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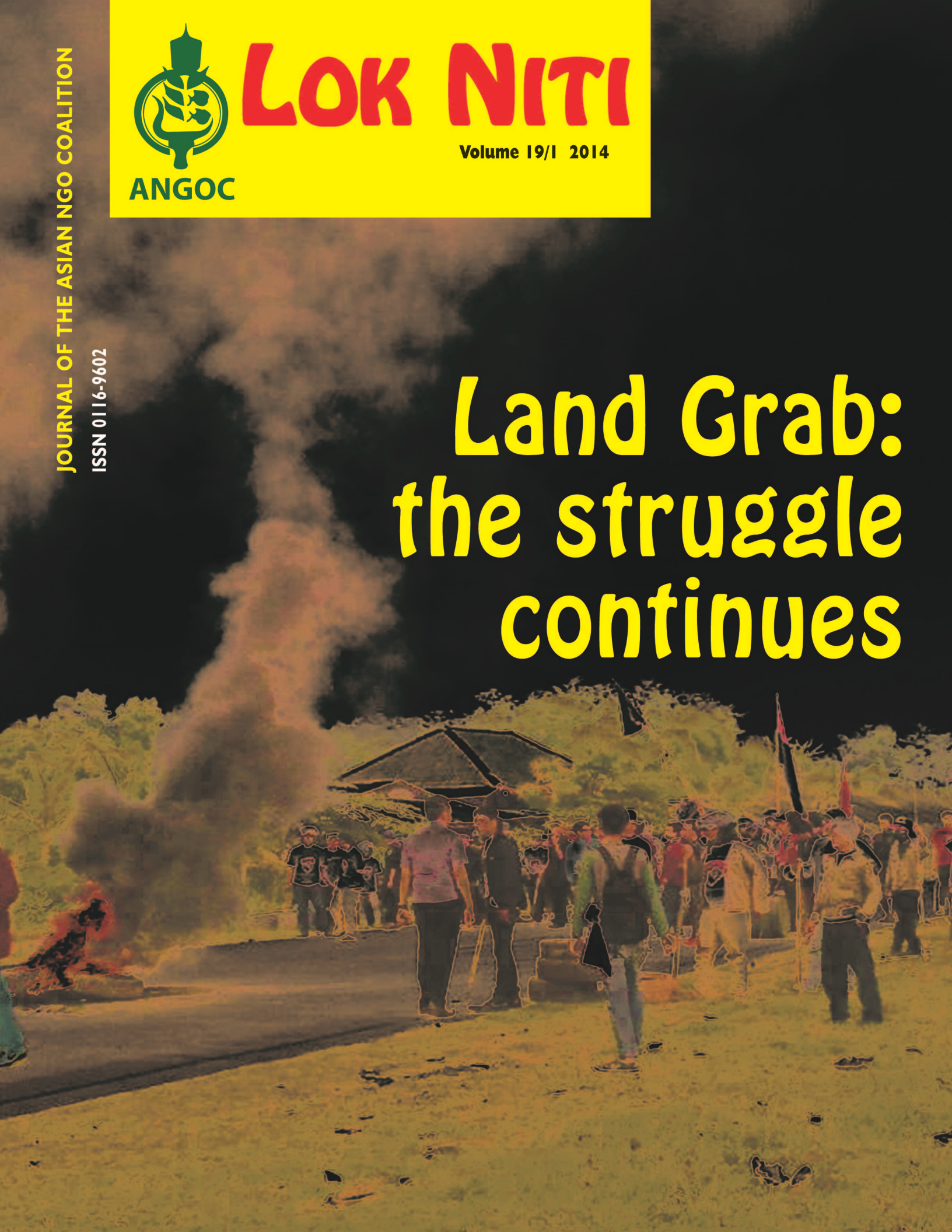


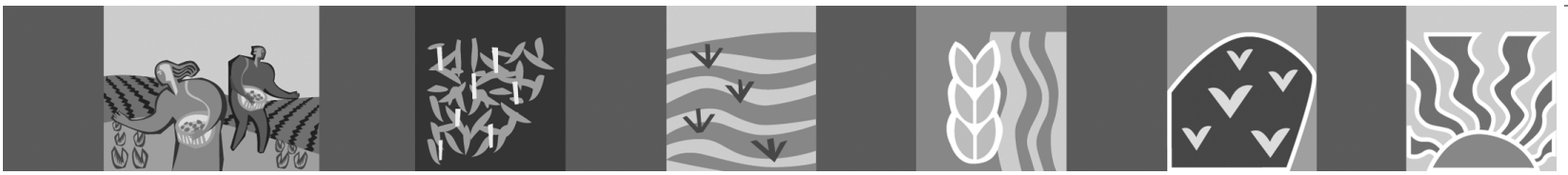
ANGOC

# LOK NITI

Volume 19/1 2014

# Land Grab: the struggle continues





## What is Lok Niti?

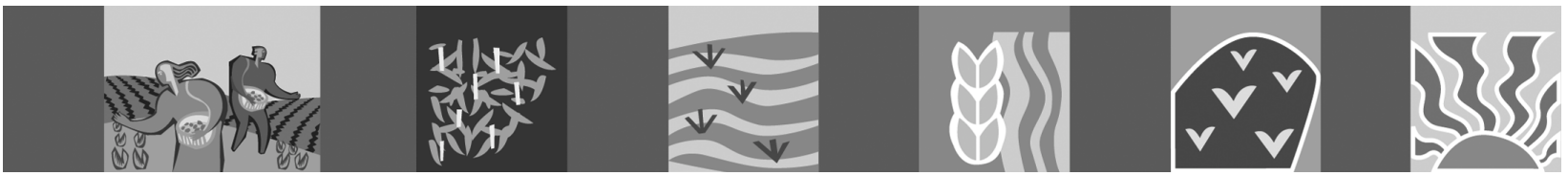
Lok Niti and Raj Niti are terms coined from the Sanskrit by Mahatma Gandhi. Lok Niti signifies people's politics—the people in command and direct governance by the sovereign people, as opposed to Raj Niti—the politics of the nation state or indirect rule by a centralized government leadership based on current “democratic” forms of party and representative political institutions.

This concept of Lok Niti was the political basis of Gandhi's socio-economic “Construction Programme”, which is now known in India as Sarvodaya.

An increasing number of us who are associated with the Asian NGO Coalition (ANGOC) feel that we have begun to find our bearings in the tangled terrain of “development” through commitment to the “gentle anarchism” of Mahatma Gandhi—a body of principles for both personal and social transformation through work in support of decentralized, village community oriented, rural development, guided by the ideals of satyagraha and non-violence and harmonization with both nature and tradition.

Lok Niti is the journal of the Asian NGO Coalition.

— Chandra de Fonseka  
former Lok Niti editor-in-chief



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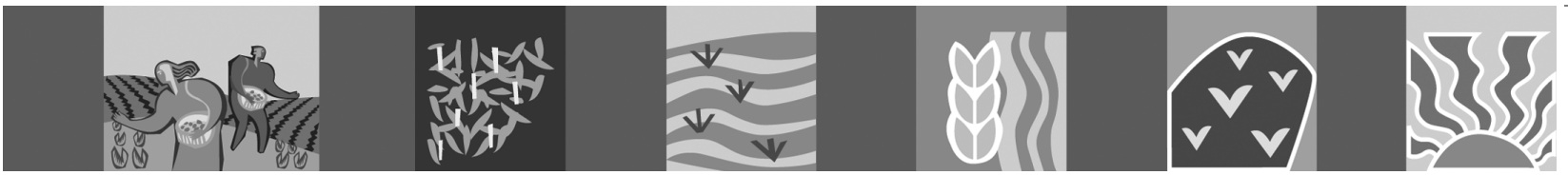
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**Production Team:**

Nathaniel Don E. Marquez, Roel R. Ravanera, Catherine C. Liamzon, Marianne Jane E. Naungayan, Ma. Cristina A. Dumlao, Melissa Moran, Gerard Jerome C. Dumlao, Vanessa Gorra, Katti Sta. Ana, and Lennie Rose O. Cahusay.

**Cover Photo:**

This photo of farmers from Ranawang village in Indonesia, courtesy of the Consortium for Agrarian Reform (KPA), was taken last 24 June 2014. Around 1,200 peasants were evicted from their land for the expansion of a factory. Community protesters were met with 7,000 fully equipped riot police forces.



# EDITORIAL

**L**and grabbing – the very term itself says it all. It captures the clear absence of consent or even knowledge of the ones from whom land, a most prime and basic possession, is taken. And ‘grabbing’ implies an underlying deceit, ill intent, or even use of force.

This was made sadly evident in the six country cases presented in this issue, as well as in the eight cases from the Philippines. Obviously, the land being contested is highly desirable. Cherished as a means and a way of life by the communities originally occupying it. Coveted as a source of profit and power by those seeking to develop and transform it. The land could boast of pristine white-sand beaches and breathtaking views just perfect for attracting the world’s tourists and bringing in their cash. It could be resource-rich and amazingly fertile, ideal for extracting one such resource for tremendous commercial gain or for transplanting an alien crop or industry that is in global demand. It could be a ready means for the powers-that-be to solidify or expand their position in the area. Or, more tragically, it could be played as a pawn by a national government to be moved around at will, or even sacrificed if need be, in the game of attracting foreign investments or in the name of progress.

Any and all of these are the motives behind land grabbing as seen here. But at what cost? And at whose expense?

In every account related in these cases, the areas being eyed were apparently viewed as ‘undeveloped’ by the world’s standards, and

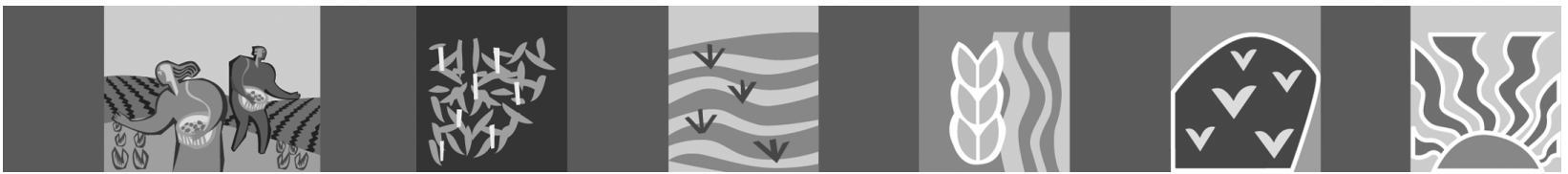


**Affected residents from the UDG project demolition in January 2014**

Photo by the NGO Forum

hence cheap and ready for the grabbing. At the same time, the original inhabitants of the land were seen as unfamiliar with current developments and trends, and therefore unable to protest or raise resistance. Or else they were viewed as deprived of modern conveniences and opportunities and therefore easily enticed by promises of a better life that they should, in fact, be grateful for.

The view from the local communities’ perspective, however, has been markedly different. Most of them were already self-reliant and food secure in their own way. A number were quite content with their traditional agriculture – crude and inefficient though it may have seemed to outsiders familiar with the latest technology. It was a predictable and familiar livelihood that fed their families and, in some cases, earned the community a profit from the surplus. But all this was turned upside



down by the ‘progress’ that was forced on them by those harboring other plans for their land.

Suddenly, they found themselves dependent on the compensation packages proffered by some huge international enterprise that had just moved in – only to discover that the promises had been grossly overstated, bore hidden conditions, or would remain unfulfilled. Not immediately evident, too, is the tremendous loss of potential income that some resident communities would have earned over the long term had they continued with their traditional livelihoods. Instead, they are absorbed into the foreign enterprise with fixed wages or forced to relocate and look for work under new and strange conditions. Even more basically unjust is the lack of respect for the local residents’ right to know. In most cases, they were simply left out of the discussions regarding their land or if consultations were held at all, their views were belittled or totally disregarded. Even subsequent details as to how the takeover would affect their lives was scarce and inaccessible.

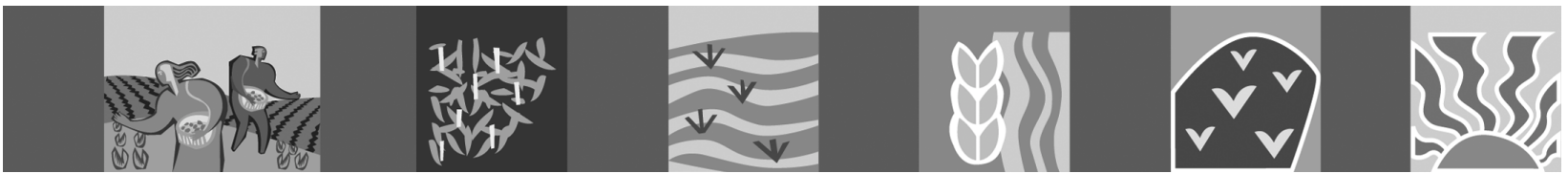
But at least such land grabbers were, for the most part, foreigners – if indeed an ‘at least’ can be found in such a situation. Whether they came for the natural wonders that could be touted to the world, for the bountiful harvests that could be reaped at tremendous profit, or for the mega-industries that could fill a global demand, they were outsiders. Plus there was an element of consideration for the traditional residents in the form of compensation and relocation schemes. Not so, in the case of some communities who lost their lands to their own kind.

Domestic land grabbing also took place, but with no pretense at concern for the residents of the land. Takeovers ranged from simply putting up signs declaring new ownership, to producing fake land titles, to the use of hired armed groups

***“In every account related in these cases, the areas being eyed were apparently viewed as ‘undeveloped’ by the world’s standards, and hence cheap and ready for the grabbing.”***

to terrorize communities into turning over or simply abandoning their lands. In many cases, the grabbers would then turn around and offer the seized lands to commercial developers or industrial enterprises at a huge profit. Then, there are the middlemen in the whole land grabbing process – largely fellow-countrymen of the original land owners. In the guise of concern for bettering the communities’ lot, they would maneuver the takeover process so that the land owners were forced to accept a raw deal or, worse, end up landless.

Beyond the human factor on both sides of the land grabbing equation, however, there is the almost limitless ‘fallout’ that ensues. As the cases in this issue frighteningly show, nothing is spared. The environment falls victim through degradation, destruction, and eventual depletion of nature’s resources. The health and safety of all within the vicinity is placed at tremendous risk from land, air, water, and noise pollution. Food security is undermined, both for local consumption as well as that of the region or even the nation. And the traditional culture and way of life of the original communities are forever tainted by modern notions, and are in danger of being lost altogether. Whether these are intentionally glossed over by the investors coming in with their billions or are accepted as necessary evils attendant to progress by those condoning their plans, the damage is done.



The monumental challenge facing all concerned, then, is how to merge the multiple 'goods' in this complex situation while mitigating the inevitable 'evils.' While many of the communities may have been content with their pre-land grab way of life, in truth they deserved and could aim for better: more efficient yet still sustainable technologies to maximize their resources, better educational opportunities and health care for their families, more viable means of marketing and distributing their produce. But how to do this without abdicating their inherent land rights to an outside commercial or political entity?

The cases in this issue echo one another in several key recommendations.

### **Consultation, transparency, and access to information**

Mechanisms must be instituted to ensure transparency of the negotiations, plans, and processes of the proposed land acquisition. This involves genuine prior consultation and open discussions with all affected; access to complete and accurate information regarding compensation schemes, relocation plans, and alternative livelihood prospects; as well as protection from grossly exaggerated promises/benefits and from being forced into accepting these.

### **Empowerment of communities**

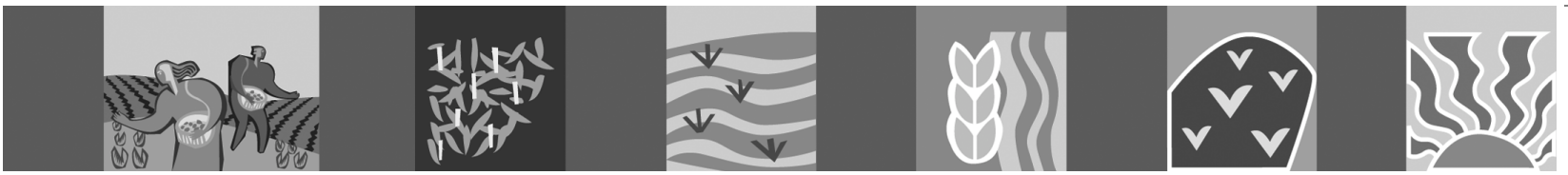
NGOs and CSOs must continue empowering local communities to protect their traditional land rights, beginning with the most basic awareness-raising about these rights. Access to easy credit by smallholder farmers, fishers, and other producers must be facilitated to enable them to improve their existing livelihoods through new equipment, implements, and facilities (like irrigation). Further, the livability of relocation

sites must be ensured, with all the basic needs provided for, including education, health services, and livelihood facilities. At the same time, it must be ensured that the methods/techniques introduced or upgraded are sustainable and environment-friendly for the long term, with incentives for implementing such methods (e.g., financial prizes).

### **Policing and grievance mechanisms**

Laws, polices, and regulations on the granting of ELCs must be strengthened to enforce strict compliance, including cancellation of already-granted ELCs that disregard or violate the agreed terms. If commercial investors stand to gain several times over from exploiting a land area and its resources, then the traditional communities/original residents must be protected to justly benefit from these gains as well.

International donors and financial institutions must likewise police themselves and in fact withdraw or refuse to support projects or enterprises that resort to unjust land acquisition to further their plans. Meanwhile, media must champion the cause of victims of land grabbing to bring this to the attention of the general public and of the world. ■



# Land grabbing in contemporary Asia: A summary of the cases

The desire to conquer new lands is far from out of date. It has simply taken on new and more complex forms. And whereas, in centuries past, it was kings, queens, and emperors leading the conquest, today it is large corporations and capitalists.

Just ask the sharecroppers in the Mirpurkhas District, Sindh Province in Pakistan. Being subjects of their landlords, they have no voice as to how the lands they cultivate should be managed and controlled. Many of them lost their livelihood when landlords began leasing out their lands to private corporations for bigger profits.

The farmers of Sto. Niño in Capiz, Philippines also found leaseback agreements to be a method that would eventually return them to their former status as daily wageworkers. The HARBCO farmers in another part of the country, Tagum, Davao del Norte, incurred massive debts to a giant corporation that has taken over their lands. For these farmers, leaseback and joint venture agreements came to define a practice that served only to perpetuate the relationship of landlord and tenant. The writers of the case study describe it as a “reversal of gains in agrarian reform.”

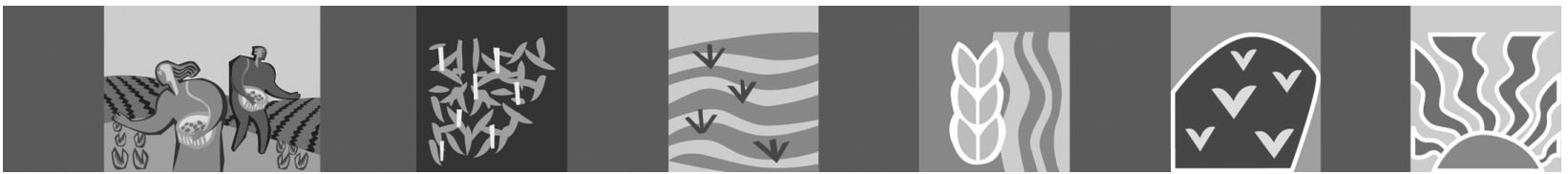
Astonishingly, altruistic institutions, too, lust for land. The Nepal case study presents how foundations, schools, and religious organizations are also involved in highly dubitable land deals,



Victims of eviction from the Chak community  
Photo by ALRD

giving the impression that these are simply too good to pass up. Some of these organizations are cover-ups of political parties, others are engaged in land plotting, reselling lands intended for beneficent purposes (like building churches and schools) to commercial interest groups at much higher prices.

That the guiding hand of these investments is that of governments makes the scenario dimmer for those who find themselves fighting for every grain of produce or fistful of sand, as in the case of the seaweed farmers in Caluya, Antique, Philippines. Some 300 of them have been evicted by local authorities because the stretch of white beach they had had since World War II happens to be – to their surprise – owned by someone



they have never seen on the island. The investor envisions turning their sea farms, beachfronts, and farmlands into “new Boracays.”

In the Chittagong Hill Tracts (CHT) of Bangladesh, the Forest Department leads the pack of land grabbers. Dr Shapan Adnan, who studied the alienation of lands in the CHT, had this to say of the CHT Land Acquisition Regulation of 1958: “A draconian law which empowers the DC [Deputy Commissioners] to use force to acquire the designated lands...” Since 1989, land acquired from indigenous peoples by the Forest Department for commercial purposes has totaled 218,000 acres (88,221.55 ha).<sup>1</sup>

Farmers in Gimalas, Batangas, Philippines know very well the government’s hold over which investments get through and which ones do not. Surmising that industrial parks and ports could improve their local economy more than farms can, the local government seemed all too ready to issue certifications of compliance with environmental and other local regulations. Farmers who were cajoled into accepting the offers of money and jobs in exchange for their lands (and livelihoods) soon realized that the money would run out eventually and that promises of jobs came with conditions. The investor has begun hammering away at its much celebrated industrial park, leaving the farmers with far less than the touted benefits.

Case study writers of Indonesia’s economic initiatives are led to the conclusion that the MP3EI, the country’s strategy for bringing in more investors, has laid the groundwork for the proliferation of land grabbing for mining and plantations in Central Sulawesi. The result has been the rise of many agrarian reform conflicts. More than half of the 31 land-related conflicts in

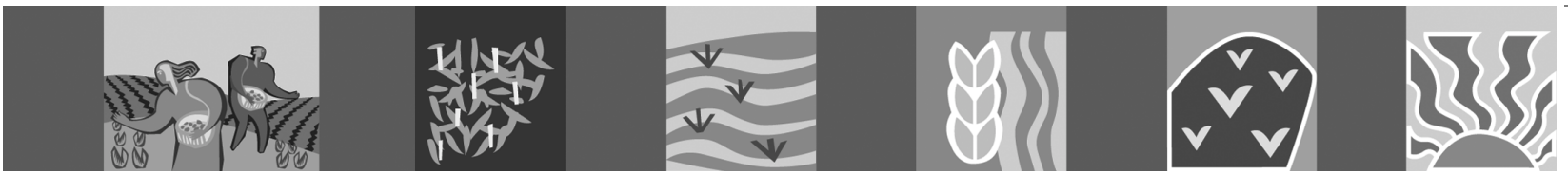
Sulawesi in 2013 happened in Central Sulawesi. The indigenous tribes of the Mamanwas of Jabonga in Agusan del Norte and the Subanens of Misamis Occidental, both in the Philippines, are asserting their ancestral land rights against mining and biofuel production respectively. From their experience, the importance of having a National Land Use Code is glaringly evident, as a means of protecting biodiversity areas and establishing clear provisions in the disposition of lands and resources. Supposedly, an official of the National Commission on Indigenous Peoples imparted this wisdom: “Don’t remain as Subanens so you can succeed and prosper in life.” A completely unacceptable attitude coming from the very authority installed to protect IP customs, traditions, and institutions.

Transparency in land acquisition transactions is another major issue. Villagers in Koh Kong Province, Cambodia decry the lack of information on a \$3 billion investment for an international trade and tourism center. Not only were the affected communities overlooked in consultations and action plans for relocation, they were also disregarded in decision-making and conflict-resolution measures. So far about 1,143 families have been evicted, 1,500 houses flattened, and two schools and three Buddhism pagodas moved away from the communities.

Peoples’ organizations also protest the lack of details surrounding a steel plant project of a South Korean corporation in iron ore-rich Odisha, eastern India. “Anti-people” is how they describe the kind of development being championed by the government, given the State’s poor track record of rehabilitating and properly compensating displaced communities.

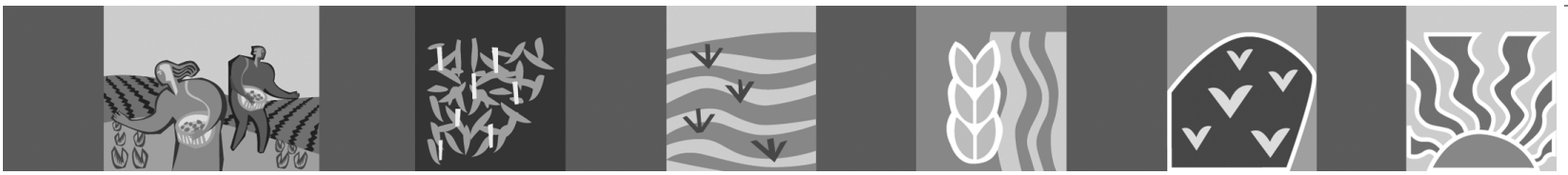
<sup>1</sup> An acre is 0.40 ha.





There are, of course, outliers. One of them is SACARBEMCO in Compostela Valley, Philippines. This cooperative of agrarian reform beneficiaries found a way to make agribusiness venture agreements work for its members. With the help of NGOs, they were able to negotiate a fairer contract with a company for the selling and buying of their rubber. Out of this partnership, the cooperative recovered its previous losses and was able to diversify its services to its members. Certainly, there are many other success stories like theirs just waiting to be written and shared.

These hard times call for divergent thinking. Our farming and fishing communities tell us that they are under immense pressure – from the government, from the burden of debt, from a globalized society. By documenting their experiences, we see the need to come up with many solutions as opposed to just one. By sharing these accounts with each other, we are able to see spaces for collaboration. What is not open for negotiation is that whatever outcomes we prescribe should be evaluated against a horizon of values and be judged by their moral worth. ■



# The altered landscapes of the Chittagong Hill Tracts

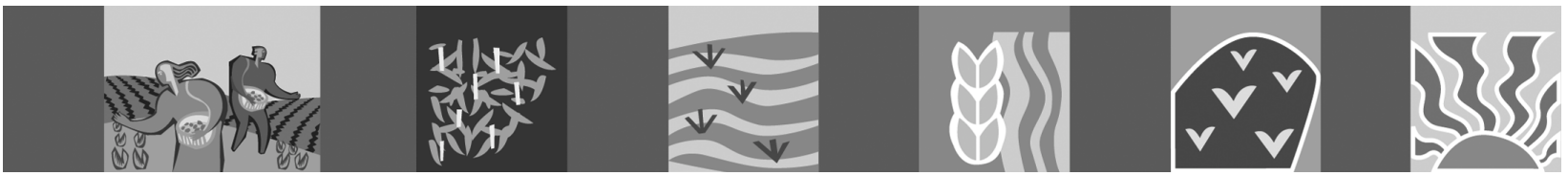


**Chittagong Hill Tracts of Bangladesh**  
Photo by Mita Nahar

**T**he Chittagong Hill Tracts (CHT) in Bangladesh is a melting pot of cultures, religions, and languages. About 11 indigenous groups live in the Hill Tracts. These are Chakma, the largest of them all, Marma, Tripura, Tanchangya, Chak (Sak), Pankho, Mru (Mro), Bawm, Lushai, Khyang, and Khumi. These communities are popularly known as “Pahari” (residents of the hills) or “Jumma” (people who do shifting agriculture). The CHT, with its rivers and reserve forest areas, occupies approximately one-tenth of the land area of Bangladesh. It is a source of biodiversity and a place of natural beauty. Prior to the threats of commercial plantations, the IP communities obtained their food for the whole year from the *jum* thanks to its abundant cultivable hills.

The mechanism for land grabbing in the CHT started in the 1960s through the establishment of the Kaptai dam in Rangamati for hydroelectricity generation. It inundated 54% of the arable lands and left more than 100,000 people homeless. The then parliamentarian Manobendra Larma founded a regional political party, the Parbatya Chattagram Jana Samhati Samity (PCJSS), in 1972 for the regional autonomy of the Adivasi hill people. The government retaliated by deploying a large army and bringing in thousands of Bengali families from the plains. The settler Bengalis forcibly and illegally occupied the land of the Adivasi hill people. From 1979 to 1984 the government brought in more than 600,000

Condensed from *Commercial Plantations heighten threats to Indigenous Communities: Land Grabbing in the Chittagong Hill Tracts of Bangladesh* by the Association for Land Reform and Development (ALRD). For more details of the case, contact: [alrd@agni.com](mailto:alrd@agni.com).



Bengalis from the districts of the plains to settle in the CHT.

The PCJSS insurgency continued for the next two decades. Throughout that time, there were repeated accusations against the government and the armed forces of human rights violations that included massacres, mass tortures, sexual abuse/violence, and religious intolerance. Internal displacement reached as high as 70% of the total indigenous population, and massive environmental destruction and refugee problems ensued, with 60,000 indigenous refugees taking shelter in the neighboring state of Tripura, India.

In 1997, the CHT Peace Accord was signed between accredited representatives of the Government of Bangladesh and the PCJSS to put an end to the insurgency. It specified procedures for the surrender of the members of the rebel IP organization, the PCJSS, and its armed wing, the Shanti Bahini (SB), along with the decommissioning of their arms. The agreement included provisions for repatriation of the IP refugees in India, as well as rehabilitation of the internally displaced Paharis (Adnan and Dastidar, 2011). However, the Peace Accord has not put an end to land grabbing in the CHT.

### **Land grabbing mechanism**

Over time, various State agencies have taken over lands in the CHT through formal acquisition procedures mediated by the offices of the Deputy Commissioners (DC). Among these agencies, the Forest Department is by far the largest land grabber, followed by the security forces. An eminent researcher Dr. Shapan Adnan, in his study, “The CHT (Land Acquisition) Regulation, 1958,” describes the acquisition process specific to the region as “a draconian law which empowers the DC to use force to acquire the designated lands,

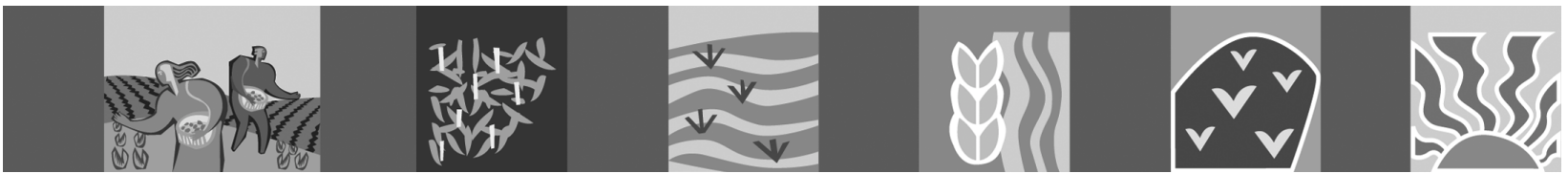
without even having to give any prior notice to the concerned landowner”. There is no provision for any appeal against land acquisition under this law. Since 1958, it has been used by the State to acquire Pahari lands for installation of security forces and government departments (Adnan & Dastidar, 2011).

Furthermore, afforestation projects funded by foreign donors or sponsored by international financial institutions and implemented by the Forest Department for monoculture plantations have had unfavorable impacts on the traditional land rights of the IPs. Existing policies, such as the National Forestry Policy of 1979 and the Forestry Master Plan of 1994, as well as donor-funded projects promoted industrial forestry by expanding rubber and timber plantations in the CHT. The research of Dr. Adnan revealed that, since 1989, land acquisition for commercial purposes (i.e., rubber plantation, tobacco plantation, timber plantation) by the Forest Department in the CHT has amounted to 218,000 acres, at the cost of evicting IPs from their land.

### **Land grabbing by commercial interest groups**

A major emerging trend in the CHT is land grabbing by commercial interest groups led by politically influential Bengalis. Some powerful commercial agencies have been seizing lands in order to resell these to private corporations, real estate dealers, etc. Significantly, these commercial grabbers not only seize the IPs’ lands but also take over those of the settler Bengalis by producing false documents of purchase.

These grabbers do not bother obtaining titles and lease documents, but use sheer force backed by their social and political connections, to prevent the police and administration from intervening.



***“A major emerging trend in the CHT is land grabbing by commercial interest groups led by politically influential Bengalis. Some powerful commercial agencies have been seizing lands in order to resell these to private corporations, real estate dealers, etc.”***

They hire armed gangs to provide cover to hundreds of workers who are deployed to clear the grabbed lands, cut down trees and vegetation, and start new plantations. They also use a variety of other mechanisms, such as bribery to co-opt officials and induce village headmen to sign the necessary papers. These mechanisms are often used in a definite sequence, as part of a multi-pronged and integrated strategy of land grabbing. In some cases, the affected Paharis have attempted to resist such forcible occupation of their lands. However, they have often been unable to hold out in the face of violence and intimidation by the land grabbers, given the lack of protection from the local administration, police, and political leadership (Adnan & Dastidar, 2011).

### **Rubber plantations**

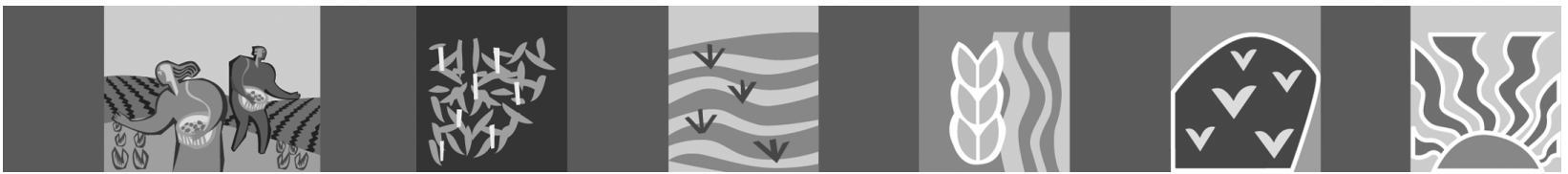
The Association for Land Reform and Development’s (ALRD’s) partner human rights organization, Kapaeeng Foundation, in its report on Chak eviction in the Bandarban, identified various companies and outsider Bengali businessmen who are involved in rubber plantations on large tracts of land. The Foundation reported that more than 11 business companies have occupied thousands of acres of lands

recorded and owned by permanent residents of CHT, including the indigenous Jumma people. These companies include Destiny Group, Mostafa Group, Laden Group, Shahamin Group, S Alam Group, PHP Group, Meridian Group, Exim Group, Babul Group and Agme Group. They claim lands simply by hanging a signboard and threatening the indigenous villagers and permanent Bengali residents to leave the area. In some cases, hired miscreants of land grabbers would attack the villagers. All these, while the local administration plays a passive role, encouraging the outsiders to occupy more land freely (Kapaeeng Foundation, nd).

Rubber plantations in the CHT pose a threat to the forest-dwelling indigenous communities. They have serious impacts on food security of the indigenous peoples and the environment. Cultivable land in the hills that was originally used for food production is now occupied by outsiders, in most cases, for production of cash crops and industrial products.

The Asian Development Bank (ADB) provided Tk 52.5 million in phases from 1979 to 1995 while the government allocated Tk 13.5 million after the signing of the CHT peace accord (The Daily Star, 2009) for the development of rubber plantations and horticulture.

