motorcycle when they were on their way to a meeting with

the farmers. The HRDs informed IPON that the armed men were instructed by Mr. Alonso. Additionally, Mr. Alonso himself acted aggressively and was intimidating the HRDs, thus increasing the already tense security situation in the area. The HRDs felt frightened by the aggressive behavior and the threats expressed by Edgardo Alonso.

Because of their ongoing struggle for land and the inactivity of the DAR, the HRDs decided to join a protest camp in front of the DAR in Manila from December 2012 to February 2013 organised by TFM. Eight HRDs of Hacienda Carmenchika also participated in the hunger strike that took place during the week-long protests inside the DAR in Manila.

Based on the final decision from the DARAB Bacolod from December 7 2012 and the Order from DARAB National from April 2 2013, the HRDs decided to occupy Lot. 456 for which they possess CLOA-Title No. 9738. On May 6 2013 40 HRDs and their families built a camp on the sugarcane field. The HRDs stayed on the field until June 25 2013.

Immediately after the beginning of the protest the security guards also built a permanent camp on the other side of the highway, occupied day and night. Shortly before the midterm elections<sup>15</sup> the HRDs reported to IPON that they were again threatened by Mr. Alonso and the security guards present. They were threatening the HRDs that “something bad” will happen to them as soon as the elections are over. Due to this, the farmer leader feared for his life and hid in another barangay during the night.

On May 14 2013, the night after the elections, the number of security guards increased from 1 to up to 10 persons. The security personnel did not wear uniforms, as legally required, and hence could not be identified in any case of threats, repressions or assaults.

On May 22 2013 the HRDs informed IPON that Mr. Alonso, nine security guards, armed with shot guns but without wearing uniforms, and around 200 farmers working for the management appeared at the occupied Lot in order to pull weeds and cultivate the land. The HRDs feared a violent escalation of the situation. In the end, the farmers of the management entered the field peacefully and cultivated the lot for approximately two hours without any violent incidents.

Since the signing of the agreement on August 5 2013, the situation of the HRDs improved regarding the tense security situation in the area. The HRDs are able to work as employees of UEC/MIMI at the fields and to provide their livelihood.

### *Overall Situation on the Hacienda*

Based on the interviews conducted and the IPON observation, some facts are very striking and of special concern for IPON. The overall situation for the HRDs on the sugar plantation has been very tense in the last 1,5 years.

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<sup>15</sup> On May 13, 2013 midterm elections were held in the Philippines. For the context of this report it is crucial to mention, that the twin-brothers of Edgardo Alonso, were both running for a political post in the May 13 elections. Regarding this background, the HRDs and TFM expected no violent actions by Edgardo Alonso and his employees until the end of elections as it might damage the reputation of his political active brothers.

Since the HRDs started to cultivate their land themselves in October 2011, they and some people associated with them had become victims of verbal threats and assaults, intimidating behaviour as well as physical harassment by the former landowner and his employees. Moreover, they had difficulties earning their livelihood. Especially the presence of security guards not wearing the legally requested uniform, employed by the management and controlling the area fuelled the tense situation and frightened the HRDs. In this context the role of state authorities is crucial and will be focused on in the following chapter.

## 5. Responsible State Agencies and their Reactions

The following section addresses the role of the responsible state agencies and their duties to ensure and implement human rights. Human rights are binding for the Philippine State as it signed and ratified corresponding human rights treaties, declarations and covenants. The most important ones are the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as the International Covenant on Civil and Political Rights (ICCPR), both signed in 1966. They entered into force in 1974 and 1986 respectively and are legally binding. The 1948 Universal Declaration of Human Rights (UDHR) and the UN Declaration on HRDs are to further documents that are of utmost importance in the case of the ARBs of Hacienda Carmenchika.

The relevant state agencies in the context of the human rights situation on Hacienda Carmenchika are the following:

The **Department of Agrarian Reform** (on the local, provincial and national level), with its mandate to implement CARP (RA 6657), is responsible for ensuring human rights related to a decent standard of living. Furthermore, the DAR has far-reaching jurisdictional competences with its agrarian justice institutions. In contentious landholdings and in order to ensure the right to security of person of the ARBs, the DAR has the obligation to request the assistance of the police and/or military if necessary.

