

Land grabs and dispossession: A review of six land grab cases in Asia

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WHAT ARE LAND GRABS?

While the term land grabbing has been used broadly throughout history, it is now often used to refer to “large-scale land acquisitions, following the 2007-2008 world food crisis.” A more contemporary definition of land grabbing is provided by Eco Ruralis (2016), i.e.: “the control (whether through ownership, lease, concession, contracts, quotas, or general power) of larger than locally typical amounts of land by any persons or entities (public or private, foreign or domestic) via any means (‘legal’ or ‘illegal’) for purposes of speculation, extraction, resource control or commodification. This is often at the expense of agroecology, land stewardship, food sovereignty and human rights.”

Land grabbers may be individuals, groups, or companies; private, public, or governmental; domestic or foreign. The land involved in land grabbing is usually larger than typical size, or is higher in value. In Philippine agriculture, for

example, only 1.8 percent of all farm holdings are above seven (7) hectares. And in Bangladesh and Nepal, where average farm sizes are about one-half hectare, farms above two hectares could be considered as “larger than typical.”

Lands that are taken often have higher value than those of adjacent plots or areas. The lands may be located by the roadside, near a tourist area or commercial zone, or may be rich in natural resources (trees, minerals, water). Oftentimes, land grabbed areas are converted to other uses – to increase the value of the property, or to extract resources.

Land grabs are not defined solely by their size or value, but by a combination of factors. Land grabbing is all about gaining overall control. Land grabbers get control over land in several ways, including through long-term lease arrangements or government concessions, by having tenant farmers or sharecroppers, or by actually owning the land. Land can also be controlled through



Box 1: Defining features of land grabs

- Land grabbers may be individuals or companies; private, public or governmental; domestic or foreign
- Land involved is usually larger than typical size, or higher in value
- Involves elite capture (using superior positions of money, power, knowledge and privilege)
- Involves seizure of control (through ownership, possession, lease, supply contracts, etc.)
- Uses fraud or force
- Acquires land by dispossession
- May occur legally or illegally; or is tolerated by existing laws

quota and supply contracts that force people to use the land in a specific way (Eco Ruralis, 2016).

Land grabbing involves the use of superior positions of money, power, knowledge, and influence to gain rights to land. Land is captured by the elite, often with the use of fraud or force. Fraud comes in different forms, such as in falsification of public documents, bribery, spreading rumors and fake news, and making false promises. The use of force is similarly expressed in several ways, such as with threats, intimidation, legal cases, evictions, and physical harm. In human terms, all these mean that poorer and less influential people and families are dispossessed or encroached upon. And when people lose access to their land, they also lose their means to obtain food, their communities, their cultures, their livelihoods, and their way of life.

Land grabbing may occur both legally and illegally within current laws. In fact, most land grabs are actually legal, meaning that the land deals are tolerated or even assisted by existing laws (Eco Ruralis, 2016). In such cases, laws are seen to be

illegitimate, unjust, and immoral when they allow land grabbing and the abuse of human rights.

LAND GRAB CASES UNDER REVIEW

This collection examines aspects of land grabs in six Asian countries, as seen and written by civil society organizations working on land rights. It provides perspectives on how and why land grabbing is practiced in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines. Although the six cases differ widely in their specific narratives and contexts, they emphasize the role that national governments and domestic policies play in facilitating and legitimizing land grabs in each country. The cases within this publication also explore how the legislative and governance systems in each respective country responds to threats to land rights, and highlight how communities are resisting land grabs. They emphasize the need for States in Asia to move from existing land and governance regimes towards a new order that encourages more equitable land rights allocation and the protection of stakeholders' rights.

The studies are undertaken with the following stated objectives:

- to describe and discuss the processes (stakeholders, forms of control processes, drivers) and impacts of land grabbing in a particular sector;
- to describe and identify issues and challenges of policies and mechanisms of the State in relation to the sector; and,
- to formulate recommendations to protect and uphold the tenure rights of individuals and communities in the sector.

The three cases of land grabbing from Cambodia, Indonesia and the Philippines are somewhat similar. They focus on long-term land leases or concessions (25 to 99 years) taken from the public



Photo from *Konsorsium Pembaruan Agraria (KPA)*

domain or from customary lands of indigenous communities – in order to set-up large-scale monoculture plantations geared for the export market. The two crops of choice – *sugarcane* and *palm oil* – are both cultivated not just for food, but also for the growing biofuel industry.

The investors are all transnational companies from Asia; they expand business operations vertically, usually controlling the full process of production all the way to export. Government land concessions are often justified on the basis of false claims that the lands being taken are “idle,” “marginal,” or “marginally-productive.” Yet in reality, indigenous communities and small farmers are often deprived of and evicted from the lands they once held and cultivated.

Meanwhile, the cases from Nepal and Bangladesh focus on the role of the government and State-owned corporations in the leasing of forest areas and agricultural lands to the private sector – for use and conversion to other purposes – i.e., infrastructure, commercial centers, urban uses, tourism, export processing zones (EPZs) and special economic zones (SEZs). In these cases, the government acts as the lessor, agent or the broker, using the State’s coercive powers of *eminent domain* in order to acquire and to transfer lands to the corporate sector. And while the process of compulsory acquisition displaces poor families from their homes, fields and livelihoods, the land in question is often leased out at very low rents, sold below-market prices, or even given away to the private sector against



Box 2: Cases and contexts

PLANTATIONS

- *Cambodia*: “Blood Sugar” Business in Preah Vihear, Cambodia
- *Indonesia*: Land grabbing in the Palm Oil Plantation Sector
- *Philippines*: Oil Palm Plantations Encroach on Indigenous People’s Lands

PUBLIC LANDS

- *Bangladesh*: Building Commercial Establishments (EPZs and SEZs) in Agricultural Lands
- *Nepal*: Leasing Public Land to the Private Sector

SECTORAL FOCUS

- *India*: Land Grabbing and its Effects on *Adivasis*

promises of employment creation or transfers of technology (CSRC, 2020).

Finally, the case study from India focuses on the impacts of land grabbing on indigenous peoples (*adivasis*) in the country, especially in the past three decades under a post-liberalized economy. Two caselets – on Sonbhadra District in Eastern Uttar Pradesh, and on the Polavaram Dam Project in Andhra Pradesh – both illustrate how the *adivasis* have been deceived by State agencies, and how the government has failed in the proper implementation of the law (Rawat, 2021).

The case studies are based mainly on desk research and analyses of secondary data. These were supplemented with field visits and interviews with affected communities and civil society organizations. However, such interactions were limited due to the COVID-19 pandemic in 2020 when the writing of the case studies was carried out. In some instances, authorities used the pandemic restrictions to deny “outsiders” the right to visit land conflict areas. Thus, some face-to-face meetings were replaced by virtual meetings.