The Khagrachhari rubber plantation, funded by the ADB under the Upland Settlement Project in 1980, involved 2,000 indigenous households during its first phase. Each household was given four acres of land for rubber, two acres for horticulture, and 0.25 acres for homestead. In the second phase starting in 1993, 4,000 acres of land were allocated to 1,000 families (four acres to each) for rubber cultivation. During this phase, each family received 1.25 acres for horticulture and homestead. So far, 500 families have received



settlement for horticulture and homesteads (2.25 acres each), but no household has yet received settlement for the rubber plots.

In the Bandarban district, 42,425 acres of land—much of which were previously communally shared by the indigenous communities and used for food production—have been allocated to 1,635 non-local individuals, proprietors, and companies for rubber and horticulture in Lama, Naikhongchhari, Bandarban Sadar, and Alikadam upazila. In Bandarban Hill District, a rubber plantation is still expanding on what used to be forest and land used by indigenous peoples (Gain, 2011).

### **Right to Information Act, 2009**

The Government of Bangladesh enacted the Right to Information Act of 2009 (RTI Act) to ensure government transparency and accountability. The RTI Act compels public, autonomous, and statutory organizations and other private organizations constituted or run by the government to disclose hitherto undisclosed information of public interest. The adoption of the RTI Act has been hailed as the most revolutionary law passed by the Bangladesh Parliament. The 2012 report of the Information Commission of Bangladesh stated that 135 disputes were settled through the intervention of the Information Commission from 2010 to 2012. The highest percentage (19%) of disputes were land related (Information Commission, 2013).

As a whole, however, there are still hindrances to the release of certain types of information not considered mandatory under the RTI Act. Clause 4 Section 7 describes one category of information in which the authority is not bound to provide information related to commercial or business confidence, copyright or intellectual property right, the disclosure of which would harm the

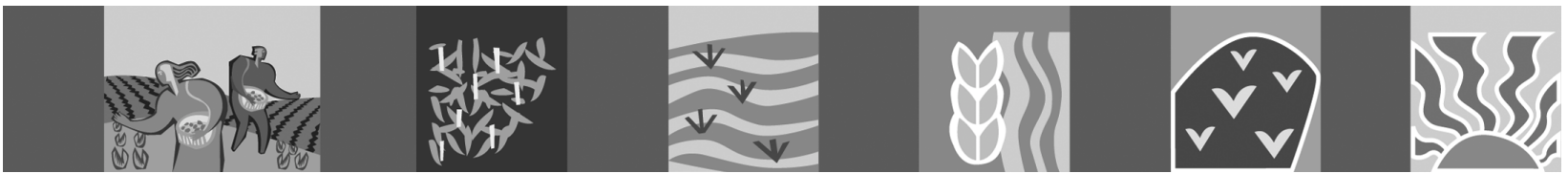
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intellectual property rights of any third party. Consequently the IPs and the activists are not able to access information about the accurate size of lands used for commercial plantations from private commercial agencies that are involved and/or have occupied lands unlawfully.

### **CHT Land Commission**

The establishment of an independent land commission to resolve conflicts over land and natural resources was one of the major components of the CHT peace accord. Hence, the then Awami League enacted the Land Commission Act of 2001. But this was done without consulting the Chittagong Hill Tracts Regional Council which critically differed from the relevant provisions specified in the CHT Accord. The IPs largely opposed the Chairman and the role of the Commission, thus no collaboration took place between the parties.

To address this, the Regional Council proposed a 13-point proposal to amend the CHT Land



Dispute Resolution Commission Act of 2001. They sought to ensure that the points approved by the CHT Peace Accord Implementation Committee and adopted by the inter-ministerial committee would be fully and accurately included in the bill. Simultaneously, the Chittagong Hill Tracts Commission (CHTC) sent a letter to Prime Minister Sheikh Hasina, proposing the amendment of the CHT Land Dispute Resolution Commission Act of 2001, which was intended to safeguard the CHT indigenous peoples' land, particularly in the smallest vulnerable communities like Chak in Bandarban.

### Case documentation: Eviction of Chak families in Naikhyongchari

On March 15, 2013, influential land grabbers, with the support of political figures, successfully evicted 21 families of the indigenous Chak community from their ancestral homes in Badurjhiri Chak Para of Alikkhying Mouza under the Baishari union of the Naikhyongchari Upazila in the Bandarban district. Around 100 individuals lost their homes, along with 582 acres of homestead and arable land. The evicted IPs were mostly *jum* cultivators (traditional shifting cultivators), who

were left with hardly any livelihood support. More than five villages are still under threat of eviction. Meanwhile, establishment of the rubber plantation on the 400 acres of Chak land has begun.

This type of land grabbing has been going on in the area in the last four years. The Chaks, also known as Sak or Thek, are facing severe threats from armed muggers who have been hired by land grabbers to raid the community's houses at night and steal their cattle. Many have fled their villages and become refugees, taking shelter at Baishari Upar Chak Para and Baishari Headman Para under the Baishari union.

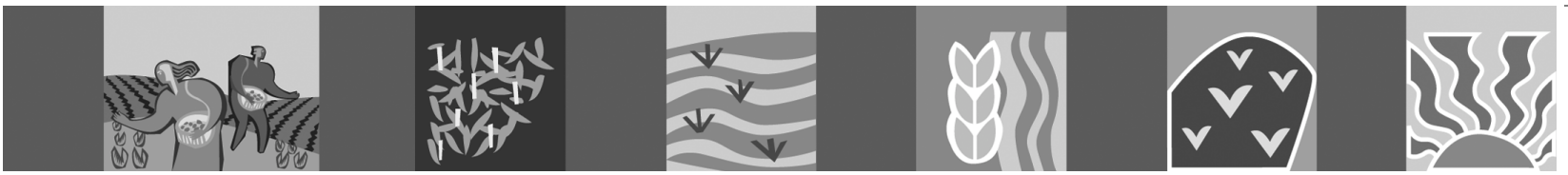
About five years ago, the indigenous villagers of Longadu Chak Para under Baishari union also fled their village following unbearable harassment from Bengali land grabbers. Another 13 poor indigenous Mro families from Amtali Para village of Fasiakhali union under Lama Upazila in Bandarban district were also forced to evacuate their village in 2012 for the same reason.

In this context, ALRD's network partner Kapaeeng Foundation conducted a fact-finding investigation in the two *upazilas*. The investigating team was composed of human rights defenders, indigenous rights activists, media activists, and development workers led by human rights defender Pankaj Bahttacharya. They visited and had discussions with the community, the local leaders, the accused land grabbers, and the police. Moreover, they met with the Chairman of the Hill District Council, the District Commissioner of Bandarban, the Bohmang circle chief, and the Chakma circle chief in Bandarban.

After their visits, the Kapaeeng Foundation with ALRD called for a press conference on 19 June 2013 to demand for the protection of the



Victims of eviction from the Chak community  
Photo by ALRD



**Kapaeeng Foundation's investigation team**  
Photo by Kapaeeng Foundation

indigenous Chak and Mro villagers, and the arrest of the accused land grabbers. The team recommended the following:

- ❑ Indigenous peoples have been facing forced evictions regularly in CHT, but the perpetrators are protected by local administrations. Indigenous peoples must be allowed to live in freedom. Their land rights must be protected by State laws and regulations.
- ❑ The accused land grabbers should be brought under jurisdiction process to give justice to the victims of the Chak community.
- ❑ Land must be returned to the indigenous peoples, and displaced families should be rehabilitated to their own place soon.
- ❑ Leasing to business companies without public consent is a non-democratic practice in a democratic country. Land leased out illegally should be cancelled.

- ❑ At least five acres of land should be allocated for each evicted family, which could be merely handed over internally.
- ❑ Contradictory provisions in the CHT Land Dispute Resolution Commission Act of 2001 should be amended as demanded by the CHT Accord Implementation Committee. ■

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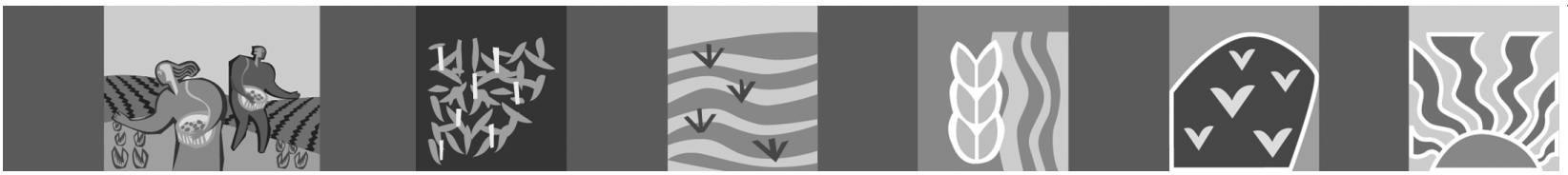
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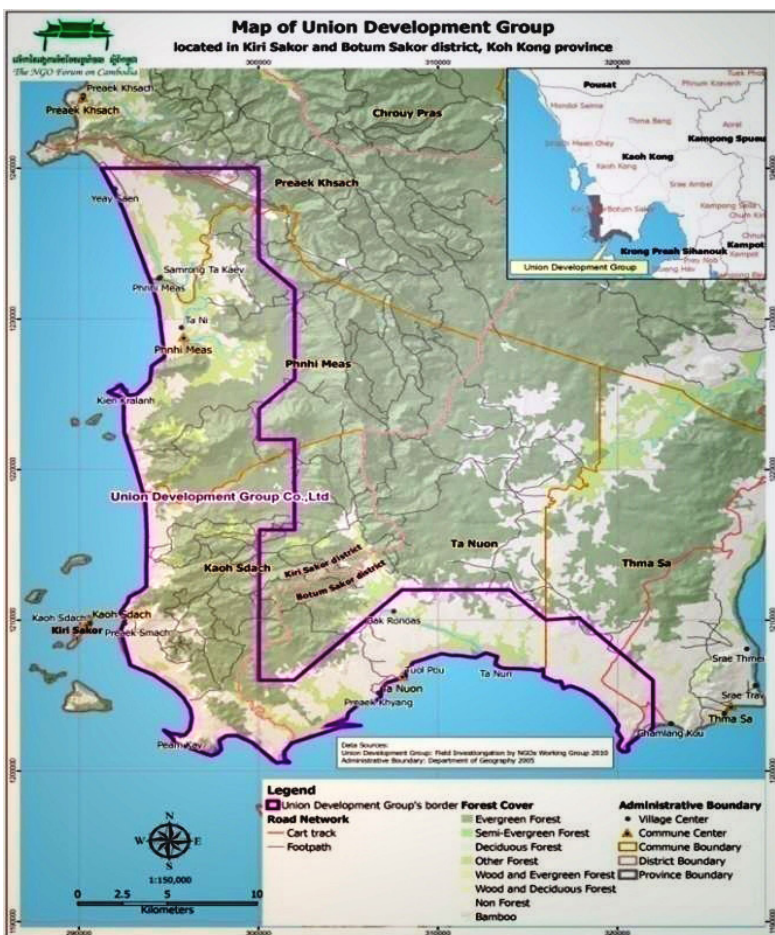
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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# Economic land concession as a means for land grabbing in Cambodia



Map of the Union Development Group in Cambodia  
Map by the NGO Forum

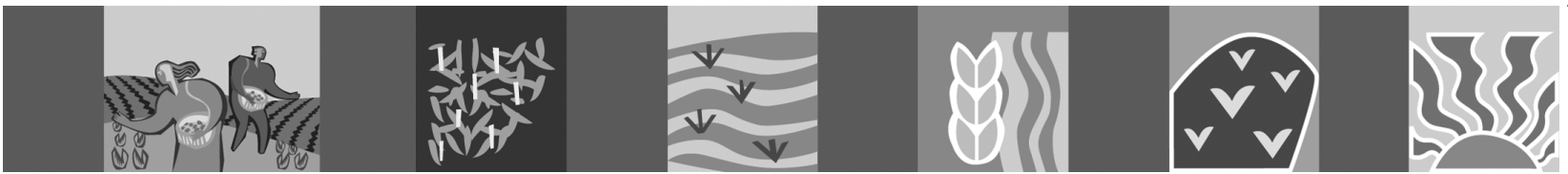
Condensed from *Resettlement by Land Concession in Butom Sakor and Kiri Sakor District, Koh Kong Province* by Nhek Sarin of STAR Kampuchea. For more details of the case, contact: [star-director@starkampuchea.org.kh](mailto:star-director@starkampuchea.org.kh).

In Cambodia, growing interest from foreign investors in agro-industrial crops like rubber, cassava, sugarcane, and maize has raised concerns about the potential effects of such investments on community livelihoods, the environment, and national food security. Since agriculture is one of the main drivers of economic growth, rules and regulations, bureaucratic procedures, and costs of doing business have been enhanced to promote the sector and make it more competitive (CDRI, 2012).

The investment of the Union Development Group, Co. Ltd (UDG) is an example of such foreign investment. The company received an Economic Land Concession (ELC) from the Royal Government of Cambodia (RGC) to build an international trade and tourism center in Botum Sakor and Kiri Sakor of Koh Kong Province. The concession covers 36,000 hectares (ha) of white sand beach stretching about 70 km, as well as 23 small and large islands to be developed into a tourism resort equipped with big sea ports, an international airport, a casino, business centers, guesthouses, and hydropower (RGC, 2012).

RGC expects the investment, worth over USD 3 billion, to benefit thousands of families who live in this area through increased incomes from tourism activities and jobs. These families have ownership certificates for their residential and agricultural land, which they inherited from their





ancestors and have occupied peacefully since 1989. They are totally dependent on agriculture and fishing. When the UDG came in, they were forced to resettle to a new area, with no infrastructure, electricity, clean water, schools, nor a health center.

### Protests

The UDG project raised many issues. A major one is transparency. The affected families were not consulted nor informed about the development plans and compensation policies. According to research done by the NGO Forum of Cambodia and the Cambodian Human Rights Action Committee (CHRAC), the farmers and local communities were not invited for consultation on the ELC before the project started. They came to know about it only when the company moved in and forced them to resettle and accept the compensation offered, which they found to be low and unreasonable.

Information and documents regarding development plans, the compensation budget, the action plan for relocation, location mapping, the lease contract, and any applicable sub-decree, Land Law, Forestry Law, Environment



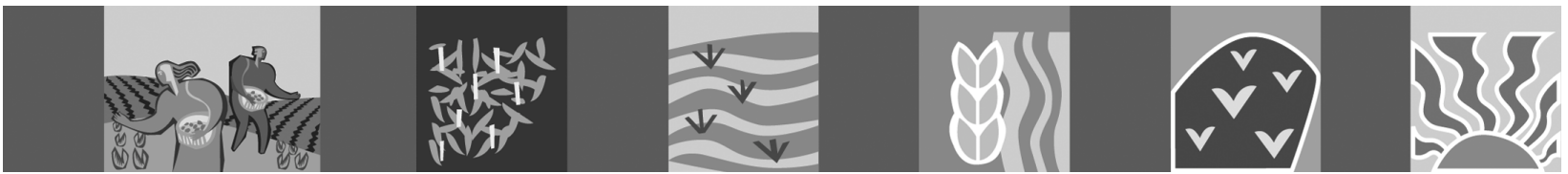
Map showing the masterplan of Krisakor Seaside Tourism in Koh Kong Province  
Photo by the NGO Forum



Protesters appealed for Prime Minister Hun Sen to take action in the illegal resettlement  
Photo by the NGO Forum

Law, and so on (NGO Forum, 2013) were not accessible to the people. Instead, they obtained information and public documents from NGOs. Even though the government has its official website, the community does not have access to computers nor to an internet connection. This selective accessibility of information benefits only a minority and contributes to the proliferation of land-related conflicts, which, in turn, contribute to instability.

Consequently, in 2010, the affected residents demonstrated against their illegal resettlement.



***“...the farmers and local communities were not invited for consultation on the ELC before the project started. They came to know about it only when the company moved in and forced them to resettle and accept the compensation offered, which they found to be low and unreasonable.”***

About 200 families travelled to Phnom Penh to request the Prime Minister to intervene in the conflict and to negotiate for just compensation. The last demonstration was in December 2011 when the resettled protesters blocked Road no. 48 for eight hours to appeal to the government and UDG to offer two ha of land to each family who agreed to resettle (Titthara, 2011).

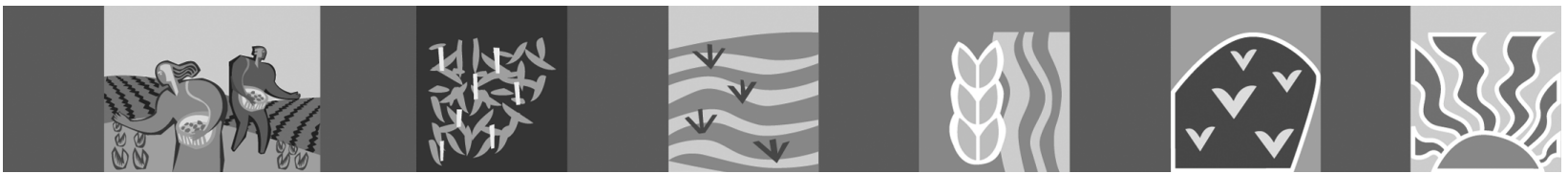
In February 2012, 100 families filed complaints against the resettlement and inappropriate compensation and insisted on remaining in their residential land in Koh Sdech Commune, Phnee Meas Commune, and Tmor Sar Commune. The government, instead of helping, consistently created obstacles to derail them. On February 28, 2012, with the intervention of NGOs in Phnom Penh, some community members were able to call for a press conference to air their grievances to the public.

As an attempt to resolve the conflict, the government established an Inter-Ministerial Commission (IMC) to review the project’s master plan and compensation policies to ensure that these adequately meet the needs of the affected

communities. When the IMC and their assigned Technical Working Group went to survey the project site in Koh Kong, they did so without informing the people. Their measurements of the farming lands were inaccurate. They took more photos of bushes and grass instead of crops to justify compensating the villagers less. As a result, only 15 families qualified for the highest compensation package (USD 8,000) when many more families actually met the condition.<sup>1</sup> In effect, the communities felt no improvement in their lot. The local authorities promised to provide land to the relocated villagers, but some of them have not yet received it, while the ones who did received pure jungle. They thus had to spend their own money to clear the forest. Moreover, 32 families who bought farm land totaling 129 ha were not compensated because, according to the company and the IMC, their lands lie outside the compensated area. In fact, they live in Koh Sdech commune, which is part of the compensated area (NGO Forum, 2013). The villagers who refused the compensation continue to protest and live in the area to protect their land. They are building a network to advocate for a common voice (LICADHO, 2013).

The UDG project also violated certain laws and policies. The 1993 Cambodian Constitution grants local communities the privilege to manage natural resources and the right to own lands, especially agricultural lands. However, the government revoked land ownership certifications issued after 1993 by issuing a sub-decree. When the UDG project started in 1998, the communities were promised by H.E Mok Moreth, Minister of Environment, that they would be protected by the Leopard Skin Policy, which allows communities

<sup>1</sup> The maximum compensation is \$8,000 per hectare for a family that was granted a land title before November 01, 1993; has occupied the land (residential or farm); and lives in or outside the vicinity.



**Affected residents from the UDG project demolition in January 2014**

Photo by the NGO Forum

to live side by side with the concessions, and be provided adequate compensation. In actuality, this was not so. The affected villagers were excluded from any decision-making and conflict-resolution measures. Yet, many land disputes are not brought before the courts because the community lacks the knowledge and resources. Worse, they do not trust the courts because they see them as corrupt institutions.

## Impacts

**On food security.** Eighty percent of the villagers depend on planting rice and crops, fishing, and collecting non-timber products and edibles. Because they have been deprived of their lands, they are becoming food insecure. The area to which they were resettled does not allow them to raise animals or keep livestock. Their fishing tools have been destroyed and the forest they now live in is experiencing massive illegal logging. Their debt is increasing from lack of income.

**On local culture.** The project has so far evicted 1,143 families, bulldozed about 1,500 houses, and transferred two schools and three Buddhist pagodas to the UDC's development area. Not only

did the villagers lose their means of income when they were relocated, they also lost their social connections. They have had to learn to adapt to a new way of life in a new location. The children have been separated from their friends and are staying home because there is no school and no teachers in the relocation area. The villagers have lost their trust in the authorities.

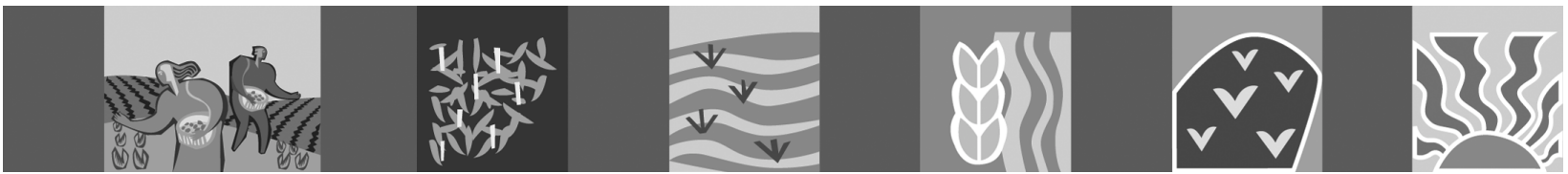
**On the environment.** Forests within and around the ELC area are being illegally logged and deforested. This practice is destroying the ecosystem, harming flora and fauna which are important sources of income for the local communities.

## Recommendations

The study presents the following recommendations around which civil society can formulate proposals to strengthen national policies on investments in agriculture. The focus will be on policies that consider national food security and protect the rights of small-scale food producers and local communities.

### *On strengthening land governance*

- ❑ Ensure that all new ELCs granted fully comply with the provisions of the Land Law and the Sub-decree on Economic Land Concessions, which sets a limit of not more than 10,000 ha. In particular, ensure that public consultations and genuine environmental and social impact assessments are conducted prior to the granting of concessions, with the effective participation of local populations.
- ❑ Review all existing ELCs for compliance with the Land Law and the Sub-decree on Economic Land Concessions and concession contracts, specifically:



***“...the communities were promised by H.E Mok Moreth, Minister of Environment, that they would be protected by the Leopard Skin Policy, which allows communities to live side by side with the concessions, and be provided adequate compensation. In actuality, this was not so.”***

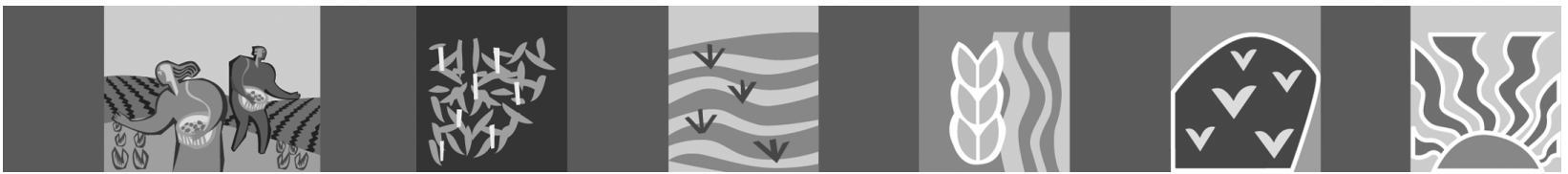
- A. Ensure that ELCs do not encroach upon land possessed and used by communities, including forested areas; and the economic land concessions
  - B. Cancel illegal ELCs that do not comply with the provisions of the Land Law and Sub-decree on Economic Land Concessions, and concession contracts.
  - C. Reduce all ELCs that exceed the 10,000 ha limit.
- ❑ Ensure compliance with the Forestry Law and forestry regulations. In particular, ensure that ELCs are not granted in forested areas or former forest concessions, and protect the traditional user rights of communities.
  - ❑ Ensure that all information on economic land concessions granted and proposals under consideration are publicly available. Information should also include concessions not exceeding 1,000 ha, location, size, use and status of concessions, and compliance with the requirements of the Sub-Decree on Economic Land Concessions. This information should be made available at local levels

and to civil society, beneficiaries, and other stakeholders.

- ❑ “Establish a mechanism enabling communities or their representatives to initiate actions to challenge the validity of ELCs and call for their review or cancellation; and assist families in rural communities to register their interests in land in accordance with the Land Law” (OHCHR Cambodia, 2007).
- ❑ Build the capacity and voice of the landless families in gaining access to land and livelihood support for the poor working in ELCs. The focus here is on the NGOs’ complementary role in facilitating and empowering rural community organizations and the government’s role as infrastructure developer as well as provider of livelihood support.
- ❑ Ensure that the concessionaires are strictly monitored, both by the public and by civil society, with regard to environmental damage. Monitoring and evaluation of concessionaires ought to be strengthened with regulations and policies by the relevant national government agencies and by international bodies.

#### ***On ensuring food security***

- ❑ Ensure that ELCs are beneficial not only to the investors but also the communities through food security and livelihood protection measures. The interventions should include facilitation of loans for the purchase of agricultural equipment (as smallholder farmers often lack financial resources to make such investments), as well as access to internal markets with infrastructural developments to improve community-driven productivity and locally-owned products.



- ❑ Ensure that the resettled people have access to land for their rice and crops, where they can also raise animals, keep livestock, do fishing, collect non-timber products and edibles, get jobs, and access credit and loans to secure access to their food.
- ❑ Ensure that the system of agriculture in the resettlement area is sustainable. Much of modern agriculture is mechanized, using oil-based chemical fertilizers, pesticides, and herbicides. A more sustainable approach, which can be just as agriculturally productive, is needed. These sustainable initiatives can then be promoted and supported by providing financial prizes and knowledge sharing for community-driven efforts that reduce poverty through sustainable use of biodiversity. As many smallholder farmers are already engaged in de facto sustainable agriculture practices, all they need is encouragement and support.

### ***On facilitating innovative production arrangements***

- ❑ Ensure smallholder farmers' access to and use of irrigation techniques. With this support, they will be able to increase their productivity as well as have year-round water availability. ■

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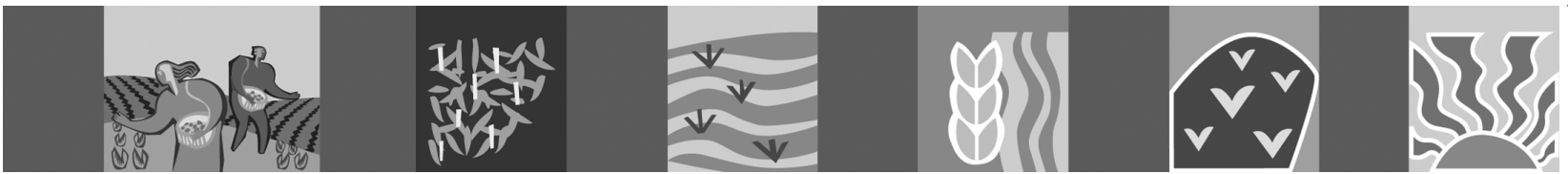
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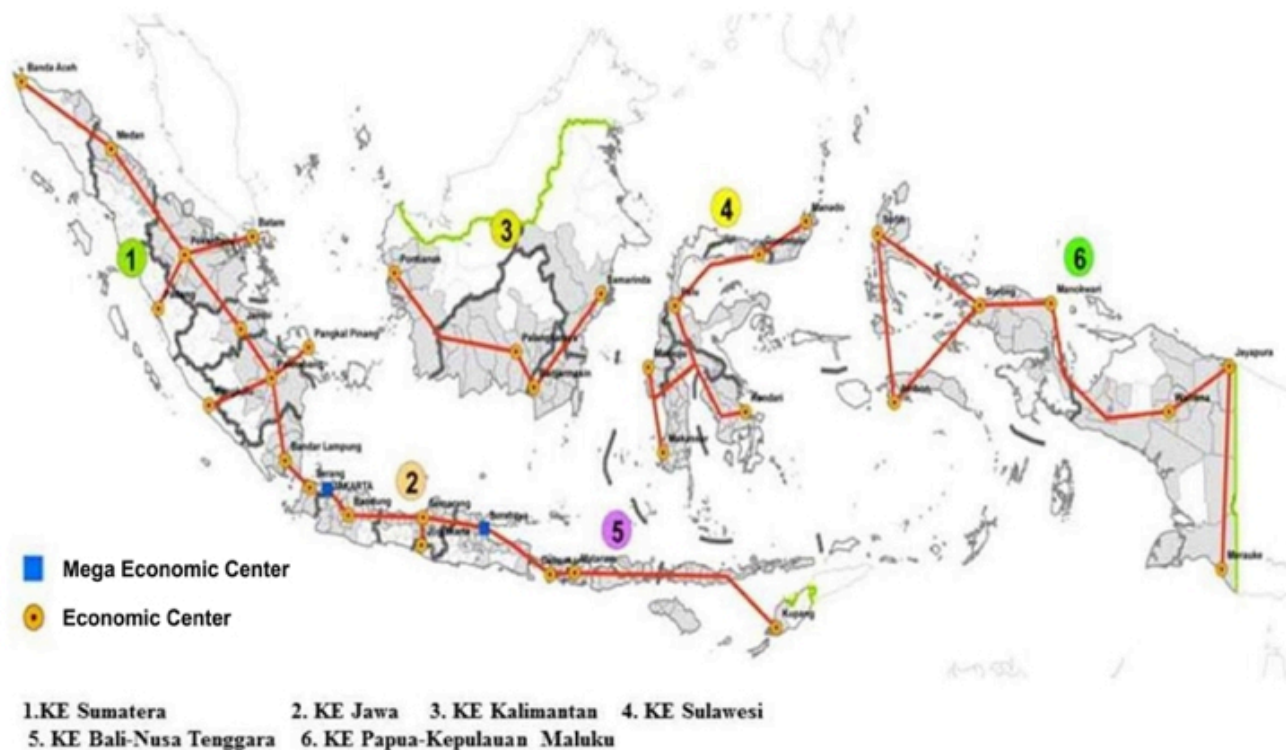
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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# Indonesia's Economic Master Plan (MP3EI) and its impact on Sulawesi



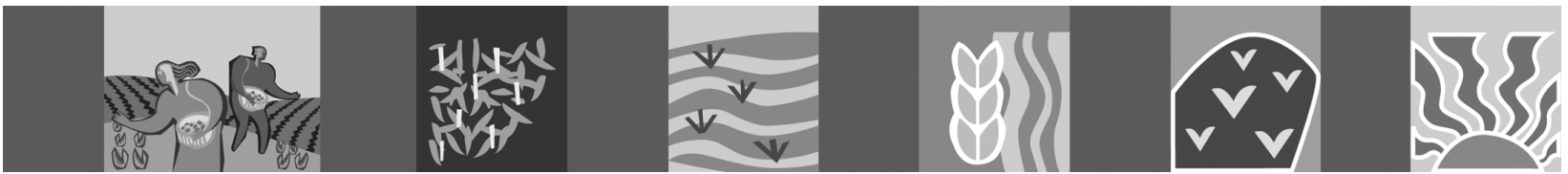
Map of Indonesian Economic Corridor

Source: Coordinating Ministry for Economic

The government of Indonesia advocates free trade as a means for attaining economic prosperity. Besides being actively involved in the World Trade Organization, Indonesia also joined the ASEAN Free Trade Area (AFTA) in 2002, CAFTA (China-ASEAN Free Trade Area) in 2004, and the ASEAN Japan Comprehensive Economic Partnership (AJCEP) in 2007.

Condensed from *Land Grabbing Monitoring in Central Sulawesi by Konsorsium Pembaruan Agraria*. For more details of the case, contact: [iwan\\_selamat@yahoo.com](mailto:iwan_selamat@yahoo.com) or [dewi@kpa.or.id](mailto:dewi@kpa.or.id).

The government subsequently designed an economic development concept to ensure the country's trade competitiveness. The concept, known as MP3EI, divides Indonesia into six



corridors of economic development, namely: 1) Sumatra Economic Corridor as Center of Natural Resource Production and Process and National Energy Storage, 2) Java Economic Corridor as Promoter of National Industry and Service, 3) Kalimantan Economic Corridor as Center of Mining Production and Process and National Energy Storage, 4) Sulawesi Economic Corridor as Center of National Agriculture, Plantation, Fishery, Oil & Gas and Mining Production and Process, 5) Bali – Nusa Tenggara Economic Corridor as Gate for Tourism and National Food Support, and 6) Papua – Molluca Islands Economic Corridor as Center of National Food, Energy and Mining Development.

Towards this end, the KP3EI (Coordinator for Indonesia's Economic Development Acceleration and Expansion) was formed to coordinate, evaluate, and solve various problems in the implementation of MP3EI. Presidential Regulation No.32/2011 was also stipulated as legal foundation, with the Republic of Indonesia President as Chairman and the Coordinating Minister for Economics as Executive Director.

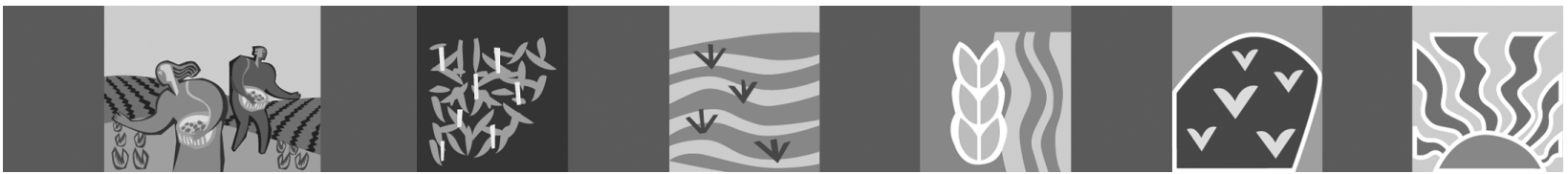
### MP3EI Sulawesi Economic Corridor

The Sulawesi Economic Corridor (KES) focuses on five main developments: agriculture, plantation, oil and gas, fishery, and mining. To make way for these developments, infrastructure and facilities, such as roads, irrigation, ports, electricity, water, and telecommunications, need to be in place. So the government has invited local and foreign investors. Data from the KES Working Team indicate that at least 28 areas have been identified as Investment Focused Areas (KPI). Out of these 28, 15 KPIs are classified as priority because of the large number of validated projects and investments involved, and their contribution to the national strategic project (Coordinating Ministry for Economic Affairs,

2013). The selection of these prioritized KPIs has increased the investment plan of MP3EI from 193 projects in the beginning to 286 projects with a total investment value of Rp352.939 billion as of March 2013 (Coordinating Ministry for Economic Affairs, 2013).

