



Developing a Scorecard for private business investors in land and agriculture in Asia^{*}

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Rationale

Increasing investments across Asia and their impacts on rural communities

The Global Land Rush during the 2008 financial crisis propelled the rise of large-scale land acquisitions and cross-border land investments in Asia due to international demand for the production of cheaper commodities. Several years since, the rush persists.

Public investments on agriculture in Asia have declined in the last two decades as demand for affordable food continues to grow. Furthermore, the biofuel industry has been growing. Governments are encouraging decreased consumption of fossil fuels and greater use of agrofuels as an alternative source. This scenario made agricultural land in Asia attractive prospects for foreign investors. To fill the gap that decreased public investments created, governments have been easing regulations and encouraging foreign direct investments (FDI) (Ravanera and Gorra, 2011).

Commercial pressures on land do not manifest solely in the rise of plantations. Over the past decades, lands have also been utilized and developed by private investors as well as governments for infrastructure, tourism, special economic zones (SEZs), human settlements, and mining. Many of these investments involved the conversion of agricultural lands into other purposes.

^{*} ANGOC acknowledges the organizations that were involved in the development of this scorecard: Bangladesh: ALRD, ARBAN, CDA; Cambodia: STAR Kampuchea; India: Ekta Parishad, SDF; Indonesia: KPA; Nepal: CSRC; Philippines: AR Now!, CARRD, Kaisahan, NFR, PAFID, PAKISAMA, PhilDHRRA, TFM, We Effect, XSF; and the various NES Platforms. ANGOC also extends its appreciation to the communities that provided inputs in the initial pilot-testing of this tool.

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There is also a growing trend of investments in Asia originating from other Asian countries, possibly facilitated by trade liberalization policies. Since 2015, member-States of the Association of Southeast Asian Nations (ASEAN) have begun to open up their economies to other ASEAN countries with freer flows of goods, services, labor, capital, and investments, as was envisaged in the ASEAN Economic Integration. The ASEAN Economic Community Blueprint also specifies the region's aim to amplify intra- and extra-ASEAN trade of food, agriculture, and forestry products under a Single Market and Production Base (ASEAN Economic Community Blueprint, 2008; Ravanera and Quitangon, 2013).

In 2017, around one-third of the global FDI poured into Asia. The most recent report of the United Nations Conference on Trade and Development (UNCTAD) revealed that with over 475 billion USD worth of FDI inflows, Asia received the most FDI in 2017. Investments in the wider Asian region are expected to remain high in 2018 (UNCTAD, 2018).

The UNCTAD report also revealed that a quarter of the total investments in Southeast Asia were from other ASEAN countries. In a separate report by the Asian Development Bank (ADB), it was documented that the intraregional trade share of Asia rose from an average of 55.9 percent from 2010 to 2015, to a record-high of 57.3 percent in 2016 (ADB, 2017).

Increasing conflicts and violence

While investments are generally regarded to have positive effects on a country's economic growth, some business ventures may have undesirable effects on rural communities and natural resources. These investments are often in low- and middle-income countries, where resources are controlled by local elites, dated or conflicting land policies are in place, agrarian reforms are either faultily implemented or not instituted, and where land governance is weak. This environment has resulted in the increasing frequency and intensity of land

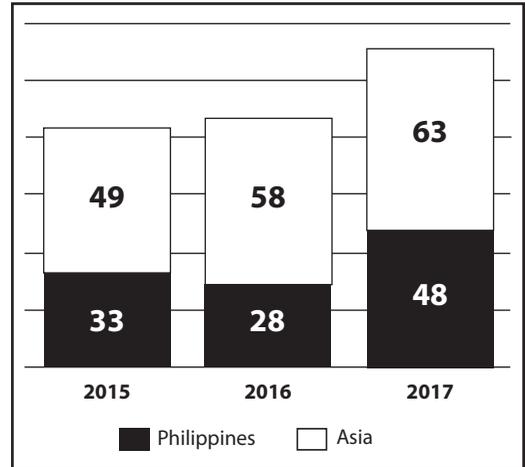


Figure 1. Environmental Defenders Slain from 2015 to 2017
(Global Witness, 2016-18)



conflicts, as well as rights violations against farmers, indigenous peoples (IPs), and other rural stakeholders.

Farmers are engaging in unfair business contracts, and ancestral domains of IPs are endangered by operations of extractive industries such as mining and quarrying. Such conflict-laden investments in rural Asia are often characterized by non-transparency and stakeholders' lack of access to vital investment information.