The case studies were discussed and validated in online consultative meetings organized in each country. At the regional level, a series of online discussions laid the basis for the section on “Recommendations,” as well as for the added section on “Land grabs at a time of the COVID-19 Pandemic” – that form part of this paper.

LAND GRABS IN ASIA: A REVIEW OF THE DIFFERENT CONTEXTS

Although the exact extent of land grabbing in South and Southeast Asia is unknown, it is important to understand the contexts in which they occur and are discussed in the different cases.

Global land acquisitions and expansion of plantations in Southeast Asia

Back in 2008, a global food crisis fueled land speculations and massive land grabs on an unprecedented scale not seen in modern history. In the wake of that crisis, many food-producing countries stopped exporting certain food supplies. Countries that relied on food imports sought to secure their food needs by gaining control of agricultural lands and farms in countries primarily located in Africa and Asia. The food crisis at that time was fueled by the collapse of international financial markets in 2008, which also led to market players, including domestic urban elites, looking for a quick financial turnover to choose land investment as a new strategy for growth, food and fuel production. The intense competition for land that followed the 2008 food crisis – for plantation agriculture, mining, infrastructure, and other uses – left countless communities reeling from dispossession, loss of livelihoods, increased food insecurity, violence, and political instability.



BOX 3: Legal designs of land grabs

- Increasingly, land grabs are pursued through *legal instruments* – leases, concessions, agribusiness ventures, growership & marketing agreements, State-led expropriations & joint ventures.
- Some land grabs are pushed under broader *legal frameworks* – e.g., Medium-Term Development Plans, Economic Land Concessions, State Acquisition Acts, Land Procurement for the Development of Public Interest, Export Processing Zones, and Public Land Trusts.
- Others are pursued under *international agreements*, such as “Comprehensive Cooperation between the PRC and ASEAN.”
- In some cases, land deals are merely tolerated under the law. In such cases, the laws are seen to be illegitimate, unjust and immoral when they allow land grabbing and the abuse of human rights.

In 2008, land acquisitions in Asia were led by capital-rich Arab Gulf States and the prosperous countries of East Asia. By the end of 2008, an estimated 7.6 million hectares of land overseas were controlled by China, South Korea, United Arab Emirates, Japan, and Saudi Arabia (Quizon, 2012). Most of the lands acquired were used for agricultural production, although lands were also used for other purposes, including logging, mining, livestock production, and tourism.

Within the region, many of these large-scale land acquisitions took place particularly in Southeast Asian countries (Cambodia, Indonesia) – taking advantage of the availability of land and the willingness of these governments to issue long-term land concessions in the public domain. In many cases, the sudden surge in external investments exacerbated existing land conflicts.

Indonesia. Former colonial Dutch plantations continue to be managed under State-owned plantation companies by virtue of Presidential Decree 32/1979, as colonial lands seized from the local people were never restituted. Moreover, the government had long been granting large-scale concessions over forestlands under State control since the 1990s. Under Law 41/1999, the Ministry of Forestry was granted the authority to unilaterally designate forest areas in the country. This eventually placed some 137 million hectares or 69 percent of the country’s territory as the

designated “forest area.” Today, there are at least 30,000 definitive villages living in the forest area, where the villagers have been vulnerable to daily criminalization and forced evictions (Luthfi and Fauzi, 2018).

As of 2017, the Ministry of Environment and Forestry has issued land concessions to 499 enterprises covering a total of 68.7 million hectares, or 38 percent of the country’s total land area (KPA, 2018). Most of these concession areas have been converted into plantations, primarily for palm oil, coconut, rubber, coffee, tea, and tobacco as well as paper pulp.

Meanwhile, for the whole of 2020, the Consortium for Agrarian Reform (KPA) recorded 241 land conflicts involving 359 villages and spanning a combined area of 624,272 hectares in the country. Of the total conflicts, 69 percent occurred in two sectors, namely plantations (primarily palm oil) and forestry (pulpwood production and logging) (KPA, 2020). As reported by KPA Executive Director Dewi Kartika, “The plantation sector is very land-hungry, and it often clashes with people’s settlements, agricultural lands and locals’ plantations” (Jong, 2021).

Cambodia. The State currently controls some 14.5 million hectares or about 80 percent of the country’s territory. The Land Law of 2001 granted the government the right to issue Economic Land



"The prevalence of one-sided negotiations, unfair contracts and cases of forcible entry have brought about land conflicts between companies and local communities."

Concession (ELC) leases of up to 99 years – in order to attract private investors and to establish agro-industries. But where property rights are weak and many rural people lack the needed land certificates, the land concessions have triggered conflicts between companies with State backing and local communities.

Since 1993, over 2.1 million hectares have been leased under ELCs to private entities. And since 2003, an estimated 400,000 people have been affected by land disputes, with cases of company and State-led violence against land-grabbing victims being reported.

Amid growing criticism, the government in 2016 announced that more than one million hectares (2.5 million acres) of ELC land had been revoked by the State, reducing the amount of ELC land to around 1.1 million hectares. But according to figures compiled by local rights group Licadho, the government has so far granted 297 concessions – equivalent to 2.1 million hectares, or about 12 percent of the country's total land area. Of these concessions, Chinese firms controlled the largest total area at nearly 400,000 hectares, followed by those from Vietnam at more than 360,000 hectares.¹ Licadho said that at least 15 companies, all of which are owned by tycoons

¹ In 2008, the Chinese State-owned Union Development Group (UDG) was granted 36,000 hectares (89,000 acres) of land inside a national park for 99 years. The concession was three times the legal limit and included 20 percent of Cambodia's coastline.

² Cambodian People's Party

and CPP² senators, were granted more than 10,000 hectares (25,000 acres) of ELC – exceeding the amount permitted by the 2001 Land Law. The companies claim to have invested in rubber, sugar, paper pulp, cassava, and palm oil plantations³ (Radio Free Asia, 2020).

Among these concessions is the "blood sugar" case focusing on five Chinese-owned companies under a single conglomerate that has been granted five ELCs covering 42,000 hectares.⁴ The ELCs affect more than 1,000 families comprised of both indigenous peoples (IPs) and non-IPs in 10 communes of three districts in Preah Vihear Province (Nhek and Heng, 2021).

Philippines. The country provides a different context for large-scale land acquisitions – due to the institution of the 1987 Comprehensive Agrarian Reform Law (CARP) and the 1997 Indigenous People's Rights Act (IPRA). Since much of private agricultural lands have been redistributed under agrarian reform, agribusiness companies resorted to 25-year leaseback arrangements, contract growing, or supply and marketing agreements with small producers and cooperatives. However, disputes often arose between farmer cooperatives and investors on matters of labor, pricing, management practices, and others – due to unfavorable contracts, weak monitoring by the government, and weak governance within cooperatives (Quizon, 2016).