Based on Presidential Regulation No.32/2011 on MP3EI, the government issued 16 policies to support the implementation of MP3EI in Sulawesi, namely:

- ❑ Expanding cultivation areas through optimizing land use, opening of rice fields, rehabilitation and conservation of agricultural land;
- ❑ Securing food supply and production through development of sustainable food storage, farmer empowerment, and institutional capacity building (Gapoktan, Cooperative);
- ❑ Reducing potential post-harvest number and value loss through improvement of storage quality and development of an effective purchasing mechanism;
- ❑ Providing active support during crop rehabilitation and replanting, supplying supreme cloned cocoa seed, and controlling cocoa pest;
- ❑ Diversifying the processed export market (butter, powder, cake, etc.) to give added value in the cocoa value chain;
- ❑ Implementing Indonesian National Standard (SNI) and a certified cocoa seed utilization program to guarantee supply of internationally competitive cocoa seeds and processed materials of cocoa;
- ❑ Intensifying activity of seaweed processing;
- ❑ Developing fishery-based *minapolitan* to accelerate the development of fishery-based areas and aquaculture-based *minapolitan*;
- ❑ Developing a stricter control and monitoring system for fishing activities;



***“... MP3EI had caused land grabbing to spread in Sulawesi resulting in many agrarian conflicts... In 2013, Sulawesi experienced 31 land-related conflicts, 19 of which happened in Central Sulawesi.”***

- ❑ Making institutional improvements to attract investments in nickel mining to offset the current inefficiency in mining acquisition, contracting, and others;
- ❑ Revising regulations related to land and clarifying land use through zoning;
- ❑ Providing government support through incentives to investors of capital-intensive industries;
- ❑ Optimizing oil and gas production by intensifying local exploration and production activities in oil and gas;
- ❑ Providing a positive investment climate and revising some regulations and licensing on oil and gas;
- ❑ Improving the government’s synergy with relevant stakeholders; and
- ❑ Awarding incentives for the construction of domestic refineries.

To further support the MP3EI plan, the government and parliament issued Law No. 2 on Land Acquisition for Development of Public Facilities, recognizing that development has always been hampered by land problems.

## **Sulawesi Land Use**

Administratively, Sulawesi is divided into six provinces with a total land size of 18.85 million

hectares (BPS, 2013). As of 2011, the State forest area comprises 11.576 million ha or 61.40%, while the non-forest area covers 7.276 million ha or only 38.60% (Ministry of Forestry, 2011).

Mining in Sulawesi is an attractive area for investors. In 2012, the Mining Working Area (WKP) offshore was about 7.15 ha, while on land, it covered 9.36 million ha, or a total of 16.52 million ha. In comparison, non-mining areas were very small, totaling only 2.29 million ha. Central Sulawesi is the largest WKP holder with 4.16 million ha, while Gorontalo province holds the smallest WKP with 281,614.45 ha.<sup>1</sup>

Besides mining, agriculture is also a major land user. Sulawesi’s plantation products are palm oil, cocoa, cloves, coffee, nutmeg, tobacco, cashew, rubber, and cotton. These are also the same commodities that small farmers produce.

In 2006, the Right of Land Use issued in Sulawesi was as much as 270,847.42 ha (BPN, 2006). In 2011, this increased drastically to 2.28 million ha (Ministry of Agriculture, 2011). The province with the biggest Hak Guna Usaha (HGU)<sup>2</sup> in 2006 was South Sulawesi and, in 2011, North Sulawesi.

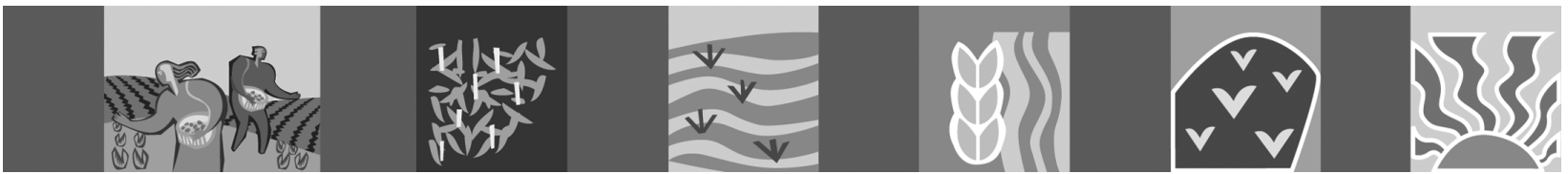
Although the mining sector covered the largest area (16.52 million ha) for both off-shore and on-land mining (7.15 million ha for off-shore and 9.36 million ha for on-land), the forestry sector still had the largest working area of 11.58 million ha considering the on-land area alone, followed by the mining sector at 9.36 million ha, and the agriculture sector at 2.28 million ha.

In reality, these three sectors (i.e., agriculture, mining, and forestry) covered overlapping areas. Thus, conflicts ensued not only between the

<sup>1</sup> Research of ARC, JKPP and KPA

<sup>2</sup> Concession to cultivate land





people and private investors or Badan Usaha Milik Negara (BUMN)<sup>3</sup> but also among investors because the size of the working area, based on the licenses granted, was 123.51% of the entire Sulawesi area.

### MP3EI and Land Grabbing in Central Sulawesi

With Central Sulawesi being a mining-rich region, Japan, South Korea, and China have been competing for the right to mine in the area. Japan refuses to lose to China which, today, cooperates with South Korea and Indonesia in handling oil and gas, and is poised to be the biggest stakeholder in the PT Donggi Senoro Liquid Natural Gas (DSLNG). In February 2011, Japan took on Kogas as its

billion to explore eastern Indonesia. According to Indonesia's Ministry of Industry, there are at least 10 State companies from China ready to develop various projects in Kalimantan and Sulawesi.

### Agrarian conflicts in Sulawesi

The Consortium for Agrarian Reform (KPA), in collaboration with the Agrarian Resources Centre (ARC) in Bandung and supported by ANGO, conducted qualitative research on how the MP3EI implementation in Sulawesi affects the land grabbing process in the island. Using data gathered from the media, existing literature, and the field, the study initially concluded that MP3EI had caused land grabbing to spread in Sulawesi resulting in many agrarian conflicts.

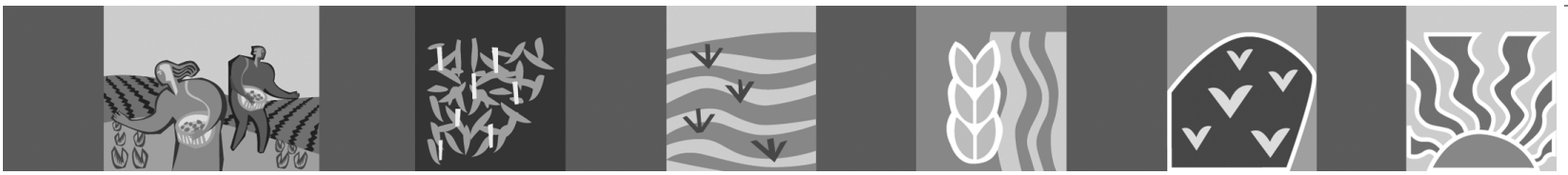
No	Provinces	No. of Conflicts	Hectares	Households	Violators			Victims				
					Thug	Company	Police	Dead	Shot	Arrested	Assaulted	
1	North Sulawesi	3	4,700.00	150								
2	South Sulawesi	5	8,502.49	3,540	1	1	2	1	2			
3	Central Sulawesi	12	39,330	5,796		1	4			41		
4	Southeast Sulawesi	5	2,021.00	50			1			2		
5	West Sulawesi	1	90.00									
6	Gorontalo	5	8,000.00	100				2				1
<b>Total</b>		<b>31</b>	<b>62,661.49</b>	<b>9,666</b>	<b>1</b>	<b>2</b>	<b>7</b>	<b>3</b>	<b>2</b>	<b>43</b>		<b>1</b>

partner in a Sharing Production Contract (SPC). Since then, the stakeholder structure in PT DSLNG has changed<sup>4</sup>. While Japan is more powerful in oil and gas in Sulawesi, China has started to invest in nickel. China is prepared to spend as much as \$20

<sup>3</sup> State-owned enterprises

<sup>4</sup> Stakeholders of PT DSLNG since February 2011 are PT Pertamina Hulu Energi 29%, PT Medco LNG Indonesia 11.1%, and Sulawesi LNG Development and Mitsubishi-Kogas 59.9% (OGJ Oil, January edition, 2011).

This preliminary conclusion was validated and completed by the team through primary data from focused group discussions with CSO activists, victims of land grabbing, and the academe in Palu, Central Sulawesi and Makassar, South Sulawesi. In 2013, Sulawesi experienced 31 land-related conflicts, 12 of which happened in Central Sulawesi. ■



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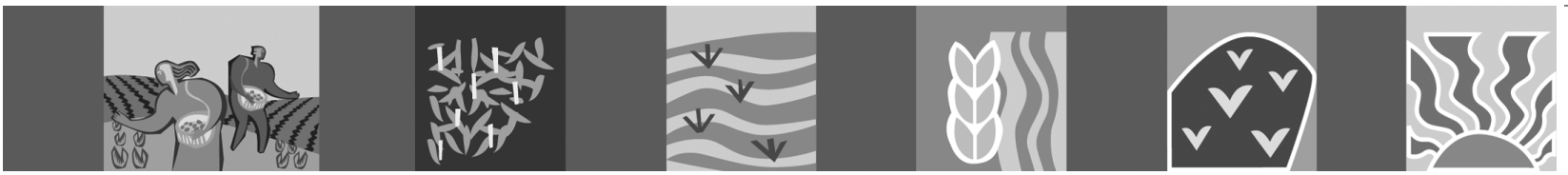
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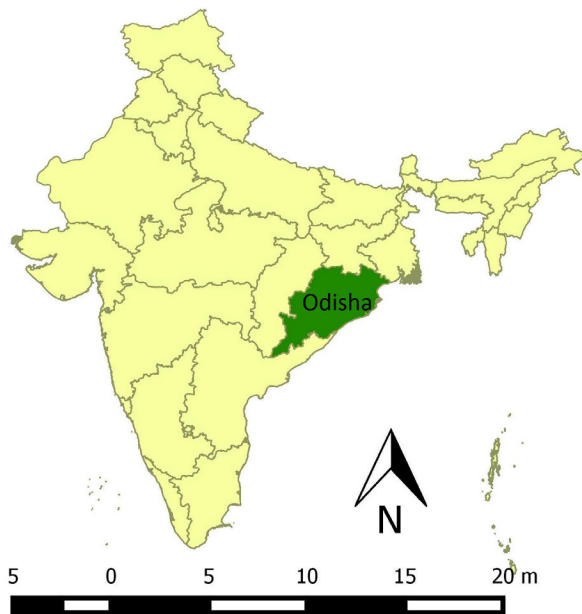
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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# The POSCO steel project and its impact in Odisha, India



**Map of India showing the state of Odisha**  
Geospatial data source: GADM

Odisha is one of the poorest but most resource-rich states in eastern India. Among the biggest challenges of the government there is overcoming poverty by utilizing the natural resources available in the State. Keeping this in view, the government has invited many national and multi-national companies to invest in the area.

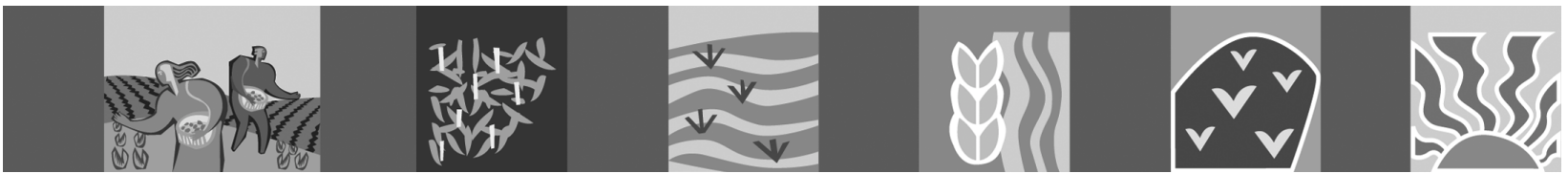
One of them is the South Korean multinational corporation Pohang Iron and Steel Company (POSCO) with whom the government of Odisha signed a Memorandum of Understanding (MoU) in 2005. POSCO, considered to be the world's fourth-largest steel company, plans to build a steel plant with a capacity of 12 million tons per year, along with a captive port and iron ore mines.

The project was originally estimated at \$12 billion (Rs520,000 million) but this was increased to \$ 12.6 billion to cover social services commitments.<sup>1</sup> It is touted to be India's largest ever Foreign Direct Investment (FDI) since its economy liberalized in 1991.

The contract is for a period of 30 years subject to renewal for another 20 years. It extends across two segments – the plant and port area in Jagatsinghpur district, and the mining areas covering the two districts of Keonjhar and Sundergarh.

<sup>1</sup> MoU between POSCO and the Odisha government

*Condensed from A Case Study of POSCO-India Integrated Steel Plant at Paradeep, Odisha, India by Association of Voluntary Agencies for Rural Development (AVARD). For more details of the case, contact: [avard@bol.net.in](mailto:avard@bol.net.in).*



A total of 125 villages, 9 in Jagatsinghpur, 32 in Keonjhar, and 84 in Sundergarh district, will be affected by the project.

### **Lack of transparency**

The government of Odisha claims that the project will “bring prosperity and well-being to its people.” After all, the company promises quite an elaborate rehabilitation package, which includes 10 decimals of land for each displaced family, a three-room house in the rehabilitation colony, modern civil amenities, a job for one nominated member of the family, assistance for self-employment and compensation to those who will lose their livelihoods, including labor workers and those cultivating government land without title.

However, there are reasonable grounds to question the tall claims for prosperity because of the lack of transparency in the details surrounding the investment. The negotiation process seemed obscure and transpired only between POSCO and the governments of Odisha and India. Except for being told the amount of the investment, the affected people were not consulted on the project. A month after the signing of the MoU in July 2005, several people’s groups, comprising residents in the affected area, raised salient concerns about the project, such as the guarantee of jobs for the community, the importance of betel vine cultivation which sustains a large population in the area, land ownership rights, and the poor track record of the State when it comes to rehabilitation, particularly proper compensation and relocation of displaced communities. Other groups describe the kind of development being promoted by the government as “anti-people.”

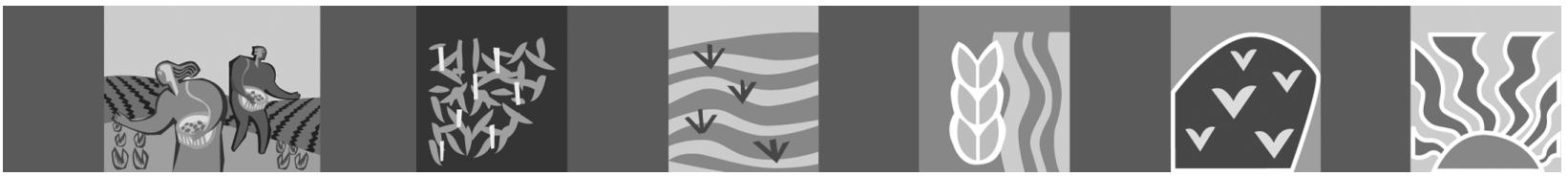
In 2007, one of the earliest actions by the POSCO Pratirodh Sangram Samiti, an anti-POSCO

***“It seems that the State is in the process of gifting the investor with natural resources worth billions of dollars under the old discredited excuse of attracting foreign capital, and not making any effort to obtain reasonable and market-related value for the area’s iron ore.”***

mobilization committee, was to blockade entry of any government or POSCO officials into the nine villages earmarked for the project. This continued until May 2010. As a response, the Odisha government deployed 12 platoons of paramilitary forces to create an ‘atmosphere of intimidation.’ In November 2007, police along with hired goons, attacked and critically injured protesters in Balitutha town; and again in May 2010 when 40 divisions of Odisha State Police opened fire on a peaceful protest, injuring more than 200 people.

In effect, the State engaged in acts that grossly violated civil liberties – arrests without charge, arson of local property, publicly humiliating defenseless villagers, etc. It also violated the Forest Rights Act (FRA) 2006, which became a law in 2008, by forcing the forest dwellers out of their lands.

The role of the Odisha government as promoter and facilitator of the POSCO project typifies the wide chasm between the constitutional mandate of the Indian State to guard the rights of its citizens, and the reality of its acting as an agent of the company. It seems that the State is



in the process of gifting the investor with natural resources worth billions of dollars under the old discredited excuse of attracting foreign capital, and not making any effort to obtain reasonable and market-related value for the area's iron ore.

The MoU stipulates that the Odisha government agrees to grant prospecting licenses and captive mining leases, free of any encumbrances, for 600 million tons of iron ore to the company after following and completing prescribed procedures – when, in fact, the amount of investment brought in by the investor is but a mere fraction of the real value of the mines and minerals being handed over to them at a token royalty.

The price of iron ore has shot up from Rs300 per ton to over Rs5000 per ton in the last four to five years. The State is duty bound to negotiate terms that maximize the benefits of the natural resources for its people.

## Risks

Franciscans International, Geneva, a voice of the United Nations, mentioned in an appeal to POSCO in 2011 some risks that the project poses. Among others, they cited that Jagatsinghpur is not a suitable site for the project since the region has been the epicenter of many intense cyclones that might compromise the safety of the operations and cause further pollution. No measures have also been proposed for containing the massive quantities of ash and sludge coming from the steel plant which will be dumped in an area with extremely high wind energies.

In addition, building a massive private port in the Jatadhar creek will destroy the rich marine life there. The area is known to be the nesting habitat of critically endangered Olive Ridley Turtles and Horse Shoe Crabs, as well as the spawning ground

***“... building a massive private port in the Jatadhar creek will destroy the rich marine life there. The area is known to be the nesting habitat of critically endangered Olive Ridley Turtles and Horse Shoe Crabs, as well as the spawning ground of fishes.”***

of fishes. The port will have a deep channel into the sea to make way for large commercial ships which can be an additional source of pollution.

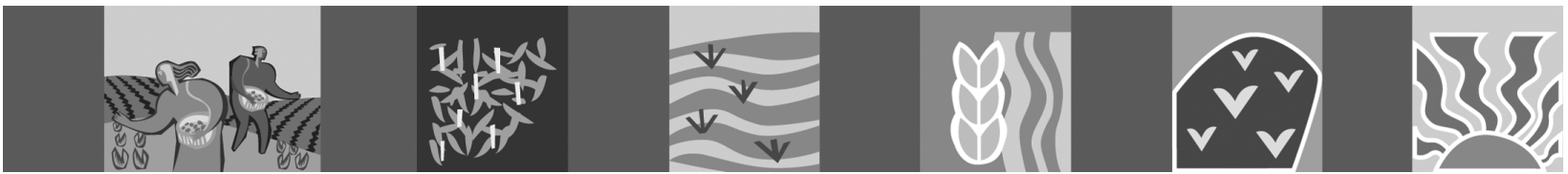
Franciscans International also cited violations against the rights to health, housing, land, and cultural identity of the indigenous peoples of Jagat Singhpur district.

To address these risks, Franciscans International recommended the setup of an independent and genuine inquiry committee to ascertain the legality of diverting 3,000 acres of government forest land, assess the project's impact on the environment, ensure that it abides by national and international laws, and investigate human rights violations.

## Impact on the community

The POSCO-India Steel Project will have a widespread impact on various sectors particularly on land tenure, livelihood, food security, and the environment.

**Land Tenure.** 90% of the total land (1,440 ha) acquired for the POSCO-India steel project is



***“... the Odisha government had neither any land use policy nor any prescribed scale for arriving at the actual requirement of land for different industries of different capacities.”***

contested government forest land. The POSCO project will adversely affect the community rights to land and forest of the residents of Jagatsinghpur, Keonjhar, and Sundergarh where the steel plant, port, and mines will be set up. The forest dwellers who cultivate forest land will be denied access to such land due to this project.

Under the Land Acquisition Act, the government is empowered to acquire land in case of urgency without allowing the land owners the opportunity to contest the acquisition or to be heard. However, the Comptroller and Auditor General (CAG) reprimanded the State government for not maintaining comprehensive and centralized data on acquisition and allotment of land.

The report observed that the Odisha government had neither any land use policy nor any prescribed scale for arriving at the actual requirement of land for different industries of different capacities. The provision for acquiring land for public purposes in the Land Acquisition Act was misinterpreted to benefit companies, and emergency provisions in the Act were misused.

**Livelihoods.** There is no official figure on how many people will be displaced in the plant and port sites, but the estimate is above 50,000. Similarly, the mines are expected to result in the displacement of 12 villages in Keonjhar

district and about the same number of villages in Sundargarh district. The loss of livelihoods in 32 villages of Keonjhar district and 84 villages in Sundargarh district will affect a population of 10,000 to 15,000.

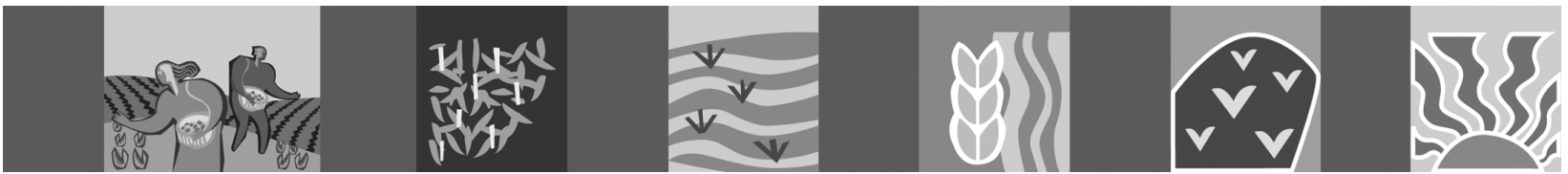
The 4,004 acres (1,620.36 ha) of land earmarked for the steel plant includes fertile agricultural land on which rice, betel nut, cashew, and other crops are grown, as well as coastal riverine zones where extensive prawn and fish farming is done. The economy of these villages is sustained in large part by betel vine cultivation that is specific to this area. It is a fairly prosperous and inclusive industry, providing employment to everyone, men as well as women, the young and the old alike. The estimated net income from a 5-decimal plot is about Rs192,000 (approximately \$3,150) per annum.

The farmers also grow cashew as a hedge plant, for which they get about Rs10,000 to Rs12,000 per year. Besides, they take land for rice cultivation on rent and produce enough for household consumption. They grow vegetables and collect fruits like squash, guava, mango, and jackfruit from the nearby forest. Thus, the cultivators are self-reliant and food secure in their own way.

On the other hand, the resettlement and rehabilitation package on offer in the steel plant is a onetime payment of Rs11,500 per decimal.<sup>2</sup> The total loss experienced by a betel vine farmer per decimal over a 30-year period would be in the range of Rs1.2 million. Thus the compensation package on offer is less than 1% of their cumulative earning potential.

Besides being cultivators, many others are engaged as labor. Their daily wage ranges from Rs200 to Rs250 plus two meals depending upon

<sup>2</sup> 100 decimal = 1 acre



the nature of work. Others earn their livelihood from trading, packaging, and transportation of the produce.

There is also a small but significant community of fishers in the area. Some of them have invested heavily in pisciculture, with such farms estimated to be around 2,500 involving 150 families. The net income from one pond is estimated at around Rs1 million per annum. In addition, about 20,000 to 25,000 small fishers operate in the Jatadhar and the Bay area – the area that would be lost to POSCO's captive port. They come from 30-35 surrounding *gram panchayats*.<sup>3</sup>

The employment potential of the project has also been grossly exaggerated by POSCO and the Odisha government. Scrutiny of the much touted 870,000 jobs for 30 years claimed by the National Council of Applied Economics Research (NCAER) study shows only 7,000 direct jobs and a maximum of 17,000 direct and indirect jobs in 5 to 10 years.

**Food Security:** The people living in the plant/port region have thriving agriculture (rice cultivation), betel vine farming, fishing, and other allied activities which make them food secure. Once these are taken over by POSCO, the people will be left with no option but to work as labor, which will degrade them socially and economically.

On the other hand, the mines earmarked for POSCO located in the Khandadhar region will affect residents who collect non-timber forest products (NTFP) for their livelihood. Besides, many types of food items for consumption are also obtained from the forests. These include 14 types of roots, 60 varieties of greens, 19 varieties of mushroom, and 52 types of nuts. Although it

<sup>3</sup> A local self-governing institution at the village or small town level

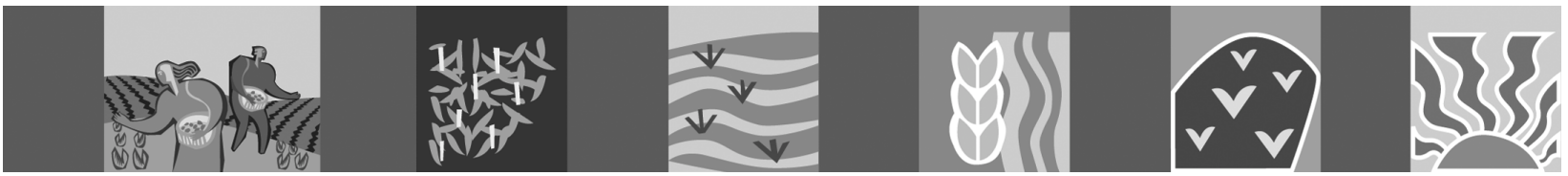
***“The employment potential of the project has also been grossly exaggerated by POSCO and the Odisha government. Scrutiny of the much touted 870,000 jobs for 30 years claimed by the NCAER study shows only 7,000 direct jobs and a maximum of 17,000 direct and indirect jobs in 5 to 10 years.”***

is difficult to value such products in monetary terms, the communities make a happy living from the locally available resources.

Another important concern that may undermine and jeopardize the local traditional food security systems is the availability of quality water. According to POSCO's estimate, the project will require 7,000 *crore*<sup>4</sup> liters of water annually, which will come from the Jobra Barrage fed by the upstream Hirakund Dam. This dam is primarily meant for irrigation. Thus, its use by POSCO will lead to a water crisis downstream in the rural areas including Jagatsingpur. This will adversely affect food production, along with waterlogging and water salinity from dredging for the construction of the port.

**Environment.** The POSCO project will negatively affect not only the physical environment, but much more. It has failed to recognize the integral relationship that the people have with the environment as a whole. The Indian State, by favoring the POSCO project, has denied

<sup>4</sup> 1 *crore* = 10 million



the people of Jagatsinghpur and the Keonjhar-Sundargarh area their rights over the land, forests, and water – a significant component of their composite right to live.

The main issue of concern is the pollution of bodies of water from the release of industrial effluents, and from the proposed mining of iron ore in the districts of Keonjhar and Sundergarh in Khandadhar region. The Khandadhar mountain range is the source of the Baitarani and Brahmani rivers which flow through this area. The Centre for Science and Environment (CSE), in its State of India's Environment report, claims that watersheds and rivers in Orissa are "under threat" because of the impact of mining and industry. In fact, it lists the Brahmani River in Orissa as one of the ten worst polluted rivers of India (2008).

The construction of POSCO's captive port will be accompanied by the construction of a steel plant, a power plant, two townships, railway lines, highways, an 86-km-long water pipeline, among others, all in the same vicinity – and all threatening cumulative negative impacts on the local environment. Activities such as dredging, construction work, landfills, discharges from ship and waterfront industries, cargo operations, etc. will have potential adverse effects including water pollution, contamination of bottom sediments, loss of bottom habitat, current pattern changes, waste disposal, oil leakage and spillage, hazardous material emissions, air pollution, noise, vibration, light and visual pollution (Rodriguez and Sridhar, 2010).

The POSCO plant will divert 1,253.26 ha of forest land for non-forest use, fell about 280,000 trees, and violate the rights of forest dwellers as enshrined in the FRA. The forests in the Sundergarh area also have medicinal plants such as bhui nimbali (*Andrographis paniculata*), patal

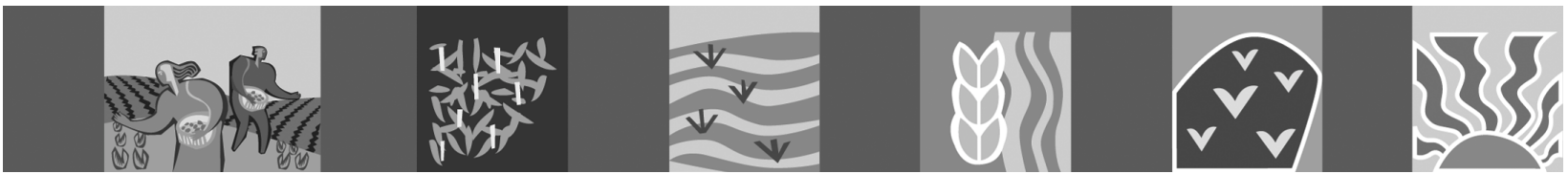
garuda (*Rauvolfia serpentina*), and wild tulsi (*Occimum canum*) which will be put at risk by mining activities.

The estuaries of the rivers Devi and Jatadhar and the coastal areas of this region are extremely productive and yield a comfortable livelihood for the local farming and fishing communities. The blocking of Jatadhar River would impoverish the ecosystem of the estuary, and, in turn, affect the fishing economy. The construction of the port will ravage sand dunes almost 6 meters high which are the breeding, spawning, and foraging grounds of several fish species, including the endangered Olive Ridley marine turtles and other marine mammals such as dolphins. Similarly, the Khandadhar forest is the habitat of a wide range of wild animals such as tigers, leopards, sloth bears, elephants, gaur, and rare reptiles like the double-nosed snake. The mining and consequent destruction of forests and water bodies will not only impact the natural habitat of the animals and marine life, it will also impact their relationship with the people living around them and the ecosystem as a whole.

Pollution of the water and air will lead to waterborne and airborne diseases, while blasting in the mines close to the habitat will affect the people and domestic animals living in the area by choking up their respiratory systems. Diseases like tuberculosis and malaria are already very common in the area, and will be made worse by red water and black dust in the mining area spread over 6,204 ha (Das & Pratap, 2008). It will also affect the environment of adjoining areas, as the fly ash emerging out of coal burning will badly affect agriculture and forest cover.

Unfortunately, all three crucial stages of the approval process, through which the public exercises its rights to consultation and informed





consent, were compromised in various ways. Such a huge project as POSCO's strains the less than coherent institutional framework for protection of public interest and provides particular insights into the weaknesses and internal contradictions of India's democratic processes.

## Recommendations

A number of remedial measures are required to address violations of existing laws.

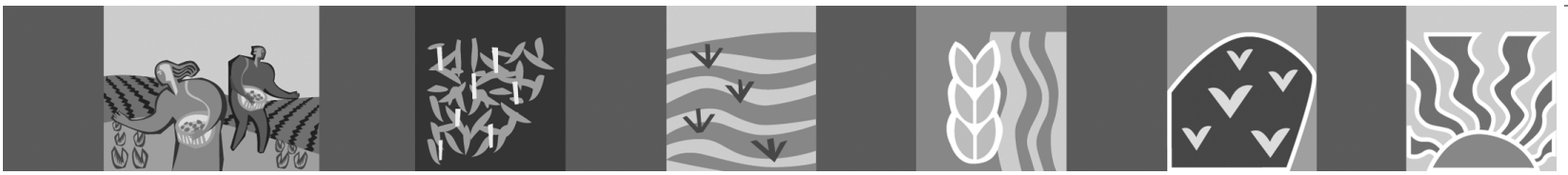
**Community.** Many community members contend that the proceedings of the public hearing omitted testimonies against the project or took them out of context to make them appear in favor of the investment. POSCO also falsified its field report by claiming that their surveyors went from house to house in 63 affected villages. The Executive Summary of the report was not made available to the people in the affected area despite the law requiring that it be openly circulated before the public hearing. Nevertheless, the affected communities are left with no other option but to find an amicable solution where compromises can be made for the larger national interest, but to a reasonable limit.

**Government.** A democratically-elected government should behave in a responsible and transparent manner. It should be responsive to the people's demands and on no occasion should it use armed forces to terrorize them. Rather it should mediate an amicable agreement between the people and POSCO, and ensure that the compensation packages being offered are commensurate with what the community is sacrificing from giving up their lands and livelihood. Moreover, the assessment of the environmental impacts of the project may be handed over to a neutral third party for the satisfaction of both sides.

**POSCO.** The company should comply with existing laws and refrain from unfair practices as has been alleged. POSCO needs the support of the community to resolve disputes that hamper the implementation of the project. Therefore, it should find ways and means of promoting mutual confidence-building measures, such as offering judicious and fair rehabilitation packages, and, for transparency's sake, making available all public documents relating to the project. ■

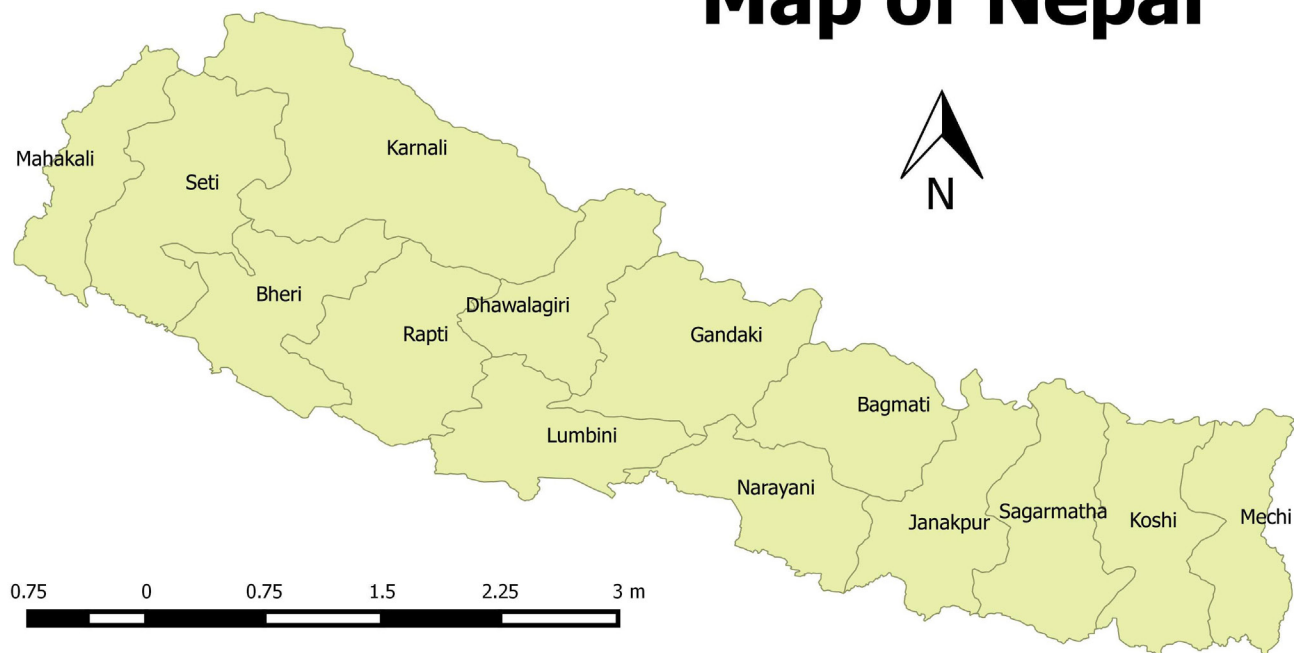
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- For the complete list of references, please contact the author of this case as indicated at the beginning of the article.**



# Faces of land grabbers in Nepal

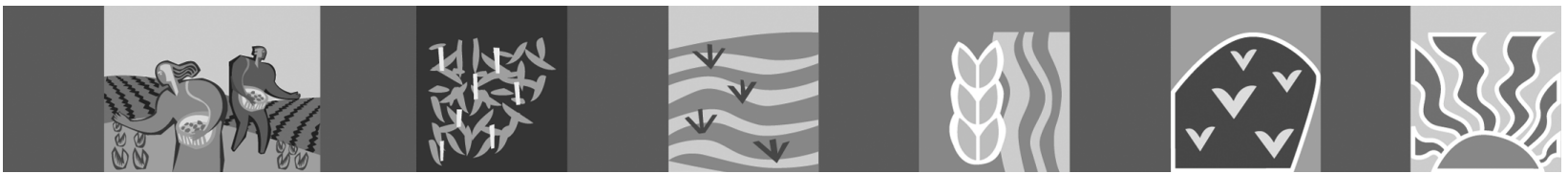
## Map of Nepal



**Map of Nepal**  
Geospatial data source: GADM

Compared with other countries, foreign land investments in Nepal are not yet as prominent. However, this does not presuppose that the forcible seizing of lands does not exist in the country. In Nepal, land grabbing takes on various guises and is carried out by many different players. Regardless of the forms and means in which it is carried out, its rulings are typically against tillers' rights and the food security of the family and the community. Moreover, 'structural land grabbing' that systematically prevents Nepalese women's ownership and rights over land is a serious violation of women's economic rights.