The **Philippine National Police** (on the local, regional as well as national level) is the main addressee to ensure life and security of every individual and to establish peace and order in the area.

### 5.1 Department of Agrarian Reform (DAR)

As human rights violations on Negros often occur in relation with agrarian disputes, it is of importance that the DAR acknowledges the special role and vulnerability of HRDs promoting the realisation of human rights in the agrarian context. In this regard, the DAR is one of the most important state actors IPON is in steady contact to. Between April 2012 and May 2013 IPON talked altogether 13 times to members

of the DAR on the provincial and national level about the case of Hacienda Carmenchika.<sup>16</sup>

Even though human rights do not prescribe certain policy measures, the Philippine State has to implement adequate policies to implement the human rights progressively. The DAR as the leading agency mandated with the implementation of the agrarian reform program plays an important role in implementing human rights, especially the right for an adequate standard of living (Art. 25 UDHR, Art. 11 (1) ICESCR). Additionally, when conflicts arise, the DAR can request police/military assistance to ensure the right to security of person (Art. 3 UDHR, Art. 9 (1) ICCPR).<sup>17</sup>

According to the HRDs, the Municipal Agrarian Reform Officer (MARO) of Pontevedra, Mr. Domingo Gatmaitan was present during the eviction of the HRDs from their fields on February 17 2012 - without showing indications of trying to stop the destruction or demanding to see a demolition order. IPON fears that he failed to ensure that the destruction and the eviction of the identified HRDs had a legal foundation.

On April 12 2012 Mr. Gatmaitan explained IPON that he did not feel responsible for solving the conflict as in his understanding, the dispute is not an agrarian matter but has to be solved by the responsible courts. Because of his lack of action the HRDs did not feel supported by the MARO anymore. IPON is concerned that the MARO did not give the case the „highest consideration“<sup>18</sup> as noted in the CARL. As a consequence, the HRDs furtheron rarely consulted the MARO. Their choice of action was to address the PARO directly.

It underlines IPON's concern that some employees of the DAR are not acting upon their duty to handle cases objectively and impartially, and that the well-being and security of the HRDs are not among their highest considerations.

During the last year of cooperation, IPON had the impression that the DAR did not take sufficient steps to enforce the implementation of its orders: After the incidents on November 26 2011, IPON had been informed that PARO Felix Servidad talked to Mr. Alonso and requested him and his workers to stop destroying the property of HRDs. However, Edgardo Alonso disregarded this notice and emphasized that he did not feel obliged to follow the orders of the DAR. Instead of taking legal steps to implement the DAR decision, it seemed that the DAR failed to enforce their orders, thus leaving the actions of Mr. Alonso without consequences.

Additionally, regarding the two contradictory statements of PARO Servidad and Sheriff Clark Egbert Sansioco, the DAR did not interfere when the police decided to follow the Sheriff and did not take into account the orders of the DAR (cf. part 5.2).

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<sup>16</sup> MARO Domingo Gatmaitan, PARO Manuel Velasco, Information Officer Gloria Cañonera, PARO Gideon E. Yongque Jr., Atty. Leandro Castro, Atty. Aison Garcia, PARO Arnel Dizon, PARO Florentino Siladan.

<sup>17</sup> DAR Administrative Order No 02-09: „In cases taking possession of the awarded land by the ARB/s would imperil or endanger their lives, the DAR shall assume responsibility for the installation of the ARB/s on the subject land with the assistance of the police or military until they are settled and in constructive and physical control of the property.”

<sup>18</sup> Republic Act No. 6657 from June 10, 1988.

