

FRUITLESS ACTIONS – HOW STATE-AGENCIES PROTECT HRDs IN AREAS WITH “LANDLORD RESISTANCE”



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Human rights defenders at the former landholding of an influential political clan in Negros Oriental are facing ongoing threats by a landlord resisting the agrarian reform. On the international perspective, the duties of the state authorities on all institutional levels are to protect the defenders on human rights. However, either a lack of political will or the missing potential of the state to fully enforce the law against influential political clans can be witnessed.

The island of Negros has been the center of the Philippine land conflict for decades. It is known for its high number of land owners that resist the agrarian reform. On the one hand those landowners oppose, because owning land is still a symbol of wealth, prestige and power. On the other hand sugar cane, which is the prominent cultivated crop in Negros, still yields relatively high profits in comparison to other crops. In the course of the land dispute, human rights defenders (HRDs) are exceptionally targets of human rights abuses and violations. This article aims to illustrate the ongoing land-conflict at “Hacienda Teves”, an estate located in the southern part of Negros¹.

To stand up for their rights, the farm-workers at the aforementioned sugar estate have organized themselves and have joined the NGO “Task Force Mapalad” (TFM)². It is the non-violent struggle for basic human rights such as the right to food security, legitimates TFM members as HRDs. The conflict initially arose in 1988, when these farmers petitioned for land through the Comprehensive Agrarian Reform Program (CARP)³. Land-titles were officially transferred to them in 1997 and 1999, but access to their land has been prevented by security guards hired by the former landowner. The latter belongs to an extremely influential clan and consistently neglect the farmers the access to their rightful acquired land. The TFM farmers and new owners of the property were systematically impeded from taking possession of their land. The conflict has already entailed two murders, displacements, demolition of houses,

countless intimidations, threats as well as legal harassments (IPON 2010).

The Teveses are a highly influential family clan and have been politically, economically and socially active at the national, provincial and local level in Negros Oriental for generations. The family clan is headed by Herminio Teves, former Governor and congressman and former landowner of the property. Today, Henry Pride Teves, congressman of the corresponding district, and Arnie Teves, administrator of the family-owned sugar mill⁴ and member of the Association



© Jimmy Domingo | Shaved heads - HRDs from Negros demonstrate in Manila.

1) For a chronicle of the land-conflict cf. Bauer (2010) and the interview with an involved HRD the same issue.

2) 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” (www.tfmnational.org).

3) It was initiated in 1988 under the Presidency of Corazon Aquino, mother of the current President Benigno Aquino III, with the intention to redistribute land to the landless. Due to outstanding redistributions and a high degree of political pressure, CARP has been extended several times, most recently until 2014.

4) Sugarcane is the prominent cultivated crop in Negros with relatively high yields per hectare. The Herminio Teves & Co. Inc. sugar mill, with a provincial production share of around 50 percent, illustrates the social and economic position of power of the Teves-clan.

of Barangay Councils⁵ of Negros Oriental – both grandsons of Herminio – continue the landlord resistance. Within the scope of their possibilities the clan applied any legal and illegal methods to delay the implementation of the state-led agrarian reform. Their behaviour evoked violence and insecurity among the farmers targeting the new owners of the land. The Teves clan challenged the legitimacy of the land titles, but nevertheless the Supreme Court confirmed its legitimacy in 2004. The court's decision however did not stop them from continuing to harass the HRDs. Their tactic is to delay the actual redistribution of the land or at least the distribution to farmers which are dependent on them. They also aim to pit groups of farmers against each other. Therefore, the former landowner encouraged a group of farmers to petition for the inclusion to the land title and exclusion of the former beneficiaries, who are the legitimate property owners (Bauer 2010). Consequently, in 2009, the former Secretary of the Department of Agrarian Reform (DAR) excluded 15 out of the 30 beneficiaries. The contentious property is nowadays divided into two parcels of land and belongs to different administrative units. One parcel belongs to Barangay Caranoche, a commune of the town of Santa Catalina. At this parcel 15 out of 19 beneficiaries have been excluded from the land-title. The second parcel belongs to Barangay Villareal, a part of Bayawan City. Although none of the 11 beneficiaries have been excluded here, they – like those in Villareal – were displaced from their land and exposed to threats at a regular basis by armed security guards and by the dubious Barangay Captain, who is affiliated with the Teves clan. Due to a high degree of patrimonialism (cf.

