

The Diliman Declaration

of the Asian People’s Land Rights Tribunal Forum
 16-17 January 2014
 Malcolm Hall Theater
 University of the Philippines - Diliman
 Quezon City, Philippines

We, the members of the Asian People’s Land Rights Tribunal Forum, representing farmers, fisherfolk, indigenous peoples, civil society organizations, the academic community, land rights advocates, from Bangladesh, Cambodia, China, India, Indonesia, Laos, Nepal, Pakistan, Philippines, and Sri Lanka, met at the Malcolm Theater, College of Law, University of the Philippines this 16-17 January 2014, in Diliman, Quezon City, Philippines to provide a venue for land grab victims in Cambodia, Indonesia and the Philippines to present and discuss their grievances and demand accountability of responsible institutions as well as to raise public awareness on the violation of smallholder rights within land investments happening in various Asian countries.

The Tribunal panel, consisting of experts from various capacities as Senator, Commissioner of Human Rights, Commissioner of Right to Information, sociologists, academic experts, church leaders, deliberated on the following four cases presented by the aggrieved communities from Cambodia, Indonesia and the Philippines:

a) “APECO Aurora State College of Technology (ASCOT) in Casiguran, Aurora, Philippines” where 56 farmer-beneficiaries of the Comprehensive Agrarian Reform Program are hindered by the agricultural state college from cultivating the 105-hectares within the educational reserve, which they have been farming for over 50 years (and had been provided irrigation facilities by the government). The land in question is also within the APECO economic zone, which plans to convert the use of the area from agricultural to industrial.

b) “Blood Sugar case in Koh Kong, Cambodia” where approximately 2,879 people whose livelihoods have been heavily affected and 200 families filed complaints against involved corporations (partly-owned by a prominent politician) which were granted economic land concessions for sugar plantations that encroached on their farmlands, and which, among other things, destroyed their crops, caused



damage to their cattle and buffalo, and effectively seized their farmlands.

c) “Land Grab Case of indigenous peoples’ land for Palm Oil Plantation in Banggai, Central Sulawesi, Indonesia” where 460 farmer households accused P.T. Sawindo Cemerlang of forcibly taking a 17,800-hectare land for the development of a palm oil plantation, thereby displacing indigenous communities in 32 villages, encroaching on a conservation area and threatening to displace more families in the locality.

d) “Mamanwa Indigenous Peoples against Mindoro Resources Limited (MRL) Mining Exploration in Agusan del Norte, Philippines” where communities oppose the nickel, gold and copper-gold exploration permit granted to MRL, which has caused division and conflicts among the members of the Mamanwa tribe and threatens the biodiversity character of Lake Mainit, and encroaches a part of their ancestral domain.

On the basis of the documents and testimonies offered during the Tribunal forum, these cases merit a re-examination from the perspective of human rights, for the charges of human rights violations cannot be ignored, particularly involving corporations and other business enterprises in which powerful local and foreign interests are involved.

The Tribunal Forum upholds the values of truth, fairness and social justice. Similarly, it recognizes the tensions or conflicts which are

independent of the will of the participants of the Forum. The Forum thus encourages the conduct of dialogues and fact-finding missions.

The Forum articulates the voices of the affected marginalized communities and re-affirms the universal and customary rights, values and principles expressed in international declarations and laws ratified by the governments concerned.

The Forum asserts their determination to stand together to protect and defend land and other natural productive rights of communities in the region to ensure food security, livelihoods, human rights, dignity and peace.

The Forum strongly calls upon concerned States, institutions and corporations to respect and adhere to the following principles:

1. Respect and uphold human rights and environmental standards and commitments.

- Endorse international declarations and ratify multilateral conventions.
- Amend and/or develop policies and operational procedures of international, regional, national, and private financial institutions
- Immediately act upon and put an end to, condemn and address human rights violations and environmental degradation.
- Respect and uphold indigenous peoples' rights, regardless of whether they are recognized by the state, including their customary laws and rights, traditional institutions and decision-making processes, and community protocols and procedures.
- Engage with IPs and local communities as rights-holders, primary stakeholders, as equal partners in development.
- Protect human rights and environmental defenders against manipulation, intimidation, harassment and political stigmatization
- Recognize forced evictions as gross human rights violations.