On November 15 2012, Agrarian Undersecretary for Field Operations (USEC) Jose Grageda issued a request to the UEC/MIMI to „refrain from cultivating and/or planting on the areas owned by farmer beneficiaries” until there is a Final Decision from DARAB Bacolod. However, Edgardo Alonso and the UEC/MIMI had been violating the request from the DAR until the signing of the Memorandum of Agreement on August 5 2013 without facing consequences by the DAR officials, even though MARO Gatmaitan, PARO Siladan as well as USEC Grageda knew about the disrespect of the DAR request.

Similar to that Mr. Alonso started to cultivate the land again on May 22 2013. Even though the HRDs immediately informed PARO Velasco about the repeated violation of DAR orders, no action was taken to enforce the orders or to push for legal consequences for UEC/MIMI.

By tolerating that the UEC/MIMI were repeatedly ignoring the orders from the DAR, the state agency implicitly left the HRDs on the occupied land in a state of insecurity and uncertainty. IPON is worried that the physical integrity of the HRDs and their families who occupied the land was compromised by missing actions against the violation of the DAR request to stop cultivating the land from November 15 2012 and the Order from DARAB National from April 2 2013. Since the Lot that was occupied by the HRDs was still being cultivated by farmers working for the management, the DAR accepted the possibility of violent encounters between the protesting HRDs and the farmers cultivating the land.

Until the signing of the Memorandum of Agreement in August 2013, the DAR did not enable the HRDs to re-claim their awarded land by repeating the official handover ceremony of the land. PARO Velasco justified the course of action of the DAR with the missing police assistance in case of the re-possession: According to Mr. Velasco, the police refused to assist the re-possession due to the Preliminary Injunction issued by the Regional Trial Court in La Carlota.

IPON is not in the position to judge whether the DAR had exploited all possibilities at its disposal to enable the re-possession for the HRDs. However, in the understanding of IPON, the legal motion of the DARAB National that instructs the UEC/MIMI to vacate the area could not be ignored. IPON is concerned that the HRDs saw the need to occupy the land and putting themselves into danger in order to increase the attention paid to their struggle.

Altogether, IPON worries that the DAR did not give the solving of this highly controversial case the highest consideration, in particular since the DAR employees pointed out the complex and precarious character of the dispute on this part of Hacienda Carmenchika. Several DAR employees told the HRDs as well as IPON that the conflict has to be dealt with very carefully since two powerful families, the Benedictos and the Alonsos, are involved. Against this background, IPON fears that the influence of the families might affect the actions of the DAR employees and hence compromises the protection of the HRDs instead of acknowledging their special need for protection as HRDs as stated in the UN Declaration on HRDs. The DAR already pointed out the imbalance of power and influence between the HRDs on the one side and the Benedicto and Alonso family on the other side. In the view of IPON, it is the DAR’s task to strengthen the position of the HRDs in particular when facing dominant opponents.

For the future, IPON hopes that if agrarian related disputes between the two signing parties of the memorandum will evolve in the future the DAR will put its efforts into solving the situation. IPON hopes that in the future the DAR will take the necessary steps to protect the farmers. IPON acknowledges that the DAR cannot guarantee the security of the HRDs without the assistance of the police.

## 5.2 Philippine National Police (PNP)

The main objective of the PNP is to enforce the law, to prevent and control crimes and to maintain peace and order. Especially HRDs are based on their activities a more vulnerable group which needs particular attention and protection by the police. It is the general task of the police to act according to international standards of human rights, especially Art. 3 UDHR and Art. 9 (1) ICCPR which guarantee security of person. In agrarian disputes in general and on Hacienda Carmenchika in particular, security guards play an important role as they are often used as an instrument in order to enforce private interests of former landowners - often at the expense of the rights of HRDs.<sup>19</sup> Against this background, it is one important task of the PNP to ensure that the operating security guards are acting within the law, possess legal permissions and licenses to wear weapons and do not jeopardise the state monopoly of the use of force.

The police has to act in accordance with Art. Art. 7 UDHR and Art. 26 ICCPR stating that everyone has to be treated equally before the law and therefore also be recognized as a person before the law (Art. 6 UDHR, Art. 16 ICCPR).