Pingel 2010 last issue), causing a lack of separation of private and public sphere, the clan was able to develop a strategy that enabled them to pursue direct as well as indirect human rights abuses without ever facing legal consequences.

Peaceful struggle for human rights

The HRDs and rightful landowners continued claiming their legal rights in order to take possession of their land. They have been actively and



© Jimmy Domingo | Justice seem to be within grasp - Protest Camp in Manila.

constructively involved in dialogues with state and non-state actors on the local, regional and national level. To enforce their claim, they organised twice protest-camps in front of the DAR central office in Manila and held hunger-strikes in 2009 and 2011. In October 2010, Henry Teves was appointed to be the chairperson of the Committee on Agrarian Reform at the House of Representatives. With its 40 members, the committee has broad power regarding the appropriation of funds for the implementation of the reform and beneficiaries' financial support. Fearing a conflict of interest, a widespread civil society association requested the resignation of Henry Teves⁶.

Developments since the new administration

In the light of the court decision, the case of disqualifications of some HRDs as rightful owners is highly controversial, and was referred to the Office of the President (OP). However, in November 2010 the case was referred to the DAR again with the calling for a meditative resolution and re-examined, but remained unsettled. It seemed that the president had no intention to deal with this critical issue.

The DAR appealed to the OP again, so fruitless time had elapsed. After a year of presidency, a more active approach would be desirable. After all, in his election campaign, Noynoy Aquino promised improvements in human rights' protection (cf. Hamman 2011 this issue).

Lately, the OP initiated the attendance of a mediation organisation to elaborate a compromise between HRDs and their Teves-dependent counterparts. Since April 2011, an agreement between the conflicting parties has been worked out under the supervision of the NGO "Mediators Network for Sustainable Peace Inc."

5) The provincial Barangay council, or provincial board is the representation of all communities in the province with widespread responsibilities.

6) Henry Teves rejected the claim to resign pronounced by three influential bishops (Herrera 2010). The three bishops, as well as 138 other personalities, 22 NGOs and 96 People Organisations (POs) (including 14 from Negros Oriental) signed a letter to the speaker of the House of Representatives, claiming a conflict of interests (Archbishop Ledesma et al. 2010).

focusing on dispute management processes in conflicts on land tenure. A Memorandum of Agreement (MOA) provides a quitclaim deed of 30 out of the original 62 hectares in favour of Teves-dependent farmers.⁷

Weak compromise instead of law enforcement

The MOA, which includes the dismantling of an illegally constructed piggery of the Teves clan at the mentioned property, has not yet been signed by one single representative of the Teves-clan until present. Either there is a lack of political will or weakness of state power to fully enforce the law against influential political clans. At least the latter may be the case here.

The prevailing willingness of the rightful landowners to waive almost half of their land in order to peacefully settle the conflict shows again their qualification as HRDs. The HRDs reported new warning shots by hired security-guards in 2011.

Fruitless actions of the DAR

In reaction to protest camps, hunger-strikes and other activities, the DAR signalled several times to tackle the reclamation of displaced HRDs. An official ceremonial handover of the property, organised by the DAR and accompanied by the national police and military forces, took place in September 2008. Nonetheless, the rightful owners have been illegally displaced from their land by security guards, Teves-dependent farmers

and the local police headed by Arnie Teves in April 2009. The actual implementation of the “repossession” has regularly been adjourned sine die and on short notice. Due to the threats that are uttered against them, DAR officials at the local level never act at their own initiative. Furthermore, the administrative bisection of “Hacienda Teves” enables responsibility shifts at the local level already. Whereas the former DAR Secretary had close relationships with Herminio Teves (cf. *Negros Daily Buletin* 2010), the new Secretary Virgilio de los Reyes still needs to prove his assertiveness against clans like the Teveses. Reyes is one of the founding members of an association of lawyers, focussing on human rights and judicial reform (Kreuzer 2010).