In recent years, palm oil plantation companies have expanded into forest areas – through Forest Management Agreements with government, or

³ The ELC figures exclude other concessions granted by the State, such as those for mining, seaports, airports, industrial zones, and fishing lots, as well as some 38 special economic zones created by the government in 2016.

⁴ The term "blood sugar" describes the conflict that ensued between the community and investor company. The community explains that the brown sugarcane juice could not be refined into "white" sugar as the company expected. Thus, the color of sugar is brown like "blood" because the company is cursed (Nhek and Heng, 2021).



through agribusiness venture agreements with Community-Based Forest Management groups or with indigenous communities (Ravanera, Musni, and Naungayan, 2021). However, the prevalence of one-sided negotiations, unfair contracts and cases of forcible entry have brought about land conflicts between companies and local communities.

In the 2018 Philippine Land Conflict Monitoring study of ANGOC, plantations accounted for 101 out of the 352 cases of land conflict recorded over an 18-month period in 2017 to 2018. Some 47 of these conflicts were in palm oil plantations (Salomon, 2018). Yet, based on a 2014 government roadmap, there are plans to expand the oil palm industry. The government estimates that areas suited for oil palm plantations in the country reach around one million hectares.

Expansion of EPZs and SEZs for export industries in Bangladesh

The hunger for land is inevitable in Bangladesh, one of the world's most densely populated nations with over 160 million people living in 147,570 square kilometers. With its outdated land record system, forgery and corruption are blamed for many of the land disputes. With the legal system too expensive and with little government incentive, the poor and marginalized are often denied justice. Cases linger for years and families are often forced to spend huge sums just to recover property.

There are several types of land grabbing in Bangladesh that often cause displacement and land encroachment. The first occurs in the *char* riverine and coastal sediment regions that are in a constant state of formation and erosion. In these areas, there are power plays for land that uproot small producers from their rich alluvial soils.

The second type involves land capture by elites who engage gangs, corrupted public servants and the military to coerce small producers into relinquishing titles. Fraud and forgery of official documents are often involved. A third type occurs “legally” such as when the government leases out large tracts of *khas* land in the Chittagong Hill Tracts (CHT) for private commercial plantations and enterprises.

Over the past few decades, there has been a growth in large-scale land acquisition by the government for building export processing zones (EPZs) and special economic zones (SEZs) in different parts of the country. As of 2020, over 2,000 hectares of peri-urban agricultural lands have been acquired by government for the building of some 10 EPZs for the export industry. The government has also given the private sector permission to build and operate competing EPZs, and the initial construction on a Korean EPZ started in 1999. In addition, under the government's Industrial Policy of 2016, some 100 new EPZs and SEZs are planned to be established in the next 15 years.

Critics claim that this will contribute to the further loss of agricultural land – as industrialization, along with their attendant expansion of commercial and residential areas – rapidly encroach on local farming areas. Already, the shifting rate of agricultural land to non-agricultural use is about one percent per year, and the availability of agricultural land is gradually declining. Meanwhile, about 60 percent of farmers are functionally landless and depend on sharecropping on land owned by others. Some 70 percent of all farm holdings are up to three *bighas* of land (up to 0.4 of a hectare) but constitute only 20 percent of the total land (Hossain, Bayes, and Islam, 2018).



The leasing of public lands to the private sector in Nepal

In May 2008, the monarchy in Nepal was abolished after two centuries of royal rule. This followed a prolonged period of civil war and Maoist insurgency in the 1990s and 2000s, and an UN-brokered Peace Accord in 2006.

With the abolition of the monarchy, private investors and the government gained interest in the acquisition of large portions of royal family lands that then became public lands. The Nepal Trust Act of 2008 passed by Parliament provided for the establishment of a Trust to manage and utilize the properties that remained in the name of King Birendra, Queen Aishwarya, and their family members.

While the Act provided for possible lease arrangements, it did not provide for clear criteria on by which to lease the land to individuals or companies. Among the main beneficiaries was Yeti Holdings, the largest travel and tourism group in Nepal, which gained 148 hectares of prime properties through six lease agreements from 2006 to 2019. There was a lack of transparency in the negotiation process and in the issuance of notices for competitive bidding. From media and other sources, there were claims that the owners of Yeti Holdings had close ties with the Communist Party of Nepal, which was the party in power. Among the prime properties leased out was the Gokarna Forest Resort, a 142-hectare area in Kathmandu which historically was part of the private royal hunting ground of the erstwhile Kings of Nepal.


The case stands out, as land is transferred from the Monarchy to a Public Trust, then to an elite business group in the context of a country undergoing political change.

Continuing dispossession of *adivasis* in India

Asia is home to 70 percent of the world's indigenous peoples. Historically displaced by colonialism, indigenous communities continue to be dispossessed of their lands due to the entry of mining, plantations, tourism, urban expansion, and government-led "development" projects. Many indigenous communities are aware that they are in possession, yet have no legal tenure, over lands, territory and forest resources that outsiders covet.

In India, indigenous people are known as *adivasis* (or original inhabitants). They constitute some 8.6 percent (104 million people) of the Indian population, based on the 2011 Census. Some 705 groups have been bestowed official recognition of "scheduled tribes" (ST) – a legal term used for administering specific Constitutional privileges, protection, and benefits for specific sections of people historically considered disadvantaged and backward. These scheduled tribes are concentrated in the northeast and central regions of the country.

Studies suggest that over 10 million *adivasis* in India have been displaced without proper rehabilitation in the last 70 years in the name of "development." Since the 1990s, India has embraced market liberalization as State policy, leading to an acceleration in land acquisitions, and an escalation in displacement and destruction. With their twin goals of national security and investment for economic development, State governments and authorities have been the primary "brokers" in transferring *adivasis* lands to commercial interests. These have caused widespread displacement and dispossession among *adivasis* communities, despite their rights being guaranteed under various aspects of Indian jurisprudence (Rawat, 2021).



The two caselets provide some examples of how *adivasis* are dispossessed. The first is from the District of Sonbhadra, Uttar Pradesh involving 34 hectares of land that used to belong to the local monarch, the Rajah of Badhar. After the zamindari abolition in 1952, the land was classified as “barren” land and transferred to the Gram Sabha, even though it was tilled by *Gond* farmers. Through a potentially illegal transfer, the land later ended up in the possession of a Trust, and then the land was illegally sold to a feudal lord.

The second case is related to a government project – the building of the Polavaram Dam across the Godavari River in Andhra Pradesh that would potentially inundate some 300 villages and affect some 200,000 to 300,000 people in three Indian States. The affected area includes 3,428 hectares of forest land which is home to *dalit adivasis* and forest communities who have not been properly compensated or rehabilitated.