Since the beginning of the cooperation between IPON and the HRDs of Hacienda Carmenchika, IPON Observers conducted between March 2012 and June 2013 in total nine interviews with police officers on the local and provincial level.<sup>20</sup>

It is very alarming that the area is left unprotected due to the inactivity of the police regarding the complaints of the HRDs. As explained above, the HRDs experienced between October 2011 and February 2012 several incidents or repressions, threats and different cases of harassment. In total, they officially reported five incidents of physical violence, verbal threats, warning shots and destruction of property on the hacienda to the local police in Pontevedra.

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<sup>19</sup> The hiring of security guards is a common and legal practice in the Philippines. However, IPON is in the knowledge of several cases where state actors did not pursue with their duties because of the presence and intimidating actions of armed private security guards.

<sup>20</sup> IPON conducted interviews with: former Chief of Police Mary Rose Salve Pico, Women and Children Protection Desk Officer Jay Geruklaza, Provincial Police Director Celestino Guara Jr., Chief of Police Hector F. Balbon, Noel A. Montaña, Loduvico Malacad.

*This chart summarizes the incidents the HRDs reported at the police station in Pontevedra between November 2011 and February 2012. However, the police left out crucial details the HRDs reported to them. Those details are marked with \* in the chart below.*

Date, Number of Blotter	Incident(s)
11/19/11, 2011-11-148	Three warningshots; 5 armed security guards without licenses or uniforms entered the area of the hacienda*; Destruction of nipa huts*
11/28/11, 2011-11-229	HRDs were harassed by Edgardo Alonso and farmers affiliated with the former landowner; Warning shots in the air, some at night time; Threat to run HRDs over by tractor*; Shots at female HRDs*; Officers from a subunit of the police chained 6 HRDs for approx. 4 hours: two of them had to lay face-to-the-ground on the field with their hands chained on their backs, and had been kicked by police officers*; Another HRDs suffers from health damage since that day (pain in the back and chest)*
11/28/11, 2011-11-213	Security guards (accompanied by Edgardo Alonso) fired warning shots to threaten HRDs; Edgardo Alonso instructed laborer to dump mud press in front of HRDs huts, spreading a penetrate smell*
11/29/11, 2011-11-252	Destruction of nipa hut while approx. 100 persons were inside
02/17/12, 2012-02-102	Destruction of 17 nipa huts without showing demolition order*; Edgardo Alonso is accompanied by 70 PNP members personally loyal to him (according to HRDs) from La Carlota, Bago, Victorias and Talisay City*

However, the HRDs explained IPON that more than once, the Desk Officer on duty refused to include sensitive issues or did not record the complaints altogether. The HRDs told IPON that on one occasion the Desk Officer even accused them of being liars and threatened to put them into custody.

As a consequence they stopped reporting incidents of repressions and requesting assistance from February 2012 until May 22 2013. IPON is very concerned about the fact that the farmer leader found himself constrained to hide from the aggressors instead of requesting assistance from the police as he feared his physical integrity to be at risk.

*This chart presents in detail several incidents of harassment that have not been documented at the police station.*

Date	Incident(s)
11/23/11	Edgardo Alonso threatened HRD with his gun, warning shot, verbal threats
10/01/12	HRDs observed members of a subunit of the local police and armed CAFGUs <sup>21</sup> present at harvest
10/03/12	Presence of large number of security guards close to the houses of HRDs
September 2012	Verbal threat against farmer leader that they [farmers affiliated with the former landowner and security guards] will shoot him if he enters the sugar cane fields
October/ November 2012	Security guards and armed CAFGUs were following the HRDs, especially farmer leader, to find out who the most active HRDs are and where they meet; The CAFGUs do not wear the required agency badge visibly; Approx. 9 CAFGUs patrol the area at night
05/06/13	Edgardo Alonso and security guards threatened the HRDs verbally: "Wait until the end of elections. Something bad will happen to you."
-	Farmer leader has been changing his cell phone number on a regular basis because of threats via text messages

IPON fears that this situation leaves the aggressors of threats and repressions in a stadium of impunity and encourages future violence. In the end, this puts the HRDs in danger and might also constrain the strength and willingness of HRDs to continue their peaceful fight for their rights, ascribed to them in the UN Declaration on HRDs.