The reported number of land and resource conflicts in Asia has increased through the years, with communities and land rights defenders bearing most of the damage. State and private armed forces have physically and psychologically harmed rights defenders who have dared to voice opposition to unwanted or unfair investments. Numerous rights defenders have been killed, imprisoned, and harassed in the course of conflicts over land investments. As Figure 1 shows, data from Global Witness reveals the increasing trend of violence towards environmental rights defenders. In 2017, 63 defenders in Asia were slain. In the same year, 41 land and environmental defenders were killed in the Philippines, making the country the 2nd deadliest place for environmental activists next only to Brazil (Cox, 2018).¹

“Land Rights as Human Rights,” a CSO-led initiative

Taking into consideration the above-stated shared experiences of Asian countries, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), and the Land Watch Asia (LWA) Campaign, with the support of the International Land Coalition (ILC), convened a six-country working group to implement the initiative entitled *“Defending Land Rights and Human Rights Defenders.”* This project, jointly undertaken by CSO partners from Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines,² aims to contribute to the realization of ILC’s People-Centered Land Governance Commitments 9 and 10, on effective actions against land grabbing, and on protecting land rights defenders.³

Through the endeavor, CSOs from the six countries aim to: a) popularize of the concept of *land rights as human rights* through engagement with National Human Rights Institutions (NHRIs), b) equip CSO partners in land-human rights

¹ For a comprehensive discussion on the nature and prevalence of land conflicts in Asia, refer to the ANGOC paper: In defense of land rights: a monitoring report on land conflicts in six Asian countries (Quizon, 2018).

² CDA, ARBAN (Bangladesh); STAR Kampuchea (Cambodia); Ekta Parishad, SDF (India); KPA (Indonesia); CSRC (Nepal); and, ANGOC, AR Now!, XSF (Philippines)

³ For more information, visit the ILC website at: <http://www.landcoalition.org/en/people-centred-land-governance>



monitoring, and c) mainstream land rights as human rights by engaging NHRIs and regional bodies in policy discussions.

In pursuit of these objectives, partners in each country have conducted multi-stakeholder policy dialogues tackling land rights and human rights. National and regional scorecards have been developed and pilot-tested. Country papers and regional summaries have also been produced on the adoption of the UN Guiding Principles for Business and Human Rights (UNGPs BHR) in Asia, and on the monitoring of the prevalence, causes, and impacts of land conflicts.

Objectives of the Scorecard Initiative

The Working Group introduced this *Scorecard for Private Business Investors in Land and Agriculture in Asia*, to assess investments' sensitivity to the land rights and human rights of the communities affected by their projects. As public watchdogs, CSOs have been monitoring the impacts of business investors on communities and in particular, on their tenurial security. The development of this scorecard would enhance CSOs' and communities' capacity to objectively monitor the impacts of business operations, and to pursue evidence-based advocacies. Rural communities may also make use of such a tool to deliberate on the acceptability of an investment in its initial stages of operation.

This report summarizes the attempt of the working group to *initiate* the development of a scorecard tool for private investments in land and agriculture.

Methodology

Scorecard refinement process

An initial list of 25 indicators were developed by ANGO. These indicators were subjected to discussion during a planning meeting participated by the Land Watch Asia Working Group on Land Rights as Human Rights held in Bangkok, Thailand in February 2018.

From the original set of 25, partners from six countries identified a shortlist of 13 indicators. After local country consultations, partners met in Bangkok once more to discuss the indicators and scoring system for the regional scorecard. In October of the same year, partners agreed on a set of 20 indicators and a rating of system with a maximum of 100 points.

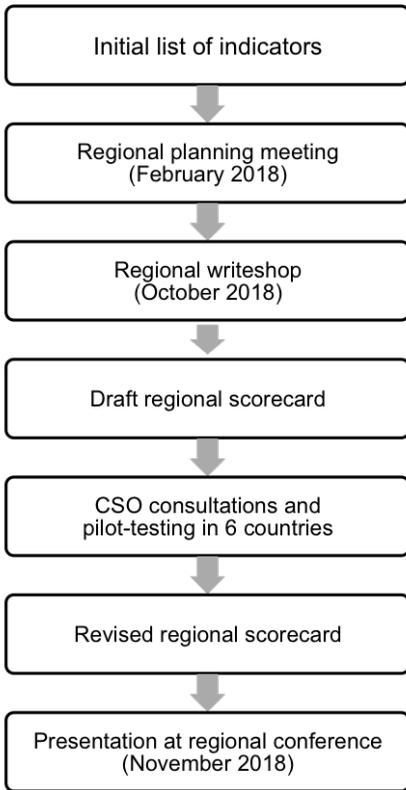


Figure 2. Process for the drafting and finalization of scorecard indicators

CSO partners agreed to discuss the regional tool with other organizations within their respective countries, and to pilot-test the tool on cases of investments in rural communities. Through such processes, and taking into consideration the local country contexts, several country scorecard tools were developed. Partners from the six countries also provided their inputs to refine the regional tool, for the scorecard to be generally applicable to varied settings in the wider Asian region.