DRIVERS AND ACTORS

The external “push” by investors

Following the frenzy of global land acquisitions in 2008 to 2010, land-based investments in Asia continue to expand with the growth of agricultural plantations, extractive industries such as logging and mining, and the creation of industrial parks and processing zones. Investors continue to seek out enclaves where land, water, and natural resources are abundant and cheap, labor is cheap and docile, taxes are low, environmental and social regulations are minimal, and the State protects corporate interests (Quizon, 2013).

A major driver of land investments has been the growing global demand for cheap consumer goods. However, there are other driving forces as well.

“Many indigenous communities are aware that they are in possession, yet have no legal tenure, over lands, territory and forest resources that outsiders covet.”

The *first driver* is food production, as food import-dependent countries seek to produce their own food abroad. In Asia, these include the Arab Gulf States that look to invest surplus oil revenue for establishing food production centers abroad. Japan is heavily import-dependent with its food; domestic agriculture is heavily subsidized, and historically the country had a long-time practice of creating food bases abroad. Also, China has been shifting some of its food production abroad, as the country emphasizes industrialization and the production of high-value crops.

The *second driver* is the growing demand of the biofuel industry. This has two related factors. One is market pressure: rising oil prices, increasing energy consumption, conflicts in the Middle East, and the industrial growth of China and East Asia. The other is energy policies in the effort to combat climate change. These include the European Union targets in sourcing transport fuels from renewable fuels, as well as the US Energy Independence Act. Thus, biofuel production has contributed to the growth of plantations especially in Southeast Asia. The common crops are palm oil, sugarcane, maize, soybean, and jathropa.

The *third driver* is capital accumulation and industrial expansion especially in East Asia and Southeast Asia that have experienced high economic growth rates over the past two decades. Major investors have come from China. Beginning in 2012, China initiated a “Going Global” strategy



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that encouraged Chinese enterprises to invest overseas, with a great amount of investment going to South East Asia. The 10-country Association of Southeast Asian Nations (ASEAN), with a combined population of some 650 million, is collectively the world’s fifth-largest economy and is home to a number of potential new supply chain bases.

Similarly, Indonesian and Malaysian companies which are the world’s top producers of palm oil, rubber and other industrial crops, are now seeking to expand their production areas abroad. Along with regional investments has been the growth of regional tourism and the real estate industry.

A *fourth driver* are the policies of importing countries, especially under the European Union. One of these is the 2001 Everything But Arms (EBA) policy which is an initiative of the European Union. Under EBA, all imports to the EU from the Least Developed Countries (LDCs) are duty-free and quota-free, with the exception of armaments. The list of LDC countries in Asia that are given preferential access include Laos, Cambodia, and Bangladesh. The aim of the scheme is to encourage the development of the world’s poorest countries. This has encouraged exporters to the EU to establish their production bases, from sugarcane to garments, in these LDCs.

However, EBA preferences can be removed if beneficiary countries fail to respect core human rights and labor rights. In February 2020, the European Commission decided to withdraw part of the tariff preferences granted to Cambodia under the EBA’s trade scheme due to the serious and systematic violations of the human rights principles.⁵

The “pull” for investments and the brokering role by host governments

While many cases of land grabbing are due to illegal land transactions involving corrupt public officials, most of the cases described here stem from the governments’ own efforts to push for private investments in large-scale land acquisitions. The case studies here serve to illustrate the role that national governments and domestic policies play in facilitating and legitimizing land grabs in each country. What are the drivers of land grabs in each case?

Plantations. The cases from Cambodia, Indonesia and the Philippines illustrate how governments actively promote agribusiness investments, by identifying potential lands for prospective investors, by facilitating large-scale land acquisitions and transfers, and by providing fiscal incentives and tax holidays. Government efforts are driven by several underlying objectives:

- *First* is the need to offset declining public investments in agriculture and the dwindling of Official Development Assistance (ODA) worldwide. Given the decline in public spending for agriculture, in terms of its share of national budgets, governments now increasingly rely on the “private sector” and on foreign direct investments (FDIs).

⁵ Niem Chheng (2020). "EU Partially Withdraw EBA." The Phnom Penh Post. 13 February 2020. <https://www.phnompenhpost.com/national-politics/eu-partially-withdraws-eba>. It should be noted that the affected products are garments and footwear products, all travel goods, and sugar.

- *Second* are the stated twin goals of alleviating rural poverty and of quelling armed conflict. In the Philippines, oil palm plantations have expanded into forest areas and into the customary lands of indigenous peoples, often pictured as bases of insurgency. In the broader view of governments, the expansion of plantations into the hinterlands, forest areas, and islands also helps to bring remote areas and communities under their purview and control.
- *Third* are the promises that foreign investments will create rural employment opportunities, build rural infrastructure, improve access to research and technology, and increase State revenues through the collection of taxes and concession fees. However, there remains little evidence of these being fulfilled.

Given that most Asian countries limit foreign ownership of land, long-term leases have been the most common form of land investment in Asia. This is done several ways: a) Asian governments directly lease public lands to corporations; b) Asian governments entrust ownership of large tracts of public land to special State agencies which in turn lease them to foreign corporations; c) foreign entities enter into a joint venture or partnership with a domestic corporation or landowner, which then “fronts” as the lessee; and, d) the government acts as a broker to facilitate private contracts between investor companies and smallholders and their cooperatives. In all these cases, the government acts as the broker and promoter between investors and local communities.

EPZs. A second approach employed by governments to lure private investments has been the creation of special enclaves for industries and commerce. The stated goals are economic growth, to create employment, earn foreign exchange,

compete with the global market, to improve the balance of trade, to develop local skills, and to induce the transfer of technology. The archetype of this approach are EPZs and SEZs.

In Bangladesh, EPZs cater directly to international market demands for cheaper goods. All the production is geared for the export market. The main attraction offered to foreign investors is the abundance of cheap and skilled labor, support for export industries, and minimal regulations in the country. Thus, out of the 476 products currently produced in Bangladesh’s EPZs, 276 products (58 percent) consist of ready-made garments, knitwear, and footwear and leather products – industries that are highly labor-intensive.

In building EPZs, government acts as land broker, investor and land developer – acquiring agricultural lands in peri-urban areas for conversion into EPZ estates. Lands are acquired from local farmers at less-than-market price and in the name of “public interest.” These acquired lands are then transferred to a legal public authority for sub-leasing to private corporations. Government incentives include 10-year tax holidays, customs bonded warehousing, duty-free importation of construction materials, machinery and raw materials; certain tax exemptions; accelerated depreciation on machinery and plants; and the banning of labor unions within EPZs.

In addition to the 10 EPZs that have been built, 100 EPZs are being planned for different areas of Bangladesh by 2031. Similarly, in India, government data shows that some 500 Special Economic Zones (SEZs) have been approved and close to 60,000 hectares of land have been set aside for these SEZs, in the name of “public purpose” and “development.” These cover mostly agricultural lands that will be transferred to the private sector (ANGOC, 2019).