Condensed from *Forms and Patterns of Land Grabbing in Nepal* by Community Self-Reliance Centre (CSRC). For more details of the case, contact: jagatb@csrcnepal.org.



## Early forms of land grabbing

Prior to 1951, the State granted certain individuals, such as priests, religious teachers, soldiers, and members of the nobility and the royal family, land ownership rights. These land grants, known as Birta, made it possible for the ruling classes to maintain large areas as waste or forest lands, without having to contribute to the state and food production as Birta grants were tax exempt. Similarly, the Jagir system distributed tax-exempt lands to government employees and functionaries as emoluments. The Jagir was formally abolished in 1952, and the Birta in 1959. Both Birta and Jagir led to the concentration of land ownership rights in the hands of a privileged few, resulting in the present-day skewed distribution of land ownership, and economic, social, and political inequalities.

Despite the many years since the abolition of such landlordism, the government still manages to monopolize land administration and distribution. In the past 15 years, the government has distributed government and public lands to more than a hundred institutions, with some organizations getting use-rights of up to 1,373 *ropanis* or 69.85 hectares (ha) each.<sup>1</sup> Recently the Commission for Investigation of Abuse of Authority (CIAA) issued a letter to the Chief Secretary and the Ministry of Land Reform warning against the continued granting of land rights due to political pressure and influence.

## Land grabbing players

There is no singular form of land grabbing in Nepal. For discussion purposes, the forms can be divided into seven broad categories according

<sup>1</sup> A *ropani* is a unit of land measurement used in hill districts, comprising an area of 508.74m<sup>2</sup>.

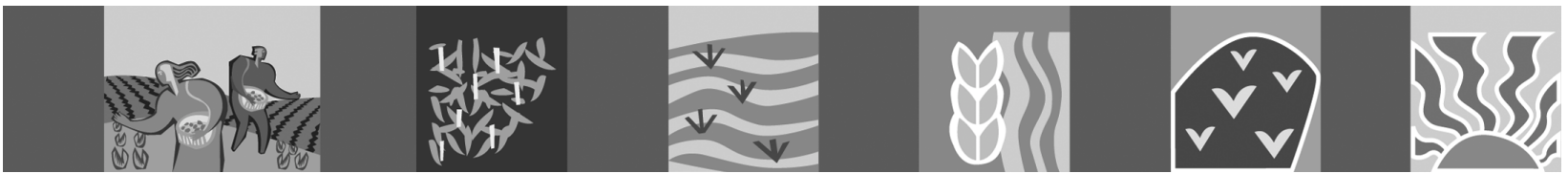
***“In some instances, educational institutions acquired land through private donations. Unfortunately, much of the land has remained fallow and underused, contributing nothing towards food production.”***

to the actors and impacts they have on people’s lives and livelihoods.

- 1. Land grabbing promoted and protected by the government.** This includes the state landlordism that granted Birta and Jagir lands in the past; Guthi<sup>2</sup>, land occupied by security forces, government institutions such as Radio Nepal, and the Cotton Development Board; and lands acquired for national parks and conservation areas.

Field information suggests that, in many cases, no prior informed consent was sought, and that people were not aware of the future implications of being displaced from their traditional homeland. The tenancy rights of those affected were not recognized and benefits were not equitably shared by local communities. Traditional access to resources and the cultural rights of the people have also been denied in some of the national parks. In general, public dissemination of information to maintain the transparency of the activities and utilization of occupied lands is wanting.

<sup>2</sup> Lands donated for the promotion of public, educational, or charitable work

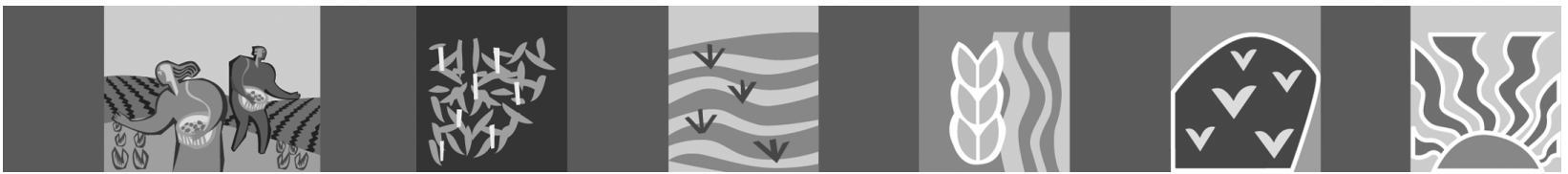


***“Various instances have been reported in which religious organizations would buy lands initially for religious purposes, and then resell them at a higher price to commercial organizations.”***

- 2. Land acquired by industries.** The entry of industries and real estate developers has threatened the traditional occupation of the people. Even if these entities bought the land from the owners, the latter were not properly informed about the impacts on their livelihood and on the environment. No cases of participatory Environmental Impact Assessments were reported. Despite the negative impacts of certain industries, particularly cement factories, it has been observed that the government has not monitored such industries to see if these and business houses have met the criteria set by the State. Land use planning, particularly separating agricultural land from residential and industrial sites, has not been carried out. There are also reports of false promises of local employment made by the industries
- 3. Land acquired by educational establishments.** Universities, colleges, and schools have also acquired lands from the state. In some instances, they acquired the land through private donations when the land area had gone above the prescribed ceiling for land acquisition. Unfortunately, much of the land has remained fallow and underused, contributing nothing towards food production.

Likewise, Community Forestry User Groups (CFUG) and programs like the Leasehold Forestry Program (LFP) have undermined the customary tenure rights of the locals, simply because the latter do not have ‘legal’ ownership rights over the land they had been living in and cultivating for generations. In such cases, landless tenants who hold only traditional tenure over the land they have been using do not have security or support from the government, while the CFUG and LFP usually have government support.

- 4. Land acquired by political parties.** Some of the lands that the Maoists had seized during the years of the civil war have not yet been returned to the owners. In recent years, some ethnic organizations have also occupied land in the eastern part of the country. The State appears to be weak in protecting the property of its citizens, and political parties lack a clear vision for a land reform policy. If an entity or individual holds land that is above the prescribed ceiling, the government should take the necessary legal action, and political parties and organizations should pressure the government to act according to the law of the land.
- 5. Land acquired by ‘trusts’ and ‘foundations.’** Several hectares of land have been distributed by the State to foundations and trusts, which are, upon closer inspection, politically aligned and hence the land is acquired to enhance a leader or political party’s influence. Field observations revealed that much of these lands have remained fallow, uncultivated, underutilized, or not used according to stated objectives. Such land granting has undermined the people’s access to public resources, which could have been used to contribute to their



livelihood. Local communities were of the opinion that they have not benefited from such ‘trusts’ and ‘foundations.’

6. **Land acquired by the private sector.** Multinational companies and the local elite have, in different guises, occupied lands, undermining their agricultural productivity and thus negatively impacting the food security of the community.
7. **Land acquired in the name of social or religious institutions.** Various instances have been reported in which religious organizations would buy lands initially for religious purposes, and then resell them at a higher price to commercial organizations. One example is Patanjali Yoga Peeth (PYP), founded by Indian yoga guru Swami Ramdev, which bought land to build an *ayurveda* teaching hospital, yoga center, old-age and children’s homes, herbs research center, and yoga school in Kavre. Villagers sold their lands to PYP in the hope that it would develop their community. However, PYP resold the lands at a higher price to various individuals. Now, a housing company has bought all of the lands to build 800 apartments for commercial purposes (Guragain, 2010.)

## Impacts of Land Grabbing

The impact of land grabbing is manifold, covering economic, social, cultural, political, and ecological repercussions.

**Changes in the landscape.** Most often, the changes brought about by land grabbing are for the worse. The major cause of such changes is the land ‘plotting’ business that has flourished in the areas adjacent to big cities and emerging towns, such as in the periphery of the Kathmandu Valley,

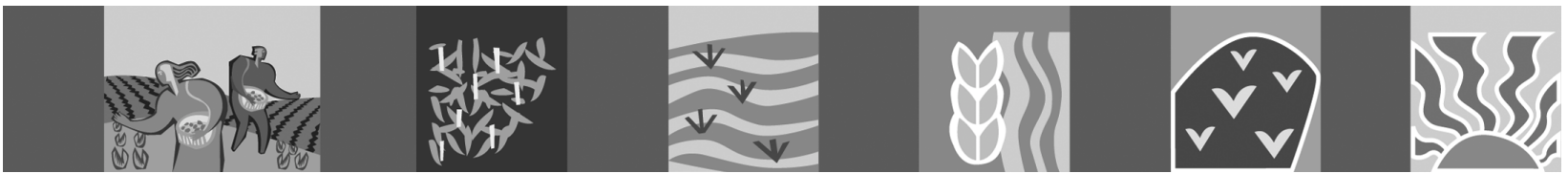
***“Once they lose their land, women gradually lose their decision-making power on the use of productive resources.”***

in Itahari, and along the East-West highway. Land dealers buy the terraced, barren, hilly, often forested land at a cheaper price, and then they alter the landscape to make it flatter. In such cases, this often also destroys the environmental condition of the surroundings.

**Decline in food security.** It can be estimated that large areas of land have been converted from agricultural to non-agricultural. This has resulted in a decline in production, and corresponding negative impacts on food security. Many households in the semi-urban areas who were interviewed for this study reported that they were food sufficient one generation ago, but now buy their food from the market. There are many reasons for this. However, commercial pressure on land is identified as one of the major ones.

**Denial, decline, and disappearance of traditional tenure.** This is quite evident in areas where marginalized indigenous people have been living for generations. For example, the Chepang people in Chitwan, Makwanpur, Dhading, and Gorkha have been denied their traditional rights to their land because community forests, livelihood forestry programs, and industries like cement factories have claimed their land.

**Eviction or displacement and forced migration of people from their traditional habitat.** This is one of the worst impacts of land grabbing. People have been displaced from their ancestral land in order to create conservation areas, parks, and



***“In some cases, certain types of land acquisition, which can also be defined as land grabbing, cannot be avoided. Therefore, the focus should be on reducing their negative impacts on the affected occupants of the land, such as the poor and marginalized farmers.”***

wild life reserves. In such cases, they are not only displaced from their ancestral land but also lose their livelihood, as in the experience of the Bote-Majhi of Narayani.

**Alienation of women from productive resources.**

Once they lose their land, women gradually lose their decision-making power on the use of productive resources. Even if a household is compensated for the land it lost, the men are the ones who hold and decide where to invest the money, whereas women used to decide how and when to use the grains and vegetables they produced in their farms.

**Concentration of power in the hands of the few.**

Social scientists warn that, if wealth is accumulated in a few hands and the masses become ‘poor,’ democracy cannot be sustained. In the long run, land grabbing will threaten democracy.

**Conflicts.** Field observations and subsequent reports demonstrate that land-centered conflicts are increasing because of land grabbing both at the institutional and individual levels.

**Corruption.** Unscrupulous land grabbing always involves some degree of corruption.

**Unnatural hike in the prices of land.** Land plotting and speculation of price increases have worsened the situation in the urban and semi-urban areas.

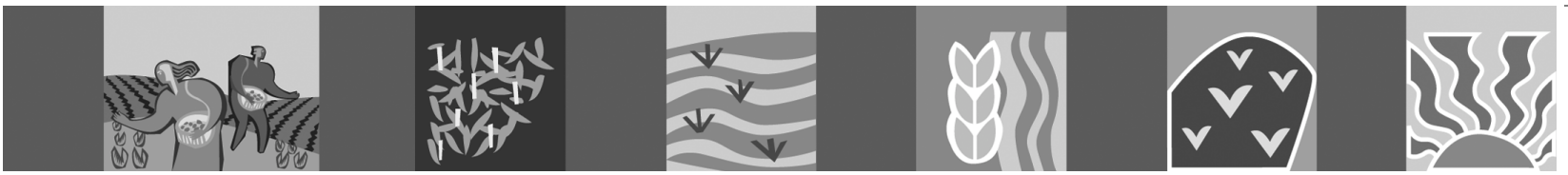
**Health hazards.** Industries, such as the cement factory in Dang and the industrial corridor in the Morang-Sunsari, pose threats to the health of the community.

**Recommendations**

Decentralized land administration and community-led land and agrarian reform programs, with adequate support from all sectors, may solve many of the problems of land grabbing. So far, land grabbing issues have not gained the attention of planners and policy makers. Clear evidence of this are the reports of two high-level land commissions that did not spell out anything on the issue. It is apparently not recognized that any investment or reform in land and agricultural sectors that does not help the poor or reduce hunger and malnutrition will not be sustainable. On the contrary, it will only further strengthen unequal power relations.

The process of land grabbing should be assessed on the basis of the impacts it would have on the ecology and environment (including climate change), food security, tenants’ rights, and women’s rights. A participatory impact assessment involving the different stakeholders would help in designing rights campaigns against land grabbing.

Coordinated efforts to discourage, regulate, and prohibit the ever-accelerating land grabbing in the country is urgent. Such campaigns should combine the efforts of government, donors,



civil society organizations, rights-based people's organizations, and peasants.

Redressing mechanisms and strategies should also be varied and context specific. Responses to land grabbing, despite its inherently negative connotations, cannot be singular and uniform. In some cases, certain types of land acquisition, which can also be defined as land grabbing, cannot be avoided. Therefore, the focus should be on reducing their negative impacts on the affected occupants of the land, such as the poor and marginalized farmers.

In the course of this study, it was observed that the long-term impacts of land grabbing have not been considered, and engagement of locals has been overlooked. None of the cases observed had a clear policy or principle for engagement of the people and their interests at the local level. If the government intends to have a clear policy on what kind of foreign investments it will allow, it should be mandatory that such investments increase productivity and equitably share the benefits among the tenants and agricultural laborers of the area they are investing in. ■

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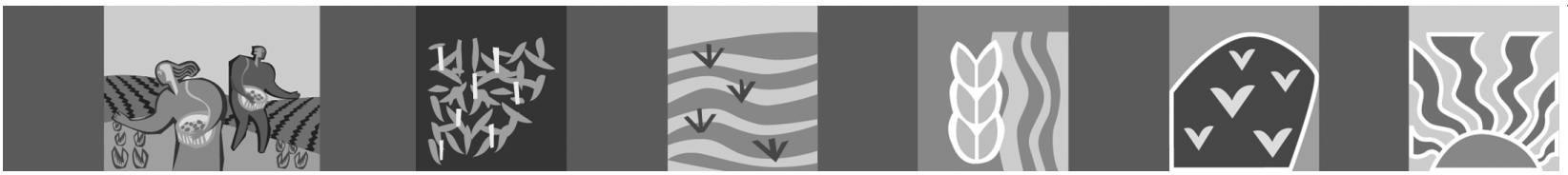
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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# The impact of Al Dahra Agriculture Company on the community of Mirpurkhas District



**Map of the Mirpurkhas District, Sindh Province**

Photo by SCOPE

**A**l Dahra Agriculture Company is a leading Agriculture and animal feeds production company based in the United Arab Emirates (UAE). Its global operations involve farms and production facilities in the Americas, Europe, Asia, and Africa.

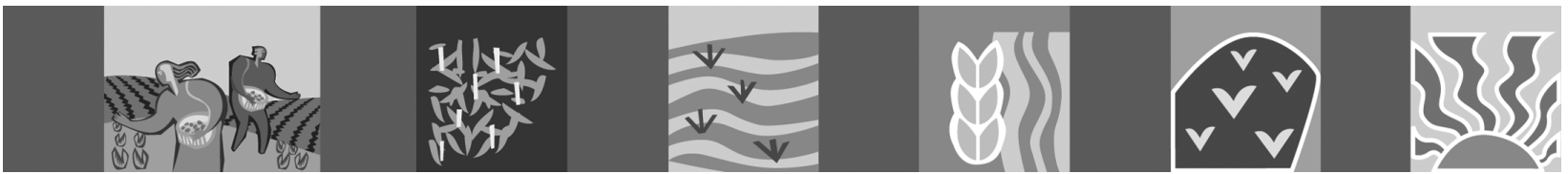
The company started its operations in Pakistan in 2007 in Mirpurkhas District, Sindh Province for the production of alfalfa and Rhodes grass for export to the UAE (Al Dahra, 2013). Low-cost human capital, vast arable agriculture lands, and strategic location were some of the factors that attracted Al Dahra to invest in Pakistan (Zaman, 2012). The company plans to later on expand its operations in other areas, specifically in Multan in Punjab province as well as in Rohri, Hyderabad, Saleh Pat, Sardar Garh, and Tando Allahyar in Sindh province.

To facilitate the project, the company acquired agricultural land on lease from big landlords in Mirpurkhas, specifically the land belonging to then Agriculture Minister Syed Ali Nawaz Shah and family (PANAP, 2012). Prior to the lease, the lands were cultivated by sharecroppers. Sharecropping<sup>1</sup> is one of the three major land tenure arrangements in Pakistan.

Condensed from *Foreign Investment in Agriculture Sector in Pakistan: A Case Study of Al-Dahra Agriculture, UAE* by the Society for Conservation and Protection of Environment (SCOPE). For more details of the case, contact: [scope@scope.org.pk](mailto:scope@scope.org.pk).

<sup>1</sup> There are no fixed arrangements for sharecropping in Pakistan, but, usually, the landowner gets half of the production from the land. Arrangements vary regarding provision of inputs (Anwar, et al., 2005)





It is interesting to note that the records of the Securities and Exchange Commission of Pakistan (SECP) show that the company registered and incorporated only in February 2008 (SECP, 2013). This implies that the Corporate Agriculture Farming (CAF) policy must have been relaxed to accommodate Al Dahra's investment because it was able to start operations a year earlier. It is also unclear as to how Al Dahra was able to lease land since, under the CAF policy, only state lands can be leased out to private investors (BOI, 2013).

What makes the documentation of this case challenging is the unavailability of credible sources, raising questions about the transparency of the whole process. For example, there are contradictory accounts on the size of the investment. GRAIN (2012) reported 25,000 acres while Zaman (2012) quoted 9,783 acres.<sup>2</sup> Al Dahra officials indicated a target of 6,000 acres (Ziayauddin, 2012), while the company's website mentions 5,000 acres after expansion to six new sites. Attempts by phone and email were made to clarify the data from Al Dahra, but to no avail.

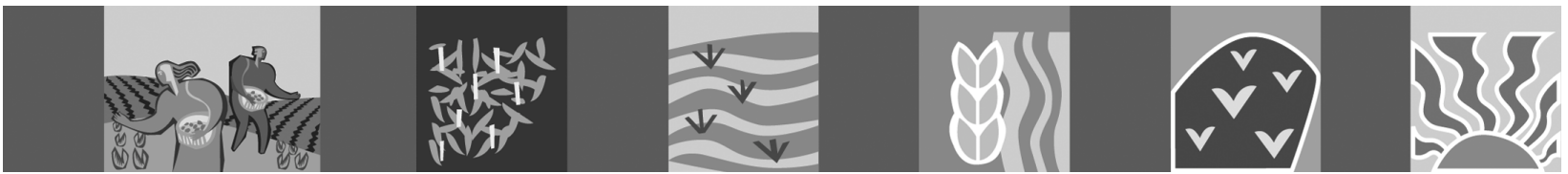
It appears that the land acquisition deal was made between Al Dahra and local landlords in private. There is no evidence to suggest that any other parties, including government departments, took part in any of the negotiations. In addition, there are no reports nor any evidence to suggest that the public or the local community were consulted or provided with information on the deals. It is, however, reported in group discussions that local landlords created an atmosphere that made it difficult for sharecroppers to continue working on these lands (PANAP, 2012). Thus, it is fair to conclude that no consultation process took place, no information about the deals was made public at any stage, and local communities were not part of the decision-making process. No reports were

<sup>2</sup> 1 acre = 0.40 ha

***“Almost all households in the rural areas used to keep livestock at home, providing the family with a balanced diet. They did not have to buy their food needs from the market. But now, without earning and employment opportunities, it is almost impossible for the people to afford these commodities.”***

found or shared by Al Dahra on their business plans, social or environmental audits and impact assessments, among others.

The communities were promised that one person from each household would be given a job by Al Dahra (PANAP, 2012). However, the number of employees provided by key informants in the villages of Syed Ali Nawaz Shah and Syed Khadim Ali Shah, the focus areas of this study, suggests that not all households benefited. According to the key informant, Al Dahra employed 10 employees on regular contracts, while 81 skilled and unskilled employees/laborers were hired on a daily wage basis. Other reports found a total of 50 to 60 employees as laborers, and 8 to 10 as security guards (PANAP, 2012). In addition, it is not clear whether the communities have been given ownership rights for their residential plots. As of the present, none has been asked to leave. There is also no information available on any kind of risk assessment undertaken.



***“The community’s votes can be powerful leverage when demanding for their rights, particularly over State lands, and when negotiating to be included in State land distribution programs.”***

## **Repercussions**

### **Land Tenure**

The determined efforts of both provincial and federal governments to attract foreign investors will have irreversible consequences on current land tenure arrangements. In Sindh, the most common land tenure arrangement is sharecropping. Since big landlords own most of the lands in the Mirpurkhas District, they could be swayed by the prospect of higher profits to lease their lands to private companies, depriving the community of their livelihood.

Moreover, private companies will acquire land on lease largely for export of the produce to richer countries, thus transforming the whole land tenure system from sharecropping/self-cultivation into heavily mechanized corporate farms. Small and medium land owners may also be pressured into selling their lands when faced with the impossibility of competing with corporate entities.

### **Livelihoods**

Al Dahra’s investment has had a direct impact on the lives of the local communities, threatening the following livelihoods in particular:

**Sharecropping.** For generations, land was managed under a sharecropping system. However, Al Dahra’s land acquisition put an end to the sharecropping arrangements, thus taking away the livelihood of the local people who had no other means to support their families. They were absolutely dependent on the land that they used to cultivate.

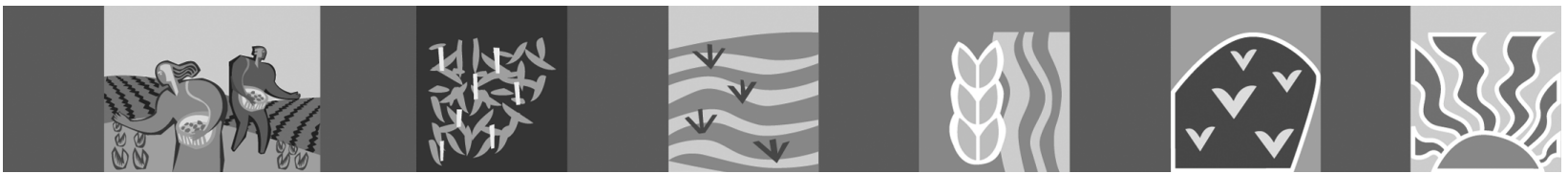
**Grazing rights.** Livestock was traditionally a major source of income for these villages. Milk, eggs, and other animal products were not only a source of income, they were also a source of nutrition. In the past, local villagers and households with livestock were able to get fodder from the field freely, but now, they can no longer access land for their animals to graze in.

**Animal raising.** Rearing animals was also an activity for local communities. Now that the land has been acquired by Al Dahra, the villagers have been prohibited from rearing and grazing animals in the area, with security guards present round the clock.

**Employment.** Cotton is the most important cash crop in the Mirpurkhas District, providing raw materials for the textile industry. Besides the hundreds of farmers who depend on this crop, cotton also provides employment to the community through ginning, and as workers in textile and garment factories in the district.

**Other income opportunities.** During harvesting season, women used to work to earn extra income for their families. Young children, too, used to earn additional income from mango picking. Now all these opportunities have disappeared because of the investment.

As a result, a number of local people have relocated to or commute to and from work in



Mirpurkhas city. There, they have adopted very different occupations, i.e., as tailors, mechanics, drivers, caretakers. Key informants also reported that the local market in Mirpurkhas city offers low wages for skilled jobs.

### **Food Security**

Local households associated with the land used to readily get grains, vegetables, meat, and dairy products (i.e., milk, butter, and *lassi*, a yogurt drink) for their daily consumption. Almost all households in the rural areas used to keep livestock at home, providing the family with a balanced diet. They did not have to buy their food needs from the market. But now, without earning and employment opportunities, it is almost impossible for the people to afford these commodities.

### **Environment**

Zayauddin (2012) points out that Rhodes grass—the crop being produced by Al Dahra in Mirpurkhas District—is severely attacked by the armyworm and the pasture webworm which spread rapidly through seed dispersal. Therefore, the large-scale cultivation of Rhodes grass may infest nearby cotton belts. This could also mean an increase in chemical spraying in the area.

In addition, cultivating Rhodes and Alfalfa grasses demands huge amounts of water. Water shortages have been reported by farmers at the tail end of and adjacent to the Al Dahra farm (PANAP, 2012). It is also reported that the government has approved and built an additional water channel for the Al Dahra farm, showing the power and influence that the company enjoys due to its commercial linkages with big landlords in the area.

***“The most obvious issue that the government can address is to facilitate the transparency of the agricultural land acquisition process by making public all records, reports, and lease documents, including finances...”***

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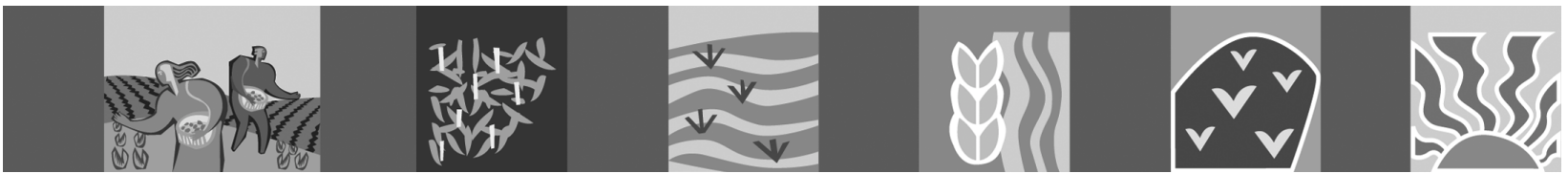
### **Recommended Courses of Action**

The case study of Al Dahra Agriculture Company in Mirpurkhas District signifies the provincial and federal governments’ determined efforts to implement the CAF policy. All stakeholders, i.e., the community, the government, and Al Dahra Agriculture Company, have a role to play in ensuring that the subsequent operations of Al Dahra in Mirpurkhas are open and transparent, and benefit the community.

#### ***For the Community***

In general, the community has no say in land tenure arrangements since they are under the heavy influence of big landlords who own, manage, and control most of the agricultural lands. The most urgent need of the community is to regain their livelihood and food security. As mentioned earlier, some of the households have moved to nearby towns to look for jobs, while others who continue to live in the area commute to work or to find work.

If the local communities decide to organize themselves, however, they could put political pressure on the landlords who also happen to



be the political leaders. The community's votes can be powerful leverage when demanding for their rights, particularly over State lands, and when negotiating to be included in State land distribution programs. However, this might make the process of rebuilding the people's lives and livelihoods longer and more difficult.

### **For the Government**

The government is in a strong position to act, if it has the political will to do so. The most obvious issue that the government can address is to facilitate the transparency of the agricultural land acquisition process by making public all records, reports, and lease documents, including finances, among others. In addition, the government should ensure that the CAF policy is implemented in accordance with its true letter and spirit. Government should also make the public consultation process mandatory in order to listen to and address the concerns of the local communities. In addition, environmental impact assessments (EIAs), social audits, and cost benefits analyses should be made part of the application process for potential investors.

### **For Al Dahra Agriculture Company**

The company should take responsibility for the inimical changes its investment has imposed on the local community. It should address the community's concerns and give them access to social services under its social corporate responsibility program. It should organize trainings and other capacity-building opportunities as a means of helping the local people improve their livelihood instead of losing it.

The company should also open itself and the land acquisition deal to public scrutiny by disclosing the details of the deal to the local public. ■

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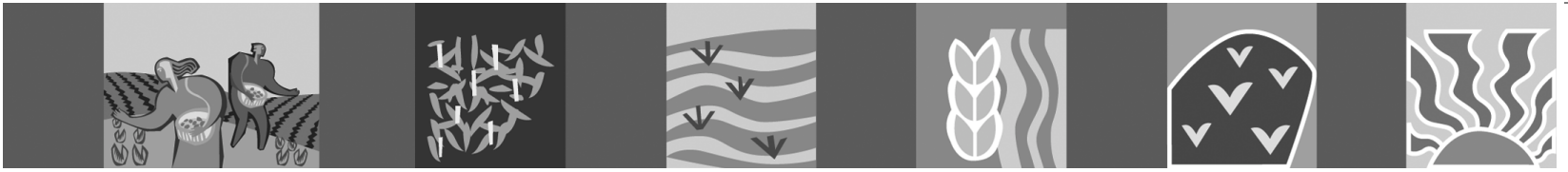
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**For the complete list of references, please contact the author of this case as indicated at the beginning of the article.**



# The threat of ‘new Boracays’



**3-km west-to-south Sibolo beachfront**  
Photo by A. Ridao

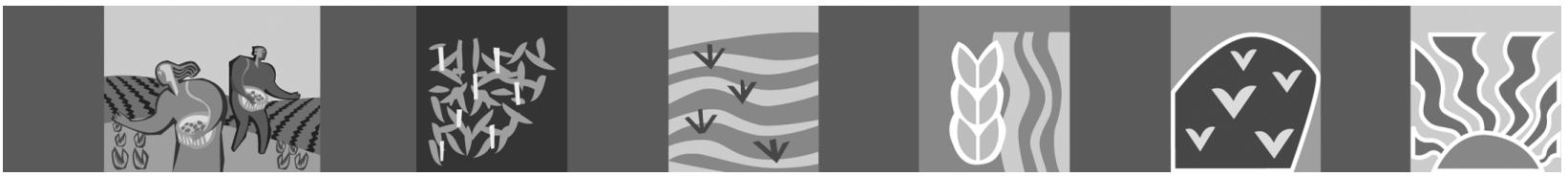
**B**oracay is the Philippines’ most widely known island. Every year, more than a million tourists are drawn to its powdery white sand, clear water, and world famous sunset. In 2012, Boracay was named the “Best Overall Island” by Travel + Leisure Magazine.

Before Boracay became the tourist destination we know today, however, it was simply the home of the Ati, an indigenous tribe in Panay Island. To make way for resorts and other developments, the Ati were driven away from their pristine beach to live in the nooks and crannies of the southeast tip of the island. The remaining Boracay Ati communities have banded together against the encroachment of real estate and leisure and sports companies on the remaining two hectares of their ancestral domain. Their leader, Dexter Condez, was shot to death in 2013. He was 26 and, to this day, his murder remains unresolved.

Condensed from *To Develop or Not to Develop ‘New Boracays’: Threats of Destructive Tourism to Seaweed Farmers and Small Fishers in Caluya, Antique, Philippines* by AR Ridao of PAKISAMA. For more details of the case, contact: [armand.ridao@gmail.com](mailto:armand.ridao@gmail.com) or [raulsocrates@yahoo.com](mailto:raulsocrates@yahoo.com).



**Marker for slain Ati leader Dexter Condez, only 26 years old, of the Boracay Ati Tribe Organization (BATO)**  
Photo by Joseph Angan



## Boracay-inspired tourism

Just two hours away by fast boat to the west of Boracay is another beautiful group of islands. Caluya is a seven-island municipality with a population of 30,400 (NSO, 2010) located just off the northwest tip of Antique province in Panay Island, Western Visayas. Of its seven islands, four are being eyed for commercial tourism development: Caluya (specifically Barangay Imba), Sibato, Sibolo, and Liwagao islands.

Barangay Imba is a two-kilometer stretch of blue-green water and fine white sand, where fishers and seaweed farmers dock their boats and dry newly-harvested seaweeds. In the early morning of December 3, 2009, a 40-member demolition team with 60 policemen from mainland Antique

descended on the barangay's beachfront. The police started demolishing over 100 houses, evicting some 300 residents and relocating them to the village plaza, and, later, to a hastily built bunkhouse. The demolition was the result of a lower court victory by the area's supposed 'landowner.'

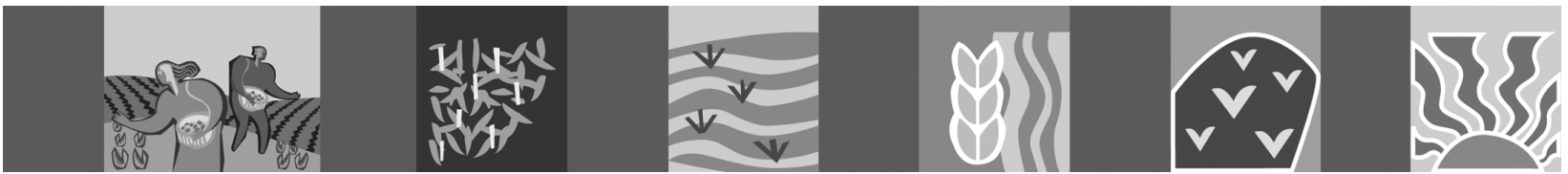
The dispossessed residents, who had occupied the area since after World War II, questioned the Department of Environment and Natural Resources (DENR) as to why such a person who had never set foot on the island could be entitled to own it. However, the DENR claimed that the result of their investigation could not be divulged as it was confidential. The residents have since lodged a complaint in court.

The local government recognizes the community of Imba. It was given the status of a barangay and provided with an annual internal revenue allocation by the national government. It is under the protection of the Philippine Fisheries Code of 1998 (Republic Act No. 8550) which allows small fishers prior-right use of seawaters up to 15 kilometers from beach lines of coastal areas, and mandates the Department of Agriculture (DA) and its Bureau of Fisheries and Aquatic Resources (BFAR) to support the establishment of fishing settlements near their livelihood source.