The results of this initiative were presented to CSOs, officials from NHRIs, and intergovernmental organizations, during a regional conference in Bangkok co-organized by ANGOC, LWA, ILC Asia, United Nations Development Programme, and the UN Office of the High Commissioner on Human Rights, on 15-16 November 2018.

The drafting and consultation process are mapped out in Figure 2.

Scope and limitations

The scorecard assesses investments' basic respect for human rights but provides particular focus on evaluating whether these investments are able to respect concerned communities' land and resource tenure rights. In its present formulation, the tool developed may only be applied to *private rural investments*. The scorecard might have to be modified to be applicable to investments in urban areas. A separate or expanded version of the present scorecard would have to be developed if it is to cover State projects or investments.

Moreover, the tool may only be used to assess investors conducting exploration activities, or investments that have just begun operations. During these initial stages, potential long-term damage may still be avoided. Applying this scorecard may help communities to decide whether the investment is beneficial for them, or whether it is a bane that should no longer be allowed to remain.



Because the current tool assumes that an investment has already begun, it may not be used to assess an investment's acceptability to communities during the pre-negotiation or negotiation stages. This tool also does not include indicators on project closure, abandonment, and rehabilitation. Alterations to the tool may be incorporated during the succeeding phases of this initiative.

Noting that developing an effective scorecard system requires a long and thorough consultative process, this scorecard is not to be seen as a finished product but rather, a work-in-progress. The tool may be further refined in partnership with CSOs, the academe, communities, NHRIs, governments, and the private sector.

Conceptual Framework

Principles of responsible agricultural investments (*rai*)

To assess investments objectively, evaluators ought to be guided by a set of principles accepted both by the international community and by stakeholders at the grassroots level. Hence in 2013, ANGOC developed a set of seven *Principles of Responsible Agricultural Investments (rai)* in the Philippines, derived from the inputs of grassroots organizations, CSOs, and government agencies. The *rai* principles were also anchored on globally-recognized standards for investments enshrined in the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries, and Forests (VGGT),⁴ Principles for Responsible Agricultural Investments (PRAI),⁵ and the Basic Principles on the Purchase and Leasing of Large Areas of Land.⁶

These seven *rai* principles are:

Principle 1. Responsible agricultural investment has FPIC of communities that will be affected by the investments.

Principle 2. Responsible Agricultural Investment upholds land tenure security and respects human rights.

⁴ Developed by the Committee on World Food Security. The VGGT may be accessed online through this link: <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

⁵ The PRAI is not to be confused with the *rai* principles initiated by CSOs. The PRAI were developed by FAO, World Bank, International Fund for Agricultural Development, and UNCTAD, building on the VGGT and the Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food. Peruse through the PRAI online through this link: http://www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS_Principles_Oct_2014_EN.pdf

⁶ Developed by the Federal Ministry of Economic Cooperation and Development (BMZ), Germany. See this link for more information: https://www.bmz.de/en/publications/archiv/type_of_publication/strategies/diskurs015en.pdf



- Principle 3.** Responsible Agricultural Investment settles disputes in a fair, effective and timely manner.
- Principle 4.** Responsible Agricultural Investment uses natural resources sustainably contributing to climate change mitigation and adaptation.
- Principle 5.** Responsible Agricultural Investment respects women, cultural heritage, landscapes, traditional knowledge and customary laws.
- Principle 6.** Responsible Agricultural Investment improves the livelihood of men and women, people's food security and nutrition.
- Principle 7.** Complementary policies and programs support Responsible Agricultural Investment.

These principles have been recommended to the Committee on World Food Security (CFS) and were endorsed by the CFS in 2014.⁷

The UN Guiding Principles on Business and Human Rights (UNGPs BHR)

In 2008, the UN endorsed the “Protect, Respect, and Remedy Framework” for business and human rights, developed by then-Special Representative of the UN Secretary General John Ruggie. The UN Framework came about after a series of global consultations with governments, civil society organizations, businesses, victims of corporate human rights abuses, and three years of research (ANGOC, 2017; UN Working Group on Business and Human Rights, n.d.).

In 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs BHR) to operationalize the UN Framework. The UNGPs BHR consist of three pillars: **protect, respect, and remedy** (*Ibid*).

The UNGPs BHR emphasize that States have the duty to *protect* everyone in its territory from human rights abuses by businesses and all other actors in society. Thus, States must prevent, investigate, punish, and redress human rights abuses in business operations within their country (*Ibid*).