On May 22 2013 IPON Observers accompanied HRDs to the local police in Pontevedra and witnessed themselves the persistent attempts of the police to not include crucial details in the blotters which would have pointed out that peace and order in the area as well as the security of the HRDs was at risk. The two HRDs wanted to inform the police about the threatening situation that occurred after farm workers of the management had started to cultivate the occupied land of the HRDs on the same day. Furthermore, they wanted to request the police to check the licenses of the security guards present. IPON observed how the Desk Officer Mr. Martinez left out crucial details reported to him, which made the complaint seem like an agrarian dispute without the occurrence of frightening security guards. The language barrier<sup>22</sup> prevented the HRDs from checking and correcting the content of the documented complaint. In the end, the HRDs had to insist strongly and it took a total of three hours to include every detail as explained to the police officers beforehand.

<sup>21</sup> CAFGU is a civilian but armed paramilitary unit.

<sup>22</sup> The HRDs made a verbal blotter in Illongo (native language on Negros Occidental) but unfortunately the report of the Desk Officer on duty was in English.



IPON confronted officers from the police in Pontevedra as well as Provincial Police Director Mr. Guara in Bacolod about the fact that the HRDs are tired of reporting incidents of harassment and threats to the police. The HRDs informed IPON that they are of the opinion that they are not taken seriously and the police is of no help.

As IPON conducted several interviews with police officers, three main statements were repeatedly presented to IPON: 1) the police has the authority to refuse blotters based on certain criteria, 2) the police does not intervene in agrarian disputes, 3) they have not been informed. They will be presented in more detail below.

On March 15 2012 IPON Observers talked to Jay Geruklaza and also to former Chief of Police Mary Rose Picoi. Both officers were surprised about the information and highlighted that everybody can report any type of incident any time at the police station in Pontevedra. However, Ms. Picoi put into perspective that the police can refuse some blotters when the Desk Officer in charge is of the opinion that the report or the person reporting is not reliable due to a lack of physical or psychological fitness.

IPON is concerned that the expressed possibility gives leeway to the police and might limit the rights of certain groups, especially HRDs, excluding them arbitrarily from police protection.

On February 26 2013, IPON talked to Provincial Police Director Celestino Guara Jr. in Bacolod. IPON had the impression that Mr. Guara was not interested in the information about human rights violations IPON offered him and was not willing to make an effort to investigate more into the concerns of IPON. He justified the lack of action of the police in Pontevedra with the statement that the police not interferes in agrarian disputes. It is striking for IPON that this statement is repeatedly used by officers on the local as well as provincial level. However, in the view of IPON, the police officers are not in a position to make such a statement. It is the exclusive responsibility of the courts to decide whether a case is an agrarian matter or not. IPON is very concerned that this statement might be an excuse not to take action. The incidents the HRDs informed IPON about - such as threats, repressions (e.g. firing of warning shots) or the destruction of property - are pure criminal offenses committed by civil persons. The frequent use of this statement is worrisome for IPON as it indicates that incidents taking place within the context of the agrarian reform will be automatically ignored.

Other local police employees excused their lack of action with the statement that they were not informed. IPON repeatedly went to the police and informed them about the tense security situation in the area: On October 3 2012, on February 26 and on May 6 2013. Additionally, the police excused themselves for not taking action and investigating the complaints of the HRDs with the reason that the blotters were either only meant for record purposes or that the reported incidents fell not into their responsibility. Even if this was the case, IPON fears that the Desk Officer in charge failed to clearly communicate to the HRDs that they have the legal option to solve the problem during a so-called Lupon - an institution which is meant to solve less serious criminal cases within the jurisdiction of the barangay. IPON fears that the Desk Officers in charge for blotters did not take the complaints

of the HRDs serious enough and hence did not refer them to other responsible institutions which were created especially for solving such cases.