In Sibolo, an island barangay to the northeast of Imba and Sibato, the same 'new Boracay' theme has been playing since 2007. The two previous mayors and the incumbent have been encouraging residents to sell their land to Fil-Estate, a Metro Manila-based real estate company that owns half of Boracay and has a history of unresolved disputes there. With its South Korean partners, Fil-Estate reportedly promised to develop the place into 'another Boracay' with tourists to be flown in directly and regularly from South Korea. To this end, agents of the company, without a permit, cleared an area of farms and vegetation to make way for an airstrip that did not seem



Map by Shannon Arnold



viable since it fell short of the minimum runway length requirement of the Philippine Civil Aviation Authority. The residents stopped this, however, with help from PAKISAMA. The current mayor's effort to convince those who refused to sell their land was also to no avail.

To date, just under half of the beachfront residents of Sibolo Island have held on to their properties, segmenting what otherwise would have been a continuous three-kilometer stretch of fine, powder-white beach. They choose to ignore the financial enticements and intimidation. For example, the corn fields and vegetable patches of those who refused to vacate the interior of the island intended for an airstrip were mysteriously burned. They also resisted the efforts of the land developer's agent to 'relocate' their seaweed farms fronting part of the land bought by the developer, and the attempt by the company to fence off part of the ocean to be dredged and converted into a jet ski playground and swimming area for tourists.

In far off Liwagao to the northwest, an island is being advertised for sale for PHP300 million, alarming both Liwagao residents and Sibolo barangay officials. The place is being claimed by the nearby Municipality of Bulalacao of the Province of Oriental Mindoro, which sees Liwagao's 'Boracay-like' tourism potentials as a possible additional source of income for Mindoro.

The Semirara Mining Corporation, which operates in Caluya, is also reportedly interested in investing in the development of a 'new Boracay' there. The economic – mining, real estate, and tourism – interests of the mining company and its parent and sister companies have long been entrenched in the island (since mining operations started in the 1970s). They have also become intertwined with the local political elite, especially with the marriage of the majority owner's nephew to the current mayor of the municipality. The mayor

now resides, with her husband, in the mining company's compound on Semirara Island.

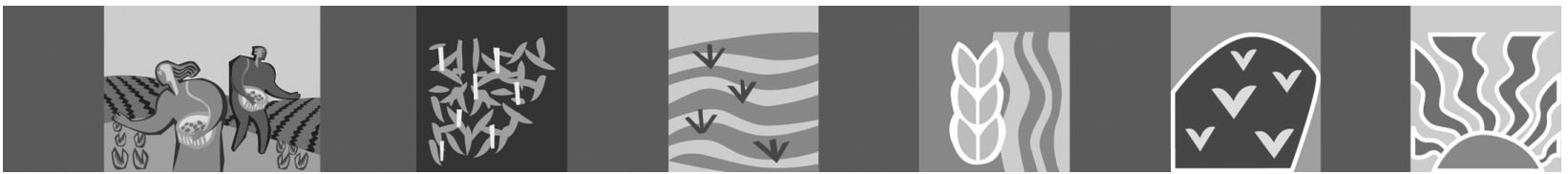
### Suppressing a thriving seaweed industry

It is worth noting that Caluya is barely mentioned in official national government statistics and reports as a major seaweed-producing area in Western Visayas despite the volume of its produce. The 'latest' official figure (2006) for seaweed production in Western Visayas is 49,550 metric tons (DA-Bureau of Agricultural Statistics, 2006). Caluya's barely reported seaweed production estimated at 25,340 metric tons in 2012 – if added to the region's total in 2006, assuming that it remained the same in 2012 – would make Region VI among the top five seaweed-producing regions in the country, deserving of national and local government support.



**Seaweed production in Caluya**  
Photo by R. Modina

Most lamentably, the Seaweeds Industry Association of the Philippines (SIAP) had acknowledged Caluya as a major and developed seaweed-producing area in the country back in 2004. Yet the official "Seaweeds Road-map" issued by the BFAR in 2008 targeted a measly four hectares (ha) in Region VI for national government support, compared with 863 ha and



332 ha targeted for assistance in the ARMM and Region IX, respectively.

The table below is a comparison of the possible economic benefits that could accrue to the local government and people of Caluya from ‘new Boracays’ vis-à-vis benefits from a fully developed seaweed industry, using data from the local government on underdeveloped farm hectares and BFAR’s computation of possible income from properly tended, government-assisted seaweed farms.

While the total hypothetical gross annual revenue from a fully-developed seaweed industry may be much lower than the hypothetical total gross annual revenue from developed ‘new-Boracays,’ the revenues that may go to the coffers of the local government would be similar or slightly higher from the seaweed industry, if taxed appropriately, than from the ‘new Boracay’ tourist facilities. More importantly, the income that would go directly to the seaweed farmers, comprising roughly 40% of the total local population, would be almost 10 times more than the amount being

<b>Hypothetical 2014 Incomes/Revenues from Fully-Developed ‘New Boracays’ vis-a-vis a Fully-Developed Seaweed Industry in Caluya</b>		
<b>Hypothetical Income/Revenue for 2014</b>	<b>Fully-Developed ‘New Boracays’ in Caluya (PhP million)</b>	<b>Fully-Developed Seaweed Industry in Caluya (PhP million)</b>
Estimated Total Annual Gross Income	PhP27,575.1 <sup>1</sup>	PhP6,299.86 <sup>2</sup>
Estimated Total Annual Revenue for the Local Government	PhP250 <sup>3</sup>	PhP262.87 <sup>4</sup>
Estimated Total Annual Income/Salaries/Wages of Local Workers (e.g., Tourism Employees or Seaweed Farmers)	PhP400.68 <sup>5</sup>	PhP4,723.53 <sup>6</sup>
Estimated Total Income for Local Business Investors/Traders (10% of gross income)	PhP2,757.51 <sup>7</sup>	PhP1,576.33 <sup>8</sup>
Estimated Gross Income for Metro Manila-based Investors and their Foreign Partners (roughly 88% of gross income)	PhP24,166.91 <sup>9</sup>	None
Estimated Income for ‘Value-Adding’ Processors/Companies (mostly in Metro Cebu and some in Metro Manila)	None	PhP3,154.480 <sup>10</sup>

<sup>1</sup> Gross income similar to Boracay’s as projected by the Department of Tourism for 2014

<sup>2</sup> Assuming that the full 2,883.7182 ha identified as seaweed-farmable in Caluya were planted to seaweeds and each ha produced a BFAR-computed 5,200 kg net yield of dried seaweeds per harvest per ha x 7 harvests per year x current ‘low selling price’ of PhP50/kg of dried seaweeds in Caluya + PhP10 markup by traders for each kg of dried seaweeds bought

<sup>3</sup> Revenue similar to the Municipality of Malay, where Boracay is located, from preceding years

<sup>4</sup> Assuming that the local government imposes a PhP3 tax—to be shared by farmer/seller (who may be asked to pay PhP1) and trader (who may be asked to pay PhP1.50)—for each kg of dried seaweed brought by traders to processors in Metro Cebu (i.e., 105,149,342.48 kg of dried seaweeds per year x PhP2.50 tax for each kg brought out = PhP262,873,356.20)

<sup>5</sup> Similar to Boracay’s PhP265/day minimum wage x 21 days/month x 12 months x estimated 6,000 tourism workers in the island

<sup>6</sup> 90% of value of total dried seaweeds produced

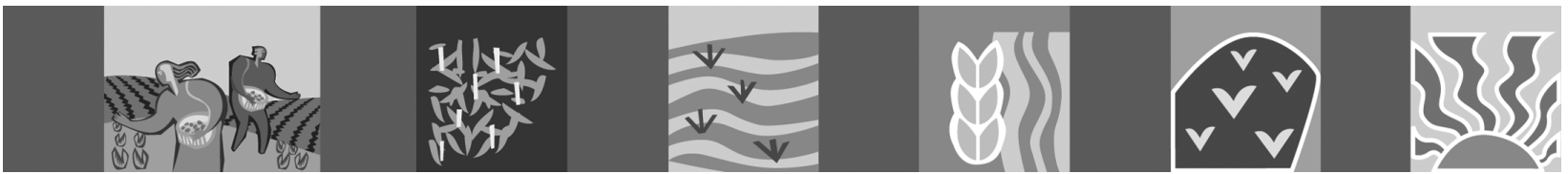
<sup>7</sup> Estimate from local accounts based on PAKISAMA 2013 interviews in/about Boracay

<sup>8</sup> 10% of value of total dried seaweeds produced for small local businesses servicing the local seaweed industry (e.g., transport operators, gasoline vendors, stores selling replacements for lost or depreciated seaweed-farm items/materials), i.e., PhP524,836,712.40 + PhP1,051,493,424.80 (from the PhP10 markup of traders) = PhP1,576,330,137.20

<sup>9</sup> Estimate from various corporate reports of tourism/leisure companies operating in Boracay (from official websites of various companies and of the Security and Exchange Commission, 2013)

<sup>10</sup> SIAP-estimated PhP30 value added by seaweed processors in Metro Cebu/Metro Manila for each kg of dried seaweeds converted to carrageenan, agar-agar, etc. which are then exported for industrial/cosmetic/medical/food manufacturing uses in industrial countries (e.g., US, Europe, Japan) x 105,149,342.48 kgs of dried seaweeds sold to them per year = PhP3,154,480,274.40





***“While the total hypothetical gross annual revenue from a fully-developed seaweed industry may be much lower than the hypothetical total gross annual revenue from developed ‘new-Boracays,’ the revenues that may go to the coffers of the local government would be similar or slightly higher from the seaweed industry, if taxed appropriately, than from the ‘new Boracay’ tourist facilities.”***

paid to tourism workers/employees (80% of whom, in Boracay, were brought in by tourism operators from other parts of the country).

It should be pointed out, as well, that seaweed farmers are not only producers but also small business owners or micro-entrepreneurs. Their seaweed farms, in fact, work as de facto automated teller machines (ATMs) from where they can ‘withdraw’ cash, if necessary for emergency needs, by harvesting just enough seaweed to sell to local traders who pay them in cash. In contrast, ‘Boracay-type’ tourism offers only short-term work in construction, and as maids or spa masseuses or entertainers, mostly low-wage work which would give them a standard of living much below that which they enjoy as seaweed farmers.

Caluya is also a top coconut/copra producer, producing 44% of Antique’s total provincial output to date, and a top fish producer in the province. This means that Caluya has the added potential of becoming a major food supplier in the province and region, as well as a significant agricultural/fishery producer in the region and across the Visayas.

### **What the Caluyanhons want**

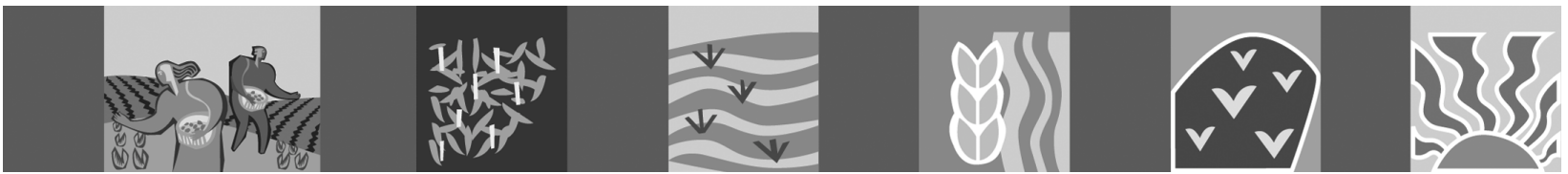
The seaweed farmers of Caluya are determined not to let what happened to the Atis of Boracay

happen to them. The people of Imba erected in late 2013, with their own hands, a *parola* (lighthouse) that serves not only as a beacon to fishers and seaweed farmers working at night, but also to symbolize their unity and hope to one day overcome and triumph over those who want to push them into the sea.

The people of Sibolo and Liwagao, some of them previous foes, have linked hands to stop the sale of Liwagao, as well as block the sale of the remaining beachfronts of Sibolo and stop the construction of an airport there that would cut across their farms.

The people in the southern half of Semirara Island have, for the first time, joined their brothers and sisters in simultaneous rallies to express their outrage over plans of expanding the mining company’s operations into other islands of Caluya. They are also protesting the efforts of the municipal government to eject farmers, without consultation, from land supposedly intended as a site for a mining ‘waste facility.’

These actions promise to be the beginning of something empowering and liberating that Caluyanhons have never done before, since the mining company started operations in the 1970s during Martial Law. They also oppose creeping efforts by real estate/‘leisure and sports’ companies to dispossess them of their seafarms,



beachfronts, and farmlands in favor of ‘new Boracay’-type facilities that cater to tourists.

Almost all – seaweed farmers, fishers, land farmers, and village officials of Liwagao, Sibolo, Sibato, Semirara, and Caluya proper including village officials who previously declared support for the tourism plan of the municipal government – oppose the plan to convert their productive seafarms into another Boracay, preferring instead to fully develop the agricultural, fishery/aquatic, and environment-friendly tourism potentials of Caluya. Based on consultations with them from 2007 to 2013, they recommend the following:

**1. For the Department of Environment and Natural Resources (DENR) to:**

- a. stop surreptitiously issuing leaseholds on beachfronts being utilized by seaweed farmers and fishers for their livelihoods;
- b. check and monitor the strict compliance of Semirara Mining with national environmental laws; and
- c. be proactive in requiring environmental impact assessments (EIAs) on ‘tourism’ and ‘waste facility’ projects openly promoted by the local government without prior study, much less consultations, with those who will be affected/displaced.

**2. For the Bureau of Fisheries and Aquatic Resources (BFAR) to:**

- a. provide proper aquaculture extension services and undertake extensive research on seaweed disease solutions; and
- b. help press for the enforcement of the delineated municipal waters to stop intrusion by commercial fishers and to review the municipal fisheries code.

**3. For the technical staff of the Department of Trade and Industry (DTI) and the Department of Science and Technology (DOST) to:**

- a. come up with agri-processing/packaging projects based on both actual consultations with Caluyanhons as well

as realistic feasibility/market studies, and not those conceptualized or copied from abroad, e.g., mixing seaweeds with noodles, which most of the beneficiaries trained thereon have declared to be a waste of government money; and

- b. evaluate with participants the outcome of such projects.

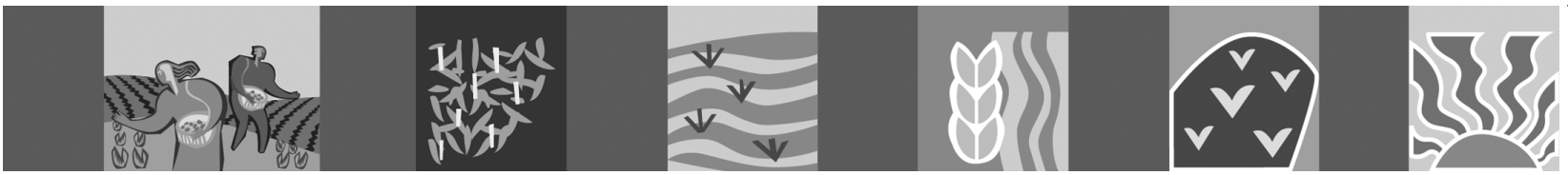
**4. For the Municipal Government of Caluya to:**

- a. listen and give preferential treatment to the people of Caluya, especially to seaweed farmers, fishers, and land farmers threatened to be displaced by projects that purport to promote ‘development and progress’ for the municipality;
- b. explore genuinely sustainable and environment-friendly models of tourism, e.g., those of nearby Puerto Princesa, and Coron with the Tagbanuas;
- c. be transparent and inclusive in their decision-making; and
- d. stop the expansion of coal mining.

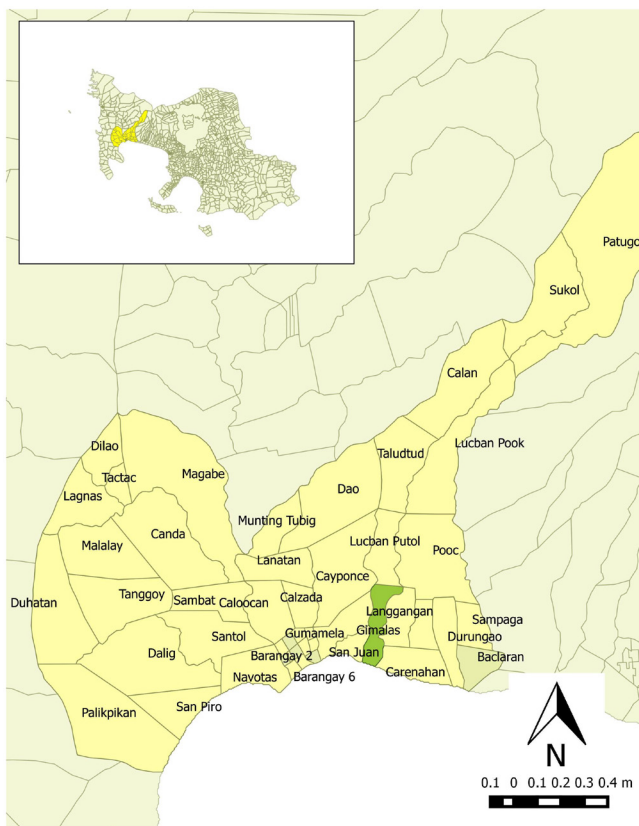
**5. For the Department of Energy (DOE) to:**

- a. stop promoting dirty coal energy in the country; and
- b. stop issuing permits that would extend and expand Semirara’s operation for decades more into other islands of Caluya. ■

*For the complete list of references, please contact the author of this case as indicated at the beginning of the article.*



# Growing real estate out of farmlands



**Map of Balayan, Batangas showing the town of Gimalas**  
Geospatial data source: GADM

**G**imalas is a quiet town in Balayan, a first-class municipality in the province of Batangas, Philippines. It is composed mostly of sprawling landscapes planted to sugarcane. In recent years, however, subdivisions and other major construction projects have sprouted around the town, converting once productive agricultural lands into other uses.

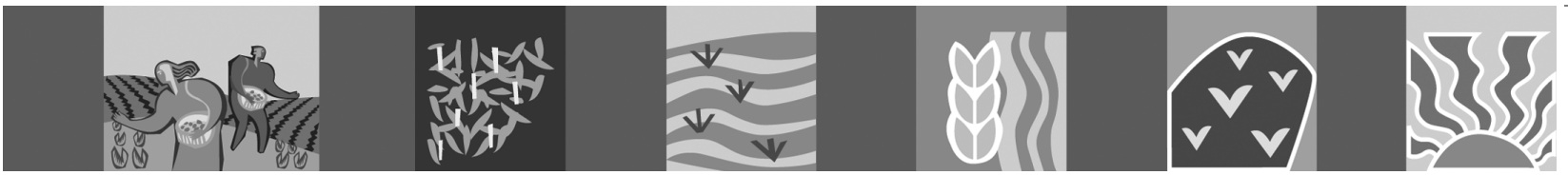
One of these “developments” is a 31-hectare (ha) science park and port being constructed by Empire East Land Holdings, Inc. (EELHI), a company of Megaworld, one of the Philippines’ leading real estate developers.

The project site was originally a retention area (under the Comprehensive Agrarian Reform Program) of the landowners Richard B. Lopez and Marilo Realty Development Corporation, who, prior to selling the land to EELHI, had it leased to a group of farmers for 25% of the income from their harvests.

## A tempting offer

In order to push through with the sale to EELHI, the landowners needed the farmers to waive their rights and access to the land. This they accomplished by offering what, to the farmers, seemed like lucrative deals. Each of them was offered PhP350,000 to PhP550,000 per hectare to leave their farms, plus P400,000 to construct their

Condensed from *Conversion of Agricultural Lands to Industrial Lands in Gimalas, Batangas*. For more details of the case, contact: [carrdinc@gmail.com](mailto:carrdinc@gmail.com).



***“Although no coercion took place, it is important to keep in mind that the farmers were burdened with various concerns that largely influenced their decision to sell their rights to the land.”***

homes in the relocation site. While seemingly huge amounts, in actuality these figures pale in comparison to the projected income that the farmers stood to earn from future annual harvests.

Furthermore, since the farmers were not organized as a group, the resulting compensation packages varied depending on the individual farmers’ capacity to negotiate. Some tenants received 140m<sup>2</sup> lots while others got a mere 35m<sup>2</sup>. At the same time, most of the tenants received larger lot sizes and more money than the informal settlers within the landholding who were also included in the relocation plan. The deal was further sweetened with promises of jobs in the factories that they were told would be constructed in the area.

Although no coercion took place, it is important to keep in mind that the farmers were burdened with various concerns that largely influenced their decision to sell their rights to the land. Among them were growing debts, the lack of support services and access to credit (which ultimately led them to borrow money from their landowners), and, to a certain degree, fear since they were

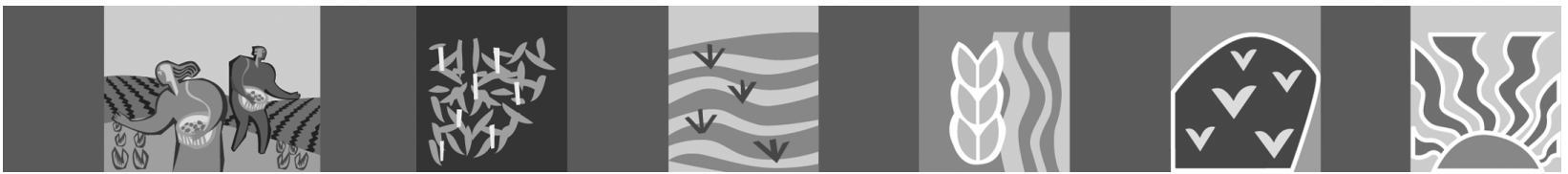
not Certificate of Land Ownership Award (CLOA) holders and did not have a standing claim to the land. They were also under enormous pressure from the strong political connections of the investors.

### **The role of the LGU**

Despite the loss of long-term income for the farmers, the local government unit (LGU) supported the entry of EELHI because of the prospect of boosting the local economy. The industrial park and port were sure to bring in additional investments and more profit for the municipality. In contrast, smallholder farms bring in little profit. Thus, there is minimal incentive for LGUs to support the agrarian reform program which is viewed more as a concern of the national government.

As a result, EELHI was able to obtain certification from the village captain of Gimalas that the residents of the village had been consulted and had approved the project, even if, in reality, this was not so. The Municipal Government of Balayan also issued an ordinance reclassifying the land from agricultural to commercial/industrial, and granted a development permit for the industrial park and port construction.

EELHI began construction, but without the required conversion order from the Department of Agrarian Reform (DAR), which supposedly takes primacy over the LGU’s reclassification order. This prompted the Municipal Agrarian Reform Office to file a case of illegal/premature conversion against EELHI. The case is still pending at the provincial level.



## Looming threats

Some of the farmers found the entry of the investment to be beneficial. They were able to build new and better houses, and to start a business or find alternative sources of income. For the larger majority, however, the future is not as bright.

## Land Tenure and Rights

EELHI promised the community titles for the lots given to them for housing. But until the community members receive the actual titles and the lots are officially transferred to their names, landlessness remains a threat. Further, when the area becomes highly profitable for investments, the community may be evicted or harassed to move out.

Landlessness is a determinant of poverty. Particularly so for farmers, for whom land is the source of their livelihood, the location of their homes, and the binding force of their community. The act of farming is key to the ties within their community and to their culture. Thus, without land and farming, that social asset is taken away from them as well.

## Livelihood

Since they could no longer depend on income from harvesting sugarcane to sustain their families, the farmers had to look for income elsewhere. EELHI had promised both the local government and the farmers that jobs for the local community would be created through their project. But the farmers later on realized that this promise came with conditions. They needed to have skills in construction and other tasks

***“The act of farming is key to the ties within their community and to their culture. Thus, without land and farming, that social asset is taken away from them as well.”***

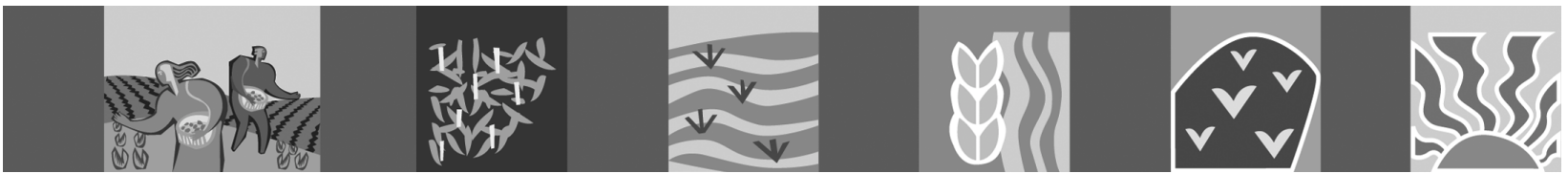
required for the project, which most of them lacked since they had been farmers most of their lives. Also, unlike farming, construction entails hard labor all throughout the day and sometimes into the night without respite. Whereas in farming work, at least they could manage their own time.

And as for jobs in the industrial park and port once construction was completed, the farmers knew that the company would hire only college graduates, while most of them had barely finished high school. In the end, very few of them were hired as laborers and, according to reports from the community, wages were paid sporadically. However, they hoped that their children would qualify for better jobs in the park.

The rest of the farmers, their families, and others from the community who could not find work nearby sought employment farther away. Some who were able to graduate from high school or college or had acquired skills apart from farming were able to get jobs overseas and send money back to their families in Gimalas.

## Food Security

To date, the farmers are still enjoying the money they received from the deal with EELHI. However,



***“In an era where countries compete for and grab the lands of other countries in order to secure their own food, it is deplorable that the Philippines continues to support the takeover of farms and has not instituted any significant measures to protect and secure its own food supply.”***

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they realize that, if they don't find stable jobs soon to replace the foregone income from farming, many in the community will go hungry.

Having limited sources of income and no access to land for farming means the community's food security is vulnerable to fluctuations in the services sector, particularly to job lay-offs and contractual employment.

At the local level, the entry of the investment is good for the municipality. The establishment of an industrial park and port will bring in more investments to the municipality and the prices of land and other assets are sure to increase. The higher tax income can then be used to improve public facilities and services.

At the macro level, however, investments, such as this project, directly compete with securing the country's food production. In an era where countries compete for and grab the lands of other countries in order to secure their own food, it is deplorable that the Philippines continues to support the takeover of farms and has not

instituted any significant measures to protect and secure its own food supply.

Farmers continue to be at the bottom rung of society, competing for support services that should be provided by the government. And there is no glory or appreciation to be found in their work. It is no wonder that many choose to sell their lands or farming rights in search of greener pastures and better opportunities.

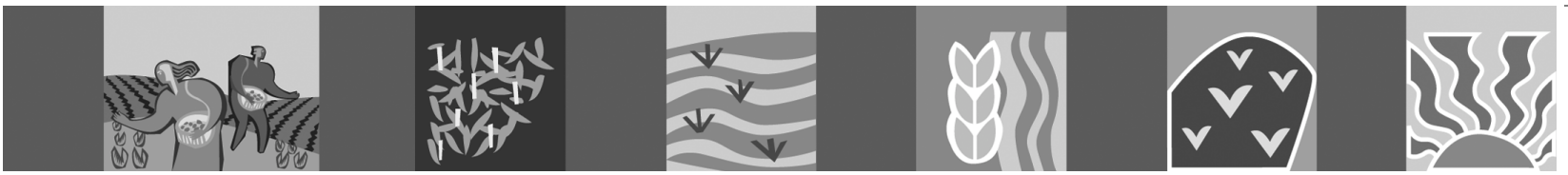
### **The need for a National Land Use policy, among others**

At a time when real estate investments are enormously lucrative, agricultural lands – and the farmers who till them – are under serious threat. There is a need for a National Land Use policy that will provide a clear framework to guide land development initiatives, especially in areas where there are competing land uses. It must address the requirements of sustainable development, equity, poverty alleviation, food security, and environmental protection.

The enactment of such a policy would establish clear guidelines that local governments must consider and adhere to in allowing investments and development projects into their areas.

Moreover, policies must be enacted to further strengthen land governance in the Philippines. There must be strict monitoring of land conversions, turnover of lands from Agrarian Reform Beneficiaries (ARBs) to investors, and contracts between ARBs and investors.

The DAR has jurisdiction over land conversion cases. However, it is the local governments who facilitate these conversions especially when investments have the potential to improve the local economy.



The local government must be involved in protecting the rights of farmers and upholding agrarian reform as a priority. Without local government support, the gains of agrarian reform are left unprotected as LGUs continue to use their 'land classification' power to bypass the DAR.

There are many cases of investments that do return gains to the community. In such instances, development and economic pursuits are laudable when they are balanced with ensuring community rights.

Agrarian reform areas must steer clear of investments that significantly alter the landscape so as to make it non-agricultural. Investments in these areas must be agricultural in nature and ultimately benefit the agrarian reform beneficiaries and the nearby communities.

Put simply, the soul of agrarian reform is social justice. Investments that exclude farmers and displace them from their farms contradict the essence of agrarian reform. ■

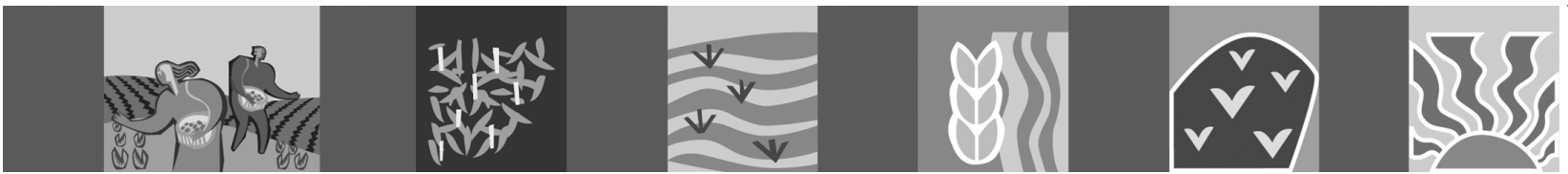
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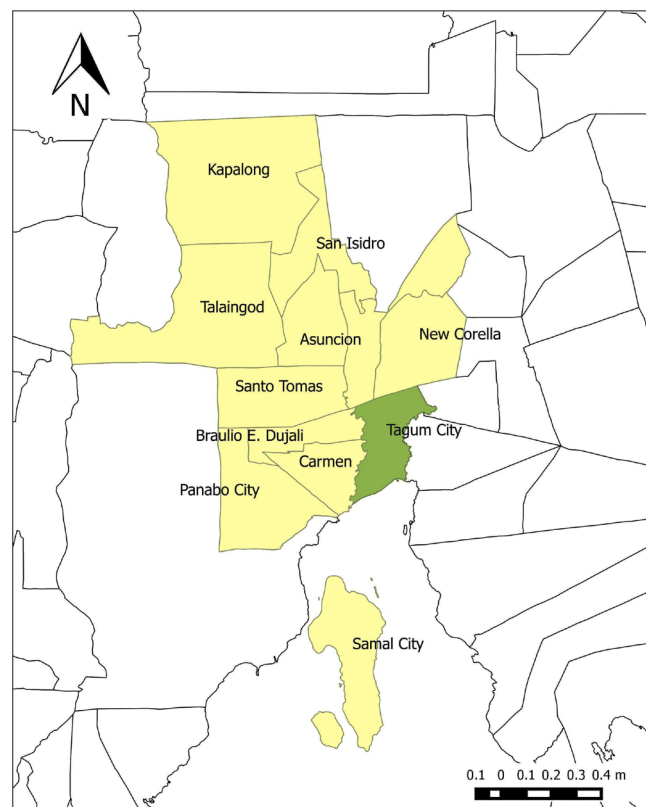
# Agribusiness Venture Agreements and HARBCO's gradual descent

The Hijo Agrarian Reform Beneficiaries Cooperative (HARBCO) is a group of 724 ARBs that, under the Comprehensive Agrarian Reform Program (CARP), was awarded a collective Certificate of Land Ownership Award (CLOA) for 579 hectares of land in Tagum, Davao del Norte owned by Hijo Plantation, Inc. (HPI).

In December 1998, HARBCO signed a 10-year Banana Sales and Marketing Agreement (BSMA) with HPI. This move split the group's members into two factions: one that favored the BSMA, and another that did not. The current officers of HARBCO claim that, at the time, those who were against the BSMA were in control of around 40% of the awarded area, and harvested and sold their produce to DOLE-Stanfilco. Occasional conflicts and confrontations arose between the two opposing groups.

An effort to reconcile the two parties was made in July 1999 resulting in some of those who were against the BSMA actually rejoining the main group. However, just a month after, the most violent clash between the two factions erupted when HPI assigned its rights over the BSMA to Lapanday Foods Corporation (LAPANDAY). In the riot, two HPI employees were killed and some 30 ARBs were injured.

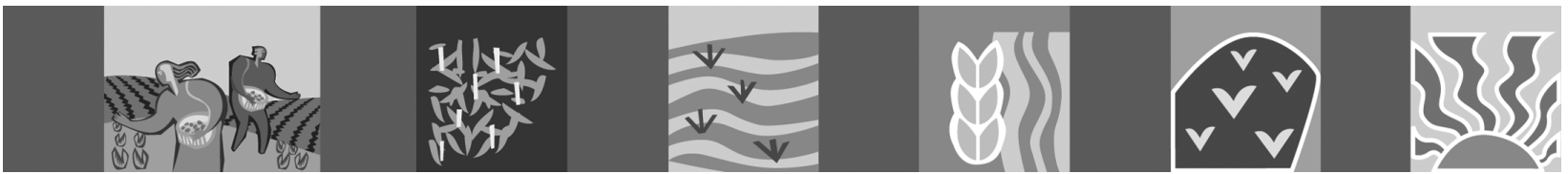
Notwithstanding this incident, HARBCO was able to make inroads in its banana production experiencing a brief period of growth from 2000-



**Map of Tagum, Davao del Norte**  
Geospatial data source: GADM

Condensed from the *Commodification of Right to Land: The Cases of the Hijo Agrarian Reform Beneficiaries Cooperative (HARBCO)* by AR Now! For more details of the case, contact: [arnow@phildhrra.net](mailto:arnow@phildhrra.net) or [magscatindig@phildhrra.net](mailto:magscatindig@phildhrra.net).





2003. However, things began to take a negative turn in 2004 because of an alleged aerial spraying sabotage. This resulted in decreasing farm production and increasing liabilities to LAPANDAY in the succeeding years. In 2008, the downturn took hold. HARBCO found itself owing LAPANDAY an astounding PhP115 million and the company took over the operations of the cooperative's farm.

The takeover was initiated on the basis of Article X Paragraph 1 of the BSMA, which granted LAPANDAY the right to take over and handle the farm operations of HARBCO if it deemed that "the success of the crop is endangered" by HARBCO's failure to follow LAPANDAY's "prescribed cultural practices."

In line with LAPANDAY's takeover, a second contract on the General Framework on Farm Handling (GFFH) was executed by the cooperative and LAPANDAY to establish the 'guidelines' to be followed in the operations of HARBCO's farm.

The takeover was to be for a period of two years – subject to extension if there were still unpaid accounts owed by HARBCO to LAPANDAY at the end of the said period. Yet, to this day, LAPANDAY retains control over HARBCO's farm, as the latter's debt to the former, which has grown to PhP332 million as of 2012, has not been paid.