The UNGPs BHR also underline that businesses have a *responsibility to respect* human rights, which exists independently of the State's duty to *protect* human rights. Business enterprises must then prevent, mitigate, and remedy human

⁷ For further reading on the rai, see Principles of responsible agricultural investments: Philippines' Multi-stakeholders Input to Committee on World Food Security (Ravanera and Quitangon, 2013) here: http://www.angoc.org/wp-content/uploads/2014/10/VGGT-and-RAI.pdf_web.pdf

rights violations which they have caused or contributed to, even if these impacts were the result of actions by their suppliers or business partners (*Ibid*).

Finally, in case of human rights violations, those affected should be provided with a robust and appropriate *remedy*. The UNGP BHR maintain that the both States and businesses should contribute to providing remedy through judicial and non-judicial means (*Ibid*).⁸

An integrated framework for responsible land and agricultural investments

While the UNGP BHR prescribe a set of general standards for governments and businesses involved in a vast array of enterprises, the *rai* principles propose ideal characteristics specific to investments in agriculture. The *rai* and the UNGP BHR complement one another, in such that they have similar goals and underlying principles. Both sets of standards may be interfaced with one another to produce an integrated framework for assessing investments in land and agriculture in relation to land rights and human rights. The *rai* principles may be seen in connection with the three pillars identified in the UNGP BHR although the *rai* principles focus specifically on companies’ role in ensuring that investments do not undermine human rights. While it is the State that has the primary duty to *protect* human rights under the UNGP BHR, investors must also comply with State policies enacted for the protection of rights. These interrelations are illustrated in Figure 3 below.

Principles 2 and 4 of the *rai* are related to the **protect** pillar of the UNGP BHR. Principles 1, 5, and 6, may be subsumed under the **respect** pillar of UNGP BHR. Principle 3 on fair dispute resolution may fall under the **remedy** pillar of the UNGP BHR. Lastly, the *rai*’s 7th principle calls for complementary policies and programs which may apply to all the previous principles in the three pillars of the UNGP BHR.

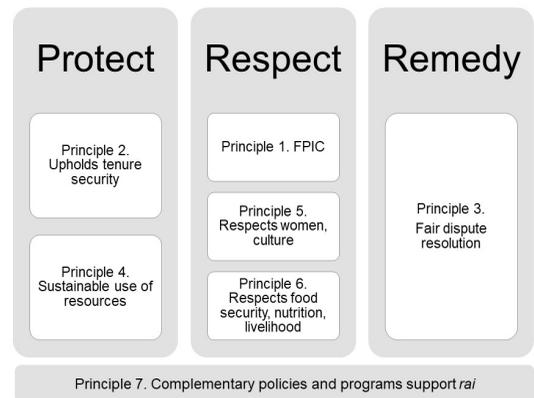


Figure 3. Integrated framework for responsible land and agricultural investments (Ravanera, 2018)

⁸ For further reading on the UNGP BHR, refer to this link: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf



The Scorecard: Structure, Indicators, and Scoring System

The tool is divided into three major sections, representing the *Protect*, *Respect*, and *Remedy* pillars of the UNGP BHR. Each major section contains a set of indicators anchored on the *rai* principles. There are 20 indicators overall. Scoring for each sub-indicator will follow the *all-or-nothing* method – i.e., companies which meet the criteria will be rated with the corresponding full score for the indicator, while those who do not satisfy the criteria will be provided with a score of zero *for that indicator only*. Investments will be scored based on a 100-point system.

Indicators in the *Protect* section accrue to a total of 45 points. This section contains indicators on the security of rural communities' rights to land and tenure. It covers basic requirements for initiating and operating responsible investments, and assesses provisions in contracts entered into by investors and rural stakeholders. Finally, the *Protect* section also probes into investors' sustainable use of resources.

The *Respect* section is composed of indicators that measure investors' recognition of the rights of people in the community. Sub-indicators look into whether negotiations and consultations were transparent and non-coercive. The section also inspects whether investors respect customary/indigenous practices, sites that are important to the communities, livelihood security, and community cohesion. Maximum scores under this section add up to another 45 points.

Lastly, the *Remedy* section equivalent to 10 points, is composed of an indicator on accessible grievance mechanisms and on adequate compensation. While no less important, this section is equivalent to the least points. This was a deliberate decision on the part of CSO partners, for it is recognized that sufficient protection and respect for human and land rights would lessen or eliminate complaints, violations, and the need for corresponding remedies.

The tool also contains a column on *remarks* for assessors, for short, qualitative statements on the justification for the points they have awarded to the company, per indicator.