Photo by Vidya Bhushan Rawat

Tourism and commerce. A third approach is the case from Nepal, where prime lands were leased out by a government Trust to a leading tourism company. However, this case differs entirely from the other cases. Here, it is the investor company that proposes to lease out government property; it is opportunistic. Negotiations are held in secret, and there is no open public bidding or discourse. The act of leasing out State property in this particular case does not appear to be part of a government development plan. Instead, the arrangement is later justified in the name of “public interest” – i.e., as an effort “to promote tourism, create jobs, and earn revenue for the government” – by productively utilizing what would otherwise have been “idle” lands.

Development infrastructure projects. A fourth approach for inviting land-based investments is the development of infrastructure and public utilities such as for power, water, transport and communication. Aside from the need to keep up with rising domestic demand, they also form an integral part of government economic development plans.

The issue is that large public infrastructure projects such as dams, roads and power plants themselves require large-scale land acquisitions. Development decisions become political when planners decide which lands are taken away, and which areas and sectors of society will benefit most from the changes that a project bring. A road-building project, for instance, might require



using the State’s coercive power of eminent domain to acquire lands even if affected families are unwilling to sell. Meanwhile, adjacent property owners reap a windfall with rising land valuation prices once the new road is built.

The political decisions are magnified in the case of dam and power projects such as the Polavaram Dam in India, that will inundate entire villages and directly displace 200 to 300 thousand people, yet will benefit most the communities and businesses elsewhere. In such situation, the areas and sectors of the poor and powerless are made to suffer the most in the name of “development.” As in other countries, they consist of indigenous peoples, upland farmers and forest dwellers, smallholders, agricultural workers, and rural families. In many cases, the lands of the rural poor are under customary use, and not titled or registered in their name.

LEGAL DESIGNS OF LAND GRABS

As shown by the case studies, what we call today as “land grabs” are actually pursued through various legal instruments – public and private contracts, lease and *leaseback* agreements, agribusiness venture agreements, supply and out-growership contracts, marketing agreements, concessions on “public” lands, State-led land acquisitions, co-management agreements and joint ventures. These arrangements are pursued under broader legal frameworks in each country – e.g., Medium-Term National Development Plans, Economic Land Concessions, State Acquisition Acts, Land Procurement for the Development of Public Interest, Export Processing Zones, Special Economic Zones, and Public Land Trusts. These are further facilitated by international agreements, such as accession laws to the World Trade Organization and by bilateral agreements, such as the Framework Agreement on Comprehensive Cooperation between the People’s Republic of

China and the Association of Southeast Asian Nations.

In the case of land acquisitions, resistance builds up because from planning to the takeover of lands, people are not involved, the process is not transparent, and often manipulative and corrupt. Much of the development planning and land transactions which could potentially displace families and communities are done outside of public purview and scrutiny. In some cases, public officials are interested parties directly involved in land deals; in others, companies strike deals with corrupt State officials without the knowledge or consent of people who live on the land. When fraud is committed, resistance and violence can erupt as lands are taken away from families and communities. Contending parties then get locked in land conflicts that may last many years if left unresolved.

Many of the land deals are conducted in secrecy, without disclosure and public bidding, because sometimes they are treated as private investments. In the Nepal case, seven prime properties that formerly belonged to the monarchy and held under a Trust were leased to a single company without transparency in the negotiation process and in the issuance of notices for competitive bidding.

In the Cambodia case, five Chinese companies under a single parent company were granted five separate ELCs concessions covering 42,000 hectares in a clear bid to circumvent the law that stipulated a limit of 10,000 hectares for ELCs.⁶

All five companies shared a single office in Phnom Penh, and three of the ELCs were issued on the very same date in 2011.

⁶ Sub-decree 146 on Economic Land Concessions established a ceiling of 10,000 hectares and requires the concessionaire to conduct prior consultation with the community (as cited in Nhek and Heng, 2021).



Meanwhile, local people were caught unaware when the company took over 42,000 hectares in Preah Vihear province. Some 10,000 people were affected when 20,000 hectares of residents' farmlands and forests were cleared. These included communal lands, ancestral and spirit forests, and ancient temple ruins revered by the Kuy peoples. Families were dispossessed and received inadequate or no compensation. Over the years, the villagers have resisted through protests, land occupation, seizure of company machinery, and filing of administrative complaints. However, their protests have been met by death threats, arrests, detention, harassment, and court cases filed by provincial authorities. In some instances, protests were met with armed police and military personnel at the site, as the villagers were arrested for "trespassing on private property."

As the land conflict drags on, villagers work in fear and lose their livelihoods. As much as 90 percent of the people are now in debt, based on field interviews (Nhek and Heng, 2021). Only an estimated 25 percent of the villagers held official land titles. Even so, many families were forced to sell their titled plots to the company under cheap prices, while some portions of their titled lands were reportedly simply taken over by the company without compensation.

It may be noted that, because many land grabs are done under a "legal" framework, or else are tolerated by existing laws and authorities, these acts are given a sense of "legitimacy." Meanwhile, any resistance by peasants and indigenous peoples is viewed as "public disturbance." Communities in conflict with business groups are often treated as "nuisances, illegal loggers, trespassers, and criminals" – regardless of the historical background and causes of the agrarian conflict (Kartika and Wijaya, 2021).


Also, there is often a lack of fair and effective grievance mechanisms especially when government itself or large corporations are involved. Affected communities rarely, if ever, go to courts to settle their claims, as it is costly, time-consuming and the cases may take years to resolve. Meanwhile, protests are not heard, or are stifled through threats, arrests, detention, harassment, and court cases.

Meanwhile, governments and State agencies often fail to undertake due diligence in monitoring investments and in implementing regulations. For example, if a venture folds up, no compensation is paid to the local community or those who were offered jobs.

In the Cambodian case, the sugarcane company in Preah Vihear province went bankrupt and completely stopped its operations in 2017. The company then started growing rice on parts of the plantation, in violation of its contract agreement with government. Worse, the company sub-leased the lands to outsiders, rather than returning the land to local villagers.

Similar cases of protest and violence have been seen with the expansion of oil palm plantations in Mindanao, Southern Philippines that have been opposed by indigenous peoples. In several documented cases, companies have hired private armies, vigilante groups to drive indigenous peoples off their lands. The State military has also been involved amidst accusations that community members are supporters of insurgent groups, a claim disputed by civil society organizations. Over the years, there have been forced displacements, illegal arrests, death threats, and actual killings against indigenous communities.

In the case of the Polavaram Dam in India, less than 20 public hearings may have been conducted before 2006 when the project was started, despite



its potential effects on people living in some 300 villages and surrounding forest areas. Reports also suggest that the *adivasis* are being displaced despite the resettlement process not having been completed – in violation of the Forest Rights Act of 2006. Yet the majority of *adivasis* do not even know that such a law exists (Rawat, 2021). Nor do they know where they will be relocated.