### **The contract, the culprit**

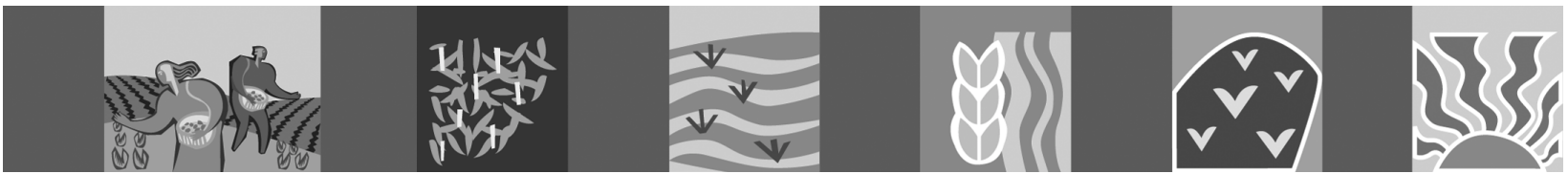
HARBCO's predicament can be traced back to the grossly disadvantageous BSMA contract they entered into with the former landowner, HPI, in 1998. The contract contained a litany of provisions that heavily favored the more enterprising entity, such as giving HPI/LAPANDAY the exclusive right to export HARBCO's bananas, the first option to purchase rejected bananas, and the right of first

***“HARBCO's predicament can be traced back to the grossly disadvantageous BSMA contract they entered into with the former landowner, HPI, in 1998. The contract contained a litany of provisions that heavily favored the more enterprising entity...”***

refusal over matters concerning the purchase and marketing of the cooperative's Cavendish bananas even after the contract had expired.

The buying price of bananas for the Japan market was also fixed at \$2.10 per 13 kg (net) box. Although there was a provision for the conduct of a 'price review' every two years, HARBCO claimed that the buying price was never adjusted. Worse, the buying price remained the same for 10 years even as the cost of production significantly increased through the years.

Also included in the BSMA was a provision for the charging to HARBCO of replacement bananas for those rejected at the foreign port. With HARBCO already losing money with the very low buying price of LAPANDAY, the cooperative further lost money whenever bananas that LAPANDAY had already bought and shipped to the importing country (i.e., Japan) were rejected at the port of destination. The cost of replacement bananas, which were bought in the country of destination, was around \$8.50 per 13 kg box. Thus, HARBCO was charged the difference between LAPANDAY's buying price of \$2.10 and the cost of the replacement bananas.



***“The dismal situation of HARBCO can also be attributed to the ARBs’ lack of capacity and experience in evaluating business contracts. They did not realize at the time the implications of the provisions of the contract they signed.”***

The contract also disallowed HARBCO from reducing or expanding their farm area, and selling banana seeds and seedlings from the farm without ‘prior clearance’ from HPI/LAPANDAY. Furthermore, HARBCO could not sell, dispose of, transfer, assign or lease the land, including the crops planted and permanent improvements introduced by HPI/LAPANDAY thereon, to any third party without the prior written consent of HPI/LAPANDAY.

Officers of HARBCO also claimed that some ARB members of the other cooperatives in the Hijo plantations were involved in sabotaging the aerial spraying operations of the farms. They claimed that the mixture of the aerial sprays was diluted resulting in poor production, which led to the eventual takeover by LAPANDAY of the HARBCO farm and resulted in losses of some PhP78 million.

These provisions and more undermined the agrarian reform principle of providing “farmers and farm workers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands” (RA 6657, 1988). HARBCO was backed into a corner and led deeper and deeper into debt.

## **Other factors**

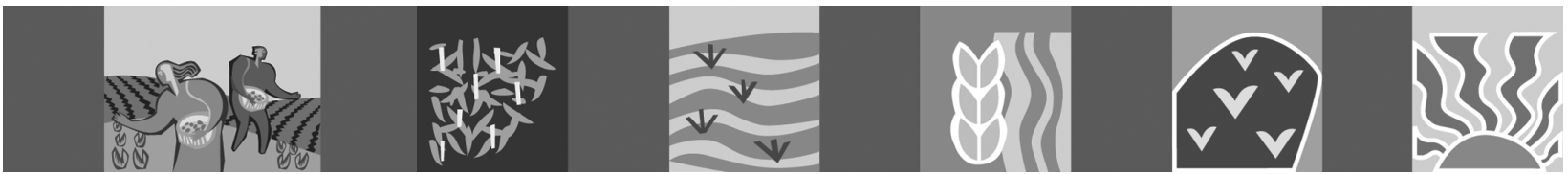
The dismal situation of HARBCO can also be attributed to the ARBs’ lack of capacity and experience in evaluating business contracts. They did not realize at the time the implications of the provisions of the contract they signed. But that should have been the DAR’s look out.

The DAR was supposed to help direct the ARBs’ socio-economic development by ensuring that Agribusiness Venture Agreements (AVA) safeguarded the rights and welfare of the ARBs. Section 4.6 of the DAR Administrative Order 09-06 clearly provides that (DAR, 2006):

In order to ensure that the rights and welfare of the ARBs and their cooperative/association are protected, the DAR shall be a signatory to the AVA contract, subject to the review and favorable endorsement by the National AVA Evaluation Committee or the AVA-Task Force (TF) at the DAR Provincial Office (DARPO), as the case may be.

Yet, the DAR was not a signatory to the BSBMA between HARBCO and HPI/LAPANDAY.

Moreover, several sections of the BSMA contravened the ARBs/landowners’ property rights by not allowing them to decide on the use of their lands, crops to be planted, and selling price of their produce. In such case, the AVA should have been approved by the Presidential Agrarian Reform Council (PARC) or PARC ExCom, and should have been signed by the DAR Undersecretary of Policy Planning and Legal Affairs Office (PPLAO) or the Provincial Agrarian Reform Office (PARO). However, the BSMA between HPI/LAPANDAY was neither approved by PARC/PARC ExCom nor signed by the DAR PPLAO Undersecretary.



The said AO 09-06 further stipulates that:

1. Section 4.17 – For the duration of the AVA contract, the DAR must ensure the viability and stability of the cooperative/association as a business partner and entity through effective periodic monitoring and intervention measures/strategies;
2. Section 4.19 – The DAR shall ensure that the AVA contract shall include provisions to help promote the development and transformation of ARBs from mere laborers and labor union members to farm owners, cooperative members, and business entrepreneurs and managers;
3. Section 4.21 – The AVA contract shall provide sanctions for non-compliance by either parties and shall be periodically monitored by the DAR.

But these provisions were not observed in the case of HARBCO. No social preparation, capacity-building, nor assistance was given by the DAR to the ARBs to better equip them in the negotiation for and evaluation of the agreement. Officers of HARBCO also claimed that their only legal support during the negotiations was a lawyer provided by the Public Attorney's Office (PAO).

Another consequence of the insufficient legal and technical support during the negotiations of the BSMA was the lack of key 'safety net' provisions, such as authorizing HARBCO to audit HPI/LAPANDAY on sales, expenses, charges, etc. Another factor that perhaps played a key role in the realization of the lopsided contract was having CARP beneficiaries who were former members of the HPI management involved in the negotiations. Being former employees of HPI, these individuals may have been beholden to the former landowner. They failed to guide or at least did not properly advise the inexperienced officers of the newly established cooperative.

The existence of pro-BSMA and anti-BSMA factions may also indicate that the majority of the ARBs/farmworkers (who comprised the pro-BSMA faction) were pro-HPI and may have also been indebted to their former landowner/ employer.

HARBCO's experience is a case of ARBs who may, on paper, still own the land awarded to them but, in actual practice, have lost control and access to it by means of a corporate takeover. ARBs, who are the actual landowners, have become hired farm workers and cooperative employees of LAPANDAY in the very farm awarded to them.

Since the takeover, the ARBs and the cooperative rely only on their income as "laborers" and "employees" of LAPANDAY. Those ARBs who have not been hired by LAPANDAY have not received any salary from the cooperative. The cooperative, too, offers no other services or programs.

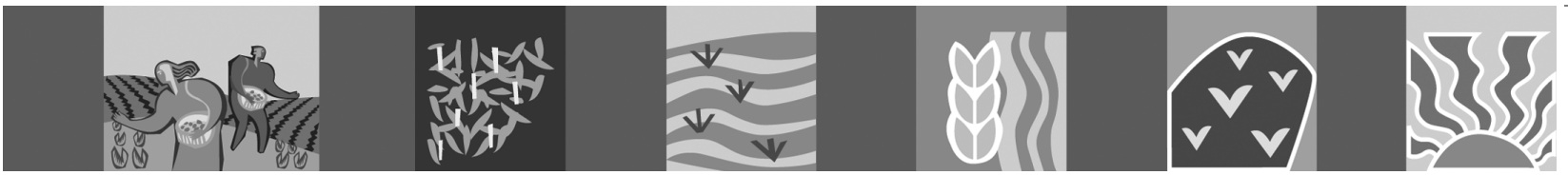
LAPANDAY has also hired non-ARBs to work as laborers in the plantation. Allegedly, ARBs who have not been hired by LAPANDAY have been denied entry into the farm (except in the housing area), and forced to look for work in other cities and/or industries. ■

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RA 6657. *Comprehensive Agrarian Reform Law of 1988*. June 10, 1988.

***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# How farmers in Compostela Valley made Agribusiness Venture Agreements work for them

**T**he SARPHIL CARP Beneficiaries Multi-purpose Cooperative (SACARBEMCO) was in desperate straits in 2001.<sup>1</sup> They had just lost a labor rap filed by their members/workers.

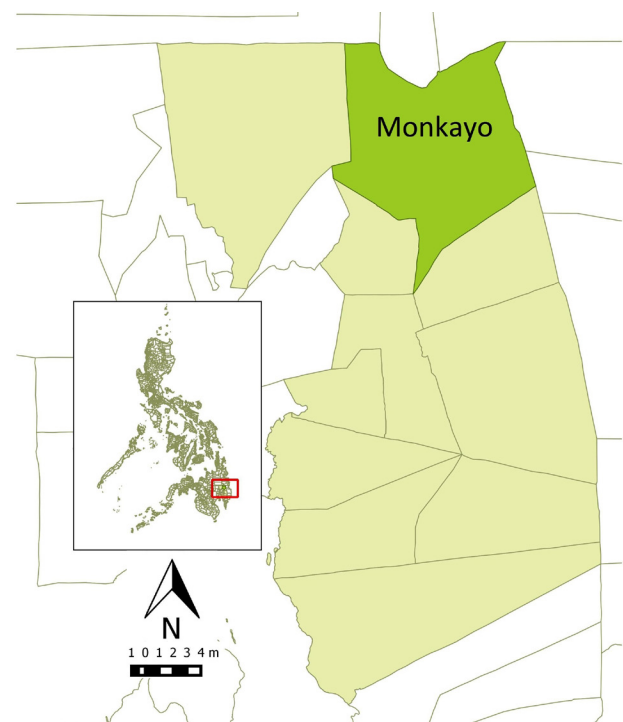
Earlier in 1997, SACARBEMCO had been enjoying high income from their 220-hectare rubber plantation, which was later on expanded to include an additional 65 hectares (ha). From their profit and with support from the Japan International Cooperation Agency (JICA), the cooperative was able to build an office and a training center with a small consumers' store.

But in 1999, the price of rubber in the global market started to decline, affecting the group's rubber trading. They could no longer provide salaries for all their workers, and had become delinquent in paying their land amortizations. One misfortune after another led to a labor case filed by its members/workers against the cooperative.

The turnaround came in 2004 when SACARBEMCO signed a 25-year tripartite agreement with Agumill Philippines, Inc. (AGPI)<sup>2</sup> and Land Bank

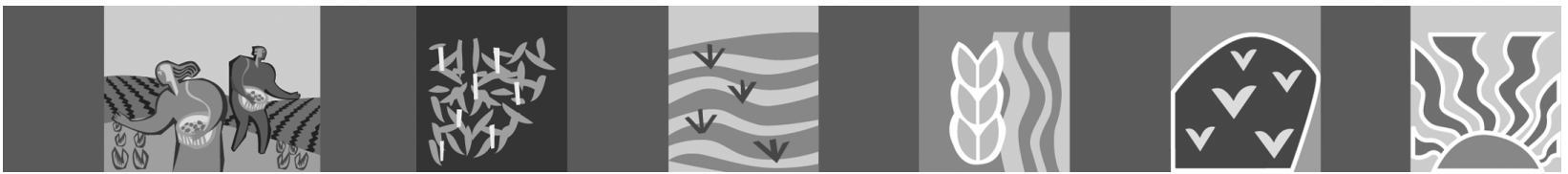
<sup>1</sup> SACARBEMCO is a group of 145 ARBs who, in 1996, were awarded eight collective CLOAs and one mother CLOA for 483 ha of land from the rubber plantation of Sarmiento Philippines, Inc. (SARPHIL) in Monkayo, Compostella Valley.

<sup>2</sup> AGPI is a subsidiary of Agusan Plantations Inc. (API) engaged in the processing of palm oil and other biofuels. API is a joint venture among Filipino, Singaporean, and Malaysian investors.



Map of Compostela Valley showing the town of Monkayo  
Geospatial data source: GADM

Condensed from *Increasing Small Holders Income through AVA: The SARPHIL CARP Beneficiaries Multi-Purpose Cooperative [SACARBEMCO] Experience* by E. Lim and M. Catindig of The People's Campaign for Agrarian Reform Network, Ltd. - AR Now! 2013. For more details of the case, contact: arnow@phildhrra.net or magscatindig@phildhrra.net.



of the Philippines (LBP) committing to sell and deliver raw materials to AGPI. LBP would provide SACARBEMCO with a production loan, while AGPI would provide the credit endorsement and advance equity, as well as technical assistance to SACARBEMCO for seed selection, production, and marketing.

As a result of this contract growing arrangement, SACARBEMCO has been able to regularly pay its land amortizations. Its workers/members now also enjoy a higher agricultural wage at PhP295/day against the minimum wage of PhP256/day, in addition to higher dividends from the cooperative's profit.

From their income in this venture, SACARBEMCO has been able to recover from its previous losses and diversify its activities to include, among others, lending services, carabao dispersal, cacao production, trucking services, and hollow block making, as well as operating a piggery, fish pond, consumer store, and hardware store.

As for the payment scheme, AGPI directly deposits its payments to LBP in behalf of SACARBEMCO. A big percentage of SACARBEMCO's profit is used to pay their production loan, a certain portion goes to the cooperative's general reserve fund, and 10% goes to the members' capital build-up.

### **Factors for success**

Unlike the leaseback agreement that the Hijo Agrarian Reform Beneficiaries Cooperative (HARBCO) entered into with Hijo Plantation, Inc./Lapanday Foods Corporation (HPI/LAPANDAY), the contract agreement of SACARBEMCO and AGPI follows no fixed buying price and volume requirements. SACARBEMCO is only required to deliver sorted raw products based on AGPI's standards. Rejected products will be returned to

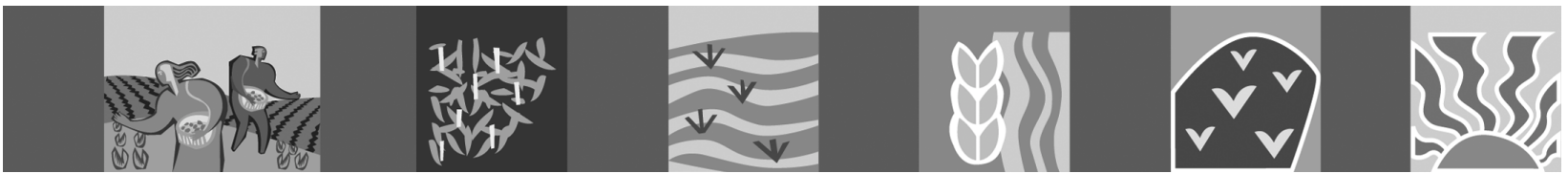
***“SACARBEMCO officials revealed that they have been offered leaseback agreements by several investors but have refused them. They know that such arrangements will only provide them short-term income.”***

SACARBEMCO without deducting any cost from its income. Only those items that pass AGPI's standards will be bought at the prevailing dollar price on export. The agreement also does not prevent SACARBEMCO from intercropping or diversifying, giving the cooperative opportunities for other farm-based livelihoods.

In contrast, HARBCO's leaseback agreement transferred not just the marketing rights but, more significantly, the ARBs/landowners' property rights to the investor. It considered the ARBs/landowners' rights to land as a 'commodity' which could be easily transferred or assigned from one investor to another.

SACARBEMCO officials revealed that they have been offered leaseback agreements by several investors but have refused them. They know that such arrangements will only provide them short-term income and will deprive them of regular household income.

Although SACARBEMCO's agreement also had no formal approval and/or endorsement from PARCOM, it was reviewed and formulated with the assistance of the Provincial Agrarian Reform Office (PARO), the Municipal Agrarian Reform Office (MARO), and the Philippine Partnership for



***“AVAs, then, should not be a deterrent to the ARBs’ right to lands but should, in fact, provide incentives for them to develop their lands and improve their production.”***

the Development of Human Resources in Rural Areas (PhilDHRRA), with the view of negotiating better terms for the cooperative’s members.

Also crucial to SACARBEMCO’s success is the regular technical assistance provided by the Department of Agrarian Reform (DAR) and involved NGOs. Unlike in HARBCO’s case, SACARBEMCO’s members were given training on production enterprise, alternative livelihoods, organization management, and others, thereby strengthening their bargaining power.

It has also helped that SACARBEMCO joins the regular AGPI growers meetings where they can negotiate for better terms with the investor. AGPI also provides weather bulletin forecasts to its growers to prevent losses or rejects due to force majeure.

Further, the decision of some former STARPHIL (landowner) staff to join SACARBEMCO has proven advantageous to the cooperative. The technical knowledge and management skills of these new members have been harnessed in favor of the cooperative.

## **Recommendations**

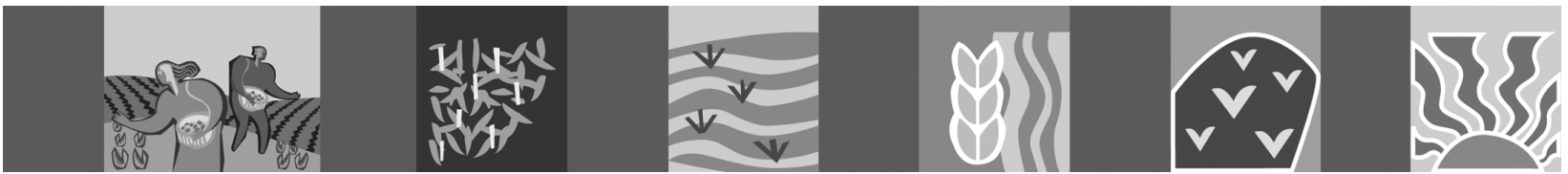
While this case study presents this type of contract growing as advantageous to the ARBs,

it does not in any way present or suggest that biofuel production is a better option than food production.

In general, Agribusiness Venture Agreements (AVA) exist to promote “productive and collaborative ventures between the private sector and the ARBs” (AO 9, 2006) to be able to transform the ARBs into farmer-entrepreneurs and maximize distributed agrarian lands. AVAs, then, should not be a deterrent to the ARBs’ right to lands but should, in fact, provide incentives for them to develop their lands and improve their production.

To prevent lopsided situations, such as that of HARBCO, from occurring—in which the contract agreement is not economically viable for the ARBs, violates their welfare and rights to land, and was not approved by the Undersecretary of the DAR’s Policy Planning and Legal Affairs Office (PPLAO), the following amendments to DAR Administrative Order 09-06 are proposed:

- a. Adopt or subscribe to the Committee on World Food Security (CFS) Voluntary Guidelines, especially on promoting tenure security of small holders and food security of the host country;
- b. Require free, prior, and informed consent (FPIC) of the ARBs or a multi-stakeholder consultation prior to approval of an AVA;
- c. Remove Section 5.2.10 and refine Section 5.3 to ensure that the ARBs will not be divested of their lands during the effectivity of the AVA;
- d. Include provisions on penalties and incentives for ARBs and investors;
- e. Require review and approval by the DAR/ Presidential Agrarian Reform Council (PARC)/PARC Excom (PARCOM) of



- contracts/agreements, regardless of size and type;
  - f. Include 'safety net' provisions in the contract/agreement such as price monitoring, transparency in financial documents, etc.; and,
  - g. Establish a registry of such agreements/contracts for monitoring and evaluation.
- e. Setting a transparent mechanism or coordination between the cooperative and the investor;
3. Develop a government program that would capacitate ARB organizations/cooperatives to assess the operational, financial, and legal implications, as well as the viability, of proposals/contracts that are offered them. ■

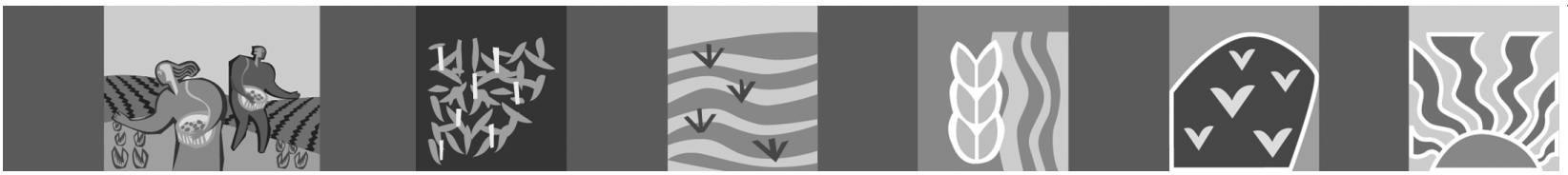
Based on the experience of SACARBEMCO, the following are also recommended:

1. For the DAR, in coordination with other agencies (e.g., the Department of Trade and Industry, the Department of Labor and Employment, the Department of Agriculture ), to review and evaluate all existing AVAs and to declare all existing contracts, based on AO 9, as null and void if they have not been approved or signed appropriately and have been proven to have violated the ARBs' rights;
2. Enact a policy or law that would regulate AVAs or land investments between agribusiness corporations and ARB organizations/cooperatives, by specifically:
  - a. Allowing ARBs to diversify their farm/production and income hence providing them with better buying power to secure food and other needs of their families;
  - b. Preventing displacement of ARBs from their lands and sparing them the pressure to sell or lease their lands;
  - c. Protecting the rights of small holders and farm workers;
  - d. Providing ARBs with access to formal credit, new technologies, and markets;

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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# Protecting mangrove areas through Community-Based Forest Management Agreements

The national situation of mangroves in the Philippines is rather dismal. For the past several decades, there has been an observed decline in the number of hectares of mangroves. From an estimated 450,000 hectares (ha) in 1914, mangrove cover is now down to 248,813 ha (World Bank Group, 2005). This estimate, however, has yet to be validated on the ground.

The primary threat to mangroves is their conversion to fish/shrimp ponds. At present, the pond to mangrove ratio is 1:1, or around 232,000 ha of fish/shrimp ponds for every 256,000 ha of mangroves (Primavera, 2012:8). This is below the ideal ratio of 4:1 as recommended by Saenger et. al. (1983) who indicated that “the amount of mangrove forest converted into ponds should not exceed one hectare of pond for four hectares of natural mangrove kept untouched.” Primavera et. al. (2012) suggested that no more than 20% of a discrete mangrove area in the country should be converted to ponds.

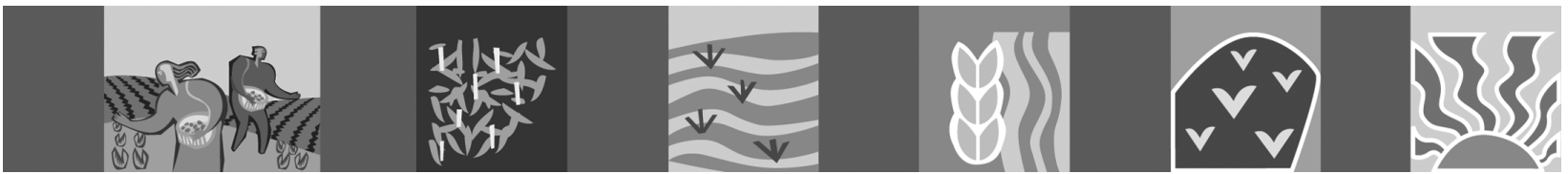
Worse, many of the once thriving mangrove areas that have been converted to fish/shrimp ponds are only partly functional or totally no longer operational. Section 43 of Presidential Decree 705, or the Forestry Code of the Philippines of 1975, provides that mangrove and other swamps released to the Bureau of Fisheries and Aquatic Resources for fishpond purposes which are not utilized or which have been abandoned for five years from the date of such release shall



The Badian Bay  
Map by NFR

Condensed from *Private and Public Investments in Mangrove Areas under the CBFMA: Case Studies in Malhiao, Cebu, and San Juan and Talisay in Surigao del Sur* by NGOs Fisheries Reform (NFR). For more details of the case, contact: [ngos4fisheries@yahoo.com](mailto:ngos4fisheries@yahoo.com)





revert to the category of forest land. Further, by virtue of Section 49 of Republic Act 8550 or the Philippine Fisheries Code of 1998, all abandoned, undeveloped, and underutilized (AUUs) fishponds shall be reverted to mangroves once the best use of the areas has been assessed and determined by the Department of Environment and Natural Resources (DENR), the Department of Agriculture - Bureau of Fisheries and Aquatic Resources (DA-BFAR), the local government units, other government agencies, and the National Fisheries and Aquatic Resources Management Council (NFARMC). The problem with the implementation of Section 49 is that there have yet to be clear implementing rules and regulations on how to cancel Fishpond Lease Agreements (FLAs) and how to revert AUUs under FLAs to mangroves.

This is the context for local mangrove management efforts being done in the Municipality of Badian in Cebu and the Municipality of Hinatuan in Surigao del Sur.

### **Mangrove protection in Malhiao, Badian, Cebu**

The Municipality of Badian in Cebu is replete with coastal and marine resources. It has approximately 65 ha of coral reef, 203 ha of seagrass, and 117 ha of vegetated mangrove areas. Thick mangrove forests are located in Barangays Poblacion, Malhiao, Manduyong, and Bugas. Poblacion has the most extensive mangrove area in the municipality. These barangays surround the Badian Bay. There are more than 11 species of mangrove in the bay, including the *Rhizophora stylosa*, *apiculata* and *mucronata*, *Bruguiera gymnorrhiza*, *B. Pototan*, *Ceriops tagal*, *Nypa fruticans*, *Sonneratia alba*, *Avicennia alba*, *Avicennia lanata*, *Aigeceras floridum*, and *Tabigue/Bantigue*. *Tabigue* or *Bantigue*, which is considered an endangered mangrove species in

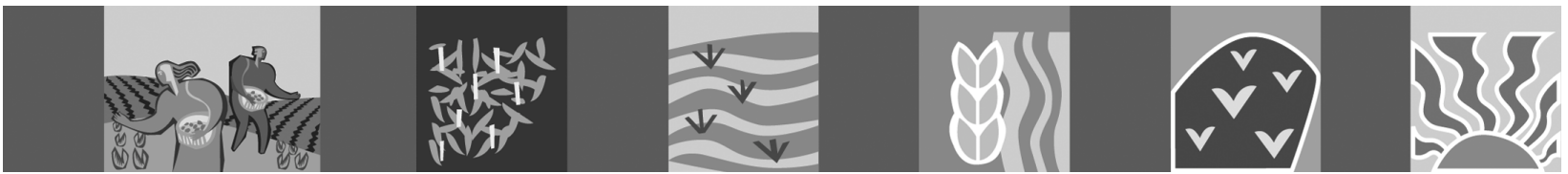
***“Deforestation of the mangrove areas in Badian started in the late 1970s when there was massive conversion of mangrove areas for fishpond development, followed by the establishment of beach resorts, and utilization of mangrove stands as firewood in bakeries and for salt making.”***

the Philippines<sup>1</sup>, is found along Sima River. There are three mature bantigue trees along the river (with a diameter at the base of the trunk of almost 1.5ft). It bears pomelo-size fruits but there are no natural grown saplings in the vicinity.

Deforestation of the mangrove areas in Badian started in the late 1970s when there was massive conversion of mangrove areas for fishpond development, followed by the establishment of beach resorts, and utilization of mangrove stands as firewood in bakeries and for salt making. A mangrove species, the *Nigad* (local name), is declining owing to indiscriminate harvesting/uprooting by bonsai enthusiasts.

Sometime in the 1990s, a group of Certificate of Stewardship Contract (CSC) holders in Barangay Malhiao organized themselves as the Malhiao Pundok Mauswagon (MAPUMA). Initially, MAPUMA, under the DENR's Coastal Environmental Project (CEP), started rehabilitating the mangrove area of Barangay Malhiao.

<sup>1</sup> According to Dr. Jurgenne Primavera, mangrove scientist, who was able to visit the mangrove areas of Poblacion and Malhiao in 2003



**Boardwalk constructed under the CBFMA project**  
photo by IJFR

MAPUMA was transformed into the Malhiao Resource Management Multi-purpose Cooperative (MRMMPC) in 2000 after CEP ended and when Tambuyog Development Center partnered with the organization for the expansion of the Sustainable Coastal Area Development – Community-based Coastal Resource Management (SCAD – CBCRM) program. MRMMPC was contracted by the

DENR in 2001 to manage a 73-ha mangrove and seagrass area through the Community-Based Forest Management Agreement (CBFMA). This is an effort of both the fisherfolk and the government to protect mangrove forests in the Philippines. MRMMPC developed a 25-year Management Plan in 2002 and has been doing mangrove replanting and protection since then. The DENR sometimes provides technical support. However, with the department’s lack of funds and personnel, it cannot fully support the 25-year plan of the organization and similar plans of other organizations with CBFMAs. One of the major components of the 25-year plan of MRMMPC is to establish infrastructures to effectively guard the forest and to receive tourists who may want to stay close to nature. However, due to funding limitations, MRMMPC is unable to implement this plan.

Regardless, the organization has steadily spearheaded activities that address the general problem of continued cutting of mangrove

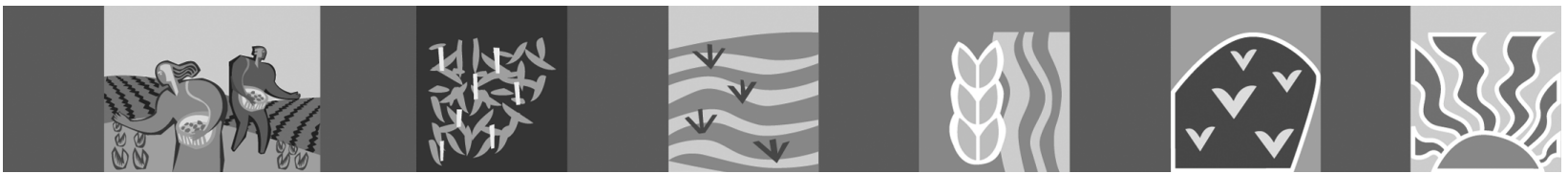
forests, and seek to reverse the trend through education and advocacy on the importance of mangroves and other coastal resources.

As part of its ecotourism project, MRMMPC established a coastal education center in the CBFMA areas called Malhiao Mangrove Eco Center, with support from a local foundation and Tambuyog Development Center. The Malhiao Mangrove Eco Center is equipped with an academic curriculum on coastal education, with learning modules that are officially recognized by the Department of Education District Level and adopted as part of the public elementary schools’ teaching and learning activities. It caters not only to students of Malhiao, but to local and foreign tourists as well, serving as a learning center on coastal education. It also serves as the starting point of the eco-tour, while behind it is the start of a 300-m<sup>2</sup> boardwalk and a 20-m view deck being constructed as part of the investments of both the LGUs and the community in the CBFMA area.

Some issues that prevail in Malhiao include: (1) illegal cutting of mangroves for posts, firewood, and forage for livestock.; (2) illegal structures along mangrove areas; (3) improper solid waste disposal that destroys newly grown mangroves; (4) low level of awareness among community members of the importance of coastal habitats; and (5) weak support from the LGU in the enforcement of the Comprehensive Municipal Fishery Ordinance.

### **Challenges in CBFMA areas in Hinatuan, Surigao del Sur**

The Municipality of Hinatuan, on the other hand, is part of the province of Surigao del Sur in Mindanao. There are two CBFMA areas in the municipality. One is located in Brgy. Talisay that



covers 555 ha and the other is located in Brgy. San Juan with 410 ha. These areas are managed by the Socially Enlightened Association of Girls in the Rural Areas for the Sustainability of the Sea (SEAGRASS) and Barangay United for Development of Aqua Marine Sustainability (BUDAS) in Brgy. Talisay, and Active Native Develop and Unite for Human Aqua-Marine Wealth (ANDUHAW) in Brgy. San Juan. Both CBFMA areas are mangrove areas. In 2013, both areas were included in the National Greening Program of the national government. Notably, a women-managed area (WMA) has been established in Brgy. San Juan. WMAs are areas in the coastal zone that are traditionally used by women fisherfolk. The CBFMA areas in Hinatuan facilitated the mangrove reforestation of around 13 ha under the Upland Development Program in 2009.

While the CBFMA area in Badian has enjoyed relative prosperity, the community in Hinatuan is struggling to come to terms with land investments inside the CBFMA. Fishpond development legalized under the FLA has resulted in further deterioration of the area's mangroves. Abandoned, undeveloped, and underutilized (AUU) fishponds remain a central issue. There are 8.91 ha of fishponds in Hinatuan that have been abandoned. Of the nine FLAs recorded in the municipality covering around 206.71 ha, all are expired and should have been cancelled by the local government. There have been reports that mangrove cutting is still in practice inside the CBFMA areas and that there are fishponds within these areas as well. Further, the LGUs continue to issue tax declarations for areas to be developed as fishponds.

## Recommendations

### 1. Harmonization of conflicting laws and overlapping jurisdiction among LGUs, DA-

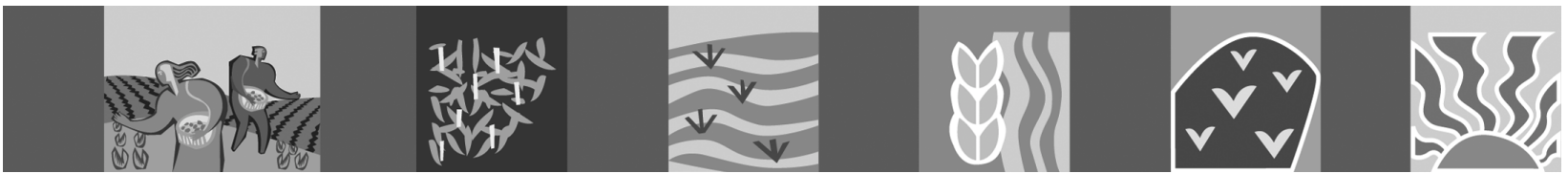
### BFAR, and the DENR.

In Hinatuan, a major challenge is the overlapping of jurisdiction of DENR, BFAR, and the LGU, and conflicting policies particularly on mangrove management. For instance, despite the granting of a CBFMA to ANDUHAW and BUNLOD, the area was still converted to residential use. The CBFMA areas in Brgy. San Juan and Brgy. Talisay in Hinatuan are also threatened by the establishment of fishpond structures and the expansion of existing fishpond areas. Primary among these threats is the issuance of tax declarations by the LGUs for fishpond development.