Indicators per major section and the identified sources of data to objectively assess the criteria are listed below. For each indicator, communities would also be consulted for their testimonies on whether the safeguards enshrined in the companies' policies are manifested on the ground, or whether the investors



truly complied with the necessary procedures before and during project implementation. The equivalent scores for each indicator are also noted below.

The scorecard tool is further described below.

PROTECT

Indicator 1. *The communities' right to use the land (access, withdraw, and exploit resources) is not diminished.* Limits to the use rights of communities, should there be any, should be compromises which have gone through appropriate channels of consultation and consensus-building with the community. Limits on the community's use of and access to land may be reflected in the company's investment policy, management plan, and from testimonies of community members. **(5 points)**

Indicator 2. *The communities' control and decision-making rights (management and exclusion) over the land are not diminished.* The affected stakeholders must be able to directly exercise management and exclusion rights over the land in the presence of investors and during any of the project operations. Should there be shared management responsibilities, these should be outlined in the company's investment policy and management plan. More so, deviations from the community's preformed management arrangements should be institutionalized only with permission from, and after consensus-building with affected stakeholders. **(5 points)**

Indicator 3. *There is no threat of involuntary eviction of rights holders and communities.* The present and future operations of the investor must not instill in stakeholders a sense of uncertainty about their tenurial status. The basis for scoring this indicator may be official investment documents, and the community's general perception on the investment. **(5 points)**

Indicator 4. *Proposed and actual arrangements and mechanisms such as joint ventures, management contracts, and marketing agreements, among others are fair and legal. Economic risks and benefits are shared between the investor/company and the concerned communities.* For an investor to receive the full score, contracts and other relevant documents must transparently detail the socioeconomic benefits and risks to the community. Moreover, community members must attest that they are aware of these provisions and that they are being implemented truthfully. **(5 points)**



Indicator 5. *Lands allocated by the community for livelihood, community space, residence, and other needs as may be identified by the community, are not curtailed by the investor/company.* Investor operations should not be present on portions of land vital for sustaining the everyday lives of community members. These lands may include areas for subsistence and livelihood, cultural and traditional practices, and settlements, among others. Reserved lands should also be identified in consultation with the community members themselves. Both company documents and community testimonies may be sources for this indicator. **(5 points)**

Indicator 6. *Full and truthful information on the investment, including contracts and relevant documents are transparent, accessible, and are in a language understood by the communities, including women and other most marginalized groups.* Access to information is a human right in itself. Contents of contracts and investment documents must have been made known to the community. These documents must also be accessible, should stakeholders request for them. Such documents must be easily and correctly interpretable by communities affected by their operations. They must have accurate counterparts written in the national language or the community's local parlance. **(5 points)**

Indicator 7. *The investor/enterprise is compliant with national laws and internationally-accepted standards for responsible investments.* This indicator requires that an investor operates within the confines of national laws (ex. is legally registered, has necessary permits to operate, pays taxes on time, etc.). Investment operations must be compliant with both national and international human rights, labor, and environmental standards. Data needed for this indicator may be gathered from company documents and government records. **(3 points)**

Indicator 8. *The investor/company utilizes and manages natural resources sustainably.* Aside from accomplishing an Environmental Impact Assessment (EIA) and a Social Impact Assessment (SIA), the company must continually ensure that the investment's negative effects on the environment are kept at a minimum. Organic and chemical wastes should be disposed of properly and kept away from ecologically important bodies of water, forests, and agricultural lands. Extraction or exploitation of resources must not go beyond the permitted limit. Companies must also include provisions on environmental protection, sustainable resource use, and even ecological/environmental restoration in their investment policies and management plans. **(4 points)**



Indicator 9. *Minors (younger than 18) are not employed/exploited by the company for labor. As much as possible, companies must avoid hiring children to be part of their workforce. In situations where it is culturally acceptable for minors to assist their family financially through engaging in informal work, the community must set the threshold for appropriate terms of children's engagement with the company. Testaments from members of the community or from company employees, and complaints filed in courts may be sources of information on child labor. (4 points)*

Indicator 10. *Workers of the company and concerned communities are not exposed to occupational hazards (ex. Health and geophysical hazards). The company must ensure the wellbeing of the concerned communities and of its workers. Investment's operations should not cause damages to health or place lives at risk. Company policies must include mitigating measures to minimize health risks. (4 points)*

RESPECT

Indicator 11. *Rights holders and communities confirm that they were involved in the consultation and negotiation processes. Proper dialogues with stakeholders and affected communities must have been conducted prior to the implementation of the project. Through such, rights holders may be able to understand the implications of the project to their communities, voice out their concerns, and have these addressed by investors. Community members and company representatives may confirm if consultations have been conducted. (6 points)*