In the Uttar Pradesh case, a top district official illegally grabbed lands that had belonged to the Gram Sabha, and managed the land under a Cooperative or Trust. For many years, this land was tilled by *adivasis* who paid some amount to the “Trust” under a kind of sharecropping arrangement. The *adivasis* felt that the land belonged to them, but were unaware that the land was illegally being sold to a local feudal lord. In 2019, the feudal lord forcibly took control of the land with his personal militia, killing 10 *Gond adivasis*, including three women. About 30 people were arrested due to the case (Rawat, 2021). Nevertheless, the *adivasis* community continue to live with uncertainty, fear, and under a persistent threat of eviction.

As in most countries, indigenous peoples often fall prey to land grabs. Most of their land is collectively held and is unregistered. Forest departments, revenue officials and local politicians use their “ignorance” to deceive and exploit them. It should be noted that many indigenous peoples live in forests and areas that they have managed sustainably for generations, and which outside interests now covet. Thus, some of the most fertile lands are leased out, despite the official rhetoric in many countries that only marginal lands are used. Yet these same lands are often labelled as “under-utilized,” “un-productive,” and “barren” when they are seized and given as concession areas to outside commercial interests by State agencies and officials.

Land grabs also come in other forms such as through unfair and one-sided contracts. In the Philippines, where the government has played an active role in promoting foreign investments in oil palm plantations, private companies take over tenured lands of indigenous peoples and farmers through 25-year lease agreements. However, many villagers report being deceived into renting out their land for low costs, often enticed by upfront cash payments and promises of employment. Smallholders later become workers on their own land, but are exploited through heavy workloads, low wages, daily wage arrangements, and insufficient employment benefits (Ravanera, Musni, and Naungayan, 2021). And while the company pays a fixed annual rental, the actual value of the money received by smallholders diminishes in true value over time.

In other arrangements such as growership contracts, smallholders and farmer cooperatives take on the responsibility for growing the oil palm to be sold to a company. There are one-sided contracts where smallholders assume the full risks of the farming business. They take on loans at high interest rates that they are later unable to pay. In some cases, titles to the leased lands were used as loan collateral to the bank. With the company’s low buying prices, market fluctuations and risks, many farmers and cooperatives find themselves deeper into debt and in danger of losing their lands altogether.

Meanwhile, there is another aspect of land conflict when land is grabbed for “development” or commercial purposes – as new divisions may arise between competing sectors of the poor. In some cases, local leaders are bribed or enticed by investors, leading to divisions within the local cooperative or community. In other cases, there are deemed “winners” and “losers” under the land deals. In the Cambodia case, the local farmers refused to work on the sugarcane lands



that had been seized from them, and so workers from other provinces had to be employed by the company, even though they were not properly compensated. In the Polavaram Dam in India, the *adivasis* were caught in the politics between two States. Under the scheme, the *adivasis* of Telangana State would be submerged, while the dam would fetch water for use downstream in Andhra Pradesh State. While protests and opposition to the dam in Telangana have been crushed by authorities, there are scant voices in Andhra Pradesh where the dam's benefits are expected to flow (Rawat, 2021).

IMPACTS ON FAMILIES AND COMMUNITIES

Social impacts

There are overstated promises, limited job generations, the questions of actual investment, technology transfer, and no compensation for displaced communities.

In Cambodia, families have lost their access to forests on which they depend for resin tapping.

When entire communities are displaced, a culture is also lost. In Preah Vihear, Cambodia, at least 19 ancient temples and a sacred forest lie within the concession area. Worse, the concessions have destroyed a way of life, of livelihoods and ecosystems of people both indigenous and non-indigenous.

Within communities, women are the most affected. Work opportunities in plantations are limited for women, given the physical nature of the work involved. Only 15 percent of oil palm plantations workers in the Philippines are women. Moreover, the loss of customary tenure deprives women of home gardens, access to water, firewood, and open spaces. When there


are increased tensions, women suffer increasing violence within the household.

In the Philippines, plantations were found to thrive on child labor. A 2012 study showed that 24 percent of palm oil plantation workers in the CARAGA region were children below 18 years old. In Cambodia, children as young as 12 years old were forced to work and help their families subsist, as they had been evicted from their homes and farmlands.

Environmental impacts

The oil palm and sugarcane industries require large tracts of land, as several thousand hectares are required to sustain the operation of an oil palm or sugar mill. While some smaller mills enter into contract growing arrangements with smallholders, large investors often deem this approach to be inefficient, as it requires hauling the heavy nuts and canes over long distances. Also, there has been a growing vertical integration and control over these industries. Thus, there has been a continuous expansion of monocrop plantations, with a growing encroachment into forest areas. In Indonesia, the expansion of palm oil plantations accounted for 16 percent of the country's total deforestation in 2011.

With deforestation comes the loss of plants and animal species, and biodiversity. Also lost are access to important non-timber forest products, such as rattan, bamboo, fibers, resin, and honey on which indigenous peoples and forest dwellers depend for their needs and livelihoods. There is also increased water runoffs and soil erosion, as watersheds are destroyed. Studies have shown that streams flowing through oil palm plantations bring with it sediments, waste matter, and residues of chemical fertilizers and pesticides, causing the degradation of the soil and contamination of water used by villagers downstream.



The clear-cutting of forests contributes to greenhouse gas emissions. Even though oil palm trees may offer carbon sequestration services, they cannot compensate for the net carbon loss due to deforestation (as cited in Ravanera, Musni, and Naungayan, 2021).

Meanwhile, there is another feature of land grabs in the case of plantations, as “alien” crops or crop varieties are often introduced, which can be invasive and can disrupt the local economy and ecosystem. Oil palm, for instance, is a plant originating in Africa, and brought to North Sumatra, Indonesia by Dutch colonialists. These crops can prove to be resilient on foreign soils probably because they lack specialized natural enemies and pests of their area of origin – a phenomenon known as “ecological release.” This happens when a species from a competitive environment invades a less competitive habitat, allowing it to grow in a population (as cited in Quizon, 2013).

In the Bangladesh case study, the conversion of fringe flood flow zones and of high value agricultural lands into EPZs in peri-urban areas can bring about rapid urban expansion into these areas. Without proper urban planning and zoning, and where building codes are not strictly enforced, these may result in flooding, waterlogging in the inner city and the filling of lakes and canals, and illegal land grabbing. Furthermore, the operation of industries within EPZs have adversely affected the environment of surrounding areas. Industrial effluents have contaminated the surface and groundwater, and the pollution of rivers. These result in the destruction of aquatic habitats and in making the groundwater unfit for drinking purposes.