Apart from that, IPON worries that the police did not take into account relevant orders from the DAR. As described in chapter 3, on November 28 2011 and February 17 2012, Mr. Alonso ordered the destruction of nipa huts and forced the HRDs through the use of armed tractor drivers to leave the area they cultivated. According to the statements of the HRDs, neither the police nor the farmers working for the management were able to show an order legally authorizing their action. IPON interviewed local police officers regarding these incidents. In two interviews, PNP Officers Ms. Geruklaza and Ms. Pico explained to IPON that the demolition of the houses was an order from Sheriff Clark Egbert S. Sansioco. Although an order from PARO Servidad existed demanding the UEC/MIMI to stop the destruction of the harvest and the huts of the HRDs, the police did not consider the DAR order. Former Chief of Police Ms. Picoi was not able to name any reason for only taking into consideration the Sheriff's order. IPON is worried that the police neither objectively dealt with the two contradictory orders nor treated them equally.

As already mentioned above, the presence of armed security guards working for the former landowner Mr. Benedicto in the area is of particular concern for IPON. They seem to operate without visibly displaying the name of their security agency and uniforms (as they are supposed to). In addition, IPON has been informed several times by the HRDs that the security guards work without permissions to carry weapons. Their presence and involvement in repressions has been intimidating the HRDs since October 2011. IPON and the HRDs of Hacienda Carmenchika informed the local and provincial police on several occasions (November 19 2011, October 3 2012, February 26 2013, May 6 and 22 2013) about their presence. The HRDs further requested the police to check the licenses of the security guards present. In the understanding of IPON, the report given on May 6 should have been regarded with special attention. As it was one week before midterm elections, IPON worried that the armed men might have been violating the gun ban<sup>23</sup>. Altogether, the police did not seem to be able to implement adequate measures since illegal security guards were still present in the area at the time of finishing the report in June 2013. Hence, IPON is concerned that the local police did not undertake all possible steps to ensure peace and order in the area and to respond to the claims of the HRDs that they feel frightened by the security guards. IPON is worried that the security guards can operate in the area without being stopped by the police. As a consequence, this will leave the HRDs vulnerable to the arbitrariness of the security guards and thus unprotected.

On May 14 2013 IPON Observers were again present in the area, observed the situation after one week of land occupation and talked to the local police. For IPON, it was very striking, that the officers became tangled up in contradictions when asked about the promised check up of the licenses of the security guards

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<sup>23</sup> Due to the midterm elections, a gun ban between January 2013 and June 2013 was enforced. Baring, carrying and transporting fire arms and other deadly weapons were prohibited unless authorized by the Commission on Elections. Only law enforcers on duty and in full uniform are allowed to carry firearms outside the residence. See <http://www.philstar.com/headlines/2013/01/02/892455/comelec-empose-election-gun-ban-starting-jan.-13>.

seen in the area on May 6. After their contradictive statements, they advised IPON to talk to Chief of Police Hector F. Balbon who denied having checked the licenses. He further told IPON that the HRDs have to request the police to check the licenses in the first instance before the PNP can take action. IPON wonders why he did not mention this procedure during the interview of May 6 2013.

It is indispensable that civilians have trust in the reliability and objectivity of the police. As it is the duty of the police to investigate blotters, to ensure non-discrimination, and to maintain peace, the past experiences of the HRDs are of deep concern for IPON. Especially vulnerable groups, such as HRDs, need special attention and protection by the police as they are often confronted with several forms of harassment due to their engagement for human rights. The police is obliged to ensure the respect of their human rights such as the right to life and security of person and the right to equality before the law.

Regarding the case of Hacienda Carmenchika, the involvement of powerful families highlights the importance of acknowledging the HRDs as a vulnerable and disadvantaged group who needs special attention and protection by the police as highlighted in the UN declaration on HRDs.