Indicator 12. *Rights holders and communities were given adequate time to make an informed decision regarding their stake in the investment. Communities must have been given ample time to weigh the risks and costs against the benefits of the proposed investment before they provide free, prior, and informed consent. Although there are no recommendations as to how long the discernment period should be, sufficient time must be provided for communities to discuss among themselves, build consensus, and produce a consolidated stand on the project. (6 points)*

Indicator 13. *Coercive and deceptive acts were not or are not being committed by the investor/company. Community leaders and members must not be forced into accepting the investor's proposals through verbal threats, physical assault, or*



psychological abuse. Moreover, community approval must be acquired through processes deemed transparent by concerned communities. Rights holders must also confirm that they have not been deceived into providing signatures or fingerprints on documents with false or omitted information, or documents not stating the intended purpose of the signatures. **(5 points)**

Indicator 14. *Sacred sites, and sites of religious, cultural, or educational significance, are respected and not desecrated by the investor/company.* An investor must comply with the limits and zoning set by communities when operating in or around areas that are sacred, of religious, cultural, or educational importance. Measures to protect these sites must also be instituted in investment documents and implemented by the company. This will ensure that the cultural integrity of communities is preserved during the investments' operations. **(5 points)**

Indicator 15. *Customary and indigenous knowledge, systems, and practices, are acknowledged and respected by the investor/company.* The investor must have due respect for the set of customary and indigenous knowledge, systems, and practices (IKSPs) of the community. Modern technologies and practices must be introduced with the free, prior, and informed consent (FPIC) of local communities. Changes in technology and practices that did not undergo FPIC might lead to the loss of balance in how the local community relates with their environment. The protection of IKSPs also ensures the preservation of the intangible cultural heritage of local communities. For companies coordinating with non-indigenous communities, investors must remain respectful of the local authority and regulations of the involved party. Communication with legitimate community leaders and authorized community representatives must neither be bypassed nor foregone. **(5 points)**

Indicator 16. *Food sovereignty, nutrition, or livelihoods of the community, especially of vulnerable groups such as women, farmers, fisherfolk, forest dwellers, informal settlers, PWDs, whose rights to the land and resources may be affected, are not threatened by the investor/company.* The company's operations ought to stimulate livelihoods through the creation of employment opportunities, rather than degrade livelihoods through limiting access to nutritious food sources and other resources. Investments in land and agriculture should also enhance the productive capacity of smallholders and improve their access to markets. **(5 points)**

Indicator 17. *The unity of the concerned communities, and cohesion of members of the communities, are not divided or challenged by the investor/company.*



The presence of the investment should not have caused the strife between community members, or among communities in the same locality. Groups must not have been pitted against one another during the company's attempt to win over more influential decision-makers. Decisions of one or several subgroups should not be considered as definitive, if these run contrary to considerations of other equally-affected clusters. There should be no preferential treatment over some groups in the community over others during consultations, in workers and employees, in benefit-sharing, and in providing apt protections and remedial measures to grievances. **(6 points)**

Indicator 18. *No community leader or member was physically and psychologically harmed, or harassed legally/criminalized by the investor/company.* Investors should engage peacefully and constructively with community members or leaders who may strongly oppose the investment during the negotiation stage and as the company proceeds with its operations. Companies must offer options for resolve and/or compromise, instead of resorting to the use of intimidation, force and violence to rid the community of opposing opinions. **(6 points)**

REMEDY

Indicator 19. *The investing company has available, accessible, and user-friendly grievance mechanisms.* Should conflicts arise, companies must have institutionalized means of addressing them in a swift, transparent, and just manner. Localized and affordable grievance mechanisms must be available to all stakeholders who may be affected by the investments. Responding to conflicts and concerns should begin with an accessible complaints desk, and must continue on to systematic monitoring of complaints until the enforcement and observance of resolutions reached by conflicting parties. Rights holders ought to be able to understand and follow the processes involved in these mechanisms easily. Grievance mechanisms must be reflected in companies' investment and management policies and contracts. **(5 points)**

Indicator 20. *Communities displaced by the investor/company were provided with safe relocation, just compensation, restitution, and/or rehabilitation.* Appropriate remedies must be implemented to address negative effects of the investment. In cases where families or communities had to vacate the area in question because of the investment, the company must provide compensation and relocation, if it can no longer facilitate the return of the families into their



residences of origin. Companies that have not caused any displacement may receive the full corresponding score. **(5 points)**

Moving Forward

While the tool has gone through a series of consultations, it does not claim to be complete or faultless. Despite the limitations, the use of the scorecard in its current form is still encouraged. This tool is envisaged to help communities assess private investments objectively. It may capacitate communities to effectively monitor investments, document conflicts, and may help them reinforce their rights to land.