While all countries have requirements for environmental impact assessments (EIAs) prior to the approval of large-scale projects or

investments, these are not uniformly applied or followed properly. In most cases, the required EIAs are often conducted by the investor company, without consultations or public hearings with families or communities potentially to be affected, and with the findings not made public. Furthermore, there is no systematic public monitoring of the environmental impacts that an investment brings once a project is approved.

LAND GRABS AT A TIME OF THE COVID-19 PANDEMIC⁷

The COVID-19 pandemic has caused severe disruptions in food supply chains, undermining the ability of small food producers to access their land and the natural resources they need, thereby rendering them more vulnerable to encroachment on their tenure rights.

Throughout Asia today, small food producers are finding their movements severely restricted, leaving them more vulnerable to encroachment on their tenure rights. On the other hand, certain large-scale land-based investments, such as mining, have been declared as essential services, thus benefiting from expedited administrative decisions and some de-regulation. There are already documented cases of deals on contested lands, increasing conflicts, evictions, and other land rights-related violations in the wake of the COVID-19 pandemic. Yet, government measures to protect vulnerable populations, including from evictions, have been ignored in certain places. Women and youth have been particularly exposed to internal pressures to relinquish their rights to more powerful family or community members.

⁷ Quizon, Antonio. (2020). Ensuring Land and Food Rights: Reflections at a Time of COVID-19 (and Beyond). Keynote paper for the Video Conference on "Land and Food Rights at a Time of COVID-19 and Beyond" organized by the Association for Land Reform and Development (ALRD) and The Daily Star. 18 December 2020.



Compounding this situation, vulnerable groups are experiencing less access to mediation and judicial systems for recourse.

Across Asia, lockdowns to contain the spread of COVID-19 have made farmers and indigenous people more vulnerable to losing their land. Farmers have been unable to tend to their fields, and some indigenous people kept from forests because of restrictions on movement, making it easier for illegal loggers and companies to encroach their land.

Weak tenure rights and poor forest governance have been exacerbated by the pandemic situation, and private companies are said to be moving ahead with their controversial operations. In Indonesia and the Philippines, some farmers were killed in long-standing land disputes with companies. In India, authorities have relaxed environmental norms for mining and industrial projects, with the lockdown making it impossible for people “even to resist” the threats to their land. Elsewhere in the Asian region, with police and security forces engaged in enforcing lockdowns, cases of illegal logging has been reported in Nepal, Myanmar, Cambodia, and Indonesia.⁸

In Cambodia, news reports say that an illegally cleared swathes of land in Rattanakiri Province that belonged to indigenous farming communities. Despite pledges to return the land to local farmers (under a mediated agreement back in 2015), the company bulldozed sacred sites, burial grounds, traditional hunting areas, farmlands, wetlands, and old-growth forests, while local residents sheltered at their home due to COVID-19.⁹ This case has been a decade-

long dispute between the company and 12 ethnic minority communities in Rattanakiri Province.

Governments are likewise pushing through with controversial projects like dams that seek to displace indigenous communities from their lands. In the Philippines, communities near the site of a planned dam on the Kaliwa River have reported an increased military presence as the government attempts to push the project through during the pandemic amidst quarantine restrictions. The Alyansa Tigil Mina (Alliance to Stop Mining) reported that the country is seeing a move to ramp up new mining permits as well as illegal mining during the pandemic.

The pandemic has also increased rural indebtedness, forcing small farmers to pawn or sell off their lands. In poor countries like Cambodia with little regulatory oversight, moneylenders have targeted rural villages where residents have limited financial acumen. Defaulting borrowers are often forced to take on new loans to pay old debts. With a lack of enforcement, illegal lenders have been offering high interest rates of up to 30 percent over a year, according to the human rights group Licadho. With the loss of jobs and incomes, many rural villagers are forced to sell off their homes and farmlands.¹⁰ More than one million land titles are currently held by banks as loan collateral.

The pandemic has reportedly accelerated the processes against indigenous communities that were already threatening their resources and survival — from the criminalization of their livelihoods to land grabs and their further marginalization from governance. Worldwide, land rights activists found themselves at heightened risk, with their

⁸ Chandran, Rina. "Land conflicts flare across Asia during coronavirus lockdowns". 15 May 2020. <https://www.reuters.com/article/us-health-coronavirus-landrights-trfn-idUSKBN22R0U9>.

⁹ East-West Center (2020). "Impact of COVID-19 on Rice Farmers in Southeast Asia", 03 July 2020. <https://www.eastwestcenter.org/system/tdf/private/ewwire052foxetal.pdf?file=1&type=node&id=37821>

¹⁰ Channel News Asia. "Strangled by debt: COVID-19 deepens Cambodia's loan crisis." 15 November 2020. <https://www.channelnewsasia.com/news/asia/microfinance-debt-covid-19-deepens-cambodia-loan-crisis-13553126>



access to justice also stymied because of the lockdowns, according to the former United Nations Special Rapporteur for Human Rights Defenders.

During the COVID-19 crisis, rural women have become more vulnerable to gender-based violence. The complexities of government administrative procedures and discriminatory customary and social norms can put women at risk, especially in places where birth certificates, land titles and other legal documents are entrusted to male family members. Given the social and customary barriers, as well as the difficulties in navigating these administrative requirements, it can be particularly difficult for women to secure their land rights. Women often face greater economic losses as a result of such crises (including the COVID-19 pandemic) due to their greater vulnerabilities and lack of tenure security. Indeed, there are reports of women being forced to cede their land after losing their husbands to COVID-19.

Pastoralist and IP communities have also been notably impacted, as national borders have closed, and movements have been restricted within national territories.

COVID-19 has also heavily affected indigenous peoples and forest-dependent communities, as many have been prevented from going out to continue the gathering of non-timber forest products. The loss of livelihoods will most likely lead to increased over-exploitation of already scarce natural resources, as well as increased food insecurity and poverty. At the same time, illegal mining, timber extraction and poaching have reportedly increased, due to reduced enforcement capacities and the diversion of political attention towards COVID-19 and economic recovery.

BRIEF ANALYSIS OF ISSUES

Land grabs are inherently rooted in the inequitable free market forces, attributable to our flawed economic and developmental systems. Therefore, there is a need to understand how legislative and governance systems of countries respond to such land rights threats and the extent to which they are able to protect community land rights from land grabbing and the violations of community land rights.

“As globalization demands more and more resources, land has emerged as a key source of conflict. The hunger of global capital must be fed by *commodifying* everything - land and water, plants and genetic material, and even “clean air” in the form of “carbon emission quotas.” It is this *commodification* that fuels the rush for Asia’s lands (Quizon, 2013).

Thus, land grabbing often occurs as a result of pressures from national and global capital investments. The demands of global markets changes the landscape of local food and agriculture, forests and natural resources, as well as the living environments of communities and peoples.