It is noteworthy that the government, both at the local and national levels, is asserting its jurisdiction over mangrove resources. The LGU is issuing tax declarations obviously for revenue generation. The DA-BFAR, on the other hand, is asserting its jurisdiction over mangrove resources because it is also extracting permits and licenses for fishpond operations. The DENR, meanwhile, is asserting its jurisdiction over the mangrove resource for its mangrove reforestation program.

### 2. Strengthening of the role of CSOs and CBOs in capacity building and policy advocacy.

In the conduct of the study, it was found that the communities rely on civil society organizations (CSOs) and community-based organizations (CBOs) to build their capacity in correct mangrove reforestation and management. The mangrove reforestation programs that have been conducted in the communities are mainly focused on planting mangrove propagules and seedlings. There is little monitoring on whether these mangroves actually thrive or not. The communities also



**“Fishpond development legalized under the FLA has resulted in further deterioration of the area’s mangroves. Abandoned, undeveloped, and underutilized (AUU) fishponds remain a central issue.”**

see CSOs and CBOs as facilitators to bridge the gap between the LGU and the community, given the lack of trust between the two parties. CSOs and CBOs are also expected to be among the advocates for the cancellation of FLAs and the reverting of AUUs to mangroves.

**Specific recommendations raised during the key informant interviews:**

*On local governance*

1. The LGU should send a letter to DA-BFAR on the status of the nine FLAs. Prior to this, the Sangguniang Bayan (SB) should write a resolution asking DA-BFAR to survey the nine FLA sites and determine the best management options for them;
2. In order to strengthen law enforcement, the LGU should form a Bantay Kawakatan or Mangrove Management Convergence Council, primarily to ensure that the remaining mangroves are properly managed. The body shall also see to it that the ratio of one hectare of fishponds to four hectares of mangroves is maintained or improved.

*On awareness raising and capacity building*

1. An Information, Education, and Communication campaign should be launched to increase the awareness of LGU officials and fishpond operators and caretakers of their responsibilities in mangrove management; and
2. A dialogue should be conducted among mangrove resource users to reach a consensus on how to properly operate fishponds and how to manage mangroves. ■

3.

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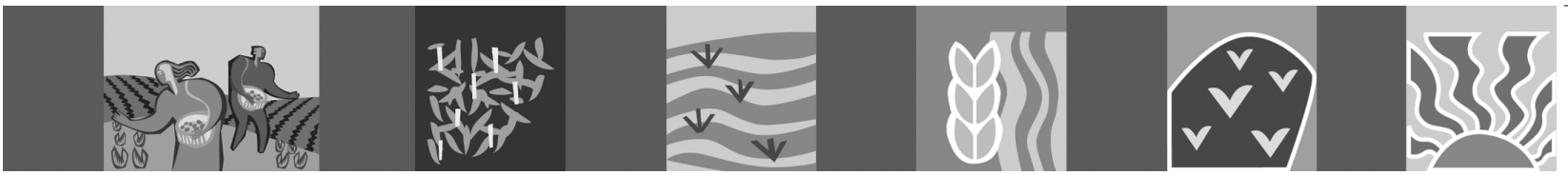
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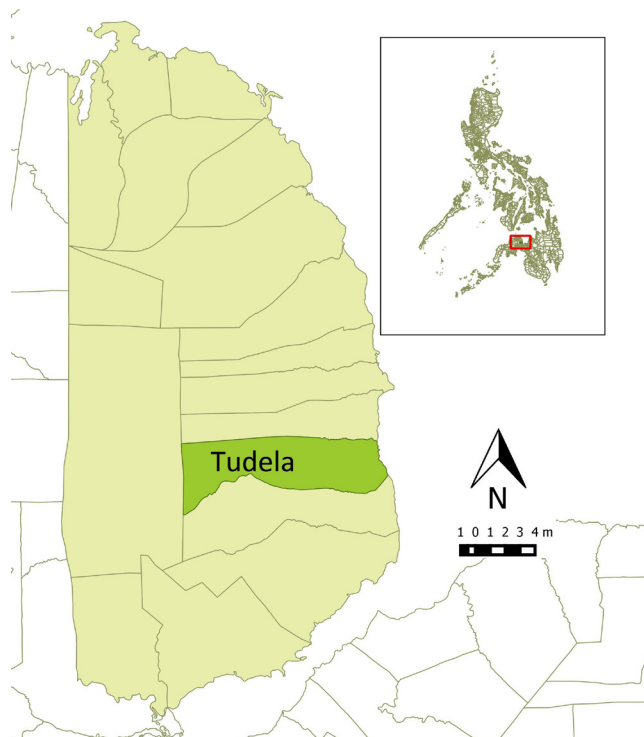
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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# The Subanens: Protecting ancestral lands from the threat of biofuel production



Map of Misamis Occidental showing the town of Tudela  
Geospatial data source: GADM

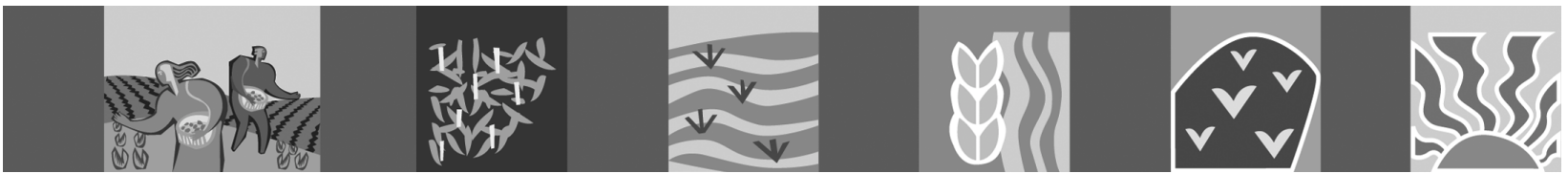
Condensed from *Large-Scale Agricultural Land Investments in the Philippines: The Case of the Subanens of Tudela, Misamis Occidental*. Paper prepared by Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA). Edited by M. J. Petilla of Asian Farmers Association. For more details of the case, contact: [info@pakisama.com](mailto:info@pakisama.com).

**L**abela Alcolgas Corporation (IAC), a company registered with the Philippine Securities and Exchange Commission, is targeting 16,000 hectares (ha) of land in Misamis Occidental for biofuel feedstock production. The company is said to have laid the groundwork for this project in 22 barangays in four municipalities. Sixteen of these barangays are the subject of ancestral domain claims by the Subanen indigenous people.

Like other development projects purportedly aimed at improving the plight of indigenous communities, IAC's project has merely sowed disunity among the Subanens. Divided between those in favor and those against the project, the once peaceful communities of the Subanens are now confronted with conflict.

## The NCIP as project facilitators

The National Commission on Indigenous Peoples (NCIP) came to the Subanens on separate occasions in September 2008. At the onset, the NCIP attended barangay assemblies and presented a project purported to bring development to the community. The project would involve the planting of sugarcane to be used as feedstock for biofuel production in Ozamiz City. Additional benefits under the project included scholarships for children, livelihood opportunities such as animal dispersal for the adults, and infrastructure



***“Kapag nawalan kami ng lupa at kapag napaalis kami sa aming lupang ninuno, wala na kaming matataniman, magugutom kami at mamalimos na lang sa baba. (If we lose our farms and ancestral lands, we would go hungry and resort to begging in the lowlands.)”***

development, including construction of concrete roads. Later, a representative of IAC, together with NCIP personnel, presented the proposed project to the barangay councils. According to the Subanens, they were told that IAC would lend them an initial seed capital of PhP16,000 per hectare and provide other forms of support needed for the cultivation of sugarcane. They were further told that they could avail of a second loan of PhP16,000 if the first harvest proved unsuccessful. The business scheme to be applied, however, was unclear.

The Subanens were not keen on accepting the project. Porferia Acuram or Ehrya, one of the women leaders of the community, had been wary of the project from the start. The supposed benefits seemed unbelievable. Besides, the NCIP was seemingly bent on making them accept the project. Ehrya and the other members of the community were concerned that vast hectares of trees would be cut down to make way for the sugarcane plantations. This would mean the loss of their farms as a source of livelihood and encroachment on their ancestral domain.

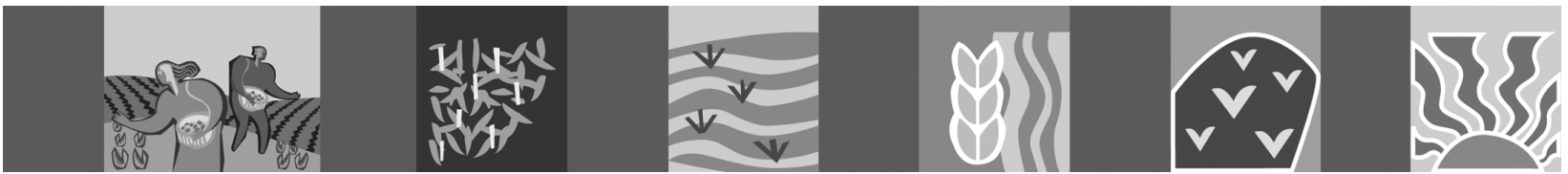
Young members of the community were also concerned about their future. *“Kapag nawalan kami ng lupa at kapag napaalis kami sa aming lupang ninuno, wala na kaming matataniman, magugutom kami at mamalimos na lang sa baba.”* (If we lose our farms and ancestral lands, we would go hungry and resort to begging in the lowlands.)

Eventually, the NCIP was able to facilitate a meeting between IAC and the tribal leaders with the intent of securing a Memorandum of Agreement (MOA) between the company and the Subanen community. The MOA was signed in November 2008. According to the focused group discussion (FGD) participants, the leaders who signed were not the duly authorized representatives of the people. They were handpicked by the NCIP, while their recognized leaders were marginalized and bypassed.

The communities who allegedly gave their free and prior informed consent (FPIC) to IAC did not have a copy of the MOA that their tribal leaders supposedly signed. Consequently, the Subanens did not know the terms stipulated in the said agreement. The tribal leaders (*datus* and *bais*) opposing the project tried several times to secure a copy of the said MOA from IAC but to no avail. They even sent a formal letter of request to the NCIP but were told that the MOA was with the NCIP-appointed tribal chieftain. When asked about the MOA, the said tribal chieftain referred them back to the NCIP.

Undeterred and with the support of the Environmental Awareness Team<sup>1</sup>, the Subanens

<sup>1</sup> A group of CSOs protesting the illegal encroachment of IAC into the Subanen ancestral lands, composed of the Social Action Center of the Catholic Church, Piekasalabukan Mieggulipit nga’k Suban’n Gataw’g Ginsalogan (PIEMSUGG), Justice and Peace and Integrity of Creation (JPIC), Columban Mission Mindanao, Indigenous



conducted awareness-raising activities on the impact of the proposed biofuel plantation and on the FPIC process mandated by the Indigenous Peoples Rights Act (IPRA). Their tribal leaders also initiated a signature campaign against IAC's illegal encroachment and the NCIP's endorsement.

NCIP Provincial Officer Dodge Cabahug allegedly lashed back at them and threatened to take the petitioners to court. He told them: *"Pwede lang kayong magtanong pero hindi kayo pwedeng magreklamo. Malaki na ang gastos sa proyektong ito kaya hindi pwedeng hindi ito matuloy."* (You can only ask questions but you cannot complain. So much has already been spent for the project. It therefore cannot be stopped.) Fearful of being imprisoned, some of those who signed the petition retracted.

Cabahug allegedly further insulted them: *"Kaya kayo pobre dahil Subanen kayo mag-isip. Huwag kayong manatiling Subanen para umasenso kayo at umunlad ang buhay ninyo."* (You are poor because you think like Subanens. Stop being Subanens so that you can develop and prosper.)

The people, including barangay leaders, alleged that Tudela Municipal Mayor Felix Sarigumba, Misamis Occidental Gov. Herminia Ramiro, and Rep. Loreto Leo Ocampos were supportive of the project, and that NCIP personnel were the ones pushing for the entry of IAC into their ancestral lands.

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Peoples Apostolate (IPA), Gitib, Inc. Ozamiz City, RSM-Environmental, Institutional Social Concerns Office (ISCO), LSU Ozamiz City, PIPULI Foundation Inc., Stewards of the Earth's Ecological Resources (STEER), Ecology Concern of Misamis Occidental (ECOMIS), and DIOPIM Committee on Mining Issue (DCMI).

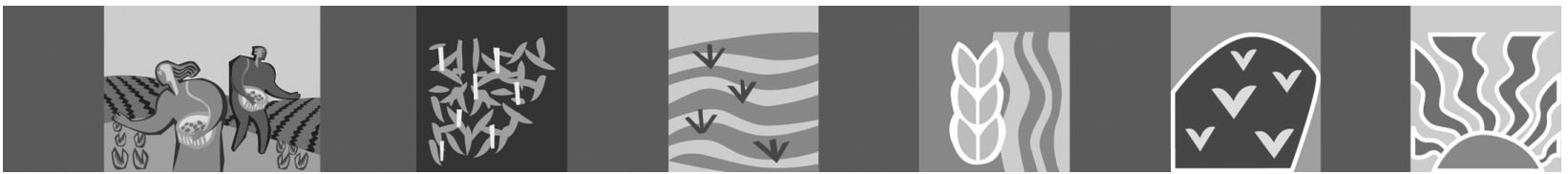
***"The communities who allegedly gave their free and prior informed consent (FPIC) to IAC did not have a copy of the MOA that their tribal leaders supposedly signed. Consequently, the Subanens did not know the terms stipulated in the said agreement."***

On November 22, 2010, the IP community filed a petition for the transfer of the NCIP provincial officer to Basilan to be replaced with a Subanen leader/elder who would uphold the interest of the community. In addition, the community issued a call to advance the development of IPs towards self-governance. This was to counter the plan of the congressman of the district to title the land to protect and promote his tourism project.

The community's tribal leaders have also met with Rep. Kaka Bag-ao of Akbayan and the Committee on Human Rights' Chairperson Etta Rosales to present their grievance and gather support for their struggle.

To date, about 36,000 to 45,000 ha of land have been placed under the biofuel project, with the land converted to monocrop farming (sugar cane initially, then jatropha). Around 4,000 households have been affected.

Based on these accounts, the provincial NCIP has been remiss in its duties. For one, the NCIP failed "to promote and protect the rights and well-being of the indigenous cultural communities (ICCs)/IP and the recognition of their ancestral



domains or lands based on customs, traditions and institutions”<sup>2</sup> when it acted on behalf of the IAC. For another, the NCIP violated its role “to ensure that the basic elements of free and prior informed consent (number of days, language, consensus) are present and are complied with in all instances when such must be secured,” as stated in the IPRA’s Implementing Rules and Regulations, Sec. 3, b, Rule VII. It conducted the gathering of the FPIC in only one day and without the knowledge and participation of the majority of the affected community members.

The commission replaced the tribal leader representing the IPs without abiding by the IP process of selecting leaders, thereby sowing the seed of disunity and conflict among the community members. It failed to practice transparency enshrined in the IPRA as well as refused the Subanens’ request for a copy of the MOA. As primary stakeholder, the IP groups are without question a party in interest to the case, a fact which the NCIP failed to respect.

Apart from the above violations, the NCIP seemingly derided, verbally insulted, and mocked the community and their way of life—unbecoming and unacceptable behavior for an agency tasked to protect IPs’ rights.

### **Calls of the Subanen community**

Since 2010 and 2011, AR Now! and PAKISAMA have been closely monitoring the case of the Subanens. The community calls for:

1. The scrapping of the MOA signed by the NCIP-installed tribal leaders, and invalidation of the fraudulently obtained FPIC;

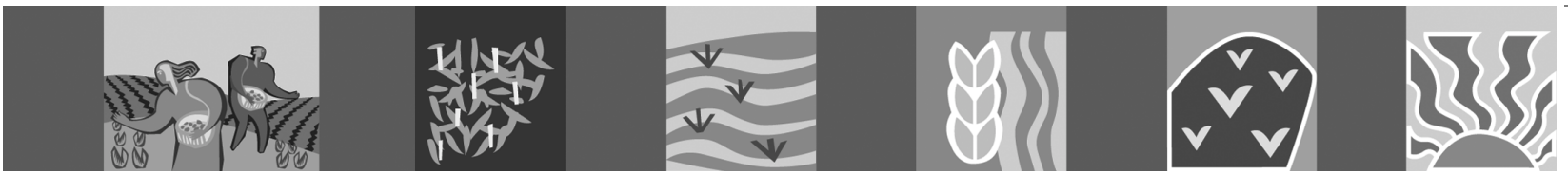
<sup>2</sup> Sec. 3, b, Rule VII of the IPRA Implementing Rules and Regulations

***“In cases where government measures to protect and uphold the rights of its citizens fail, an intensified and effective multi-sectoral and multi-stakeholder response is imperative.”***

2. The conduct of an immediate investigation of the NCIP Misamis Occidental provincial office, specifically the provincial officer;
3. A stop to the intimidation of and threats to Subanen communities;
4. The conduct of a genuine FPIC that respects the decision of the Subanen communities;
5. Transparency in transactions between the company and community stakeholders;
6. A review of the Biofuels Act of 2006 to address concerns in the conversion process of ancestral and agricultural lands into biofuel or feedstock production sites; and,
7. The inclusion of food security and protection of the welfare and rights of the citizens as priority and essential principles in the national government’s development paradigm.

The calls of the Subanen people must be considered and heeded by all stakeholders concerned. In cases where government measures to protect and uphold the rights of its citizens fail, an intensified and effective multi-sectoral and multi-stakeholder response is imperative. All sectors of society, both at the national and international levels, need to work towards addressing the issue, as the Subanens’ case is not isolated. There are countless other small-scale women and men farmers and IPs here and abroad who experience a similar fate.





International treaties or covenants pertinent to their cases and to which the respective governments involved are parties need to be strictly observed and implemented. Sanctions should be employed if state parties fail to strictly observe and implement the treaties or covenants they signed. ■

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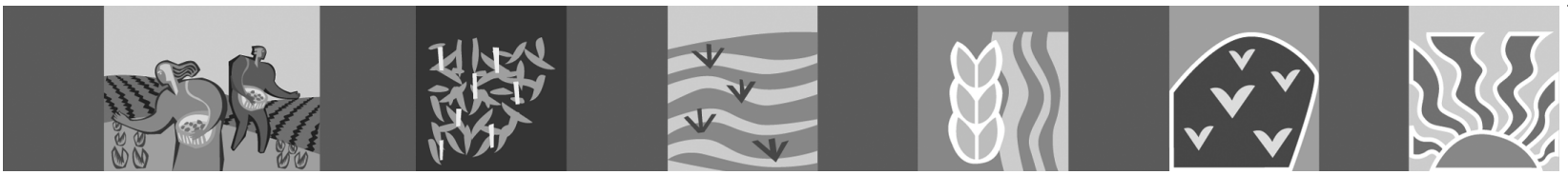
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# The drawbacks of leaseback agreements



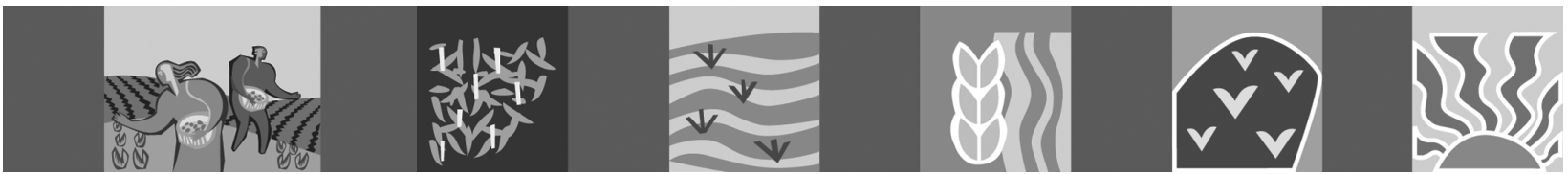
**Map of President Roxas, Capiz showing the community of Sto. Niño**  
 Geospatial data source: GADM

In Capiz, sugarcane farming remains the main driver of the economy and the major source of employment for the locals. Despite the Philippine government’s Comprehensive Agrarian Reform Program (CARP), landlord-politicians and sugar mill owners continue to have a tight grip on the industry. Sugar traders have engaged in all aspects of the industry in order to create a cartel and dictate the prices. In short, they hold a monopoly over the local sugar industry.

Sto. Niño, a small hillside community in the municipality of President Roxas in Capiz, is a typical sugarcane farming community. Prior to CARP coverage, the area used to be a hacienda, a large landed estate belonging to the Locsin-Consing Enterprises. Ramon Locsin is the biggest landowner in Capiz, owning 1,500 hectares (ha) in four barangays in President Roxas. His family holds significant political influence and connections. He was elected as municipal mayor twice while his son, Raymund, is the incumbent mayor of President Roxas.

Hacienda Sto. Niño’s total farm area is 187 ha, 179 of which were covered under CARP in 1995. DAR distributed 91 ha of the sugarcane land to 58 agrarian reform beneficiaries (ARBs) under a collective Certificate of Land Ownership Award (CLOA). Land Bank of the Philippines (LBP) valued the sugarcane portion at Php105,836 per ha. The 58 ARBs received their CLOA in

Condensed from *Unmonitored Leaseback Arrangement Enslaves Farmers in Sto. Niño, Capiz* by Nerva, E. & delos Santos, K. of the Center for Agrarian Reform and Rural Development (CARRD), 2013. For more details of the case, contact: carrdinc@gmail.com.



1996. However, their installation was stalled for four years because of a lease contract between the Locsin-Consing Enterprises and Capiz Sugar Central, which claimed ownership over the standing sugarcane crops on the hacienda.

Locsin convinced the ARBs to lease back their lands to him and return as daily wage sugar workers. Majority (39) of the ARBs agreed to Locsin's proposal despite the low rent and wages offered. They entered into a lease arrangement covering 55 ha for five years wherein Locsin would pay them Php7,000 per ha annually and also employ them as laborers on the farms. Their contract has since expired. However, the arrangement still continues and no changes or increase in payments have been introduced. Aside from the annual rent and daily wages paid to the farmers, no other benefits or incentives are offered. Locsin and Capiz Sugar Central have not initiated any projects to provide essential services to the community.

The farmers were excluded from all negotiations between Capiz Sugar Central and Locsin. Thus, the contents of the contract between the two parties are unknown to them. Although the farmers wish to know the details affecting their work, the documents are not accessible and the parties involved do not entertain inquiries on the matter.

On the other hand, the remaining 19 ARBs who refused the leaseback proposal organized themselves into the Sto. Niño Agrarian Reform Beneficiaries Multipurpose Cooperative (SNARBMPC), with assistance from the Center for Agrarian Reform and Rural Development (CARRD) during the Task Force Sugarland Project in Panay Island in the late 1990s. Amidst harassment and threats from the former owner and his loyal ARBs, SNARBMPC members stayed adamant in their

goal to take over their farms. The Department of Agrarian Reform (DAR) allowed SNARBMPC to withhold 36 ha of the land and ordered Ramon Locsin to pay them back a lease rental of PhP4,500/ha/year for the three previous crop years that he had hindered their installation.

## Worse off

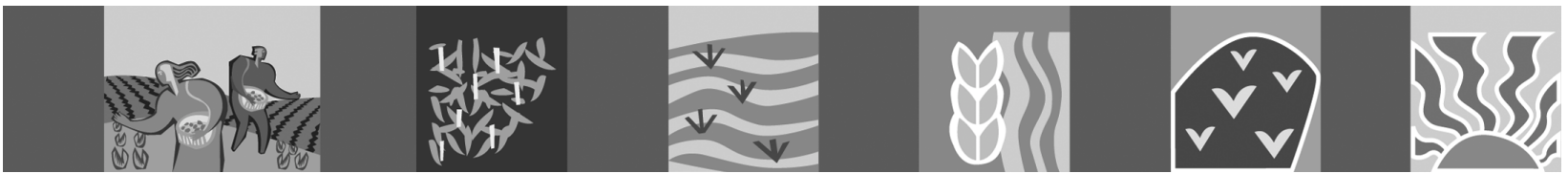
Compared to SNARBMPC members, farmers under leaseback agreements earned less income. Farmers under the individual farming management system earned more than twice those in leaseback farming. As of 2013, farmers under a leaseback agreement earned an annual income of PhP27,300 from wages in sugarcane farming alone.

Amortization payments are shared equally by the farmer and the lessee. Some of the leaseback farmers have off-farm incomes from monthly pensions (ranging from PhP1,600 to PhP3,800) or from working on other people's farms. However, not all of the farmers have other sources of income.

In contrast, SNARBMPC members earn an annual net income of PhP48,000 to PhP74,000 per harvest, depending on the size of their farms. Many of them also look for additional sources of income. These include working on other farms and hog raising. Income from these ventures may range from PhP14,000 to PhP24,000 per year.

However, even though farmers in individual farming earn significantly more than those in leaseback, all sugar farmers still live in absolute poverty and are in need of regular support services and subsidies from the government. In 2009, NSCB<sup>1</sup> pegged the annual per capita

<sup>1</sup> National Statistical Coordination Board (NSCB). Web Article. 22 July 2011. <http://www.nscb.gov.ph/ru6/WA%20>



**“Supporting leaseback agreements is tantamount to preserving the impoverished state of farmers as they continue to depend on their former landowners.”**

poverty threshold of Capiz at PhP17,306. This means that an individual must earn PhP17,306 annually to meet his basic food and non-food needs. Meanwhile, a family of five should earn a monthly income of PhP7,211, or PhP86,532 per year, to stay out of poverty.

### **Reversal of gains in agrarian reform**

One of the intended outcomes of agrarian reform is to give farmers land as a starting point to building their assets. Prior to land reform, peasants had only their labor to sell for wages.

The leaseback agreement instituted by Locsin has restricted the farmers’ access to and ownership of their land. The farmers returned to

their former status as daily wage sugar workers even after being given their emancipation patents or CLOA. The additional income they get from the lease rental is barely enough to cover their amortization costs.

Moreover, the leaseback agreement has stunted the development – economic and human – that the farmers would have been enjoying had they refused it. Because they are tied to the contract as laborers, they are required to plant sugar and thus cannot explore more lucrative options for their lands, such as mixed-crop farming systems.  
[-povertyJuly22.11.htm](#)

### **Creating dependency**

According to law, leaseback arrangements should be the last resort, and the Provincial Agrarian Reform Coordinating Committee should approve the application only when there are no alternatives left and when amount and payment are not more burdensome to the ARB.

However, the majority of landholders are politically powerful families that hold government positions and can influence policies and decisions at the local or national level.

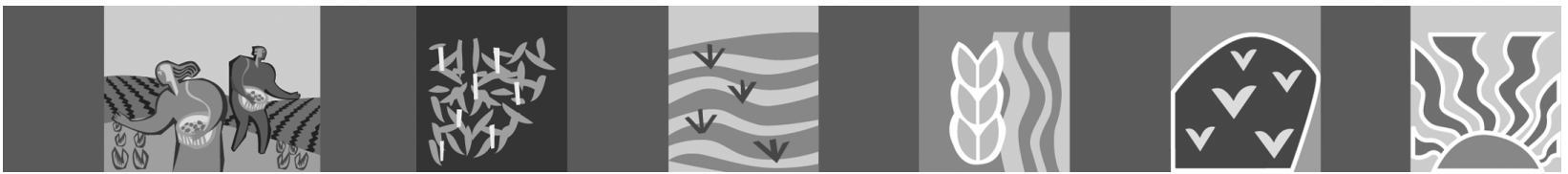
Leaseback arrangements perpetuate the relationship of patronage and dependence between workers and landlords. The agrarian reform goal should be toward the empowerment of farmers and should promote a shift in their political and social relations with those they formerly considered as *amo* or masters.

Supporting leaseback agreements is tantamount to preserving the impoverished state of farmers as they continue to depend on their former landowners. These landowners collect *utang na loob* (debt of gratitude) from farmers by extending them credit for food and other needs. Farmers feel grateful for this access to credit despite the usurious interest rates that the landlords charge.

### **Recommendations**

#### **Access to credit policy**

Because the farmers are dependent on wages from their labor in the sugarlands, which are just enough to cover their family’s essential needs, they have no income during the lean months of July to September. A way to help farmers improve their livelihood is by providing them access to capital through the joint Agrarian



Production Credit Program (APCP) of the DAR, the Department of Agriculture (DA), and Land Bank of the Philippines (LBP).

In tenancy arrangements, farmers are dependent on landowners for production capital needed for farm inputs and for planting each new crop cycle. But the APCP aims to offer credit assistance to qualified Agrarian Reform Beneficiaries Organizations (ARBOs) for farming and enterprise capital. Under this program, ARBs may qualify for credit assistance if they are organized into ARBOs or are members of cooperatives, rural banks, GOs, and other organizations.

The program aims to help ARBs who do not pass the requirements of LBP's credit assistance program and that of other credit-lending organizations. The APCP offers an annual interest rate of 8.5% and allows the ARBs to submit a promissory note or insurance proceeds as collateral.

However, despite the APCP's less strict requirements, many ARBs will still have difficulty accessing a loan—especially those who are in transition from tenants to ARBs. And the impact of the program has yet to be assessed, as it was just recently launched.

### **Evaluation of leaseback agreements/joint venture agreements**

Since the implementation of CARP, the DAR has been supporting leaseback agreements. Unfortunately, the DAR's focus has been on accomplishing land acquisition and distribution, which is the main indicator of their performance. Support services for farmers after land transfer have been largely abandoned by DAR.

The DAR does not have the capacity, resources, nor the incentive to regularly monitor and evaluate

leaseback agreements. Hence, it is not able to ensure that the arrangements in the contracts are beneficial to the farmers. In the case of the concerned sugarcane farmers, their working arrangement with Locsin and Capiz Sugar Central continues despite the expiration of the contract. The DAR should provide guidelines for the creation of contracts to the benefit of ARBs. Strict monitoring and evaluation of compliance with the contract terms should also be installed to prevent abuse by either party.

### ***Adoption of crop and farming system diversification to help farmers reduce vulnerabilities (declining sugar industry, removal of tariffs, market failures)***

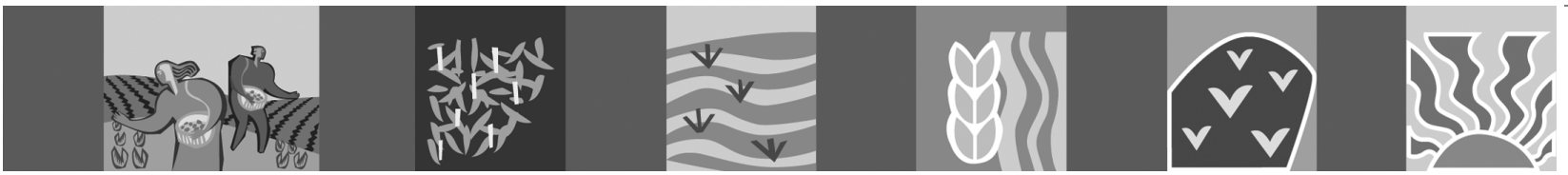
With the pending removal of tariffs on agricultural products, including sugarcane, the government should put in place policies and programs that support local farmers. On the other hand, farmers must learn to adopt new practices and systems—such as crop and farming system diversification—to prepare for changes in the market. ■

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***For the complete list of references, please contact the author of this case as indicated at the beginning of the article.***



# Asserting Ancestral Land Rights: The Mamanwa experience

**T**he indigenous Mamanwa community comprises the majority of the population of Sitio Dinarawan and Bunga in Brgy. San Pablo, Jabonga, Agusan del Norte. Their ancestral domain claim covers both terrestrial as well as lakeshore areas totaling 8,000 hectares. The Mamanwa communities in Jabonga trace their early origins to the small settlements spread across the banks of Lake Mainit, the fourth largest lake in the Philippines, and in the forests of Mt. Hilong-hilong and Mt. Mabalao where they practiced seasonal honey gathering, foraging, and hunting.

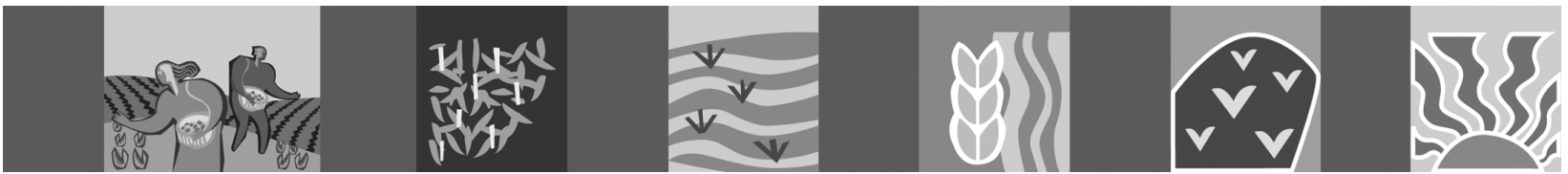
Just like other indigenous communities in the Philippines, the Mamanwa of Dinarawan have close ties to the land and see themselves as part of the whole ecosystem. Land and water are not only valued as means of production and livelihood but also as part of their spiritual and cultural traditions. Their food, water, building materials, and medicinal herbs come from the land, forests, rivers, and seas.

In 2003, the Mamanwa communities learned about the impending mining operations of Mindoro Resources Ltd. (MRL), a junior mining company based in Edmonton, Canada engaged in the exploration of nickel, copper, and gold in the Philippines. MRL was actually granted its first mining tenement in 1997, covering the Agata Mineral Production Sharing Agreement (MPSA) site, the company's principal nickel



**Dinarawan tribe against mining in Jabonga, Agusan del Norte**  
Photo source: <http://taomunahindimina.files.wordpress.com/2013/04/dinarawan-tmhm-2.jpg>

Condensed from *The Mamanwa Communities of Dinarawan and Bunga: Asserting Ancestral Land Rights amidst the Challenge of the Mining Industry: A Case Study* by D. De Vera of the Philippine Association for Intercultural Development, Inc. (PAFID). For more details of the case, contact: [devera.dave@gmail.com](mailto:devera.dave@gmail.com).



laterite resource. In July 2002, it applied for an additional Exploration Permit, known as the Taipan Extension, which covered the west of Lake Mainit and several areas north of the Agata MPSA, where the communities of Dinarawan and Bunga are located.

The mining tenement given to MRL covers the areas of Mt. Hilong-hilong, which spans four provinces and 20 municipalities, including Jabonga, and Lake Mainit. Mt. Hilong-hilong has been identified as a Key Biodiversity Area (KBA) – a globally significant site for preventing biodiversity loss – while Lake Mainit has been classified as a Candidate KBA and Conservation Priority Area (CPA).