Early in 2010, a report edited by IPON disclosing the situation of HRDs in the area, attracted the attention of the Commission on Human Rights (CHR) (IPON 2010). IPON welcomed the CHR’s advice to prepare an own report with the intention to have an official evaluation of the situation and, most importantly, to give clear recommendations on the topic. Unfortunately, the results are disillusioning. Until present, the release of an official report is still a long way to go⁸, providing a good excuse for other state agencies not to take further action. The Department of Justice (DOJ), for instance, adapts its action on clear recommendations of the CHR. In September 2010, the IPON report has been confirmed by a report of a fact-finding mission organised and released by the “Philippine Alliance of Human Rights Advocates” (PAHRA) (PAHRA 2010).

7) The 30 hectares affect the parcel of land in Barangay Caranoche, where the 15 beneficiaries have been excluded on questionable manner.

8) The delay may be due to internal problems. The CHR compiles a second report due to a lack of confidence and impartiality of their own internal report.

© IPON | HRDs from Negros in hunger strike, Manila 2011.



The authority of the CHR only relies on the announcement of non-binding recommendations. Still, as public authority directly subordinated to the OP, the CHR could contribute to conciliate the conflict and to improve

the security of HRDs. Insofar, state-authorities like OP, DOJ, CHR, but also national police forces and others are responsible for the improvement of the security of HRDs, and for the complete enforcement of the law. In

this perspective, the Republic of the Philippines has two options: Either the state manages to implement applicable law, or the state might get stuck in an oligarchic instead of a democratic setting. ■

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STATEMENT OF ASSETS, LIABILITIES, AND NET WORTH CUTTING DOWN CORRUPTION IN PUBLIC OFFICE?

Last year, Benigno Simeon Aquino won the presidential elections and promised to improve governance to be more transparent, participative, and accountable. The public now expects transparency and anti corruption measures. The Statement of Assets, Liabilities, and Net Worth (SALN) targeted at public officials could be helpful in that task. The law stipulates that requires „every public officer, within thirty days after assuming office and, thereafter, on or before the fifteenth day of April following the close of every calendar year, [...] a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year“¹. These documents should be open to the public. The roots of SALN date back to the year 1955, in which the Republic Act 1379 was signed into law. It allows the government to seize any property found to have been unlawfully acquired by any public officer or employee. This refers to

property acquired by any public officer or employee during his/her incumbency which is manifestly out of proportion to his/her salary. In order to effectively implement Republic Act 1379, several legislative measures were subsequently installed; one of them requiring asset declaration which is a primary and effective tool to find evidence of illegal enrichment. SALN could therefore serve as an effective strategy to combat corruption and promote ethical conduct in public service.

Half a century later, the SALN law lies moribund. There has been no mechanism implemented to verify SALN or to punish violations of the law. Worse even, several requests of journalists of the Philippine Center for Investigative Journalism about SALN directed at employees of the Office of the Ombudsman were not answered. First, in response the responsible office answered denied the existence of some documents. Later, a written answer stated that “one cannot favorably act on your request because the Department

is bound to observe the integrity and confidentiality of our employee’s 201 records, the disclosure of which would constitute an invasion of their privacy“². Certainly, President Aquino will have to prepare an executive order designating officials in each agency of government to compile SALN data. NGOs could set up a website to post the findings and invite the public to contribute compiling data. The handling of this topic will definitely serve as a test case for the will of Aquino to back up his words to fight for transparency and against corruption with concrete measures. ■



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SOURCE

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