2. Address structural injustices at national and sub-national levels

- Strengthen and promote the rule of law.
- Ensure equality before the law, fairness in its application, and



provide for accountability, legal certainty, and procedural and legal transparency and the speedy administration of justice.

- Ensure the independence and the competence of the judiciary.
- Address corruption and resist vested interests, including those of political and business elites.
- Ensure wealth is distributed fairly and equitably, not concentrated in the hands of a few.
- Decentralize decision-making processes and empower local governments to make and enforce decisions regarding investments that affect their constituencies.

3. Ensure coherent, consistent and harmonized legal, policy and regulatory frameworks at the regional and national levels

- Develop common legal/policy/regulatory framework for ASEAN to level the playing field and to prevent investors from exploiting the people and natural resources of Member-states.
- Clarify and address conflicts and gaps in laws and jurisdictions, especially cases where the national laws themselves legitimize injustice.
- Where necessary, amend or reform related laws to improve land and resource governance.
- Strengthen mandates and capacities of government agencies with jurisdiction over human rights and environment-related issues.
- Prioritize and uphold community and human rights and environmental concerns over industrial interests in regard to land investments.

4. Ensure access to information, participation and decision-making at the national and sub-national levels.

- Adopt Right to Information laws and measures in ASEAN and among Member States.
- Ensure freedom of information, including proactive disclosures from companies, especially foreign-funded non-government organizations and government agencies.
- Nurture vibrant civil societies and independent and responsible media.
- Strengthen communities', especially of women's bargaining power and negotiation skills.
- Support civil society engagement with legal systems and the public in the host countries of companies.

5. Support small-scale, sustainable, self-reliant local economies and livelihood opportunities.

- Recognize the right of local communities, especially the Indigenous Peoples, to give or withhold their free prior and informed consent to investments, and respect customary laws and rights, traditional institutions and decision-making processes, and community protocols and procedures.
- Where FPIC is secured, it should be genuine, substantive and in the spirit of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and other pertinent UN declarations.
- Protect and enhance/develop the traditional livelihoods of indigenous peoples and recognize their contributions to sustainable natural resource management and protection of the environment.
- Ensure land investments do not impair the collective and customary rights, including food security and sovereignty of the IPs and the local communities.

6. Ensure that the investments being secured are fair, equitable and transparent investments and fully beneficial to the interests of the people.

- Provide an investment climate that enables and encourages rather than constrain businesses to respect human rights and the environment.
- Require human rights due diligence, including assessing potential and actual human rights violations, tracking responses, penalizing those responsible for violations thereof, compensating the adversely-affected parties and informing the proper parties how their problems are addressed.
- Shift away from ‘development aggression’ to ‘development opportunities’ with social responsibility and accountability.

7. Ensure access to justice, appropriate remedy and redress for the people’s grievances.

- Provide proper restitution for communities that have been evicted or displaced.
- Put an end to the use of State apparatus to promote investments that-cause displacements, evictions and other violations of human rights.



- For governments to conduct speedy and impartial investigations, and fact-finding missions to restore dignity and justice to the affected communities unless the affected communities specifically request for a third party, multi-sectoral investigating body.
- Access to effective remedies through judicial, administrative, legislative or other appropriate means; remove so-called legal, practical and procedural barriers.
- Multi-sectoral, national and regional monitoring of investments and their social and environmental impacts to ensure transparency and accountability.
- Strengthen the mandates of the appropriate national human rights commissions especially regarding rights to land.
- Regional mechanism for investigating and adjudicating complaints, including transnational operations including the definition of legitimate mechanisms to implement the ASEAN Human Rights Declaration and concerned UN resolutions.
- Clarify and strengthen the role of international and transnational grievance and redress mechanisms to ensure that national or state institutions shall fulfill their mandates and ensure they are responsive and accountable to the affected communities.

We recognize that the principles we enumerate above are broad, all-encompassing and realizing them may be difficult. We nevertheless hope that through dialogue and circumspection, we will all realize that it is in everyone's interest—the States, the regional institutions, the private sector, the bilateral and multilateral donors, civil society, peoples' organizations and communities—to uphold and flesh out these principles. ■