### **Support for mining**

The Local Government Unit (LGU) of Jabonga proactively promoted and supported the entry of MRL into the municipality. The main argument used to encourage and pressure the Mamanwa to agree was the amount of royalty payments they would receive once the full operations of the mining project were realized. Under the Indigenous Peoples Rights Act (IPRA), an affected indigenous community is entitled to 1% of the revenue as royalty share. The offer of jobs and development projects under the corporate social responsibility program of MRL was used as an additional incentive to get the assent of the people. However, information on the nature of the operations, its owners, coverage, and impact on the environment was scarce. Whenever available, information was in English, along with data that were incomprehensible and too complicated for the Mamanwa.

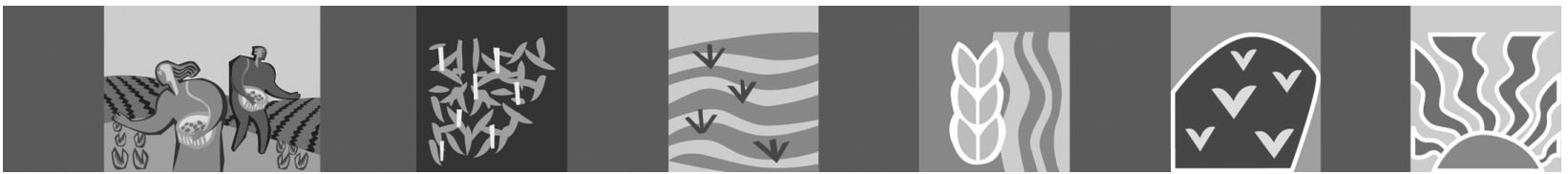
The National Commission on Indigenous Peoples (NCIP) initiated the conduct of the free, prior and informed consent (FPIC) process to comply

***“... information on the nature of the operations, its owners, coverage, and impact on the environment was scarce. Whenever available, information was in English, along with data that were incomprehensible and too complicated for the Mamanwa.”***

with the legal requirements of the law. However, the Mamanwa questioned the selection process of the affected community leaders/members to be consulted. The elders of Sitio Bunga and Dinarawan claimed that the majority of the traditional elders were marginalized in favor of those who were more sympathetic to the mining project. One such case they cited was the non-inclusion of their traditional leader Jenoviva Culangan, a respected member of the community, in the consultation process. Moreover, the Mamanwa claimed that the whole process had been tainted with bribery as many members of the community were offered jobs by MRL, thus making them vulnerable to the demands of the company.

### **Opposition and arbitration**

With very limited understanding of the extent and impacts of the mining operation, community members and leaders soon got into serious conflict with each other, creating divisions among the various Mamanwa clans and families. In 2008, the residents of Sitio Dinarawan conducted a general assembly to discuss their response to the



***“While the Mamanwa were given ample time to express and articulate their complaints and demands, they had the perception that these were falling on deaf ears and closed minds.”***

rising tensions and uncertainties brought about by the reported entry of MRL into their domain. Using whatever limited information they could access, the Mamanwa of Dinarawan agreed to unanimously sign a petition opposing the entry of MRL into their territory.

Their petition, which was sent to President Benigno Aquino III and other concerned government agencies including the NCIP and the Department of Environment and Natural Resources (DENR), cited, among others, the destruction of the lake, the encroachment on their ancestral domain, and the damage these would cause to their culture. The residents of Dinarawan and Bunga contended that mining operations were totally contradictory and inconsistent with their traditional use of natural resources in their ancestral domain. They expressed deep concern over the irreparable damage that MRL’s operations would cause to Lake Mainit, which is not only a major source of their livelihood, but is held sacred by the natives and occupies a very important role in their culture.

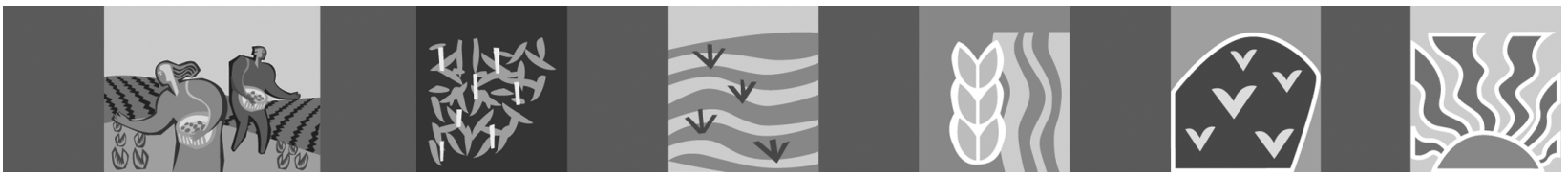
In 2010, tension between the Mamanwa and MRL and among the various clans and families reached a critical level. To break the impasse, the barangay LGU of Bunga initiated a dialogue with the affected Mamanwa communities to forge an

agreement and resolve the conflict. The resulting Memorandum of Agreement (MOA) included the redress of the following demands: 1) an end to the discrimination of the Mamanwa in Sitio Bunga, 2) an end to the non-recognition by the barangay LGU of the Mamanwa Tribal Council of Bunga, and 3) the recognition of Jenoviva Culangan as a leader of the Mamanwa in Sitio Bunga.

However, several incidents led the Mamanwa to believe that the MOA was ineffective and the BLGU sorely unable to compel the MRL to respect and follow the terms of the agreement. The situation was no different in neighboring Sitio Dinarawan, as the Mamanwa residents complained of the unauthorized entry and movement of MRL personnel and vehicles into their ancestral domain. The situation came to a head in the first quarter of 2011 when the Mamanwa, for the second time, convened a general assembly where, once more, petitions demanding a stoppage to all operations of MRL within Mamanwa territory were drafted and signed by the affected communities. The petitions were addressed to the President of the Philippines, the Chair of the NCIP, the Secretary of the DENR, the Office of the Mayor, and the management of MRL.

But after getting no response and action from any of them, the affected Mamanwa communities, not just in Jabonga but including the neighboring municipality of Kicharao and the affected Manobo communities, formed the Katibuan Ka Mamanwa Manobo Kicharao Jabonga (KAMAMAKIJA) or the Coalition of the Mamanwa and Manobo of Kicharao and Jabonga. The KAMAMAKIJA conducted a ritual to assess the charges and alleged transgressions of MRL and subjected these to the customary laws of the Mamanwa and Manobo. They came out with a verdict finding MRL guilty of violating Customary Laws subject to





a fine of ten carabaos, three pigs, and 100 kilos of rice.

With local venues for resolving the conflict between the Mamanwa and MRL exhausted, the affected communities turned to the outside for help. Since the MRL mining project in the CARAGA region is funded by a loan from the World Bank Group's International Finance Corporation (IFC), the advice of support groups was to elevate the community complaint to the Office of the Compliance Advisor Ombudsman (CAO), which is the independent recourse mechanism of the IFC and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group.

The formal complaint of the Mamanwa of Dinarawan and Bunga that was submitted to the IFC-CAO reiterated the points they had raised in their first petition, and included, among others, the division among IP communities and the undue stress and fear that the mining project had caused them. Their complaint was also grounded on clear violations that were stipulated in the IFC Performance Standard 7 on Indigenous Peoples, namely the flawed implementation of the FPIC, illegal appointment of a traditional leader to represent the indigenous communities in negotiations with MRL, inadequate information provided about the mining project, and bribery and coercion by the mining company and LGU officials.

CAO recognized the complaint of the Mamanwa and proceeded to conduct a mediation process composed of two field visits, which were actively participated in by the accepted leaders of the affected Mamanwa communities. Although the role and mandate of the IFC-CAO were clearly established and most of the logistical requirements were proper and adequate, the

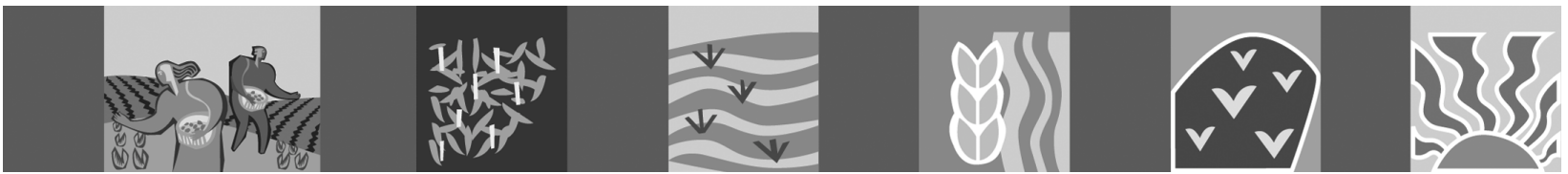
***“The experience of the Mamanwa communities of Bunga and Dinarawan and their efforts to secure recognition of their demands highlight the overlapping jurisdiction and conflicts in land use because of the lack of a National Land Use Act.”***

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facilitation and the establishment of confidence among the mediators and the community provided a lot of challenges and left much to be desired. The community felt that the mediators were more concerned with convincing them to agree with MRL and allowing the operations of the mining company in their ancestral domain. While the Mamanwa were given ample time to express and articulate their complaints and demands, they had the perception that these were falling on deaf ears and closed minds. In many instances, according to one of the Mamanwa leaders, the participants and the facilitators would gloss over the negative aspects of the mining activities and steer the conversation towards future benefits and mitigating factors rather than discuss and confront the actual complaints of the community regarding the adverse impacts of mining in their ancestral domain.<sup>1</sup>

As the confidence of the Mamanwa in the mediation dwindled, they indicated their preference to withdraw from the process. As a result, the IFC-CAO came up with the following conclusion in their report:

<sup>1</sup> Interview with Randy Catarman, 2012



***“... without a land-use zoning map, the Mamanwa were put at an extreme disadvantage as they could not invoke the pertinent provisions of the IPRA that would allow them to prevent extractive activities in traditional conservation and cultural, ritual, and religious zones.”***

“In the course of its assessment, the CAO understood from community members that presented the complaint that they did not wish to engage in a dispute resolution process with MRL. Given the voluntary nature of a dispute resolution process, and the lack of interest and willingness of the complainants to pursue this option, the CAO Ombudsman concludes that this complaint is not amenable to resolution through a collaborative process at this point in time.”

In March 2012, the CAO Ombudsman concluded its process and referred the complaint to CAO Compliance for initial appraisal. The appraisal will determine if an audit of IFC is necessary to provide assurances to the President of World Bank and the public that the IFC is complying with the relevant social and environmental policies in regards to this project.<sup>2</sup>

### **Lessons learned**

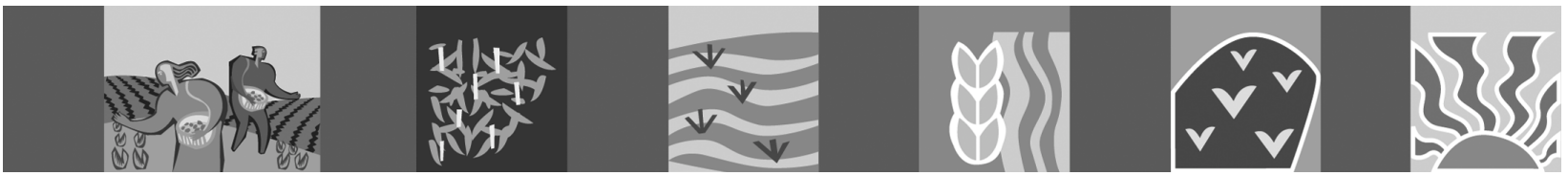
The experience of the Mamanwa communities of Bunga and Dinarawan and their efforts to secure recognition of their demands highlight the

<sup>2</sup> IFC-CAO Assessment Report, 2012

overlapping jurisdiction and conflicts in land use because of the lack of a National Land Use Act. In the absence of such a framework, priorities have never been formally established with regard to the disposition of land and resources in the Mamanwa Domain. The Mines and Geosciences Bureau (MGB) continues to classify it as a highly mineralized zone and offers it to the proper bidder for extractive activities. The Mamanwa case in Jabonga is a microcosm of what is happening around the country today. A National Land Use Act has to be enacted immediately if we are to save what remains of our biodiversity.

While the IPRA has been in force for the last 15 years, there is still a lot of room for improvement in implementing and operationalizing many of its progressive provisions. For instance, the lack of a Certificate of Ancestral Domain Title (CADT) and a perimeter survey of the Mamanwa communities was used as a point against their case. MRL repeatedly asserted that the absence of any overlap in the coverage of the mining operations did not legally compel them to go through an FPIC process. Furthermore, without a land-use zoning map, the Mamanwa were put at an extreme disadvantage as they could not invoke the pertinent provisions of the IPRA that would allow them to prevent extractive activities in traditional conservation and cultural, ritual, and religious zones. Thus, it is highly recommended that the NCIP expedite and prioritize CADT applications, and support the formulation of the Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) with proper Land-Use Zoning Maps in highly mineralized areas. This will provide IP communities with the proper support and prevent situations where they are put at an extreme disadvantage.

The established royalty share of the affected IP community, which is pegged at 1% of the



revenue, is extremely low compared to the potential adverse impact on the community once a mining operation starts. In ancestral domains where extractive activities are already on-going, an increase in royalty shares/payments must be seriously explored, and the State must ensure enhanced transparency and accountability in the accounting, distribution, and reporting of these payments and their use by the indigenous communities.<sup>3</sup>

The objectives of Traditional Land and Resource Governance are consistent with the objectives of the CPA and KBAs as embodied in the national Biodiversity Strategic Action Plan of the government. While the methods and motivations might be different, the outcomes of both governance modes will result in the conservation and protection of the Mt. Hilong-hilong range and Lake Mainit, and their environs. It is highly recommended that the government support the CADT application of the Mamanwa communities in Hilong-hilong and Lake Mainit, and support the formulation of their ADSDPP that includes an enhanced Community Conservation Plan to ensure the sustainability of traditional knowledge in the conservation of biodiversity. ■

<sup>3</sup> Garganera, Jesus Vicente: UNIPP Country Paper

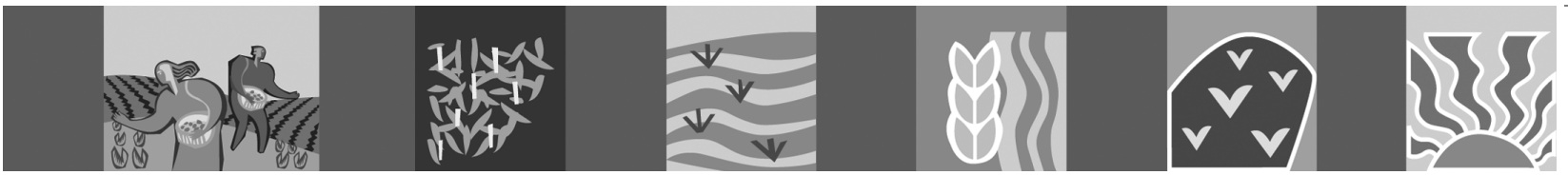
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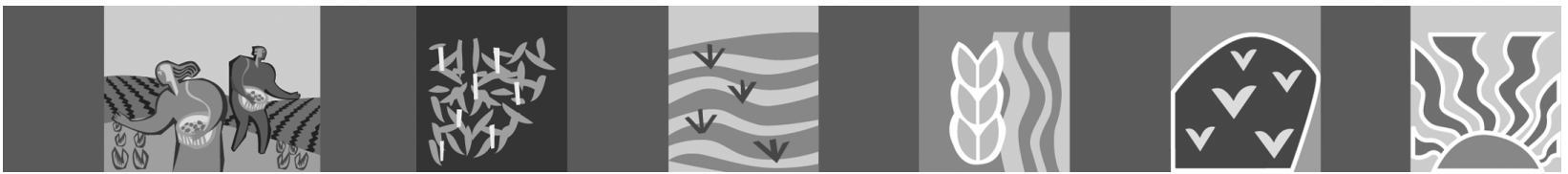
# Recommended principles on responsible agricultural investments (rai)

**A**griculture in the Philippines, as in many Asian countries, experienced a decline of investments from the 1980s until the early 2000s. This phenomenon, compounded by distorted policies and low public spending, resulted in low productivity and made the sector uncompetitive. The high incidence of poverty, particularly rural poverty, is attributed to this occurrence. Agricultural land also became vulnerable to other commercial interests such as tourism, settlements, and industrialization.

The recent increasing global demand for food and bio-fuel, however, has reinstated agriculture in the economic agenda. Investments are back and on the rise despite constitutional and policy constraints. This is further bolstered by the nation's commitment to ASEAN Economic Integration by 2015 that will open up the nation's economy to regional competition including that of agriculture.

Unfortunately, reports on expanding private agricultural investments have not been received well by some sectors. Obscure negotiations, non-compliance with existing policies, and overlapping jurisdictions of agencies threaten the tenure security and rights of farmers, fishers, and indigenous communities. This sounds an alarm, as agriculture is not simply a business proposition but carries with it a significant social agenda for national development.

Prepared by Roel R. Ravanera in behalf of the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) for the Philippine Development Forum – Working Group on Sustainable Rural Development (PDF-SRD), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), and the Food and Agriculture Organization (FAO).



***“The recent increasing global demand for food and bio-fuel, however, has reinstated agriculture in the economic agenda.”***

It is recommended that the Philippine government institute the necessary regulatory systems and mechanisms to govern land investments, recognizing that rural farming and fishing communities are diverse. Moreover, there is a need for affected farmers and fishers to be empowered and given the necessary support.

While crafting specific policies and programs would have to take a number of factors into consideration, a set of principles can be agreed upon as a guide and reference. These seven principles outlined below are based on regional and national consultations participated in by various stakeholders. These also take into consideration relevant documents such as the Committee on World Food Security’s (CFS) Voluntary Guidelines on the Governance of Tenure (VGGT), the World Bank’s Principles on Responsible Agricultural Investments (RAI), zero draft of the on-going CFS process, civil society case studies on large-scale land acquisitions, assessment of the status of Philippine agriculture, and land-related laws of the Philippines. The rai are not to be confused with the World Bank’s RAI. This briefer articulates Philippine civil society groups’ recommendations to the ongoing rai processes facilitated by CFS.

This article is intended to recommend a set of principles for rai as a collective input to various stakeholders in the Philippines to the CFS-initiated global consultation.<sup>1</sup>

<sup>1</sup> As of the time of printing of this publication, the first session of the CFS (Rome, Italy; 15 October 2014) adopted

## **Principle 1**

**Responsible agricultural investment has the free, prior, and informed consent (FPIC) of communities that will be affected by investments.**

Concerned individuals and communities give their free, prior, and informed consent to any proposed investment. To realize this, mandated government agencies require investors to provide sufficient and accurate information (including market information). Investment proposals are subjected to consultations through appropriate mechanisms, such as the Fisheries and Aquatic Resources Management Councils and other similar bodies.

Prior to any agreement, investment contracts are directly negotiated with farmers/landowners/communities under the supervision of the mandated government agency. These agreements are then signed by all parties and made publicly accessible.

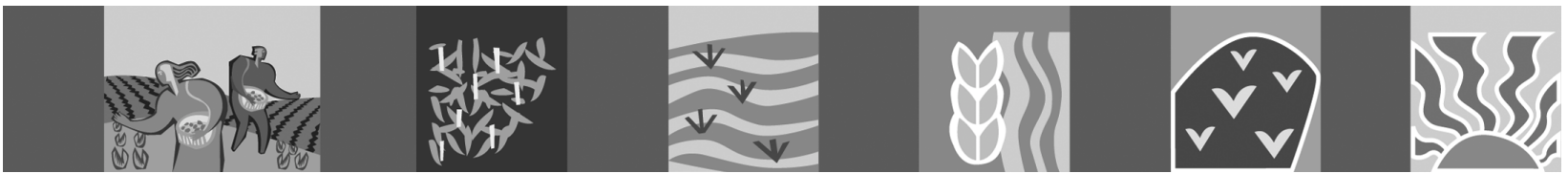
In support of these processes, government agencies including local government units apply the necessary regulations, clear standard procedures, and reliable record systems in a consistent manner free from political influence. They ensure that investments have an unquestionably positive impact on the community and that the benefits and risks are properly shared.

## **Principle 2**

**responsible agricultural investment upholds land tenure security and respects human rights.**

Investment agreements do not in any way diminish the tenure status and security of the farmers, their spouses, family members, and other

the Principles for Responsible Investment in Agriculture and Food Systems.



***“Investment agreements do not in any way diminish the tenure status and security of the rightful owners of the land.”***

rightful owners of the land. Arrangements and mechanisms such as joint ventures, management contracts, and marketing agreements are monitored and regularly reviewed to avoid farmers unknowingly surrendering these rights via legal documents.

Investments, particularly in project implementation, do not infringe on the community members’ basic human rights. They adhere to international treaties and to national government regulations and laws. Child labor is avoided and male and female workers are treated in a fair and non-discriminatory manner.

**Principle 3**  
**responsible agricultural investment settles disputes in a fair, effective, and timely manner.**

Conflicts, whenever they arise, are addressed transparently, expeditiously, fairly, and in a non-discriminatory manner. This presupposes that justice grievance mechanisms to settle disputes are present, equally accessible (preferably done at the local level), and affordable to all individuals or groups potentially affected by agricultural investments.

A mechanism is in place that systematically monitors compliance with resolutions or agreements reached by contending parties. Government provides the necessary support to farmers, fishers, and indigenous communities to ensure that they are properly represented.

**Principle 4**  
**responsible agricultural investment uses natural resources sustainably, contributing to climate change mitigation and adaptation.**

Agricultural investments should promote sustainable agriculture practices and efficiency of the food system along the goals of the Philippine Organic Agriculture Act. Positive impacts on the environment are considered and strengthened, while negative impacts are mitigated.

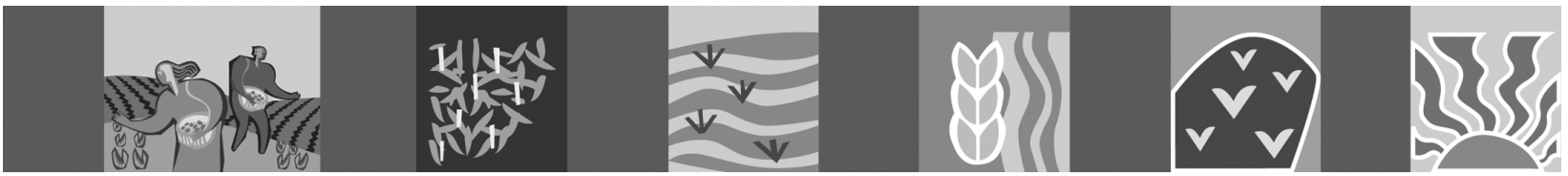
Environmental policies and systems such as environmental impact assessments are strictly complied with to determine potential positive and negative impacts. Investors and government agencies recognize the varied impacts of climate change and institute provisions for risk-sharing and social protection. Multi-stakeholder monitoring for compliance is encouraged and instituted.

The resilience of agriculture, food systems, and related livelihoods in the face of short- and long-term effects of climate change is increased through mitigation and adaptation measures.

The People’s Survival Fund Law (RA 10174) has prioritization criteria in place for adaptation interventions.

**Principle 5**  
**responsible agricultural investment respects women, cultural heritage, landscapes, traditional knowledge, and customary laws.**

Responsible agricultural investment recognizes the vulnerability of women and other disadvantaged groups, and establishes the necessary precautionary measures to protect their rights and interests.



Agricultural investments respect the diverse rural lifestyles and landscapes, acknowledging their long-term economic, social, and environmental benefits. In particular, investments value and support traditional knowledge, the preservation of endemic flora and fauna, and cultural heritage with respect to local food systems. Also, religious sites are safeguarded.

This is consistent with the VGGT provision which states that “In the case of indigenous peoples and their communities, States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments, including as appropriate from the International Labour Organization Convention (ILO No. 169) concerning Indigenous and Tribal Peoples in Independent Countries and the United Nations Declaration on the Rights of Indigenous Peoples”.

**Principle 6**  
**responsible agricultural investment improves the livelihood of men and women, and safeguards people’s food security and nutrition.**

Subsistence farmers and small-scale producers, many of whom are women, constitute the backbone of Philippine agriculture that ensures the country’s food security. In turn, the land provides them with employment, a means of livelihood, and a habitat for a decent and contented community life. Agricultural investments serve to improve their livelihoods and create jobs consistent with the policy framework of inclusive growth.

Agricultural investments enhance the productive capacities of smallholder farmers and producers. This is achieved by strengthening value

generation at different stages in the agriculture and food systems, improving access to markets, and satisfying the community’s nutritional needs. Research is carried out to support these initiatives.

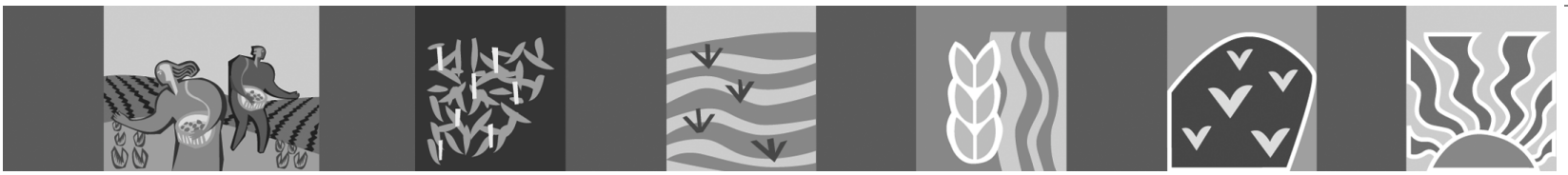
Overall, agricultural investments contribute to and strengthen national food security and nutrition.

**Principle 7**  
**Complementary policies and programs support responsible agricultural investment.**

The objective of enhancing food security and nutrition is consistently addressed and is not undermined by other policies and regulations, particularly those covering governance of resources. Investment policies such as those implemented by the Department of Trade and Industry-Board of Investments (DTI-BOI), the Philippine Economic Zone Authority (PEZA), and local government units (LGUs) are attuned with the proposed rai principles. Congruent policies, such as the Comprehensive Land Use Plan and the Philippine Organic Agriculture Act, are promoted and incentives are provided for good practices.

Relevant public-sector institutions at the national and local levels are well informed, provided with the necessary training and resources, and act in a coordinated manner to create synergy and avoid conflicting measures. All relevant services are accessible, with special attention and priority given to the vulnerable groups.

A substantial number of laws exist to ensure responsible agricultural investments. An effective monitoring mechanism is instituted to ensure that these laws are complied with and implemented. ■



# Implementing the Right to Information Act in Bangladesh: Opportunities and Challenges

“Every citizen has a right to information from the Authority and the Authority shall on demand from a citizen be bound to provide information.”  
– Section 4 of the Right to Information.

Bangladesh’s Right to Information Act (RTIA) was passed in Parliament on 29 March 2009. It received the President’s assent on 5 April in that same year, and was noted a day after in the Gazette. It became functional on 1 July 2009, and an Information Commission (IC) was formed. The RTIA specifies that one commissioner has to be a woman.

## Compliance with international standards

The RTIA complies with international standards, such as: the Universal Declaration of Human Rights (Article 19 guarantees freedom of thought, conscience, speech, and the press); the International Covenant on Civil and Political Rights (ICCPR) [Art. 2 recognizes the RTI as a human right]; the International Covenant on Economic, Social, and Cultural Rights (ICESCR) [States are to respect fundamental rights rooted in universal principles of human dignity and equality]; the Convention to End All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC) [upholds the right

## What is “information”?

According to the RTIA, information *relates to an Authority’s constitution, structure and official activities*. This includes any:

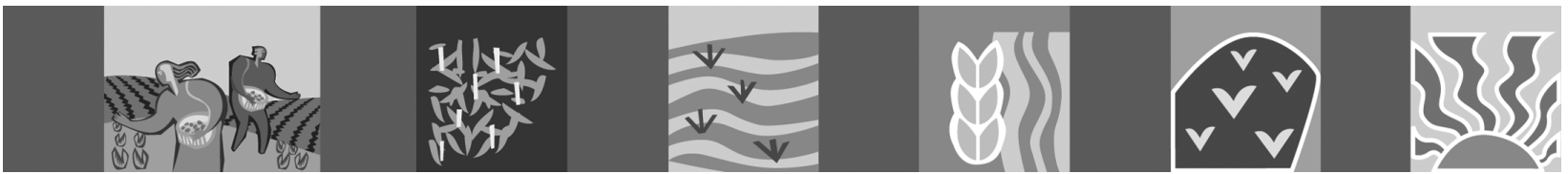
Memo, book, design, map, contract, data, log book, order, notification, document, sample, letter, report, accounts statement, project proposal, photograph, audio, video, drawing, film, any instrument prepared through electronic process, machine readable documents and other documentary material regardless of its physical form or characteristics.

Official information does not include office note sheet or photocopies of note sheets.

Authorities are not obliged to share certain kinds of information, for example information related to foreign policy and information that, when disclosed, would threaten national security; benefit or harm an individual or institution (e.g., advance information on income tax, customs, changes in exchange rate); or obstruct the enforcement of law, to name a few cases.

by Dr. Sadeka Halim, Information Commissioner





to information and freedom of expression by women and children].

### RTI in Bangladesh

The freedom of thought, conscience, and speech is recognized in Bangladesh’s Constitution as a fundamental right. The right to information is an inalienable part of it. Since all powers of the Republic belong to the people, it is necessary to ensure the right to information for their empowerment. Information ensures transparency and accountability of all public, autonomous, and statutory organizations and of other private institutions. It also helps reduce corruption in these organizations.

Parties involved in the RTI are: applicants seeking information; designated officers (DOs) who provide information; the Appellate Authority, and the Information Commission (IC), a quasi-judicial body.

Those seeking information must apply in writing or by email to the DO, indicating their name, a correct and clear description of the information sought, any useful and related information that might help in locating the requested information, and the description of the method by which the information is sought, namely by inspecting, taking notes, or any other approved method.

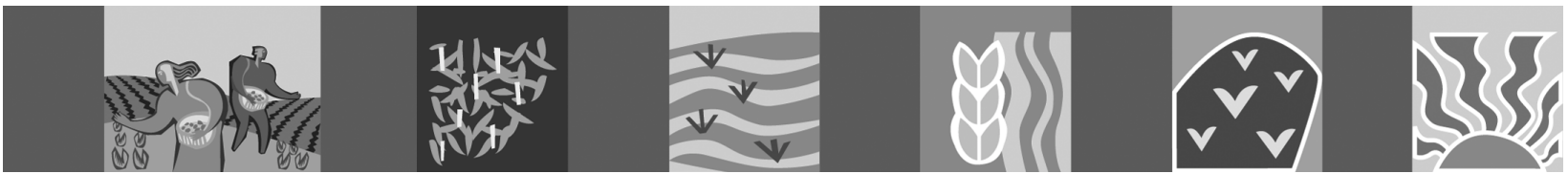
### Expected outcomes of RTI

The RTI is a powerful instrument that communities can use to seek information in a very structured way. Its expected outcomes are:

- Recognition of the constitutional rights of citizens
- A challenge to the culture of secrecy
- Changes in the mindset of government officials/NGOs
- People’s empowerment; breaking the culture of silence (people begin to talk about it)
- Reduced corruption
- Improved governance
- Strengthening of democracy
- Ensuring best use of resources; strengthening service providers
- Reduced poverty and ensured transparency and accountability of all government, non-government, and autonomous organizations
- The people’s exercise of the right to know through the RTI:
  - Who is responsible for what – a difficult task as many people do not know where to go to demand information
  - How much money is allocated for specific work, plans, and projects
  - What initiatives are being taken by the government and NGOs
  - How to access documents and records

### Furthermore, proactive disclosure has several advantages for both the people and the public authorities:

For the people	For the public authorities
<input type="checkbox"/> Improves access to authentic, useful, and relevant information	<input type="checkbox"/> Minimizes time, money, and effort required by the public to access important but routine information
<input type="checkbox"/> Helps people to understand better what information they can access and how to seek it	<input type="checkbox"/> Reduces the number of requests for information, thereby reducing the administrative burden on government
<input type="checkbox"/> Helps citizens play an effective role in local governance through informed participation	<input type="checkbox"/> Enables structuring of large volumes of information in an easily comprehensible format



## Positive impacts

Since the Act was passed, people have started to apply for information. In 2010, 23,000 applications were submitted. However, not all cases complied with the correct format and were therefore not accepted.

The Information Commission – which works together with some NGOs to serve both the supply (government) and the demand (public) side – is increasingly receiving complaints and conducting hearings. In 2010, it received more than 500 complaints, almost 21% of which were land related.

## Challenges in implementing the RTI in Bangladesh

Many challenges still stand in the way of implementing the Right to Information Act in Bangladesh:

- ❑ Mainstreaming the RTI in code of conduct
- ❑ Making the legal system RTI-friendly – occasional analysis and review, harmonization of existing laws with the RTIA to remove inconsistencies
- ❑ Strengthening political will and commitment
- ❑ Ensuring institution building of the IC with adequate resources
- ❑ Ensuring appointment of designated officers in all public/autonomous and non-government offices
- ❑ Developing records management and web-based databases
- ❑ Adopting a pro-poor strategy for raising awareness about the RTI and its use – e.g., establishing community e-centers at all levels
- ❑ Establishing a central and local monitoring mechanism to oversee effective implementation of the RTI

- ❑ Breaking down resistance from within
  - Civil officials – reduced discretion
  - Politicians – abuse of power
  - Businesses – vested interests
  - Media – reduced scope to manipulate information for vested interests
  - NGOs, civil society – polarization and lack of unity
- ❑ Taking on the long-term process of ensuring people's right to information – It needs unending commitment and effort from different actors who have to be prepared to cope with setbacks and frustrations.
- ❑ Building the creative capacity needed to face challenges
- ❑ Taking lessons from experiences of what works and what does not
- ❑ Learning by doing, backed up by a continuous process of innovation and creativity

## Some advice for CSOs

Certain laws may have rules prohibiting giving information. If there is a law on the freedom to information, this should supersede all other conflicting laws. This is what you have to fight for.

Also, there are ways of obtaining critical information, even from organizations not included in the RTI, such as private mining companies. But NGOs can approach the ministry responsible for mining applications, and obtain the necessary information. ■



**ANGOC**

Founded in 1979, ANGOC is a regional association of 16 national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC member networks and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

ANGOC is a founding member of the International Land Coalition (ILC). ANGOC is the regional convenor of the Land Watch Asia (LWA) campaign and the Asian Alliance Against Hunger and Malnutrition (AAHM-Asia). ANGOC is also a member of the Global Land Tool Network (GLTN) and the Indigenous Peoples' and Community Conserved Territories and Areas (ICCA).



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## **MISEREOR**

### **The German Catholic Bishop's Organization for Development Cooperation**

Mozartstrasse 9

52064 Aachen, Germany

Tel: +49-2414420

Fax: +49-241442188

Email: [postmaster@misereor.de](mailto:postmaster@misereor.de)

Website: [www.misereor.org](http://www.misereor.org)



**ANGOC**

73-K Dr. Lazcano Street  
Barangay Laging Handa  
1103 Quezon City, Philippines  
P.O. Box 3107, OCCPO 1101, Quezon City, Philippines  
Tel: +63-2 3510581 Fax: +63-2 3510011  
Email: [angoc@angoc.org](mailto:angoc@angoc.org)  
Website: [www.angoc.org](http://www.angoc.org)