For effective community utilization of the tool, it must be translated into local languages. User manuals in English and in local parlances also ought to be developed. The manuals are to include instructions on how to use the tool, operational definitions of terms and indicators, data sources, and validation techniques.

Applying the tool to various community cases may bring to light other limitations of the present formulation, which may then provide opportunities for the future improvement of the tool. At the same time, multi-stakeholder consultations at national and regional levels, involving CSOs, communities, government, and the private sector must continually be conducted to refine the scorecard.

This scorecard may later be presented to NHRIs, government agencies, and the private/business sector for them to recognize the tool and contribute to its refinement. ■

The Scorecard for Private Business Investors in Land and Agriculture in Asia

What is this tool about?

This tool is the contribution of CSOs to communities in assessing an investment's respect for the land rights and human rights of communities. It aims to provide an empirical basis for investments' impacts on communities, and in particular, on stakeholders' tenurial security.



For whom is this tool for?

This scorecard tool in its present form, is to be used by communities to evaluate private investments in land and agriculture in its initial exploratory stages or those that have just begun operations. The tool may not yet apply to all types of investments – it would have to be revised and refined for it to apply to concessions, investments that have been operating for longer periods, and State-owned companies.

How to use the scorecard

With thoughtful consultation and deliberation with members of the community, kindly fill-in the fields below as objectively as possible. The scoring system per indicator follows an all or nothing method – for each indicator, investments may only receive either the full score or zero. Please base the scores to be assigned for each indicator on facts and reliable evidence. The Remarks column may be used to provide supplemental information or to note the reason/s for the score provided. As much as possible, please fill-in all fields.

	Indicators	Points (region)	Remarks
PROTECT <i>(45 points)</i>	1) The communities' right to use (<i>access, withdraw, and exploit resources</i>) the land is not diminished.	0 or 5	
	2) The communities' control/decision-making rights (<i>management and exclusion</i>) over the land are not diminished.	0 or 5	
	3) There is no threat of involuntary eviction of rights holders and communities.	0 or 5	
	4) Proposed and actual arrangements and mechanisms such as joint ventures, management contracts, and marketing agreements, among others are fair and legal. Economic risks and benefits are shared between the investor/company and the concerned communities.	0 or 5	
	5) Lands allocated by the community for livelihood, community space, residence, and other needs as may be identified by the community, are not curtailed by the investor/company.	0 or 5	
	6) Full and truthful information on the investment, including contracts and relevant documents are transparent, accessible, and are in a language understood by the communities, including women and other most marginalized groups.	0 or 5	
	7) The investor/enterprise is compliant with national laws and internationally-accepted standards for responsible investments.	0 or 3	
	8) The investor/company utilizes and manages natural resources sustainably.	0 or 4	
	9) Minors (younger than 18) are not employed/exploited by the company for labor.	0 or 4	
	10) Workers of the company and concerned communities are not exposed to occupational hazards (ex. Health and geophysical hazards)	0 or 4	



RESPECT (45 points)	11 Rights holders and communities confirm that they were involved in the consultation and negotiation processes.	0 or 6	
	12 Rights holders and communities were given adequate time to make an informed decision regarding their stake in the investment.	0 or 6	
	13 Coercive and deceptive acts were not or are not being committed by the investor/company.	0 or 5	
	14 Sacred sites, and sites of religious, cultural, or educational significance, are respected and not desecrated by the investor/company.	0 or 5	
	15 Customary and indigenous knowledge, systems, and practices, are acknowledged and respected by the investor/company.	0 or 6	
	16 Food sovereignty, nutrition, or livelihood of the community, especially of vulnerable groups such as women, farmers, fisherfolk, forest dwellers, informal settlers, PWDs, whose rights to the land and resources may be affected, are not threatened by the investor/company.	0 or 5	
	17 The unity of the concerned communities, and cohesion of members of the communities, are not divided or challenged by the investor/company.	0 or 6	
	18 No community leader or member was physically and psychologically harmed, or harassed legally/criminalized by the investor/company.	0 or 6	
REMEDY (10 points)	19 The investing company has available, accessible, and user-friendly grievance mechanisms.	0 or 5	
	20 Communities displaced by the investor/company were provided with safe relocation, just compensation, restitution, and/or rehabilitation.	0 or 5	
TOTAL		/100	

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Land Watch Asia Working Group for Mainstreaming Land Rights as Human Rights



ANGOC

Founded in 1979, the **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)** is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC network members and partners work in 10 Asian countries together with 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs) and international financial institutions (IFIs).

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium and the International Land Coalition (ILC).