Host governments often entice private investments as a cure all for many economic ills. And for capital investments to enter, one can either negotiate, buy, lease through the market, or use force. However, negotiation through markets is sometimes difficult, such as in the case of indigenous peoples or customary lands, or when there are State regulations restricting the foreign ownership of land. Thus, there has been a “modern role” of the State – whether in facilitating commerce, “green grabs,” or the use of force. In many cases, businesses work closely with government officials.



“Land is no longer just a factor of production, but a 'property value' which pushes the prices of land to sky-high.”

Neo-liberal globalization has introduced commodification where everything is seen in terms of their financial value. Land used to be seen as a “means of production” (as in “land, labor & capital”), but increasingly today, land is also seen as a “store of value.” Land is no longer just a factor of production, but a “property value” which pushes the prices of land to sky-high.

Financialization of land is the emerging new driver that pushes land grabs today, which are different from what they used to be 30 years ago. Under the financialization of land (including property development), farmland is treated simply as investment. The value of land, with speculation, becomes higher than using land as a form of direct capital. From financialization, there is today a “securitization” of land. Incomes are consolidated into one security which can be divided into thousands of “shares” then be sold and resold in the market.

Failures in governance. With the new land grabs, we see four basic failures in land governance:

First is the failure in democratic governance: of transparency, accountability, and popular empowerment that lead to the elite capture of land and resources.

Second is land governance that fails the poor: national legal systems that centralize control over lands with lack of legal recognition of land rights of local users.

Third, is economic governance. Protection is given to investors that sideline the rural poor.

Fourth is the sidelining of smallholder production on which majority of people depend for their livelihoods (as cited in Quizon, 2013).

RECOMMENDATIONS AND THE WAY FORWARD¹¹

For governments and State agencies


Protect poor and marginalized communities from all forms of arbitrary eviction and forced displacement. Respect the guidelines issued by the UN Rapporteur on Housing Rights in April 2020 that all kinds of evictions and displacement be stopped anywhere and under any circumstances.

Respect, recognize and protect the land rights of indigenous peoples, cultural communities, and ethnic minorities in accordance with ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Protect especially those who lack formal recognition and safeguards for their customary rights in their countries. Recognize customary practices, including shifting cultivation and governance of communal spaces.

Adopt and implement the UN Guiding Principles on Business and Human Rights (UNGPs) especially for land and resource governance. As an initial effort, governments should immediately implement the UNGPs in all State-owned enterprises.

Ensure full adherence to international human right instruments, including the International

¹¹ This section includes recommendations raised at the special session on “Understanding the new wave of land grabbing in Asia and its impacts on securing land rights for smallholder farmers” held on 8 October 2020 organized by ANGO and LWA in conjunction with the Asia Land Forum. The special session was attended by 166 participants.



Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Protect agricultural areas, farming communities and small agricultural producers against indiscriminate land use conversion. Ensure sustainable use of natural resources to meet the challenges of food security and climate change.

Strictly implement the requirement of social (SIAs) and environmental impact assessments (EIAs), and adherence to free, prior and informed consent (FPIC) of affected communities – as preconditions for all land transactions and investments. Conduct public hearings and ensure full transparency in reporting of SIAs and EIAs. In the implementation of FPIC, ensure the right of communities to say “no” to any transactions and interventions that affect them.

Ensure integrity, transparency and public access in land administration, and the management of land records. Check corruption, bribery, and fraud in land administration.

In cases involving land transactions and agribusiness arrangements, government should review and ensure that contract arrangements such as leases, joint ventures, management contracts, and marketing agreements, among others are fair and legal; environmental risks are avoided and minimized; communities are not exposed to undue economic risks, and benefits are equitably shared among the investors and related communities.

Protect land rights and human rights defenders. Protect indigenous leaders and peasant activists.

Ensure proper remedies where human rights violations have occurred, including the prosecution of human rights violators,

cancellation of concessions, appropriate, and fair compensation for victims and those whose rights have been violated, and corrective actions in cases where the environment has been contaminated or destroyed. In cases where communities have been displaced and the lands cannot be restituted, ensure the provision of safe and proper relocation, just compensation, and rehabilitation.

For business and the private sector

Adhere to the highest standards of environmental and social safeguards. Strictly apply the UNGP-BHR standards and implement contractual obligations and government regulations at all stage of investment. Ensure that sub-contractors act with due diligence to avoid adverse impacts on communities and the environment.


Publicly share and ensure full disclosure of master plans, as well as EIAs and SIAs, true risk-benefit analyses, contracts and relevant documents with communities. These should be shared in a timely manner, and disclosed in ways and in a language that affected communities fully understand.

Conduct regular consultation, communication, and feedback with affected communities on the progress and conduct of business operations.

For CSOs

At the national level, continue to work with communities and other groups to pursue policy dialogues with governments, business sector, and intergovernmental organizations to influence policies in favor of stricter investment regulations and providing tenure security.

Conduct advocacy and monitoring work on land grabs and land conflict. Where feasible, collaborate with National Human



Rights Institutions/Commissions (NHRIs/Cs) particularly for the enforcement of the *UN Guiding Principles on Business and Human Rights* (UNGP-BHR), *Principles for Responsible Investment in Agriculture and Food Systems* (RAI), and the promotion of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (VGGT).

Broaden capacity-building initiatives through joint training, module development, and internship programs on understanding business contracts, development of alternative business plans and community negotiations.

Engage UN and multilateral institutions in pursuit of a Legally-Binding Treaty on Transnational Companies and Human Rights.

At the Asian regional level, organize a broader platform that connects people’s advocacies against systematic land grabbing – expanding links with networks and groups focused on issues of community rights, indigenous peoples’ rights, and human rights.

Conduct a fuller documentation of land grab cases, while examining the “money trail of investments” as an added dimension, as this can enhance public advocacy efforts.

Establish independent people’s commissions and Land Rights Tribunals¹² to investigate serious cases of land grabbing and land conflicts including the conduct of businesses and the role of the State, to seek the truth, protect local community

rights, find lasting solutions, as well as to broaden public awareness and discourse.

Strengthen regional networking, including Land Watch Asia (LWA), as regional platforms for: (a) conducting regional campaigns and documentation; (b) solidarity building and collective action to address field issues on land rights; and, (c) fostering critical dialogues with governments, inter-governmental organizations and the business sector. ■

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¹² The first Asian People’s Land Rights Tribunal was conducted on 16-17 January 2014 at the University of the Philippines College of Law, Diliman, Quezon City, Philippines. It examined four cases of land grabbing from Cambodia, Indonesia and the Philippines. The Tribunal was composed of former parliamentarians, human rights commissioners, and representatives of CSOs, the academe and media. Link: <https://angoc.org/portal/asian-peoples-land-rights-tribunal-land-rights-are-human-rights/>

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