## 6. Summary of Findings

In summation, IPON is concerned that several human rights as enshrined in the UDHR, the ICCPR, the ICESCR, and the UN Declaration on HRDs are violated in the area. In the following, the affected rights as well as the corresponding articles in the different documents will be presented:

- Right to life, liberty and security of person: *UDHR Art. 3, ICCPR Art. 9 (1)*
- Right to recognition as a person before the law: *UDHR Art. 6, ICCPR Art. 16*
- Right to equality before the law: *UDHR Art. 7, ICCPR Art. 26*
- Right of everyone to the enjoyment of the highest attainable standard of physical and mental health: *ICESCR Art. 12 (1)*
- Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, [...]: *Declaration on HRDs Art. 2 (1)*
- The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration: *Declaration on HRDs Art. 12 (2)*

## 7. Conclusive Remarks

In the view of IPON, the situation of the HRDs on Hacienda Carmenchika is very alarming. The following conclusive remarks shall be interpreted as impetus in order to improve the situation of the HRDs.

IPON acknowledges the attempts of the DAR to demand police assistance to stabilise the security situation on the hacienda before the signing of the Memorandum of Agreement on August 5 2013.

IPON hopes that if any involvement of the DAR will be necessary in the future the state agency will enforce their orders with the objective to tackle impunity in the said area and to assure the security of the HRDs. Additionally, IPON hopes that if agrarian related disputes between the two signing parties of the memorandum will evolve in the future the DAR will put its efforts into solving the situation.

The inadequate reaction of the police to the reports of the HRDs gave the HRDs the impression that they cannot rely on the assistance and protection of the police anymore. Although they repeatedly face various forms of repression and threats the HRDs are tired of complaining at the local police station. This development is of great concern for IPON since it could leave the area and the HRDs unprotected. The HRDs need special protection, as recognized in the UN Declaration on HRDs. IPON is concerned that the police protection for the HRDs is inadequate. One main threat to peace and order is the presence of non-uniformed but armed security guards in the area who do not suit the principal legal stipulations as well as the apparent lack of police willingness to react appropriately.

Moreover, it is very alarming for IPON that Provincial Police Director Mr. Guara refused to acknowledge the information given to him regarding the inactivity of the local police officers.

Also, IPON worries that the police is not acting objectively and impartially when it comes to complaints from the HRDs of Hacienda Carmenchika. It is worrisome that complaints of HRDs are often ignored with the justification that the police does not interfere in agrarian disputes. In IPON's view, the differentiation between agrarian and non-agrarian is not of concern for the police when it comes to the protections of civilians and HRDs in particular. In IPON's understanding this statement is without foundation and enables the police neither act according to their responsibilities nor treat everyone equally and without discrimination.

IPON hopes that incidents of harassment related to the conflict will be adequately investigated by the local police of Pontevedra in the future. IPON further hopes that the police will take the information and the fears of the HRDs seriously and treat their complaints adequately. The objective of the police is to maintain peace and order and hence prevent threats and attacks against civilians. If the licenses of the security guards in the area were checked, it would be a step towards the realisation of this objective.

Taking into account the political positions and personal connections of the former landowner Benedicto and the farm manager Edgardo Alonso, IPON is concerned that those relations might intimidate certain state actors and influence their (in-)

actions when it comes to the case of Hacienda Carmenchika. IPON is afraid that the area of Carmenchika is left in a stadium of impunity as private persons can act without restrictions. If this occurs systematically and is not tackled by state agencies, it leads to the violation of human rights. IPON hopes that the state agencies undertake the necessary steps to prevent private interests from affecting the actions and objectivity of state actors.

Concluding, IPON worries that the human rights situation presented in this report is not an isolated case but occurs frequently in situations of agrarian disputes and the process of land distribution. The UN Declaration on HRDs acknowledges HRDs as a vulnerable group which needs special protection by the state agencies. As the activities of HRDs play an important role in civil society, it is crucial that HRDs are recognized as such and that they receive the necessary support by state agencies in order to continue their engagement.

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- **City Mayor Bacolod**, Monico Puentevella
- **DAR**, Department of Agrarian Reform
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- **PNP**, Philippine National Police Pontevedra, , Chief of Police Hector F. Balbón
- **PNP**, Philippine National Police Bacolod, acting director Edgardo Ordaniel
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