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People's Campaign for Agrarian Reform Network, Inc. (AR Now!) is an advocacy and campaign center for the promotion of agrarian reform and sustainable development. Its vision is to achieve peasant empowerment, agrarian and aquatic reform, sustainable agriculture and rural development.

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Association for Realisation of Basic Needs (ARBAN), a non-government development organization concerned with the fundamental rights and the basic needs of landless agricultural laborers, sharecroppers and marginalized people, was founded on 18 February 1984. It works with the rural-urban poor and powerless and indigenous people for their socio-economic, cultural, and political empowerment and emancipation from all forms of bondages including injustices, inequalities and dispossession by promoting and practicing democratic values and participatory development processes at all levels through implementing various projects and programs.

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Community Development Association (CDA) is a non-government development organization that has been facilitating the rural poor, landless and marginal farmers, the plain land Indigenous people (IP) including differently able men, women, and rural youth with a view to empower, ensure access to land rights and mobilize the people-centered land governance and agrarian reform upon the contextual needs and demands led by 700 village-based peoples organizations in the north-western part of Bangladesh.

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Community Self Reliance Centre (CSRC) has been at the forefront of land and agrarian rights campaign in Nepal. CSRC educates, organizes, and empowers people deprived of their basic rights to land to lead free, secure, and dignified lives. The organization's programs focus on strengthening community organizations, developing human rights defenders, improving livelihoods, and promoting land and agrarian reform among land-poor farmers. Since its establishment, CSRC has constantly worked to transform discriminatory and unjust social relations by organizing landless, land poor and marginalized communities to claim and exercise their rights.

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Established in 1994, the **Consortium for Agrarian Reform (KPA)** currently consists of 153 people's organizations (peasants, indigenous peoples, rural women, fisherfolk, urban poor) and NGOs in 23 provinces in Indonesia. KPA fights for agrarian reform in Indonesia through advocacy and the strengthening of people's organizations. KPA's focus on land reform and tenurial security, and policy advocacy on these issues has put the coalition at the forefront of the land rights struggles of Indonesia's landless rural poor, especially with indigenous peoples in several areas in Outer Java. KPA encourages a participatory and pluralistic approach which recognizes the development of different systems of land use and tenure to ensure land rights. KPA is a people's movement that has an open and independent character.

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Ekta Parishad is a people's movement dedicated to non-violent principles of action, which aims to see India's poorest people gain control over livelihood resources, especially land, water and forest. Ekta Parishad is a federation of approximately 11,000 community-based organizations with thousands of individual members. It is currently operating in 10 States working for the land and livelihood rights of India's most marginalized communities.

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Social Development Foundation (SDF) was founded in October 1998 with an aim to strengthen the autonomous grassroots movements, build secular democratic leadership among the most marginalized communities and develop scientific temper among people. The organization reached the most marginalized communities and started the land literacy campaign among them. SDF focuses on land reforms with right-based approach. Though the organization was constituted in Delhi, its main grassroots operations are mainly in the Uttar Pradesh and Uttarakhand States. SDF also provides necessary support to engage with policy makers, social movements, academics, lawyers, and civil society organizations.

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STAR Kampuchea (SK) is a Cambodian non-profit and non-partisan organization established in 1997 dedicated to building democracy through strengthening of civil societies. SK also provides direct support to communities suffering from resource conflicts like land-grabbing and land rights abuses through capacity building and legal services.

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Website: starkampuchea.org.kh



Xavier Science Foundation, Inc. (XSF) is a non-political, non-stock, non-profit organization established and designed to encourage, support, assist, and finance projects and programs dedicated to the pursuit of social and educational development of the people in Mindanao. It is a legal and financial mechanism generating and managing resources to support such socially-concerned and development-oriented projects and programs.

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**INTERNATIONAL
LAND
COALITION**

ASIA

The International Land Coalition (ILC) is a global alliance of civil society and intergovernmental organizations working together to put people at the center of land governance. Their shared goal of ILC's over 200 members is to realize land governance for, and with people at the country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

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“Now more than ever, we need governments and businesses to work together to ensure that those most vulnerable to negative impacts from business activities and globalized supply chains are protected and respected.”

– John Ruggie

This publication discusses the relevance to land and agriculture of the United Nations Guiding Principles on Business and Human Rights (UNGP BHR), and provides an overview of the state of the UNGP BHR’s implementation in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines. While significant efforts were undertaken by human rights institutions and CSOs to promote UNGP BHR, this book outlines areas of action at country and regional levels to mainstream UNGP BHR. Also included in this publication is a Scorecard that communities may use in assessing private investments in land and agriculture in their initial exploratory stages or investments that have just begun operations. Noting that developing an effective scorecard system requires a long and thorough consultative process, this tool is not to be seen as a finished product but rather, a work-in-progress.